

**HUMANIGEN, INC.**

**MEMORANDUM**

TO: All Directors, Officers, Employees and Consultants of Humanigen, Inc.

FROM: David Pritchard, Chief Executive Officer

DATE: July 31, 2012

RE: Statement of Company Policy Regarding Insider Trading

**Background**

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The Board of Directors of Humanigen, Inc. (the “Company”) has adopted this Insider Trading Policy for our directors, officers, employees and consultants. It applies to the trading of the Company’s securities as well as the securities of other publicly traded companies with whom we have a business relationship.

Federal and state securities laws prohibit the purchase or sale of a company’s securities by persons who are aware of material information about that company that is not generally known or available to the public. Likewise, these laws prohibit persons who are aware of such material nonpublic information from disclosing this information to others who may trade. Companies and their controlling persons are also subject to liability if they fail to take reasonable steps to prevent insider trading by company personnel.

It is important that you understand the breadth of activities that constitute illegal insider trading and the consequences, which can be severe. Both the U.S. Securities and Exchange Commission (the “SEC”) and the Financial Industry Regulatory Authority investigate, and are very effective in detecting, insider trading. The SEC, together with the U.S. Attorneys, pursues insider trading violations vigorously. Cases have been prosecuted successfully against trading by employees through foreign accounts, trading by family members and friends, and trading involving only a small number of shares.

This Policy is designed to prevent insider trading (or allegations of insider trading) and to protect the Company’s reputation for integrity and ethical conduct. It is your obligation to understand and comply with this Policy. Should you have any questions regarding this Policy, please contact the Chief Financial Officer or such person’s designee if the Chief Financial Officer is not available, collectively referred to in this Policy as the Company’s Securities Compliance Officer.

**Penalties for Noncompliance**

*Civil and Criminal Penalties.* Potential penalties for insider trading violations include (1) imprisonment for up to 20 years, (2) criminal fines of up to \$5 million and (3) civil fines of up to three times the profit gained or loss avoided.

*Controlling-Person Liability.* If the Company fails to take appropriate steps to prevent illegal insider trading, the Company may have “controlling person” liability for a trading violation, with civil penalties of up to the greater of \$1 million or three times the profit gained or loss avoided, as well as a criminal penalty of up to \$25 million. The civil penalties can extend personal liability to the Company’s directors, officers and other supervisory personnel if they fail to take appropriate steps to prevent insider trading.

*Company Sanctions.* Failure to comply with this Policy may also subject you to Company-imposed sanctions, including dismissal, whether or not your failure to comply with this Policy results in a violation of law.

### **Scope of Policy**

*Persons Covered.* As a director, officer, employee or consultant of the Company or its subsidiaries, this Policy applies to you. The same restrictions that apply to you also apply to:

- x Your family members who reside with you,
- x Anyone else who lives in your household, and
- x Any family members who do not live in your household but whose transactions in Company securities are directed by you or are subject to your influence or control (such as parents or children who consult with you before they trade in Company securities).

You are responsible for making sure that the purchase or sale of any security covered by this Policy by any such person complies with this Policy.

*Companies Covered.* The prohibition on insider trading in this Policy is not limited to trading in the Company’s own securities. It includes trading in the securities of other firms, such as customers or suppliers of the Company and those with which the Company may be negotiating major transactions, such as an acquisition, investment or sale. Information that is not material to the Company may nevertheless be material to one of those other firms.

*Transactions Covered.* Trading includes purchases and sales of stock, derivative securities such as put and call options, convertible debentures and convertible preferred stock, and debt securities (debentures, bonds and notes). Trading also includes certain transactions under Company plans, as follows:

- x *Sale of Option Shares.* This Policy’s trading restrictions generally do not apply to the exercise of a stock option. The trading restrictions do apply, however, to any sale of the underlying stock or to a cashless exercise of the option through a broker (often called a “same-day sale”). Such a transaction entails selling a portion of the underlying stock to cover the costs of exercise and/or withholding taxes.
- x *Sale of ESPP Shares.* This Policy’s trading restrictions do not apply to purchases of Company stock in the employee stock purchase plan (the “ESPP”) resulting from your periodic payroll contributions to the ESPP under an election you made at the time of

enrollment in the ESPP. But the trading restrictions do apply to your sales of the shares purchased under the ESPP.

### **Statement of Policy**

*No Trading on Inside Information.* You may not trade in the securities of the Company, directly or through family members or other persons or entities, if you are aware of material nonpublic information relating to the Company. Similarly, you may not trade in the securities of any other company if you are aware of material nonpublic information about the other company that you obtained in the course of your employment with the Company.

*No Tipping.* You may not pass material nonpublic information on to others or recommend to others the purchase or sale of any securities when you are aware of such information. This practice, known as “tipping,” also violates the securities laws and can result in the same civil and criminal penalties that apply to insider trading, even though you did not trade and did not gain any benefit from the other person’s trading.

*No Exception for Hardship.* The existence of a personal financial emergency or hardship does not excuse you from compliance with this Policy.

*No Exception for Transactions That are Not Intended to be Based on Inside Information.* It does not matter that you may have decided to engage in a transaction before becoming aware of material nonpublic information or that the material nonpublic information did not affect your decision to engage in the transaction. It is also irrelevant that publicly disclosed information about the Company might, even aside from the material nonpublic information, provide a sufficient basis for engaging in the transaction. In other words, your possession of inside information prevents you from engaging in a transaction, even if you would have engaged in such transaction without such inside information.

#### *Blackout.*

All directors, executive officers and employees are subject to the following blackout procedures:

- x *Quarterly Blackout Periods.* The Company’s announcement of its quarterly financial results almost always has the potential to have a material effect on the market for the Company’s securities. Therefore, to avoid even the appearance of trading on the basis of material nonpublic information, you may not trade in the Company’s securities during the period beginning 15 calendar days before the close of each fiscal quarter and ending after the second full trading day following the release of the Company’s earnings for that quarter.
- x *Interim Earnings Guidance Blackouts.* The Company may on occasion issue interim earnings guidance or other potentially material information by means of a press release, SEC filing on Form 8-K, or other means designed to achieve widespread dissemination of the information. You should anticipate that trading will be blacked out while the Company is in the process of assembling the information to be released and until the information has been released and fully absorbed by the market.

- x *Event-Specific Blackouts.* From time to time, an event may occur that is material to the Company and is known by only a few directors or executives. As long as the event remains material and nonpublic, the persons who are aware of the event, as well as any other person designated by the Securities Compliance Officer, may not trade in the Company's securities. The existence of an event-specific blackout will not be announced, other than to those who are aware of the event giving rise to the blackout. If, however, a person whose trades are subject to pre-clearance requests permission to trade in the Company's securities during an event-specific blackout, the Securities Compliance Officer will inform the requesting person of the existence of a blackout period, without disclosing the reason for the blackout. Any person made aware of the existence of an event-specific blackout should not disclose the existence of the blackout to any other person. The failure of the Securities Compliance Officer to designate a person as being subject to an event-specific blackout will not relieve that person of the obligation not to trade while aware of material nonpublic information.

Even if a blackout period is not in effect, at no time may you trade in Company securities if you are aware of material nonpublic information about the Company.

*Pre-Clearance Procedure.* The Company's Board of Directors has adopted an Addendum to this Insider Trading Policy that applies to directors, executive officers subject to Section 16 of the Securities Exchange Act of 1934, as amended ("executive officers"), and certain other employees and consultants of the Company and its subsidiaries who are especially likely to possess material nonpublic information about the Company. Under the Addendum, affected individuals must pre-clear all transactions in the Company's securities with the Company's Securities Compliance Officer. The Company will notify you if you are subject to the Addendum.

To help prevent inadvertent violations of the federal securities laws and to avoid even the appearance of trading on the basis of inside information, you may not trade in the Company's securities during quarterly blackout periods (beginning 15 calendar days before the close of each fiscal quarter and ending after the second full trading day following the release of the Company's earnings for that quarter) and during certain event-specific blackout periods.

### **Definition of "Material Nonpublic Information"**

Note that inside information has two important elements—materiality and public availability.

*Material Information.* Information is material if there is a substantial likelihood that a reasonable investor would consider it important in deciding whether to buy, hold or sell a security. Any information that could reasonably be expected to affect the price of the security is material. Common examples of material information are:

- x Projections of future earnings or losses, or other earnings guidance,
- x Earnings or operating results that are inconsistent with the consensus expectations of the investment community,
- x A pending or proposed merger, acquisition or tender offer or an acquisition or disposition of significant assets,

- x Clinical trial results,
- x A change in senior management,
- x Major events regarding the Company's securities, including the declaration of a stock split or the offering of additional securities,
- x Severe financial liquidity problems,
- x Actual or threatened major litigation, or the resolution of such litigation,
- x The acquisition or license of products,
- x New major contracts, orders, suppliers, customers, partners or finance sources, or the loss thereof, and
- x The introduction or a change in status of significant new products.

Both positive and negative information can be material. Because trading that receives scrutiny will be evaluated after the fact with the benefit of hindsight, questions concerning the materiality of particular information should be resolved in favor of materiality. In other words, in case of doubt, trading should be avoided.

*Nonpublic Information.* Nonpublic information is information that is not generally known or available to the public. One common misconception is that material information loses its "nonpublic" status as soon as a press release is issued disclosing the information. In fact, information is considered to be available to the public only when it has been released broadly to the marketplace (such as by a press release or an SEC filing) **and** the investing public has had time to absorb the information fully. As a general rule, information is considered nonpublic until the close of the second full trading day after the information is released. For example, if the Company announces earnings before trading begins on a Tuesday, then the first time you can buy or sell Company securities is the opening of the market on Thursday (assuming you are not aware of other material nonpublic information at that time). However, if the Company announces earnings after trading begins on that Tuesday, then the first time you can buy or sell Company securities is the opening of the market on Friday.

### **Additional Guidance**

The Company considers it improper for those who are employed by or associated with the Company to engage in short-term or speculative transactions in the Company's securities or in other transactions in the Company's securities that may lead to inadvertent violations of the insider trading laws. Accordingly, your trading in Company securities is subject to the following additional guidelines:

*Short Sales.* You may not engage in short sales of the Company's securities (sales of securities that you do not own, i.e., borrowed securities). You also may not engage in short sales "against the box" (sales of securities that you own, but with delayed delivery).

*Publicly Traded Options.* You may not engage in transactions in publicly traded options on the Company's securities, such as puts, calls and other derivative securities, on an exchange or in any other organized market.

*Hedging.* You may not engage in hedging transactions, including, but not limited to, zero-cost collars, forward sale contracts and many others, which involve the establishment of a short position in the Company's securities and limit or eliminate your ability to profit from an increase in the value of the Company's securities. Such transactions are complex and involve many aspects of the federal securities laws, including filing and disclosure requirements.

*Standing or Limit Orders.* Standing or limit orders should be used only for a very brief period of time, if at all. A standing order placed with a broker to sell or purchase Company stock at a specified minimum or maximum price leaves you with no control over the timing of the transaction. The limit order could be executed by the broker when you are aware of material nonpublic information, which would result in unlawful insider trading.

*Margin Accounts and Pledges.* Securities held in a margin account or pledged as collateral for a loan may be sold without your consent by the broker if you fail to meet a margin call or by the lender in foreclosure if you default on the loan. A margin or foreclosure sale that occurs when you are aware of material nonpublic information may, under some circumstances, result in unlawful insider trading. Because of this danger, you may not hold securities in a margin account or pledge Company securities as collateral for a loan.

*10b5-1 plan.* Trades by covered persons in the Company's securities that are executed pursuant to an approved 10b5-1 plan are not subject to the prohibition on trading on the basis of material nonpublic information contained in this Insider Trading Policy or to the restrictions set forth above relating to pre-clearance procedures and blackout periods.

Rule 10b5-1 provides an affirmative defense from insider trading liability under the federal securities laws for trading plans that meet certain requirements. In general, a 10b5-1 plan must be entered into before you are aware of material nonpublic information. Once the plan is adopted, you must not exercise any influence over the amount of securities to be traded, the price at which they are to be traded or the date of the trade. The plan must either specify (including by formula) the amount, pricing and timing of transactions in advance or delegate discretion on those matters to an independent third party.

The Company requires that all 10b5-1 plans be approved in writing in advance by the Securities Compliance Officer. 10b5-1 plans generally may not be adopted during a blackout period and may only be adopted before the person adopting the plan is aware of material nonpublic information.

### **Post-Termination Transactions**

This Policy continues to apply to your transactions in Company securities even after you have separated from service with the Company or a subsidiary. If you are aware of material nonpublic information when your employment or service relationship terminates, you may not trade in Company securities until that information has become public or is no longer material.

## **Unauthorized Disclosure**

Maintaining the confidentiality of Company information is essential for competitive, security and other business reasons, as well as to comply with securities laws. You should treat all information you learn about the Company or its business plans in connection with your employment as confidential and proprietary to the Company. Employees should treat all corporate information with discretion and discuss confidential data *only* with those Company employees who have a right and a need to know. In particular, do not discuss confidential information with relatives, friends or acquaintances. Inadvertent disclosure of confidential or inside information may expose the Company and you to significant risk of investigation and litigation.

The timing and nature of the Company's disclosure of material information to outsiders is subject to legal rules, the breach of which could result in substantial liability to you, the Company and its management. Accordingly, it is important that responses to inquiries about the Company by the press, investment analysts or others in the financial community be made on the Company's behalf only through authorized individuals. Please consult the Company's internal communications policy for more details regarding the Company's policy on speaking to the media, financial analysts and investors.

In addition, you are prohibited at *all* times from posting any information about the Company, its products, its customers, its potential customers or its competitors, as well as any other "material" nonpublic information, in any Internet discussion group. This includes, but is not limited to, Internet message boards or chat rooms (e.g., Yahoo Discussion Groups, Silicon Investor or The Motley Fool).

## **Personal Responsibility**

You should remember that the ultimate responsibility for adhering to this Policy and avoiding improper trading rests with you. If you violate this Policy, the Company may take disciplinary action, including dismissal.

## **Company Assistance**

Your compliance with this Policy is of the utmost importance both for you and for the Company. If you have any questions about this Policy or its application to any proposed transaction, you may obtain additional guidance from the Company's Securities Compliance Officer. Please do not try to resolve uncertainties on your own, as the rules relating to insider trading are often complex and not always intuitive while violations entail severe consequences.