

**BIODIEM LTD.  
ABN 20 096 845 993**

**NOTICE OF 2009 ANNUAL GENERAL MEETING**

Notice is given that the 2009 Annual General Meeting of the shareholders of BioDiem Ltd. ("the Company") will be held at the Trade Room, InterContinental Melbourne The Rialto, 495 Collins Street, Melbourne, Victoria, 3000, on Thursday 24<sup>th</sup> day of September 2009 at 3:00pm.

**AGENDA**

**2009 ANNUAL FINANCIAL STATEMENTS**

To lay before the Meeting the 2009 Annual Financial Statements of the Company comprising the Annual Financial Report, the Directors' Report and the Auditor's Report.

**Resolution 1: NON-BINDING RESOLUTION – REMUNERATION REPORT**

To consider and, if thought fit, to pass the following resolution as a non-binding resolution:

"That the Company adopt the Remuneration Report for the year ended 30 June 2009."

**PROPOSED RESOLUTIONS – ORDINARY BUSINESS**

To consider and if thought fit, to pass the following resolutions as ordinary resolutions:

**Resolution 2: RE-ELECTION OF DIRECTOR – HUGH MATHESON MORGAN**

"That Mr. Hugh M. Morgan, a Director who retires by rotation and is eligible for re-election, be re-elected as a Director of the Company".

**Resolution 3: RE-ELECTION OF DIRECTOR – LARISA GEORGIEVNA RUDENKO**

"That Dr. Larisa G. Rudenko, a Director who retires by rotation and is eligible for re-election, be re-elected as a Director of the Company."

**Resolution 4: ADOPTION OF EMPLOYEES' AND OFFICERS' INCENTIVE OPTION SCHEME (2009)**

"THAT for the purpose of ASX Listing Rule 7.2 exception 9, and all other purposes, the Company approve the adoption of the Employees' and Officers' Option Scheme (2009) ("the New Scheme") on the terms described in the Explanatory Notes which accompanied and formed part of the Notice of Meeting. By obtaining approval under ASX Listing Rule 7.2 exception 9 the Company may issue options under the New Scheme without the need to obtain approval pursuant to ASX Listing Rule 7.1 for a period of 3 years (subject to the provisions of the ASX Listing Rules)."

**Resolution 5: ADOPTION OF DIRECTORS' SHARE PLAN (2009)**

"THAT for the purpose of ASX Listing Rule 7.2 exception 9, and all other purposes, the Company approve the adoption of the Directors' Share Plan (2009) ("the Plan") on the terms described in the Explanatory Notes which accompanied and formed part of the Notice of Meeting. By obtaining approval under ASX Listing Rule 7.2 exception 9 the Company may issue shares under the Plan without the need to obtain approval pursuant to ASX Listing Rule 7.1 for a period of 3 years (subject to the provisions of the ASX Listing Rules)."

## **Resolution 6: ISSUE OF SHARES TO DIRECTORS' UNDER DIRECTORS' SHARE PLAN (2009)**

"THAT subject to resolution 13 being passed, for the purposes of ASX Listing Rules 7.1 and 10.14, and all other purposes, the Company approves the issue of shares to Hugh M. Morgan, Larisa G Rudenko, Donald S Brooks, and John Brown (or their respective nominees) in accordance with the Directors' Share Plan 2009 ("the Plan) in the manner described in the Explanatory Notes which accompanied and formed part of this Notice of Meeting."

Dated: 24 August 2009

By the order of the Board



**Richard Wadley**  
**Secretary**

The accompanying Proxy Instructions and Explanatory Notes form part of this Notice of Meeting.

### **VOTING EXCLUSION STATEMENT**

The Company will disregard any votes cast on **Resolutions 4 to 6** (inclusive) by:

- a) a Director of the Company; or
- b) any associate of those persons.

However, the Company need not disregard a vote on Resolutions 4 to 6 if:

- It is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- 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.

### **PROXY INSTRUCTIONS**

#### **Voting entitlements**

The Board has determined, in accordance with the Company's Constitution and the Corporations Act 2001, that a shareholder's voting entitlement at the meeting will be taken to be the entitlement of that person shown in the register of members as at 7:00pm on Tuesday, 22<sup>nd</sup> September 2009.

#### **Proxy Instructions**

A shareholder has a right to appoint a proxy, who need not be a shareholder of the Company. If a shareholder is entitled to cast two or more votes they may appoint two proxies and specify the percentage of votes each proxy is entitled to exercise. The Proxy Form must be deposited at the share registry of the Company, Computershare Investor Services Pty. Ltd. located at Yarra Falls, 452 Johnson Street, Abbotsford, Victoria 3067 or posted using the Reply Paid envelope to GPO Box 242, Melbourne, Victoria 3001, or by facsimile to Computershare on 1800 783 447 (within Australia) or (03) 9473 2555 (outside Australia), to arrive not less than 48 hours before the time for holding the Meeting, or adjourned meeting as the case may be, at which the individual named in the proxy form proposed to vote.

## **EXPLANATORY NOTES**

### **2009 Annual Financial Statements**

At their election, the 2009 Annual Report of the Company has been made available to all shareholders on-line or by post. Shareholders attending the Annual General Meeting will have the opportunity to put questions to the Board and the Auditor on matters contained in that Annual Report.

#### **Resolution 1: Non-binding Resolution – Remuneration Report**

Under the Corporations Act, the Company is required to propose a non-binding resolution regarding the Remuneration Report which forms part of the Directors' Report and Financial Statements within the 2009 Annual Report.

Shareholders attending the Annual General Meeting will have the opportunity to discuss and put questions in respect of the Remuneration Report, and to vote on a non-binding resolution to adopt the Remuneration Report.

#### **Resolutions 2 and 3: Re-election of Directors Retiring by Rotation**

Pursuant to the Constitution of the Company, two Directors are required to retire by rotation at each Annual General Meeting. Mr. Hugh M. Morgan and Dr. Larisa G. Rudenko who retire by rotation in accordance with this requirement, are eligible for re-election and have offered themselves for re-election.

#### **Resolution 4: Adoption of Employees' and Officers' Incentive Option Scheme (2009)**

All options available for issue under the Employees' and Officers' Incentive Option Scheme adopted by the Board of Directors of BioDiem on 27<sup>th</sup> July 2006 ("the Existing Scheme") will have been issued. Accordingly, the Company seeks shareholder authority to enter into a new scheme on substantially the same terms as the Existing Scheme. The terms of the Employees' and Officers' Incentive Option Scheme (2009) ("the New Scheme") are summarised below.

##### ***Purpose***

The New Scheme is on terms similar to the Existing Scheme. Its purpose is to enable the Company to provide Directors, employees and consultants with an additional incentive to improve the performance of the Company, to attract and retain Eligible Persons essential for the continued growth and development of the Company, to promote and foster loyalty and support amongst Eligible Persons for the benefit of the Company, and to enhance the relationship between the Company and Eligible Persons for the long term mutual benefit of all parties.

##### ***Total Number of Options available under the New Scheme***

The total number of options which may be issued under the New Scheme must not exceed 5% of the issued capital of the Company as at the date of approval of the New Scheme by the Company.

##### ***Eligibility and Entitlement***

Subject to the provisions of the ASX Listing Rules, options may be issued to Eligible Persons, being Directors, employees and consultants or their approved nominees.

The Board with the advice of the Remuneration Committee shall determine the number of options (if any) to be allocated to an Eligible Person under the New Scheme. If the Board determines that options are to be allocated to an Eligible Person, that Eligible Person shall be invited to apply in his or her name or in the name of his or her nominee (provided such nominee is approved by the Board) for all or part of the options allocated to that person. The Company shall issue the agreed number of options following receipt of the application.

### ***Terms of options issued under the New Scheme***

- Unless otherwise determined, no amount is payable for the grant of the options.
- Each option shall carry the right in favour of an option holder to subscribe for one fully paid ordinary share in the capital of the Company.
- Options cannot be exercised within 12 months from date of issue.
- Each option expires at 4:00pm (Melbourne time) on the expiry date specified in the terms of issue of that option which must not be greater than five (5) years after the date of issue.
- The exercise price of each option shall be as specified in the terms of issue of that option. The exercise price shall be payable in full on exercise of the option by the holder.
- Options issued under the New Scheme shall not be listed for official quotation on the ASX or other stock exchange.
- Options shall be exercisable by the delivery to the registered office of the Company of a notice in writing stating the intention of the option holder to exercise all or a specified number of options, accompanied by the relevant option certificate and a cheque made payable to the Company for the exercise price of all the options exercised.
- An exercise of only some options shall not affect the rights of the option holder under the balance of the options held by him or her.
- The Company shall issue the resultant share and deliver notification of share holdings within five business days of the exercise of an option or such longer time as may be permitted under the ASX Listing Rules and the Company's Constitution.
- Shares issued pursuant to the exercise of options shall rank equally with existing shares of the Company in all respects from the date of issue of the share.
- If at the relevant time the Company is admitted to the Official List of ASX or of another stock exchange, the Company shall, in accordance with the Listing Rules, apply for Official Quotation by ASX or the other stock exchange of all shares issued upon exercise of options, subject to any applicable restriction obligations.
- Holders of options which have vested will be permitted to participate in any new pro-rata issue of securities of the Company subject to the prior exercise of the options and any restriction obligations. The Company will ensure that option holders will be allowed at least seven business days notice to allow for the conversion of options prior to the record date in relation to any offer of securities made to shareholders.
- In the event of any reconstruction (including consolidation, sub-division, reduction or return) of the issued capital of the Company prior to the applicable expiry date, the number of options or the exercise price of the options or both the options will be reconstructed in accordance with the Listing Rules applying at the time of the reconstruction.
- The options will not give any right to participate in dividends until shares are issued pursuant to the exercise of the relevant options.
- Options issued under the New Scheme do not confer upon the holder a right to receive notices of general meetings (except as may be required by law), or a right to attend, speak at or vote at general meetings of the company.
- Subject to the ASX Listing Rules, any options that have been issued pursuant to the New Scheme but which have not vested will vest if the Company is subject to a successful takeover that results in a person acquiring a relevant interest in more than 90% of the voting shares of the Company. The provisions of Chapter 6 of the Corporations Act (Takeovers) are to be applied in determining the extent of a person's relevant interest.

### ***Exercise Price***

Subject to the ASX Listing Rules, the exercise price of options issued under the New Scheme shall be an amount determined by the Board with the advice of the Remuneration Committee at the time of offering the options. If the Company is admitted to the Official List of ASX at the time of issuing invitations to apply for options under the New Scheme, the exercise price shall be not less than the average closing trading price of the Company's ordinary listed shares on the 28 business days prior to issuing the invitations.

### ***Amendment of the New Scheme***

The New Scheme may only be amended in accordance with the ASX Listing Rules, with the prior approval by resolution of the shareholders of the Company in general meeting.

### ***Rights of Employees***

The New Scheme shall not form part of any contract of employment between the Company and any of its employees and shall not confer directly or indirectly on any employee any legal or equitable rights.

### ***Lapse of Options***

Options issued cannot be exercised after the earlier of the expiry date or the date one month after the date the holder ceases to be an Eligible Person, or in certain other specified instances. The options lapse either immediately upon termination or after a period of time.

### ***Transferability***

Options are personal to the Eligible Person and are not transferable or assignable other than in accordance with the New Scheme. Options may be transferred or assigned with the prior written consent of the Board upon the Eligible Person's death, in accordance with a direction of the Board upon incapacity of the Eligible Person, or to a spouse or associated trust or company, provided the recipient executes a covenant with the Company agreeing to be bound by the terms of the New Scheme.

### ***Subject to ASX Listing Rules***

The New Scheme is to be interpreted and applied in accordance with the ASX Listing Rules.

As the New Scheme is new, no options have been issued under it.

All of the Directors of the Company are entitled to participate in and receive options under the New Scheme. Options previously received by Directors since the Existing Scheme's adoption was approved in 2006 are set out below. No amounts were paid for their issue:

<u>Director/Nominee</u>	<u>Options</u>
Hugh Morgan	68,288
Larisa Rudenko	68,288
Donald Brooks	68,288
John Brown	68,288

Resolution 4 is proposed to obtain approval for the issue of options under the New Scheme under ASX Listing Rule 7.2 exception 9.

Under ASX Listing Rule 7.1 an entity must not issue, or agree to issue, more than fifteen percent (15%) of its capital without the approval of its members. By obtaining approval under ASX Listing Rule 7.2 exception 9 options may be issued under the New Scheme, without the need to obtain approval pursuant to ASX Listing Rule 7.1, for a period of 3 years (subject to the provisions of the ASX Listing Rules). By obtaining Shareholder approval for the issue of options under the New Scheme pursuant to Resolution 12, the Company retains the ability to issue up to fifteen per cent (15%) of its capital to take advantage of any capital raising opportunities.

## **Resolution 5: Directors' Share Plan**

The Company seeks shareholder authority to enter into a Directors' Share Plan to be known as the Directors' Share Plan (2009) ("the Plan"). By obtaining approval under ASX Listing Rule 10.14 the Company may issue shares under the Plan, without the need to obtain approval pursuant to ASX Listing Rule 7.1, for a period of 3 years (subject to the provisions of the ASX Listing Rules). The terms of the Plan are summarised below.

### **Purpose**

The purpose of the Plan is to enable Eligible Persons to acquire shares in the capital of the Company by agreeing to sacrifice a proportion of their Director's fees.

### **Total Number of Shares Available under the Plan**

The total number of shares which may be issued under this Plan is 3,824,145.

### **Eligibility and Entitlement**

Subject to the provisions of the ASX Listing Rules, shares may be issued to Eligible Persons, being Directors, or their approved nominees.

The Board, with the advice of the Remuneration Committee, shall determine the level of each Director's participation under the Plan and will invite each Eligible Person to participate in the Plan within each of the following time periods:

- the first invitation will be issued within two (2) days of the Plan's commencement; and
- the second invitation will be issued within two (2) days of the Company publishing its 2010 Preliminary Final Report; and
- the third invitation will be issued within two (2) days of the Company publishing its 2011 Preliminary Final Report.

Eligible Persons must accept or decline invitations received from the Company to participate within 3 business days of receipt and must, at that time, confirm the amount of Director's fees that the Company shall withhold and apply to the acquisition of shares pursuant to the Plan. Shares will be issued quarterly on a pro-rata basis (with issues to be made within 14 days of the end of each quarter).

### **Issue Price**

The Shares issued under the Plan in response to each invitation will have a deemed issue price equal to the average closing trading price of the Company's ordinary listed shares on the 28 business days following the last date for acceptance of each invitation.

### **Shares issued pursuant to the Plan**

- Shares issued pursuant to the Plan shall be ordinary shares in the capital of the Company. If at the relevant time the Company is admitted to the Official List of ASX or of another stock exchange, the Company shall, in accordance with the Listing Rules, apply for Official Quotation by ASX or the other stock exchange of all shares issued pursuant to the Plan, subject to any applicable restriction obligations;
- Shares issued pursuant to the Plan shall rank equally with existing shares of the Company in all respects from the date of issue of the shares and, on receipt of the shares, the Eligible Person will have all rights incidental to owning such shares including, but not limited to, the right to vote at general meetings of the Company and to receive dividends but the shares shall be subject to disposal restrictions;
- No shares will be issued to an Eligible Person pursuant to the Plan until members of the Company approve the Eligible Person's right to participate in the Plan in accordance with the Listing Rules.

### **Restriction on Participation**

The Company will not allow a Participant to acquire additional shares under the Plan where, by obtaining such shares, the Participant would be making a prohibited acquisition in breach of Chapter 6 of the Corporations Act 2001 (Takeovers).

### ***Amendment of the Plan***

The Plan may only be amended in accordance with the ASX Listing Rules, with the prior approval by resolution of the shareholders of the Company in general meeting.

### ***Rights of Employees***

The Plan shall not form part of any contract of employment between the Company and any of its employees and shall not confer directly or indirectly on any employee any legal or equitable rights.

### ***Assignability***

No Eligible Person may assign their rights under the Plan.

### ***Subject to ASX Listing Rules***

The Plan is to be interpreted and applied in accordance with the ASX Listing Rules.

As the Plan is a new plan, no shares have been issued under it.

Resolution 5 is proposed to obtain approval for the issue of shares under the Plan under ASX Listing Rule 7.2 exception 9.

Under ASX Listing Rule 7.1 an entity must not issue, or agree to issue, more than fifteen percent (15%) of its capital without the approval of its members. By obtaining approval under ASX Listing Rule 7.2 exception 9 shares may be issued under the Plan without the need to obtain approval pursuant to ASX Listing Rule 7.1 for a period of 3 years (subject to the provisions of the ASX Listing Rules). By obtaining shareholder approval for the issue of shares under the Plan pursuant to Resolution 13, the Company retains the ability to issue up to fifteen per cent (15%) of its capital to take advantage of any capital raising opportunities.

### **Resolution 6: Issue of Shares to Directors under Directors' Share Plan (2009)**

ASX Listing Rule 10.14 provides that a company may not issue shares to a Director or proposed Director under an employee incentive scheme without the approval of holders of ordinary shares.

Resolution 6 has been proposed to obtain approval for the allotment of shares under the Directors' Share Plan (2009) ("the Plan") that is to be adopted by the Company subject to Resolution 5 being passed. Approval is being sought for all of the Company's current Directors to participate in the Plan.

The shares the subject of Resolution 6 are included in the shares which are the subject of Resolution 5, and are not a separate or additional issue of shares. A summary of the conditions upon which the shares will be issued is set out in the commentary on Resolution 5 (see above).

The maximum number of shares that may be acquired by all Eligible Persons under the Plan is 3,824,145 shares. All shares that are to be issued subject to this Resolution will be issued within three (3) years of the date of the Meeting. No loans are proposed to be made by the Company in relation to the acquisition of shares under the Plan.

The Shares issued under the Plan in response to each invitation made to Directors will have a deemed issue price equal to the average closing trading price of the Company's ordinary listed shares on the 28 business days following the last date for acceptance of each invitation. The procedure for issuing invitations to Directors is described in the commentary on Resolution 5 (see above).

No shares have previously been issued pursuant to the Plan.

The number of shares received by Directors of the Company under the current plan in lieu of their Directors' fees are set out below:

<u>Director/Nominee</u>	<u>y/e 30/6/08</u>	<u>y/e 30/6/09</u>
<u>Shares</u>		<u>Shares</u>
Hugh Morgan Directors' fees \$70,000	101,448	
John Brown Directors' fees \$50,000	197,464	333,332
Totals:	<u>298,912</u>	<u>333,332</u>
Total (both years):	<u>632,244 shares</u>	

Details of any securities issued under the Plan will be published in each Annual Report of the Company relating to the period in which securities have been issued and, where appropriate, a confirmation that approval for the issue of securities was obtained under ASX Listing Rule 10.14 will be provided.

Any additional Directors who become entitled to participate in the Plan after Resolution 6 is approved, and who are not named as being entitled to participate, will not participate until approval is obtained under ASX Listing Rule 10.14.