



26 February 2019

Mr George Tharian
Adviser, Listings Compliance (Sydney)
20 Bridge Street, Sydney NSW 2000

Dear Mr Tharian

Your letter dated 22 February 2019

Jatenergy Limited responds to your above letter as follows.

Point 1

a) On 26 August 2013, JAT entered into a contract (the "Agreement") under which Jiangxi Resources Limited ("Jiangxi") agreed to provide services to Jatenergy Limited ("JAT") for a term of four months. The services were defined as activities including an investor relations campaign, a business strategy overview, broker introductions and email promotions, amongst others. Under the Agreement:

- (i) JAT was to pay a fee of \$7,500 per month for the services (GST inclusive) for four months; and
- (ii) Jiangxi was to subscribe for 20 million JAT shares at 2.5 cents per share.

On 31 August 2013, JAT issued 5 million ordinary shares to Jiangxi at 2.5 cents per share. No cash was paid by Jiangxi on the date of issue.

b) After making four monthly payments for services, JAT determined that Jiangxi's performance under the Agreement was less than satisfactory. JAT did not issue any further shares to Jiangxi. In early February 2014, JAT and Jiangxi agreed to terminate the Agreement pursuant to a termination agreement (the "Termination Agreement"). Under the Termination Agreement:

- (i) Jiangxi was required to transfer the JAT shares it was holding at that date, totalling 1,768,163 JAT shares, to an unrelated party nominated by JAT.
- (ii) Jiangxi agreed to pay JAT \$72,905.23 for the remaining shares less an agreed reimbursement for fees and brokerage.



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The unrelated party sold the 1,768,163 JAT shares on market over a number of months and transferred the proceeds less costs to JAT. The gross proceeds of sale were \$44,204, being 1,768,160 shares at 2.5c per share. The net proceeds received by JAT after costs was \$29,000. The first payment from the unrelated party, being \$5,000, was received by JAT on 30 June 2014 into its ANZ bank account. The balance of the proceeds of the sale of the shares by the unrelated party was received in the half year ended 31 December 2014.

- c) The December 2013 Appendix 4C, the December 2013 Half Year Accounts and the 2014 annual report are correct and are not contradictory.

The December 2013 Appendix 4C and the December 2013 Half Year Accounts disclose that no proceeds were received in the half year ended 31 December 2013 for the issue of shares. That is correct.

The Statement of Changes in Equity in both the December 2013 Half Year Accounts and the 2014 Annual Report show an increase in shares on issue of \$125,000. The Statements record that the value of issued capital has increased by \$125,000 as a result of the issue of 5 million shares at 2.5c per share. Transaction costs of \$25,000 are deducted. The Statements reflect the number of shares issued and the issue price and are made regardless of the actual cash received. The amount of cash received for the share issue in the year is not relevant in preparing the Statements. The Statements are therefore correct.

Disclosure regarding the actual amount of cash received is shown separately in the December 2013 Half Year Accounts and the 2014 Annual Report.

In the Statement of Financial Position in both reports, Contributed Equity has increased by a net amount of \$100,000 from the previous period. This is a correct disclosure. The increase in Contributed Equity is reflected on the other side of the balance sheet by the sum of the cash proceeds received from the issue of shares and trade debtors. Therefore, that disclosure is correct.

- d) The amount of \$77,905 is made up of the amounts disclosed above in (b) being \$72,905 from Jiangxi under the Termination Agreement and \$5,000 received on 30 June 2014 from the unrelated party.
- e) No.

Point 2

It has been confirmed with the share registrar that the 5 million shares were issued to Jiangxi on 31 August 2013. The date shown in note 7 of the 2014 Annual Report, being 26 August 2013, was the date of the Jiangxi agreement. The appendix 3B released on 7 October 2013 should have been released on 31 August 2013.

Point 3

The 12 October 2013 announcement was correct, there were no costs associated with the Placement. The agreement with Jiangxi does not contain provision for any costs to be paid for the Placement.

In preparing the half year accounts for 31 December 2013, an accrual of \$25,000 was made for brokerage costs. This was a non-cash transaction in the accounts. These costs were



costs expected to be reimbursed to Jiangxi for future share transactions and had not been incurred at that time.

Point 4

- a) See point 1 b)(ii) above. The gross proceeds receivable by JAT were \$117,109. After selling costs and marketing consulting fees were deducted by Jiangxi (pursuant to the Termination Agreement) and the unrelated party, net proceeds of \$75,324 was received by JAT.
- b) 5 million shares were issued at an issue price of 2.5c per share.
- c) The Jiangxi agreement was terminated on 5 February 2014 for underperformance, see point 1 b) above.
- d) The directors in office at the time of termination did not consider that the termination was price sensitive information.

Point 5

The directors in office at the time of the issue of the shares:

- a) considered the provisions of the Corporations Act and determined that the issue of the shares complied and did not identify any illegal purpose;
- b) determined that JAT had capacity under the ASX LR7.1 and LR7.1A to issue the shares; and
- c) believe that, despite being entitled to issue a cleansing notice, overlooked issuing the notice. The non-issue of the cleansing notice was accidental and the current directors were not aware of the non-issue until receiving the recent ASX letter.

Point 6

The principal of Jiangxi, David Sorrell, made direct contact with the directors of JAT and proposed that Jiangxi was able to provide services to promote JAT, to assist in capital raising and to invest directly in JAT. The directors reviewed the ASX announcements made by CDB which supported the ability of Mr Sorrell to perform according to his proposals. The directors agreed to engage Jiangxi, not based on the prior track record of Jiangxi, but in their belief that Mr Sorrell as the director of Jiangxi would successfully be able to provide the proposed services.

Point 7

Attached is a copy of the Agreement together with the Termination Agreement.

Point 8

Attached is a copy of the board minute approving the Agreement and the issue of the 5 million shares.



Point 9

Mr Crimmins advised his fellow directors in July and August 2018 that his workload at other companies with which he was involved was becoming such that he needed to hand over the running of JAT to Wilton Yao and to leave the company. A succession plan was therefore put in place, the first step being for Mr Crimmins to relinquish being Chairman in August 2018 and to appoint an additional director. On 15 November 2018 by email (a copy of which has been provided to the ASX) Mr Crimmins advised the directors and senior company personnel that he supported the appointment of Mr Yao as managing director and that due to deteriorating health he wanted to leave the company, noting that "there is no better time to leave then [sic] when a company is doing well." On the same day and subsequent to receiving that email, Mr Yao was appointed Managing Director and Mr Crimmins reverted to non-executive director. Mr Crimmins decided that the appropriate time to resign was immediately after the release of the appendix 4C on 25 January 2019.

Wilton Yao
Managing Director



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22 February 2019

Mr Brett Crowley
Chairman and Company Secretary
Jatenergy Limited
Suite C303
521 Toorak Road
Toorak VIC 3142

By email

Dear Mr Crowley

Jatenergy Limited (“JAT”): ASX query letter

ASX Limited (“ASX”) refers to the following:

- A. JAT’s announcement titled “Notice of Annual General Meeting / Proxy Form” released on the ASX Market Announcements Platform (“MAP”) on 2 November 2012 (the “AGM Notice”). Resolution 8 of the AGM Notice sought shareholder approval to increase JAT’s capacity to issue equity securities in the 12 months following its Annual General Meeting (“AGM”) that year by an additional 10% of its issued share capital under listing rule 7.1A. Paragraph 7.4(d) of the AGM Notice stated:

“The Company may seek to issue the Equity Securities for the following purposes:

- (i) Non-cash consideration for the acquisition of new resources assets and investments. In such circumstances the company will provide a valuation of the non-cash consideration as required by Listing Rule 7.1A.3; or*
- (ii) Cash consideration. In such circumstances, the Company intends to use the funds raised towards further development of its existing assets, including its Coal Plus technology or general working capital or an acquisition of new assets or investments (including expense associated with such acquisition).*

The Company will comply with the disclosure obligations under Listing Rules 7.1A.4 and 3.10.5A upon issue of any Equity Securities.”

- B. JAT’s announcement titled “Company Update – Investor Relations” released on MAP on 3 September 2013 (“Jiangxi Announcement”), which notes that:
- JAT has entered a binding agreement with Jiangxi Resources Limited (“Jiangxi”) to provide a strategic funding commitment and investor relations service (“Jiangxi Agreement”);
 - under the agreement, Jiangxi will invest a minimum of \$500,000 over a four month period and will provide the company with investor relations services, both domestically and internationally; and
 - Jiangxi will purchase a total of 20 million listed shares for a minimum of \$500,000 over the four months, which will assist JAT in development of its coal projects and technology. In addition, Jiangxi will also work with its institutional trading partners on Hong Kong and New York to provide greater market support.

Then managing director, Tony Crimmins, states in the Jiangxi Announcement, *“The formation of this agreement with Jiangxi is a significant milestone for Jatenergy. With a significant capital commitment, Jatenergy will be able to further develop its coal production projects and advance its revolutionary coal upgrade technology. I believe this will provide significant upside for Jatenergy shareholders in the short-medium term.”*

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- C. JAT's announcement titled "Appendix 3B – Issue of 5 million shares" released on MAP on 8 October 2013. The Appendix 3B states that 5,000,000 fully paid ordinary shares were issued by JAT on 7 October 2013 at an issue price of 3 cents ("Jiangxi Shares") for "General working capital purposes and partial allotment as per ASX's announcement 3rd September 2013 re Jiangxi Resources Limited" ("Jiangxi Share Issue"). An updated version of this Appendix 3B was lodged on MAP on 11 November 2013 titled "Revised Appendix 3B – Listing Rule 7.1A information". The updated Appendix 3B provides further information required in relation to security issues pursuant to Listing Rule 7.1A but did not amend the details provided in the original Appendix 3B with respect to the issue date, price and purpose of the issue. Together, these forms are referred to in this letter as the "Jiangxi Appendix 3B".
- D. JAT's shares closed at \$0.0272 on the date of issue of the Jiangxi Shares. The issue price of the Jiangxi Shares as set out in the Jiangxi Appendix 3B therefore represented a discount of approximately 9.3% to the market price.
- E. The implication drawn from the Jiangxi Appendix 3B is that JAT received a total of \$150,000 cash consideration from Jiangxi for the Jiangxi Share Issue (5,000,000 shares at \$0.03 per share). At the time of the Jiangxi Share Issue, the shares issued comprised approximately 4.8% of JAT's issued capital on an undiluted basis.
- F. JAT's announcement titled "Listing Rule 3.10.5A information update" released on MAP on 12 November 2013, which includes the following information with respect to the Jiangxi Share Issue (as required by Listing Rule 3.10.5A):
- "(b) The Company issued the shares as a placement under Listing rule 7.1A to Jiangxi Resources Limited as part of a proposal outlined in our ASX announcement of 3 September 2013. The Company elected to accept the offer to invest from Jiangxi Resources Limited as it also come [sic] with promotion of the Company as per our ASX announcement on 3rd September 2013 within the South East Asian market. The intended outcome is to attract new investors to Jat Energy Limited, raise the profile of our projects and therefore longer term increase the value of the Company. The offer from Jiangxi Resources Limited in the opinion of the Directors would result in a small dilution for existing shareholders which they believe will be outweighed by the benefits of in the longer term attracting new investors to the Company.*
- (c) The issue was not underwritten;*
- (d) There are no costs associated with the Placement."*
- G. JAT's announcement titled "AGM Notice of Meeting" released on MAP on 29 October 2013 which again confirms on page 13 that Jiangxi were issued 5,000,000 at \$0.03 per share on 7 October 2013 for cash to be used for "general working capital purposes."
- H. Aside from the Jiangxi Share Issue, JAT does not appear to have issued any other shares for the financial year ended 30 June 2014 (noting that JAT did receive a loan of \$100,000 on 28 May 2014 that could be repaid at JAT's election with the issue of 5,000,000 fully paid ordinary shares at an issue price of 2 cents, as per its revised Appendix 3B released on MAP on 10 June 2014).
- I. JAT's quarterly cashflow report for the quarter ended 31 December 2013 titled "Appendix 4C – December 2013 Quarter" ("December Cashflow Report") released on MAP on 29 January 2014 which states in section 1.15 that nil cash was received by JAT as proceeds from the issue of shares.
- J. JAT's reviewed half year report titled "App 4D Half Year Report and Financial Statements" (for the six months ended 3 December 2013) ("Half Year Report") released on MAP on 28 February 2014 which discloses:
- on page 8, in the Statement of Changes in Equity, that shares to the value of \$125,000 were issued during the period and associated transaction costs were \$25,000;
 - on page 9, that JAT received nil proceeds from the issue of shares for the half year ended 31 December 2013; and
 - on page 17, in "Note 7 – Contributed Equity: (b) Movements in Ordinary Share Capital" that 5,000,000 shares were issued on 26 August 2013 (no other movements are noted).

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- K. JAT's Annual Report for the period ended 30 June 2014 ("Annual Report") released on MAP on 30 September 2014 which discloses:
- on page 31, in the Consolidated Statement of Changes in Equity in the column titled "Contributed Equity", that an issue of capital to the value of \$125,000 occurred with associated transaction costs of \$25,000;
 - on page 32, in the "Cash flows from financing activities" section of the Statement of Cash Flows, that: the proceeds from the issue of shares were \$77,905; the proceeds from convertible note were \$100,000 and the associated transactions costs were \$25,000; and
 - on page 52, in "Note 16 – Contributed Equity: (c) Movements in ordinary share capital" that 5,000,000 shares were issued on 26 August 2013 (no other movements are noted).
- L. Since the initial announcement of the Jiangxi Agreement, there does not appear to have been any other substantive announcements made by JAT regarding Jiangxi, the services it has provided/will provide or the status of the Jiangxi Agreement.
- M. Jiangxi was incorporated in the Hong Kong SAR on 13 June 2013.¹
- N. The Jiangxi Announcement also includes the following statement:
- "Jiangxi has recently provided funding and investor relations services to Condor Blanco Mines (ASX:CDB) which has resulted in significantly increase higher liquidity [sic]."*
- O. On 21 June 2013, Condor Blanco Mines ("CDB") released a short-form prospectus on MAP for the offer of 1,000 shares at a price of \$0.03 per share, which discloses that:
- On 13 June 2013, CDB and Jiangxi entered into a loan agreement whereby Jiangxi advanced \$396,000 to CDB at 20% pa interest payable monthly in arrears for a term of 2 years.
 - Shortly thereafter CDB and Jiangxi agreed to convert the loan and interest into equity.
 - On 18 June 2013, CDB issued 22,628,571 shares to Jiangxi.
 - The purpose of the prospectus was to comply with section 708(11) of the Act so that Jiangxi (as well as subscribers to other earlier placements) could sell shares issued to it within the next 12 months without the issue of a prospectus.
- P. On 18 July 2013, CDB released an announcement on MAP titled "Ongoing Funding Commitment Provided by Jiangxi Resources Limited", disclosing that Jiangxi had agreed to invest an additional \$300,000 in CDB through a private placement of 22,422,857 shares at a price of \$0.0175.
- Q. On 31 October 2013, CDB released an announcement on MAP titled "Jiangxi Resources Limited Continues Funding Commitment to Condor Blanco Mines", disclosing that the agreement originally announced on 18 July 2013 was for Jiangxi to provide "up to \$1 million in equity funding for operational expenditure and development of the Marianas iron tailings program" and that "Jiangxi and Condor have signed a new binding term sheet for Jiangxi to provide up to another \$5 million to further develop and expand production at Marianas."
- R. CDB's announcement titled "Update on forensic review" released on MAP on 24 July 2018 which includes the following statements:
- "... the Company and its advisers have uncovered substantial evidence indicating that Condor was the victim of a series of frauds and attempted frauds during the years preceding 5 July 2016."*

¹ ASX has inspected a copy of Jiangxi's memorandum / articles of association which is marked as having been submitted to the Hong Kong Companies Registry on 13 June 2013. This is corroborated by a search for Jiangxi in the Hong Kong Companies Registry's Cyber Search Centre, which returns a value of "13 June 2013" in the "Date of Incorporation" field.

Further, Condor's Board has become aware of various material falsehoods in Company announcements published prior to 5 July 2016. The Board advises that no announcement issued prior to 5 July 2016 should be relied upon."

- S. The media article published in *The Australian* on 30 July 2018 titled "Condor calls in police, accuses former CEO, managers of fraud, legal breaches", referring to the CDB announcement of 24 July 2018, and reporting that a "key area of investigation is understood to be Condor's past dealings with a company named in documents as 'Jiangxi Resources Ltd'."
- T. The media article published in *The Australian* on 22 December 2018 titled "Law firm 'helped mines group director steal millions'", which contained the following statement:
- "Mr Farquhar alleges Mr Stafford helped Mr Darby prepare a sham June 5, 2013, prospectus that involved a non-existent loan and facilitated the fraudulent issuing of 144 million Condor Blanco shares to a Hong Kong company, Jianxi [sic] Resources Ltd."*
- U. Richard Pritchard, who was a director of JAT between 22 May 2012 and 26 November 2013, was also a director of CDB between 13 November 2012 and 3 July 2013.
- V. JAT's announcement titled "Director resignation – Tony Crimmins" released on MAP on 25 January 2019, announcing that Anthony Crimmins has resigned as a director of JAT with immediate effect. Mr Crimmins had been a director of JAT since 22 May 2012.

Having regard to the above, ASX asks JAT to respond separately to each of the following questions and requests for information.

1. The Jiangxi Appendix 3B states the issue price for the Jiangxi Share Issue was \$0.03 which implies that JAT received a total of \$150,000 cash consideration from Jiangxi (as noted in paragraph E above). However, the abovementioned periodic reports provide contradictory disclosures with respect to the cash received by JAT on issue of the Jiangxi Shares. For example, the December Cashflow Report and the Half Year Report both indicate that JAT received nil proceeds from the issue of shares during the period in which the Jiangxi Shares were issued. The Statement of Changes in Equity in both the Half Year Report and the Annual Report records an issue of shares to the value of \$125,000 and associated transaction costs of \$25,000. The Annual Report also states in the Statement of Cash Flows that the proceeds from the issue of shares amounted to \$77,905 and transactions costs totaled \$25,000. In light of these disclosures, please clarify the following:
 - a) What consideration (if any) was received by JAT from Jiangxi for the Jiangxi Share Issue?
 - b) If the issue price was not paid in full on the date of issue, please provide details, including whether and when the remainder of the issue price was paid by Jiangxi.
 - c) Why are the December Cashflow Report, Half Year Report and Annual Report inconsistent in the ways outlined and, if applicable, which reports are incorrect and why?
 - d) If the Annual Report is correct, why was only \$77,905 received by JAT for the issue of the Jiangxi Shares?
 - e) Does JAT consider that any of the abovementioned accounts, or any subsequent accounts, require amendment with respect to the matters raised in this letter?
2. Please clarify the statement in the notes to the Half Year Report and the Annual Report (as outlined in paragraphs J and K above), which states that 5,000,000 shares were issued on 26 August 2013, given that JAT did not release an Appendix 3B disclosing any issue of shares on this date. In your answer, also please address why there is no note in the Half Year Report and the Annual Report regarding the issue of the Jiangxi Shares on 7 October 2013.
3. Please clarify what the \$25,000 in transactions costs referred to in the Half Year Report and the Annual Report relate to. If related to the Jiangxi Agreement:
 - a) Please clarify how, given that JAT's 12 October 2013 announcement (referred to in paragraph F above) stated explicitly that no costs were associated with the placement.

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- b) Given they related to a discrete share issue, please provide: (i) details of the composition of the transaction costs, and (ii) an explanation for the transaction costs.

4. Given that:

- the Jiangxi Announcement disclosed that Jiangxi would provide JAT with an investment of at least \$500,000 through the purchase of 20 million JAT shares over four months;
- the Jiangxi Appendix 3B, disclosing the issue of 5,000,000 shares to Jiangxi, would appear to be the only Appendix 3B JAT has provided to ASX with respect to the transaction; and
- the abovementioned ambiguity about what funds, if any, were received from Jiangxi,

please clarify the status of the Jiangxi Agreement, including:

- a) what total funds have been paid by Jiangxi to JAT to date;
- b) how many shares have been issued by JAT to Jiangxi pursuant to the Jiangxi Agreement, and at what price/s;
- c) if the Jiangxi Agreement has been terminated or is no longer in effect, the date this occurred and the reasons for termination (if applicable); and
- d) why no updates have been provided to the market with respect to the Jiangxi Agreement.

5. Please outline what steps JAT took to ensure that the following warranties, set out on page 8 of the Jiangxi Appendix 3B, were able to be provided by JAT, given it appears that JAT did not publish a cleansing notice (of the kind referred to in subsections 708A(5) and 708A(6) of the *Corporations Act 2001* (Cth) (the "Act")) to the market in respect of the issue of the Jiangxi Shares:

- *"The issue of the securities to be quoted complies with the law and is not for an illegal purpose. ...*
- *An offer of the securities for sale within 12 months after their issue will not require disclosure under section 707(3) or section 1012C(6) of the Corporations Act."*

6. Please outline what steps JAT took in conducting due diligence on Jiangxi and how JAT came to be introduced to Jiangxi, noting that:

- a) Jiangxi was incorporated on 13 June 2013, less than 3 months prior to the Jiangxi Announcement.
- b) JAT represented to the market that Jiangxi had provided funding and "investor relations services" to CDB, resulting in greater "liquidity" for CDB (see paragraph N above).
- c) According to CDB's own disclosure between 21 June and 31 October 2013, Jiangxi's investments in CDB were to provide "operational expenditure and development of the Marianas tailings projects", rather than "investor relations services."

7. Please provide a copy of the Jiangxi Agreement and, if it is not in English, a translation of the Jiangxi Agreement into English (this is not for release to the market).

8. Please provide a copy of the board minutes approving the entry of the Jiangxi Agreement and the issue of the 5 million shares by JAT to Jiangxi (this is not for release to the market).

9. Please explain the reasons for Mr Crimmins' resignation as a director on 25 January 2019.

For the purpose of preparing your response to these questions:

- We remind you of JAT's obligation under section 286 of the Corporations Act to keep written financial records that correctly record and explain its transactions and financial position and performance and would enable true

and fair financial statements to be prepared and audited for 7 years after the transactions in question are completed.

- We expect that company records kept by JAT, including written financial records and minutes of the board of directors kept pursuant to section 251A of the Act, be carefully consulted.
- In providing the information above, ASX would remind you that an officer or employee of a listed entity who gives, or authorises or permits the giving of, materially false or misleading information to ASX:
 - knowingly, breaches section 1309(1) of the Corporations Act, which is a criminal offence punishable by a fine of up to 200 penalty units and/or imprisonment for up to 5 years; or
 - without taking reasonable steps to ensure that the information was not false or misleading, breaches section 1309(2) of the Corporations Act, which is a criminal offence punishable by a fine of up to 100 penalty units and/or imprisonment for up to 2 years.

When and where to send your response

This request is made under, and in accordance with, listing rule 18.7. Your response in relation to the above queries is required as soon as reasonably possible and, in any event, by not later than 9.00am AEDT on Wednesday, 27 February 2019.

ASX reserves the right to release a copy of this letter and your response on the ASX Market Announcements Platform under listing rule 18.7A. Accordingly, your response should be in a form suitable for release to the market.

Your response should be sent to me by e-mail at ListingsComplianceSydney@asx.com.au. It should not be sent directly to the ASX Market Announcements Office. This will allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

ASX further reserves the right to remove JAT from the official list pursuant to listing rule 17.12, without further notice to JAT, should JAT fail to respond properly to this letter by the due date.

If you believe you may have difficulties in meeting the 27 February 2019 deadline for response, you should notify me at the earliest opportunity to explain why and to seek an extension. ASX will only grant an extension if it is satisfied with the reasons given for the extension are appropriate and that JAT is using all reasonable endeavours to comply with its obligation under listing rule 18.7 to respond to this letter by the time set by ASX.

Should you have any queries in relation to the above, please let me know.

Yours sincerely

[Sent electronically, without signature]

George Tharian
Adviser, Listings Compliance (Sydney)

[Copy to: Australian Securities and Investments Commission]