

# Memphasys Limited

## Corporate Governance Statement

### Year Ended 30 June 2016

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**This statement has been approved by the Board of Memphasys Limited and is current as at 28 September 2016. During the reporting period Memphasys Limited was trading as NuSep Holdings Limited. The company changed its name on 1 July 2016.**

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

This Statement explains how Memphasys addresses the ASX Corporate Governance Council's 'Corporate Governance Principles and Recommendations – 3<sup>rd</sup> Edition' released on the 27 March 2014 (referred to as either ASX Principles or Recommendations).

During the current reporting period, the company operated as NuSep Holdings Limited. However, on 1 July 2016 the company changed its name to Memphasys Limited. For the purposes of this Corporate Governance Statement, the report has been written using the new company name, notwithstanding that the company was operating as NuSep during the reporting period.

Memphasys has continued to improve both its policies and procedures in relation to its corporate governance responsibilities and to comply with the requirements of the Enforceable Undertaking entered into with ASIC on 18 December 2014. Having fulfilled previous commitments in relation to the implementation of governance policies and procedures and the creation of executive remuneration policies and contracts, Memphasys has continued to review these documents as required during the current reporting period. Additionally, Memphasys has been able to fulfil commitments made in the 2015 Corporate Governance Statement in relation to further development of the company's risk framework and a gap analysis of Board skills.

Memphasys adheres to the ASX Corporate Governance Council recommendations and has provided the requisite Appendix 4G (Key to Disclosures – Corporate Governance Council Principles and Recommendations) which has been lodged together with its Annual Report with the ASX. 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 general 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 will report in detail on its progress in adopting and implementing the specifics of the ASX Principles and Recommendations.

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

### **1.1 Roles and Responsibilities**

The document setting out Memphasys' Board Function and Board Charter (Board Charter) was re-drafted and approved during the reporting period and revised in April 2016. The Board Charter is published in the Corporate Governance section of the website, [www.memphasys.com](http://www.memphasys.com). The Board Charter outlines clearly 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 2015/2016 reporting period, Dr Robert Gilmour was appointed as a non-independent director to the Board of Memphasys Limited. In August 2016 (outside this reporting period), Mr John Pereira was also appointed to the Board as an independent director.

Appropriate pre-appointment checks were conducted and security holders will have the opportunity of reviewing relevant information prior to voting on any appointment at the 2016 Annual General Meeting (AGM) later in the year.

### **1.3 Terms of Appointment**

Directors have received letters of appointment stating the effective date of commencement of their directorships with Memphasys Limited and remuneration details. Directors have also been provided with extensive induction material as well as opportunities for consultation with the Executive Chairman and other directors in order to deepen their overall understanding of the company and its operations. An induction kit in line with best practice procedures is provided to any new director joining the Board.

Additionally, the terms of appointment of senior executives were reviewed during the previous reporting period and approved by the Board. The employment contracts clearly state the terms of appointment and the expectation of the company regarding performance and any performance-based incentives. This includes specifically dealing with claw back provisions for bonuses where key targets are not achieved and other updated terms and conditions to ensure best corporate practice is achieved. No new senior executives were appointed during the reporting period.

## 1.4 Company Secretary

The Company Secretary services are managed by Boardroom Pty Ltd (Boardroom). Ms Elissa Hanson acted as Company Secretary on behalf of Boardroom early in FY 2016 (until August 2015) when she resigned as Company Secretary. Boardroom's Mr Mark Studd was appointed in her place and an announcement concerning his appointment was released to the ASX on 11 August 2015.

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

## 1.5 Diversity Policy

Memphasys' Diversity policy was approved by the Board in July 2015. The policy is available in the Corporate Governance section of the website, [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 and religious beliefs as well as gender diversity.

Directors have not adopted specific gender targets for the Board, for senior executives or for employees generally. Memphasys Limited has only 7 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 4 males and 3 females, one of whom is Executive Chairman of the company. Memphasys is an equal opportunity employer.

## 1.6 Periodic Board, Committee and Director Evaluation

Memphasys has an annual evaluation process for the Board, committees and directors which is stated in the Board Charter available on the website [www.memphasys.com](http://www.memphasys.com). In the previous reporting period (May 2015), an annual evaluation of the Board was conducted in accordance with the Board Charter. This evaluation was undertaken by utilising a comprehensive board evaluation document. The results of the questionnaire were independently collated and the results presented by the Company Secretary to the Board. The process was efficient and results indicated that the Board was performing satisfactorily.

While no Board review was conducted during the current reporting period, the May 2015 review was considered to be too close to the current reporting period to warrant another Board review. Additionally, with the resignation of two directors during the reporting period, the appointment of a new director in April 2016, and another appointment outside this reporting period in August 2016, and with further appointments being likely, it was determined to delay the review until the 2016/2017 FY reporting period.

Due to the changes in Board membership during the reporting period, the Board was unable to undertake a review of the workings of the Nomination and Remuneration Committee and the Audit and Risk Committee in the 2016 financial year as planned. However, the Charters of these committees were reviewed by the Board during the reporting period. Reviews of the committees' workings will be undertaken in the next reporting period.

## 1.7 Performance Evaluation for Senior Executives

Memphasys has set key performance indicators for its senior executives and performance is evaluated against these targets annually.

During this reporting period annual reviews were conducted for senior executives.

## Principle 2 Structure the Board to Add Value

### 2.1 Nomination Committee

Memphasys Limited has a Nomination and Remuneration Committee. During the reporting period the Nomination and Remuneration Committee had an independent director, Mr Michael Graham, as Chair and one other independent director who attended all meetings. Mr Graham chaired the two meetings held during the reporting period.

Mr Mark Gell, an independent director, replaced Mr Graham as Chair until his resignation in April 2016 when Dr Robert Gilmour, a non-independent director, was appointed as Chair pending the appointment of an independent director to the Board. However, no meetings were held under the chairmanship of either of these directors during the reporting period.

Subsequent to this reporting period (August 2016), Memphasys has appointed a new independent director, Mr John Pereira, who has agreed to chair future meetings of the committee in line with ASX recommendations for an independent chair.

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

The Nomination and Remuneration Committee Charter was reviewed during the reporting period and the Charter is published in the Corporate Governance section of the website [www.memphasys.com](http://www.memphasys.com).

During the current 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 business, law and accounting, yet also have specific skills and experience pertaining to other key aspects of Memphasys' business including business strategy, marketing, investor relations, biotechnology, engineering and the commercialisation of intellectual property. Directors have access to executive staff to provide specialised information as required.

A detailed Board skills matrix was developed in the 2016 financial year. The analysis highlighted lack of independence of directors as a key issue. Additionally, legal knowledge/qualifications were noted as key attributes currently missing from the Board's skills mix and that such knowledge would be a key

attribute in any potential candidate for Board membership. The Board has subsequent to this reporting period appointed Mr John Pereira as an independent, non-executive director. Mr Pereira has the legal skills identified in the gap analysis and satisfies the ASX recommendation that a director be independent.

## 2.3 Independence of Directors

As at 30 June 2016, the Board had no truly independent directors. Mr Andrew Goodall is a substantial shareholder and Dr Robert Gilmour is paid a consulting fee. Ms Alison Coutts, by fulfilling an executive position, is also not independent. However, during the reporting period there were two independent directors on the Board, Mr Michael Graham (until January 2016) and Mr Mark Gell (until April 2016).

Subsequent to this reporting period, in August 2016, the Board appointed Mr John Pereira as an independent, non-executive director. Mr Pereira satisfies the ASX recommendation that a director be independent. Memphasys will continue to search for other suitably qualified and independent directors for future appointments.

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 Principles and Recommendations of the ASX.

A table setting out the length of service of each of the directors and the current status of 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	2018
Mr Andrew Ernest Goodall	14 Mar 2012	Non-Executive	No	2017
Dr Robert Gilmour	12 April 2016	Non-Executive	No	2016*
Mr John Pereira	30 Aug 2016	Non-Executive	Yes	2016*

\*Appointment to be confirmed at AGM.

## 2.4 Majority should be Independent Directors

During the first half of the reporting period, the ratio of independent to non-independent directors was equal. By the end of the reporting period, there were no independent directors on the Board following the resignation of Mr Michael Graham in January 2016 and Mr Mark Gell in April 2016, both independent directors. Dr Robert Gilmour was appointed as a director in April 2016 and was regarded as a non-independent director.

Unfortunately, due to the size and stage of development of Memphasys, it has not been able to follow the recommendation of the ASX that all members of the Board should be independent. Mr Andrew Goodall is considered non-independent as he is a substantial shareholder, Ms Alison Coutts performs a pivotal role in her executive leadership position within Memphasys and Dr Robert Gilmour has a consulting contract with the company and was also required as a consultant to the company as part of the mandate that was signed with Transocean Securities, who provided corporate advisory and fund raising services.

Memphasys recognized this was not ideal and has actively sought to appoint an independent director to the Board resulting in the appointment (outside the reporting period) of Mr John Pereira as an independent director on 30 August 2016. The company is actively seeking to appoint another independent director as soon as practicable. Memphasys considers that all the directors are well qualified to represent the company and its security holders.

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

Memphasys has been unable to follow the ASX recommendation that the Chair and CEO of a company be independent during the current reporting period. Over the course of the 2016 financial year, the company had an Executive Chairman. This was a measure taken initially to deal with an immediate need to fill the CEO position and remains in place to keep costs to a minimum.

Memphasys acknowledges that separation between the chairman and CEO role is best practice corporate governance to minimise the possibility of a lack of openness and promote constructive debate at board level. While Memphasys has no immediate plans to separate these functions, it will consider appointing an independent chairman and /or deputy chairman in the future.

## **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 by the Board in April 2016 and expanded and updated at that time. The Code of Conduct is published in the Corporate Governance section of the Memphasys' 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 Memphasys.

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 Memphasys 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 Mark Gell, an independent Director, chaired the Committee and all meetings held during the reporting period, until his resignation in April 2016 at which time Mr Andrew Goodall replaced him as Chair pending the appointment of another independent director to the Board.

Outside this reporting period Mr John Pereira, an independent director, appointed in August 2016, has agreed to chair future meetings of the Audit and Risk Committee and will replace Mr Andrew Goodall as Chair.

Due to the size and stage of development of Memphasys, the company has been unable to follow the ASX recommendation during the financial year that all members of the Audit and Risk Committee be independent. However, each of the current committee members has significant experience in business and finance.

The Audit and Risk Committee Charter was reviewed and updated during the reporting period and the revised Charter is published in the Corporate Governance section of the Memphasys' website at [www.memphasys.com](http://www.memphasys.com).

The Audit and Risk Committee met four times during the current reporting year with all members attending.

## **4.2 Financial Statement Confirmation**

Before it approves the company's financial statements for a financial period, the Board receives from the CEO and CFO a declaration 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 clearly 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"*.

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

The policy was reviewed and approved during the current 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 is available to investors on the company's website at [www.memphasys.com](http://www.memphasys.com).

### **6.2 Investor Relations**

Memphasys has a specific Investor Relations page on its website, [www.memphasys.com](http://www.memphasys.com), with links to the various documents and announcements the company makes to the ASX. Contact details are also provided on the website for investors wishing to contact executives, the Company Secretary or the Share Registry.

### **6.3 Participation at Meetings**

Security holders are encouraged to participate in meetings via announcements to the ASX, information on the company's website and by mailouts to all security holders prior to the AGM.

### **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 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 reporting period until April 2016 (which included all Audit and Risk Committee meetings held during the reporting period), the committee was chaired by an independent director, Mr Mark Gell. The committee met four times during the year 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 current reporting period. A Risk Matrix was also created and added to the document for easy identification of risk priority.

Management and R&D 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 has an internal audit function with audits conducted at planned intervals throughout the year by qualified staff using internal templates that have been reviewed and approved by the external SAI auditor. Memphasys held an internal audit on sales and customer service in July 2015 and an external auditor from SAI Global conducted an audit in August 2015, the scope of which considered organisational policies, objectives, and continual improvement processes. In addition to these audits there were standard accounting audits conducted by external auditors.

Subsequent to the reporting period and following the sale of the company's gels business, Memphasys decided to discontinue the ISO 9001 certification and audit process from the end of August 2016 as the certification was no longer required.

Management has also implemented a risk and internal control system for assessing, monitoring and managing strategic, operational, financial reporting and compliance risks for Memphasys. The system is based upon policies, guidelines, delegations and reporting as well as the selection and training of qualified personnel.

The Board believes the current control framework of formal and informal audit activities is well suited to the company's current operations and stage of development.

### **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 and development meetings where mitigation strategies are devised as appropriate.

During the reporting period the main exposure to economic risk for Memphasys was the ongoing difficulty with PrIME Biologics Pte Ltd ("PrIME"), the company that Memphasys spun out in June 2014, and the ensuing litigation against PrIME and its major investor, Palau Manukan Ventures Labuan Ltd ("Manukan"). This put a dampener on the overall result and placed an extra requirement on Memphasys for ongoing litigation funding. The company engaged a reputable legal firm in Singapore to commence proceedings in the High Court of Singapore to resolve the matter.

At the present time the identifiable material environmental risk is the need to dispose of bulk acrylamide that was purchased some years ago for making polyacrylamide membranes. This particular acrylamide is not going to be used and must be disposed. The company has determined that, as the acrylamide is dangerous goods, a specialist dangerous goods disposal company will be used.

The company does not have any notable social sustainability risks at present.

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

### **8.1 Remuneration Committee**

Memphasys Limited has a Nomination and Remuneration Committee. During the reporting period the Nomination and Remuneration Committee had an independent director, Mr Michael Graham, as Chair and one other independent director who attended all meetings. Mr Graham chaired the two meetings held during the reporting period.

Mr Mark Gell, an independent director, replaced Mr Graham as Chair until his resignation in April 2016 and Dr Robert Gilmour, a non-independent director, was appointed as Chair pending the appointment of an independent director to the Board. However, no meetings were held under the chairmanship of either of these directors during the reporting period.

Subsequent to this reporting period (August 2016), Memphasys has appointed a new independent director, Mr John Pereira, who has agreed to chair future meetings of the Committee in line with ASX recommendations for an independent chair.

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

The Nomination and Remuneration Committee Charter was reviewed and updated during the reporting period and the Charter is published in the Corporate Governance section of the website [www.memphasys.com](http://www.memphasys.com).

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

### **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 website [www.memphasys.com](http://www.memphasys.com).

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

Memphasys has an Equity Based Remuneration Scheme (ESOP) which was disclosed at the Annual General Meeting in 2014. A copy of the scheme 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.