



## **ADVANCED SURGICAL DESIGN & MANUFACTURE LIMITED**

ABN 71 066 281 132

### ***NOTICE OF ANNUAL GENERAL MEETING***

Notice is hereby given that the 2010 Annual General Meeting of Shareholders of Advanced Surgical Design & Manufacture Limited (“the Company”) will be held at 2/12 Frederick Street, St Leonards, NSW, 2065 on Friday, 5 November 2010 at 11.00am.

### **BUSINESS**

#### **1. Financial and Other Reports**

To receive and consider the Financial Report of the Company and the Reports of the Directors and the Auditor in respect of the year ended 30 June 2010.

#### **2. Adoption of Remuneration Report**

To consider and, if thought fit, to pass the following as an ordinary resolution of the Company:

“That, the Company’s Remuneration Report for the financial year ended 30 June 2010 (set out in the Directors’ Report) be adopted.”

*Note: The vote on this resolution is advisory only and the outcome will not be binding on the Directors or the Company.*

#### **3. Election of John O’Meara as a Director**

To consider and, if thought fit, to pass the following as an ordinary resolution of the Company:

“That Mr John O’Meara, a Director who was appointed since the last Annual General Meeting, retires in accordance with the Company’s constitution and, being eligible, offers himself for election, be elected as a Director of the Company.”

#### **4. Election of Michael Spooner as a Director**

To consider and, if thought fit, to pass the following as an ordinary resolution of the Company:

“That Mr Michael Spooner, a Director who was appointed since the last Annual General Meeting, retires in accordance with the Company’s constitution and, being eligible, offers himself for election, be elected as a Director of the Company.”

## **5. Increase in Limit of Directors' Fees**

To consider and if thought fit, to pass the following resolution as an ordinary resolution of the Company:

“That, for the purposes of Listing Rule 10.17 and Rule 6.3(a) of the constitution of the Company, the maximum aggregate remuneration to be paid to Directors be increased by \$250,000 from \$250,000 to \$500,000 per annum.”

## **6. Amendment to Constitution to reflect new dividend payment laws**

To consider and, if thought fit, to pass the following resolution as a special resolution of the Company:

“That the constitution of Advanced Surgical Design & Manufacture Limited be amended as follows:

(a) by deleting Rule 8.3 and replacing it with the following new Rule 8.3:

### **8.3 Reserves**

- (a) The Directors may, before declaring any dividend or at any other time, set aside such sums as they think proper as reserves which, at the discretion of the Directors, may be applied for any purpose for which such sums may be properly applied.
- (b) Pending any such application, any sum set aside as a reserve may, at the discretion of the Directors, either be employed in the business of the Company or be invested in such investments as the Directors may from time to time think fit.
- (c) The Directors may carry forward so much of the profits that are not included in the sums set aside under Rule 8.3(a) without transferring those profits to a reserve.

(b) by replacing the word “profits” with the words “financial position” in Rule 8.1(a); and

(c) by replacing the words “payment out of the profits of the Company” with the words “payment as permitted by the Act” in Rule 2.2(b).”

By Order of the Board  
Richard Ulrick  
Company Secretary  
Sydney, 1 October 2010

## **PROXIES AND VOTING**

### **Proxies**

A Proxy Form accompanies this Notice of Annual General Meeting. A member who is entitled to attend and vote at the meeting is entitled to appoint no more than two proxies (who need not be members of the Company) to attend and vote in their place.

A single proxy exercises all voting rights. Where a member wishes to appoint two proxies, an additional proxy form may be obtained by contacting the Company, or the member may copy the enclosed proxy form. A member appointing two proxies may specify the proportion or number of votes each proxy is appointed to exercise. If a member appoints two proxies and does not specify each proxy's voting rights, the rights are deemed to be 50% each. Fractions of votes are to be disregarded. A member or proxy that is a corporation and entitled to vote may appoint an individual to act as its representative. Evidence of the appointment of a representative must be in accordance with the Corporations Act 2001 (Cth) and lodged with the Company before the meeting or at the registration desk on the day of the meeting.

If any instrument (including an Appointment of Corporate Representative or Proxy Form) returned to the Company is completed by an individual or a corporation under Power of Attorney, the Power of Attorney under which the instrument is signed, or a certified copy of that Power of Attorney, must accompany the instrument unless the Power of Attorney has previously been noted by the Company.

To be valid, Proxy Forms must be lodged by:

- (a) posting or facsimile to the Company's share registry as follows: Advanced Surgical Design & Manufacture Limited C/- Link Market Services Limited Locked Bag A14 Sydney South NSW 1235 Facsimile: (02) 9287 0309; or
- (b) delivering it to Link Market Services Limited Level 12, 680 George Street, Sydney NSW 2000;

by no later than 11am (AEDT) on Wednesday 3 November 2010.

### **Corporate Representatives**

Corporate shareholders who wish to appoint a representative to attend the meeting on their behalf must provide that person with a properly executed letter or other document confirming that they are authorised to act as the company's representative.

## **Eligibility to Vote**

For the purpose of voting at the meeting, the Directors have determined that all shares of the Company are taken to be held by the persons who are registered as holding them at 7.00 pm (AEDT) on Wednesday 3 November 2010. The entitlement of members to vote at the meeting will be determined by reference to that time.

## **Voting Exclusions**

### **Item 5**

In accordance with the ASX Listing Rules, any vote cast on the resolution the subject of Item 5 by the Directors and their associates (collectively “Excluded Persons”) will be disregarded. However, the Company need not disregard a vote if it is cast by:

- one of the Excluded Persons, as a proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- 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.

## **Questions**

In addition to asking questions at the meeting, written questions to the Chairman about the management of the Company, or to the Company’s auditor about the content of the auditor’s report and the conduct of the audit, may be submitted no later than Friday, 29 October 2010 to the Company’s Share Registry, Link Market Services Limited, the contact details being set out above.

## **EXPLANATORY NOTES**

The purpose of these Explanatory Notes is to provide shareholders of the Company with information that is reasonably required by shareholders to decide how to vote upon the resolutions. The Directors recommend that shareholders read this Explanatory Statement before determining whether to support the resolutions.

### **Item 1- Financial and Other Reports**

The Company's Annual Report which contains the Financial and other Reports in respect of the year ended 30 June 2010 has been made available to shareholders.

No resolution is required for this item. Following consideration of the Reports, the Chairman will give shareholders a reasonable opportunity to ask questions about or comment on the management of the Company and to ask the Company's auditor questions about its audit report, the conduct of the audit of the Company's financial report for the year ended 30 June 2010, the preparation and content of its audit report, the accounting policies adopted by the Company in its preparation of the financial statements and the independence of the auditor in relation to the conduct of the audit.

### **Item 2 – Remuneration Report**

The Remuneration Report of the Company for the financial year ended 30 June 2010 is set out on pages 12 to 17 of the Company's Annual Report.

The Remuneration Report sets out the Company's remuneration arrangements for directors and senior executives.

The Chairman of the meeting will allow a reasonable opportunity for shareholders to ask questions about or make comments on the Remuneration Report at the meeting. In addition, shareholders will be asked to vote on adoption of the Remuneration Report. However, this vote is of an advisory nature only and does not bind the Company nor its Directors.

The directors unanimously recommend shareholders vote in favour of the resolution the subject of Item 2.

### **Item 3- Election of John O'Meara as a Director**

Under the Company's constitution a Director who was appointed since the last Annual General Meeting is required to retire as a Director but is eligible for election as a Director. Accordingly, both John O'Meara and Michael Spooner are seeking election in accordance with that requirement.

In addition, in accordance with the Company's constitution, Walter Kmet is required to retire as a Director by rotation and he has decided not to seek re-election. Consequently, there will be no election relating to a Director retiring by rotation.

John O'Meara PCM was appointed a Director on 1 March 2010 and is a member of the Nomination and Remuneration Committee and the Audit and Risk Committee.

John is an energetic business leader with over 25 years senior management experience in telecommunications and information technology industries in Australia, Asia Pacific and the United Kingdom. He is a seasoned strategy and project manager with expertise in strategic planning and the execution of large scale, complex and deadline dependent projects. He has held a series of senior leadership roles in Optus Pty Limited and was the Program Director responsible for GST compliance when first introduced in Australia. He was the Chief Operating Officer of XYZed Pty Limited, a start-up company created to establish, operate and wholesale national DSL services for corporate Australia. John was the champion of sustainable quality-of-service working practices when he was with British Telecom in Asia Pacific and he was responsible for gaining ISO9001 Total Quality Management accreditation. He also held senior management roles in Australia with AAPT Limited and Dalgety Farmers Limited. In the United Kingdom he held technical management roles with National Westminster Bank and the British Broadcasting Corporation (BBC).

The Board considers that Mr. O'Meara strengthens its strategic, operational and project related experience that will assist the Company as it seeks to scale up the manufacturing of its product range.

The directors, with Mr O'Meara abstaining, unanimously recommend that shareholders vote in favour of the resolution the subject of Item 3.

#### **Item 4- Election of Michael Spooner as a Director**

Michael Spooner BCom, ACA, MAICD was appointed a Director on 13 September 2010. Michael is a well-known and respected business leader having an extensive network of relationships with investment firms and business communities across the globe and having spent the majority of the past 25 years living and working internationally.

Michael is a non-executive board member of Mesoblast Ltd and Chairman of BiVACOR, a total artificial heart company. He is also a non-executive director of Hawaii Biotech Inc., a specialty developer of vaccines. Most recently, Mr Spooner was a non-executive director of Peplin Inc., a dermatology focused skin cancer company from 2004 until the company was sold in 2009 for over \$300m. He was Executive Chairman of Hunter Immunology Limited, a respiratory medicine company from 2007 to 2008.

Previously, Mr Spooner was the Chairman of Mesoblast Limited from its initial listing in 2004 until 2007 and Managing Director and CEO of Ventracor Limited until 2003. Before his return to Australia, he was a Principal Partner and Director of Consulting Services with PricewaterhouseCoopers (Coopers & Lybrand) Hong Kong for several years.

The Board considers that Mr. Spooner strengthens its strategic and capital markets experience and will assist the Company in the global rollout of its product range.

The directors, with Mr Spooner abstaining, unanimously recommend that shareholders vote in favour of the resolution the subject of Item 4.

#### **Item 5 - Increase in Limit of Directors' Fees**

For the purposes of Rule 6.3(a) of the Company's constitution, shareholder approval is sought to increase the maximum aggregate remuneration which can be paid to Non-Executive Directors for services as a Director of the Company by \$250,000 from \$250,000 to \$500,000 per annum. Additionally, ASX Listing Rule 10.17 provides that a listed company must not, without shareholder approval, increase the total amount of Non-Executive Directors' fees.

The existing limit of \$250,000 per annum was approved by shareholders on 7 July 2006. However since then the Company has listed and the number of Non-Executive Directors has increased to its current four.

Currently, fees (which are inclusive of superannuation guarantee contributions but exclusive of expenses and fees for any extra services performed) for Non-Executive Directors are at a rate of \$140,000 per annum in total.

Accordingly, it is expected that during the course of the year the remuneration for Non-Executive Directors will be reviewed. However, if the proposed resolution is passed, it is not envisaged that the whole of the new maximum aggregate will be used this financial year.

The Board is of the view that the proposed increase in the limit on total annual fees payable to Non-Executive Directors is appropriate having regard to the following:

- the current limit has been in place since 2006;
- there has been a significant increase in the workload and responsibilities assumed by Directors for which they should be properly remunerated;
- the need to ensure that the Company will be in a position to continue to retain and attract appropriately qualified directors; and
- to provide the Board with the strategic flexibility to make additional Board appointments as appropriate

As the Non-Executive Directors have a personal interest in the proposed resolution, the directors make no recommendation as to how shareholders should vote on this resolution.

#### **Item 6 – Amendment to Constitution to reflect new dividend payment laws**

The amendments to the constitution of Advanced Surgical Design & Manufacture Limited set out in Item 6 are being sought as a result of recent changes to the law relating to the payment of dividends by companies. The changes, which were made by the Corporations Amendment (Corporate Reporting Reform) Act 2010, replace the capital maintenance rule that a company could only pay dividends out of profits. Under the changes, a company will be able to pay a dividend if:

- (a) its assets exceed its liabilities immediately before the dividend is declared and the excess is sufficient for the dividend payment;
- (b) the payment of the dividend is fair and reasonable to the company's shareholders as a whole; and
- (c) the payment of the dividend does not materially prejudice the company's ability to pay its creditors.

The proposed amendments to the constitution are intended to enable the Company, when it becomes appropriate, to pay dividends as provided by the changes to the law.

The directors unanimously recommend that shareholders vote in favour of the resolution the subject of Item 6.