

7 December 2022

Ms Laura Gomme  
Senior Adviser, Listings Compliance  
ASX Compliance Pty Ltd  
Level 40, Central Park  
152-158 St Georges Terrace  
PERTH WA 6000

Dear Laura

#### **4DS MEMORY LIMITED: GENERAL - AWARE QUERY RESPONSE**

4DS Memory Limited (ASX: 4DS) (**4DS** or the **Company**) refers to ASX's General - Aware query letter dated 7 December 2022 (**Price Query Letter**) and provides the following responses.

The terms used in the below responses have the same meaning given to them in the General - Aware Query Letter.

- (1) **Does 4DS consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**

No.

- (2) **If the answer to question 1 is "no", please advise the basis for that view.**

The Information relates to an extension of the Company's longstanding collaboration with imec (**Collaboration**) since 2017, the timing of the upcoming activities with imec and the cost of the activities.

Given:

- (a) the long standing relationship between imec and the Company;
- (b) the similar nature of the Collaboration extension to past extensions; and
- (c) the fact that imec's role under the contract is simply for the provision of services which could potentially be undertaken by other third parties,

the Information is not information that a reasonable person would expect to have a material effect on the price or value of its securities.

We also note that the Company referred to the extension of the Collaboration on 29 November 2022 (in an announcement which was not labelled as price sensitive) and again referred to it in its response to the Price and Volume Query on 6 December 2022. Finally, the Company made an announcement of the extension on 7 December 2022 (and it was inadvertently labelled as price sensitive). The timing of the upcoming activities was also announced on 29 November 2022. The cost of the activities is broadly consistent with the

cost incurred by the Company in previous Platform Lot manufacturing runs and for this reason is not information that a reasonable person would expect to have a material effect on the price value of its securities.

**(3) When did 4DS first become aware of the Information?**

4DS has been in general discussions with imec since on or about 5 October 2022. The Company's Executive Chairman in-principle agreed the contract terms with imec on 22 November 2022, subject to Board approval. To this end, he requested, that imec provide a signed agreement on the terms discussed to ensure that there were no further variations. The Board agreed to sign the imec agreement on the morning of 7 December 2022.

**(4) If the answer to question 1 is "yes" and 4DS first became aware of the Information before responding to the Price and Volume Query, did 4DS make any announcement prior to the Price and Volume Query which disclosed the information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe 4DS was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps 4DS took to ensure that the information was released promptly and without delay.**

N/A.

**(5) Please confirm that 4DS is complying with the Listing Rules and, in particular, Listing Rule 3.1.**

The Company confirms that it is complying with the Listing Rules and, in particular, Listing Rule 3.1.

**(6) Please confirm that 4DS's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of 4DS with delegated authority from the board to respond to ASX on disclosure matters.**

We confirm that the Company's response to the questions has been authorised in accordance with its published continuous disclosure policy by the Board.

Yours sincerely



**Peter Webse**  
**Company Secretary**

**Authorised for release by the  
Board. Contact information**

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## About 4DS

4DS Memory Limited (ASX: 4DS), with facilities located in Silicon Valley, is a semiconductor development company of non-volatile memory technology, pioneering Interface Switching ReRAM for next generation gigabyte storage in mobile and cloud. Established in 2007, 4DS owns a patented IP portfolio, comprising 33 USA patents granted and 1 patent application, which has been developed in-house to create high-density Storage Class Memory. 4DS has a joint development agreement with Western Digital subsidiary HGST, a global storage leader, which accelerates the evolution of 4DS' technology. 4DS also collaborates with imec, a world-leading research and innovation hub in nanoelectronics and digital technologies. The combination of imec's widely acclaimed leadership in microchip technology and profound software and information and communication technology expertise makes them unique.

For more information, please visit [www.4dsmemory.com](http://www.4dsmemory.com).



7 December 2022

Reference: 65363

Mr Peter Webse  
4DS Memory Limited  
PO Box 271  
West Perth  
WA 6872

By email: peter.webse@pcscorporate.com.au

Dear Mr Webse

#### **4DS Memory Limited ('4DS'): Aware Query**

ASX refers to the following:

- A. The increase in the price of 4DS's securities from a low of \$0.025 on 29 November 2022 to an intraday high of \$0.056 on 6 December 2022 being an 80% increase, and the increase in the volume of securities traded between 29 November 2022 to 6 December 2022.
- B. 4DS's request for a trading halt provided to ASX and released on the ASX Market Announcements Platform ('MAP') at 2.24pm AEDT, in which 4DS requested that its securities be placed in a trading halt to allow it sufficient time to provide a response to an ASX Price Query (the 'Trading Halt').
- C. ASX's price and volume query letter dated 6 December 2022 (the 'Price and Volume Query') and 4DS's response to the Price and Volume Query dated 6 December 2022, released together on MAP at 3.41PM AEDT, which had the effect of lifting the Trading Halt, and in which 4DS responded to each question as follows (responses in italics):

1. Is the Company aware of any information concerning it that has not been announced to the market which, if known by some in the market, could explain the recent trading in its securities?

*No. The Company is not aware of any information concerning it that has not been announced, which, if known by some in the market, could explain the recent trading in its securities.*

2. If the answer to question 1 is "yes":

(a) Is the Company relying on Listing Rule 3.1A not to announce under Listing Rule 3.1?

(b) Can an announcement be made immediately?

(c) If an announcement cannot be made immediately, why not and when is it expected that an announcement will be made?

*The answer to question 1 is no – therefore not applicable.*

3. If the answer to question 1 is "no", is there any other explanation that the Company may have for the recent trading in its securities?

*The Company held an investor webinar on 29 November 2022 which was posted on the Company's investor hub, lodged prior to the webinar on the ASX platform and distributed to the Company's investor database. As stated in the webinar lodged with the ASX, the Company has extended its collaboration with imec into mid 2023 but the details of the cost and collaboration activities remain under consideration and the Company is hoping to finalise this as soon as possible.*

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4. Please confirm that the Company is in compliance with the Listing Rules and, in particular, listing rule 3.1.

*We confirm that the Company is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.*

5. Please confirm that the Company's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of the Company with delegated authority from the board to respond to the ASX on disclosure matters.

*Confirmed.*

- D. 4DS's announcement entitled '2023 IMEC Collaboration Update' lodged on MAP marked as market sensitive and released at 9.15am AEDT (the 'Announcement'), disclosing that 4DS and Imec:

- (a) had finalised the terms of the 2023 collaboration extension which will now run to mid-2023, and  
(b) have agreed to additional collaboration activities to be undertaken during the rest of 2022 and the first half of 2023 and that the consideration for the collaboration activities is 903,000 Euro.

(the 'Information')

- E. The increase in the price of 4DS's securities from a closing price of \$0.050 on 6 December 2022 to an intraday high of \$0.066 on 7 December 2022 and the increase in the volume of securities traded between 6 December 2022 and 7 December 2022.
- F. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.
- G. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:

*"an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity" and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information."*

- H. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

*"3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*

*3.1A.1 One or more of the following applies:*

- It would be a breach of a law to disclose the information;*
- The information concerns an incomplete proposal or negotiation;*
- The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- The information is generated for the internal management purposes of the entity; or*
- The information is a trade secret; and*

*3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*

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3.1A.3 A reasonable person would not expect the information to be disclosed.”

- I. ASX’s policy position on the concept of “confidentiality”, which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

*“Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule.”*

### **Request for information**

Having regard to the above, ASX asks 4DS to respond separately to each of the following questions and requests for information:

1. Does 4DS consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is “no”, please advise the basis for that view.
3. When did 4DS first become aware of the Information?
4. If the answer to question 1 is “yes” and 4DS first became aware of the Information before responding to the Price and Volume Query, did 4DS make any announcement prior to the Price and Volume Query which disclosed the information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe 4DS was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps 4DS took to ensure that the information was released promptly and without delay.
5. Please confirm that 4DS is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that 4DS’s responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of 4DS with delegated authority from the board to respond to ASX on disclosure matters.

### **When and where to send your response**

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **10 AM AWST Friday, 9 December 2022**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, 4DS’s obligation is to disclose the information ‘immediately’. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require 4DS to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsCompliancePerth@asx.com.au**. It should not be sent directly to the ASX Market Announcements Office. This is to 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.

### **Trading halt**

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in 4DS’s securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

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- the reasons for the trading halt;
  - how long you want the trading halt to last;
  - the event you expect to happen that will end the trading halt;
  - that you are not aware of any reason why the trading halt should not be granted; and
  - any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

### **Suspension**

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in 4DS's securities under Listing Rule 17.3.

### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to 4DS's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*. It should be noted that 4DS's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

### **Release of correspondence between ASX and entity**

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under listing rule 18.7A.

### **Questions**

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

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**Laura Gomme**  
Senior Adviser, Listings Compliance (Perth)