

3 July 2020

Melissa Kostopoulos  
ASX Compliance Pty Limited  
Level 4, North Tower, Rialto  
525 Collins Street  
Melbourne VIC 3000

Dear Melissa

### **RESPONSE TO ASX EARLY RELEASE OF INFORMATION QUERY**

Genetic Technologies Limited ('Company') refers to your letter dated 29 June 2020.

Using the numbering in your letter, we respond to your questions as follows:

1. GTG prepared a draft ASX market update which it circulated to its PR advisers both in Australia and the US.

GTG then provided a draft of the proposed final ASX market update to the ASX for pre-release review at 1.04pm on Thursday 18 June 2020, rather than the usual practice of lodging directly on the platform given recent ASX focus on COVID-19 related announcements by ASX listed companies.

While both PR adviser firms were aware GTG was awaiting ASX review of the draft market update – due to a misunderstanding, the US based PR adviser caused the draft market update to be published in the US during the evening of Aust 18 June 2020 (after the close of trading on the ASX). GTG has spoken to each of the Australian and US PR advisers and they have confirmed they are aware of, and acknowledge that they must abide by, the regulatory restrictions on issuing any material/price sensitive statements where there has not been an earlier announcement to the ASX market.

The ASX review was completed at 3.48pm on Friday 19 June 2020 and, as soon as reasonably practical thereafter, the ASX market update was released to the market.

The ASX market release was marked as material and price sensitive, but the level of subsequent market activity indicates that this appears not to be the case. There was no material change in the GTG share price on either Friday 19 June 2020 nor on the Monday 22 June 2020 – which may have been due to the markets reviewing GTG's update of 19 June 2020 as merely reflecting the earlier GTG disclosures in its US F-1 disclosure which was filed in both the US and on the ASX market on 13 May 2020. In particular, on page 6 of GTG's F-1 disclosure document previously released to the ASX market on 13 May 2020.

2. GTG has a continuous disclosure policy, an experienced CFO and Company Secretary – both of whom provide regular advice on continuous disclosure. All Directors are fully aware of their continuous disclosure obligations.

The disclosure in the US by GTG's US PR agency was not authorised and arose, GTG believes, due to a miscommunication regarding the ASX review of GTG's update on its patent position, which in any event was already available in the public domain via publication by the respective US and Australian Patent offices.

As noted, previously such ASX market updates would have had an immediate disclosure to the ASX and not have been subject to a pre-release review process [which if release had occurred on Thursday 18 June 2020 would have been prior to the US release by the US PR firm].

3. GTG has raised the error with the US PR agency and confirmed that they are aware of the requirement for all Material Price Sensitive ASX announcements to be released on the ASX prior to US press release.

On this occasion the US press release (and generally the subsequent GTG ASX market update) did not have any material impact on the GTG share price.

4. GTG's Board has authorised this response to the ASX and generally the ASX market.

Yours sincerely

Justyn Stedwell  
Company Secretary  
On behalf of the Board of Directors  
Genetic Technologies Limited

### **About Genetic Technologies Limited**

Genetic Technologies Limited (ASX: GTG; Nasdaq: GENE) is a diversified molecular diagnostics company. GTG offers cancer predictive testing and assessment tools to help physicians proactively manage patient health. The Company's lead products GeneType for Breast Cancer for non-hereditary breast cancer and GeneType for Colorectal Cancer are clinically validated risk assessment tests and are first in class.

Genetic Technologies has capacity for COVID-19 testing and is developing a pipeline of risk assessment products including risk of severe disease from Covid-19.

For more information, please visit [www.gtglabs.com](http://www.gtglabs.com).



29 June 2020

Reference: ODIN19937

Mr Justyn Stedwell  
Company Secretary  
Genetic Technologies Limited  
60-66 Hanover Street  
Fitzroy Victoria 3065

By email: justyn@stedwell.com.au

Dear Mr Stedwell

**Genetic Technologies Limited ('GTG'): Early release of information query**

ASX refers to the following:

- A. GTG's announcement entitled 'US Patent Office Grants Key Risk Test Patent' released on the ASX Market Announcement Platform on 19 June 2020 in which GTG disclosed the granting of US Patent No: US 10,683,549- Methods for assessing risk of developing breast cancer as well as the completion of the prototype model for the COVID-19 Severity Risk Test (the 'Announcement').
- B. The article appearing on both the GlobeNewswire and OTC Market webpages on 18 June 2020 under the headline 'US Patent Office Grants Key Risk Test Patent' (the 'Article').
- C. The publication entitled 'Methods for assessing risk of developing breast cancer' appearing on the United States Patent and Trademark Office- Patent Full-Text Databases that indicates the US Patent No: US 10,683,549 was granted on 16 June 2020.

- D. Listing Rule 3.1 which states:

*"Once an entity is or becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities, the entity must immediately tell ASX that information"*

- E. Listing Rule 15.7 which states:

*"An entity must not release information that is for release to the market to any person until it has given the information to ASX and has received an acknowledgment that ASX has released information to the market."*

- F. Page 2 of GTG's Continuous Disclosure Policy available on its website, stating:

**'6.1 Material Information**

*In accordance with the ASX Listing Rules, the Company must immediately notify the market (via an announcement to the ASX) of any information concerning the Company which a reasonable person would expect to have a material effect on the price or value of the Company's securities.*

*Information need not be disclosed if:*

- *a reasonable person would not expect the information to be disclosed; and*
- *the information is confidential and the ASX has not formed the view that the information has ceased to be confidential; and*
- *one or more of the following applies:*

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- *it would breach the law to disclose the information;*
  - *the information concerns an incomplete proposal or negotiation;*
  - *the information comprises matters of supposition or is insufficiently definite to warrant disclosure; - the information is generated for internal management purposes; or*
  - *the information is a trade secret.*

*The Company is also required to disclose information if asked to do so by the ASX, to correct or prevent a false market'.*

Listing Rule 15.7 requires that a listed entity not release information which is for release to the market to any person (including the media, even on an embargoed basis) until it has given the information to ASX and received an acknowledgement that ASX has released it to the market.

As the Article has appeared on the GlobeNewswire and OTC Market webpages prior to the Announcement being released to ASX, it appears that GTG may have breached Listing Rules 3.1 and/or 15.7.

### **Request for Information**

Having regard to the above, ASX asks GTG to respond separately to each of the following questions and requests for information:

1. Please explain how the information in the Announcement appeared in the Article.
2. What arrangements does GTG have in place to ensure compliance with Listing Rule 15.7?
3. If the current arrangements are inadequate or not being enforced, what additional steps does GTG intend to take to ensure compliance with Listing Rule 15.7?
4. Please confirm that GTG's responses to the above have been authorised and approved under its published continuous disclosure policy or otherwise by its board or an officer of GTG with delegated authority from the board to respond to ASX on disclosure matters.

### **When and where to send your response**

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:00 AM AEST Friday, 3 July 2020**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, GTG's obligation is to disclose the information "immediately". This may require the information to be disclosed before the deadline set out in the previous paragraph and may require GTG to request a trading halt immediately.

### **Trading Halt**

If you wish to request a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

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We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted.

You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

ASX reserves the right to release a copy of this letter and your response on the ASX Market Announcements Platform under Listing Rule 18.7A. Accordingly, your response should be in a form suitable for release to the market.

Your response should be sent to me by e-mail at [ListingsComplianceMelbourne@asx.com.au](mailto:ListingsComplianceMelbourne@asx.com.au). It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to GTG's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that GTG's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

### **Suspension**

If you are unable to respond to this letter by the time specified above ASX will likely suspend trading in GTG's securities under Listing Rule 17.3.

### **Release of correspondence between ASX and entity**

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under listing rule 18.7A.

### **Enquiries**

If you have any queries or concerns about any of the above, please contact me immediately.

Yours sincerely

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**Melissa Kostopoulos**  
Compliance, Listings Compliance (Melbourne)