

# AUDIT AND RISK MANAGEMENT COMMITTEE CHARTER

(as amended July 2008)

## **1. PURPOSE**

- 1.1. The Audit and Risk Management Committee (the Committee) is a committee of the Progen Pharmaceuticals Limited Board (the Board) and applies to the Company and its subsidiaries and affiliates (the Group).
- 1.2. The purpose of the Committee is to oversee the accounting and financial reporting processes of the Company and the audits of the financial statements of the Company and, thereby, assist the Board in the effective discharge of its statutory and fiduciary responsibilities for financial reporting, the Company's compliance with legal and regulatory requirements, internal control structures, internal and external audit functions and risk management systems.
- 1.3. This Charter governs the operations of the Committee.

## **2. MEMBERSHIP**

- 2.1. The Committee will consist of at least three members, all of whom shall be independent directors of the Board. The Chair, members and term of appointment of each member shall be determined by the Board. The Chair of the Committee must not be the Chairman of the Board.
- 2.2. Each member of the Committee shall satisfy all of the independence requirements of the ASX Guidelines on independence and the independence requirements under the rules and regulations of the US NASDAQ Capital Market ("NASDAQ") and the United States Securities and Exchange Commission ("the SEC").
- 2.3. Each member shall possess the necessary skills in finance or accounting as required by the rules and regulations of the ASX and NASDAQ. In addition, at least one member shall possess such additional financial experience as required by the rules and regulations of the NASDAQ.
- 2.4. The Company Secretary of the Company shall act as Secretary of the Committee.

## **3. MEETINGS AND PROCEDURES**

- 3.1. The Committee shall meet in executive session as frequently as required but not less than three times per year.
- 3.2. Two members shall constitute a quorum.
- 3.3. Minutes of the meeting will be prepared by the Company Secretary of the Board, or other designated executive or Director approved by the Chairman of the Committee and circulated to all members of the Committee. In addition, the minutes will be circulated to all directors with the papers for the next meeting of the Board.
- 3.4. The Chair of the Committee shall report regularly to the Board following meetings of the Committee and as otherwise requested by the Board.
- 3.5. Any action required or permitted to be taken at any meeting of the Committee may be taken without a meeting if written consent thereto is signed by all members of the Committee, provided that such written consent is filed with the minutes of the proceedings of the Committee.
- 3.6. A member of the Committee is not entitled to be present if he or she has an interest in the topic of discussion.

- 3.7. Individuals who are not members of the Committee, whether Directors, other members of management of the Group, or parties external to the Group, may be invited to attend any part, or all of a meeting of the Committee.

#### **4. VOTING**

- 4.1. Matters arising for determination at Committee meetings shall be decided by a majority of votes of Committee members present and voting and any such decision shall for all purposes be deemed a decision of the Committee.
- 4.2. In the case of equality of votes, the Chairman of the meeting, in addition to his deliberate vote, has a casting vote.

#### **5. ROLE AND RESPONSIBILITIES**

- 5.1. The Committee has the responsibilities and powers set forth in this Charter. It is not however, the Committee's responsibility to prepare and certify the Company's financial statements, to guaranty the independent auditors' report, or to guaranty other disclosures by the Company. Management is responsible for the preparation, presentation and integrity of the Company's financial statements, for the appropriateness of the accounting principles and reporting policies that are used by the Company and for implementing and maintaining internal control over financial reporting and disclosure controls and procedures. The independent auditors are responsible for auditing the Company's financial statements and for reviewing the Company's unaudited interim financial statements. Committee members are not full-time Company employees and are not performing the functions of auditors or accountants.
- 5.2. The Committee, in carrying out its responsibilities, believes its policies and procedures should remain flexible in order to best react to changing conditions and circumstances. The Committee will take appropriate actions to set the overall corporate "tone" for quality financial reporting, sound business risk practices and ethical behaviour and to foster an environment conducive to open and frank discussion among management, internal audit personnel, the independent auditors and Committee members.
- 5.3. The Committee shall carry out its responsibilities through its interactions and discussions with the Company's management, the personnel responsible for internal audit function and the independent auditors, as outlined below. The Committee will meet periodically with management, internal audit personnel and the independent auditors in separate executive sessions to discuss matters that the Committee members or these groups believe should be discussed privately.
- 5.4. The Committee shall consider any matters relating to the assets and financial affairs of the Company and to the Company's external and internal audit that it determines to be desirable. In addition, the Committee shall examine any other matters referred to it by the Board.
- 5.5. The Committee shall have the authority to seek any pertinent information it requires from any officer or employee of the Company and such officers or employees shall be instructed by the Board to respond to such enquiries. However, the Committee shall have no executive powers with regard to its findings or recommendations.
- 5.6. The following shall be the principal duties and responsibilities of the Committee. These are set forth as a guide with the understanding that the Committee may supplement them as appropriate.

#### **6. COMMITTEE AUTHORITY AND RESPONSIBILITIES**

- 6.1. The Committee is directly responsible for the appointment, compensation, retention, and oversight of the work of the independent auditors (including resolution of disagreements

between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or performing other audit and review services. The independent auditors must report directly to the Committee.

- 6.2. The Committee has the sole authority to approve all audit engagement fees and terms, as well as all significant non-audit engagements with the independent auditors.
- 6.3. The Committee shall pre-approve all audit and non-audit services provided by the independent auditors and shall not engage the independent auditors to perform non-audit services proscribed by law or regulation, subject to de minimis exceptions for other than audit and review services that are approved by the Committee prior to completion of the audit. Alternatively, the engagement of the independent auditors may be entered into pursuant to pre-approval policies and procedures established by the Committee, provided that such policies and procedures are detailed as to the particular services and the Committee is informed of each service. The Committee may delegate pre-approval authority to a member of the Committee. The decisions of any Committee member to whom pre-approval authority is delegated must be presented to the full Committee at its next scheduled meeting.
- 6.4. The Committee shall have the authority to engage, without Board approval, independent legal counsel and other advisers as it deems necessary to carry out its duties. The Company shall provide appropriate funding, as determined by the Committee, for payment of:
  - 6.4.1. Compensation to the independent audit firm engaged for the purpose of preparing or issuing an audit report or performing other audit and review services for the Company;
  - 6.4.2. Compensation to any advisers employed by the Committee; and
  - 6.4.3. Ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.
  - 6.4.4. The Committee shall conduct an annual evaluation of the effectiveness of the Committee.
  - 6.4.5. The Committee shall review and reassess this charter as required, but in any case at least annually and submit any recommended changes to the Board for its consideration.

## **7. OVERSIGHT OF INTERNAL AUDIT FUNCTION**

- 7.1. The Committee shall review with the independent auditors the responsibilities, budget, annual audit plan and staffing of the Company's internal audit function, review any recommended changes in the planned scope of the internal audit, and review significant audit findings and management's response.
- 7.2. The Committee shall provide feedback, at least annually, to the internal audit personnel on their performance.

## **8. OVERSIGHT OF COMPANY'S INDEPENDENT AUDITORS**

- 8.1. The Committee shall obtain and review a report by the independent auditors, at least annually, describing:
  - 8.1.1. The independent auditors' quality control procedures;
  - 8.1.2. Any material issues raised by the most recent quality control review, or peer review, of the independent auditors, or by an inquiry or investigation by governmental or

professional authorities, within the preceding five years respecting one or more independent audits carried out by the independent auditors, and any steps taken to deal with these issues; and

- 8.1.3. All relationships between the independent auditors and the Company, including each non-audit service provided to the Company and the matters set forth in Independent Standards Board Standard No. 1, as modified or supplemented.
- 8.2. The Committee shall discuss with the independent auditors all disclosed relationships and services that may impact the objectivity and independence of the independent auditors and shall take, or recommend that the Board take appropriate action, if needed, to oversee the independence of the independent auditors.
- 8.3. The Committee shall review and evaluate the qualifications, performance and independence of the independent auditors and of the lead audit partner of the independent auditors, and present its conclusions with respect to the independent auditors to the full Board not less than annually. Such evaluation should take into account the opinions of management.
- 8.4. The Committee shall review and discuss with management and the independent auditors the audit scope and plan for the audit by the independent auditors of the Company's annual financial statements and their reviews of the Company's unaudited interim financial statements, including any changes thereto and the adequacy of staffing and budget or compensation.
- 8.5. The Committee shall determine that the independent auditors have a process in place to address the rotation of the lead audit partner and other audit partners serving the account as required by the rules and regulations of the SEC.
- 8.6. The Committee shall establish policies for the hiring of employees or former employees of the independent auditor consistent with the rules and regulations of the SEC.

## **9. DISCLOSURE AND FINANCIAL STATEMENTS**

- 9.1. Prior to filing any unaudited interim or audited annual financial statements, the Committee shall review and discuss with management and the independent auditors, such financial statements, including disclosures under Management's Discussion and Analysis of Financial Condition and Results of Operations, disclosures regarding critical accounting estimates, and any other matters required to be communicated to the Committee by the independent auditors under generally accepted auditing standards.
- 9.2. The Committee shall review and discuss with management and the independent auditors:
  - 9.2.1. Major issues regarding accounting principles and financial statement presentations, including any significant changes in the Company's selection or application of accounting principles, and major issues as to the adequacy of the Company's internal controls and any specific remedial actions adopted in light of material control deficiencies;
  - 9.2.2. Discussions with management and the independent auditors regarding significant financial reporting issues and judgments made in connection with the preparation of the financial statements and the reasonableness of those judgments;
    - 9.2.2.1. Consideration of the effect of regulatory accounting initiatives, as well as off-balance sheet structures on the financial statements;

- 9.2.2.2. Consideration of the judgment of both management and the independent auditors about the quality, not just the acceptability, of accounting principles; and
    - 9.2.2.3. The clarity of the disclosures in the financial statements.
- 9.3. Prior to issuing the Company's interim and year-end earnings press releases, the Committee shall review and discuss with management the Company's financial results, the type and presentation of information to be included in the Company's earnings press releases (paying particular attention to any use of "pro forma" or "adjusted" non-GAAP information), as well as financial information and earnings guidance provided to analysts and rating agencies.
- 9.4. Prior to filing any audited annual financial statements, the Committee shall obtain, review and discuss a report from the independent auditors regarding:
  - 9.4.1. All critical accounting policies and practices used by the Company;
  - 9.4.2. All alternative treatments within generally accepted accounting principles for policies and practices related to material items that have been discussed with management, including ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the independent auditors; and
  - 9.4.3. Other material written communications between the independent auditors and management, such as any management letter or schedule of unadjusted differences.
- 9.5. The Committee shall discuss with the independent auditors any audit problems or difficulties encountered during the course of the audit work, including any restrictions on the scope of the independent auditors' activities or access to requested information, and management's response. The Committee shall review any accounting adjustments that were noted or proposed by the independent auditors but were "passed" (as immaterial or otherwise), any communications between the audit team and the national office of the independent auditors respecting auditing or accounting issues presented by the engagement, and any "management" or "internal control" letter issued, or proposed to be issued, by the independent auditors to the Company.
- 9.6. The Committee shall discuss with management, internal audit personnel and the independent auditors, at least annually, the adequacy and effectiveness of the Company's internal controls over financial reporting and disclosure controls and procedures, the integrity of its financial reporting process, and the adequacy of its risk management programs and policies, including recommendations for any improvements in these areas. The Committee shall also review management's assessment of the effectiveness of internal control over financial reporting as of the end of the most recent fiscal year and the independent auditors' report on management's assessment.
- 9.7. The Committee shall discuss with management the Company's major financial risk exposures and the steps management has taken to monitor and control such exposures. The Committee shall also discuss with management the guidelines and policies to govern the process by which risk assessment and management is undertaken.
- 9.8. The Committee shall review and approve any material off-balance sheet arrangements or other material financial arrangements of the Company that do not appear on the financial statements of the Company.
- 9.9. The Committee shall review the CEO and CFO disclosure and certifications under Sections 302 and 906 of the Sarbanes-Oxley Act of 2002.

## **10. COMPLIANCE AND REGULATORY OVERSIGHT RESPONSIBILITIES**

- 10.1. The Committee shall review and approve all related party transactions.
- 10.2. The Committee shall establish procedures for the receipt, retention, and treatment of complaints received by the Company regarding accounting, internal accounting controls, or auditing matters, and the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.
- 10.3. The Committee shall review the Company's compliance systems with respect to legal and regulatory requirements and review the Company's code of conduct and programs to monitor compliance with such programs.
- 10.4. The Committee shall review with management and the independent auditors any correspondence with regulators and any published reports that raise material issues regarding the Company's accounting policies.

#### **11. REVIEW OF CHARTER**

- 11.1. This Charter is to be reviewed by the Board from time to time, in any event every three years, to ensure it remains consistent with the Board's objectives and responsibilities.

#### **12. PUBLICATION OF CHARTER**

- 12.1. A copy of this Charter is available at [www.progen-pharma.com](http://www.progen-pharma.com)
- 12.2. This Charter is to be made available to shareholders of the Company upon request.