

17 October 2018

ASX Market Announcements  
ASX Securities Exchange Limited  
Level 40, Central Park, 152-158 St Georges Terrace  
Perth WA 6000

Attn: Mr Ben Secrett  
By email: [tradinghaltsp Perth@asx.com.au](mailto:tradinghaltsp Perth@asx.com.au)

### Response to ASX Aware Letter

I refer to the letter from ASX to eSense-Lab Limited (**ASX Code: ESE**) (**eSense** or **ESE**) dated 16 October 2018 (**Aware Letter**).

Capitalised terms used in this letter have the meaning given in the Aware Letter, unless expressly defined otherwise.

On behalf of eSense, I respond to the queries raised in the Aware Letter as follows:

- 1. When did ESE first become aware that the UK based company had purchased seven (7) litres of ESE's Super Lemon Haze strain ("UK Purchase")? In responding to this question, please state the date and time that ESE received the order for the UK Purchase.**

Information regarding the UK based company beginning its testing pilot program with eSense was known in March of 2018. This was planned to be an ongoing test pilot program. Under that program, testing of the product was to be included. Orders under that program were made periodically by the counter-party. In particular, UK Purchases for the pilot testing program were received during the course of the last 6 months:

March 2018	~1 Litres (Commercial Samples in various strains)
April 2018 -	1 litre
June 2018 -	2 litres
August 2018 -	2 litres
September 2018 -	1 litre

All of the above UK Purchases were ordered by way of email requests for product for testing under the pilot testing program.

- 2. Does ESE consider the information about the UK Purchase to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**

No

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

The UK Purchases were in continuation of eSense's overall commercialisation activities. eSense does not believe the value of the UK Purchases under the pilot test program to be material, noting that the total value of the UK Purchases to date equates to USD18,000 (see response to 5.2).

4. **If ESE first became aware of the UK Purchase before the release of the Capital Raising Announcement, did ESE make any announcement prior to the release of the Commercialisation Announcement which disclosed the UK Purchase? If so, please provide details. If not, please explain why the information about the UK Purchase was not released to the market at an earlier time, commenting specifically on when you believe ESE was obliged to release that information under Listing Rules 3.1 and 3.1A and what steps ESE took to ensure that the information was released promptly and without delay.**

Details of the shipments to the UK party were known to eSense prior to the release of the Capital Raising Announcement. At that point in time, the testing and pilot program was already underway. However, due to the testing nature of the program, the lack of certainty with respect to the outcome of the pilot testing program, the confidential nature of the arrangement and the low total value in dollar terms of the program, eSense does not believe it was obliged to release any information on this point under Chapter 3 of the Listing Rules.

For the sake of updating the market on aspects of the Company's ongoing commercial activities, it was decided that the announcement would be released to the market on 16 October 2018.

eSense is in negotiations with the UK counterparty to finalise the commercial supply agreement. On execution of the contract, the Company will again consider its continuous disclosure obligations under the Listing Rules and make necessary announcements.

5. **In respect of the UK Purchase, please:**

- 5- 1. **advise the name of the counterparty of the UK Purchase, and provide details about that party's financial and other capacity to perform its obligations in respect of the UK Purchase;**

The counterparty is a private company listed in the UK and has been involved in the e-liquid market for several years.

The details of the counterparty have been provided to the ASX in separate correspondence and the reasons for not releasing the counterparty's details are detailed in the response the question 4 above.

Under the terms of the arrangement of the UK Purchase, all orders were paid in advance of shipment. As such, all required payments were made and received.

- 5- 2. **advise the value of the UK Purchase;**

Of the 7 litres purchased under the program, the first litre purchase was at a price of USD 3,000. Subsequent litres were priced at USD 2,500 per litre.

Total value of the UK Purchase to date are: USD18,000

- 5- 3. **advise whether ESE has received payment (in part or in full) for the UK Purchase; and**

All payments were received in full in advance of the shipment.

**5- 4. provide a copy of any agreement, purchase order or other document governing the UK Purchase (not for release to the market).**

As mentioned above, the UK Purchases were ordered by way of an exchange of periodic emails between the parties.

A supply agreement is currently being negotiated with the counterparty

**6. Please confirm that ESE is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.**

Yes, eSense confirms that it is in compliance with the Listing Rules and, in particular Listing Rule 3.1.

**7. Please confirm that ESE's response 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 ESE with delegated authority from the board to respond to ASX on disclosure matters.**

Yes, eSense confirms that its responses to the questions above has been authorised and approved in accordance with its continuous disclosure policy or otherwise by its board or an officer of eSense with delegated authority form the board to respond to ASX on disclosure matters.

I trust this letter addresses the Aware Letter to the satisfaction of ASX. Please contact me if you have any further queries.

Yours sincerely



**Ian Pamensky**  
Company Secretary

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**FOR FURTHER INFORMATION:**

Ian Pamensky  
Company Secretary  
e-mail: [ian@cfo2grow.com.au](mailto:ian@cfo2grow.com.au)

**About eSense-Lab**

eSense-Lab (ASX: ESE) is a life sciences company specialising in the commercialisation of the phytochemical profiling of plants. The Company combines genetics, mRNA, protein expression and phytochemical profiles to generate a comprehensive model of rare or high value plants. eSense-Lab can then use this model to 'reverse engineer' a terpene profile, which is a naturally occurring formulation of different individual terpenes which together account for many of the plant's health and medical benefits, whilst also exactly replicating the flavour, fragrance and other desired characteristics of the targeted plant, at a more sustainable and cheaper cost

To learn more about eSense – Lab, visit [www.esense-lab.com](http://www.esense-lab.com)



16 October 2018

Mr Ian Pamensky  
Company Secretary  
eSense-Lab Ltd

By email

Dear Mr Pamensky

**eSense-Lab Ltd (“ESE”) – ASX aware letter**

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

- A. The change in the price of ESE’s securities from an intra-day low of \$0.02.9 on Friday, 12 October 2018, to a high and last price of \$0.061 at the time trading in ESE’s securities was paused and halted today, Tuesday, 16 October 2018.
- B. ESE’s announcement entitled “eSense-Lab Continues Commercialisation Process” released to the market through the Platform at 9.31am AEDT on Tuesday, 16 October 2018 (“Commercialisation Announcement”), disclosing, amongst other things, the following.
  - That a “UK based company (who at present will not be named), one of the three largest companies operating in the e-liquid market” has “purchased in the aggregate of seven (7) liters of eSense’s Super Lemon Haze” and that ESE “intends to move into a full commercial supply agreement”.
  - That an “agreement between eSense and the UK company is being negotiated and will be announced shortly.”
  - Comments from ESE’s CEO, Mr Haim Cohen, regarding ESE’s commercialisation efforts, including “In continuation of our commercialisation efforts, I am extremely pleased with the opportunity that this shipment harbors. Though we are not in a position at this point to reveal the name of the company that we are working with, suffice to say it is one of the largest companies in the UK for the production of e-cigarette liquids”.
- C. ESE’s announcement entitled “eSense-Lab Completes Capital Raising of \$3.15 Million” released to the market through the ASX Market Announcements Platform (“Platform”) at 9.14am AEDT on Monday, 15 October 2018 (“Capital Raising Announcement”), disclosing, amongst other things, the following.
  - That ESE had “received confirmation of binding commitments for 105,000,000 Chess Depositary Interest (“CDIs”) at a share price of AUD \$0.03, for proceeds of AUD \$3.15 million before costs (“Placement”).”
  - The Placement will occur in two tranches, with the second tranche of 85,000,000 CDIs subject to shareholder approval at a general meeting.
  - That EverBlu Capital Pty Ltd acted as the lead manager to the Placement, and for that and its ongoing engagement as ESE’s corporate adviser, will receive a 6% fee of funds raised under the Placement and 10 million unlisted options with an exercise price of \$0.06.
  - Comments from ESE’s CEO, Mr Haim Cohen, regarding ESE’s commercialisation and R&D efforts, including “entry into significant markets”.
  - The following general company updates about previously signed agreements.
    - IC Access (“IC”) – IC has not met their commitments under the distribution and sales agreement to purchase Terpene Strains from ESE totalling AUD\$1.1 million with a minimum

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commitment in the first year (commencing before 30 September 2018) of A\$366,000, and that ESE is currently in negotiations with IC to renegotiate the terms.

- Allor Vaporizers (“Allor”) – Allor has not met their commitments under the commercial agreement for the supply by ESE of e-liquids comprising reconstructed cannabis terpene profiles and remains contractually bound to purchase a further \$385,000 worth of product from ESE by the end of September 2018, and that ESE is currently in negotiations with Allor to renegotiate the terms.

- D. Item 1 “*Continuous Disclosure – Naming Counterparties to Material Transactions*” of ASX’s Listed@ASX Compliance Update No 7/16 of 25 July 2016, which states, amongst other things, the following.

*“ASX considers that if a transaction is sufficiently material to warrant disclosure under Listing Rule 3.1, the identity of the other party or parties will generally itself be material information that must also be disclosed under that rule. Such information is required by investors and their professional advisers to understand the ramifications of the transaction and to assess its impact on the price or value of the entity’s securities.”*

- E. Listing Rule 3.1, which requires a listed entity to give ASX immediately 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.

- F. 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”*.

- G. 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*

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

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- H. 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."*

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

1. When did ESE first become aware that the UK based company had purchased seven (7) litres of ESE's Super Lemon Haze strain ("UK Purchase")? In responding to this question, please state the date and time that ESE received the order for the UK Purchase.
2. Does ESE consider the information about the UK Purchase to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
3. If the answer to question 2 is "no", please advise the basis for that view.
4. If ESE first became aware of the UK Purchase before the release of the Capital Raising Announcement, did ESE make any announcement prior to the release of the Commercialisation Announcement which disclosed the UK Purchase? If so, please provide details. If not, please explain why the information about the UK Purchase was not released to the market at an earlier time, commenting specifically on when you believe ESE was obliged to release that information under Listing Rules 3.1 and 3.1A and what steps ESE took to ensure that the information was released promptly and without delay.
5. In respect of the UK Purchase, please:
  - 5.1. advise the name of the counterparty of the UK Purchase, and provide details about that party's financial and other capacity to perform its obligations in respect of the UK Purchase;
  - 5.2. advise the value of the UK Purchase;
  - 5.3. advise whether ESE has received payment (in part or in full) for the UK Purchase; and
  - 5.4. provide a copy of any agreement, purchase order or other document governing the UK Purchase (not for release to the market).
6. Please confirm that ESE is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.
7. Please confirm that ESE'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 ESE 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, and in accordance with, Listing Rule 18.7. Your response is required as soon as reasonably possible, and in any event, **by no later than 6.00am AWST on Thursday, 18 October 2018**. Please note that ESE's securities will not recommence trading until it has adequately responded to this letter.

ASX reserves the right to release a copy of this letter and your response on the 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 [tradinghaltsp Perth@asx.com.au](mailto:tradinghaltsp Perth@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 Platform.

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

In responding to this letter, you should have regard to ESE'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 ESE's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, providing the information requested in this letter.

Further, 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, ESE's obligation is to disclose the information "immediately". This may require the information to be disclosed before ESE's provides a response to this letter.

Yours sincerely

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**Ben Secrett**

Principal Adviser, Listings Compliance (Perth)