



# GENESIS BIOMEDICAL

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**TO: COMPANY ANNOUNCEMENTS OFFICE**  
**COMPANY: AUSTRALIAN STOCK EXCHANGE LIMITED**  
**FROM: SHANE HARTWIG – COMPANY SECRETARY**  
**DATE: 17<sup>th</sup> November 2003**

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## **SIGNS HEADS OF AGREEMENT FOR ACQUISITION OF FDA AND TGA APPROVED RETRACTABLE SYRINGE OPERATION**

Genesis Biomedical Limited (“GBL” or “the Company”) is pleased to announce that it has entered into a Heads of Agreement with Ensi-Med Manufacturing Pty Ltd (“ENSI-MED”) whereby GBL will seek to acquire 100% of the issued capital of ENSI-MED.

ENSI-MED is a healthcare device company, whose core product is the US Food and Drug Administration (“FDA”) and Therapeutic Goods Administration (“TGA”) approved ENSI (Eliminates Needle Stick Injury) retractable safety syringe. The ENSI – MED syringe was developed as one of the world’s first retractable syringes in 1994 and was being manufactured and sold throughout the world by Uni-ject Australia until 2002.

ENSI-MED has recently acquired the intellectual property and associated assets from Uni-ject, and is now planning to re-establish and grow the manufacturing and distribution of its retractable syringe product.

The Board of GBL believe there exists a real opportunity to leverage off the advanced and proven nature of ENSI-MED’s product and manufacturing capabilities in the retractable syringe market, particularly in the US, where Needlestick Safety and Prevention legislation has been introduced requiring the use of “safety engineered sharps” where available.

The Board believes ENSI-MED’s product and business has a number of considerable competitive advantages in the safety syringe market. The market for the safety syringe’s market is projected to grow in the short to medium term. Accordingly GBL believes the proven nature of the Company products and its major achievements to date, place it in a good position to capitalise on this expected demand.



Some of the major achievements and attributes of ENSI MED and its retractable syringe are as follows:

- Substantial worldwide Patent Portfolio (including USA);
- FDA and TGA approved product and manufacturing facility (re-affirmed by FDA in August 2003);
- Approved for sale to US Military;
- Approved for sale to Australian Department of Defence;
- Occupational Health and Safety Administration (US) approved product;
- Established and proven production facility;
- True single use only syringe;
- Ease of use;
- Fully retracts and locks the needle into the syringe body maximizing safety;
- Designed and manufactured in Australia;
- Historical sales track record including to the US market, since 1994;
- Competitive manufacturing cost base;
- Existing market awareness of the ENSI safety syringe;
- “Sharps” approved container (it can be disposed of in normal medical waste).

## **2. SUMMARY OF PROPOSED AQUISITION**

### **2.1 ASX Ruling**

ASX has advised Genesis that it will need to obtain shareholder approval in accordance with Chapter 11 of the ASX Listing Rules (change in nature and scale of activities) and also re-comply with Chapters 1 and 2 of the ASX Listing Rules (being those provisions that would otherwise apply to a company applying for a new listing) in order to complete the acquisition of ENSI-MED.

The provisions of Chapters 1 and 2 of the ASX Listing Rules require Genesis to undertake the following:

- the issue price or sale price of all securities for which the Company seeks quotation must be at least 20 cents in cash;
- prepare a full form prospectus; and
- obtain the requisite shareholder spread.

### **2.2 Material Terms of Heads of Agreement**

The material terms of the Heads of Agreement are as follows:

- GBL agrees to purchase 100% of the issued capital of ENSI-MED;
- GBL to consolidate its capital on the basis of 26 shares for every 80 issued;



- The **consideration payable** to the Vendors for the acquisition of 100% of the issued capital in ENSI-MED has been structured in three parts, a Base Consideration, a Milestone Related Consideration to potentially reward the vendors as significant milestones are achieved by the business moving forward plus an Intellectual Property Inventor Royalty:

#### **Base Consideration**

1. 12,695,312 post consolidation fully paid ordinary shares in GBL; plus
2. 17,338,229 unlisted post consolidation options to acquire fully paid ordinary shares in GBL at an exercise price of \$0.20 per ordinary share for a period of four years from the date of issue.

#### **Milestone Related Consideration**

Additional issue of performance shares that will convert into fully paid post consolidation ordinary shares in GBL on achievement of the following milestones:

<b>Milestones</b>	<b>No. of Shares to be issued</b>
Sales of a minimum of 7 million units in a financial year	4,875,000
Sales of a minimum of 50 million units in a financial year	3,250,000
EBITDA of a minimum of AUD\$2.5million in a financial year	3,250,000
EBITDA of a minimum of AUD\$13.0million in a financial year	3,250,000
Market Capitalisation of the Company of a minimum of AUD\$50m for a continuous 2 month period	4,875,000
Market Capitalisation of the Company of a minimum of AUD\$75m for a continuous 2 month period	3,250,000

**Note: The above milestones are subject to the following primary conditions;**

- All milestones are mutually exclusive.
- Milestones must be achieved within 3 years of transaction completion. If the milestones are not satisfied within this required timeframe, the performance shares will lapse or convert into a nominal amount of ordinary shares.
- Maximum number of shares to be issued to the ENSI-MED owners should all milestones be achieved within the three year period is 22.75 million.
- In the event of a takeover of GBL occurring, then those milestones listed above that have not been achieved at the completion of the takeover will be deemed to have been achieved and the performance shares will automatically convert into fully paid ordinary shares.



## **Intellectual Property Inventor Royalty Consideration**

GBL agree to pay to the Inventors of the intellectual property surrounding the Syringe, a royalty stream (“Royalty Amount”) of up to a maximum of \$2 million. The Royalty Amount will be based on a percentage of the gross margin of actual Syringe sales revenue received by GBL. The Royalty Amount will not become repayable until GBL has recouped as a minimum, all capital and operating expenditure (plus an agreed return on capital) incurred in re-establishing the production and sales of the Syringe. The percentage figure to be used in the calculation of the Royalty Amount will be agreed during the due diligence period, but will not exceed 35%.

### ➤ **Working Capital, Bonus Issue of Options, Advisers Fees**

In conjunction with the proposed acquisition the Company will need to raise further working capital to help achieve its proposed objectives. Accordingly the Company proposes the following:

- i. **Genesis to raise up to \$1.2 million cash** via a prospectus (“Capital Raising”) to offer up to 6 million shares at an issue price of \$0.20 plus a free attaching option for every share subscribed for. Each option to have an exercise price of \$0.20 and an expiry date of four years from the date of issuance. The vendors will underwrite up to \$500,000 of the Capital Raising.
- ii. **Undertake a bonus issue of listed options** to acquire fully paid ordinary shares in the Company to those shareholders that are registered at a record date that is four weeks post the general meeting to be called to consider the proposed transaction. The offer of bonus options will be done on the basis of one (1) option offered for every two (2) fully paid ordinary shares (on a reconstructed basis) held in the Company at record date for zero or nominal consideration. For the avoidance of doubt those shares issued as part of the Base Consideration and the Capital Raising will not be entitled to the bonus issue of listed options, accordingly there will be a maximum of 12,439,375 bonus options offered. These options will have an exercise price of \$0.20 and an expiry date of four years from the date of issue; and
- iii. **Issue to certain advisers and consultants (or their nominees)** in consideration for their services provided in introducing and assistance in structuring and advising on the transaction, 6,500,000 options to purchase fully paid ordinary shares in the Company at an exercise price of \$0.20 and an expiry date of four years from the date of issue plus a fee equal to 5% of the base value of the transaction. In addition should the vendors achieve the milestones outlined above and be issued the “milestone shares” then these advisers/consultants are to be issued fully paid ordinary shares in GBL equal in number to 5% of the “milestone shares” issued to the vendors and being a maximum of 1,137,500 shares in GBL.



### 2.3 Conditions Precedent

Completion of the transactions contemplated by the Heads of Agreement is subject to and conditional upon:

- (i) Completion of due diligence to the satisfaction of both parties;
- (ii) Completion of a share purchase agreement between the Parties containing the usual representations and warranties from ENSI-MED in relation to the legal, financial and intellectual property position of ENSI-MED;
- (iii) Notwithstanding the requirements of ASX, the ENSI-MED owners entering into a voluntary escrow agreement whereby the consideration shares to be issued will be subject to a minimum escrow period of 12 months;
- (iv) GBL and ENSI-MED will develop and agree a business plan and budget for the business;
- (v) ENSI-MED board and shareholder approval, if required;
- (vi) GBL final Board approval;
- (vii) GBL and ENSI-MED agreeing on the composition of the GBL board post completion of this transaction;
- (viii) GBL obtaining all necessary regulatory and shareholder approvals required to complete the transactions contemplated by this Agreement (including, without limitation, shareholder approval in accordance with ASX Listing Rule 11.1.2);
- (ix) GBL meeting the requirements of Chapters 1 and 2 of the ASX Listing Rules as if GBL were applying for admission to the official list of ASX (as required by ASX Listing Rule 11.1.3);
- (x) GBL preparing a prospectus, lodging it with the ASIC and raising up to \$1.2 million pursuant to that prospectus through the issue of new shares at an issue price of \$0.20 each, together with one (1) free option for every share issued (**Capital Raising**). The options will have an exercise price of \$0.20 and an expiry date of 4 years from their date of issue. The ENSI-MED vendors will underwrite up to \$500,000 of the Capital Raising;
- (xi) GBL obtaining shareholder approval for a consolidation of its issued capital on a 26 for 80 basis (with fractional entitlements rounded up); and
- (xii) GBL and/or ENSI MED obtaining all other regulatory approvals that may be required for the transaction.



### 3. OTHER MATTERS

Genesis will commence the due diligence process immediately. If the due diligence is deemed satisfactory the Company will convene a meeting of shareholders to consider and seek shareholder approval where required for the relevant aspects of the proposed acquisition.

Accompanying this Notice of Meeting will be a full Explanatory Memorandum setting out the terms of the proposed acquisition, further background to the ENSI-MED opportunity and any other relevant information required by shareholders.

**A Pro-forma Statement of Financial Position** post the proposed acquisition is provided in Annexure A.

**A Pro-forma Capital Structure** post the proposed acquisition is provided in Annexure B.

#### **Anticipated Timetable**

An anticipated timetable for completion of the proposed acquisition of ENSI-MED is set out below. The dates are indicative only and may be subject to change.

<b>Event</b>	<b>Week Commencing</b>
Announcement of ENSI-MED Transaction	17 <sup>th</sup> November 2003
Parties complete Due Diligence	15 <sup>th</sup> December 2003
Dispatch Notice of Meeting seeking approval for ENSI-MED transaction	22 <sup>nd</sup> December 2003
Lodgement of Prospectus with ASIC	22 <sup>nd</sup> December 2003
Suspension of Genesis's securities from trading on ASX at the opening of trading	cob 16 <sup>th</sup> January 2004
General Meeting to approve ENSI-MED transaction	19 <sup>th</sup> January 2004
Closing Date of Offer under the Prospectus	26 <sup>th</sup> January 2004
Anticipated date the suspension of trading is lifted and the merged entity is re-listed on ASX	2 <sup>nd</sup> February 2004

For further information please contact the Company on (02) 9252 8455.



## ANNEXURE A

### Genesis Biomedical Limited Pro-forma Statement of Financial Performance as at 30th June 2003

	2003 \$000's	Notes	Pro-forma proposed acquisition of ENSI- MED 2003 \$000's
<b>Current Assets</b>			
Cash Assets	1,395	(1)	2,345
Receivables	5		5
Other	259		259
<b>Total Current Assets</b>	<b>1,659</b>		<b>2,609</b>
<b>Non Current Assets</b>			
Plant & Equipment	-	(2)	500
Goodwill on Acquisition	-	(3)	2,039
Other	150		150
<b>Total Non Current Assets</b>	<b>150</b>		<b>2,689</b>
<b>Total Assets</b>	<b>1,809</b>		<b>5,298</b>
<b>Current Liabilities</b>			
Payables	26		26
Provisions	134		134
<b>Total Current Liabilities</b>	<b>160</b>		<b>160</b>
<b>Non Current Liabilities</b>			
Provisions	142		143
<b>Total Non Current Liabilities</b>	<b>142</b>		<b>143</b>
<b>Total Liabilities</b>	<b>302</b>		<b>303</b>
<b>Net Assets</b>	<b>1,507</b>		<b>4,995</b>
<b>Equity</b>			
Contributed Equity	12,988	(4)	16,476
Accumulated Losses	- 11,460		- 11,460
OEI	- 21		- 21
<b>Total Equity</b>	<b>1,507</b>		<b>4,995</b>

#### Proforma position assumes the following:

1. Capital Raising of 6m shares at \$0.20 to raise \$1,200,000 less approximately \$250,000 for costs of the proposed acquisition.
2. Tangible value of Plant & Equipment purchased approximately \$500,000
3. The value of ENSI-MED's intellectual property only recognised to an amount equal to the goodwill on acquisition.
4. Issue of 12.7m Base Consideration shares at deemed price of \$0.20



## ANNEXURE B

<b>Genesis Biomedical Limited</b>	<b>As at</b>	<b>Pro-forma post</b>
<b>Pro-forma Capital Structure</b>	<b>30/06/2003</b>	<b>acquisition and</b>
		<b>consolidation</b>
Ordinary Shares on Issue	76,550,003	24,878,751
Shares to be issued pursuant to Capital Raising	-	6,000,000
Vendor Base Consideration Shares	-	12,695,312
<b>Total Shares on Issue post Base Consideration</b>	<b><u>76,550,003</u></b>	<b><u>43,574,063</u></b>
<b>Note:</b>		
Maximum number of Milestone Related Shares to be issued on achievement of all Milestones.		23,887,500
Existing Options on Issue	3,000,000	650,000
Bonus Issue of Options to Existing Shareholders	-	12,439,375
Vendor Options	-	17,338,229
Capital Raising Options	-	6,000,000
Adviser Options	-	6,500,000
<b>Total Options on Issue</b>	<b><u>3,000,000</u></b>	<b><u>42,927,604</u></b>