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# **Continuous Disclosure Policy**

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## 1 Introduction

Ausenco Limited ("Ausenco") recognises the importance of timely and appropriate communications to its shareholders and the market to ensure that trading in its securities takes place in an orderly and informed manner.

This Continuous Disclosure Policy explains:

- How to identify and report material price sensitive information;
- The procedure for reporting such information to the Company Secretary or Chief Financial Officer; and
- The potential ramifications for Ausenco and individual officers in the event that the continuous disclosure obligations under the Corporations Act or ASX Listing Rules are contravened.

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## 2 Scope and application

This Continuous Disclosure Policy applies primarily to:

- all directors of Ausenco and its subsidiaries and Ausenco nominees on the board of any joint venture companies in which Ausenco or a subsidiary has an interest
- all members of the Corporate Executive Team
- all country or location managers, Business Unit Managers and Project Managers of Ausenco and its subsidiaries
- any persons appointed by Ausenco as representatives of the management committees of any joint venture companies, operations or arrangements to which Ausenco or a subsidiary is a party (collectively: "Senior Management").

All employees are responsible for reporting potentially material information under this Continuous Disclosure Policy. As a result, all Ausenco personnel need to be aware of the policy and how to report information which may reasonably be expected to have a material effect on the price or value of Ausenco securities.

This Continuous Disclosure Policy does not provide guidelines for directors and senior executives buying and selling Ausenco shares. These guidelines are set out in the Code of Conduct for Dealing in Securities.

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## 3 Continuous disclosure policy

As a listed public company, Ausenco has obligations under the Corporations Act and ASX Listing Rules to:

- advise the market of information which may have a material effect on the price or value of Ausenco securities immediately upon learning of such information
- to correct any material omission of fact or misleading statement or information in the market ("material information"). Ausenco discharges these obligations by releasing information to ASX in the form of an ASX announcement or disclosure in other documents that are released to the market (e.g. the Annual Report).

### 3.1 What is "material information"?

"Material information" is information of which Ausenco becomes aware, concerning Ausenco (whether directly or indirectly), which a reasonable person would expect to have a material effect on the price or value of any securities issued by Ausenco.

A reasonable person is taken to expect information to have a **material effect** on the price or value of securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, buy or sell the securities.

A list of matters that may be considered material is set out in Appendix 1. This list is provided for guidance only and should not be seen as an exhaustive list of the matters that should be considered for disclosure. What is material will depend on the facts and circumstances at the particular time.

The disclosure obligation does not generally apply where the information is exogenous or generally available. However, the impact of information that is generally available on Ausenco (for example, the impact of a material change in the A\$ value or foreign laws) may be such that it is likely to have a material effect on the price or value of Ausenco securities. If the generally available or exogenous information is likely to have a material impact on the price or value of Ausenco securities, the disclosure obligation will apply and the information must be immediately disclosed to the market via ASX.

Appendix 1 provides a list of information that may be considered to be material price sensitive information. The Chief Executive Officer and Chief Financial Officer will ultimately determine whether any information is "material" or otherwise requires market disclosure under the Corporations Act and ASX Listing Rules.

### 3.2 When does Ausenco "become aware"?

Ausenco **becomes aware** of information if any of its directors or senior executives have, or ought reasonably to have, come to possess the information in the course of the performance of his or her duties as a director or senior executive of Ausenco.

\* It is therefore critical that you immediately inform the Company Secretary or the Chief Financial Officer of any information which comes into your possession which you consider may be material.

### 3.3 What are your obligations if you should come into possession of material information?

First and foremost, you must remember that you owe a duty of confidentiality to Ausenco and any information that comes into your possession regarding Ausenco, a joint venture partner or a client as a result of your engagement with Ausenco must always be kept strictly confidential and reported only in accordance with this Continuous Disclosure Policy.

In the case of information that is not generally available and which you think is "material information", you must immediately provide to the Company Secretary and/or Chief Financial Officer the following information:

- a general description of the matter
- details of the parties involved
- the relevant date of the event or transaction
- the status of the matter (e.g. final negotiations still in progress/ preliminary negotiations only)
- the estimated value of the transaction

- the estimated effect on Ausenco's financial position or operations
- the names of any in-house or external advisers involved in the matter.

### 3.4 Escalation of material information to Senior Management

If you are not "Senior Management" as defined in section 2, you must immediately pass the information you have to a member of Senior Management, who will confirm whether the information should be treated as "material information" and dealt with in accordance with this Continuous Disclosure Policy.

Senior Management must immediately notify the Company Secretary or Chief Financial Officer of the information and the fact it is considered material for the purposes of Ausenco's continuous disclosure obligations.

The Chief Financial Officer, or in his absence the Chief Executive Officer, will review the information reported by Senior Management and, as required, discuss with the Board of

Directors to determine:

- whether the information is material?
- whether there are any exceptions to the rule requiring disclosure?

Where the Chief Financial Officer, Chief Executive Officer or Board make a decision that disclosure is not required, whether because the information is not considered material or due to the application of an exception under Listing Rule 3.1A (refer section 3.5), a complete written record of the determination and the reasons in support must be documented.

Regardless of whether an exception may apply, the obligation to communicate potentially material information under this Continuous Disclosure Policy remains paramount at all times.

### 3.5 Exceptions to the obligation to disclose

Once it has been established that the information is of a material nature and therefore required to be disclosed under Listing Rule 3.1 and section 674 of the Corporations Act, the Chief Financial Officer, Chief Executive Officer or Board must determine whether any carve-outs or exceptions to the obligation of disclosure apply.

Under Listing Rule 3.1A, disclosure is not required while each of the following conditions (a) to (c) inclusive applies:

*'3.1A.1 A reasonable person would not expect the information to be disclosed;*

*3.1A.2 The information is confidential;*

*3.1A.3 One or more of the following applies:*

*(a) It would be a breach of a law to disclose the information;*

*(b) The information concerns an incomplete proposal or negotiation;*

*(c) The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*

*(d) The information is generated for the internal management purposes of the company;*

*(e) The information is a trade secret.'*

Examples of information given under Listing Rule 3.1A.3 that would require disclosure if material under this rule include:

- a change in the entity's financial forecast or expectation
- the appointment of a receiver, manager, liquidator or administrator in respect of any loan, trade credit, trade debt, borrowing or securities held by it or any of its child entities
- a transaction for which the consideration payable or receivable is a significant proportion of the written down value of the entity's consolidated assets. Normally, an amount of five percent (5%) or more would be significant but a smaller amount may be significant in a particular case
- a recommendation or declaration of a dividend or distribution
- a recommendation or decision that a dividend or distribution will not be declared
- under subscriptions or over subscriptions to an issue
- information about the beneficial ownership of shares obtained under Part 6C.2 of the Corporations Act
- giving or receiving a notice of intention to make a takeover
- an agreement between the entity (or a related party or subsidiary) and a director (or a related party of the director).

### **3.6 On-going assessment of information required**

Information must be subject to ongoing assessment as to whether or not it must be disclosed. If any of the conditions referred to in clause 3.5 cease to apply in relation to any particular information, the Company must disclose that information immediately. For example:

- if information which has not been disclosed becomes known to participants in the market, it will cease to be confidential and will need to be disclosed
- once a proposal is completed or information becomes certain, the information will need to be disclosed (unless it satisfies one of the other tests in Listing Rule 3.1A).

The confidentiality limb in Listing Rule 3.1A requires that the information be confidential and that ASX has not formed the view that the information has been ceased to be confidential. The requirement that 'ASX has not formed the view that the information has ceased to be confidential' does not impose any obligation on a listed company to satisfy ASX of the confidentiality of the information. Consequently, there is no requirement to submit every instance to ASX for an opinion – the primary obligation to determine the confidentiality or otherwise of the information lies with the listed entity.

Some examples of information that may be exempt from the duty of disclosure are set out in Appendix 3.

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## 4 Communications

### 4.1 Authorised spokesperson

ASIC and ASX have issued guidance notes which suggest practical steps that listed companies can take to ensure they meet their continuous disclosure obligations. These include:

- ensuring that only a minimum number of directors and staff are authorised to speak on behalf of Ausenco or to cause the release of announcements or statements, on Ausenco's behalf
- appointing a senior officer to have responsibility for ensuring compliance with Ausenco's continuous disclosure obligations. This officer should be aware of information disclosures in advance, including information to be presented at private briefings
- procedures should be implemented which will ensure that price sensitive information is released to ASX before it is disclosed to persons outside of Ausenco.

Ausenco has nominated the Chief Financial Officer as the person with primary responsibility for all communication with ASX in relation to Listing Rule matters, including continuous disclosure.

No person (whether employee, director or other officer of Ausenco or its related bodies corporate) may communicate material price or value sensitive information to an external party unless and until that information has been given to ASX and Ausenco has received confirmation from ASX that the information has been announced to the market.

### 4.2 Financial calendar

Ausenco follows a calendar of periodic disclosure to the market in the form of half year interim financial reports and full year final financial, audit and directors' reports. The calendar is posted on the Company's website and shows target dates for release of the half year and full year financial results, shareholder meetings, etc.

### 4.3 Ausenco website

All information released to ASX must be posted on the Ausenco website [www.ausenco.com](http://www.ausenco.com), by close of business on the day on which the ASX announcement is made to the market.

Under no circumstances may information be posted on Ausenco's website before it has been officially released to the market via ASX.

### 4.4 Analyst/media briefings

In accordance with this Continuous Disclosure Policy, only the Chief Executive Officer and Chief Financial Officer are authorised to give analyst and media briefings.

Information or presentations provided to, and discussions with, analysts, professional bodies or any other person, are also subject to this rule.

Material information must not be selectively disclosed (e.g. to analysts, professional bodies, the media, customers or any other person) prior to being announced to ASX. If you are proposing to present any material information to professional bodies, journalists or customers, you should ensure that copies of your material are provided to the Chief Financial Officer and/or the Chief Executive Officer and that you receive permission prior to presenting that information externally.

All inquiries from analysts must be referred to the Chief Financial Officer. All material to be presented at an analyst briefing must be approved by or referred through the Chief Financial Officer prior to briefing.

All inquiries from the media must be referred to the Chief Financial Officer and/or Company Secretary.

All media releases and material to be presented (for example, at seminars) must be approved by or referred through the Chief Financial Officer and/or Company Secretary prior to release to journalists or other professional bodies.

#### **4.5 Interview/Briefing black-out period**

No employee may give an interview or make a presentation in the period starting on **1 December** and ending on the release of Ausenco's preliminary final financial results or in the period starting on **1 June** and ending on the release of the Company's interim financial results without the specific permission of the Chief Executive Officer or the Chief Financial Officer.

An employee who is given permission by the Chief Executive Officer or Chief Financial Officer to give an interview or make a presentation must notify the Company Secretary of the date and time for the interview and must give a copy of any presentation to the Company Secretary.

The Chief Executive Officer, Chief Financial Officer and the Company Secretary may impose additional periods in which interviews may not be given or presentations made without the specific permission of the Chief Executive Officer or Chief Financial Officer. You will be notified of any such additional interview/briefing black-out period.

#### **4.6 False market – rumours and speculation**

Ausenco's general rule is not to comment on market speculation or rumour. However, the Company is required to make a clarifying statement or announcement to ASX in circumstances where Ausenco becomes aware that speculation or comment is affecting the price or volume of trading in Ausenco's securities. Ausenco is not required to respond to all media comment and speculation, however, when:

- media comment or speculation becomes reasonably specific
- the market moves in a way that appears to be referable to the comment or speculation.

Ausenco may have a positive obligation to make such disclosure as is necessary in order to prevent a false market in Ausenco's securities and ensure investors are not trading on false or misleading information. Normally ASX will indicate to Ausenco when it considers disclosure is required to avoid or correct an uninformed market in Ausenco's securities.

In these circumstances, the Company is required to respond on an urgent basis. A failure to respond within the time stipulated by ASX is a breach of continuous disclosure obligations and entitles ASX to suspend trade of Ausenco's securities.

#### **4.7 Release of information to others**

Ausenco must not release material price sensitive information to any person (e.g. the media) until it has given the information to ASX and has received an acknowledgment that ASX has released the information to the market.

That is, selective disclosure of information cannot be made to brokers, analysts, the media, professional bodies or any other person until the information has been given to (and receipt acknowledged by) ASX.



## **4.8 Trading Halts**

In certain cases, in order to facilitate orderly, informed trading in Ausenco securities, it may be necessary for Ausenco to request a trading halt from ASX. The trading halt will suspend trading in Ausenco shares for a specified period (usually up to two business days, unless the Company makes an announcement earlier than that).

The Chairman, Chief Executive Officer and Chief Financial Officer are responsible for determining if a trading halt is required.

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## **5 Contraventions and penalties**

Contravention of this Continuous Disclosure Policy could result in serious penalties for the Company and its directors and officers. For this reason, breaches of this policy may lead to disciplinary action and in serious cases, termination of your engagement with Ausenco.

The possible penalties for contravention of Continuous Disclosure obligations are set out in Appendix 2.

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## Appendix 1– Information Disclosure Requirements

Ausenco must disclose any information that a reasonable person would expect to have a material effect on the price or value of securities issued by Ausenco. Set out below is an illustrative list of matters that may give rise to an obligation for Ausenco to make a disclosure to the market. Any such matter must be immediately notified to the Company Secretary or Chief Financial Officer who will inform the Chief Executive Officer, who will in turn determine whether disclosure is required.

You should use this list as a guide and should not take this as an exhaustive list of the issues that must be notified to the Company Secretary or Chief Financial Officer.

### Relevant information/matter

- the financial condition, results of operations, company issued forecasts and earning performance of Ausenco or a controlled entity, which are significantly different from that anticipated by Ausenco or the market
- a proposed acquisition or disposal of material assets by Ausenco, a controlled entity or joint venture partner
- significant proposed foreign activities by Ausenco or a controlled entity
- events or occurrences that have an impact on the operations of Ausenco or a controlled entity (including government or policy changes, legislative changes)
- natural disasters or accidents that have particular relevance to Ausenco, a controlled entity, joint venture partner or their supplier
- significant changes in technology or the application of technology which could affect Ausenco's business
- legal proceedings against or allegation of any breach of the law, whether civil or criminal, by Ausenco or any of its officers or employees
- a change in Ausenco's financial forecast, expectation or actual result
- the appointment of a receiver, manager, liquidator or administrator in respect of any loan, trade credit, trade debt, borrowing or securities held by Ausenco or any controlled entity
- an agreement between Ausenco (or a related party or subsidiary) and a director (or a related party of the director)
- changes in Ausenco's senior management or auditors
- regulatory action or investigations to be undertaken by a Government authority
- any negative publicity
- entry by Ausenco or a company controlled by Ausenco into a new line of business or the discontinuance of a particular line of business
- planning to undertake a significant financing or security issue (whether debt or equity) or to take other action with respect to outstanding securities (eg share repurchase program, redemption of bonds) or any default on any securities
- a significant environmental incident, accident or risk for which Ausenco may be liable or that may require remedial action by Ausenco.

Note: These examples are not an exhaustive list. You should notify any matters that you think may be "price sensitive" or influence an investor's decision to buy or sell securities.

## Appendix 2 – Contraventions and Penalties

### Contravention

Ausenco contravenes its Australian continuous disclosure obligations if it fails to notify ASX of the information required by Listing Rule 3.1 and section 674 of the Corporations Act to be disclosed. If Ausenco contravenes this obligation by failing to notify ASX of information:

- that is not generally available
- that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of securities issued by Ausenco, the Company, and its officers, may be guilty of an offence under the Corporations Act.

### Liability and enforcement — penalties for breach

- Ausenco (and its directors and employees)

If Ausenco contravenes its continuous disclosure obligations, it may face:

- criminal liability - if the contravention is intentional or reckless, criminal liability may be imposed with a monetary fine which is currently \$22,000 or up to 5 years imprisonment for an individual or a fine of \$110,000 for a corporation
- civil liability - for any loss or damage suffered by any person as a result of Ausenco's failure to disclose the relevant information to ASX as soon as it became aware of the information. Civil actions are usually brought by shareholders who sustain financial loss as a consequence of not having been fully informed at the time they either bought, sold or decided not to take such action. Civil actions can be brought against Ausenco and any associated individuals, including directors. A civil breach may result in:
  - a fine being imposed
  - an order for compensation for damage or loss suffered by a person
  - an order disqualifying a person from managing a corporation
  - an infringement notice or 'speeding ticket' - ASIC may, after consultation with ASX, issue an infringement notice or 'speeding ticket' to Ausenco if ASIC is satisfied that the company breached its continuous disclosure obligation by failing to disclose material information to the market in a timely manner where no exceptions validly applied. The speeding ticket outlines the manner in which ASIC considers the company has contravened its disclosure obligations and provides an opportunity for the company to make submissions in response. If ASIC is not persuaded that a breach did not occur, a monetary penalty will be imposed.

The penalty for an alleged contravention of subsection 674(2) of the Act varies. Depending on the market capitalisation of the listed entity, they are called a 'Tier 1', 'Tier 2' or 'Tier 3' entity, and the penalties apply as follows:

Type of listed entity	Penalty
Tier 1 (i.e. market capitalisation over \$1,000 million)	\$100,000
Tier 2 (Between \$100 million but less than \$1,000 million)	\$66,000
Tier 3 (Less than \$100 million)	\$33,000

These penalties are based on the fact that there is 'no past form', for example:

- the entity has not previously been convicted of an offence relating to breach of its continuous disclosure obligations under the Corporations Act

- a civil penalty order, not having been made, relative to a contravention of the continuous disclosure provisions, or an enforceable undertaking not being given relating to the continuous disclosure provisions.

'Past form' demonstrated as above can make a Tier 2 entity liable for an increased penalty. Where there is a serious disclosure breach, ASIC may elect to bypass the infringement notice process and proceed directly to court;

- de-listing from ASX. ASX may determine that the company is in breach of the Listing Rules and elect to suspend or, in serious cases, remove the company from the Official List of ASX
- Court action – ASIC can also institute court proceedings under the ASIC Act 1989 at its discretion.

There is no "fault" element required to establish civil liability. However, a court has power to relieve a person from civil liability if the person acted honestly and in the circumstances the person ought fairly to be excused for the contravention that resulted.

- Others

Ausenco's officers (including its directors), employees or advisers who are "involved" in the contravention, may also face criminal (monetary fine and/or 5 years imprisonment) and civil liability as outlined above. A person is "involved" in the contravention if they had actual knowledge of the contravention.

- Due Diligence Defence

A person will not be considered to be involved in the contravention if the person proves that they took all reasonable steps to ensure that the Company complied with its continuous disclosure obligations; and after doing so believed, on reasonable grounds that the Company did comply with its continuous disclosure obligations.

Similarly, while not a formal defence, a company may successfully defend prosecution for criminal breaches if the prosecution cannot show a failure by the company to create a culture of compliance that led to or encouraged noncompliance with the Continuous Disclosure. It is therefore important that officers and employees adhere to the Continuous Disclosure Policy obligations and that a culture of continuous assessment of information is adopted and monitored by Senior Management.

- Enforcement

The court also has power under the Corporations Act to order compliance with the Listing Rules on the application of ASX, ASIC or an aggrieved person (for example, an Ausenco shareholder who suffers loss as a consequence of the contravention).

- Negative publicity

Contravention by Ausenco of its continuous disclosure obligations may also lead to negative publicity for Ausenco and may cause damage to its reputation in the market place, which in turn may adversely impact upon the market value of its securities.

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## Appendix 3 – Information Exempt From Disclosure

The ASX Listing Rule 3.1A exceptions to the obligation to disclose material information (that would otherwise be required to be disclosed under Listing Rule 3.1 – refer paragraph 3) apply to information which:

- is confidential; and
- a reasonable person would not expect to be disclosed; and
- can be described as or relating to any one of the following:
  - proposed acquisitions or disposals or other commercial arrangements in the process of negotiation
  - internal budgets and forecasts
  - management accounts
  - business plans
  - new product development
  - internal market intelligence
  - information prepared for lenders
  - financing terms in the usual course
  - dispute settlement negotiations.

There may be a number of matters which are commercially sensitive, the disclosure of which would be detrimental to the Company and which may be required to be disclosed because they may not fall within the exceptions. For example:

- a serious claim against the company, prior to commencement of proceedings
- an allegation or investigation by a regulatory body that is not being disputed by the Company
- information about a 'complete' proposal (e.g. where the board has resolved to adopt a new name or brand)
- the terms of settlement of a dispute which the parties wish to keep confidential and which is not supported by a court order of confidentiality
- material terms of a trading agreement with a major supplier or customer.

Whether these sorts of matters will fall within one of the exceptions will depend on the facts.