

## **Phosphagenics - Mylan Arbitration Update – expert report on quantum of damages claimed filed**

29 May 2017, Melbourne: Australian drug delivery company, Phosphagenics Limited (ASX: POH; OTCQX: PPGNY), announced today that on 26 May 2017 it filed its expert reports in the arbitration with Mylan Laboratories Limited (Mylan) which include independent expert assessment of the damages claimed.

On 6 January 2016, Phosphagenics announced that it had commenced confidential arbitration proceedings against Mylan, a wholly owned subsidiary of Mylan Incorporated, by filing notices of arbitration at the Singapore International Arbitration Centre. In that announcement Phosphagenics advised that, in accordance with its continuous disclosure obligations, it would notify the market of any material events as and when they occur.

Phosphagenics contends in the arbitration that Mylan is liable to it as a consequence of matters arising out of or connected with two agreements.

Phosphagenics' expert evidence has now been filed in the arbitration expressing an independent opinion in relation to the net present value of the income stream which Phosphagenics could have expected, had the matters referred to in its claims not occurred. Phosphagenics' notice of arbitration contains multiple causes of action. If Phosphagenics was to succeed on all aspects of all its claims, the maximum total damages assessed by Phosphagenics' independent experts is approximately US\$300.4m. This is the aggregate amount in respect of the individual claims arising from the multiple causes of action, each of which carries its own probability of success with the arbitrator, from zero to the maximum Phosphagenics' experts have calculated for each claim.

It is likely that Mylan will challenge the assumptions which underlie the calculation of this claimed quantum and will continue to contend that it is not otherwise liable in respect of the various claims.

Accordingly, there can be no assurance whatsoever in respect of the outcome of the arbitration proceedings, including whether or not Phosphagenics is successful in any or all of its individual claims against Mylan, and if it was to be successful in some or all of those claims, what the quantum of any damages awarded may be (which may be materially less than the amount assessed by Phosphagenics' independent experts).

Phosphagenics may also consider settlement discussions with Mylan, which would take into account various commercial considerations and risks to the Company. There can be no assurance whatsoever in respect of the outcome of these discussions or the quantum or other conditions that may comprise a potential settlement. Phosphagenics will, in accordance with its continuous disclosure obligations, notify the market of any material events as and when they occur.

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## **Enquiries**

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## **About Phosphagenics**

Phosphagenics Limited is focused on developing and commercialising innovative Human Health, Animal Health and Personal Care products using its proprietary drug delivery system called TPM® (Targeted Penetration Matrix). TPM® is derived from Vitamin E using a unique, proprietary and patented process and has been proven to enhance the solubility and oral, dermal and transdermal absorption of drugs and nutrients.

Amongst its major projects, Phosphagenics' is developing TPM® enhanced patches, gels and injectable products for the human health market and is also developing TPM® to enhance the feed efficiency and health of livestock.

Phosphagenics' shares are listed on the Australian Securities Exchange (POH) and its ADR – Level 1 program in the US is with The Bank of New York Mellon (PPGNY).

## **Inherent Risks of Investment in Biotechnology Companies**

There are a number of inherent risks associated with the development of pharmaceutical products to a marketable stage. The lengthy clinical trial process is designed to assess the safety and efficacy of a drug prior to commercialisation and a significant proportion of drugs fail one or both of these criteria. Other risks include uncertainty of patent protection and proprietary rights, whether patent applications and issued patents will offer adequate protection to enable product development, the obtaining of necessary drug regulatory authority approvals and difficulties caused by the rapid advancements in technology.

## **Forward-looking Statements**

Certain statements in this announcement may contain forward-looking statements regarding Company business and the therapeutic and commercial potential of its technologies and products in development. Any statement describing Company goals, expectations, intentions or beliefs is a forward-looking statement and should be considered an at-risk statement. Such statements are subject to certain risks and uncertainties, particularly those risks or uncertainties inherent in the process of developing technology and in the process of discovering, developing and commercialising drugs that can be proven to be safe and effective for use as human therapeutics, and in the endeavour of building a business around such products and services.

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