

# Memphasys Limited (ABN 33 120 047 556)

## Corporate Governance Statement

### Year Ended 30 June 2019

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**This statement has been approved by the Board of Memphasys Limited and is current as at 28 August 2019.**

#### **Memphasys Limited's approach to Corporate Governance**

This Corporate Governance Statement addresses the ASX Corporate Governance Council's 'Corporate Governance Principles and Recommendations – 3<sup>rd</sup> Edition' released in 2014 (referred to as 'ASX Principles or Recommendations').

Memphasys Limited ('Memphasys' or the 'Company') has adopted a program to review and improve its charters, policies and procedures periodically as required to ensure its corporate governance framework remains current and compliant with best corporate practice. Memphasys has maintained and reviewed the Company's risk management framework including the identification of requisite Board skills for future Board appointments.

Memphasys has provided the Appendix 4G (Key to Disclosures – Corporate Governance Council Principles and Recommendations) which has been lodged with ASX together with this Corporate Governance Statement and the Company's 2019 Annual Report. Further to the information contained in the Appendix 4G, details of Memphasys Limited's ongoing adherence to the ASX Principles and Recommendations are outlined below.

The eight central principles set out in the ASX Principles and Recommendations are as follows:

1. Lay solid foundations for management and oversight
2. Structure the Board to add value
3. Act ethically and responsibly
4. Safeguard integrity in corporate reporting
5. Make timely and balanced disclosure
6. Respect the rights of security holders
7. Recognise and manage risk
8. Remunerate fairly and responsibly

Specific recommendations made in the ASX Principles and Recommendations are intended to give effect to these principles. Memphasys has adopted the eight central principles and has implemented the specific recommendations wherever possible.

In the remainder of this Corporate Governance Statement, Memphasys reports in detail its progress in adopting, implementing and adhering to the specifics of the ASX Principles and Recommendations.

## **Principle 1 Lay Solid Foundations for Management and Oversight**

### **1.1 Roles and Responsibilities**

Memphasys' Board Function and Board Charter (Board Charter) was adopted in July 2015 and is reviewed periodically as required. During the prior reporting period the Board Charter was reviewed by the Board and approved with minor amendments. During the 2019 reporting period, the Board approved changes to the delegations schedule in the Charter and the timing of charter and policy reviews was changed from annual to periodic. The Board agreed that no amendments were required to the Board Charter in the 2019 reporting period. The Board Charter is published in the Corporate Governance section of the Company's website at [www.memphasys.com](http://www.memphasys.com). The document clearly outlines the various roles and responsibilities of the Board and management including those items expressly reserved to the Board and those delegated to management.

### **1.2 Director Selection**

During the 2019 reporting period no new directors were appointed to the Memphasys Board. However, a new non-executive director (Mr Shane Hartwig) was appointed after the reporting period in July 2019.

When appointing a Director, the Company conducts appropriate pre-appointment checks and security holders have the opportunity of reviewing relevant information prior to voting on the appointment at the Annual General Meeting (AGM) usually held in November each year.

### **1.3 Terms of Appointment**

New directors receive letters of appointment stating the effective commencement date of their directorships with Memphasys Limited together with their remuneration details. Directors are also provided with extensive induction material and given the opportunity to consult with the Executive Chairman and other directors to deepen their overall understanding of the Company and its operations. An induction kit in line with best practice procedures is provided to new directors joining the Board.

Employment contracts clearly state the terms of appointment and the expectations of the Company regarding performance and any performance-based incentives. This includes applying claw back provisions for bonuses where key targets are not achieved and ensuring terms and conditions meets best corporate practice.

### **1.4 Company Secretary**

The Company Secretary services are managed by Mr Andrew Metcalfe, an experienced independent Company secretary and business consultant. Mr Metcalfe was appointed to the position on the 29 November 2016.

Mr Metcalfe is well qualified for the position having been a Company secretary and governance advisor to ASX listed companies for over 20 years.

The Company Secretary has a direct reporting relationship to the Chairman of the Board.

## **1.5 Diversity Policy**

Memphasys' Diversity policy was reviewed by the Board in the prior reporting period without change. The Board agreed that no amendments were required to the policy in the 2019 reporting period. The policy is available in the Corporate Governance section of the Company's website, at [www.memphasys.com](http://www.memphasys.com). The policy states Memphasys' general principles in relation to diversity within the organisation. Memphasys is an inclusive workplace that values diversity which encompasses nationality, age, religious beliefs, sexual orientation as well as gender diversity.

Directors have not adopted specific gender targets for the Board, senior executives or for employees generally. Memphasys Limited has only 8 employees and directors are of the view that specific targets are not necessary given the Company's size and current stage of development. The Board also believes that gender diversity has already been achieved with a small professional staff of 5 males and 3 females, one of whom is the Executive Chairman of the Company. Memphasys is an equal opportunity employer.

## **1.6 Periodic Board, Committee and Director Evaluation**

Memphasys has an evaluation process for the Board, committees and directors which is stated in the Board Charter available on the Company's website. An evaluation of the Board, the Nomination and Remuneration and Audit and Risk Committees was conducted in June 2018, the prior reporting period. Directors indicated that the Board and committees were functioning appropriately and provided suitable forums for discussion of Company business. The Board agreed there was no significant change and that formal evaluations would be conducted during the next reporting period.

### **Performance Evaluation for Senior Executives**

Memphasys sets key performance indicators for its senior executives and performance is evaluated against these targets annually. During the 2019 reporting period, annual reviews against these targets were conducted.

## **Principle 2 Structure the Board to Add Value**

### **2.1 Nomination Committee**

Memphasys Limited has a Nomination and Remuneration Committee, which was chaired by director Mr Marjan Mikel during the 2019 reporting period. Mr Mikel is an independent director and has taken on the chairmanship of this committee in line with ASX recommendations for an independent chair.

Other members of the Nomination and Remuneration Committee are Mr Andrew Goodall, a non-independent Non-Executive Director, and Ms Alison Coutts, the Executive Chairman. Mr Shane Hartwig will also join this committee as an independent director at its next meeting.

The Nomination and Remuneration Committee Charter was reviewed during the prior period without change. The Board agreed that no amendments were required to the Nomination and Remuneration

Committee Charter in the 2019 reporting period. The Charter is published in the Corporate Governance section of the Company's website at [www.memphasys.com](http://www.memphasys.com).

During the 2019 reporting period the Nomination and Remuneration Committee met twice with all members attending.

## 2.2 Skills of Directors

The Board is structured to provide a broad mix of skills and experience in biotechnology and medical devices (representing its main undertaking), business, law and accounting, yet also have specific skills and experience pertaining to other key aspects of Memphasys' business including business strategy, corporate finance, fund raising, marketing, investor relations, engineering and the commercialisation of intellectual property. Directors have access to executive staff to provide specialised information as required.

A Board Skills Gap Analysis was performed in June 2019. The gap analysis provides guidance for expanding the skills base of directors to provide for the future needs of the Company.

## 2.3 Independence of Directors

As at 30 June 2019, the Company had one independent director (Mr Marjan Mikel) of a Board of three directors. Mr Andrew Goodall is a substantial shareholder and therefore not considered independent; Ms Alison Coutts is Executive Director and Chairman of Memphasys. Memphasys has now appointed another director, Mr Shane Hartwig, who joined the Board post this reporting period and is regarded as independent.

The Board assesses the independence of each of the non-executive directors based on the interests and associations disclosed by the directors and in-line with the ASX Principles and Recommendations.

A table setting out the length of service of each of the directors and their current status on the Board is below:

Director	Date Appointed	Executive or Non-Executive	Independent	Next due for re-election
Ms Alison Mary Coutts	29 Nov 2013	Executive	No	2021
Mr Andrew Ernest Goodall	14 Mar 2012	Non-Executive	No	2020
Mr Marjan Mikel	7 June 2018	Non-Executive	Yes	2021
Mr Shane Hartwig	31 July 2019	Non-Executive	Yes	2019*

*\*Mr Hartwig's appointment will be ratified at the 2019 AGM*

## 2.4 Majority should be Independent Directors

Due to the size and stage of development of Memphasys, the Company has not been able to follow the recommendation of the ASX that a majority of Board members should be independent. Mr Andrew Goodall is considered non-independent as he is a substantial shareholder; Ms Alison Coutts is also a substantial shareholder and performs a pivotal role in her executive leadership position within Memphasys. Mr Marjan Mikel was appointed in June 2018 as an independent director. Post this reporting period Mr Shane Hartwig has also been appointed as an independent director. The Company considers that it has now made significant progress towards meeting the ASX recommendation that

the majority of Board members be independent. All directors bring a diverse skill base and are well qualified to represent the Company and its security holders at the present time.

## **2.5 Chair should be Independent and not CEO**

During the 2019 reporting period Memphasys was unable to follow the ASX recommendation that the Chair and CEO of a Company be independent. Over the course of the 2019 reporting period, the Company had an Executive Chairman. This was a measure taken initially to deal with an immediate need to fill the CEO position, a decision by the Board to keep costs to a minimum and due to the biotechnology and medical device knowledge and experience that Ms Coutts brings to a complex and challenging business environment.

Memphasys acknowledges that a separation of roles between the chairperson and CEO is best practice corporate governance to minimise the possibility of a lack of transparency and promote constructive debate at Board level. Memphasys will consider appointing an independent chairman in the future when the Company's circumstances permit and an appropriate candidate has been identified.

## **2.6 Induction Program for New Directors**

As previously stated, the directors are provided with substantial information about Memphasys Limited when commencing their directorships. Given Memphasys' current size, stage of development, and the significant business and management experience of its directors, there is limited opportunity or necessity to provide additional education for directors.

## **Principle 3 Act Ethically and Responsibly**

Memphasys Code of Conduct was reviewed during the prior period and expanded and updated at that time. The Board agreed that no amendments were required to the Code of Conduct in the 2019 reporting period. The Code of Conduct is published in the Corporate Governance section of the Company's website at [www.memphasys.com](http://www.memphasys.com).

The focus of the Code of Conduct is to ensure that all directors, executives and employees act with the utmost integrity and objectivity in carrying out their duties and responsibilities, striving at all times to enhance the reputation and performance of the Company.

The Staff Handbook, as well as training sessions for staff, also emphasise the expectations of the Company regarding conduct of staff and executives in maintaining ethical standards.

## **Principle 4 Safeguard Integrity in Corporate Reporting**

### **4.1 Audit Committee**

Memphasys has an Audit and Risk Committee which oversees the audit functions of the Company and ensures risks are identified and managed. One of the key responsibilities of the Audit and Risk Committee is to oversee Memphasys' relationship with the external auditor and the external audit function generally.

Mr Marjan Mikel, an independent director, chaired the Committee in line with ASX recommendations for an independent chair.

Due to the size and stage of development of Memphasys, the Company has been unable to follow the ASX recommendation that all members of the Audit and Risk Committee be independent. However, during the 2019 reporting period each of the committee members, because of their experience in business and finance, was able to significantly contribute to the work of the committee.

The Audit and Risk Committee Charter was reviewed and updated with minor changes made during the prior period. The Board agreed that no amendments were required to the Audit and Risk Committee Charter in the 2019 reporting period. The Charter is published in the Corporate Governance section of the Company's website at [www.memphasys.com](http://www.memphasys.com).

The Audit and Risk Committee met three times during the 2019 reporting period with all committee members attending.

### **4.2 Financial Statement Confirmation**

Before the Board approves the Company's financial statements for a financial period, it receives a declaration from the CEO and CFO that, in their opinion, the financial records of Memphasys Limited have been properly maintained, that its financial statements comply with the appropriate accounting standards and give a true and fair view of the Company's financial position and performance and that the Company's system of risk management and internal control is operating effectively in relation to financial reporting.

### **4.3 Auditor Attendance at AGM**

Memphasys' external auditor attends the AGM and is available to answer any questions from security holders.

## **Principle 5 Make timely and Balanced Disclosure**

### **5.1 Continuous Disclosure**

Memphasys has a Continuous Disclosure Policy and Communication Strategy which describes the Company's continuous disclosure obligations and how they are managed. The policy states that:

*"The Board recognises its duty to ensure that shareholders are informed of all major developments affecting the state of affairs of Memphasys Limited".*

*"In accordance with legal, statutory and ASX listing requirements (particularly Listing Rule 3.1), Memphasys Limited will disclose all information concerning it, of which it is or becomes aware, that a reasonable person would expect to have a material effect on the price or value of its securities."*

A copy of the policy can be viewed in the Corporate Governance section of the website at [www.memphasys.com](http://www.memphasys.com).

The policy was reviewed during the prior period without change. The Board agreed that no amendments were required to the policy in the 2019 reporting period.

## **Principle 6 Respect the Rights of Security Holders**

### **6.1 Information to Investors via Website**

Information on Memphasys as well as its governance policies and procedures are available to investors on the Company's website at [www.memphasys.com](http://www.memphasys.com).

### **6.2 Investor Relations**

Memphasys has an Investor Relations page on the Company's website, [www.memphasys.com](http://www.memphasys.com), with links to the various documents and announcements the Company issues to the ASX. Contact details are also provided on the website for investors wishing to contact the Company's Share Registry or Memphasys directly.

### **6.3 Participation at Meetings**

Security holders are encouraged to participate in meetings via announcements issued to the ASX, information on the Company's website and by mailouts to all security holders prior to meeting of shareholders.

### **6.4 Communicating Electronically**

The Investor Relations page on the Company's website provides email addresses for security holders to communicate electronically with either the Company's Share Registry or Memphasys directly. Security holders are offered the option of receiving information electronically from Memphasys via the Share Registry.

## **Principle 7 Recognise and Manage Risk**

### **7.1 Risk management policies**

As well as overseeing the audit functions of Memphasys, the Audit and Risk Committee ensures potential risks are identified and managed. During the 2019 reporting period the committee met three times, all committee meetings were chaired by independent director, Mr Marjan Mikel, with all members attending the meetings.

### **7.2 Risk Management Framework**

Memphasys manages risk through its Audit and Risk Committee and the Memphasys Board. The Company's risk register provides a framework for risk identification and monitoring and the register was reviewed and updated during the 2019 reporting period. The Risk Matrix was also reviewed regularly and updated to ensure immediate identification and reporting of risk.

Management and research & development team meetings also provide forums for discussing and monitoring risk. Any suggested mitigation strategies are considered at the Audit and Risk Committee, and by the Memphasys' Board as appropriate.

### **7.3 Internal Audit**

Memphasys conducted an internal audit of its Quality Management System during the 2019 reporting period. The audit was conducted by a certified external quality systems auditor who found no major non-conformities. Additionally, management has implemented risk and internal control systems for assessing, monitoring and managing strategic, operational, financial reporting and compliance risks for the Company. The systems are based upon policies, guidelines, delegations and reporting as well as the selection and training of qualified personnel. The internal processes are reviewed by the Company's external auditors during their regular audits.

The Board believes the control framework of formal audits and Company policies and procedures is well suited to the current size, operations and stage of development of the business.

### **7.4 Risk Exposure**

Memphasys manages risk through its Audit and Risk Committee and the Memphasys' Board. Risk is also discussed and monitored in management and research & development team meetings where mitigation strategies are devised as appropriate.

During the 2019 reporting period, the main exposure to economic risk for Memphasys was the possibility of a major economic downturn which could impact the Company's ability to raise capital. The Board and the Audit and Risk Committee continually monitor the Company's cash flow position and adopt the appropriate strategy to maintain solvency in the face of any economic risk.

During the reporting period the Company was engaged solely in research and development and considers that with its research and development activities it does not have any notable social sustainability risks.



## **Principle 8 Remunerate Fairly and Responsibly**

### **8.1 Remuneration Committee**

Memphasys Limited has a Nomination and Remuneration Committee. During the 2019 reporting period the committee was chaired by independent director, Mr Marjan Mikel to align with the ASX recommendation for an independent chair.

Other members of the Nomination and Remuneration Committee are Mr Andrew Goodall, a Non-Executive Director, and Ms Alison Coutts, the Executive Chairman.

During the 2019 reporting period the committee met twice with all members attending.

The Nomination and Remuneration Committee Charter was reviewed during the prior period without change. The Board agreed that no amendments were required to the Nomination and Remuneration Committee Charter in the 2019 reporting period. The Committee's Charter is published in the Corporate Governance section of the Company's website at [www.memphasys.com](http://www.memphasys.com).

### **8.2 Remuneration Policy**

Memphasys has a Remuneration Policy for non-executive directors, executive directors and senior executives which is published in the Corporate Governance section of the Company's website at [www.memphasys.com](http://www.memphasys.com). The policy was reviewed during the prior period by the Nomination and Remuneration Committee and approved without change. The Board agreed that no amendments were required to the policy in the 2019 reporting period.

### **8.3 Equity Based Remuneration Scheme**

Memphasys has an Equity Based Remuneration Scheme (ESOP) which was revised and approved by shareholders at the 2018 Annual General Meeting. A copy of the ESOP is available upon request by Memphasys employees.

There is no policy regarding employees entering into transactions which limit the economic risk of participating in the scheme.