

Market Announcement

17 May 2022

engage:BDR Limited (colortv. Limited) (ASX: EN1) – Response to ASX Query Letters

Description

The following document relating to engage:BDR Limited (colortv. Limited) ('EN1') are attached for release to the market.

1. ASX Query Letter dated 26 April 2022.
2. EN1 Response dated 5 May 2022.
3. ASX Additional Query Letter dated 11 May 2022.
4. EN1 Response dated 17 May 2022.

Issued by

Dean Litis

Principal Adviser, Listings Compliance (Melbourne)



26 April 2022

Reference: ODIN515058

Ms Melanie Leydin
Company Secretary
engage:BDR Limited

By email

Dear Ms Leydin

engage:BDR Limited ('EN1'): Query Letter

ASX refers to the following:

- A. EN1's 2021 Annual Report, lodged on the ASX Market Announcements Platform ('MAP') on 31 March 2022, which disclosed:

In the remuneration report on page 11:

- i. *"During the year 2021 payroll expenses were recognised as software capitalisation. These costs were related to the developmental costs to projects to deliver future economic benefit to the Group. For T. Dhanik and K. Rintala costs of US\$150,920 (AU\$207,993) each were capitalised. For Y.Li US\$176,539 (AU\$243,301) was capitalised. For D.Kravchenko a total of US\$63,917 (AU\$88,088) was capitalised."*

ASX observes that Mr Ted Dhanik's 'Cash salary' was \$399,586 for 2021, of which \$207,933, or 52% was capitalised¹. This compares to 66% for Mr Rintala and 87% for Mr Li².

- ii. *"Bonus award of \$400,000 to Mr. Ted Dhanik was made for 2021. This bonus was an offset against part of loan accounts. Loan items were special exertions from the board to compensate the Executives for significantly reduced payroll in 2011 and 2013 and applied to outstanding loan balances with no cash paid."*

ASX has summarised the following information from EN1's prior annual reports in relation to Mr Ted Dhanik's bonus payments (emphasis added):

Year	Amount	Comment
2018	\$361,251	<i>"Bonus awards of \$361,251 to Mr Ted Dhanik, \$318,678 to Mr Kurtis Rintala were agreed to be made on 20 December 2018 in recognition of past additional or special exertions on behalf of the Company since their respective commencements as Directors. These bonuses were off set against part of loan accounts. As a result no cash payments were made by the Company."</i>
2019	\$340,664	<i>"Bonus award of \$340,664 to Mr. Ted Dhanik was made for 2019. This bonus was an offset against part of loan accounts. Loan items were special exertions from the board to compensate the Executives for</i>

¹ 'Health benefits' were not included in this calculation. The bonus award was also not included as it relates to compensation for previous years.

² Equity settled remuneration was included in this calculation.

		<i>significantly reduced payroll in 2011 and 2013 and applied to outstanding loan balances with no cash paid."</i>
2020	\$400,000	<i>"Bonus award of \$400,000 to Mr. Ted Dhanik was made for 2020. This bonus was an offset against part of loan accounts. Loan items were special exertions from the board to compensate the Executives for significantly reduced payroll in 2011 and 2013 and applied to outstanding loan balances with no cash paid."</i>

- iii. That Mr Ted Dhanik was paid \$82,133 in the form of 'Health benefits', compared to \$3,909 for Mr Rintala and \$4,166 for Mr Li.

In Note 21 to the financial statements on page 46 (emphasis added):

- iv. *"From 1 July 2019, Loans to directors and key management personnel were charged interest at a simple interest rate of 5% per annum, calculated monthly. This interest rate is consistent with local interest rates charged for secured personal debt. For the year ended 31 December 2021, loans given to Mr Ted Dhanik and Mr Andy Dhanik accrued an interest of AUD\$76,387 and AUD\$4,498 respectively. The loans made to both directors and key management personnel were repayable by 31 August 2021 **with an extension to be approved at the upcoming shareholders meeting. These have been disclosed as current receivables.** \$2,137,697 outstanding loans are secured against each individuals' shareholding and **will be settled in cash.** All loans were approved by the Board of Directors of the Group."*

In EN1's 'Statement of financial position' on page 23:

- v. 'Trade and other receivables' had reduced to \$935,832 for 2021 from \$3,243,521 for 2020.
- vi. Current assets reduced to \$4,407,080 from \$9,142,296 prior; current liabilities reduced to \$5,185,190 from \$6,144,812 prior; which left a working capital position of -\$778,110 at 31 December 2019. ASX observes that EN1's current asset position includes related party receivables, which appear to have been classified as 'current' since 2017.
- B. AASB 138³, which prescribes the accounting treatment for intangible assets and states (relevantly, emphasis added):
- i. At paragraph 62:
- "An entity's costing systems can often measure reliably the cost of generating an intangible asset internally, such as salary and other expenditure incurred in securing copyrights or licences or developing computer software."*
- ii. At paragraph 66:
- "The cost of an internally generated intangible asset comprises all **directly attributable costs** necessary to create, produce, and prepare the asset to be capable of operating in the manner intended by management. Examples of directly attributable costs are: ...*
- (b) costs of employee benefits (as defined in AASB 119) arising from the generation of the intangible asset"*
- iii. At paragraph 67:

³ https://aasb.gov.au/admin/file/content105/c9/AASB138_08-15_COMPmar20_07-21.pdf

"The following are not components of the cost of an internally generated intangible asset:

*(a) selling, administrative and **other general overhead expenditure unless this expenditure can be directly attributed to preparing the asset for use ..."***

- C. EN1's Appendix 4C, released on MAP on 31 January 2022, which stated at section 7.5 that EN1 had \$3,955,000 in available financing facilities, and was explained at section 7.6 as follows:

"Loan facility is actually a cash enhancement activity known as factoring. Advances are recorded against certain receivables balances which are factored under this facility. The credit risk associated with the transfer of trade receivables are retained with the Company."

ASX observes that this facility appeared to be the sole source of available funding for EN1's continued operations.

- D. EN1's Replacement Prospectus, released on MAP on 12 December 2017, which disclosed on page 37 in relation to the directors' fees:

"The Directors will be entitled to payment of the annual directors' fees as set out below from the date on which the Company is admitted to the Official List of ASX:

DIRECTOR	TOTAL
Mr. Ted Dhanik Executive Chairman	AUD \$290,000
Mr. Kurtis Rintala Executive Director	AUD \$290,000
Mr. Tom Anderson Non- Executive Director	AUD \$55,000
Bruce McMenamin Non-Executive Director	AUD \$40,000
Mr. Ron Phillips Non-Executive Director	AUD \$40,000

In addition the Company may pay superannuation contributions and salaries, as required by law. The above may vary from time to time, particularly having regard to the operations of the Company and increases in the size and scale of the business. Details of salaries and fees paid will be included in the Remuneration Report as part of the Company's Annual Report."

ASX observes that there does not appear to be any reference to bonus structures or 'Health benefits' that form material parts of the directors' most recent compensation packages.

- E. 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.
- F. Listing Rule 3.16.4, which requires an entity to immediately tell ASX of a variation to the material terms of employment of its CEO (or equivalent office holder); any of its directors; or any other person or entity who is a related party of the CEO or directors.
- G. Listing Rule 12.2, which requires an entity's financial condition must, in ASX's opinion, be adequate to warrant the continued quotation of its securities and its continued listing.

Request for information

Having regard to the above, ASX asks EN1 to respond separately to each of the following questions and requests for information:

- For personal use only
1. Does EN1 have a costing system in place to reliably measure the cost of generating software assets internally, specifically relating to salary expenses?
 2. If the answer to question 1 is:
 - 2.1 “yes”, noting that EN1’s website⁴ indicates that it employs a ‘Chief Technical Officer’ and a ‘VP, Engineering’ please provide the basis for EN1’s apparent view that 52% of Mr Dhanik’s capacity as Executive Chairman was spent directly contributing to the development of software assets, as per AASB 138.
 - 2.2 “no”, please explain the process EN1 uses to identify and allocate costs that are to be capitalised for software assets.
 3. Noting that paragraph A.ii shows an apparent discrepancy between 2018 and other years as to the origin of the ‘special exertions’, please clarify whether:
 - a. The loans referred to at paragraph A.ii themselves were the ‘special exertions’ to compensate for low payroll in 2011 and 2013; or
 - b. The bonus awards offset against the loan were ‘special exertions’ to compensate for low payroll in 2011 and 2013.

If both reasons were relevant in different years, please answer both of the following questions where applicable.
 4. If the answer to question 3 is ‘a’:
 - 4.1 Was this disclosed in EN1’s Replacement Prospectus; Supplementary Prospectus; Second Supplementary Prospectus; or any other document supplied to ASX when EN1 initially listed on ASX? If so, please provide details, if not, please explain why the fact that the loans were ‘special exertions’ was not disclosed.
 - 4.2 Please elaborate on the criteria set by EN1’s board, and met by Mr Ted Dhanik, to receive the \$400,000 bonus for the 2021 year, as well as for each of the equivalent bonuses since 2018.
 5. If the answer to question 3 is ‘b’:
 - 5.1 Noting that the “significantly reduced payroll” issues appear to precede EN1’s listing on ASX, please explain in detail what caused this reduction in payroll, and why remedial payments were still considered to be appropriate in 2021.
 - 5.2 Please explain why EN1 did not record the payments identified at paragraph A.ii as a liability on previous years’ balance sheets, given they appear to be settlement for services rendered in prior periods.
 - 5.3 Please provide an estimate of the remaining balance to be paid to remediate the reductions in payroll from 2011 and 2013, and when these payments are expected to complete. If no estimate can be made, please explain why not.
 6. Please provide a copy of the minutes of the EN1 board meetings whereby EN1 directors approved the bonuses paid to Mr Ted Dhanik in 2018, 2019, 2020 and 2021 (not for release to market).
 7. Please provide a copy of the minutes of the EN1 board meeting whereby EN1 directors approved the extension of the loan repayments referred to in paragraph A.iv. (not for release to market).

⁴ <https://engagebdr.com/team/>

8. ASX notes that EN1's Notice of Meeting, released on MAP on 1 April 2022, did not appear to contain any resolutions that related to an extension of the outstanding loans by Mr Ted Dhanik and Mr Andy Dhanik, contrary to EN1's statement at paragraph A.iv.
- Please advise when EN1 expects to hold a meeting to approve the loan extensions, and the date which EN1 proposes to select as the new due date for the loans.
9. Please explain why EN1 has not previously sought shareholder approval to extend the due date of the loans to Mr Ted Dhanik and Mr Andy Dhanik, but has indicated it will seek shareholder approval for this extension.
10. If EN1 intends on extending the due date past 31 December 2022, please explain the basis for EN1's apparent view that the related party loans are "current assets".
11. Please provide a copy of the loan agreements and subsequent extension agreements referred to in questions 7 through 10 (not for release to market).
12. Please provide a copy of Mr Ted Dhanik's employment agreement (not for release to market).
13. Has Mr Ted Dhanik's employment agreement materially varied since it was first outlined in the prospectuses?
14. If the answer to question 13 is:
- 14.1 "yes", please identify the announcement in which this was disclosed in accordance with Listing Rule 3.16.4. If no disclosure was made, please provide the basis for EN1's apparent view that it is in compliance with Listing Rule 3.16.4.
- 14.2 "no", please provide the basis for that view, commenting specifically on EN1's view that the bonus offset structure and Mr Ted Dhanik's 'Health benefits' were adequately disclosed at EN1's time of listing.
15. Please clarify whether Mr Ted Dhanik's 'Health benefits' compensation is in the form of a health insurance policy, direct health benefits sponsored by EN1, or some other arrangement (and if so, provide details).
16. If the health benefits are directly sponsored by EN1:
- 16.1 please provide further information on how this compensation is calculated and paid. I.e. Does EN1 reimburse Mr Ted Dhanik for health expenses he incurs? Is there a cap on benefits, and if so, what is that cap?
- 16.2 please provide further information on the nature of the health benefits included as part of Mr Ted Dhanik's compensation.
17. Noting that EN1's financial condition appears to depend on borrowing against its diminishing receivables; and its working capital position is negative notwithstanding the classification of the related party loans as 'current', please confirm whether EN1 is of the view that its financial condition satisfies Listing Rule 12.2, and the basis for that view.
18. Please confirm that EN1 is complying with the Listing Rules and, in particular, Listing Rule 3.1.
19. Please confirm that EN1'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 EN1 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 **9:00am AEST on Thursday 5 May 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, EN1'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 EN1 to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsComplianceMelbourne@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 EN1's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- 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 EN1's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to EN1'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 EN1'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 faithfully

Dean Litis

Principal Adviser, Listings Compliance (Melbourne)

5 May 2022

Your Reference: ODIN515058

Mr Dean Litis
Principal Adviser, Listings Compliance (Melbourne)
ASX Limited

By email (only): dean.litis@asx.com.au

Dear Sir,

RE: engage:BDR Limited (EN1): QUERY LETTER

We refer to your letter dated 26 April 2022 and as requested set out below EN1's responses to your queries (using the terms, numbering and lettering in your letter without footnotes) as follows:

1. *Does EN1 have a costing system in place to reliably measure the cost of generating software assets internally, specifically relating to salary expenses?*

Yes. The capitalisation of the software assets is determined by the total hours each employee works per year. This calculates their hourly rate which is then used to determine the cost allocated per project.

2. *If the answer to question 1 is:*

- 2.1 *"yes", noting that EN1's website indicates that it employs a 'Chief Technical Officer' and a 'VP, Engineering' please provide the basis for EN1's apparent view that 52% of Mr Dhanik's capacity as Executive Chairman was spent directly contributing to the development of software assets, as per AASB 138.*

Mr Ted Dhanik is part of the production team that entails all the planning, scoping, testing development, and execution of each project. He is highly involved as he has a greater understanding of the industry and what other companies have been displaying at conferences and other events he has attended.

- 2.2 *"no", please explain the process EN1 uses to identify and allocate costs that are to be capitalised for software assets.*

Not applicable.

3. *Noting that paragraph A.ii shows an apparent discrepancy between 2018 and other years as to the origin of the 'special exertions', please clarify whether:*

- a. *The loans referred to at paragraph A.ii themselves were the 'special exertions' to compensate for low payroll in 2011 and 2013; or*

The loans themselves were not special exertions – see further in the response below the second full paragraph of this question.

- b. *The bonus awards offset against the loan were 'special exertions' to compensate for low payroll in 2011 and 2013.*

The bonus awards themselves were not special exertions – see further in the response below the second full paragraph of this question.

If both reasons were relevant in different years, please answer both of the following questions where applicable.

The references to 'special exertions' appear differently due to their context in the four annual reports (2018 compared to 2019, 2020 and 2021). While expressed differently, they are consistent.

In the 2018 annual report, the bonus award items were references to the amounts of the awards, and identified that they had been offset against loans.

In the 2019, 2020 and 2021 annual reports the loan items were references to the offsets against the loan balances.

In all four years the basis upon which the bonuses were awarded was identified as special exertions in performing services at a level beyond that compensated by earlier years' remuneration, and were not payments of liabilities or as remedies or settlements for services or any failure to fulfill obligations. Accordingly as neither the loans nor the bonus were the 'special exertions' and the bonuses were not payments of liabilities, or remedial or settlement payments, questions 4 and 5, below, are not applicable. However, for completeness:

- (i) at the time of listing and at all times since there were no liabilities for prior year's performance, services or remuneration. The bonuses were discretionary awards made after listing in their respective years, having regard to but not because of any liability for the prior additional and/or special exertions as described in the respective annual reports
- (ii) Criteria were not predetermined - the past performance of each bonus recipient was considered as part of the exercise of the board's discretion;
- (iii) The remuneration paid in prior years was a factor of among other things the then available cash and other resources of the business and the stage of development, where the efforts underpinned benefits to the business in subsequent years; and
- (iv) There is no remaining balance as there was no prior liability or unfulfilled obligations to be remediated or settled.

4. *If the answer to question 3 is 'a':*

- 4.1 *Was this disclosed in EN1's Replacement Prospectus; Supplementary Prospectus; Second Supplementary Prospectus; or any other document supplied to ASX when EN1 initially listed on ASX? If so, please provide details, if not, please explain why the fact that the loans were 'special exertions' was not disclosed.*

Not applicable – see the response to question 3, above.

- 4.2 *Please elaborate on the criteria set by EN1's board, and met by Mr Ted Dhanik, to receive the \$400,000 bonus for the 2021 year, as well as for each of the equivalent bonuses since 2018.*

Not applicable – see the response to question 3, above.

5. *If the answer to question 3 is 'b':*

5.1 *Noting that the "significantly reduced payroll" issues appear to precede EN1's listing on ASX, please explain in detail what caused this reduction in payroll, and why remedial payments were still considered to be appropriate in 2021.*

Not applicable – see the response to question 3, above.

5.2 *Please explain why EN1 did not record the payments identified at paragraph A.ii as a liability on previous years' balance sheets, given they appear to be settlement for services rendered in prior periods.*

Not applicable – see the response to question 3, above.

5.3 *Please provide an estimate of the remaining balance to be paid to remediate the reductions in payroll from 2011 and 2013, and when these payments are expected to complete. If no estimate can be made, please explain why not.*

Not applicable – see the response to question 3, above.

6. *Please provide a copy of the minutes of the EN1 board meetings whereby EN1 directors approved the bonuses paid to Mr Ted Dhanik in 2018, 2019, 2020 and 2021 (not for release to market).*

Board Minutes of meetings on 20 December 2018 (2018 bonus), 26 February 2021 (2020 bonus) and 25 February 2022 (2021 bonus) attached. The grant of the 2019 bonus was not minuted however accepted by the Board in the approval of the 2019 Annual Report and Remuneration Report. **[See Attachment A]**

7. *Please provide a copy of the minutes of the EN1 board meeting whereby EN1 directors approved the extension of the loan repayments referred to in paragraph A.iv. (not for release to market).*

There are no Director minutes to approve the loan extension as it will be put to a general meeting of shareholders to approve an extension to the loan due dates (see the response to question 8, below).

8. *ASX notes that EN1's Notice of Meeting, released on MAP on 1 April 2022, did not appear to contain any resolutions that related to an extension of the outstanding loans by Mr Ted Dhanik and Mr Andy Dhanik, contrary to EN1's statement at paragraph A.iv.*

Please advise when EN1 expects to hold a meeting to approve the loan extensions, and the date which EN1 proposes to select as the new due date for the loans.

It had been intended to seek the shareholder approval at the 2022 AGM, which was anticipated to be the next shareholder meeting to be called after the 2021 annual report. However the notice of the intervening general meeting (to be held on 5 May 2022) was delayed until 1 April 2022, resulting in that meeting being called shortly after, rather than before, the release of the 2021 annual report.

An independent expert report will be required to be included with the applicable notice of meeting at which shareholder approval for an extension of the loan due dates, and for the notice to be submitted to ASIC for review at least 14 days before being dispatched. It was not possible to obtain a report and for the review period to be completed within the period available before the AGM notice was required to be released. The Company is currently in

the process of seeking quotes for the report and seeking shareholder approval will be included at a further general meeting after the AGM, now expected to be held in June or July 2022.

9. *Please explain why EN1 has not previously sought shareholder approval to extend the due date of the loans to Mr Ted Dhanik and Mr Andy Dhanik, but has indicated it will seek shareholder approval for this extension.*

Extensions were not considered to have resulted in the loans ceasing to be within the exceptions to the requirement for shareholder approval under the Corporations Act. Shareholder approval is proposed to be sought for further extensions rather than to rely solely on the exceptions.

10. *If EN1 intends on extending the due date past 31 December 2022, please explain the basis for EN1's apparent view that the related party loans are "current assets".*

As at 31 December 2021 the Shareholder loans were due to be repaid in a period of less than 12 months and there is no intention to change the due date unless there is a shareholder approval to extend this date.

11. *Please provide a copy of the loan agreements and subsequent extension agreements referred to in questions 7 through 10 (not for release to market).*

Copies attached **[Refer to Attachment B]**

12. *Please provide a copy of Mr Ted Dhanik's employment agreement (not for release to market).*

Copy agreement attached (partly signed) **[Refer to Attachment C]**

13. *Has Mr Ted Dhanik's employment agreement materially varied since it was first outlined in the prospectuses?*

The fees payable to Mr Dhanik have increased. The increases were periodic remuneration reviews in accordance with the terms of Mr Dhanik's service agreement.

14. *If the answer to question 13 is:*

- 14.1 *"yes", please identify the announcement in which this was disclosed in accordance with Listing Rule 3.16.4. If no disclosure was made, please provide the basis for EN1's apparent view that it is in compliance with Listing Rule 3.16.4.*

As above, fee increases were periodic remuneration reviews in accordance with the terms of Mr Dhanik's service agreement, which are not required to be disclosed under Listing Rule 3.16.4. The fees as increased from time to time, and that the fees are reviewable annually, were disclosed in each year's annual report (see pages 14 and 15 of the 2018 annual report, pages 14 and 16 of the 2019 annual report, pages 12 and 14 of the 2020 annual report, and pages 11 and 12 of the 2021 annual report).

- 14.2 *“no”, please provide the basis for that view, commenting specifically on EN1’s view that the bonus offset structure and Mr Ted Dhanik’s ‘Health benefits’ were adequately disclosed at EN1’s time of listing.*

Not applicable.

15. *Please clarify whether Mr Ted Dhanik’s ‘Health benefits’ compensation is in the form of a health insurance policy, direct health benefits sponsored by EN1, or some other arrangement (and if so, provide details).*

Health, wellness, medical and fitness expenses are paid directly by EN1.

16. *If the health benefits are directly sponsored by EN1:*

- 16.1 *please provide further information on how this compensation is calculated and paid. I.e. Does EN1 reimburse Mr Ted Dhanik for health expenses he incurs? Is there a cap on benefits, and if so, what is that cap?*

Payments are made directly by EN1 and there was no cap on payments. Since 31 March 2022 the health benefits program for the Company has ceased.

- 16.2 *please provide further information on the nature of the health benefits included as part of Mr Ted Dhanik’s compensation.*

The benefits are for medical, health, wellness and fitness expenses.

17. *Noting that EN1’s financial condition appears to depend on borrowing against its diminishing receivables; and its working capital position is negative notwithstanding the classification of the related party loans as ‘current’, please confirm whether EN1 is of the view that its financial condition satisfies Listing Rule 12.2, and the basis for that view.*

The Company is of the view that its financial condition satisfies Listing Rule 12.2 on the following basis:

- a. The Company has recently raised \$1m via the issue of convertible notes which are to be utilised for working capital purposes.
- b. The Company has executed a mandate with CPS Capital for a further \$3m placement (subject to shareholder approval) and this is expected to commence following the refreshment of placement capacity at the meeting to be held on 5 May 2022.
- c. As at 30 April 2022, the Company’s current working capital position has improved since the 31 December 2021 Annual Report.

18. *Please confirm that EN1 is complying with the Listing Rules and, in particular, Listing Rule 3.1.*

The Company believes that its current practices are in compliance with the Listing Rules including Listing Rule 3.1.

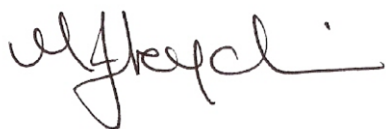
19. *Please confirm that EN1's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of EN1 with delegated authority from the board to respond to ASX on disclosure matters.*

The Company's responses to the questions above have been authorised and approved by the Board of EN1.

Authorised and approved for release by the Board.

Yours faithfully

engage:BDR Limited

A handwritten signature in dark ink, appearing to read 'Melanie Leydin', with a stylized flourish at the end.

Melanie Leydin
Company Secretary

enc:



11 May 2022

Reference: ODIN52078

Ms Melanie Leydin
Company Secretary
engage:BDR Limited

By email

Dear Ms Leydin

engage:BDR Limited ('EN1'): Additional Query Letter

ASX refers to the following:

- A. ASX's query letter to EN1 dated 26 April 2022 (the '**Query Letter**'), which sought further information on EN1's disclosures to date.
- B. EN1's response to the Query Letter (the '**Query Response**'), dated 5 May 2022.

ASX has determined that some of EN1's answers in the Query Response are insufficient, or otherwise require further clarification.

Request for information

- 1. Question 2 of the Query Letter asked (relevantly):

"If the answer to question 1 is "yes", noting that EN1's website indicates that it employs a 'Chief Technical Officer' and a 'VP, Engineering' please provide the basis for EN1's apparent view that 52% of Mr Dhanik's capacity as Executive Chairman was spent directly contributing to the development of software assets, as per AASB 138."

The Query Response stated (emphasis added):

"Mr Ted Dhanik is part of the production team that entails all the planning, scoping, testing development, and execution of each project. He is highly involved as he has a greater understanding of the industry and what other companies have been displaying at conferences and other events he has attended."

Please clarify whether EN1 is asserting that Mr Dhanik's time spent attending conferences and other events counts towards capitalised salary costs.

- 2. Question 3 of the Query Letter asked:

"Noting that paragraph A.ii shows an apparent discrepancy between 2018 and other years as to the origin of the 'special exertions', please clarify whether:

- a. The loans referred to at paragraph A.ii themselves were the 'special exertions' to compensate for low payroll in 2011 and 2013; or*
- b. The bonus awards offset against the loan were 'special exertions' to compensate for low payroll in 2011 and 2013."*

The Query Response provided a response to both 'a' and 'b', stating respectively:

"a. The loans themselves were not special exertions – see further in the response below the second full paragraph of this question."; and

“The bonus awards themselves were not special exertions – see further in the response below the second full paragraph of this question.”

EN1, in lieu of answering subsequent questions 4 or 5, provided the following:

“The references to ‘special exertions’ appear differently due to their context in the four annual reports (2018 compared to 2019, 2020 and 2021). While expressed differently, they are consistent.

In the 2018 annual report, the bonus award items were references to the amounts of the awards, and identified that they had been offset against loans.

In the 2019, 2020 and 2021 annual reports the loan items were references to the offsets against the loan balances.

In all four years the basis upon which the bonuses were awarded was identified as special exertions in performing services at a level beyond that compensated by earlier years’ remuneration, and were not payments of liabilities or as remedies or settlements for services or any failure to fulfill obligations. Accordingly as neither the loans nor the bonus were the ‘special exertions’ and the bonuses were not payments of liabilities, or remedial or settlement payments, questions 4 and 5, below, are not applicable. However, for completeness:

(i) at the time of listing and at all times since there were no liabilities for prior year’s performance, services or remuneration. The bonuses were discretionary awards made after listing in their respective years, having regard to but not because of any liability for the prior additional and/or special exertions as described in the respective annual reports.

(ii) Criteria were not predetermined - the past performance of each bonus recipient was considered as part of the exercise of the board’s discretion;

(iii) The remuneration paid in prior years was a factor of among other things the then available cash and other resources of the business and the stage of development, where the efforts underpinned benefits to the business in subsequent years; and

(iv) There is no remaining balance as there was no prior liability or unfulfilled obligations to be remediated or settled.”

EN1’s answer, in ASX’s view, still does not clearly outline whether EN1 paid the bonuses to reflect current or past period performance, and does not explain the relevance that remuneration paid in 2011 and 2013 has on current outcomes. ASX asks the following questions with no dependencies on EN1’s answers to prior questions:

- 2.1 Please state clearly whether the \$400,000 bonus payment in 2021 was awarded for performance in 2021, or for an earlier period.
- 2.2 Noting that the criteria were not pre-determined for any of the bonuses, please elaborate on the criteria Mr Dhanik ultimately met in order to be eligible for the bonus in 2021.
- 2.3 Does EN1 anticipate that it will cease awarding bonuses “for low payroll in 2011 and 2013”? If so, when? If not, why not?

3. Question 13 of the Query Letter asked (emphasis added):

*“Has Mr Ted Dhanik’s employment agreement **materially** varied since it was first outlined in the prospectuses?”*

The Query Response stated:

"The fees payable to Mr Dhanik have increased. The increases were periodic remuneration reviews in accordance with the terms of Mr Dhanik's service agreement."

ASX observes that EN1 did not explicitly confirm whether the terms of Mr Dhanik's employment agreement had materially changed, just that the fees payable had increased.

Question 14 of the Query Letter asked:

"If the answer to question 13 is:

14.1 "yes", please identify the announcement in which this was disclosed in accordance with Listing Rule 3.16.4. If no disclosure was made, please provide the basis for EN1's apparent view that it is in compliance with Listing Rule 3.16.4.

14.2 "no", please provide the basis for that view, commenting specifically on EN1's view that the bonus offset structure and Mr Ted Dhanik's 'Health benefits' were adequately disclosed at EN1's time of listing."

The Query Response elected to answer question 14.1, stating:

"As above, fee increases were periodic remuneration reviews in accordance with the terms of Mr Dhanik's service agreement, which are not required to be disclosed under Listing Rule 3.16.4. The fees as increased from time to time, and that the fees are reviewable annually, were disclosed in each year's annual report (see pages 14 and 15 of the 2018 annual report, pages 14 and 16 of the 2019 annual report, pages 12 and 14 of the 2020 annual report, and pages 11 and 12 of the 2021 annual report)."

By responding to question 14.1, EN1 indicated that it was of the view that there were material changes to Mr Dhanik's employment agreement. However, EN1's answer instead appears to imply that it considers the changes to be immaterial as they were solely attributable to periodic reviews, and were therefore not required to be disclosed in accordance with Listing Rule 3.16.4.

At Question 16.1, in relation to how Mr Dhanik's health benefits are paid, the Query Response stated (emphasis added):

*"Payments are made directly by EN1 and **there was no cap on payments**. Since 31 March 2022 the health benefits program for the Company has ceased."*

Furthermore, ASX's review of Mr Dhanik's employment contract did not appear to make any mention of the ability to earn bonuses.

- 3.1 Is EN1 of the view that Mr Dhanik's employment agreement has materially varied from what was disclosed in EN1's prospectus at listing, except for changes exempt from Listing Rule 3.16.4 such as periodic reviews?
- 3.2 If so, please outline what those changes were, and provide the basis for EN1's apparent view it was compliant with Listing Rule 3.16.4 despite failing to immediately disclose the material changes.
- 3.3 If not, please provide the basis for that view, commenting specifically on why EN1 is of the view that it adequately disclosed in its prospectus that Mr Dhanik had access to an uncapped health benefits program and the ability to earn performance bonuses.



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 **9:00 AM AEST Tuesday, 17 May 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, EN1'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 EN1 to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsComplianceMelbourne@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.

ASX intends to release the Query Response and Query Letter to the market together with this letter and your response.

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 EN1's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- 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 EN1's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to EN1'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 EN1'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 faithfully

Dean Litis

Principal Adviser, Listings Compliance (Melbourne)



17 May 2022

Your Reference: ODIN52078

Mr Dean Litis
Principal Adviser, Listings Compliance (Melbourne)
ASX Limited

By email (only): dean.litis@asx.com.au

Dear Sir,

RE: engage:BDR Limited (EN1): QUERY LETTERS

We refer to ASX's letter of 11 May 2022 and as requested set out below EN1's responses to the underlined questions in the letter (using the terms, numbering and lettering in the letter, without repeating the introductory text to question in the letter).

In its responses in its letter of 5 May 2022 EN1 sought to provide information which addressed the substance of the questions in ASX's letter of 26 April 2022, which included addressing matters relevant to the subject matter of the questions. The following responses are provided to address the questions in ASX's letter of 11 May 2022 as additions to and to confirm its previous answers.

1. *Please clarify whether EN1 is asserting that Mr Dhanik's time spent attending conferences and other events counts towards capitalised salary costs.*

The Company confirms that time spent at conferences and other events have not been included in capital salary costs for Mr Dhanik.

- 2.1 *Please state clearly whether the \$400,000 bonus payment in 2021 was awarded for performance in 2021, or for an earlier period.*

The bonus payment in 2021 was awarded for performance for 2021.

- 2.2 *Noting that the criteria were not pre-determined for any of the bonuses, please elaborate on the criteria Mr Dhanik ultimately met in order to be eligible for the bonus in 2021.*

The bonus was based on performance returning to pre-covid levels for most of the year and the elimination of structure financing.

- 2.3 *Does EN1 anticipate that it will cease awarding bonuses "for low payroll in 2011 and 2013"? If so, when? If not, why not?*

Yes. Bonuses of each year were awarded for performance in the respective year. Bonuses were not awarded for low payroll.

- 3.1 *Is EN1 of the view that Mr Dhanik's employment agreement has materially varied from what was disclosed in EN1's prospectus at listing, except for changes exempt from Listing Rule 3.16.4 such as periodic reviews?*

No

- 3.2 *If so, please outline what those changes were, and provide the basis for EN1's apparent view it was compliant with Listing Rule 3.16.4 despite failing to immediately disclose the material changes.*

Not applicable

- 3.3 *If not, please provide the basis for that view, commenting specifically on why EN1 is of the view that it adequately disclosed in its prospectus that Mr Dhanik had access to an uncapped health benefits program and the ability to earn performance bonuses.*

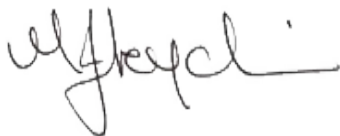
Health benefits: Health benefits were, in accordance with common US practice for the industry in which EN1 operates, made available to senior personnel generally and did not form part of the terms or conditions of Mr Dhanik's or other personnel's employment or service. The cessation by EN1's of making health benefits available, as referred to in EN1's response letter of 5 May 2022, did not amend the terms of Mr Dhanik's or any other personnel's employment or service or any require the agreement or consent of any personnel, demonstrating that they did not form part of terms or conditions of employment or service. Further, in respect of the prospectus, health benefits were not amounts paid or agreed to paid as an inducement to become or qualify as a director of EN1 or in connection with the formation or promotion of EN1 or the offer of its securities under the prospectus, or which were at the date of the prospectus information otherwise required to be contained in the prospectus.

Performance bonuses: There was no agreement or other arrangement regarding awarding bonuses or offsetting loans at the date of the prospectus to be disclosed in the prospectus. As identified in EN1's response letter of 5 May 2022, the bonuses were discretionary awards, made after listing, in their respective years. The loan offsets were also made only when bonuses were awarded.

The Company's responses to the questions above have been authorised and approved by the Board of EN1.

Yours faithfully

engage:BDR Limited



Melanie Leydin
Company Secretary