

# **Cyclopharm Limited Notice of Annual General Meeting and Explanatory Statement**

**to be held at the Boardroom of Cyclopharm Limited, Unit 4, 1 The Crescent, Kingsgrove, NSW 2208 at 11.30am, (Sydney time) on Tuesday, 21 May 2019**

**This document is important.**

Please read the information it contains carefully. It is important that you vote on these resolutions either by attending the meeting or by completing and lodging the enclosed proxy form. If you are in doubt as to its contents, you should consult your professional advisor(s).

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### IMPORTANT DATES

Close for receipt of written questions to Auditor	5.00 pm	Tuesday, 14 May 2019
Close for receipt of Proxy Forms	11:30am	Sunday, 19 May 2019
Determination of Entitlement to Vote Meeting	7.00 pm	Friday, 17 May 2019
	11.30 am	Tuesday, 21 May 2019

# NOTICE OF ANNUAL GENERAL MEETING OF CYCLOPHARM LIMITED

Notice is given that the Annual General Meeting of members of Cyclopharm Limited ACN 116 931 250 (**Company**) will be held at the Boardroom of Cyclopharm Limited, Unit 4, 1 The Crescent, Kingsgrove, NSW 2208, Australia on **Tuesday, 21 May 2019** at **11.30am** Sydney time.

## 1. ORDINARY BUSINESS

### 1.1 Financial Statements and Reports

- (a) *To receive and consider the financial statements and the reports of the Directors and the Auditors of the Company for the year ended 31 December 2018.*

An explanation of this item is to be found in the notes to this notice and paragraph 2.1 of the Explanatory Statement.

### (b) Resolution 1 – Remuneration Report

Shareholders will be asked to consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

*"That the Remuneration Report as set out in the Annual Report of the Company for the financial year ended 31 December 2018 be adopted."*

An explanation of this item is to be found in paragraph 2.2 of the Explanatory Statement.

#### Notes:

- (1) The vote on this resolution is advisory only and does not bind the Directors or the Company.
- (2) If 25% or more of the votes that are cast are voted against the remuneration report at two consecutive AGMs, shareholders will be required to vote at the second of those AGMs on a resolution (a 'spill' resolution) that another meeting be held within 90 days at which all of the Company's directors (other than the Managing Director) must stand for re-election.
- (3) Except as set out below, a vote must not be cast (in any capacity) on Resolution 1 by or on behalf of the Company's key management personnel (KMP), details of whose remuneration are included in the Remuneration Report, and their closely related parties, whether as shareholder or as a KMP's proxy. However, a vote may be cast on Resolution 1 by a KMP, or a closely related party of a KMP, if:
  - the vote is cast as a proxy;
  - the appointment is in writing and specifies how the proxy is to vote on Resolution 1; and
  - the vote is not cast on behalf of a KMP or closely related party of a KMP.

Further, any Undirected Proxies granted to the Chairman of the Meeting that expressly authorise the Chairman to vote on Resolution 1 despite the fact that Resolution 1 is connected with the remuneration of the KMP, may be voted in favour of that Resolution 1.

## 1.2 Resolution 2 – Re-election of Director

Shareholders will be asked to consider and, if thought fit, pass the following resolution as an **ordinary resolution** with effect from the close of the meeting:

*"That, for the purposes of ASX Listing Rule 14.5 and for all other purposes, Mr Thomas Arthur McDonald, who retires at the close of this Annual General Meeting and, being eligible, and having consented to act, be re-elected as a Director of the Company.*

An explanation of this item, and more information on Mr McDonald, is to be found in paragraph 3 of the Explanatory Statement.

## 1.3 Resolution 3 – Removal of Nexia Sydney Audit & Assurance as Auditor

Shareholders will be asked to consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

*"That, for the purposes of section 329(1) of the Corporations Act and for all other purposes, Russell Bedford NSW trading under the business name Nexia Sydney Audit & Assurance be removed as statutory auditor of the Company."*

More information on Resolution 3 is to be found in paragraph 4 of the Explanatory Statement.

## 1.4 Resolution 4 – Confirmation of appointment of Nexia Sydney Audit Pty Ltd as Auditor

Shareholders will be asked to consider and, if thought fit, pass the following resolution as a **special resolution**:

*"That, subject to the passing of Resolution 3, for the purposes of section 327D(2) of the Corporations Act and for all other purposes, Nexia Sydney Audit Pty Ltd, having given its consent, be and is hereby appointed as statutory auditor of the Company."*

More information on Resolution 4 is to be found in paragraph 4 of the Explanatory Statement.

## 1.5 Resolution 5 – Share Buy-back

Shareholders will be asked to consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

*"That pursuant to and in accordance with section 257C(1) of the Corporations Act, as amended, and for all other purposes, the shareholders approve, with effect from when the Directors make the relevant announcement to the ASX, the on-market buy-back of up to 25% of the fully paid ordinary shares in the Company expiring on whichever is the earlier of the anniversary of the passage of this resolution or the 2020 Annual General Meeting and otherwise on the terms and conditions set out in the Explanatory Statement."*

More information on the Share Buy-back is to be found in paragraph 5 of the Explanatory Statement.

## 1.6 Resolution 6 – Issue of shares to the Managing Director

Shareholders will be asked to consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

*"That pursuant to ASX Listing Rules 10.14 and 10.15 and in accordance with Cyclopharm Limited's "Long Term Incentive Plan" tabled by the Chairman and initialed by him for purposes of identification, approval is given for the Directors to issue and allot 539,525 ordinary shares to Mr James McBryer and/or his nominee, acting in his capacity as the Managing Director of the Company, on the terms summarised in the Explanatory Statement."*

An explanation of this item is in paragraph 6 of the Explanatory Statement.

### **Voting exclusion**

The Company will disregard any votes cast in favour of this resolution by or on behalf of any director of the Company who is eligible to participate in the Company's Long Term Incentive Plan or any of their associates. However, the Company will not disregard a vote if:

- if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- if it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

## 1.7 Resolution 7 – Issue of options to the Managing Director

Shareholders will be asked to consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

*"That pursuant to ASX Listing Rules 10.11, approval is given for Company to grant 200,000 Options to Mr James McBryer and/or his nominee, acting in his capacity as the Managing Director of the Company, on the terms summarised in the Explanatory Statement."*

An explanation of this item and a summary of the option terms are found in paragraph 7 of the Explanatory Statement.

### **Voting exclusion**

The Company will disregard any votes cast in favour of this resolution by or on behalf of Mr James McBryer or any of his associates. However, the Company will not disregard a vote if:

- if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- if it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

## **1.8 Resolution 8 – Increase in the Maximum Aggregate Annual Remuneration of Non-Executive Directors**

Shareholders will be asked to consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

*“That, for the purpose of ASX Listing Rule 10.17, clause 42.1 of the Company’s Constitution and for all other purposes, the shareholders approve the maximum aggregate annual remuneration that may be paid by the Company as remuneration for the services of the Company’s non-executive Directors be increased by \$25,000 from \$225,000 to \$250,000 with effect on and from 1 July 2019.”*

An explanation of this item and information about the proposed increase in the maximum aggregate annual remuneration of non-executive Directors are found in paragraph 8 of the Explanatory Statement.

### **Voting exclusion**

The Company will disregard any votes cast in favour of this resolution by or on behalf of the Directors or any of their associates. However, the Company will not disregard a vote if:

- if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- if it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

## **2 OTHER BUSINESS**

To consider any other business that may be properly brought forward at the meeting in accordance with the Constitution and the law.

### **By Order of the Board**

James McBrayer  
Company Secretary

Dated: 18 April 2019

### **PLEASE NOTE:**

The Notes to, and the Explanatory Statement and Proxy Form following this Notice of Meeting should be read in conjunction with, and form part of, this Notice.

*Capitalised words have the meaning ascribed to them in the Glossary in the attached Explanatory Statement.*

## NOTES TO NOTICE OF MEETING:

### 1. Explanatory Statement

An explanation of each resolution is included in the accompanying Explanatory Statement.

### 2. Voting Entitlement

- 2.1 The Board, as the convenor of the meeting, has determined that the shareholding of each member for the purpose of ascertaining voting entitlements at the Annual General Meeting will be as it appears on the register of Shareholders at **7.00pm** (Sydney time) on **Friday, 17 May 2019**.
- 2.2 On a show of hands, every person present and qualified to vote shall have one vote. If a Shareholder appoints one proxy, then that proxy may vote on a show of hands. However, if the Shareholder appoints 2 proxies, neither may vote on a show of hands.
- 2.3 If a Shareholder appoints a proxy who is also a Shareholder or also a proxy for another Shareholder, their directions may not be effective on a show of hands. However, upon a poll and upon the proxy voting on the poll then their voting direction will be fully counted. Should a poll be taken, then the Auditors, Nexia Sydney Audit Pty Ltd, will act as scrutineer.

### 3. Questions and Comments by Shareholders at the Meeting

- 3.1 In accordance with the Corporations Act and rule 104.3 of the Constitution, a reasonable opportunity will be given to Shareholders at the meeting to ask questions about, or make comments on, the management of the Company.
- 3.2 Similarly, in accordance with the Corporations Act and rule 104.4 of the Constitution, a reasonable opportunity will be given to Shareholders to ask the Auditors, Nexia Sydney Audit Pty Ltd, questions relevant to:
- (1) the conduct of the audit;
  - (2) the preparation and content of the Auditor's Report;
  - (3) the accounting policies adopted by the Company in relation to the preparation of its financial statements; and
  - (4) the independence of the Auditor in relation to the conduct of the audit.
- 3.3 Shareholders may also submit written questions to Nexia Sydney Audit Pty Ltd, via the Company, no later than 5 business days before the Annual General Meeting. Any question must be relevant to the content of Nexia Sydney Audit Pty Ltd's Audit Report or the conduct of its audit of the Company's financial report for the year ended 31 December 2018.
- 3.4 Relevant written questions for Nexia Sydney Audit Pty Ltd must be received no later than **5.00pm** (Sydney time) on **Tuesday, 14 May 2019**. A list of those relevant written questions will be made available to Shareholders attending the Annual General Meeting. Nexia Sydney Audit Pty Ltd will either answer the questions at the Annual General Meeting or table written answers to them at the Meeting. If written answers are tabled at the Meeting, they will be made available to Shareholders as soon as practicable after the Annual General Meeting.

#### 4. Proxies

- 4.1 A Shareholder entitled to attend and vote at this Meeting is entitled to appoint not more than 2 proxies. If 2 proxies are appointed, each proxy must be appointed to represent a specific proportion or number of the Shareholders' voting rights. If the appointment does not specify the proportion or number of the Shareholders' votes each proxy may exercise, each proxy may exercise one half of the Shareholders' votes. Fractions of votes will be disregarded.
- 4.2 If Shareholders wish to appoint one proxy, please use the form provided. If you want to appoint 2 proxies, please contact the Company for an additional form and follow the instructions set out on the reverse side of the proxy form.
- 4.3 A Shareholder may appoint an individual or a body corporate as their proxy. A body corporate appointed as a proxy may then nominate an individual to exercise its powers at meetings. A proxy need not be a Shareholder of the Company.
- 4.4 To be effective a proxy form and an original or certified copy of the authority (if any) under which it is signed (such as a power of attorney or, in the case of a body corporate Shareholder, a certificate of appointment of personal representative) must be:
- delivered (by hand, mail, courier or fax) to the Company at Unit 4, 1 The Crescent, Kingsgrove, NSW 2208, Australia; or
  - sent by facsimile to (+612) 9543 0960,
- to arrive (in each case) no later than **11.30am** (Sydney time) on **Sunday, 19 May 2019**. If it is not received by that time, the appointment of proxy will not be treated as effective.
- 4.5 If a Shareholder is a body corporate, the proxy form may be signed by:
- 2 Directors;
  - a Director and either a company secretary or other authorised signatory;
  - in the case of a proprietary company that has a sole Director that is also the sole company secretary, by that Director, or
  - the body corporate's appointed attorney under power of attorney.
- 4.6 In the case of joint holdings a proxy may be signed by any one of the joint holders. However, if the Company receives more than one appointment for the same Share:
- an appointment signed by all joint holders will be accepted in preference to an appointment signed by the Shareholder whose name appears first in the register of Shareholders or by any other Shareholder holding the share jointly; and
  - subject to the preceding paragraph, an appointment signed by the Shareholder whose name appears first in the register of Shareholders will be accepted in preference to an appointment signed by any other Shareholder or Shareholders holding the share jointly.
- 4.7 Completion of a proxy form will not prevent individual Shareholders from attending the Meeting if they wish. Where a Shareholder completes and delivers a valid proxy form and attends in person, the authority of the proxy to speak and vote for that Shareholder is suspended while the Shareholder is present at the Meeting.
- 4.8 A member of the Company's Key Management Personnel or their Closely Related Party must not, whether in person or by proxy, vote in their own right on Resolution 1.



- 4.9 A person appointed as a proxy may vote or abstain from voting as he or she thinks fit except in the following circumstances:
- 4.9.1 The proxy holds a Directed Proxy Form;
  - 4.9.2 Where the proxy is voting in relation to a Remuneration Resolution and the proxy is either a Key Management Personnel for the Company or a Closely Related Party of the Company and holds an Undirected Proxy Form; and
  - 4.9.3 The proxy is required by law or the Company's Constitution to vote in a certain manner or abstain from voting.
- 4.10 Clause 4.9.2 does not apply if the Chairman of the meeting is appointed as proxy and the appointment expressly authorises the Chairman to exercise the proxy even if the resolution is a Remuneration Resolution.
- 4.11 The Chairman intends to vote all Undirected Proxy Forms in favour of Resolutions 1 to 8 and he is expressly authorised to do so.
- 4.12 **Closely Related Party** means the closely related parties of the Key Management Personnel as defined in the Corporations Act, including certain members of their family, dependants and companies they control.

**Directed Proxy Form** means a proxy form which specifies how a proxy is to vote.

**Key Management Personnel** of the Company are the Directors of the Company and those other persons having authority and responsibility for planning, directing and controlling the activities of the Company, directly or indirectly. The Remuneration Report identifies the Company's Key Management Personnel for the financial year to 31 December 2018. Their Closely Related Parties are defined in the Corporations Act, and include certain members of their family, dependants and companies they control.

**Remuneration Resolution** means a resolution connected directly or indirectly with the remuneration of a member of the Key Management Personnel.

**Undirected Proxy Form** means a proxy form which does not specify how the proxy is to vote.

# EXPLANATORY STATEMENT

## 1. IMPORTANT NOTICE

- 1.1 This Explanatory Statement is given to Shareholders to explain the resolutions to be considered at the Annual General Meeting (**Resolutions**) and to allow Shareholders to determine how they wish to vote on the Resolutions. The Explanatory Statement should be read in conjunction with, and forms part of, the Notice of Annual General Meeting which this Explanatory Statement accompanies.
- 1.2 *Capitalised words in this Explanatory Statement have a defined meaning which appears in it or in the Glossary.*
- 1.3 This Explanatory Statement is dated 18 April 2019.

## 2. REPORTS

- 2.1 The Corporations Act requires the financial statements and reports of the Directors and Auditors to be laid before the Meeting. These are all incorporated into the Annual Report. Neither the Corporations Act nor the Constitution requires Shareholders to vote on such statements and reports. However, Shareholders will be given ample opportunity to raise questions on the Annual Report at the Meeting. For further information see **note 3 on page 6**. The Annual Report is available on the Company's website at [www.cyclopharm.com.au](http://www.cyclopharm.com.au).

## 2.2 EXPLANATION OF RESOLUTION 1 - REMUNERATION REPORT

The Directors' Report - "Remuneration Report" (**Remuneration Report**) is contained in the Company's 2018 Annual Report.

The Corporations Act requires a resolution be put to the shareholders of a listed company to adopt the Remuneration Report as disclosed in the Directors' Report component of the 2018 Annual Report (see pages **20 to 30** of the 2018 Annual Report inclusive). This Resolution is being put so as to give Shareholders a reasonable opportunity to ask questions or make comments concerning the Remuneration Report during the Meeting.

The Remuneration Report:

- explains the Board's policies in relation to the nature and level of remuneration paid to Directors, secretaries and senior managers with the Company;
- discusses the link between the Board's policies and the Company's performance;
- provides a summary of performance conditions, explaining why they were chosen and how performance is measured against them;
- sets out remuneration details for each Director and for each member of the Company's senior executive management team; and
- makes clear that the basis for remunerating non-executive Directors is distinct from the basis for remunerating executives, including executive Directors.

The vote on this resolution is advisory only and does not bind the company or its directors. No member of the key management personnel or closely related party of the key management personnel may vote on resolution 1.

Under the Corporations Act, if 25% or more of the votes that are cast are voted against the adoption of the Remuneration Report at two consecutive AGMs, shareholders will be required to vote at the second of those AGMs on a resolution (a 'spill' resolution) that another meeting be held within 90 days at which all of the Company's directors (other than the Managing Director) must go up for re-election.

## 2.3 Directors' Recommendation

**As the Directors have a personal interest in this proposed Resolution 1, they make no recommendations as to how shareholders should vote on the resolution.**

## 3. EXPLANATION OF RESOLUTION 2 – RE-ELECTION OF DIRECTOR

3.1 Shareholders will be asked to consider and, if thought fit, pass the following Resolution as an ordinary resolution:

*"That, for the purposes of ASX Listing Rule 14.5 and for all other purposes, Mr Thomas Arthur McDonald, who retires at the close of this Annual General Meeting and, being eligible, and having consented to act, be re-elected as a Director of the Company.*

3.2 Rule 5.1 of the Constitution requires that, at each annual general meeting, one-third of the Directors must retire from office. ASX Listing Rule 14.5 also requires that the Company hold an election of Directors at each annual general meeting. As required by Rule 5.2 of the Constitution and in accordance with the ASX Listing Rules, Mr McDonald, the longest standing director in office has offered himself for re-election.

3.3 The Nominations Committee (excluding Mr McDonald) of the Board has conducted an assessment of Mr McDonald including a review of the skills, knowledge, experience and diversity represented on the Board. Having conducted those assessments, the Board recommends to Shareholders the re-election of Mr McDonald.

3.4 The following is a profile of Mr Thomas McDonald:

**Board position:** Appointed as non-executive Director on 3 April 2017.

**Committees:** Member of the Audit and Risk, Board Nominations and Remuneration Committees. Appointed Chairman of the Audit and Risk Committee effective 1 March 2019.

**Qualifications:** Mr McDonald holds a Bachelor of Commerce from UNSW and is a Post Graduate of University of Technology Sydney in Business Finance. He is a Fellow of CPA Australia, a member of the Australian Institute of Company Directors and an Associate with the Governance Institute Australia.

**Experience:** Mr McDonald served as a non-executive director of ASX-listed FE Investments Group Limited, where he was Chairman of the Audit and Risk Committee and a member of the Remunerations Committee. He has previously held senior positions with ASX-listed Allomak Limited, CK Life Sciences Int'l Inc., ASX-listed LIPA Pharmaceuticals Limited and ASX-listed Keycorp Limited. Mr McDonald has more than 30 years' experience in the technology and pharmaceutical industries and has held global senior executive roles at USA biotech Beckman Instruments Inc both in Australia and overseas.

**Independence:** Mr McDonald satisfies the requirements for an independent director under ASX Recommendation 2.3 as he is a non-executive Director and has a relevant interest in approximately 0.03% of Shares.

## 3.5 Directors' Recommendation

**The Board, other than Mr McDonald (who abstains), recommends that Shareholders vote in favour of Resolution 2.**

#### **4. EXPLANATION AND SUMMARY OF RESOLUTIONS 3 AND 4 – CHANGE IN AUDITOR**

**4.1** Shareholders will be asked to consider and, if thought fit, pass the following resolutions:

**Resolution 3**

*“That Russell Bedford NSW trading under the business name Nexia Sydney Audit & Assurance be removed as statutory auditor of the Company.”*

**Resolution 4**

*“That Nexia Sydney Audit Pty Ltd’s appointment as statutory auditor of the Company be confirmed.”*

Resolution 3 is an ordinary resolution, which means the Resolution requires an affirming vote by 50% of those shareholders present at the Meeting and entitled to vote.

Resolution 4 is a special resolution and therefore requires approval of 75% of the votes cast by shareholders present and eligible to vote.

Resolution 4 is conditional on the passing of Resolution 3.

#### **4.2 Background**

The Company’s longstanding auditor, Russell Bedford NSW (**RBNSW**) merged with Nexia Sydney Audit Pty Ltd (**Nexia**), an authorised audit company in 2016.

Nexia requested ASIC to amend their register to recognise Nexia as the statutory auditor of the Company. However, ASIC has advised that they require a formal change in appointment before they will recognise Nexia as the Company’s statutory auditors.

The Company notes there is no dispute with the former auditor, the partners of which became Directors of Nexia, and that the change is administrative in nature to provide RBNSW with additional resources to meet the rotation and general audit requirements of the Corporations Act.

#### **4.3 Removal of Auditor**

The Company has received notice of intention to move a resolution for the removal of RBNSW as auditor of the Company. A copy of such notice has been provided to RBNSW in accordance with the Corporations Act and is set out below:

21 March 2019

The Directors  
Cyclopharm Limited  
Unit 4, 1 The Crescent  
Kingsgrove  
NSW 2208

Dear Sirs,

### **Notice of Intention to Move Resolution**

I, James McBrayer, hereby request a meeting of the Company be convened to seek the removal of Russell Bedford NSW (trading under the business name Nexia Sydney Audit & Assurance) as auditor of the Company.

I propose Nexia Sydney Audit Pty Ltd as Statutory Auditor of the Company.

It is noted this request is merely to clarify the Auditor appointment in the most administratively effective manner.

Yours faithfully,



James McBrayer

#### **4.4 Appointment of Auditor**

Section 327D of the Corporations Act provides that when an auditor is removed from a company, the company may immediately appoint a new auditor at a general meeting by special resolution. Resolution 4 provides for the auditor vacancy to be filled if Resolution 3 is passed.

The Directors propose that Nexia be confirmed as the Company's auditor effective from the date of this meeting. Nexia has given written consent to act as the Company's auditor in accordance with the Corporations Act.

#### **4.5 Directors' Recommendation**

**The Board recommends that Shareholders vote in favour of Resolutions 3 and 4.**

### **5. EXPLANATION OF RESOLUTION 5 – SHARE BUY BACK**

#### **5.1 Shareholders will be asked to consider and, if thought fit, pass the following resolution as an ordinary resolution:**

*“That pursuant to and in accordance with section 257C(1) of the Corporations Act, as amended, and for all other purposes, the shareholders approve, with effect from when the Directors make the relevant announcement to the ASX, the on-market buy-back of up to 25% of the fully paid ordinary shares in the Company expiring on whichever is the earlier of the anniversary of the passage of this resolution or the 2020 Annual General Meeting and otherwise on the terms and conditions set out in the Explanatory Statement .”*

#### **5.2 Background**

The Board has completed a capital management review and believes that a buy-back of shares in combination with other strategies, is the most expedient, efficient and cost effective way for the Company to enhance long term shareholder value.

In particular, an on market buy-back gives shareholders the choice whether to hold or sell their shares over the buy-back period, whereas under other alternatives (such as an equal capital reduction or an off-market equal access buy-back) shareholder may not be given such a choice.

If, in the next 12 months, the Company is in a financial position to do so, then it will consider implementing a buy-back on the terms and conditions set out in this resolution, accordingly shareholder 'pre-approval' is sought to implement and conduct the buy-back.

### **5.3 Regulatory Requirements**

Section 257C(1) of the Corporations Act authorises a listed company to buy-back its own shares on market if the buy-back does not materially prejudice its ability to pay its creditors and it follows the procedures set out in the Corporations Act.

The implementation of the buy-back is conditional on the approval by a resolution passed at a general meeting of the Company. This resolution is an ordinary resolution and will be passed if a majority of votes cast, in person or by proxy, attorney or representative by Shareholders at the meeting is cast in favour of the resolution.

Shareholder approval is required if the Company proposes to buy-back more than 10% of the smallest number of shares on issue at any time during the last 12 months. This limit after which a company requires shareholder approval for an on-market buy-back is called the "10/12 limit".

As the Company is proposing to buy-back up to a maximum of 25% of its issued capital, shareholder approval is sought.

If approved, it is intended that the on-market buy-back will continue until the earlier of 12 months, the day that the maximum number of shares have been bought back, or at an earlier date as determined by the Directors.

The Constitution does not, at the relevant time, preclude the buy-back of Shares or restrict the Company's power to do so. The Company will stand in the market to buy-back not more than 25% of its ordinary share capital and this can be done on a continuous basis.

If this resolution is passed, the buy-back may be implemented by the Board at any time by making the announcement to the ASX required by the ASX Listing Rules. Nevertheless, the Board may choose not to proceed, or to proceed at a later date.

### **5.4 Number of shares subject to the buy-back**

The maximum percentage of Shares to be bought back is 25%. Based on the number of ordinary shares on issue as at the date of this notice being 68,698,873 shares, the maximum number of Shares to be bought back would be 17,174,718.

The Company will offer to buy-back shares on-market through transactions on Australian Securities Exchange (**ASX**). It is not required to buy-back a specific number of shares or a minimum specified value of shares over any period. The Company will cancel all shares which are bought back.

### **5.5 Price**

The shares will be bought back at the quoted selling price of the Company's shares on the ASX. In accordance with ASX Listing Rule 7.33, the price payable by the Company to buy-back shares cannot be more than 5% above the volume weighted average market price per share calculated over the last 5 days on which sales were recorded before the day of the buy-back.

The volume weighted average market price means in relation to the Company's shares for a particular period, the volume weighted average price of trading in those shares on the ASX and the Chi-X Market over that period, excluding block trades, large portfolio trades, permitted trades during the pre-trading hours period, permitted trades during the post-trading hours period, out of hours trades and exchange traded option exercises.

Historical share price information is below:

Information	Price	Date
Close Price	\$1.095	31 March 2019
High for 12 Months	\$1.300	4 March 2019
Low for 12 Months	\$0.850	6 August 2018
30 day Volume Weighted Average	\$1.224	2 March 2019 to 31 March 2019
60 Day Volume Weighted Average	\$1.183	31 January 2019 to 31 March 2019

## 5.6 Funding

The cost to the Company of the buy-back is dependent on the number and price of shares bought back.

By way of example, an on-market buyback offer at \$1.095 per Share would require maximum funding of approximately \$18,806,316 (assuming full acceptance of the buy-back offer 25%).

The financial effect of the proposed buy-back will be to deplete the Company's cash reserves and/or to increase its borrowings depending upon the appropriate funding mix utilised by the Directors at the time the offer proceeds. A copy of the latest audited accounts for the year ended 31 December 2018 is available on the Company's website at [www.cyclopharm.com.au](http://www.cyclopharm.com.au) and on [www.asx.com.au](http://www.asx.com.au).

Against this, the share capital of the Company will be reduced with a likely beneficial increase of net tangible asset backing per share.

The offer will not proceed if the buy-back would materially prejudice the Company's ability to pay its creditors.

The Company intends to utilise its cash reserves to pay for the Shares it buys-back when making the on-market offer and to supplement some with borrowings. The break-up between one and the other will depend on the circumstances of the Company at the time the offer is made and will be detailed in the relevant announcement to the ASX.

No decision has been made in relation to the proposed funding, as noted earlier, this approval is sought in anticipation of the Company being in a financial position to implement and fund the buy-back without materially prejudicing its ability to repay creditors.

## 5.7 Discussion and analysis

### ***Advantages of Introducing a Share Buy-back***

The key advantages of the buy-back being allowed to proceed are as follows:

1. increase the liquidity of the Shares;
2. an efficient use of any surplus capital that becomes available to the Company in a market where finding suitable investments proves difficult;
3. the buy-back is structured as an on-market buy-back which gives shareholders the choice whether to hold or sell their shares over the buy-back period;
4. increasing price competition for the Shares; and

5. the promotion of a more efficient capital structure.

### ***Disadvantages of Introducing a Share Buy-back***

The key disadvantages of the buy-back being allowed to proceed are as follows:

1. it reduces the cash reserves of the Company. The use of those funds for the buy-back means that they will not be available for use in the Company's ordinary course of business;
2. it is structured as an on-market buy-back which means not all shareholders will participate; and
3. there is uncertainty about the funding strategy of the buy-back, this means the debt/equity mix has not yet been determined and the Company is unable to advise shareholders what the precise financial effect of the on-market buy-back will be.

### **5.8 Other considerations**

Accepting the on-market Share buy-back may have financial, taxation, or other ramifications for Shareholders depending upon each such Shareholders' personal circumstances and the Board recommends that before accepting any on-market offer, Shareholders should obtain their own professional advice.

The Company is satisfied that this notice of meeting and explanatory statement set out all the information known to the Company that is material to the decision how to vote on the resolution.

If approval of Resolution 5 is not given, the Company is still able to buy-back on market the maximum number of Shares permitted under the 10/12 limit without Shareholder approval.

The Chairman intends to vote all Undirected Proxies in favour of Resolution 5.

### **5.9 Directors' Intentions**

At the date of this explanatory statement, no Director had determined whether he will accept a buy-back offer in respect of shares in which he has an interest. Any participation by Directors will be disclosed to the market.

### **5.10 Directors' Recommendation**

**The Board unanimously recommends that Shareholders vote in favour of Resolution 5.**

## **6. EXPLANATION AND SUMMARY OF RESOLUTION 6 – ISSUE OF SHARES TO THE MANAGING DIRECTOR**

- 6.1 Shareholders will be asked to consider and, if thought fit, to pass the following Resolutions as an ordinary resolution:

*"That pursuant to ASX Listing Rules 10.14 and 10.15 and in accordance with Cyclopharm Limited's "Long Term Incentive Plan", approval is given for the Directors to issue and allot 539,525 ordinary shares to Mr James McBrayer and/or his nominee, acting in his capacity as the Managing Director of the Company, on the terms summarised in the Explanatory Statement."*



- 6.2 Under the terms of Mr McBrayer's Employment Contract dated 15 May 2008 the Company has agreed to maintain Mr McBrayer's equity in the event of further shares issues.
- 6.3 In accordance with its remuneration policy and subject to member approval, the Company proposes to grant Shares to the Managing Director on the general terms and conditions set out in the Company's Long Term Incentive Plan (**Plan**) and the specific terms as set out in paragraph 6.6. The Plan was initially approved by Shareholders at the meeting held on 8 May 2007 with an updated Plan approved on 29 May 2018.
- 6.4 The purpose of the Plan is to encourage Directors, officers and employees to share in the ownership of the Company and therefore to retain and motivate those benefiting to drive performance at both the individual and corporate levels. Equity based incentives consistent with the Company's remuneration policy better aligns the performance of the Executive Director with the Company's financial performance.
- 6.5 The Directors consider the Company's remuneration policy to be a sensible and well-balanced policy which allows them to adjust the remuneration mix appropriately to the Company's changing circumstances. Accordingly, the Board, other than Mr McBrayer, believes that the Shares should be issued to Mr McBrayer, to more closely align his interests with those of the Company.
- 6.6 **Background to Resolution 6**

Mr McBrayer currently holds the following Plan shares:

Issue date	Number of Plan shares (Issued Shares)	Amount payable per share	Outstanding loan balance payable by Mr McBrayer
1 September 2014	861,728	\$0.22	Nil
1 September 2014	861,728	\$0.25	Nil
13 July 2015	1,721,554	\$0.90	\$1,532,183.06
<b>TOTAL</b>	<b>3,445,010</b>		<b>\$1,532,183.06</b>

As at 13 July 2015, being the last issue date of the Issued Shares, the Issued Shares accounted for 5.8% of the total issued capital of the Company (59,588,733 shares).

The Company has since undertaken a capital raising exercise and now has 68,698,873 shares on issue, which has resulted in a dilution of Mr McBrayer's Issued Shares. Subject to Shareholder approval and in accordance with the terms of Mr McBrayer's employment contract, the Company proposes to issue a total of 539,525 Plan Shares to Mr McBrayer to maintain his initial 5.8% holding in the Company.

**6.7 Corporations Act requirements**

The Corporations Act also regulates in Chapter 2E the giving of a financial benefit to a related party of a public company. Cyclopharm is such a company and, as a Director, Mr McBrayer is regarded as a related party. The issue of shares could be considered a financial benefit, however, the Board considers that no separate shareholder approval is required for the giving of the financial benefits in the form of shares because the benefit is remuneration to Mr McBrayer as Managing Director of the Company and the remuneration is reasonable given the circumstances of the Company and Mr McBrayer's circumstances (including the responsibilities involved in his office and employment).

## 6.8 Plan Shares

Subject to shareholder approval, it is proposed to grant a total of 539,525 Plan Shares to Mr McBrayer which will comprise two tranches, as follows:

Tranche	Number of Plan Shares	Price per Plan Share	Vesting conditions	Holding lock
Tranche 1	269,911	Nil	Not applicable	Not applicable – share can be freely traded on and from the date of issue.
Tranche 2	269,614	Nil	Not applicable – shares are fully vested but subject to a holding lock.	This tranche of Plan Shares will be held in a holding lock until the outstanding Financial Assistance of \$1,532,183.06 on the Issued Shares issued on 13 July 2015 has been repaid in full on or before 9 May 2022.

No financial assistance or loan will be provided to Mr McBrayer in relation to the issue of the Plan Shares.

**6.9** The Board, other than Mr McBrayer who absented himself during the deliberations and from voting at the relevant meeting on this matter, considers that to give the remuneration outlined above, in the form proposed, would be reasonable given the Company's current circumstances and those of Mr McBrayer, vis-à-vis the Company, including the responsibilities involved in, and obligations required as a result of, his office or employment.

**6.10** An ordinary resolution is required for Resolution 6 which means the Resolution requires an affirming vote by 50% of those shareholders present at the Meeting and entitled to vote.

### 6.11 Copy of Plan

A copy of the Company's Long Term Incentive Plan is available for inspection at the Sydney office referred to on the Proxy Form at the end of this Notice of Meeting by any member of the Company during normal hours on any business day prior to, or on, the date of the Meeting.

### 6.12 Cost of the Plan Shares to the Company

The accounting cost of the issue of each Plan Share is based on the latest closing price of the Company's shares traded on the ASX prior to the issue. For example, based on \$1.095 per Share, the directors anticipate that the accounting cost of the issue of the Plan Shares to the Managing Director will be a maximum of \$590,780.

### 6.13 Remuneration

The Managing Director's remuneration for the year ended 31 December 2018 (as detailed in the Remuneration Report included in the Directors' Report) comprised:

Salary	Superannuation	Bonus	Non-Cash	Options (amortised cost)	Other Long-term benefits	Shares (amortised cost)	Total
\$334,804	\$35,367	\$50,000	-	-	\$5,371	-	\$425,542

### 6.14 Relevant interest in shares

The Managing Director currently has an interest in 3,554,555 shares as at the date of this notice. The issue of 539,525 Shares to Mr McBrayer in accordance with Resolution 6, will increase his holding to 4,094,080 Shares, representing 5.91% of the Company's Shares.

### 6.15 Impact on capital structure

As at the date of this notice of meeting, there are a total of 68,698,873 shares on issue.

If approved, the issue of 539,525 Shares to Mr McBrayer in accordance with Resolution 6, will increase the number of Shares on issue from 68,698,873 to 69,238,398 (assuming that no other shares are issued), with the effect that the shareholding of existing shareholders would be diluted by approximately 0.78%.

### 6.16 Technical Information Required by Listing Rule 10.15A

A notice of meeting to obtain approval under Listing Rule 10.14 must comply with Listing Rule 10.15A. The information required by Listing Rule 10.14 is set out below:

Maximum number of Plan Shares that may be acquired by Mr McBrayer	539,525 Shares
Price for each Plan Share to be acquired under the LTIP	Nil
Names of persons referred to in rule 10.14 who received securities under the scheme since the last approval, number of securities received and acquisition price for each security	The Plan was last approved on 29 May 2018. There have been no securities issued under the Plan since that date.

Names of all persons referred to in Listing Rule 10.14 entitled to participate in the scheme	Directors - Messrs Heaney, Gould, McDonald and McBrayer.  [ <b>Note</b> – although each director is eligible to participate, approval is sought for the grant of Plan Shares to Mr McBrayer only].
Terms of any loan in relation to the grant of Plan Shares	Not applicable
Required Statements	Details of any securities issued under the employee incentive scheme will be published in each annual report relating to a period in which securities have been issued and approval for the issue of securities obtained under listing rule 10.14. Any additional persons who become entitled to participate in the employee incentive scheme after the resolution is approved and who are not named in this notice of meeting will not participate until approval is obtained under listing rule 10.14.
Date by which Shares will be granted	The Company expects to issue the Shares on 1 July 2019 but in any event the Company will not issue the Shares any later than 3 years after the meeting

#### 6.17 Voting Exclusion

A voting exclusion applies in relation to Resolution 6 (see notes to Resolution 6).

#### 6.18 Directors' Recommendation

**The Board, other than Mr McBrayer (who abstains), recommends that Shareholders vote in favour of Resolution 6.**

### 7. EXPLANATION AND SUMMARY OF RESOLUTION 7 – ISSUE OF OPTIONS TO THE MANAGING DIRECTOR

7.1 Shareholders will be asked to consider and, if thought fit, to pass the following Resolution as an ordinary resolution:

*"That pursuant to ASX Listing Rules 10.11, approval is given for Company to grant 200,000 options to Mr James McBrayer and/or his nominee, acting in his capacity as the Managing Director of the Company, on the terms summarised in the Explanatory Statement."*

7.2 In accordance with its remuneration policy and subject to member approval, the Company proposes to grant Options to the Managing Director on the general terms and conditions set out in Annexure 1 to this Explanatory Memorandum.

#### 7.3 Background to the issue

The purpose of the Plan is to encourage Directors, officers and employees to share in the ownership of the Company and therefore to retain and motivate those benefiting to drive performance at both the individual and corporate levels. Equity based incentives consistent with the Company's remuneration policy better aligns the performance of the Executive Director with the Company's financial performance.

The Directors consider the Company's remuneration policy to be a sensible and well-balanced policy which allows them to adjust the remuneration mix appropriately to the Company's changing circumstances.

#### **7.4 Corporations Act requirements**

The Corporations Act also regulates in Chapter 2E the giving of a financial benefit to a related party of a public company. Cyclopharm is such a company and, as a Director, Mr McBrayer is regarded as a related party. The issue of Options could be considered a financial benefit. The Board considers that no separate shareholder approval is required for the giving of the financial benefits in the form of Options because the benefit is remuneration to Mr McBrayer as Managing Director of the Company and the remuneration is reasonable given the circumstances of the Company and Mr McBrayer's circumstances (including the responsibilities involved in his office and employment).

#### **7.5 Options**

Subject to shareholder approval, it is proposed to grant a total of 200,000 Options to Mr McBrayer as follows:

<b>Number of Options</b>	<b>Exercise Price</b>	<b>Vesting conditions</b>
200,000	Nil	The Company receiving approval from the USFDA for the distribution of its Technegas products in the USA.

**7.6** The Board, other than Mr McBrayer who absented himself during the deliberations and from voting at the relevant meeting on this matter, considers that to give the remuneration outlined above, in the form proposed, would be reasonable given the Company's current circumstances and those of Mr McBrayer, vis-à-vis the Company, including the responsibilities involved in, and obligations required as a result of, his office or employment.

**7.7** An ordinary resolution is required for Resolution 7 which means the Resolution requires an affirming vote by 50% of those shareholders present at the Meeting and entitled to vote.

#### **7.8 Cost of the Options to the Company**

The accounting cost of the issue of each Option is based on the latest closing price of the Company's shares traded on the ASX prior to the issue. For example, based on \$1.095 per Share, the directors anticipate that the accounting cost of the issue of the Options to the Managing Director will be \$219,000.

#### **7.9 Remuneration**

The Managing Director's remuneration for the year ended 31 December 2018 is detailed in paragraph 6.13 of this Explanatory Statement.

#### **7.10 Relevant interest in shares**

Until exercised, the grant of 200,000 Options to Mr McBrayer will not impact on the number of ordinary shares on issue in the Company. If all of the proposed Options were exercised, an additional 200,000 fully paid Shares may be issued, which will further increase the number of Shares on issue from 69,238,398 to 69,438,398, with the effect that the shareholding of existing shareholders would be diluted by approximately 1.07%.

The Directors believe that any potential dilutionary impact is not material and is more than offset by the advantages accruing to the Company from the services of the Managing Director.

### 7.11 Technical Information Required by Listing Rule 10.13

A notice of meeting to obtain approval under Listing Rule 10.11 must comply with Listing Rule 10.13. The information required by Listing Rule 10.13 is set out below:

Name of the person	Mr James McBrayer – Managing Director
Maximum number of securities to be issued	200,000 Options
The date by which the entity will issue the securities	The Company will not issue the securities any later than 1 month after the date of the meeting
The issue price of the securities and the terms of the issue	Issue price - \$Nil Terms of issue – please see the terms and conditions of issue set out in Annexure 1.
Intended use of the funds raised	No funds will be raised from the issue of these securities.

### 7.12 Voting Exclusion

A voting exclusion applies in relation to Resolution 7 (see notes to Resolution 7).

### 7.13 Directors' Recommendation

**The Board, other than Mr McBrayer (who abstains), recommends that Shareholders vote in favour of Resolution 7.**

## 8. EXPLANATION AND SUMMARY OF RESOLUTION 8 – INCREASE IN THE MAXIMUM AGGREGATE ANNUAL REMUNERATION OF NON-EXECUTIVE DIRECTORS

### 8.1 Shareholders will be asked to consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

*“That, for the purpose of ASX Listing Rule 10.17, clause 42.1 of the Company’s Constitution and for all other purposes, the shareholders approve the maximum aggregate annual remuneration that may be paid by the Company as remuneration for the services of the Company’s non-executive Directors be increased by \$25,000 from \$225,000 to \$250,000 with effect on and from 1 July 2019.”*

### 8.2 Background

In May 2017, Shareholders approved aggregate non-executive remuneration to be increased from \$200,000 to 225,000 per year. The 2018 total remuneration of the 3 non-executive Directors amounted to \$173,400 as disclosed in the Remuneration Report component of the 2018 Annual Report (see page 21 of the 2018 Annual Report). The 2018 total remuneration is approximately 77.1% of the approved aggregate annual remuneration of non-executive Directors.

The performance of the Company depends upon the quality of its Directors. In order to attract, motivate and retain highly skilled Directors, commencing 1 July 2016, the Board revised the remuneration of non-executive Directors to the following:

- Non-executive Chairman \$70,000 per year and
- Non-executive Director \$50,000 per year.

The current aggregate remuneration of \$225,000 allows for a maximum of 1 non-executive Chairman and 2 non-executive Directors after including a 2% increase commencing 1 February 2019. Shareholder approval is sought to increase the aggregate remuneration from \$225,000 to \$250,000 per year to allow for a possible third non-executive Director to be appointed to the Board. The Company does not intend to fully utilise the increase in the near future.

### **8.3 Regulatory Requirements**

ASX Listing Rule 10.17 requires the Company to obtain shareholder approval for any increase in the total amount of remuneration payable to non-executive Directors. Within the preceding 3 years, no securities have been issued to a non-executive Director under ASX Listing Rule 10.11 or 10.14 with the approval of the Company's shareholders.

### **8.4 Voting Exclusion**

A voting exclusion applies in relation to Resolution 8 (see notes to Resolution 8).

### **8.5 Directors' Recommendation**

**As the directors have a personal interest in this proposed Resolution 8, they make no recommendations as to how shareholders should vote on the resolution.**

## 9. GLOSSARY OF TERMS

In this explanatory statement, the following expressions have the following meanings:

**Annual Report** means the report to Shareholders containing, amongst other things, the financial statements, report of the Directors, the remuneration report and the report of the Auditors to which reference is made in this explanatory statement;

**ASIC** means the Australian Securities and Investments Commission;

**ASX** means ASX Ltd trading as Australian Securities Exchange;

**ASX Listing Rules** means the listing rules of ASX;

**Auditors** means Nexia Sydney Audit Pty Ltd, Chartered Accountants, the Company's external auditors;

**Board** means the Directors of the Company from time to time;

**Closely Related Party** means the closely related parties of the Key Management Personnel as defined in the Corporations Act, including certain members of their family, dependents and companies they control;

**Company** means Cyclopharm Limited ACN 116 931 250 the registered office of which is located at Unit 4, 1 The Crescent, Kingsgrove, NSW 2208 Australia;

**Constitution** means the Constitution of the Company adopted by the Shareholders dated 31 October 2005 and the amendments approved at the annual general meeting convened on 26 May 2011;

**Corporations Act** means the *Corporations Act 2001* (Cth), as amended;

**Directed Proxy Form** means a proxy form which specifies how a proxy is to vote;

**Directors** means the Directors of the Company from time to time sitting as the Board or individually as the case requires;

**Key Management Personnel** means the Directors of the Company and those other persons having authority and responsibility for planning, directing and controlling the activities of the Company, directly or indirectly;

**Meeting** or **Annual General Meeting** means the annual general meeting of Shareholders convened by the Notice of Meeting;

**Notice of Meeting** means the notice of annual general meeting dated 18 April 2019 which accompanies this explanatory statement;

**Option** means an option to acquire a Share.

**Option Holder** means a holder of an Option.

**Remuneration Resolution** means a resolution connected directly or indirectly with the remuneration of a member of the Key Management Personnel;

**Resolution** means an ordinary resolution referred to in the Notice of Meeting;

**Share** means a fully paid ordinary share in the capital of the Company;

**Shareholders** means the holders of Shares in the Company as recorded in the register at 7.00 pm (Sydney time) on Friday, 17 May 2019;

**Share Registry** means NextRegistries of Level 16, 1 Market Street, Sydney, NSW, 2000;

**Special Circumstances** means in relation to the Option Holder:



- (a) His Total and Permanent Disablement.
- (b) His death.
- (c) Such other circumstances as the Board may at any time determine (whether before or after the date of grant of the Options).

**Total and Permanent Disablement** means that the Option Holder has, in the reasonable opinion of the Board, become permanently incapacitated to such an extent as to render the Holder unlikely to engage in the Option Holder's usual occupation again.

**Undirected Proxy Form** means a proxy form which does not specify how the proxy is to vote; and

**USFDA** means the U.S. Food and Drug Administration.

## 10. SHAREHOLDER ENQUIRIES

Shareholders with questions regarding this Notice of Meeting and Explanatory Statement should contact the Company Secretary, James McBrayer, on +61 2 9541 0411 during normal office hours. He will attempt to answer your questions or refer you to someone who can do so, but no person is authorised by the Company to give any information, or make any representation, in connection with the Notice or Explanatory Statement not contained in them.

## Appendix 1 (Resolution 7) - Terms and Conditions of Options

The Options entitle the Option Holder to subscribe for Shares on the following terms:

### Entitlement

- (a) Subject to and conditional upon the Exercise Conditions being met and subject to these terms and conditions, each Option gives the Option Holder the right to subscribe for one fully paid ordinary Share before the Expiry Date.

### Exercise Price

- (b) The Exercise Price of each Option is \$Nil per Share (**Exercise Price**).

### Expiry Date

- (c) The Options will expire at 5.00pm (Sydney time) on 31 July 2025 (**Expiry Date**). Any Option not exercised before the Expiry Date will automatically lapse on the Expiry Date.

### Exercise Conditions

- (d) The Option Holder is not entitled to exercise any Option unless each of the following conditions are satisfied at the time of exercise of the Option:
  - (i) The Option has vested.
  - (ii) The Holder is engaged by the Company as an employee or contractor.
  - (iii) The exercise of the Option would not result in a contravention of the Constitution of the Company, ASX's Listing Rules or the Corporations Act 2001.
- (e) Options vest if the Company receives USFDA approval for the distribution of its Technegas products in the USA.

### Lapse of Options

- (f) Subject to clause (g), an Option will lapse on the earliest of:
  - (i) the Expiry Date;
  - (ii) a determination of the Board that the Option Holder has, in the Board's opinion:
    1. been dismissed or removed from office for a reason which entitles the Company to dismiss the Option Holder without notice or has committed any act of fraud, defalcation or gross misconduct in relation to the affairs of the Company (whether or not charged with an offence); or
    2. done any act which brings the Company into disrepute;
  - (iii) the date on which the Option Holder ceases to be employed by any member of the Company (other than due to the occurrence of a Special Circumstance); and
  - (iv) the receipt by the Company of notice from the Option Holder that the Option Holder has elected to surrender the Option.
- (g) Clause (f) is subject to the Board, in its discretion, allowing the Option Holder to exercise all or any of his Options, whether or not the Exercise Conditions have been satisfied, and whether or not the Options would otherwise have lapsed, provided that no Options will be capable of exercise later than the Expiry Date.

- (h) On an Option lapsing, the Option is cancelled and all rights of the Holder in respect of the Option cease and no consideration or compensation will be payable for or in relation to that lapse.

#### **Manner of exercise of Options**

- (i) The Options held by each Option Holder may be exercised in whole or in part, and if exercised in part, multiples of 1,000 must be exercised on each occasion. Where less than 1,000 Options are held, all Options must be exercised together.
- (j) An Option Holder may exercise their Options by lodging with the Company, before the Expiry Date a written notice of exercise of Options specifying the number of Options being exercised (**Exercise Notice**).

#### **Timing and issue of Shares**

- (k) Within 10 business days of receipt of the Exercise Notice, the Company will issue and allot the number of Shares required under these terms and conditions in respect of the number of Options specified in the Exercise Notice.

#### **Options are personal to the Option Holder**

- (l) Options are personal to the Option Holder and, unless the Board resolves otherwise or permitted by these terms and conditions, may not be transferred or exercised by any other person or body corporate except that they may be transferred by transmission to the Option Holder's legal personal representative in the same way as Shares are capable of being transferred by transmission and the Option Holder's legal personal representative may exercise the Options.

#### **Ranking of Shares and quotation**

- (m) All Shares allotted upon the exercise of Options will upon allotment rank pari passu in all respects with other Shares.
- (n) The Options are unlisted however the Company reserves the right to seek quotation of the Options.

#### **Participation in new issues**

- (o) The Option Holder may participate in new issues of securities to holders of Shares only if and to the extent that:
  - (i) an Option has been exercised; and
  - (ii) a Share has been issued in respect of the exercise before the record date for determining entitlements to the new issue.

### Adjustment for rights issue

- (p) If the Company makes an issue of shares pro rata to existing shareholders (other than an issue in lieu of in satisfaction of dividends or by way of dividend reinvestment) the exercise price of an Option will be reduced according to the following formula:

$$\text{New exercise price} = \frac{O - E[P-(S+D)]}{N + 1}$$

Where

O	the old exercise price of the Option.
E	the number of underlying shares into which one Option is exercisable.
P	the average market price per of Share (weighted by reference to volume) of the underlying Shares during the 5 trading days ending on the day before the ex rights date or ex entitlements date.
S	the subscription price of a share under the pro rata issue.
D	the dividend due but not yet paid on the existing underlying shares (except those to be issued under the pro rata issue).
N	the number of shares with rights or entitlements that must be held to receive a right to one new share.

### Takeovers

- (q) If a takeover bid or other offer is made to acquire some or all of the issued Shares of the Company, the Board must give written notice to the Holder of the takeover bid (**Takeover Notice**) specifying a period of no less than 5 Business Days during which Options may be exercised.
- (r) If clause (q) applies, the Option Holder will be entitled:
- (i) in the period referred to in the Takeover Notice, to exercise all or any of his Options (even if they have not vested); and
  - (ii) to receive from the offeror the consideration payable on acceptance of the takeover bid or offer.

### Reconstructions

- (s) If there is any reconstruction of the issued share capital of the Company, the number of Shares to which the Holder is entitled, and/or the Exercise Price, must be reconstructed in a manner which will not result in any benefits being conferred on the Option Holder which are not conferred on shareholders (subject to the provisions with respect to rounding of entitlements as sanctioned by the meeting of shareholders approving the reconstruction of capital), but in all other respects, the terms for the exercise of an Option will remain unchanged.
- (t) Other than pursuant to clause (u), an Option does not confer the right to a change in exercise price or a change in the number of underlying securities over which the Option can be exercised.

- (u) In the event the Company proceeds with a bonus issue of securities to Shareholders after the date of issue of the Options, the number of securities over which an Option is exercisable may be increased by the number of securities which the Option Holder would have received if the Option had been exercised before the record date for the bonus issue

# Cyclopharm Limited

ABN 74 116 931 250

## PROXY FORM

**TO: The Company Secretary  
Cyclopharm Limited (Company)  
Unit 4, 1 The Crescent, Kingsgrove, NSW 2208**  
**FAX: (+612 9543 0960)**  
**EMAIL: corporate@cyclopharm.com.au**

Appointment of Proxy  
I/We, \_\_\_\_\_ [Name of member(s)]

of \_\_\_\_\_ [Address]

being a member(s) of the Company and entitled to attend and vote appoint as my/our proxy

\_\_\_\_\_ [Name of Proxy]

of \_\_\_\_\_ [Address of Proxy]

or, failing the individual or body corporate named, or if left blank, the Chairman of the Annual General Meeting of the Company to be held on **Tuesday, 21 May 2019 at 11.30 am** (Sydney time) at the Boardroom of Cyclopharm Limited, Unit 4, 1 The Crescent, Kingsgrove, NSW 2208, Australia to act generally at the meeting on my/our behalf and to vote for me/us at that meeting and at any adjournment of it.

**Appointing a Second Proxy** - If you wish to appoint two proxies, see overleaf, item 4.

**Voting** directions to your proxy – please mark  to indicate your directions

### Chairman's voting intentions

By appointing the Chairman of the Meeting as your proxy, you expressly authorise the Chairman to vote in favour of Resolutions 1, 7, 8 and 9 (except where you have indicated a different voting intention below), even though the Resolutions are connected directly or indirectly with the remuneration of Key Management Personnel.

The Chairman of the Meeting intends to vote all available undirected proxies in favour of each resolution.

**If you appoint the Chairman as your proxy and you do not wish the Chairman to vote in favour of Resolutions 1, 7, 8 and/or 9, or any other Resolution, you may direct the Chairman to vote against that Resolution or abstain from voting on that Resolution by marking the appropriate box opposite that item below.**

No.	Resolutions	For	Against	Abstain
1	Adoption of the Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Re-election of Non-Executive Director (Mr T A McDonald)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Removal of Nexia Sydney Audit & Assurance as Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Appointment of Nexia Sydney Audit Pty Ltd as Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Approval for Share Buy-back	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Issue of shares to the Managing Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	Issue of options to the Managing Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	Increase in the Maximum Aggregate Annual Remuneration of Non-Executive Directors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Authorised signature/s

This section **must** be signed in accordance with the instructions below to enable your directions to be implemented.

Individual or Securityholder 1

Individual/Sole Director and  
Sole Company Secretary

.....  
Contact Name

Securityholder 2

Director

.....  
Contact Daytime Telephone

Securityholder 3

Director/Company Secretary

...../...../.....  
Date

### How to complete this Proxy Form

#### 1 Your Name and Address

The Annual Report and Notice of Meeting documents have been sent to your name and address as it appears on the share register of Cyclopharm Limited. If this information is incorrect, please advise the Company of your new details. Shareholders sponsored by a broker should advise their broker of any changes. **Please note you cannot change ownership of your Shares using this form.**

#### 2 Appointment of a Proxy

If the person you wish to appoint as your proxy is someone other than the Chairman of the Meeting please write the name of that person. If you leave this section blank, or your named proxy does not attend the meeting, the Chairman of the Meeting will be your proxy and vote on your behalf. A proxy need not be a Shareholder of Cyclopharm Limited.

#### 3 Votes on items of Business

You may direct your proxy how to vote by placing a mark in one of the three boxes opposite each item of business. All your shares will be voted in accordance with such a direction unless you indicate only a portion of voting rights are to be voted on any item by inserting the percentage or number of shares you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on a given resolution, your proxy will vote as they choose. If you mark more than one box on a resolution your vote on that resolution will be invalid.

#### 4 Appointment of a Second Proxy

If you wish to appoint a second proxy, an additional Proxy Form may be obtained by telephoning the Company on (+612 9541 0411) or you may copy this form.

To appoint a second proxy you must:

- (a) on each of the first Proxy Form and the second Proxy Form state the percentage of your voting rights or number of shares applicable to that form. If two Proxy Forms are received but no percentage or number of votes is indicated, each proxy may exercise half your votes. Fractions of votes will be disregarded; and
- (b) return both forms together in the facsimile transmission or in the same envelope.

#### 5 Authorised Signature(s)

You must sign this form as follows in the spaces provided:

Joint Holding : where the holding is in more than one name all of the holders must sign.

Power of Attorney : to sign under a power of attorney, you must have already lodged the power of attorney with the share registry. If you have not previously lodged this document for notation, please attach a certified photocopy of the power of attorney to this form when you return it.

Companies : a Director can sign jointly with another Director or a Company Secretary. A sole Director who is also a sole Company Secretary (or where there is no Company Secretary) can also sign. Please indicate the office held by signing in the appropriate space.

If a representative of corporate shareholder or proxy is to attend the meeting the appropriate "Certificate of Appointment of Corporate Representative" should be produced prior to admission. A form of the certificate may be obtained from the Company or share registry.

#### 6 Lodgement of Proxy

To be valid the form appointing the proxy and the power of attorney or other authority (if any) under which it is signed (or an attested copy of it) must be lodged with the Company by:

- (a) posting to the registered office at Unit 4, 1 The Crescent, Kingsgrove, NSW 2208, Australia;
- (b) faxing it to fax number (+612) 9543 0960, or
- (c) emailing to [corporate@cyclopharm.com.au](mailto:corporate@cyclopharm.com.au)

not later than **11.30am** (Sydney time) on **Sunday, 19 May 2019**, being 48 hours before the holding of the Meeting.

**Documents may be lodged by posting, delivery, facsimile or emailing to Cyclopharm Limited at the address opposite:**

**Unit 4, 1 The Crescent, Kingsgrove, NSW 2208, Australia**  
**Facsimile: (+612) 9543 0960**  
**Email: [corporate@cyclopharm.com.au](mailto:corporate@cyclopharm.com.au)**