



# Notice of AGM 2010

## Ellex Medical Lasers Limited ABN 15 007 702 927 Annual General Meeting 2010

Thursday 25 November 2010 at 2:00 pm  
To be held at: Ellex Medical Lasers Limited  
Level 1, 82 Gilbert Street  
Adelaide SA 5000

### Notice of Annual General Meeting

Notice is hereby given that the Annual General Meeting of the shareholders of Ellex Medical Lasers Limited (the Company) will be held at Ellex Medical Lasers Limited, Level 1, 82 Gilbert Street, Adelaide, South Australia, at 2:00 pm (Adelaide time) on Thursday 25 November 2010 for the purpose of transacting the following business.

#### Ordinary Business

##### 1. Accounts & Reports

To receive and consider the financial statements of the Company and its controlled entities for the year ended 30 June 2010 and the related Directors' Reports, Directors' Declarations and Auditors' Report. The annual report is able to be viewed online at the following address:  
[www.ellex.com/annual-reports](http://www.ellex.com/annual-reports)

##### 2. Directors

To consider and if thought fit, pass the following Ordinary Resolution:

*"To re-elect Victor Previn as a director. Victor Previn retires by rotation in accordance with the Company's Constitution and, being eligible, offers himself for re-election."*

##### 3. Remuneration Report

To adopt the remuneration report as set out in the Directors' Report which forms part of the Annual Report for the year ended 30 June 2010.

#### Special Business

##### 4. Amendment to the Company's Constitution

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

"That the Company's Constitution be amended by:

- (a) deleting Rule 184 and substituting the following:

#### ***Determination and declaration***

*184 The power to determine that a dividend is payable and to declare dividends (including interim dividends) is vested in the directors who may fix the amount and the timing for payment of any dividend in accordance with this Constitution and the Corporations Act.*



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- (b) deleting Rule 185 and substituting the following:

***Interim dividends***

*185 [Intentionally left blank].*

- (c) deleting the words "out of profits or otherwise" from Rule 186, such that Rule 186 shall now read:

***Source of dividends***

*186 No dividend may be declared or paid except as allowed by the Corporations Act. No interest is payable in respect of dividends."*

## Other Business

To deal with any other business that may be properly brought forward.

## Shareholder Information

1. A shareholder entitled to attend and vote at this meeting is entitled to appoint not more than two proxies (who need not be shareholders of the Company) to attend and vote on a poll in the shareholder's place.
2. The appointment of two proxies should specify the percentage of voting rights or number of securities to be applied to each proxy and if not specified then each proxy may exercise half your votes with fractions disregarded. A single proxy exercises all voting rights.
3. The Company has determined in accordance with Corporations Regulation 7.11.37, that for the purpose of voting at the meeting, shares will be taken to be held by those who hold them at 7:00 pm on Tuesday 23 November 2010.

To record a valid vote, members will need to take the following steps:

Cast your vote online by visiting [www.investorvote.com.au](http://www.investorvote.com.au) and following the instructions and information provided on the enclosed proxy form; or

Complete and lodge the Proxy Form (and the power of attorney or other authority (if any) under which it is signed, or a certified copy of it) at:

- (a) the share registry of the Company, Computershare Investor Services Pty Limited, located at GPO Box 242, Melbourne VIC 3001, or by facsimile on 1800 783 447 (within Australia) or +61 3 9473 2555 (outside Australia); or
- (b) the registered office of the Company located at 82 Gilbert Street, Adelaide SA 5000, or by facsimile on (08) 8104 5231

no later than 48 hours before the time for the holding of the meeting.

**Custodian voting** – for Intermediary Online subscribers only (custodians) please visit [www.intermediaryonline.com](http://www.intermediaryonline.com) to submit your voting intentions.

By order of the Board  
**Giuseppe Canala**  
Company Secretary  
Adelaide  
Dated: 25 October 2010



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## Explanatory Memorandum

### Introduction

This Explanatory Memorandum has been prepared for the information of shareholders of Ellex Medical Lasers Limited (the Company) in connection with the business to be conducted at the Annual General Meeting to be held at 2:00 pm (Adelaide time) on Thursday 25 November 2010

### Ordinary Business

#### ***Resolution 2 – Re-election of Director***

##### **Victor Previn, Director**

Victor Previn is 52 years old and was appointed a director on 16 July 2001 after the acquisition of Ellex Laser Systems. Victor is currently an Executive Technical Director who has considerable experience in the ophthalmic laser industry and was one of the original founders and shareholders of Ellex. He is also a member of the Audit Committee and the Remuneration Committee.

#### ***Resolution 3 – Remuneration Report***

The Directors' Report, which forms part of the Annual Report for the year ended 30 June 2010, outlines the remuneration arrangements in place for directors and executives of the Company.

The Corporations Act 2001 requires that a resolution be put to shareholders each year to adopt the remuneration report. The vote on this resolution is advisory only and does not bind the directors or the Company.

The Chairman of the meeting will allow reasonable opportunity for shareholders to ask questions about or comment on the Remuneration Report at the AGM. The directors recommend that shareholders vote in favour of adopting the Remuneration Report, and the Chairman intends to vote all open proxies in favour of the resolution.

### Special Business

#### ***Resolution 4 – Amendment to the Company's Constitution***

On 28 June 2010, the Corporations Amendment (Corporations Reporting Reform) Act 2010 (Cth) came into effect to, among other things, amend the test governing the circumstances in which companies may pay dividends. Prior to 28 June 2010, section 254T of the Corporations Act stipulated that companies may only pay dividends out of profits. From 28 June 2010, the revised section 254T of the Corporations Act states that companies must not pay a dividend unless:

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

The Company's Constitution has not changed since 2002. To ensure that the provisions of the Company's Constitution, being the rules by which the Company operates, operate consistently with the requirements of the Corporations Act, it is proposed to amend Rules 184, 185 and 186 of the Company Constitution. Rules 184, 185 and 186, as currently set out in the Constitution, are reproduced below for shareholders' ease of reference:



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## **Declaration**

184 The directors alone may declare a dividend to be paid to shareholders. The dividend is payable as soon as it is declared, unless the directors specify a later time for payment.

## ***Interim dividends***

185 The directors may declare interim dividends if they consider that the Company's profits justify it. However, they may also choose to carry any profits forward.

## ***Source of dividends***

186 No dividend may be declared or paid except out of profits or otherwise as allowed by the Corporations Act. No interest is payable in respect of dividends.

If passed, resolution 4 would amend Rules 184, 185 and 186, such that those Rules would now read:

## ***Determination and declaration***

*184 The power to determine that a dividend is payable and to declare dividends (including interim dividends) is vested in the directors who may fix the amount and the timing for payment of any dividend in accordance with this Constitution and the Corporations Act.*

## ***Interim dividends***

*185 [Intentionally left blank]*

## ***Source of dividends***

*186 No dividend may be declared or paid except as allowed by the Corporations Act. No interest is payable in respect of dividends.*

The effect of the proposed amendments described above is that the directors may rely on Rule 184 and Rule 186 of the Company's Constitution (as amended) to declare and pay a dividend (including an interim dividend) as they see fit, provided the tests in section 254T of the Corporations Act have been satisfied. The Board considers that the proposed amendments are appropriate, having regard to the recent amendment to section 254T of the Corporations Act.

A copy of the Company's Constitution can be obtained before the meeting from the Company, and will also be available at the meeting.

Under the provisions of section 136 of the Corporations Act, the amendment of an existing constitution of a company requires shareholder approval by way of a special resolution (ie, at least 75% of the votes cast by shareholders entitled to vote on resolution 4 must be in favour of that resolution for it to be passed).

## ***Recommendation.***

The Directors recommend that shareholders vote in favour of resolution 4.