

Related party transactions policy

1 Overview

- 1.1 This document sets out the policy for the handling of, and the procedures for dealing with, Related Party transactions, and transactions involving a Person in a Position of Influence for Phoslock Environmental Technologies Limited ACN 099 555 290 (**Company**) and its Subsidiaries (**Group**).
- 1.2 When the Company is considering entering into a transaction with a Related Party there is a risk the interests of a Related Party may influence the decision-making of directors to the detriment of the Company's shareholders. The Corporations Act imposes a number of protections to help manage this risk, including:
- (1) Div 2 of Pt 2D.1, which excludes directors of public companies with material personal interests in certain matters attending director meetings about, or voting on, these matters; and
 - (2) Ch 2E, which requires public companies to obtain member approval to provide a Financial Benefit to a Related Party, subject to certain exceptions.
- 1.3 In addition to the requirements prescribed by the Corporations Act, the Company must also comply with the requirements of the ASX Listing Rules, specifically (in the context of this policy) the provisions in Chapter 10 which relate to transactions with Persons in a Position of Influence.
- 1.4 It is important that appropriate governance arrangements are in place and operating effectively to ensure that the Company complies with relevant legislation and the ASX Listing Rules and the interests of the Company, and its shareholders are protected.
- 1.5 All Related Party transactions and transactions with Persons in a Position of Influence which are contemplated, proposed and/or entered into by a member of the Group must be considered in accordance with this policy.

2 Definitions

- 2.1 For the purpose of this policy:
- (1) **ARMC** means the Company's Audit and Risk Committee;
 - (2) **ASIC** means the Australian Securities & Investments Commission;
 - (3) **Associate** has the meaning given in the ASX Listing Rules, and includes a person or entity controlled by the first person, or with whom the first person is acting, or proposing to act, in concert in relation to the Company's affairs;
 - (4) **ASX** means the ASX Limited;
 - (5) **ASX Listing Rules** means the listing rules of the ASX as amended or waived from time to time;
 - (6) **Board** means the Company's board of directors and includes a committee of the board of directors;

- (7) **Child Entity** is an entity which is controlled by, or a subsidiary of, the Company;
- (8) **Corporations Act** means the *Corporations Act 2001* (Cth);
- (9) **Financial Benefit** has the meaning given in section 229 of the Corporations Act and includes:
- (a) giving a financial benefit indirectly through one or more interposed entities;
 - (b) giving a financial benefit by making an informal agreement, oral agreement or an agreement that has no binding force; and
 - (c) giving a financial benefit that does not involve paying money (for example, by conferring a financial advantage),
- and includes:
- (d) giving or providing the Related Party finance or property;
 - (e) buying an asset from, or selling an asset to, the Related Party;
 - (f) leasing an asset from or to the Related Party;
 - (g) receiving from or supplying services to the Related Party;
 - (h) issuing securities or granting an option to the Related Party; and
 - (i) taking up or releasing an obligation of the Related Party;
- (10) **Notifiable Interest** has the meaning given under section 205G of the Corporations Act;
- (11) **Person in a Position of Influence** means a person who satisfies one or more of the following:
- (a) a Related Party of the Company;
 - (b) a Child Entity of the Company;
 - (c) a person who is, or was at any time in the preceding 6 months:
 - (i) for the purpose of ASX Listing Rule 10.1 only, a 10% shareholder in the Company;
 - (ii) for the purpose of ASX Listing Rule 10.11 only, a 30% shareholder in the Company or a 10% shareholder in the Company who has nominated a director to the Board pursuant to a relevant agreement which gives them a right or expectation to do so;
 - (d) an Associate of a person referred to in paragraphs 2.1(11)(a) to 2.1(11)(c) above; or
 - (e) a person whose relationship to the entity or a person referred to in paragraphs 2.1(11)(a) to 2.1(11)(d) above is such that the transaction should be approved by shareholders;
- (12) **Related Party** has the meaning given to that term in the ASX Listing Rules and includes all entities that control the Company; the Company's directors and their

spouses (including directors and spouses of controlling entities), parents and children of Company directors and spouses, entities controlled by other Related Parties of the Company, a party that was a Related Party in the previous 6 months, an entity that believes or has reasonable grounds to believe it will become Related Party in future, and an entity that acts in concert with a Related Party;

- (13) **Relevant Transaction** means a transaction or proposed transaction:
- (a) gives a Financial Benefit to a Related Party;
 - (b) under which the Company or any of its Child Entities, or companies which it otherwise controls, acquires or agrees to acquire a substantial asset from, or disposes or agrees to dispose of a substantial asset to, a Person in a Position of Influence;
 - (c) under which the Company issues or agrees to issue securities to a Person in a Position of Influence; or
 - (d) in which a director has a material personal interest;
- (14) and **Subsidiary** means, in the context of this policy, a company where the Company:
- (a) holds more than half of the issued share capital of the company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);
 - (b) controls the composition of the board of the company; or
- is in a position to cast, or control the casting of, more than half of the maximum number of votes that might be cast at a general meeting of the company;-

3 Source of legal obligations

3.1 The relevant legislation and rules are:

- (1) the Corporations Act, in particular:
- (a) the Related Party provisions in Ch 2E, which aim to protect the interests of members of public companies by requiring member approval for giving Financial Benefits that could endanger members' interests;
 - (b) Division 2 of Pt 2D.1, which excludes directors of public companies with material personal interests in certain matters attending director meetings about, or voting on, these matters, and which are incorporated into the Company's constitution; and
 - (c) sections 181-184, which outline the duties of directors to act in good faith, and not use their position or access to information to promote their personal interests or cause detriment to the Company; and
 - (d)
- (2) the ASX Listing Rules, in particular:
- (a) the ASX Listing Rules 3.19A and 3.19B, which require the Company to notify the ASX of a director's Notifiable Interests, and to make arrangements to ensure directors disclose all relevant information required for the Company to comply with this obligation; and

- (b) Chapter 10 of the ASX Listing Rules which restricts certain transactions with Persons in a Position of Influence including issues of securities to Persons in a Position of Influence; and
- (3) Australian Accounting Standard – AASB 124 *Related Party Disclosures*.

4 Related party transactions

Overview

- 4.1 Under the Corporations Act, before the Company may give a Financial Benefit to a Related Party one of the following requirements must be satisfied:
 - (1) the Company must obtain the approval of its shareholders and give the Financial Benefit within 15 months after the date of the approval; or
 - (2) the giving of the Financial Benefit falls under one of the exceptions set out in paragraph 4.4.
- 4.2 In determining whether a transaction is a Related Party transaction, a broad interpretation should be given to who is a Related Party and to the types of transactions which may be caught. It is the economic and commercial substance of the transaction rather than its legal form which is relevant.

Exceptions

- 4.3 The Company is not required to obtain shareholder approval to a Related Party transaction where the Board determines the transaction falls within the exceptions to the requirements for shareholder approval specified in Division 2 of Chapter 2E of the Corporations Act.
- 4.4 The exceptions are, in summary:
 - (1) *On arm's length terms*

Shareholder approval is not needed to give a Financial Benefit to a Related Party where:

 - (a) the terms of the agreement would be reasonable in the circumstances if the Company and the Related Party were dealing at arm's length; or
 - (b) are less favourable to the Related Party than if they were dealing at arm's length.
 - (2) *Remuneration and reimbursement for officer or employee*

Shareholder approval is not required to give a Financial Benefit where the benefit is reasonable remuneration for expenses of directors, officers or employees.
 - (3) *Indemnities, exemptions, insurance premiums and payment for legal costs for officers*

Shareholder approval is not required to give a Financial Benefit for certain indemnities, exemptions, insurance policies or legal costs of a director or officer.
 - (4) *Small amounts given to Related Party*

Shareholder approval is not required for a payment to a Related Party in a financial year where the amount to be given, when aggregated with the total of all other amounts given to the Related Party in that financial year, does not exceed \$5,000.

(5) *Benefits to or by closely-held subsidiary*

Shareholder approval is not required to give a Financial Benefit to a closely held subsidiary, such as a wholly owned Subsidiary.

(6) *Benefits to members that do not discriminate unfairly*

Shareholder approval is not required if:

- (a) the benefit is given to the Related Party in their capacity as a shareholder of the Company; and
- (b) the giving of the benefit does not discriminate unfairly against the other shareholders of the Company.

(7) *Court orders*

Shareholder approval is not required to give a Financial Benefit under a court order.

Breach of this policy

- 4.5 If the Company does not obtain shareholder approval in relation to the giving of a Financial Benefit to a Related Party and the Financial Benefit does not fall within one of the exemptions, it could have committed an offence under section 209 of the Corporations Act. Officers involved in the contravention may also have committed an offence if their involvement was dishonest.

5 Transactions with a Person in a Position of Influence (including Related Parties)

- 5.1 In addition to the Corporations Act requirements set out above, the Company must also comply with the ASX Listing Rules. Specifically (in the context of this policy) with the provisions in Chapter 10 of the ASX Listing Rules relating to transactions with a Person in a Position of Influence.

Substantial assets

- 5.2 Under ASX Listing Rule 10.1, the Company must ensure that; neither it, nor any of its Child Entities acquires or agrees to acquire a substantial asset from, or disposes or agrees to dispose of a substantial asset to a Person in a Position of Influence without shareholder approval, or the grant of a waiver from the ASX.
- 5.3 An asset is substantial if its value or the value of the consideration provided for it is, or in the ASX's opinion is, 5% or more of the equity interests of the Company as set out in the latest accounts given to the ASX.
- 5.4 In calculating the value of an asset, each of the following rules applies:
- (1) whether the asset is classified as tangible or intangible is irrelevant;
 - (2) if the ASX accepts that an asset should be valued using its book value, any provisions for depreciation and amortisation must be deducted from its value;

- (3) liabilities assumed as part of an acquisition or disposal must not be deducted from the value of the asset; and
- (4) separate acquisitions or disposals may be aggregated if, in the ASX's opinion, they form part of the same commercial transaction.

5.5 ASX Listing Rule 10.1 does not apply to:

- (1) an agreement or transaction between:
 - (a) the Company and a wholly owned Child Entity;
 - (b) wholly owned Child Entities of the Company; or
 - (c) the Company and a person who would not otherwise be a Related Party but for the fact they believe, or has reasonable grounds to believe, that they are likely to become a Related Party because of the agreement or transaction;
- (2) an acquisition or disposal under an agreement to acquire or dispose of a substantial asset, where the Company entered into the agreement before it was listed and disclosed the existence and material terms of the agreement in the prospectus, PDS or information memorandum lodged with the ASX;
- (3) an agreement to acquire or dispose of a substantial asset that is conditional on the shareholders of the Company approving the transaction under ASX Listing Rule 10.1 before the agreement is given effect; or
- (4) an issue of, or agreement to issue, securities by the Company for cash.

Issue of securities

5.6 Under ASX Listing Rule 10.11, the Company must not issue or agree to issue securities to a Person in a Position of Influence without shareholder approval.

5.7 There are a number of exceptions to the prohibition that are set out in ASX Listing Rule 10.12, but the most common include where:

- (1) the issue is made under a pro rata issue to other shareholders;
- (2) the issue is made under a security purchase plan;
- (3) the issue results from the conversion of convertible securities; and
- (4) the issue is made under an employee incentive scheme. However, issues of securities to a director or his or her Associates under an employee incentive scheme must be approved by shareholders under ASX Listing Rule 10.14.

6 Material personal interest

6.1 A director who has a material personal interest in a matter relating to the affairs of the Company must give the other directors notice of the interest (unless exempted under section 191(2) of the Corporations Act). Furthermore, a director with a material personal interest in a matter that is being considered by the Board must not be present while the matter is being considered, or vote on the matter, unless permitted under section 195 of the Corporations Act.

- 6.2 A director will be taken to have a material personal interest in a matter relating to the affairs of the Company if the interest has a realistic capacity to influence the director's decision on the matter.
- 6.3 Failure to comply with paragraph 6.1 will mean the director has committed an offence under sections 191 and 195 of the Corporations Act.

7 Related party transaction obligations – accounting standards

- 7.1 In addition to the consideration of whether a transaction may be classified as a Related Party transaction under the Corporations Act or the ASX Listing Rules, the Company must also consider whether there has been a Related Party transaction reporting obligation and, if necessary, then disclose this as required by the Australian Accounting Standard – AASB 124 (**AASB 124**).

8 Procedures for dealing with Relevant Transactions

Purpose of the procedures

- 8.1 The purpose of the procedures set out in this section 8 are to provide Group personnel with processes for the identification, review, approval and disclosure of Relevant Transactions.

Immediate reference

- 8.2 Any director, officer, senior executive, employee or consultant of a member of the Group that is presented with a Relevant Transaction, whether a formal arrangement or not, must promptly notify the Company Secretary or Chief Financial Officer and provide all relevant information listed in paragraph 8.4 below, except to the extent such information is already known to the Company.

Referral to ARMC or Board

- 8.3 The Company Secretary or Chief Financial Officer must notify the ARMC of all Relevant Transactions referred to him or her under paragraph 8.2, and provide the ARMC with copies of all relevant documentation. Alternatively, the Company Secretary or Chief Financial Officer may refer a Relevant Transaction directly to the Board, in which case the provisions of this section (8) will apply to that referral, with any necessary modifications. .
- 8.4 The information provided by the Company Secretary or Chief Financial Officer to the ARMC should include the following:
- (1) details about the Relevant Transaction including the nature of the Financial Benefit;
 - (2) information about the Relevant Transaction parties and how they are considered related;
 - (3) details of any material personal interest of a director or officer in the Relevant Transaction;
 - (4) whether an exception to shareholder approval applies;
 - (5) how arm's length may be evidenced (if relevant);
 - (6) whether shareholder approval may be required; and
 - (7) what steps must be taken to obtain shareholder approval.

The ARMC to consider the Relevant Transaction for compliance with this policy

8.5 The ARMC must:

- (1) consider the information provided in order to determine whether the Relevant Transaction complies with this policy. In particular, whether:
 - (a) shareholder approval is required under the Corporations Act or the ASX Listing Rules; and
 - (b) any disclosure is required under the ASX Listing Rules and/or in the Company's Annual Report, and
- (2) make a recommendation to the Board (i.e. whether and how to proceed with the Relevant Transaction).

8.6 The ARMC, in conjunction with the Company Secretary or Chief Financial Officer, may seek external advices in reaching this determination.

Board consideration

8.7 The Board must consider the information provided by the ARMC in light of the matters outlined in this policy and determine whether the Relevant Transaction, requires:

- (1) shareholder approval under the Corporations Act or the ASX Listing Rules; and/or
- (2) any disclosure under the ASX Listing Rules and/or in the Company's Annual Report.¹

8.8 The Board may delegate its powers under section 8.7 above to the Chief Financial Officer provided that such person is not a party to, or materially personally interested in, the Relevant Transaction (as the case may be).

Interested parties

8.9 If a director or officer of the Company is a party (either directly or indirectly) to a Relevant Transaction (other than in the capacity as a shareholder in common with other shareholders of the Company), referred to the Company Secretary or Chief Financial Officer under this policy, then that director or officer must exclude himself/herself from the consideration and approval process of that Relevant Transaction under this policy. Including in the case of a director, by not being present in Board meetings when the matter is being considered, or by voting on resolutions in connection with it.

Where the Relevant Transaction is not arm's length

8.10 Where the Relevant Transaction is considered by the Board not to be at arm's length and is not subject to any of the statutory exceptions, the Relevant Transaction should be referred back to the Company Secretary or Chief Financial Officer to ensure that if proceeded with, the Relevant Transaction is carried out in a manner that is compliant with the obligations imposed by the Corporation Act and the ASX Listing Rules. This may include calling a meeting of shareholders to approve the Relevant Transaction, in accordance with the Corporations Act, the ASX Listing Rules and the Constitution of the Company.

Disclosure

¹ In making its determination, the Board should have regard to the guidance provided by ASIC in Regulatory Guide 76 *Related Party Transactions* (see: <https://download.asic.gov.au/media/1239851/rg76-published-11-may-2011.pdf>).

- 8.11 Any public statement to be made in relation to any disclosure of a Relevant Transaction will be referred to the non-interested members of the Board for approval.
- 8.12 The approved Relevant Transaction will then need to be marked as a Relevant Transaction and appropriately recorded in Company records.

Approved Relevant Transactions

- 8.13 Where the Company Secretary, Chief Financial Officer or the ARMC considers the Relevant Transaction to be permitted, and provided that the Relevant Transaction has been approved by the Board, it may then be carried out in accordance with normal operational procedures (noting that the Board may impose specific operational and/or financial conditions on a Relevant Transaction).
- 8.14 For the avoidance of doubt, it is not up to an individual director, officer or employee to decide whether a Relevant Transaction falls within the exceptions to the requirement for shareholder approval. It is a decision for the Board.

9 Reviewing our policy

- 9.1 The ARMC will review this policy annually and make any appropriate recommendations to the Board. The Board is responsible for approving this policy and will assess this document at regular intervals to make changes where required.

10 Training and communication

- 10.1 A copy of this policy will be made available to all directors, officers, management and employees.
- 10.2 Compliance with the law and requirements set out in this policy and procedure is the responsibility of all of the Group's directors, officers, senior executives, employees and consultants. Any guidance provided in or under this policy and procedure does not affect individual responsibility.
- 10.3 If you are in doubt regarding any aspect of this policy, and or the procedures to be followed in accordance with this policy you should contact the Company Secretary.

Adopted on December 15 2020