



ASX Limited
Market Announcements Office

Phosphagenics and Mylan Agree Settlement

19 December 2018, Melbourne: Australian drug delivery company, Phosphagenics Limited (ASX: POH; OTCQX: PPGNY) is pleased to announce that a full and final settlement of all claims associated with the arbitration has been successfully negotiated with Phosphagenics (POH), Mylan Laboratories Ltd (Mylan) and Strides Pharma Asia PTE Limited (Strides). This concludes all parts of the formal arbitration.

On 6 January 2016, Phosphagenics announced that it had commenced confidential arbitration proceedings against Mylan, a wholly owned subsidiary of Mylan Incorporated, by filing notices of arbitration at the Singapore International Arbitration Centre (SIAC). On 12 November 2018 the Board announced that the SIAC Tribunal had determined that Phosphagenics was unsuccessful in all of its claims and that the Board must therefore take into account a significant adverse costs order. POH had spent approximately \$5.6m on arbitration and legal fees to that date. Since this announcement the parties have been preparing submissions on costs and in parallel negotiating potential settlement options.

In addition to the settlement agreement between POH and Mylan, POH has also agreed to an additional agreement with Strides, the company from which Mylan originally acquired the rights to TPM[®]-daptomycin as part of the acquisition of Agila. It was necessary for Phosphagenics to reach a settlement with both companies.

Both Mylan and POH have mutually agreed to forego all claims including arbitration costs, and to terminate the original Master Research Agreement (MRA) and Licensing Agreement (LA) including any ongoing obligations and rights. The Settlement Agreement includes various terms, including the following:

- i) Mylan has full rights and discretion to license, market and/or sell TPM[®]-daptomycin as it sees fit,
- ii) If Mylan decides to license, market and/or sell TPM[®]-daptomycin pursuant to i) above,
 - a. POH will be entitled to a royalty of 5% of the net sales, and
 - b. Mylan will source TPM[®] exclusively from POH, subject to POH being able to supply the TPM[®]
- iii) POH is granted a non-exclusive license to develop, license, market and/or sell TPM[®]-daptomycin and in consideration POH agrees to develop a TPM[®] supply agreement with Mylan specifically for TPM[®]-daptomycin and sell to Mylan TPM[®] for that purpose at no greater than cost +25%.
- iv) If POH decides to license, market and/or sell TPM[®]-daptomycin, pursuant to iii) above, Mylan will receive a royalty of 5% of the net sales.
- v) Specific TPM[®]-daptomycin related intellectual property pursuant to and previously defined in the MRA and LA shall be the exclusive property of Mylan, with POH retaining all rights and intellectual property in TPM[®], and

Phosphagenics Limited

ACN 056 482 403 ABN 32 056 482 403
Unit A8, 2A Westall Road, Clayton VIC 3168. Australia
Tel: +61 (0)3 9002 5000
www.phosphagenics.com Email: info@phosphagenics.com

- vi) The parties will exercise best efforts to, within six (6) months to execute any agreement reflecting the above arrangements.

Strides has agreed to forego all claims against POH including arbitration costs, in consideration of a one-off cash payment of 100,000 GBP. In addition Strides is granted:

- i) first right of refusal to “all POH human TPM[®] assets existing and not otherwise encumbered” at signing of the agreement, the terms of which will be negotiated in good faith at a later time, and
- ii) a discount on the upfront, milestone and/or royalty payments associated with any/all deals which Strides completed with POH to a total accumulated value of the lesser of
 - i) 5 million GBP; or
 - ii) the costs claimed and submitted to SIAC as part of the SIAC Arbitration No. 001 of 2016 and SIAC Arbitration No. 002 of 2016.

Dr Ross Murdoch, Phosphagenics Chief Executive Officer said “We were very disappointed with the result of the arbitration. We have worked feverishly since to negotiate an outcome that eliminates the potential for a substantial adverse costs order. We are very pleased to have a negotiated outcome supported by all parties that avoids substantial cash payments, retains and potentially increases the future value available to Phosphagenics from TPM[®]-daptomycin and also provides a clear incentive and opportunity for further deals. We can now return all our focus to advancing and building the company’s portfolios and partnerships particularly in the area of injectables.”

Dr Greg Collier, Phosphagenics Chairman added “This settlement is an important one for Phosphagenics shareholders. I believe that the removal of the potential for a substantial adverse costs order not only removes a significant concern for shareholders but also may remove the overhang on our company and stock. This negotiated settlement combined with the success we have had over the past 12-24 months to strengthen the company’s fundamentals should be seen as a positive as we move into 2019”

Finally by way of update, Phosphagenics currently has approximately Aus\$2.1 million cash at bank. This amount together with budgeted revenue satisfies working capital requirements for the next 12 months.

Enquiries

Dr Ross Murdoch
Phosphagenics Limited
+61 3 9002 5000

Kyahn Williamson
WE Buchan
+61 3 9866 4722/ +61 40 101 8828
Email: kwilliamson@we-buchan.com

About Phosphagenics

Phosphagenics Limited is focused on developing and commercialising innovative Human Health, Animal Health and Personal Care products using its proprietary drug delivery system called TPM[®] (Targeted Penetration Matrix). TPM[®] is derived from Vitamin E using a unique, proprietary and patented processes and has been proven to enhance the solubility and oral, dermal and transdermal absorption of drugs and nutrients.

Amongst its major projects, Phosphagenics' is delivering TPM[®] enhanced patches, gels and injectable products for the human health market and is also developing TPM[®] to enhance the feed efficiency and health of livestock.

Phosphagenics' shares are listed on the Australian Securities Exchange (POH) and its ADR – Level 1 program in the US is with The Bank of New York Mellon (PPGNY).

Inherent Risks of Investment in Biotechnology Companies

There are a number of inherent risks associated with the development of pharmaceutical products to a marketable stage. The lengthy clinical trial process is designed to assess the safety and efficacy of a drug prior to commercialisation and a significant proportion of drugs fail one or both of these criteria. Other risks include uncertainty of patent protection and proprietary rights, whether patent applications and issued patents will offer adequate protection to enable product development, the obtaining of necessary drug regulatory authority approvals and difficulties caused by the rapid advancements in technology.

Forward-looking Statements

Certain statements in this announcement may contain forward-looking statements regarding Company business and the therapeutic and commercial potential of its technologies and products in development. Any statement describing Company goals, expectations, intentions or beliefs is a forward-looking statement and should be considered an at-risk statement. Such statements are subject to certain risks and uncertainties, particularly those risks or uncertainties inherent in the process of developing technology and in the process of discovering, developing and commercialising drugs that can be proven to be safe and effective for use as human therapeutics, and in the endeavour of building a business around such products and services.

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