

# MESOBLAST

## APPOINTMENT AND TENURE OF DIRECTORS

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### 1 BOARD NOMINATION COMMITTEE (*ASX Best Practice Recommendation 2.4*)

#### 1.1 Establishment of Nomination Committee and Purpose

The Board has established a Nomination Committee (*“the Committee”*) to, *inter alia*, recommend to the Board on matters concerning the number of Directors and the composition of the Board.

#### 1.2 Composition of Committee

The Committee is comprised of at least three (3) Directors of which at least two (2) shall be Independent Directors.

#### 1.3 Committee Charter

The Committee operates according to its Charter. The Committee reviews its Charter on an annual basis and recommends to the Board amendments to its Charter, as it deems necessary. The Board may, by ordinary resolution of Directors, amend the Committee's Charter.

### 2 INDEPENDENCE OF DIRECTORS

The Board is mindful of the ASX Corporate Governance Council's Best Practice Recommendation 2.1 that *“a majority of the board should be independent directors”*. For the purposes of assessing independence, the Board considers each Director on a case by case basis, but generally considers an independent director to be a director who is not a full time employee of the Company and who:

- Is not a substantial shareholder of the Company or an officer of, or otherwise associated directly with, a substantial shareholder of the Company
- Within the last three years has not been employed in an executive capacity by the Company or another group member
- Within the last three years has not been a principal of a material professional adviser or a material consultant to the Company or another group member, or an employee of or materially associated with such a service provider
- Is not a material supplier or customer of the Company or other group member, or an officer of or otherwise associated directly or indirectly with a material supplier or customer
- Has no material contractual relationship with the Company or other group member other than as a Director of the Company
- Has not served on the Board for a period which could, or could reasonably be perceived to, materially interfere with the Director's ability to act in the best interests of the Company

- Is free from any interest and any business or other relationship, which could, or could reasonably be perceived to, materially interfere with the Director's ability to act in the best interests of the Company.

For the purpose of this section the following terms shall have the meaning ascribed to them:

"*substantial shareholder*" is a person with a "substantial holding", as that term is defined in Section 9 of the Corporations Act 2001 (Cth).

"*material*" shall mean equivalent to 2% or more of the Company's gross revenue or expenditure (whichever is the greater) in any one financial year or any other measure determined by the Board from time to time.

### 3 APPOINTMENT OF DIRECTORS

#### 3.1 Term

Directors shall be appointed for a fixed term of no greater than three (3) years and shall retire in accordance with Rule 15.3 of the Company's Constitution unless the director was appointed pursuant to Rule 18.1 of the Constitution in which case that Director shall hold office in accordance with the provision of that rule.

#### 3.2 Director's Letter of Appointment

No director shall be appointed except in conformance with the provisions for such in the Company's Constitution. No director shall be appointed unless the Director has first provided to the Company Secretary in the form required by the Company a *Director's Consent to Act*. The Board may resolve to appoint a person as a Director of the Company but any such appointment shall be expressed to be subject to and conditional upon the appointee agreeing to accept such appointment on the terms and in the manner agreed from time to time by the Board.

Upon the appointment of a Director in accordance with the Company's Constitution, a Letter of Appointment shall be forwarded to the Director, which shall contain the following:

- (i) Term of appointment
- (ii) Time commitment envisaged
- (iii) Powers and duties of Directors
- (iv) Any special duties or arrangements attaching to the position
- (v) Circumstances in which the office of a Director becomes vacant (in particular, pursuant to the provision of Rule 15.5 of the Constitution)
- (vi) Expectation regarding involvement in committee work
- (vii) Remuneration, including superannuation arrangements, and expenses
- (viii) Requirement to disclose Directors' interests and any matters which affect the Director's Independence
- (ix) Requirement to disclose Directors' Notifiable Interests and Changes in Notifiable Interest in the form required by the Company and the requirement to enter into an enforceable agreement with the Company in accordance with Listing Rule 3.19B in the form required by the Company from time to time

- (x) Names and contacts details of fellow Directors
- (xi) The Company's Codes of Conduct and in particular the Policy governing trading in the Company's securities and related financial instruments by Directors, including notification requirements
- (xii) Induction training and continuous education requirements
- (xiii) Right of access to independent professional advice
- (xiv) Indemnity and insurance arrangements
- (xv) Confidentiality and rights of access to corporate information
- (xvi) A copy of the Company's Constitution
- (xvii) A copy of the Company's last annual report
- (xviii) A copy of all market releases to the ASX, and other exchanges, during the last three months
- (xix) Organisational chart of management structure
- (xx) Guidance that Directors are encouraged to hold shares in the Company

### 3.3 Acceptance by Director

The appointment of the Director shall be subject to and conditional upon the Director formally accepting the appointment and the terms of the Letter of Appointment.

## 4 ALTERNATE DIRECTORS

### (a) Entitlement

Each Director is entitled, pursuant to Rule 17.7 of the Constitution, subject to certain conditions, to appoint an alternate (*called "the Alternate"*) to act in the Directors' place during any period that the Director thinks fit or generally.

### (b) Prior Board Approval

The Director shall seek and obtain the approval of the Board for the appointment of the Alternate (other than where the Alternate is an existing Director of the Company).

### (c) Appointment in Writing and Lodged with the Company

The appointment shall be in writing signed by the appointing Director and the Alternate, with a copy lodged with the registered office of the Company.

### (d) Special Provisions for Alternate Directors

The Alternate's appointment shall be subject to the provisions contained in Rule 17.7 of the Constitution.

### (e) Termination of Office of Alternate

The appointment of an Alternate may be terminated at any time by the appointing Director and terminates automatically if the appointing Director vacates office as a director of the Company.

## 5 CESSATION OF OFFICE OF DIRECTOR

Subject to compliance with the Corporations Act 2001 (Cth), the office of a director shall be terminated or vacated on the occurring of any of the following events:

- (i) Upon the death of the Director (*Rule 15.5 (f) Constitution*)
- (ii) Upon a resolution of the Members in general meeting (*Rule 15.1 (b) (ii) of the Constitution*)
- (iii) Upon the Director becoming a person of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health (*Rule 15.5 (d) Constitution*)
- (iv) Upon the Director being absent from meetings of the Board for 6 consecutive meetings without leave of absence from the Board, and the Board resolves that his or her office be vacated (*Rule 15.5 (g) Constitution*)
- (v) Upon the Director resigning from office by notice in writing to the Company (*Rule 15.5 (e) Constitution*)
- (vi) Upon the Director being removed from office pursuant to the Corporations Act 2001 (Cth) (*Rule 15.5 (a) Constitution*)
- (vii) Upon the expiration of the Director's term of appointment in accordance with Rule 15.3 of the Constitution. The Director shall be eligible for re-election (*Rule 15.3 (c) Constitution*)

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<sup>i</sup> ASX Corporate Governance Principles:-

- Recommendation 2.1 recommends that a majority of the board should be independent directors.
- Recommendation 2.4 recommends that the board establish a nomination committee.
- Recommendation 2.6 recommends that a description of the procedures for the selection and appointment of new directors and the re-election of incumbent directors be made available on the company website.