
MEMPHASYS LIMITED

ACN 120 047 556

NOTICE OF ANNUAL GENERAL MEETING

Notice is given that the Meeting will be held at:

TIME: 11 a.m. (AEDT)

DATE: Monday, 28 November 2022

PLACE: This meeting will be held at 30 Richmond Road, Homebush West NSW 2140 and also accessible online.

This Notice of Annual General Meeting and Explanatory Memorandum contains an explanation of, and important information about, the matters to be considered at the AGM. It is given to the Shareholders to help them determine how to vote on the Resolutions.

Shareholders should read this Notice of Annual General Meeting and Explanatory Memorandum in full before deciding if and how to vote on the Resolutions. If you are in doubt about what to do in relation to the Resolutions, you should consult your financial or other professional adviser.

The Directors have determined pursuant to Regulation 7.11.37 of the Corporations Regulations 2001 (Cth) that the persons eligible to vote at the Meeting are those who are registered Shareholders at 7:00pm AEDT on Saturday, 26 November 2022.

Due to COVID-19 current social distancing requirements and limited space at the meeting, it is recommended that shareholders submit a directed proxy and any questions in advance of the meeting in accordance with the instructions in this Notice of Meeting.

The *Treasury Laws Amendment (2021 Measures No. 1) Act 2021 (Act)* was given Royal Assent on 13 August 2021 and the Act permits electronic meetings. No hard copy of the Notice of Meeting and Explanatory Statement will be circulated and the Notice of Meeting has been given to those entitled to receive it by one or more technologies. The Notice of Meeting is also available on the ASX Market Announcements platform and on the Company's website at <https://www.memphasys.com/investor-relations/>

BUSINESS OF THE MEETING

FINANCIAL STATEMENTS AND REPORTS

To receive and consider the annual financial report of the Company for the financial year ended 30 June 2022 together with the declaration of the Directors, the Director's report, the Remuneration Report, and the auditor's report.

RESOLUTION 1 – ADOPTION OF REMUNERATION REPORT

To consider and, if thought fit, to pass, with or without amendment, the following resolution as a **non-binding resolution**:

"That, for the purposes of section 250R(2) of the Corporations Act and for all other purposes, approval is given for the adoption of the Remuneration Report as contained in the Company's annual financial report for the financial year ended 30 June 2022."

Note: the vote on this Resolution is advisory only and does not bind the Directors or the Company.

Voting Prohibition Statement:

A vote on Resolution 1 must not be cast (in any capacity) by or on behalf of either of the following persons:

- (a) a member of the Key Management Personnel, details of whose remuneration are included in the Remuneration Report; or
- (b) a Closely Related Party of such a member.

However, a person (the **voter**) described above may cast a vote on this Resolution as a proxy if the vote is not cast on behalf of a person described above and either:

- (a) the voter is appointed as a proxy by writing that specifies the way the proxy is to vote on this Resolution; or
- (b) the voter is the Chair and the appointment of the Chair as proxy:
 - (i) does not specify the way the proxy is to vote on this Resolution; and
 - (ii) expressly authorises the Chair to exercise the proxy even though this Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel.

RESOLUTION 2 – APPROVAL TO MAKE SELECTIVE REDUCTION OF CAPITAL

To consider and, if thought fit, to pass the following resolution as a **special resolution**:

"That, subject to the approval of the Relevant Shareholder, in accordance with section 256C(2) of the Corporations Act and for all other purposes, approval is given for the Company to make a selective reduction of capital by cancelling a total of 678,847 Shares held by Goh Thee Woon, on the terms and for the purposes set out in the Explanatory Statement accompanying this Notice"

Voting Prohibition Statement:

In accordance with section 256C(2) of the Corporations Act, any votes cast on Resolution 2 (other than by a person as proxy for a member who is entitled to vote, in accordance with the directions on the relevant proxy form) by any person who is to receive consideration as part of the reduction and their respective associates will be disregarded.

RESOLUTION 3 – AMENDMENT TO EXISTING CONVERTIBLE NOTES – PETERS INVESTMENTS PTY LTD

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

"That, for the purpose of Listing Rule 7.1 and for all other purposes, approval is given for the Company to amend the terms of 3,000,000 Existing Convertible Notes held by Peters Investments Pty Ltd, to extend the Maturity Date under the Existing Convertible Notes to 31 December 2023, on the terms and conditions set out in the Explanatory Statement."

Voting Exclusion Statement

In accordance with Listing Rule 14.11, the Company will disregard any votes cast in favour of Resolution 3 by or on behalf of a person who is expected to participate in, or who will obtain a material benefit as a result of, the proposed amendment to the terms of the Existing Convertible Notes (except a benefit solely by reason of being a holder of ordinary securities in the Company), namely Peters Investments Pty Ltd, or any of its associates.

RESOLUTION 4 – ELECTION OF DIRECTOR – MR ROBERT COOKE

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

“That, for the purpose of clause 14.4 of the Constitution, Listing Rule 14.4 and for all other purposes, Mr Robert Cooke, a Director who was appointed casually on 26 April 2022, retires, and being eligible, is elected as a Director.”

RESOLUTION 5 – RE-ELECTION OF DIRECTOR – MR PAUL WRIGHT

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

“That, for the purpose of clause 14.2 of the Constitution and for all other purposes, Mr Paul Wright, a Director, retires by rotation, and being eligible, is re-elected as a Director.”

RESOLUTION 6 – ISSUE OF OPTIONS TO RELATED PARTY – ROBERT COOKE

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

“That, for the purposes of Listing Rule 10.14 and for all other purposes, approval is given for the Company to issue up to 2,500,000 Options to the Company’s Director Robert Cooke (or his nominee) on the terms and conditions set out in the Explanatory Statement.”

Voting Exclusion Statement

In accordance with Listing Rule 14.11, the Company will disregard any votes cast in favour of Resolution 6 by any person referred to in Listing Rule 10.14.1, 10.14.2 or 10.14.3 who is eligible to participate in the Company’s incentive scheme or an associate of that person or those persons.

A person appointed as a proxy must not vote, on the basis of that appointment, on this Resolution if:

- (a) the proxy is either:
 - (i) a member of the Key Management Personnel; or
 - (ii) a Closely Related Party of such a member; and
- (b) the appointment does not specify the way the proxy is to vote on this Resolution.

However, this does not apply to a vote cast in favour of the Resolution by:

- (c) a person as a proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with the directions given to the proxy or attorney to vote on the Resolution in that way; or
- (d) the Chair as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with a direction given to the Chair to vote on the Resolution as the Chair decides; or
- (e) a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - (i) the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the resolution; and
 - (ii) the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way

RESOLUTION 7 – APPROVAL OF 7.1A MANDATE

To consider and, if thought fit, to pass the following resolution as a **special resolution**:

“That, for the purposes of Listing Rule 7.1A and for all other purposes, approval is given for the Company to issue up to that number of Equity Securities equal to 10% of the issued capital of the Company at the time of issue, calculated in accordance with the formula prescribed in Listing Rule 7.1A.2 and otherwise on the terms and conditions set out in the Explanatory Statement.”

Voting Exclusion Statement:

The Company will disregard any votes cast in favour of Resolution 7 (in any capacity) by or on behalf of any of the following persons:

- (a) a person who is expected to participate in, or who will obtain a material benefit as a result of, the proposed issue (except a benefit solely by reason of being a holder of Shares in the Company); or
- (b) any Associate of that person (or those persons).

However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - (i) the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the Resolution; and
 - (ii) the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

The Chairman intends to vote undirected proxies (where he has been appropriately authorised) in favour of Resolution 7.

RESOLUTION 8 – AMENDMENTS TO CONSTITUTION

To consider and, if thought fit, to pass the following resolution as a **special resolution**:

“That, for the purposes of Section 136(2) of the Corporations Act and for all other purposes, approval is given that the constitution of the Company is amended in the manner set out in the Explanatory Statement, with effect from the conclusion of the meeting.

Dated: 13 October 2022

By order of the Board



Mr Andrew Metcalfe
Company Secretary

ATTENDING THE MEETING AND VOTING INSTRUCTIONS

Shareholders will be able to participate in the Meeting by:

1. voting prior to the Meeting by lodging the Proxy Form attached to the Notice of Meeting by no later than 11.00am (Sydney time) on Saturday 26 November 2022;
2. submitting questions in advance of the Meeting by emailing the questions to Company Secretary by no later than 5.00pm (Sydney time) on Friday 25 November 2022 at info@memphasys.com
3. attending the meeting in person at 30 Richmond Road, Homebush West NSW 2140, and
4. asking questions during the Meeting.

Voting by proxy

To vote by proxy, please either complete and sign the enclosed Proxy Form and return by the time and in accordance with the instructions set out on the Proxy Form or submit your proxy online at <https://www.votingonline.com.au/memphasysagm2022>

In accordance with section 249L of the Corporations Act, Shareholders are advised that:

- each Shareholder has a right to appoint a proxy;
- the proxy need not be a Shareholder of the Company; and
- a Shareholder who is entitled to cast two (2) or more votes may appoint two (2) proxies and may specify the proportion or number of votes each proxy is appointed to exercise. If the member appoints two (2) proxies and the appointment does not specify the proportion or number of the member's votes, then in accordance with section 249X(3) of the Corporations Act, each proxy may exercise one-half of the votes.

Shareholders and their proxies should be aware that:

- if proxy holders vote, they must cast all directed proxies as directed; and
- any directed proxies which are not voted will automatically default to the Chair, who must vote the proxies as directed.

Voting in person

To vote in person, attend the Meeting at the time, date and place set out in this Notice of Meeting.

You may still attend the meeting and vote in person even if you have lodged appointed a proxy. If you have previously submitted a Proxy Form, your attendance will not revoke your proxy appointment unless you actually vote at the meeting for which the proxy is proposed to be used, in which case, the proxy's appointment is deemed to be revoked with respect to voting on that resolution.

Please bring your personalised Proxy Form with you as it will help you to register your attendance at the meeting. If you do not bring your Proxy Form with you, you can still attend the meeting but representatives from Boardroom Pty Limited will need to verify your identity. You can register from 10.30 a.m. on the day of the meeting.

Please note: Due to COVID-19 current social distancing requirements and limited space at the meeting, it is recommended that shareholders submit a directed proxy and any questions in advance of the meeting.

Should you wish to discuss the matters in this Notice of Meeting please do not hesitate to contact the Company Secretary on +61 2 8415 7300.

Shareholder communications

Receiving your shareholder communications electronically is the best way to stay informed and will assist Memphasys Limited with minimising paper usage. If you haven't already, we encourage you to make the switch to paperless communications and provide us with your email address. To make the change, login to www.investorserve.com.au, add your email address via 'My Details' on the left-hand side of the screen and click 'Communication Options' to select the communication options you would like to set to email.

You can make a standing election as to how you would like to receive certain documents including annual reports, meeting-related documents (for example notices of meeting and proxy/voting forms) and payment statements.

You can also make a one-off request to receive a document in physical or electronic form by contacting the registry on **enquiries@boardroomlimited.com.au**

You will also be able to access Shareholder Documents such as our Annual Report, Notice of Meeting and other documents relating to shareholder meetings when they are published on our website or made available on the ASX platform

EXPLANATORY STATEMENT

This Explanatory Statement has been prepared to provide information which the Directors believe to be material to Shareholders in deciding whether or not to pass the Resolutions.

FINANCIAL STATEMENTS AND REPORTS

In accordance with the Corporations Act, the business of the Meeting will include receipt and consideration of the annual financial report of the Company for the financial year ended 30 June 2022 together with the declaration of the Directors, the Directors' report, the Remuneration Report and the auditor's report.

The Company will not provide a hard copy of the Company's annual financial report to Shareholders unless specifically requested to do so. The Company's annual financial report is available on its website at www.memphasys.com.

RESOLUTION 1 – ADOPTION OF REMUNERATION REPORT

General

The Corporations Act requires that at a listed company's annual general meeting, a resolution that the remuneration report be adopted must be put to the shareholders. However, such a resolution is advisory only and does not bind the company or the directors of the company.

The remuneration report sets out the company's remuneration arrangements for the directors and senior management of the company. The remuneration report is part of the directors' report contained in the annual financial report of the company for a financial year.

The chair of the meeting must allow a reasonable opportunity for its shareholders to ask questions about or make comments on the remuneration report at the annual general meeting.

Voting consequences

A company is required to put to its shareholders a resolution proposing the calling of another meeting of shareholders to consider the appointment of directors of the company (**Spill Resolution**) if, at consecutive annual general meetings, at least 25% of the votes cast on a remuneration report resolution are voted against adoption of the remuneration report and at the first of those annual general meetings a Spill Resolution was not put to vote. If required, the Spill Resolution must be put to vote at the second of those annual general meetings.

If more than 50% of votes cast are in favour of the Spill Resolution, the company must convene a shareholder meeting (**Spill Meeting**) within 90 days of the second annual general meeting.

All of the directors of the company who were in office when the directors' report (as included in the company's annual financial report for the most recent financial year) was approved, other than the managing director of the company, will cease to hold office immediately before the end of the Spill Meeting but may stand for re-election at the Spill Meeting.

Following the Spill Meeting those persons whose election or re-election as directors of the company is approved will be the directors of the company.

Previous voting results

At the Company's previous annual general meeting the votes cast against the remuneration report considered at that annual general meeting were less than 25%. Accordingly, the Spill Resolution is not relevant for this Annual General Meeting.

RESOLUTION 2 – APPROVAL TO MAKE SELECTIVE REDUCTION OF CAPITAL

Background

On 25 November 2011, the Relevant Shareholder, a non-executive director at the time of the Company's Singaporean subsidiary, Prime Biologics Pte Ltd, exercised 12,622,691 short-dated share options and was issued 12,622,691 Shares. The consideration for the exercise of these options was not paid when due.

On or about 22 September 2012, the Company and the Relevant Shareholder entered into a debt agreement pertaining to the unpaid amount, pursuant to which the parties acknowledged the amount of \$1,309,176.76 was owed by the Relevant Shareholder to the Company (**Indebtedness**).

On 13 May 2014, the Relevant Shareholder sold 3,000,000 of the Shares, with \$315,000 of proceeds from the sale applied toward part repayment of the Indebtedness.

In August 2018, the Company undertook a 1:15 capital consolidation. As such, as at the date of this Notice of Meeting, the Relevant Shareholder holds a total of 678,847 Shares (the **Relevant Shares**), while the total amount of Indebtedness is \$947,310.76.

The Company and the Relevant Shareholder have entered into a Settlement and Offset Deed, pursuant to which the Company and the Relevant Shareholder have agreed that the Relevant Shares will be cancelled (by way of selective capital reduction) and upon cancellation, the Indebtedness due and owing by the Relevant Shareholder to the Company shall be deemed to have been settled in full.

The purpose of Resolution 2 is to seek the requisite approval of Shareholders required under the Corporations Act for the selective capital reduction and cancellation of 678,847 Shares held by the Relevant Shareholder (**Selective Capital Reduction**).

Resolution 2 is a special resolution and therefore require not less than 75% of all votes cast on Resolution 2 to be in favour of the Resolution for them to be passed.

Corporations Act – Selective Capital Reductions

Pursuant to Section 256C of the Corporations Act, a company may make a selective capital reduction if it is approved by a special resolution passed at a general meeting of the Company, with no votes being cast in favour of the resolution by any person who is to receive consideration as part of the reduction or whose liability to pay amounts unpaid on shares is to be reduced.

The Corporations Act provides that the rules relating to a reduction of share capital are designed to protect the interests of shareholders and creditors by:

- (a) addressing the risk of the transaction leading to the company's insolvency;
- (b) seeking to ensure fairness between the shareholders of the company; and
- (c) requiring the company to disclose all material information.

In particular, section 256B of the Corporations Act requires that a company may only reduce its capital if:

- (a) it is fair and reasonable to the shareholders as a whole;
- (b) it does not materially prejudice the company's ability to pay its creditors; and
- (c) it is approved by shareholders in accordance with section 256C of the Corporations Act.

Section 256C(4) of the Corporations Act requires that the Company must include with the notice a statement setting out all information known to the Company that is material to the decision on how to vote on the Resolution. However, the Company does not have to disclose information if it would be unreasonable to require the Company to do so because the Company had previously disclosed the information to Shareholders.

The Directors believe that the Selective Capital Reduction as proposed is fair and reasonable to Shareholders for the following reasons:

- (a) the Selective Capital Reduction will only result in the cancellation of the Relevant Shares issued to the Relevant Shareholder;
- (b) the Selective Capital Reduction will not materially prejudice the Company's ability to pay its creditors and will have minimal financial effect on the Company; and
- (c) the financial effect on cash reserves of the Selective Capital Reduction on the Company will be nil as no consideration is being provided for the Selective Capital Reduction.

The Directors do not consider that there are any material disadvantages to the Company undertaking the Selective Capital Reduction.

Pursuant to Section 256C(2) of the Corporations Act, a selective reduction of capital must be approved by either:

- (a) a special resolution passed at a general meeting of the Company, with no votes being cast in favour of the resolution by any person who is to receive consideration as part of the reduction or whose liability to pay amounts unpaid on shares is to be reduced, or by their associates; or
- (b) a resolution agreed to, at a general meeting by all Shareholders.

In addition, section 256C(2) provides that if the reduction involves the cancellation of shares, the reduction must also be approved by a special resolution passed at a meeting of the shareholders whose shares are to be cancelled. In lieu of this requirement, the Relevant Shareholder has provided written approval to the Company for the cancellation of their respective Shares and have agreed to waive any applicable notice period.

Summary of and Effect of Proposed Selective Capital Reduction

The overall effect of the Selective Capital Reduction is as follows:

Shares	Number
Ordinary Shares currently on issue	960,199,229
Shares cancelled under the Selective Capital Reduction (Resolution 2)	678,847
Total Shares on issue on completion of the Selective Capital Reduction	959,520,382

The Shares the subject of the Selective Capital Reduction represent approximately [0.07]% of the issued capital of the Company (on an undiluted basis) as at the date of this Notice and are held by the Relevant Shareholder.

If the proposed Selective Capital Reduction in capital proceeds, the number of Shares held in the Company by a Shareholder other than the Relevant Shareholder will remain the same, however, their percentage holding in the Company will increase.

There is no material impact on the control of the Company arising as a result of the Selective Capital Reduction.

The Directors of the Company consider that the proposed Selective Capital Reduction is fair and reasonable to the Company's Shareholders as a whole. As the Shares are being cancelled for nil consideration, the Directors further consider that the proposed Selective Capital Reduction will not prejudice the Company's ability to pay its creditors and the Company will also remain solvent following the Selective Capital Reduction.

Other Material Information

There is no information material to the making of a decision by a Shareholder whether or not to approve Resolution 2 being information that is known to any of the Directors, and which has not been previously disclosed to Shareholders, other than as disclosed in this Explanatory Statement.

Once Resolution 2 of the Meeting are passed by Shareholders, the Company will not make the reduction of capital until at least 14 days after lodgement of an ASIC Form 2205 – Notification of resolutions regarding shares, in accordance with ASIC’s prescribed timeline for Selective Capital Reduction.

Directors’ Recommendation

The Directors believe that the proposed Selective Capital Reduction is in the best interests of Shareholders for the reasons set out in this Notice and accordingly, the Directors recommend that Shareholders vote in favour of Resolution 2.

RESOLUTION 3 – AMENDMENT TO EXISTING CONVERTIBLE NOTES – PETERS INVESTMENTS PTY LTD

Background

On 26 May 2021, the Company announced the completion of a capital raising via the issue of a total of 3,000,000 convertible notes with a face value of \$1 each to raise \$3,000,000 (before costs), comprising 1,350,000 convertible notes to Non-Executive Director Mr Andrew Goodall and 1,650,000 convertible notes to Peters Investments Pty Ltd (together, the **Existing Convertible Notes**).

On 19 January 2022, the Company announced the 1,350,000 Existing Convertible Notes held by Mr Goodall had been acquired by Peters Investments Pty Ltd. Following the acquisition, Peters Investments Pty Ltd holds all 3,000,000 Existing Convertible Notes on issue.

The Company had previously issued the Existing Convertible Notes following Shareholder approval for the purposes of Listing Rule 7.1 (with respect to the Existing Convertible Notes issued to Peters Investments Pty Ltd) and Listing Rule 10.11 (with respect to the Existing Convertible Notes issued to Mr Goodall).

As at the date of this notice, the maturity date of the Existing Convertible Notes is 31 December 2022. The Company and Peters Investments Pty Ltd have agreed, subject to shareholder approval, to extend the maturity date of the Existing Convertible Notes to 31 December 2023.

The purpose of this Resolution is to seek Shareholder approval for this proposed amendment to the terms and conditions of the Existing Convertible Notes.

ASX Listing Rule 7.1

Broadly speaking, and subject to a number of exceptions, Listing Rule 7.1 limits the amount of equity securities that a listed company can issue without the approval of its shareholders over any 12-month period to 15% of the fully paid ordinary shares it had on issue at the start of that period. Further, exception 9 of Listing Rule 7.2 provides that Listing Rule 7.1 does not apply to any issue of securities as a result of the conversion of convertible securities, so long as the entity complied with the Listing Rules when it issued the convertible securities.

As the Company originally issued the Existing Convertible Notes with shareholder approval under Listing Rule 7.1 or 10.11 (as applicable), any Shares issued on conversion of the Existing Convertible Notes are excluded from the calculation of the number of equity securities that the Company can issue without Shareholder approval under Listing Rule 7.1 or do not otherwise require Shareholder approval under Listing Rule 7.1 or 10.11 (as applicable).

It may be argued that, by extending the maturity date, the terms of the Existing Convertible Notes are not materially the same as were originally approved by Shareholders at the general meeting of the Company held on 24 August 2021. As such, pursuant to Resolution 3, the Company is seeking fresh Shareholder approval under Listing Rule 7.1 for the Existing Convertible Notes.

By seeking this approval, the Company will be able to ensure that the Existing Convertible Notes (and any Shares issued on conversion of the Existing Convertible Notes) do not reduce the Company’s 15% annual placement capacity and otherwise have the benefit of exception 9 to Listing Rule 7.2.

Technical information required by Listing Rule 7.3

Pursuant to and in accordance with Listing Rule 7.3, the following information is provided in relation to Resolution 3:

- (a) the 3,000,000 Existing Convertible Notes are held by Peters Investments Pty Ltd, who is a substantial shareholder of the Company with a voting power of 27.93% as at the date of this Notice;
- (b) a summary of the terms and conditions of the Existing Convertible Notes are included in Schedule 1 and any Shares issued on conversion of the Existing Convertible Notes will be fully paid ordinary shares in the capital of the Company issued on the same terms and conditions as the Company's existing Shares;
- (c) the Existing Convertible Notes were issued on 1 September 2021, and if Shareholder approval is received in respect of Resolution 3, the proposed extension to the maturity date of the Existing Convertible Notes will take immediate effect;
- (d) the issue price of the Existing Convertible Notes was \$1.00 per Existing Convertible Note. The Company has not and will not receive any other consideration for the issue of the Existing Convertible Notes;
- (e) the purpose of the issue of the Existing Convertible Notes was to raise working capital to undertake a verification and validation program and progress development of products. The purpose for the proposed amendment of the Existing Convertible Notes to extend the maturity date of the Existing Convertible Notes from 31 December 2022 to 31 December 2023 is to allow the Company to complete the development and commercialisation of the FELIX project;
- (f) the Existing Convertible Notes were originally issued under Convertible Note Agreements between the Company and each of Mr Goodall and Peters Investments Pty Ltd and a summary of these agreements is set out in Schedule 2; and
- (g) the Existing Convertible Notes were not issued under, or to fund a reverse takeover.

Technical information required by Listing Rule 14.1A

If Resolution 3 is passed, the amendment to the terms of the Existing Convertible Notes will become effective immediately. In addition, the Existing Convertible Notes (and any Shares issued on conversion of the Existing Convertible Notes) will not reduce the Company's 15% annual placement capacity and will otherwise have the benefit of exception 9 to Listing Rule 7.2.

If Resolution 3 is not passed, the amendment to the terms of the Existing Convertible Notes will not take effect. In these circumstances, the Existing Convertible Notes will remain on issue unamended (i.e. with a maturity date of 31 December 2022).

Directors' Recommendation

The Directors believe that the proposed amendment to terms is in the best interests of Shareholders for the reasons set out in this Notice and accordingly, the Directors recommend that Shareholders vote in favour of Resolution 3.

RESOLUTION 4 – ELECTION OF DIRECTOR – MR ROBERT COOKE

General

The Constitution allows the Directors to appoint at any time a person to be a Director either to fill a casual vacancy or as an addition to the existing Directors, but only where the total number of Directors does not at any time exceed the maximum number specified by the Constitution.

Pursuant to the Constitution and Listing Rule 14.4, any Director so appointed holds office only until the next annual general meeting and is then eligible for election by Shareholders but shall not be taken into account in determining the Directors who are to retire by rotation (if any) at that meeting.

Mr Robert Cooke, having been appointed by other Directors on 26 April 2022 in accordance with the Constitution, will retire in accordance with the Constitution and Listing Rule 14.4 and being eligible, seeks election from Shareholders.

Qualifications and other material directorships

Mr Cooke is a highly strategic and results focussed private health care leader. With a 40+ year career in the health industry, his experience spans executive leadership of publicly listed and privately owned healthcare companies, and management of private and public hospitals in Australia, Asia and the UK. He is currently the Managing Director of Connelly Partners, a niche health care consulting company.

Mr Cooke has a proven track record in setting strategy and delivering successful outcomes for stakeholders and shareholders, highly effective interaction with the financial community, and holds a unique understanding of the complex dynamics of the health care industry.

Mr Cooke has served as a Director of ASX listed and private equity owned health care companies, within Australia and internationally. He is currently the Non-Executive Chairman of OptiScan, global leader in the development of microscopic imaging and related technologies for surgery and medical research.

Before establishing Connelly Partners in 2018, Mr Cooke was the Managing Director & CEO of Healthscope, one of Australia's leading private hospital/medical centre/pathology operators between 2010 and 2017.

Independence

Mr Cooke has no interests, position or relationship that might influence, or reasonably be perceived to influence, in a material respect his capacity to bring an independent judgement to bear on issues before the Board and to act in the best interest of the Company as a whole rather than in the interests of an individual security holder or other party.

If elected the Board considers Mr Cooke will be an independent Director.

Other material information

The Company conducts appropriate checks on the background and experience of candidates before their appointment to the Board. These include checks as to a person's experience, educational qualifications, character, criminal record and bankruptcy history. The Company undertook such checks prior to the appointment of Mr Cooke. Board recommendation

The Board has reviewed Mr Cooke's performance since his appointment to the Board and considers that Mr Cooke's skills and experience will continue to enhance the Board's ability to perform its role. Accordingly, the Board supports the election of Mr Cooke and recommends that Shareholders vote in favour of Resolution 4.

Board recommendation

The Board has reviewed Mr Cooke's performance since his appointment to the Board and considers that their skills and experience will continue to enhance the Board's ability to perform its role. Accordingly, the Board supports the election of Mr Cooke and recommends that Shareholders vote in favour of Resolution 4.

RESOLUTION 5 – RE-ELECTION OF DIRECTOR – MR PAUL WRIGHT

General

The Constitution sets out the requirements for determining which Directors are to retire by rotation at an annual general meeting.

Mr Paul Wright, who has served as a Director since 13 March 2020 and was last re-elected on 19 November 2020 annual general meeting, retires by rotation and seeks re-election.

Qualifications and other material directorships

Mr Wright MA (Eng.), FAICD, has over 30 years' experience as a highly skilled executive in strategic consulting and the development and sales of innovative medical devices and diagnostic tools. Mr Wright's background includes developing and implementing commercialisation strategies from early research and development

through to developing global product sales channels. Mr Wright has experience in building distribution partnerships and the direct selling and marketing of highly innovative products internationally.

Mr Wright is currently a non-executive director of design, engineering and technology commercialisation company Hydrix Ltd and an advisory board member for unlisted digital wastewater services company, Waterwerx Holdings Ltd.

Independence

If re-elected, the board considers Mr Wright to be an independent director.

Board recommendation

The Board has reviewed Mr Wright's performance since his appointment to the Board and considers that Mr Wright's skills and experience will continue to enhance the Board's ability to perform its role. Accordingly, the Board supports the re-election of Mr Wright and recommends that Shareholders vote in favour of Resolution 5.

RESOLUTION 6 – ISSUE OF OPTIONS TO RELATED PARTY – ROBERT COOKE

General

The Company has agreed, subject to obtaining Shareholder approval, to issue up to 2,500,000 Options (**RC Options**) to the Company's Chairman Mr Robert Cooke (or his nominee) pursuant to the Company's existing Incentive Option Plan (**Option Plan**) on the terms and conditions set out below.

Mr Cooke has elected to receive options in lieu of receiving a cash payment for director fees.

The RC Options are issued in lieu of Director fees amounting to \$25,000, will vest subject upon receiving shareholder approval, are issued at a 34% premium to the 5-day VWAP at date of issue, and are exercisable within 2 years from date of issue.

Chapter 2E of the Corporations Act

A summary of Chapter 2E of the Corporations Act is set out in as follows:

For a public company, or an entity that the public company controls, to give a financial benefit to a related party of the public company, the public company or entity must:

- (i) obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- (ii) give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in sections 210 to 216 of the Corporations Act.

The issue of RC Options constitutes giving a financial benefit to Mr Robert Cooke who is a related party of the Company by virtue of being a Director.

The Directors (other than Mr Cooke) consider that Shareholder approval pursuant to Chapter 2E of the Corporations Act is not required as the offer of RC Options are being issued in lieu of foregone Director fees. It is therefore considered that the exception in section 211 of the Corporations Act applies.

ASX Listing Rule 10.11

ASX Listing Rule 10.11 also requires shareholder approval to be obtained where an entity issues, or agrees to issue, securities to a related party, or a person whose relationship with the entity or a related party is, in ASX's opinion, such that approval should be obtained unless an exception in ASX Listing Rule 10.12 applies.

As the issue of RC Options to Mr Cooke involves the issue of securities to a related party of the Company, Shareholder approval pursuant to ASX Listing Rule 10.11 is required unless an exception applies. It is the view of the Directors that the exceptions set out in ASX Listing Rule 10.12 do not apply in the current circumstances.

The issue of RC Options to Robert Cooke (or his nominee) constitutes giving a financial benefit and Robert Cooke is a related party of the Company by virtue of being a Director.

The Directors (other than Robert Cooke who has a material personal interest in the Resolution) consider that Shareholder approval pursuant to Chapter 2E of the Corporations Act is not required in respect of the grant of Options because the agreement to issue the RC Options, reached as part of the director fees for Robert Cooke, is considered reasonable remuneration in the circumstances and was negotiated on an arm's length basis.

Listing Rule 10.14

Listing Rule 10.14 provides that an entity must not permit any of the following persons to acquire equity securities under an employee incentive scheme without the approval of the holders of its ordinary securities:

- 10.14.1 a director of the entity;
- 10.14.2 an associate of a director of the entity; or
- 10.14.3 a person whose relationship with the entity or a person referred to in Listing Rules 10.14.1 to 10.14.2 is such that, in ASX's opinion, the acquisition should be approved by security holders.

The issue of RC Options falls within Listing Rule 10.14.1 and therefore requires the approval of Shareholders under Listing Rule 10.14.

Resolution 6 seeks the required Shareholder approval for the issue of the RC Options under and for the purposes of Listing Rule 10.14.

Technical information required by Listing Rule 14.1A

If Resolution 6 is passed, the Company will be able to proceed with the issue of the RC Options to Robert Cooke within one month after the date of the Meeting (or such later date as permitted by any ASX waiver or modification of the Listing Rules). As approval pursuant to Listing Rule 7.1 is not required for the issue of the Options (because approval is being obtained under Listing Rule 10.14), the issue of the RC Options will not use up any of the Company's 15% annual placement capacity.

If Resolution 6 is not passed, the Company will not be able to proceed with the issue of the RC Options and the issue of such options will not be pursued.

Technical Information required by ASX Listing Rule 10.13

Pursuant to and in accordance with ASX Listing Rule 10.13, the following information is provided in relation to the Participation:

- (a) Mr Cooke receives \$100,000 per annum in the form of director fees in his role as independent non-executive chair of the Company plus a one-off payment of options in the first year of appointment as a director;
- (b) the RC Options will be issued to Mr Robert Cooke or his respective nominee in addition to director fees paid;
- (c) the maximum number of Options to be issued is 2,500,000 Options
- (d) the Options will be issued no later than 1 month after the date of the Meeting (or such later date to the extent permitted by any ASX waiver or modification of the ASX Listing Rules);

- (e) the Options will be issued for nil cash consideration, accordingly no funds will be raised. The Options are being issued on an advanced, no recourse basis, in exchange for forgoing Director fees (\$25,000); and
- (f) the terms and conditions of the Options are set out in Schedule 3.

As approval for the participation of the Relevant Directors in the Placement is being obtained under ASX Listing Rule 10.11, the issue of Shares to the Relevant Directors (or their nominee) will not be included in the use of the Company's 15% annual placement capacity pursuant to ASX Listing Rule 7.1.

Recommendation

The Board, as members of the Key Management Personnel, abstain from making a recommendation in relation to Resolution 6.

RESOLUTION 7 – APPROVAL OF 7.1A MANDATE

General

Broadly speaking, and subject to a number of exceptions, Listing Rule 7.1 limits the amount of Equity Securities that a listed company can issue without the approval of its shareholders over any 12-month period to 15% of the fully paid ordinary securities it had on issue at the start of that period.

However, under Listing Rule 7.1A, an eligible entity may seek shareholder approval by way of a special resolution passed at its annual general meeting to increase this 15% limit by an extra 10% to 25% (**7.1A Mandate**).

An 'eligible entity' means an entity which is not included in the S&P/ASX 300 Index and has a market capitalisation of \$300,000,000 or less. The Company is an eligible entity for these purposes.

Resolution 7 seeks Shareholder approval by way of special resolution for the Company to have the additional 10% placement capacity provided for in Listing Rule 7.1A to issue Equity Securities without Shareholder approval.

If Resolution 7 is passed, the Company will be able to issue Equity Securities up to the combined 25% limit in Listing Rules 7.1 and 7.1A without any further Shareholder approval.

If Resolution 7 is not passed, the Company will not be able to access the additional 10% capacity to issue Equity Securities without Shareholder approval under Listing Rule 7.1A and will remain subject to the 15% limit on issuing Equity Securities without Shareholder approval set out in Listing Rule 7.1.

Technical information required by Listing Rule 7.1A

Pursuant to and in accordance with Listing Rule 7.3A, the information below is provided in relation to Resolution 7:

Period for which the 7.1A Mandate is valid

The 7.1A Mandate will commence on the date of the Meeting and expire on the first to occur of the following:

- (i) the date that is 12 months after the date of this Meeting;
- (ii) the time and date of the Company's next annual general meeting; and
- (iii) the time and date of approval by Shareholders of any transaction under Listing Rule 11.1.2 (a significant change in the nature or scale of activities) or Listing Rule 11.2 (disposal of the main undertaking).

Minimum Price

Any Equity Securities issued under the 7.1A Mandate must be in an existing quoted class of Equity Securities and be issued at a minimum price of 75% of the volume weighted average price of Equity Securities in that class, calculated over the 15 trading days on which trades in that class were recorded immediately before:

- (i) the date on which the price at which the Equity Securities are to be issued is agreed by the entity and the recipient of the Equity Securities; or
- (ii) if the Equity Securities are not issued within 10 trading days of the date in Section 1.1(a)(iii), the date on which the Equity Securities are issued.

Use of funds raised under the 7.1A Mandate

The Company intends to use funds raised from issues of Equity Securities under the 7.1A Mandate for:

- (i) the development and commercialisation of the FELIX project; and
- (ii) the development of new products with Professor Aitken and University of Newcastle (UoN) for the animal ART market; and/or
- (iii) the Company's working capital requirements.

Risk of Economic and Voting Dilution

Any issue of Equity Securities under the 7.1A Mandate will dilute the interests of Shareholders who do not receive any Shares under the issue.

If Resolution 7 is approved by Shareholders and the Company issues the maximum number of Equity Securities available under the 7.1A Mandate, the economic and voting dilution of existing Shares would be as shown in the table below.

The table below shows the dilution of existing Shareholders calculated in accordance with the formula outlined in Listing Rule 7.1A.2, on the basis of the closing market price of Shares and the number of Equity Securities on issue as at 14 October 2022.

The table also shows the voting dilution impact where the number of Shares on issue (Variable A in the formula) changes and the economic dilution where there are changes in the issue price of Shares issued under the 7.1A Mandate.

		Dilution			
Number of Shares on Issue (Variable A in Listing Rule 7.1A.2)		Shares issued – 10% voting dilution	Issue Price		
			\$0.009	\$0.018	\$0.036
			50% decrease	Issue Price	100% increase
			Funds Raised		
Current shares	960,199,229	96,019,923	\$ 864,179	\$ 1,728,359	\$ 3,456,717
50% increase	1,440,298,844	144,029,884	\$ 1,296,269	\$ 2,592,538	\$ 5,185,076
100% increase	1,920,398,458	192,039,846	\$ 1,728,359	\$ 3,456,717	\$ 6,913,434

The number of Shares on issue (Variable A in the formula) could increase as a result of the issue of Shares that do not require Shareholder approval (such as under a pro-rata rights issue or scrip issued under a takeover offer) or that are issued with Shareholder approval under Listing Rule 7.1.

The table above uses the following assumptions:

- There are currently 960,199,229 Shares on issue.
- The issue price set out above is the closing market price of the Shares on the ASX on 14 October 2022.
- The Company issues the maximum possible number of Equity Securities under the 7.1A Mandate.
- The Company has not issued any Equity Securities in the 12 months prior to the Meeting that were not issued under an exception in Listing Rule 7.2 or with approval under Listing Rule 7.1.
- The issue of Equity Securities under the 7.1A Mandate consists only of Shares. It is assumed that no Options or Convertible Notes are exercised into Shares before the date of issue of the Equity Securities.
- The calculations above do not show the dilution that any one particular Shareholder will be subject to. All Shareholders should consider the dilution caused to their own shareholding depending on their specific circumstances.

7. This table does not set out any dilution pursuant to approvals under Listing Rule 7.1 unless otherwise disclosed.
8. The 10% voting dilution reflects the aggregate percentage dilution against the issued share capital at the time of issue. This is why the voting dilution is shown in each example as 10%.
9. The table does not show an example of dilution that may be caused to a particular Shareholder by reason of placements under the 7.1A mandate, based on that Shareholder's holding at the date of the Meeting.

Shareholders should note that there is a risk that:

- (i) the market price for the Company's Shares may be significantly lower on the issue date than on the date of the Meeting; and
- (ii) the Shares may be issued at a price that is at a discount to the market price for those Shares on the date of issue.

Allocation policy under the 7.1A Mandate

The recipients of the Equity Securities to be issued under the 7.1A Mandate have not yet been determined. However, the recipients of Equity Securities could consist of current Shareholders or new investors (or both), none of whom will be related parties of the Company.

The Company will determine the recipients at the time of the issue under the 7.1A Mandate, having regard to the following factors:

- (i) the purpose of the issue;
- (ii) alternative methods for raising funds available to the Company at that time, including, but not limited to, an entitlement issue, share purchase plan, placement or other offer where existing Shareholders may participate;
- (iii) the effect of the issue of the Equity Securities on the control of the Company;
- (iv) the circumstances of the Company, including, but not limited to, the financial position and solvency of the Company;
- (v) prevailing market conditions; and
- (vi) advice from corporate, financial and broking advisers (if applicable).

Previous approval under Listing Rule 7.1A

The Company previously obtained approval from its Shareholders pursuant to Listing Rule 7.1A at its annual general meeting held on 25 November 2021 (**Previous Approval**).

During the 12-month period preceding the date of the Meeting, being on and from 25 November 2021, the Company has not issued any Equity Securities pursuant to the Previous Approval.

Voting Exclusion Statement

A voting exclusion statement is included in Resolution 7 of this Notice.

RESOLUTION 8 – AMENDMENTS TO CONSTITUTION

General

Resolution 8 is a special resolution and requires 75% approval of shareholders to be passed, which will amend the existing constitution.

Under ASIC Corporations (Virtual-only Meetings) Instrument 2022/129, a company whose shares are listed on the ASX can hold a virtual-only meeting until 31 May 2022. However after that date, the company must amend its constitution to allow for virtual-only meetings to be held.

The purpose of the proposed changes will allow the Board in exceptional circumstances to call a meeting of shareholders and have the flexibility to hold the meeting as a virtual only meeting.

The Board will continue to hold its Annual General Meeting as in person meetings of shareholders where permitted.

A copy of the amended constitution is available for review by Shareholders at the office of the Company. A copy of the amended constitution can also be sent to Shareholders upon request to the Company Secretary. Shareholders are invited to contact the Company if they have any queries or concerns.

Proposed amendments

The proposed changes to the Company's constitution are as follows:

- a) Clause 12.3 of the Company's constitution states the following:

The Company may hold a meeting at two or more venues using any technology that gives the Shareholders as a whole a reasonable opportunity to participate.

For the company to hold a virtual-only meeting of members, an amendment to clause 12.3 (in italics) is required as follows:

"A general meeting of Members, including a hybrid or virtual-only meeting, may be held at two or more venues simultaneously using any technology that gives the Members as a whole a reasonable opportunity to participate."

- b) Clause 13.1 of the Company's constitution relates to a quorum for a general meeting. The following is to be inserted in clause 13.1 to allow members attending virtually to be considered present at the general meeting:

"If a separate meeting place is linked to the main place of a meeting of Shareholders by an instantaneous audio-visual communication device which, by itself or in conjunction with other arrangements:

- (i) gives the general body of members in the separate meeting place a reasonable opportunity to participate in proceedings in the main place;*
- (ii) enables the Chair of the meeting to be aware of proceedings in the other place; and*
- (iii) enables the Shareholders in the separate meeting place to vote on a show of hands or on a poll;*

a Shareholder present at the separate meeting place is taken to be present at the general meeting and entitled to exercise all rights as if he or she was present at the main place.

Nothing in this clause is to be taken to limit the powers conferred on the Chair of the meeting by law."

- c) Clause 13.9 of the Company's constitution relates to an adjournment of a general meeting. The following is to be inserted in clause 13.9 to allow an adjourned general meeting held as a virtual only meeting to be held in the same manner as the meeting was held prior to it being adjourned:

"If, before or during the meeting, any technical difficulty occurs where one or more of the matters set out under this clause 13.9 is not satisfied, the chair may:

- (i) adjourn the meeting until the difficulty is remedied; or*
- (ii) continue to hold the meeting in the main place (and any other place which is linked under article 12.3 and transact business, and no member may object to the meeting being held or continuing."*

The Chairman of the meeting intends to vote undirected proxies in favour of Resolution 8.

Directors' recommendation

All directors recommend that shareholders vote in favour of Resolution 8.

GLOSSARY

\$ means Australian dollars.

7.1A Mandate has the meaning given in Section 7.1.

AEDT means Australian Eastern Daylight-savings Time.

Annual General Meeting or Meeting means the meeting convened by the Notice.

ASIC means the Australian Securities & Investments Commission.

ASX means ASX Limited (ACN 008 624 691), or the financial market operated by ASX Limited, as the context requires.

Board means the current board of directors of the Company.

Chair means the chair of the Meeting.

Closely Related Party of a member of the Key Management Personnel means:

- (a) a spouse or child of the member;
- (b) a child of the member's spouse;
- (c) a dependent of the member or the member's spouse;
- (d) anyone else who is one of the member's family and may be expected to influence the member, or be influenced by the member, in the member's dealing with the entity;
- (e) a company the member controls; or
- (f) a person prescribed by the Corporations Regulations 2001 (Cth) for the purposes of the definition of 'closely related party' in the Corporations Act.

Company means Memphasys Limited (ACN 120 047 556).

Constitution means the Company's constitution.

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

Directors means the current directors of the Company.

Equity Securities includes a Share, a right to a Share or Option, an Option, a convertible security and any security that ASX decides to classify as an Equity Security.

Existing Convertible Notes has the meaning given in Section 3.1 of the Notice.

Explanatory Statement means the explanatory statement accompanying the Notice.

Indebtedness has the meaning given in Section 2.1 of the Notice

Key Management Personnel has the same meaning as in the accounting standards issued by the Australian Accounting Standards Board and means those persons having authority and responsibility for planning, directing and controlling the activities of the Company, or if the Company is part of a consolidated entity, of the consolidated entity, directly or indirectly, including any director (whether executive or otherwise) of the Company, or if the Company is part of a consolidated entity, of an entity within the consolidated group.

Listing Rules means the Listing Rules of ASX.

Maturity Date means the repayment date of the Existing Convertible Notes.

Notice or Notice of Meeting means this notice of meeting including the Explanatory Statement and the Proxy Form.

Proxy Form means the proxy form accompanying the Notice.

Relevant Shareholder means Goh Thee Woon.

Remuneration Report means the remuneration report set out in the Director's report section of the Company's annual financial report for the year ended 30 June 2022.

Resolutions means the resolutions set out in the Notice, or any one of them, as the context requires.

Section means a section of the Explanatory Statement.

Selective Capital Reduction has the meaning given in Section 2.1 of this Notice

Share means a fully paid ordinary share in the capital of the Company.

Shareholder means a registered holder of a Share.

Variable A means “A” as set out in the formula in Listing Rule 7.1A.2.

SCHEDULE 1 – TERMS AND CONDITIONS OF EXISTING CONVERTIBLE NOTES

The terms and conditions of the Existing Convertible Notes on issue are as follows:

- (a) **Security:** The Convertible Notes are unsecured.
- (b) **Interest:** Interest rate of 8% per annum, payable in cash or shares at the holder's election.
- (c) **Facilitation Fee:** A facilitation fee of 3% of gross face value of Convertible Notes was capitalised and added to the gross value of the Convertible Notes repayable on or before the maturity date.
- (d) **Maturity Date:** 31 December 2022.
- (e) **Conversion Price:** the lower of:
 - (i) \$0.06; and
 - (ii) a 20% discount to the issue price of shares and/or the exercise price of any options offered under any capital raising(s) completed by the Company of greater than \$1,000,000 prior to the Maturity Date.

- (i) **Conversion:** The holder may elect to convert some or all of the Convertible Notes (including accrued interest) at any time prior to the Maturity Date.

The Convertible Notes will convert into the number of Shares calculated in accordance with the following formula: $A = \frac{B}{C}$

Where:

A = number of Shares to be issued to the Noteholder (rounded to the nearest whole number).

B = the fully capitalised facilitation fee, plus the face value of the convertible notes being converted (together with accrued but unpaid interest, as applicable) (the **Outstanding Amount**)

C = the Conversion Price.

- (f) **Redemption:** If the Convertible Notes have not been redeemed (in accordance with paragraph (j)) or converted (in accordance with paragraph (i)) prior to the Maturity Date, the Company must repay the Outstanding Amount to the holder in cash on the Maturity Date.

No later than ninety (90) days prior to the Maturity Date, the holder must advise the Company in writing of the number of Convertible Notes that will be outstanding on the Maturity Date.

- (j) **Default events:**

On the occurrence of any of the below, the holder may declare the Outstanding Amount is immediately due and payable:

- (i) the Company breaches the Convertible Note and fails to rectify such a breach within 5 business days;
- (ii) breach of warranty by the Company; and
- (iii) any form of winding up, receivership, insolvency or compromise event is entered into by the Company.

- (g) **Reorganisation of capital:** If at any time there is any reorganisation of the issued capital of the Company, then the number of Convertible Notes will be adjusted as appropriate and consistent with that reorganisation.

SCHEDULE 2 – SUMMARY OF CONVERTIBLE NOTE AGREEMENTS

The Company entered into two separate Convertible Note Agreements with Peters Investments Pty Ltd (ACN 008 699 287) and Andrew Goodall (each, an **Investor**). Other than the subscription sums of \$1,650,000 for Peters Investments Pty Ltd and \$1,350,000 for Andrew Goodall (the **Investment Amount**) (which in turn entitle each Investor to 1,650,000 Convertible Notes and 1,350,000 Convertible Notes respectively, together with a one for one free attaching option), the material terms of the Convertible Note Agreements were substantially the same and are summarised below:

Name of Contract	Convertible Note Agreement
Date of Contract	25 May 2021
Purpose of Investment	The Investment Amount is to provide working capital to allow the Company to re-engineer its Felix device and commence sales process to early access markets and working capital required to advance the additional products currently being developed by the Company.
Investment Conditions	The obligation of the Investor to subscribe for Convertible Notes and for the Loan to satisfy the Investment Amount is subject to satisfaction of the following conditions precedent: <ul style="list-style-type: none"> (a) completion of customary due diligence for debt issues by the Investor; (b) receipt of confirmation from ASX that the terms of the Convertible Notes comply with ASX Listing Rule 6.1 and that ASX does not otherwise object to any other matters contemplated by this Agreement in relation to issue of the Convertible Notes (if required); (c) the Company entering into separate and additional convertible note agreements with Peters Investments Pty Ltd (or their nominee) and Mr Andrew Goodall (or his nominee) on the same terms and conditions for no less than an additional \$1 million; and (d) shareholders approving the issue of the Convertible Note in general meeting.
Termination	If the Investment Conditions are not satisfied by the 23 rd of August 2021, then the agreement will be deemed to be terminated. If the agreement is terminated: <ul style="list-style-type: none"> (a) the Company must immediately repay the Investment Amount to the Investor; (b) each party is released from its obligations to continue performance under the agreement except those imposing obligations of confidentiality; (c) each party retains any rights it has against any other party in respect of any breach of the agreement which has arisen prior to termination.
Issue of Convertible Notes	On the date upon which the last of the Investment Conditions is satisfied, the Company agrees to issue the Investor that number of Convertible Notes that is equal to the Investment Amount (i.e. at a face value of \$1 per Convertible Note). The Convertible Notes will otherwise be issued on the terms and conditions set out in Schedule 1.
Issue of Options	In consideration for entry into the agreement, the Company will, subject to first receiving Shareholder approval for their grant, grant to the Investor or its nominee the same number of unlisted Options (on the terms and conditions set out in Schedule 3 of the Company's Notice of Meeting dated 24 August 2021) as Convertible Notes subscribed for and in the event that the Company does not receive Shareholder approval, the Company will, within 5 business days of the date of the meeting where Shareholder approval is not obtained, pay to the Investor an amount equal to the Black & Scholes valuation of the Options at the time of the Shareholder meeting.

SCHEDULE 3 – TERMS AND CONDITIONS OF RC OPTIONS

(a) **Entitlement**

Each RC Option entitles the holder to subscribe for one Share upon exercise of the RC Option.

(b) **Exercise Price**

Subject to paragraph (k), the exercise price for each RC Option (**Exercise Price**) will be a 34% premium to the volume weighted average price of the Company's Shares for the 5 trading days prior to the date of issue of the RC Options.

(c) **Expiry Date**

Each RC Option will expire on the date which is 24 months from their date of issue (**Expiry Date**).

(d) **Exercise Period**

The RC Options are exercisable at any time on or prior to the Expiry Date (**Exercise Period**).

(e) **Notice of Exercise**

The RC Options may be exercised during the Exercise Period by notice in writing to the Company in the manner specified on the Option certificate (**Notice of Exercise**) and payment of the Exercise Price for each RC Option being exercised in Australian currency by electronic funds transfer or other means of payment acceptable to the Company.

(f) **Exercise Date**

A Notice of Exercise is only effective on and from the later of the date of receipt of the Notice of Exercise and the date of receipt of the payment of the Exercise Price for each RC Option being exercised in cleared funds (**Exercise Date**).

(g) **Timing of issue of Shares on exercise**

Within 15 Business Days after the Exercise Date, the Company will:

- (i) issue the number of Shares required under these terms and conditions in respect of the number of RC Options specified in the Notice of Exercise and for which cleared funds have been received by the Company;
- (ii) if required, give ASX a notice that complies with section 708A(5)(e) of the Corporations Act, or, if the Company is unable to issue such a notice, lodge with ASIC a prospectus prepared in accordance with the Corporations Act and do all such things necessary to satisfy section 708A(11) of the Corporations Act to ensure that an offer for sale of the Shares does not require disclosure to investors; and
- (iii) if admitted to the official list of ASX at the time, apply for official quotation on ASX of Shares issued pursuant to the exercise of the RC Options.

If a notice delivered under (g)(ii) for any reason is not effective to ensure that an offer for sale of the Shares does not require disclosure to investors, the Company must, no later than 20 Business Days after becoming aware of such notice being ineffective, lodge with ASIC a prospectus prepared in accordance with the Corporations Act and do all such things necessary to satisfy section 708A(11) of the Corporations Act to ensure that an offer for sale of the Shares does not require disclosure to investors.

(h) **Shares issued on exercise**

Shares issued on exercise of the RC Options rank equally with the then issued shares of the Company.

(i) **Reconstruction of capital**

If at any time the issued capital of the Company is reconstructed, all rights of an Option holder are to be changed in a manner consistent with the Corporations Act and the ASX Listing Rules at the time of the reconstruction.

(j) **Participation in new issues**

There are no participation rights or entitlements inherent in the RC Options and holders will not be entitled to participate in new issues of capital offered to Shareholders during the currency of the RC Options without exercising the Options.

(k) **Change in exercise price**

An RC Option does not confer the right to a change in Exercise Price or a change in the number of underlying securities over which the RC Option can be exercised.

(l) **Transferability**

The RC Options are transferable subject to any restriction or escrow arrangements imposed by ASX or under applicable Australian securities laws.

All Correspondence to:

✉ **By Mail** Boardroom Pty Limited
GPO Box 3993
Sydney NSW 2001 Australia

📠 **By Fax:** +61 2 9290 9655

💻 **Online:** www.boardroomlimited.com.au

☎ **By Phone:** (within Australia) 1300 737 760
(outside Australia) +61 2 9290 9600

YOUR VOTE IS IMPORTANT

For your vote to be effective it must be recorded **before 11:00am AEDT on Saturday, 26 November 2022.**

🖥 TO VOTE ONLINE

- STEP 1:** VISIT <https://www.votingonline.com.au/memphasysagm2022>
- STEP 2:** Enter your Postcode OR Country of Residence (if outside Australia)
- STEP 3:** Enter your Voting Access Code (VAC):

📱 BY SMARTPHONE



Scan QR Code using smartphone
QR Reader App

TO VOTE BY COMPLETING THE PROXY FORM

STEP 1 APPOINTMENT OF PROXY

Indicate who you want to appoint as your Proxy.

If you wish to appoint the Chair of the Meeting as your proxy, mark the box. If you wish to appoint someone other than the Chair of the Meeting as your proxy, please write the full name of that individual or body corporate. If you leave this section blank, or your named proxy does not attend the meeting, the Chair of the Meeting will be your proxy. A proxy need not be a securityholder of the company. Do not write the name of the issuer company or the registered securityholder in the space.

Appointment of a Second Proxy

You are entitled to appoint up to two proxies to attend the meeting and vote. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by contacting the company's securities registry or you may copy this form.

To appoint a second proxy you must:

- complete two Proxy Forms. On each Proxy Form state the percentage of your voting rights or the number of securities applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded.
- return both forms together in the same envelope.

STEP 2 VOTING DIRECTIONS TO YOUR PROXY

To direct your proxy how to vote, mark one of the boxes opposite each item of business. All your securities will be voted in accordance with such a direction unless you indicate only a portion of securities are to be voted on any item by inserting the percentage or number that you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on a given item, your proxy may vote as he or she chooses. If you mark more than one box on an item for all your securities, your vote on that item will be invalid.

Proxy which is a Body Corporate

Where a body corporate is appointed as your proxy, the representative of that body corporate attending the meeting must have provided an "Appointment of Corporate Representative" prior to admission. An Appointment of Corporate Representative form can be obtained from the company's securities registry.

STEP 3 SIGN THE FORM

The form **must** be signed as follows:

Individual: This form is to be signed by the securityholder.

Joint Holding: where the holding is in more than one name, all the securityholders should sign.

Power of Attorney: to sign under a Power of Attorney, you must have already lodged it with the registry. Alternatively, attach a certified photocopy of the Power of Attorney to this form when you return it.

Companies: this form must be signed by a Director jointly with either another Director or a Company Secretary. Where the company has a Sole Director who is also the Sole Company Secretary, this form should be signed by that person. **Please indicate the office held by signing in the appropriate place.**

STEP 4 LODGEMENT

Proxy forms (and any Power of Attorney under which it is signed) must be received no later than 48 hours before the commencement of the meeting, therefore by **11:00am AEDT on Saturday, 26 November 2022.** Any Proxy Form received after that time will not be valid for the scheduled meeting.

Proxy forms may be lodged using the enclosed Reply Paid Envelope or:

- 💻 **Online** <https://www.votingonline.com.au/memphasysagm2022>
- 📠 **By Fax** + 61 2 9290 9655
- ✉ **By Mail** Boardroom Pty Limited
GPO Box 3993,
Sydney NSW 2001 Australia
- 👤 **In Person** Boardroom Pty Limited
Level 8, 210 George Street,
Sydney NSW 2000 Australia

Attending the Meeting

If you wish to attend the meeting, please bring this form with you to assist registration.

☐

Your Address

This is your address as it appears on the company's share register. If this is incorrect, please mark the box with an "X" and make the correction in the space to the left. Securityholders sponsored by a broker should advise their broker of any changes.

Please note, you cannot change ownership of your securities using this form.

PROXY FORM

STEP 1 APPOINT A PROXY

I/We being a member/s of **Memphasys Limited** (Company) and entitled to attend and vote hereby appoint:

☐

the **Chair of the Meeting** (mark box)

OR if you are **NOT** appointing the Chair of the Meeting as your proxy, please write the name of the person or body corporate (excluding the registered securityholder) you are appointing as your proxy below

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chair of the Meeting as my/our proxy at the Annual General Meeting of the Company to be held at **30 Richmond Road, Homebush West, NSW 2140 on Monday, 28 November 2022 at 11:00am AEDT** and at any adjournment of that meeting, to act on my/our behalf and to vote in accordance with the following directions or if no directions have been given, as the proxy sees fit.

Chair of the Meeting authorised to exercise undirected proxies on remuneration related matters: If I/we have appointed the Chair of the Meeting as my/our proxy or the Chair of the Meeting becomes my/our proxy by default and I/we have not directed my/our proxy how to vote in respect of Resolutions 1 and 6, I/we expressly authorise the Chair of the Meeting to exercise my/our proxy in respect of these Resolutions even though Resolutions 1 and 6 are connected with the remuneration of a member of the key management personnel for the Company.

The Chair of the Meeting will vote all undirected proxies in favour of all Items of business (including Resolutions 1 and 6). If you wish to appoint the Chair of the Meeting as your proxy with a direction to vote against, or to abstain from voting on an item, you must provide a direction by marking the 'Against' or 'Abstain' box opposite that resolution.

STEP 2 VOTING DIRECTIONS

* If you mark the Abstain box for a particular item, you are directing your proxy not to vote on your behalf on a show of hands or on a poll and your vote will not be counted in calculating the required majority if a poll is called.

Ordinary Business

		For	Against	Abstain*
Resolution 1	Adoption of Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Approval to make Selective Reduction of Capital (Special Resolution)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Amendment to Existing Convertible Notes – Peters Investments Pty Ltd	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 4	Election of Director – Mr Robert Cooke	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 5	Re-election of Director – Mr Paul Wright	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 6	Issue of Options to Related Party – Robert Cooke	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 7	Approval of 7.1A Mandate (Special Resolution)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 8	Amendments to Constitution (Special Resolution)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

STEP 3 SIGNATURE OF SECURITYHOLDERS

This form must be signed to enable your directions to be implemented.

Individual or Securityholder 1

Sole Director and Sole Company Secretary

Securityholder 2

Director

Securityholder 3

Director / Company Secretary

Contact Name.....

Contact Daytime Telephone.....

Date / / 2022