

3 July 2023

Ms Ramona Seeto
Advisor, Listings Compliance (Sydney)
ASX
20 Bridge Street
Sydney
NSW 2000

Via e-mail

Dear Ms Seeto

Re: Kleos Space S.A. ('KSS'): Query Regarding Listing Rule 15.7

Kleos Space S.A. (**KSS** or the **Company**) refers to your letter dated 24 May 2023, received on 25 May 2023, referencing the Company's announcement titled "Kleos Financing and Business Update", lodged with ASX on 24 May 2023 (the **Release**), and the information contained therein (**Information**), as well as subsequent associated correspondence.

The Company's responses to the queries in your letter are as follows:

1. Does KSS 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?

The Company does not consider the Information to be information which 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": 2.1 Please explain the basis for that view. 2.2 Please explain the basis in the Listing Rules or the Corporations Act for lodging the announcement on MAP.

The Company notes that trading in its securities has remained suspended longer than originally anticipated, while potential fundraising options are being considered. (Please refer to the Company's request for a voluntary suspension of trading, released on MAP on 3 May 2023). The status briefing was therefore simply a courtesy communication to the market regarding the timing of further information updates.

ASX has previously advised the Company that it does not consider the execution of partnership agreements to be materially price sensitive, and that it would not release standalone announcements regarding these partnerships on MAP, given that the appropriate medium for provision of these details would be the Company's quarterly activities reports. As the Company

had advised potential investors of the partnership in the course of fundraising negotiations, this detail was included in the status briefing.

The Company further notes that a similar approach was taken, in consultation with ASX, when information regarding the achievement of data delivery milestones, was provided to the market on 2 February 2023, whilst a placement process was underway. At the instance of ASX, that announcement was released and not marked “price-sensitive”.

3. If the answer to question 1 is “yes”: 3.1 Please explain the basis for that view. 3.2 Please explain why KSS did not lodge the announcement as “market-sensitive” when it was submitted to MAP.

N / A

4. When did KSS become aware of the Information?

The partnership was finalised on 23 May 2023 in the USA (24 May 2023 in Sydney).

5. When was the Press Release published on KSS’ website?

The Information was published on the KSS website at 04:47 a.m. on 24 May 2023 (Sydney).

6. Please explain whether KSS is of the view that it breached Listing Rule 15.7 by publishing the Information on its website prior to its release on MAP. If not, please provide the basis for that view.

The Company is of the view that it did not breach listing Rule 15.7. According to *ASX Guidance Note 14.10*, the reason for the requirement stipulated in Listing Rule 15.7 is “to make MAP the central collection and dissemination point for market sensitive information. This ensures that such information is quickly and broadly disseminated in all sections of the market, enhancing the efficiency and integrity of that process and helping to reduce risk of informational inequities and insider trading”.

Since the Information was not market sensitive, and the Company’s securities were suspended from trading at the time of the release to media (and remain suspended), the rationale for invoking this rule does not apply. The Information provided to the market would, in the ordinary course, have been provided in the following quarterly activities report, despite having normally been made available on the KSS website as a press release or on KSS social media channels at an earlier date.

7. Please confirm that KSS is complying with the Listing Rules and, in particular, Listing Rule 3.1.

The Company confirms that KSS is complying with Listing Rule 3.1.

8. Please confirm that KSS’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 KSS with delegated authority from the board to respond to ASX on disclosure matters.

The Company confirms that this response has been authorised and approved by its Chairman and Executive Director.

Yours faithfully



Andy Bowyer

Executive Director



24 May 2023

Reference: 74788

Ms Vanessa Chidrawi
Company Secretary
Kleos Space S.A

Dear Ms Chidrawi

Kleos Space S.A ('KSS'): Listing Rule 15.7 Query

ASX refers to the following:

- A. KSS's announcement titled "Kleos Financing and Business Update" released on the ASX Market Announcements Platform ('MAP') at 12:50 PM AEST on 24 May 2023 (the '**Announcement**'), which disclosed, amongst other things, that KSS had entered into a strategic partnership with General Atomics Commonwealth Computer Research, Inc ('GA-CCRI') (the '**Information**').
- B. A press release published by KSS on its website (the '**Press Release**'), dated 23 May 2023, which appears to contain substantially similar content to the Information. ASX notes that this was released prior to the Announcement's publication on MAP.
- C. 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.
- D. Listing Rule 15.7, which states:
- "An entity must not release information that is for release to the market to any person until it has given the information to ASX and has received an acknowledgement that ASX has released the information to the market."*
- E. 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."*
- F. 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."*
- G. 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 KSS to respond separately to each of the following questions and requests for information:

1. Does KSS 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":
 - 2.1 Please explain the basis for that view.
 - 2.2 Please explain the basis in the Listing Rules or the Corporations Act for lodging the Announcement on MAP.
3. If the answer to question 1 is "yes":
 - 3.1 Please explain the basis for that view.
 - 3.2 Please explain why KSS did not lodge the announcement as 'market-sensitive' when it was submitted to MAP.
4. When did KSS first become aware of the Information?
5. When was the Press Release published on KSS's website? Please provide the exact time.
6. Please explain whether KSS is of the view that it breached Listing Rule 15.7 by publishing the Information on its website prior to its release on MAP. If not, please provide the basis for that view.
7. Please confirm that KSS is complying with the Listing Rules and, in particular, Listing Rule 3.1.
8. Please confirm that KSS'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 KSS 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 **9:00 AM AEST Monday, 29 May 2023**. 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, KSS'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 KSS to request a trading halt immediately.

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 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 KSS'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 KSS's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to KSS'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 KSS'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

ASX reserves the right to release all or any part 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

Ramona Seeto
Adviser, Listings Compliance