



## **NOVABAY PHARMACEUTICALS, INC**

### **CORPORATE GOVERNANCE GUIDELINES**

#### **1. Introduction**

The Nominating and Corporate Governance Committee (the “Committee”) of the Board of Directors (the “Board”) of NovaBay Pharmaceuticals, Inc. (the “Company”) has developed, and the Board has adopted, these Corporate Governance Guidelines (the “Guidelines”) to assist the Board in the exercise of its responsibilities and to serve best the interests of the Company and its shareholders. These Guidelines should be interpreted in the context of applicable laws and the Company’s articles of incorporation, Bylaws and other corporate governance documents. The Guidelines are intended to serve as a flexible framework within which the Board may conduct its business and not as a set of legally binding obligations. The Board may modify the Guidelines from time to time.

#### **2. Board Composition and Director Qualifications**

The Company’s Board of Directors are divided into three classes hereby designated as Class I, Class II and Class III, with the term of office of one class expiring each year. The Board will have at least a majority of directors who meet the criteria for independence required by the American Stock Exchange (the “AMEX”). The Nominating and Corporate Governance Committee is responsible for reviewing with the Board, on an annual basis, the appropriate skills and characteristics of Board members as well as the composition of the Board as a whole. This assessment will include members’ qualification as independent, as well as consideration of age, skills and experience in the context of the needs of the Board. Nominees for the Board will be selected or recommended for selection by the Board and by the Nominating and Corporate Governance Committee in accordance with the policies and principles in its charter.

The number of directors is currently fixed at eight. The size of the Company’s Board, will be reviewed and modified by the Board periodically to ensure that the Board can efficiently discharge its fiduciary duties and regulatory responsibilities.

Individual directors whose primary professional position or responsibility changes (other than through internal promotion) from the position or responsibility they held when they were elected to the Board may volunteer to resign from the Board if such changes would materially interfere with such director’s service on the Board.

Directors are encouraged to limit the number of public company boards on which they serve to six. Directors should advise the Chairman of the Board and the Chairman of the Nominating and

Corporate Governance Committee in advance of accepting an invitation to serve on another public company board. No director may serve on the Audit Committee of more than three other public company boards. No director may be nominated for election to the Board if he or she would be age 80 or older at the time of his or her first election.

### **3. Director Responsibilities**

The basic responsibility of the directors is to exercise their judgment to act in what they reasonably believe to be in the best interests of the Company and its shareholders. In discharging that obligation, directors should be entitled to rely on the honesty and integrity of the Company's senior executives and its outside advisors and auditors. The directors shall also be entitled to have the Company purchase reasonable directors' and officers' liability insurance for their benefit, to the benefits of indemnification to the fullest extent permitted by law and the Company's articles of incorporation, regulations and any indemnification agreements, and to exculpation as provided by state law.

Absent unusual circumstances, directors are expected to attend all Board meetings and all meetings of committees on which they serve. Information that is important to the Board's understanding of the business to be conducted at a Board or committee meeting should generally be distributed in writing to the directors before the meeting, and directors should review these materials in advance of the meeting. It is understood, however, that materials regarding extremely confidential matters may not be delivered to directors in advance.

The Chairman, in consultation with the Board, shall establish the schedule of Board meetings each year. The Chairman will establish the agenda for each Board meeting. Each Board member is free to suggest the inclusion of items on the agenda. Each Board member is free to raise at any Board meeting subjects that are not on the agenda for that meeting. The Board will review the Company's long-term strategic plans and the principal issues that the Company will face in the future with the Chief Executive Officer and other executive officers during at least one Board meeting each year.

The directors who qualify as "independent" under the AMEX listing standards will meet in executive session at least annually. In addition, non-management directors will meet in regularly scheduled executive sessions. The director who presides at these meetings will be chosen by the non-management directors, and his name will be disclosed in the annual proxy statement, to the extent required by applicable rules of the SEC or by AMEX listing standards.

The Chairman of the Board and Chief Executive Officer is responsible for establishing effective communications with the Company's various constituencies (such as shareholders, customers, employees, suppliers, community groups and governmental authorities). The Board believes that management should speak for the Company. It is expected that Board members would meet or otherwise communicate with the Company's constituencies only with the knowledge of management and, absent unusual circumstances or as contemplated by committee charters, only at the request of management.

#### **4. Board Committees**

The Board currently has three Committees – Audit, Compensation, and Nominating and Corporate Governance. All of the members of these committees will be independent directors under the criteria established by the AMEX. Committee members and committee chairs will be appointed by the Board. Consideration should be given to rotating committee members and committee chairs periodically, but the Board does not have a formal policy of rotating committee assignments or committee chairs.

Each committee, will have its own charter. The charters will set forth the purposes, goals and responsibilities of the committees as well as qualifications for committee membership, if any, procedures for committee member appointment and removal, committee structure and operations and committee reporting to the Board. Each committee will annually evaluate its performance.

The Chairman of each committee, in consultation with the committee members, will determine the frequency and length of the committee meetings consistent with any requirements set forth in the committee's charter. The Chairman of each committee, in consultation with the appropriate members of the committee and management, will develop the committee's agenda.

The Board and each committee will have the power to hire independent legal, financial or other advisors as they may deem necessary, without consulting or obtaining the approval of any officer of the Company in advance.

The Board may, from time to time, establish or maintain additional committees as necessary or appropriate.

#### **5. Director Access to Officers and Employees**

Directors have full access to management and are entitled to expect management to be responsive to requests for information from directors. Except for meetings or contacts with management required pursuant to committee charters, if a director wishes to initiate contact with a member of management, the director may arrange to do so through the CEO. The directors will use their judgment to ensure that any such contact is not disruptive to the business operations of the Company and will, to the extent appropriate, copy the CEO on any written communications between a director and an officer or employee of the Company.

Executive officers and other members of management may attend Board meetings by invitation.

#### **6. Director Compensation**

The form and amount of director compensation will be determined by the Board and the Compensation Committee will conduct an annual review of director compensation. A directors' independence may be jeopardized if the Company makes substantial charitable contributions to organizations with which a director is affiliated or if the Company enters into consulting contracts with (or provides other indirect forms of compensation to) a director or an organization with which the director is affiliated.

## **7. Director Orientation and Continuing Education**

All new directors must participate in an orientation program, which should be conducted as soon as practicable, but in any event within twelve months of the new directors' appointments. This orientation will include presentations by senior management to familiarize new directors with the Company's strategic plans, its significant financial, accounting and risk management issues, its compliance programs, its Code of Business Conduct and Ethics, its principal officers, and its internal and independent auditors. All other directors are also invited to attend the orientation program. All directors will participate in such continuing education programs as the Nominating and Corporate Governance Committee may specify.

## **8. Management Succession**

The Nominating and Corporate Governance Committee will make an annual report to the Board on succession planning. The entire Board will work with the Nominating and Corporate Governance Committee to consider and evaluate potential successors to the position of CEO or, if no potential successors are within the Company, to determine alternatives such as conducting an executive search. The CEO should at all times make available his or her recommendations and evaluations of potential successors, if any, along with a review of any development plans recommended for such individuals.

## **9. Annual Performance Evaluation**

The Board of Directors will conduct an annual self-evaluation to determine whether it and its committees are functioning effectively. The Nominating and Corporate Governance Committee will establish and maintain a process that will facilitate input from all directors and will report annually to the Board with an assessment of the Board's performance. The assessment will focus on the Board's contribution to the Company and specifically focus on areas in which the Board or management believes that the Board could improve.

## **10. Director Succession**

The Nominating and Corporate Governance Committee will make an annual report to the Board regarding director succession planning and committee assignments. The Board will review and assess the report and provide guidance and direction to the committee regarding these matters for the coming year.

## **11. Contacting the Board of Directors or any Director**

Any investor who wants to communicate with the Board or any individual director may send communications by sending an e-mail to or by writing to the Corporate Secretary. All communications will be received and processed by the Corporate Secretary, although the Corporate Secretary will not forward the communication if it is primarily commercial in nature or if it relates to an improper or irrelevant topic.