



Phosphagenics

**Phosphagenics Limited**

**Board Charter**



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# 1 Definitions and interpretation

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## 1.1 Definitions

In this document, unless the context requires otherwise:

“**ASX**” means the Australian Securities Exchange.

“**ASX Listing Rules**” means the listing rules of the ASX.

“**Audit and Risk Management Committee**” means the audit and risk management committee of the Board.

“**Board**” means the board of directors of the Company.

“**Board Meeting**” means a duly convened meeting of the Board.

“**Chairman**” means the Chairman of the Board of the Company, from time to time.

“**Chief Executive Officer**” means the chief executive officer of the Company, from time to time.

“**Chief Financial Officer**” means the chief financial officer of the Company, from time to time.

“**Committees**” means the Audit and Risk Management Committee, the Remuneration Committee and the Nomination Committee.

“**Common Director**” has the meaning given to that term in section 4.1(a).

“**Company**” means Phosphagenics Limited ACN 056 482 403.

“**Company Secretary**” means the company secretary, from time to time.

“**Compliance Officer**” means the person appointed by the Board to ensure the Company complies with its Continuous Disclosure Obligations.

“**Constitution**” means the constitution of the Company.

“**Continuous Disclosure Obligations**” means the obligations of the Company under ASX Listing Rule 3.1.

“**Continuous Disclosure Policy**” means the policy relating to the Company’s compliance with its Continuous Disclosure Obligations, as published on the Company’s website.

“**Corporations Act**” means the *Corporations Act 2001* (Cth).

“**Deputy Compliance Officer**” means the person appointed by the Board to assist the Compliance Officer to ensure the Company complies with its Continuous Disclosure Obligations.

“**Director**” means a director of the Company, from time to time.

“**EIP**” means the Employee Incentive Plan, the Company’s long term incentive scheme.

**“Key Management Personnel”** (singular use **“Key Management Person”**) has the meaning given to that term in the ASX Listing Rules, being those persons having authority and responsibility for planning, directing and controlling the activities of the Company, directly or indirectly, including any director.

**“Nomination Committee”** means the nomination committee of the Board.

**“Notifiable Interests”** has the meaning given to that term in section 14.1(b).

**“Other Company”** has the meaning given to that term in section 4.1(a).

**“Prohibited Period”** has the meaning given to that term in section 11.3.

**“Related Party”** has the meaning given to that term in section 9 of the Corporations Act.

**“Relevant Interest”** has the meaning given to that term in section 14.1(a).

**“Remuneration Committee”** means the remuneration committee of the Board.

**“Senior Management”** means the members of the executive management of the Company, including the Chief Executive Officer, the Chief Financial Officer, the Chief Scientific Officer, and other senior personnel invited to join the Company’s executive management committee by the Chief Executive Officer.

**“Security Trading Policy”** means the policy relating to trading in the Company’s securities by Key Management Personnel, as published on the Company’s website.

**“Shareholder”** means a holder of shares in the Company.

## **2 Corporate governance**

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### **2.1 Responsibilities of the Board**

The Directors are responsible for protecting the rights and interests of the Company, its Shareholders and other stakeholders, including creditors and employees, and are accountable to them for the overall management of the Company.

The Board’s responsibilities include:

- (a) protecting and enhancing the value of the assets of the Company;
- (b) setting strategies, directions and monitoring and reviewing against these strategic objectives;
- (c) reviewing and ratifying internal controls, codes of conduct and legal compliance;
- (d) reviewing the Company’s accounts;
- (e) approval and review of the operating budget and strategic plan for the Company;
- (f) evaluating performance and determining the remuneration of the Chief Executive Officer and Senior Management;
- (g) ensuring the significant risks facing the Company have been identified and adequate control monitoring and reporting mechanisms are in place;
- (h) approval of transactions relating to acquisitions, divestments and capital expenditure above delegated authority limits;
- (i) approval of financial and dividend policy (refer to section 3); and
- (j) appointment of the Chief Executive Officer.

To assist in the execution of the above responsibilities, the Board has in place two Board Committees comprising an Audit and Risk Management Committee and a Nomination Committee, with the role of the Remuneration Committee currently performed by the Board.

## **2.2 Structure of the Board**

- (a) The number of Directors must not be less than 3 and no more than 8 (clause 54.2 of the Company's Constitution). On the date that this charter was adopted, there were 4 Directors of the Company.
- (b) With the exception of the Chief Executive Officer, a Director may not hold office for more than three years or beyond the third annual general meeting following his or her appointment (whichever is the longer period) without submitting himself or herself for re-election (clause 58.4 of the Constitution and ASX Listing Rule 14.4).
- (c) The Board should at all times comprise a majority of independent Directors to ensure that the Company is run in its own best interests and, accordingly, in the best interests of Shareholders.
- (d) The composition of, and terms of reference for, the Board is to be reviewed annually by the Board and the Board, under the direction of the Chairman, is to assess the effectiveness of the Board.

## **2.3 Policy and procedures for appointment, retirement and rotation**

- (a) The retirement, rotation and appointment of Directors is covered by clauses 54 to 60 of the Constitution.
- (b) The Board, based on the recommendations of the Nomination Committee, regularly reviews the composition of the Board and the succession plans for Directors.
- (c) The Nomination Committee shall make an initial assessment of the necessary and desirable competencies for any new Director.
- (d) Where appropriate, the Nomination Committee will engage the services of an external consultant to search for appropriate candidates for directorship.
- (e) In considering a candidate for directorship, the Nomination Committee shall review, amongst other things:
  - (i) the board skills matrix, which outlines the mix of skills and diversity required on the Board and the extent to which each is currently represented by current Directors on the Board;
  - (ii) the business and strategic needs of the Company;
  - (iii) the need to cater for replacement Directors ahead of scheduled retirements;
  - (iv) the biographical details including competencies and qualifications of the candidate;
  - (v) the necessary time a new Director will be required to provide to the Company; and
  - (vi) details of other commitments of the candidates.
- (f) The Nomination Committee will review potential candidates for directorship and make a recommendation to the Board.
- (g) A candidate will be interviewed by all directors.

- (h) The appointment of any new Director will be made by, and in accordance with, a formal letter of appointment or a deed setting out the key terms and conditions relative to that appointment.
- (i) The Board will ensure that any new Director is appropriately introduced to the Company and amongst other things, will provide to any new Director:
  - (i) a copy of the Company's Constitution;
  - (ii) a copy of this Board Charter;
  - (iii) the most recent Annual Report of the Company;
  - (iv) a draft of the deed of indemnity, insurance and access given by the Company to each Director; and
  - (v) where appropriate, a summary of the most recent strategic plan of the Company.
- (j) The Board will also ensure that any new Director is acquainted with:
  - (i) knowledge of the industry within which the Company operates;
  - (ii) visits to specific Company operations when appropriate;
  - (iii) briefings with Senior Management and industry experts where appropriate.
- (k) Although Directors are elected by the Shareholders to bring special expertise or perspective to Board deliberations, the best interests of the Company will be paramount at all times.

## 2.4 Remuneration

- (a) The fees payable to non-executive Directors are determined by the Board within the aggregate amount approved by Shareholders.
- (b) Non-executive Directors (including the Chairman) will collectively be paid from a fixed sum out of the funds of the Company as remuneration for their services as Directors. The fixed sum has been set by the Board at a maximum of \$400,000 per annum. Following listing on the ASX, this amount can only be increased by the passing of an ordinary resolution of Shareholders.
- (c) Directors' fees are currently allocated as follows:
 

Chairman:	\$110,000 per annum
Director:	\$55,000 per annum
Chairman of Audit and Risk Management Committee:	\$10,000 per annum
Chairman of Remuneration Committee:	waived
Chairman of Nomination Committee:	waived
- (d) Non-executive Directors are entitled to participate in the Company's long term incentive scheme whereby these Directors may be issued rights pursuant to the terms of the EIP and subject to the prior approval of the Company's shareholders

## 2.5 Directors' retirement benefit

During Directors' tenure as Directors of the Company, the Company will make superannuation guarantee payments on behalf of Directors at the rate prescribed by, and

in accordance with, the provisions of the superannuation guarantee legislation from time to time.

## **2.6 Independent counsel**

An individual Director may engage separate independent counsel or advisors at the expense of the Company in appropriate circumstances, with the written approval of the Chairman or by resolution of the Board.

## **2.7 Board meetings**

### **(a) Agenda**

The Chairman, with the assistance of the Chief Executive Officer, establishes the agenda for each Board Meeting. Each Director is able to suggest the inclusion of items on the agenda.

### **(b) Notice**

At least 5 days' notice of Board Meetings will be given and material on the items to be considered at each Board Meeting will be provided at least 5 days in advance of the Board Meeting.

### **(c) Number of Meetings**

The Board normally meet at least 4 times a year for either face to face or via telephone conferences which may be held as appropriate.

### **(d) Attendance by Senior Management**

Senior Management may attend Board Meetings by invitation.

### **(e) 'in camera' Meetings**

The Board may meet periodically on an 'in camera' basis without the Chief Executive Officer or Senior Management present.

## **2.8 Directors' obligations**

### **(a) Directors must:**

- (i) act in the best interests of the Company;
- (ii) at all times act honestly in the exercise of their powers and the discharge of the duties of their office;
- (iii) exercise the degree of care and diligence that a reasonable person in a like position in a corporation would exercise in the Company's circumstances (refer to section 2.8(b));
- (iv) ensure that at all times they have a good understanding of strategies and the businesses conducted by the Company;
- (v) carefully study Board materials and issues;
- (vi) be active, objective and constructive in their participation at meetings of the Board and Committees;
- (vii) assist in representing the Company to the public;
- (viii) counsel on corporate issues;
- (ix) ensure that they have a good understanding of general economic trends and corporate governance; and
- (x) minimise the possibility of conflict of interest in their involvement with the Company by restricting their involvement in other similar businesses.

### **(b) A Director will be deemed to have met the requirement of care and diligence, as set out in section 2.8(a)(iii), if:**

- (i) the judgement was made in good faith and for a proper purpose;
- (ii) the Director does not have a material personal interest in the subject matter of the judgement;
- (iii) the Director informed himself/herself about the subject matter of the judgement to the extent he/she reasonably believes to be appropriate; and
- (iv) the Director rationally believes that the judgement is in the best interests of the Company.

## 2.9 Company Secretary

- (a) The Board appoints and removes the Company Secretary. All Directors shall have direct access to the Company Secretary.
- (b) The Company Secretary shall be accountable to the Managing Director, and to the Board through the Chairman, on all corporate governance matters.
- (c) The Company Secretary shall be responsible for communication with the Australian Securities Exchange about listing rule matters. The Company Secretary is responsible for including lodgements with relevant securities exchanges and other regulators, the administration of Board and Board Committee meetings (including preparation of meeting papers and minutes), the management of dividend payments, the administration of and oversight of the relationship with the Company's Share Registrar.

## 3 Dividend policy

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- 3.1 The Company's dividend policy will be based primarily on the earnings, cash flow and business requirements of the Company. The current intention of the Board is that the dividend paid will represent not more than 10% nor less than 0% of net tax paid on operating earnings unless otherwise warranted at the Board's discretion.
- 3.2 Notwithstanding this general policy statement, the Board has a discretion to change its payout percentage to reflect its perception of the cash requirements of the business of the Company and in the best interests of Shareholders.

## 4 Conflicts of interest

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### 4.1 Company's acknowledgments

- (a) Some of its Directors (in this section referred to as the "**Common Director**") may, from time to time, hold directorships in other companies (in this section referred to as the "**Other Company**").
- (b) Any information confidential to the Other Company which a Common Director possesses and which came into his or her possession in the course of the performance of his or her duties as an officer of the Other Company cannot and shall not be communicated to the Company or any officer or employee of the Company without the consent of the Other Company.
- (c) Any information which a Common Director possesses in relation to the Other Company which is not generally available but, if the information were generally available, a reasonable person would expect it to have a material effect on the price or value of securities of the Other Company cannot and shall not be communicated to the Company or any officer or employee of the Company.
- (d) Any information confidential to the Company which a Common Director possesses and which came into his or her possession in the course of the performance of his or her duties as an officer of the Company cannot and shall

not be communicated to the Other Company or any officer or employee of the Other Company without the consent of the Board.

- (e) Any information which a Common Director possesses in relation to the Company which is not generally available but, if the information were generally available, a reasonable person would expect it to have a material effect on the price or value of securities of the Company cannot and shall not be communicated to the Other Company or any officer or employee of the Other Company.

#### **4.2 Meetings at which conflicts arise**

- (a) Where at any meeting of the Company it is proposed to discuss any matter which gives rise or may give rise to a conflict or a real sensible possibility of a conflict of interest between the duties and obligations of the Common Director to the Company and to the Other Company, the Common Director:
  - (i) must not be present while that matter is being considered; and
  - (ii) must not vote on that matter,
 unless the other Directors pass a resolution that states, effectively, that those Directors, having considered the nature and extent of the conflict or possible conflict, are satisfied that the matter should not disqualify the Common Director from being present or voting.
- (b) A Common Director may at any meeting of the Company request that the meeting be postponed or temporarily adjourned to enable him or her to seek legal advice on whether he or she can:
  - (i) be present while the matter in question is being considered; and
  - (ii) vote on the matter in question.

## **5 Related Party transactions**

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- 5.1 The Board must ensure that any dealings between the Company and its Related Parties are conducted in accordance with the Corporations Act, the ASX Listing Rules and any other laws or regulations governing Related Party transactions.
- 5.2 The Board may, at its discretion, adopt policies from time to time to assist in managing Related Party transactions.

## **6 Board committees**

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### **6.1 General**

- (a) The current Committees of the Board include the Audit and Risk Management Committee and the Nomination Committee. The role of the Remuneration Committee is currently performed by the Board.
- (b) The Board Committees review and analyse policies and strategies, usually developed by management, which are within their terms of their Charter, which has been approved by the Board.
- (c) The Board Committees examine proposals and, where appropriate, report and/or make recommendations to the Board.
- (d) The Board Committees do not take action or make decisions on behalf of the Board unless specifically mandated by prior Board authority to do so.
- (e) The composition and terms of reference for the Board Committees are reviewed annually by the Board. The Board, under the direction of the Chairman assesses the effectiveness of each Board Committee annually.

- (f) A Board Committee may engage separate independent counsel or advisors at the expense of the Company, in appropriate circumstances, with the approval of the Chairman or by resolution of the Board.

## **6.2 Audit and Risk Management Committee**

- (a) The purpose of the Audit and Risk Management Committee is to assist the Board in fulfilling its corporate governance and oversight responsibilities relating to:
  - (i) The integrity of the Company's financial reporting;
  - (ii) The effectiveness of the Company's systems of financial risk management and internal control;
  - (iii) The external audit functions;
  - (iv) the Company's risk profile and risk policy; and
  - (v) The effectiveness of the Company's risk management framework and supporting risk management systems.
- (b) The Audit and Risk Management Committee is appointed annually by the Board.
- (c) The Audit and Risk Management Committee shall consist of at least three members, with at least two being non-executive directors.
- (d) Each member should be financially literate, have familiarity with financial management and an understanding of the industries in which the Company operates. At least one member should have relevant qualifications and experience (that is, a qualified accountant or other finance professional with experience of financial and accounting matters).
- (e) The Audit and Risk Management Committee will meet at least two times per annum, or more as appropriate.
- (f) The Audit and Risk Management Committee has unrestricted access to management and the external auditor and may conduct or direct investigations into any matters within its charter.

## **6.3 Remuneration Committee**

- (a) The purpose of the Remuneration Committee is to:
  - (i) review and make recommendations to the Board on remuneration packages and policies applicable to Senior Management and Directors;
  - (ii) define levels at which the Chief Executive Officer must make recommendations to the Remuneration Committee on proposed changes to remuneration and employee benefit policies;
  - (iii) ensure that remuneration packages and policies attract, retain and motivate high calibre executives;
  - (iv) ensure that remuneration policies demonstrate a clear relationship between key executive performance and remuneration;
  - (v) review Senior Management remuneration packages after application of the remuneration policies;
  - (vi) review and make recommendations to the Board regarding average salary increases that are to be applied by the Chief Executive Officer to Senior Management and other Company staff;
  - (vii) review and make recommendations to the Board regarding the assessment of Senior Manager's individual performance as measured by policies approved by the Remuneration Committee from time to time.
- (b) The Remuneration Committee is appointed annually by the Board.

- (c) The Remuneration Committee shall consist of at least 3 Directors and is comprised of a majority of independent non-executive Directors.
- (d) As a minimum, the Remuneration Committee shall meet twice a year in order to facilitate a board performance assessment and review and make recommendations to the Board on remuneration packages and policies applicable to Senior Management and Directors.

#### **6.4 Nomination Committee**

- (a) The purpose of the Nomination Committee is to:
  - (i) develop criteria for Board membership and identify specific individuals for nomination; and
  - (ii) establish processes for the review of the performance of individual Directors, Board Committees and the Board as a whole.
  - (iii) ensure appropriate succession planning of the Company's CEO to ensure that adequate arrangements are in place.
- (b) The Nomination Committee is appointed annually by the Board.
- (c) The Nomination Committee shall consist of at least 3 Directors and is comprised of a majority of independent non-executive Directors.
- (d) As a minimum, the Nomination Committee shall meet twice a year in order to facilitate a board performance assessment and review and make recommendations to the Board on remuneration packages and policies applicable to Senior Management and Directors.

## **7 Chairman of Directors**

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### **7.1 Introduction**

- (a) The Board supports the separation of the role of Chairman from that of the Chief Executive Officer.
- (b) The general role of the Chairman is to manage the Board effectively, to provide leadership to the Board and to interface with the Chief Executive Officer.
- (c) The Chairman must be a non-executive Director.
- (d) The Chairman, while working closely with the Chief Executive Officer, should retain an independent perspective to best represent the interests of the Company, Shareholders, and the Board.

### **7.2 Working with management**

The Chairman will:

- (a) act as the principal sounding board and counsellor for the Chief Executive Officer including helping to define problems, review strategy, maintain accountability, build relationships and ensure the Chief Executive Officer is aware of concerns of the Board and Shareholders;
- (b) lead the Board in monitoring and evaluating the performance of the Chief Executive Officer; and
- (c) co-ordinate with the Chief Executive Officer to ensure that management's strategy, plans and performance are appropriately represented to the Board and Shareholders.

### **7.3 Managing the board**

The Chairman will:

- (a) ensure that the Board has full governance of the Company's business and affairs and that the Board is alert to its obligations to the Company, Shareholders and management under the law;
- (b) provide leadership to the Board, assist the Board in reviewing and monitoring the aims, strategy, policy and directions of the Company and the achievement of its objectives;
- (c) communicate with the Board to keep it up to date on all major developments, including timely discussion of potential developments and directing management to ensure that the Board has sufficient knowledge to permit it to make major decisions when such decisions are required;
- (d) set the frequency of the Board meetings and review such frequency from time to time as considered appropriate or as requested by the Board;
- (e) co-ordinate the agenda, information packages and related events for Board meetings with the Chief Executive Officer and the Company Secretary;
- (f) chair Board meetings;
- (g) attend Board Committee meetings where appropriate; and
- (h) act in a manner such that Board and Committee meetings are conducted in an efficient, effective and focused manner.

#### **7.4 Relations with Shareholders and the public**

The Chairman will:

- (a) chair meetings of Shareholders; and
- (b) at the request of the Chief Executive Officer, take steps such that the Company's management and, where applicable, the Board are appropriately represented at official functions and meetings with major Shareholder groups, other stakeholder groups (including suppliers, customers, employees, governments, regulators and local communities), financial analysts, financial press, and debt and equity providers.

## **8 Chief Executive Officer**

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### **8.1 Responsibilities**

- (a) The Chief Executive Officer is in charge of the day-to-day leadership and management of the Company.
- (b) The Chief Executive Officer also has the responsibility of managing and overseeing the interfaces between the Company and the public and to act as the principal representative for the Company.
- (c) The Chief Executive Officer must report annually to the Board on succession planning and management development.

### **8.2 Evaluation**

- (a) The Board evaluates the performance of the Chief Executive Officer and his direct reports annually.
- (b) The evaluation is based on criteria that include the performance of the business, the accomplishment of long-term strategic objectives and other non-quantitative objectives established at the beginning of each year.

### **8.3 Delegations of authority**

Refer to section 10.4 for the specific authorities delegated to the Chief Executive Officer.

## **9 Senior Management**

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### **9.1 Obligations**

Senior Management will:

- (a) develop strategies to deliver a strong market presence and build Shareholder wealth over the long term;
- (b) recommend appropriate strategic and operating plans;
- (c) maintain effective control of operations;
- (d) measure performance against peers;
- (e) be strong, principled and provide ethical leadership;
- (f) assure sound succession planning and management development;
- (g) provide sound organisational structure;
- (h) inform the Board regularly regarding the status of key initiatives;
- (i) ensure the Board has “no surprises”; and
- (j) advance Board materials which contain the right amount of information and are received sufficiently in advance of Board meetings.

### **9.2 Senior Management remuneration**

- (a) Employee remuneration may be tied to performance through structures involving an element of fixed or base salary and a variable component of incentive remuneration linked to Senior Manager’s individual performance as measured by policies approved by the Remuneration Committee from time to time, and the Company’s general performance in the form of rights issued under the EIP.
- (b) Incentive remuneration is a way to motivate employees to think and act like owners. It is aimed at changing the mindset of employees and hence the culture of the organisation towards value creation. By aligning their financial interests with those of Shareholders, incentive remuneration encourages employees to focus on strategies and results which create value.
- (c) The remuneration packages for Senior Management are reviewed annually by the Remuneration Committee and recommended to the Board for implementation.
- (d) In making its recommendations the Remuneration Committee endeavours to align these packages with the value added objectives of Shareholders.
- (e) The remuneration packages for Senior Management includes participation in the EIP in order to ensure that the goals of the Company’s Shareholders and its Senior Management are aligned.

## **10 Delegated authorities**

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### **10.1 Obligations pursuant to Constitution**

Pursuant to clause 64 of the Constitution, the business of the Company will be managed by or under the direction of the Board and the Board may exercise all the powers of the Company except any powers that are required by the Constitution, the Corporations Act or the ASX Listing Rules to be exercised by the Company in a general meeting. This includes, without limitation, the powers to:

- (a) borrow money;

- (b) charge any property or business of the Company or all or any of its uncalled capital;
- (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
- (d) guarantee or become liable for the payment of money or the performance of any obligation by, or of, any other person.

## 10.2 Primary role of the board

The Board has determined its primary roles to include:

- (a) **Fiduciary requirements**
  - (i) Approval of major transactions - acquisition/divestments (certain major transactions may also require the approval of Shareholders pursuant to the ASX Listing Rules).
  - (ii) Approval of capital expenditures above delegated authorities.
- (b) **Shareholder Value/Corporate Strategy**
  - (i) Portfolio composition.
  - (ii) Risk profile.
  - (iii) Return expectation.
  - (iv) Financial policy.
  - (v) Results reporting.
  - (vi) Reviewing the Company's performance against its strategic objectives.
- (c) **Organisation**

Chief Executive Officer appointment and remuneration.
- (d) **Selection of Directors**
  - (i) Recruitment.
  - (ii) Performance review.
  - (iii) Remuneration.
- (e) **Processes**

For the efficient discharge of responsibilities.

## 10.3 Delegation powers

The formulation and implementation of certain aspects of the Board's responsibilities and duties may be through the delegation of certain of its powers to a committee of Directors by the authority of Section 198D of the Corporations Act:

### "Section 198D Delegation"

**198D(1) [Delegation of powers]** The Directors may delegate any of their powers to a committee of Directors, a Director, an employee of the Company or any other person.

**198D(2) [Exercise by delegate]** The delegate must exercise the powers delegated in accordance with any directions of the Directors.

**198D(3) [Effect of exercise of powers]** The exercise of the power by the delegate is as effective as if the Directors exercised it.

#### 10.4 Delegations of authority to the chief executive officer

To assist the Board to discharge its responsibilities and duties it has resolved to delegate responsibility for the day-to-day leadership and management of the Company and its business to the Chief Executive Officer. The Chief Executive Officer in turn delegates his authorities to the Senior Management and Key Management Personnel of the Company in accordance with the Company's Delegation of Authority Policy and Project and Capital Investment Policy, as may be in place from time to time.

### 11 Security Trading Policy

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- 11.1 The purpose of the Security Trading Policy is to ensure compliance with the ASX Listing Rules, and to ensure that Key Management Personnel and their associates are aware of the legal restrictions on dealing in the Company's shares, options or other securities while such a person is in possession of unpublished price sensitive information concerning the Company.
- 11.2 The Security Trading Policy recognises that it is illegal for a person to deal in the Company's securities when he or she is in possession of unpublished price sensitive information. This is regardless of whether the terms of this policy have been complied with.
- 11.3 Dealing by Key Management Personnel in the Company's securities may take place at any time, except during the following periods:
- (a) the period commencing 6 weeks prior to the release of the Company's half year and year end results to the ASX and ending at the beginning of the next trading day after such release;
  - (b) the period commencing 2 weeks prior to the Company's Annual General Meeting and ending at the beginning of the next trading day after the Annual General Meeting; and
  - (c) any other time imposed by the Board when it is considering matters which are subject to the exceptions to the continuous disclosure requirements set out in ASX Listing Rule 3.1A,
- (collectively the "**Prohibited Periods**").
- 11.4 Notwithstanding the above, no dealing will be permitted at any time if that Key Management Person possesses (or is deemed to possess) any price sensitive information which is not generally available.
- 11.5 Key Management Personnel may in exceptional circumstances apply for approval to trade during a Prohibited Period, provided that they are not in possession of inside information.
- 11.6 arrangement in respect of the Company's securities with the prior written approval of the Chairman of the Company or the Company Secretary (as the case may be). Such arrangements may require disclosure to the market under ASX Listing Rule 3.1.
- 11.7 The Securities Trading Policy is approved by the Board and published on the Company's website. Where material changes to the policy are made the amended Policy is also disclosed to the ASX.

### 12 Continuous Disclosure Policy

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- 12.1 ASX Listing Rule 3.1 requires the Company to "immediately" disclose any information concerning the Company:

- (a) when the Company is, or becomes, aware of the information; and
  - (b) which a reasonable person would expect the information to have a material effect on the price or value of the Company's securities, commonly referred to as continuous disclosure obligations.
- 12.2 Section 674 of the Corporations Act reinforces this ASX Listing Rule by creating criminal and civil penalties for non-compliance.
- 12.3 The requirement to disclose this information does not apply if, and only if, each of the following four conditions is, and remains, satisfied:
- (a) a reasonable person would not expect the information to be disclosed; and
  - (b) the information is confidential; and
  - (c) one or more of the following conditions apply:
    - (i) it would be a breach of a law to disclose the information; or
    - (ii) the information concerns an incomplete proposal or negotiation; or
    - (iii) the information comprises matters of supposition or is insufficiently definite to warrant disclosure; or
    - (iv) the information is generated for the internal management purposes of the Company; or
    - (v) the information is a trade secret; and
  - (d) ASX has not asked the Company for information to prevent a false market in the Company's securities.
- 12.4 The Board has appointed the Chief Executive Officer as the Company's Compliance Officer. The Company Secretary has been appointed as the Deputy Compliance Officer and shall act when the Compliance Officer is not available.
- 12.5 The Compliance Officer is primarily responsible for ensuring that the Company complies with its disclosure obligations under the Corporations Act and the ASX Listing Rules, and is primarily responsible for deciding what information will be disclosed.
- 12.6 Reporting to Compliance Officer
- (a) Where any information comes to light about the Company which may need to be disclosed, all Directors, executive officers and employees are obliged to bring that information to the attention of the Compliance Officer or the Deputy Compliance Officer (as the case may be) with all possible expediency.
  - (b) In the case of an emergency, or where any delay would prejudice the Company, initial verbal notification should be given directly to the Compliance Officer, to be followed by a written report.
- 12.7 The Compliance Officer shall then determine whether or not the information needs to be disclosed in accordance with ASX Listing Rule 3.1, and proceed accordingly.
- 12.8 The Continuous Disclosure Policy also limits media contact to the Chairman, the Chief Executive Officer and the Compliance Officer. Other Directors and executives may only speak with the media in relation to a particular matter concerning the Company if they have obtained the prior express approval of the Chief Executive Officer.
- 12.9 The Continuous Disclosure Policy is approved by the Board and published on the Company's website.

## 13 Other Board Policies

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The Board has adopted a number of other corporate governance policies to ensure that the Company is governed efficiently and effectively, and at a high level of integrity. These policies include:

- (a) a Code of Conduct;
- (b) a Risk Management Policy;
- (c) a Shareholder Communication Policy;
- (d) a process for evaluation of the performance of Directors and Senior Management; and
- (e) a Diversity Policy.

These Policies are approved by the Board and published on the Company's website.

## 14 Disclosure of directors' interests

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### 14.1 Corporations Act – directors' obligations

- (a) In this section, "**Relevant Interest**" means:
  - (i) a person is the holder of the securities;
  - (ii) a person has the power to exercise, or control the exercise of, a right to vote attached to the securities; or
  - (iii) a person has the power to dispose of, or control the exercise of a power to dispose of, the securities.
- (b) Section 205G of the Corporations Act requires a director of a listed company to notify the ASX of the following interests of the director:
  - (i) Relevant Interests in securities of the Company or of a related body corporate;
  - (ii) contracts to which the director is a party or under which the director is entitled to a benefit and that confer a right to call for or deliver:
    - (A) shares in; or
    - (B) debentures of; or
    - (C) interests in a managed investment scheme made available by, the Company or a related body corporate,
 (together, "**Notifiable Interests**").
- (c) A notice of the Notifiable Interests must give details of the nature and extent of the interest and be given within 14 days of the interest arising or changing.

### 14.2 ASX listing rules – the company's obligations

In addition to the requirements under the Corporations Act, the Company has an obligation to notify the ASX of the Notifiable Interests of each Director of the Company under ASX Listing Rule 3.19A.

### 14.3 What action is required by a director?

- (a) A Director will be relieved of his or her obligations under Section 205G of the Corporations Act if the Company complies with ASX Listing Rule 3.19A.

- (b) In order for the Company to comply with its obligations, and thus relieve the Director from his or her obligations, the Director must provide the necessary information to the Company.
- (c) Each Director must enter into an arrangement with the Company which will require him or her to disclose to the Company all of the information necessary for the Company to comply with its obligations to notify the ASX. A pro-forma agreement is set out in Schedule 1.

#### **14.4 Initial notification**

- (a) The Company must notify the ASX of a Director's Notifiable Interests in the Company's securities within 5 business days of being appointed a Director of the Company.
- (b) In the event that the Company does not notify the ASX due to non-disclosure by the relevant Director, that Director would not be relieved of his or her obligations under Section 205G of the Corporations Act. Consequently, the Director would still have an obligation to notify the ASX of his or her Notifiable Interests in the Company's securities within 14 days of being appointed a Director of the Company.
- (c) A Director who retires and is then re-appointed at the same meeting is not required to notify the ASX of his or her Notifiable Interests again.

#### **14.5 Notification of changes**

- (a) The Company must notify the ASX of a change in the Director's Notifiable Interests in the Company's securities within 5 business days after the change occurs.
- (b) In the event that the Company does not notify the ASX of any change due to non-disclosure by the relevant Director, that Director would not be relieved of his or her obligations under Section 205G of the Corporations Act. Consequently, the Director would still have an obligation to notify the ASX within 14 days of any change in his or her Notifiable Interests unless the Director has already given the information to the ASX pursuant to the substantial holding provisions of the Corporations Act. In contrast to the substantial shareholder notices required under Section 671B of the Corporations Act, notices under Section 205G of the Corporations Act cover any change to the Director's Notifiable Interests.

#### **14.6 Notification on ceasing to be a director**

The Company must notify the ASX of a Director's Notifiable Interests in the Company's securities as at the date the Director ceases to be a Director of the Company within 5 business days after cessation.

## **15 Substantial Shareholders**

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### **15.1 Obligation of Shareholders**

Section 671B of the Corporations Act requires each Shareholder of the Company to notify the ASX and the Company if:

- (a) they begin, or cease, to have a substantial holding in the Company;
- (b) they are a substantial shareholder and there is a movement of at least 1% in their holding; or
- (c) they make a takeover bid for securities of the Company.

## 15.2 Are you a substantial Shareholder?

A Shareholder has a substantial holding in the Company if the total votes attached to voting shares in the Company in which they (and/or their associates) have a relevant interest in, is 5% or more of the total number of votes attached to the voting shares in the Company.

## 15.3 Information and documentation to be provided

- (a) The information to be provided includes:
  - (i) details of the Shareholder's relevant interest in voting shares in the Company;
  - (ii) details of any relevant agreement through which they would have a relevant interest in voting shares in the Company;
  - (iii) the name of each associate who has a relevant interest in voting shares in the Company together with details of the nature of the association, the relevant interest of the associate and any relevant agreement through which the associate has the relevant interest;
  - (iv) the size and date of any movement in the holding (if applicable); and
  - (v) the name of any person who ceases to be an associate (if applicable).
- (b) The above information must be accompanied by:
  - (i) a copy of any document setting out the terms of any relevant agreement that contributed to the situation giving rise to the shareholder needing to provide the information, which is in writing and readily available to the Shareholder; or
  - (ii) if the agreement is not in writing and readily available to the shareholder – a statement by the Shareholder giving full and accurate details of any contract, scheme or arrangement that contributed to the situation giving rise to the Shareholder needing to provide the information.

## 15.4 Lodging requirements

- (a) When a person becomes a substantial Shareholder in the Company they must give an initial substantial holder notice to the Company and the ASX within 2 business days after the day on which the person becomes aware that they became a substantial Shareholder. The form of notice is contained in ASIC Form 603.
- (b) A substantial Shareholder is required to notify the Company and the ASX of any change in their shareholding by more than 1% within 2 business days after the day on which the substantial Shareholder becomes aware of the change. The form of notice is contained in ASIC Form 604.
- (c) Where a person ceases to be a substantial Shareholder, that person must notify the Company and the ASX within 2 business days after the day on which the person ceased to be a substantial Shareholder. The form of notice is contained in ASIC Form 605.

## 16 Specific operational authorities

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### 16.1 Appointment of consultants

Any Director with the prior approval of the Chairman, or by resolution of the Board, can appoint legal or financial consultants at the expense of the Company. The Chief Executive Officer is authorised to appoint consultants to advise on specific aspects of the Company's operations, acquisitions and/or divestments. The Chief Executive Officer

may also appoint legal or financial consultants or other management advisors where deemed appropriate.

#### **16.2 Legal advisors, auditors and taxation advisors**

Any change to an advisor appointed by a Director, in his capacity as a Director, must be approved by the Board. The Chief Executive Officer may authorise specific advice to be taken from an advisor who is not deemed to be the official corporate advisor.

#### **16.3 Risk management and insurance**

- (a) The responsibility for managing risk on a day-to-day basis is that of the Chief Executive Officer, the Senior Management and the Key Management Personnel.
- (b) Independent risk management audits of site operations are carried out regularly.
- (c) A report will be prepared annually for the Board reviewing the risk management and insurances of the Company.

#### **16.4 Accounting policies**

Where there is no apparent express Company accounting policy, any Company accounting practice or policy can only be allowed with the approval of the Chairman of the Audit and Risk Management Committee.

#### **16.5 Initiation of or participation in litigation**

- (a) Any material litigation, including litigation against a Government, appeal of a regulatory decision, litigation with possible sensitive reactions from major customers and suppliers, or litigation with sensitive public relations must be approved by the Chief Executive Officer before being actioned.
- (b) Notice of any legal action taken by an outside party against Company or any employees of the Company is to be given as soon as possible to the Chief Executive Officer.

#### **16.6 Donations and gifts**

##### **(a) Political Donations**

No person other than the Board shall have authority to make donations to any political party, whether local, provincial or central on behalf of the Company. The Board has currently resolved that there will be no political donations.

##### **(b) Giving (non political)**

Corporate 'giving' that is aimed at the standing of the Company as a whole in the community is the responsibility of the Board and delegated to the Chief Executive Officer.

## SCHEDULE 1 - PRO-FORMA AGREEMENT - DISCLOSURE OF DIRECTORS' INTEREST

[Title] [LastName]  
 [Company]  
 [Address]  
 [City] [State]  
 [Country]

Dear [FirstName]

### Re: Phosphagenics Limited – ASX Listing Rule 3.19B

Phosphagenics Limited (“**the Company**”) is required, under the Listing Rules of the ASX Limited (“**ASX**”), to disclose to ASX details of directors’ interests in securities, and in contracts relevant to securities. The Company is also required to enter into an agreement with directors under which directors are obliged to provide the necessary information to the entity.

If you agree to the following terms, please sign and return the **enclosed** copy of this letter.

#### Initial disclosure

- 1 You will provide the following information as at [date].
  - (a) Details of all securities registered in your name. These details include the number and class of the securities.
  - (b) Details of all securities not registered in your name but in which you have a relevant interest within the meaning of section 9 of the Corporations Act. These details include the number and class of the securities, the name of the registered holder and the circumstances giving rise to the relevant interest.
  - (c) Details of all contracts (other than contracts to which the Company is a party) to which you are a party or under which you are entitled to a benefit, and that confer a right to call for or deliver shares in, debentures of, or interests in a managed investment scheme made available by the Company or a related body corporate. These details include the number and class of the shares, debentures or interests, the name of the registered holder if the shares, debentures or interests have been issued and the nature of you interest under the contract.
  
- 2 You will provide the required information as soon as reasonably possible after [date] and in any event no later than ten business days after [date].

#### Ongoing disclosure

- 3 You will provide the following information.
  - (a) Details of changes in securities registered in your name other than changes occurring as a result of corporate actions by the Company. These details include the date of the change, the number and class of the securities held before and after the change, and the nature of the change, for example on-market transfer. You will also provide details of the consideration payable in connection with the change, or if a market consideration is not payable, the value of the securities the subject of the change.
  - (b) Details of changes in securities not registered in your name but in which you have a relevant interest within the meaning of section 9 of the Corporations Act.

These details shall include the date of the change, the number and class of the securities held before and after the change, the name of the registered holder before and after the change, and the circumstances giving rise to the relevant interest. You will also provide details of the consideration payable in connection with the change, or if a market consideration is not payable, the value of the securities the subject of the change.

- (c) Details of all changes to contracts (other than contracts to which the Company is a party) to which you are a party or under which you are entitled to a benefit, and that confer a right to call for or deliver shares in, debentures of, or interests in a managed investment scheme made available by the Company or a related body corporate. These details include the date of the change, the number and class of the shares, debentures or interests to which the interest relates before and after the change, the name of the registered holder if the shares, debentures or interests have been issued, and the nature of your interest under the contract.
- 4 You will provide the required information as soon as reasonably possible after the date of the change and in any event no later than three business days after the date of the change.

#### **Final disclosure**

- 5 You will provide the following information as at the date of ceasing to be a director.
- (a) Details of all securities registered in your name. These details include the number and class of the securities.
- (b) Details of all securities not registered in your name but in which you have a relevant interest within the meaning of section 9 of the corporations Act. These details include the number and class of the securities, the name of the registered holder and the circumstances giving rise to the relevant interest.
- (c) Details of all contracts (other than contracts to which the Company is a party) to which you are a party or under which you are entitled to a benefit, and that confer a right to call for or deliver shares in, debentures of, or interests in a managed investment scheme made available by the Company or a related body corporate. These details include the number and class of the shares, debentures or interests, the name of the registered holder if the shares, debentures or interests have been issued and the nature of the interest under the contract.
- 6 You will provide the required information as soon as reasonably possible after the date of ceasing to be a director and in any event no later than three business days after the date of ceasing to be a director.

#### **Agency**

- 7 You authorise the Company to give the information provided by yourself to ASX on your behalf and as your agent.

#### **Securities**

- 8 “**Securities**” for the purposes of this letter means securities of the Company or a related body corporation.

Very best regards

[insert name], Company Secretary