



<b>CORPORATE POLICY</b> <i>As adopted by the Board of Directors</i>	<b>Document #/Rev:</b> 001.00 <b>Page:</b> 1 of 22 <b>Effective Date:</b> 1/1/2016
<b>DISCLOSURE POLICY</b>	

NovaBay Pharmaceuticals, Inc. (hereinafter referred to as the “Company”) is committed to a consistent disclosure policy that covers all contact with the investment community. This policy provides the Corporation’s approach to disclosure of Material Information and maintaining confidentiality of information.

**OBJECTIVE AND SCOPE:**

The Company is committed to timely, accurate, balanced and factual disclosure, consistent with legal and regulatory requirements. Disclosure will occur whether information is deemed to be positive or negative and will be disseminated so that access to information is fair and equal for all market participants.

This policy covers all officers and employees of the Company, the Board of Directors and those authorized to speak on their behalf and all other insiders of the Corporation. It covers all shareholder documents, including the annual and quarterly reports, press releases, letter to shareholders, investor presentations and information contained on the Company’s website and in other electronic communications. It extends to oral statements made in meetings and telephone conversations with analysts and investors, interviews with the media, as well as speeches, press conference and conference calls. The Policy covers disclosure in documents filed with American securities commissions, applicable stock exchanges, written statements made in the Company’s annual and quarterly reports, supplemental investor information, news releases, presentations made by senior management and information posted on the Company’s Internet website ([www.novabay.com](http://www.novabay.com)) and other electronic communications.

This Policy has been reviewed by the Nominating and Corporate Governance Committee and approved by the Board of Directors. The Disclosure Committee will recommend any material changes to this Policy for review by the Audit Committee and approval by the Board of Directors as needed.

In addition, we are committed to practices that help ensure accurate, wide and timely dissemination of Material Information to our shareholders, the investment community and the public in general. This includes balanced communications, non-Selective Disclosure, and use of communications technology to facilitate fair access to information.

We expect every Company team member to fully comply with all applicable legal requirements and this Policy.

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**DEFINITIONS:**

- (a) **“Audit Committee”** means the committee of the Company’s Board of Directors that is responsible for, amongst other matters, overseeing the Company’s financial reporting process, internal controls and disclosure controls.
- (b) **“Board of Directors”** means the Board of Directors of the Company.
- (c) **“Company”** means NovaBay Pharmaceuticals, Inc.
- (d) **“Company team member”** refers to each director, officer, employee and contractor of the Company.
- (e) **“Covered Reports”** includes Company’s Annual Reports and filings with the SEC or the Canadian securities authorities, and amendments thereof, as applicable.
- (f) **“Generally Disclosed”** means information that has been released via a news release distributed through a widely circulated news or wire service.
- (g) **“Material Change”** in relation to the affairs of the Company, means a change in the business, operations, assets or ownership of the Company that would reasonably be expected to have a significant effect on the market price or value of any of the securities of the Company, or a decision to implement such a change made by: (a) senior management of the Company who believe that confirmation of the decision by the board of directors of the Company is probable; or (b) the board of directors of the Company.
- (h) **“Material Information”** means any information relating to the business and affairs of the Company that investors would consider material to their investment decision. (See Schedule “A” for examples).
- (i) **“Necessary Course of Business”** refers to an exception to Tipping, as described in this Policy.
- (j) **“Quiet Period”** means the period beginning the first day of the month following the calendar quarter end and ending the first business day following the General Disclosure of financial results to the public.
- (k) **“Selective Disclosure”** refers to any disclosure to any person or select group (including investment analysts and the media) of Material Information that has not been Generally Disclosed.

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- (l) **“Special Relationship”** for the purpose of this Policy, a person is in a Special Relationship with the Company if the person:
- a. is a Company team member; or
  - b. is engaging in or is proposing to engage in any business or professional activity with or on behalf of the Company, and includes, without limitation, a consultant.
- (m) **“Tipping”** refers to a prohibited activity whereby the Company and any person in a Special Relationship with the Company are prohibited from informing anyone, other than in the Necessary Course of Business, of Material Information before that Material Information has been Generally Disclosed.
- (n) **“Unintentional Selective Disclosure”** refers to a prohibited activity, as described in this Policy.

## DISCLOSURE COMMITTEE

The Board of Directors has established a disclosure committee (the “Committee”) responsible to:

- Manage the Company’s disclosure and certification process relating to its Covered Reports;
- Establish appropriate procedures pursuant to which information is accumulated and communicated to management.
- Monitor the process pursuant to which information is gathered and analyze such information to determine the extent to which such information requires disclosure in the Covered Reports;
- Address the substance and timeliness of any such disclosure; and
- Periodically review and access the Company’s internal and disclosure controls and procedures.

The Committee consists of the Chief Financial Officer, the Associate General Counsel, Investor Relations Officer/consultant, to the extent the Company has such persons (IRO), the Controller and the Chairman of the Nominating and Corporate Governance Committee. The Chief Executive Officer is an ex officio member. The Committee will invite other officers, directors and employees of the Company, when deemed advisable, to assist in the discussion and consideration of its duties.

It is essential that the Committee be kept fully apprised of all pending material Company developments in order to evaluate and discuss those events to determine the appropriateness and

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timing for public release of information. The Committee will identify appropriate industry and company disclosure benchmarks for a preliminary assessment of materiality and timely disclosure. Guided by these benchmarks, the Committee will use experience and judgment to determine the timing for public release of Material Information. If, as sometimes happens, it is deemed that Material Information should remain confidential, the Committee will determine how that information will be controlled including contacting Market Regulation Services to ask that the stock be closely monitored, notifying the Chairman of the Board or other appropriate Board member of that decision, and ensuring that the appropriate regulatory filings are made and updated as required.

All written and oral public disclosures shall be circulated for review by all members of the Committee and approved by at least two members of the Committee and the Chief Executive Officer.

Following approval by the Committee and the CEO, the following documents will be reviewed in whole or part by the appropriate committee of the Board and recommended to or approved by the Board, or reviewed and approved by the Board:

- Annual and interim financial statements and related MD&A;
- Information circulars for any meetings of shareholders and related press releases;
- Annual information form (AIF);
- Any press release containing Material Information except for routine press releases or where immediate release is required to comply with law or stock exchange rules; and
- Any take-over bid circulars, issuer bid circulars, director's circular or rights offering circular.

The Committee is responsible for ensuring that Company spokespersons receive adequate training, that the stock exchanges on which the Company is listed have comprehensive contact information for the Company spokespersons and that Company staff are aware of their responsibilities if the stock exchange or its representative calls the Company.

The Committee is responsible for educating its directors, officers and employees about disclosure issues and the disclosure policy.

The Committee will meet as conditions dictate, and at least quarterly, and the Associate General Counsel, or the Committee Secretary, will keep records of these meetings. The Committee will review, and update if necessary, this disclosure policy annually or as needed to ensure compliance with changing regulatory requirements, and make recommendations to the Board of Directors for any appropriate changes to the policy.

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In performing these functions, the Disclosure Committee should seek to ensure that the Company's internal communications and other procedures operate so that important information flows to the appropriate collection and disclosure points in a timely manner, allowing the Company to file Covered Reports within the required time periods.

The Disclosure Committee is responsible for the disclosure contained in each Covered Report and, in reviewing the Covered Reports, should give due consideration to the materiality of information contained therein.

### **PRINCIPLES OF DISCLOSURE OF MATERIAL INFORMATION**

Material Information, before it is Generally Disclosed to the public, is a type of Company confidential information. Under United States securities laws, subject to limited exceptions, a Company must disclose Material Information to the public immediately or as soon as practicable, on such information becoming known to the Company or upon it becoming apparent that the information is Material Information. Investor Relations and the Corporate Secretary's Office are responsible for disseminating such information via news release.

It is an offense under securities law for anyone in a Special Relationship with the Company to inform anyone of Material Information about the Company before the Material Information has been Generally Disclosed, except in those limited cases where the communication is made in the Necessary Course of Business.

In complying with the requirement to immediately disclose all material information under applicable laws and stock exchange rules, the Company will adhere to the following basic disclosure principles:

- Material information will be publicly disclosed immediately via news release;
- Disclosure must include any information the omission of which would make the rest of the disclosure misleading (half truths are misleading);
- Unfavorable material information must be disclosed as promptly and completely as favorable information;
- There must be no Selective Disclosure, except in compliance with applicable securities laws and the rules and regulations of the applicable stock exchanges. Previously undisclosed material information must not be disclosed to selected individuals (for example, in an investor meeting or during a telephone conversation with an analyst). If previously undisclosed material information is inadvertently disclosed, this information must be broadly disclosed immediately via news release. For NYSE MKT, when such disclosure is made during trading

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hours, it is essential that the Stock Watch Department be notified prior to the announcement.

- In some circumstances involving a Material Change, the Committee may determine that disclosure would be unduly detrimental to the Company (for example, if release of the information would prejudice negotiations in a corporate transaction), in which case the information will be kept confidential until the Committee determines it is appropriate to publicly disclose. In these circumstances, the Committee will cause a confidential Material Change report to be filed with the applicable securities regulators, if required, and will periodically (at least every 10 days) review its decision to keep the information confidential (see “Rumors”).
- Disclosure should be consistent among all audiences, including the investment community, the media, customers and employees. Derivative information (information extracted from a document filed on behalf of another person or company), which is included in a document or oral statement, should include a reference identifying the document that was the source of the information;
- Disclosure on the Company’s website alone does not constitute adequate disclosure of material information; and
- Disclosure must be corrected immediately if the Company subsequently learns that earlier disclosure contained a material error at the time it was given.

## **TRADING RESTRICTIONS AND BLACKOUT PERIODS**

The Company has written Insider Trading Policy (maintained under a separate cover) that is disseminated to all employees. (Rider A)

## **MAINTAINING CONFIDENTIALITY**

Any employee privy to confidential material information will be so advised and is prohibited from communicating such information to anyone else, unless it is necessary to do so in the course of business. Efforts will be made to limit access to confidential material information to only those who need to know the information and those persons will be advised that the information is to be kept confidential.

Outside parties privy to undisclosed material information concerning the Company will be told that they must not divulge this information to anyone else, other than in the Necessary Course of Business and that they may not trade in the Company’s securities until the information is publicly disclosed. Such outside parties should confirm their commitment to non-disclosure in the form of a written confidentiality agreement.

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To prevent the misuse or inadvertent disclosure of material information, the following procedures should be observed at all times:

- Documents and files containing confidential information should be kept in a safe place, with access restricted to individuals who ‘need to know’ that information in the Necessary Course of Business. Code names should be used if necessary;
- Confidential matters should not be discussed in places where the discussion may be overheard, such as elevators, hallways, restaurants, airplanes or taxis;
- Confidential matters should not be discussed on cell phones;
- Confidential documents should not be read or displayed in public places and should not be discarded where others can retrieve them;
- Employees must ensure they maintain the confidentiality of information in their possession outside of the office as well as inside the office;
- Transmission of documents by electronic means, such as by fax, email or directly from one computer to another, should be made only where it is reasonable to believe that the transmission can be made and received under secure conditions;
- Unnecessary copying of confidential documents should be avoided and documents containing confidential information should be promptly removed from conference rooms and work areas after meetings have concluded. Extra copies of confidential documents should be shredded or otherwise destroyed; and
- Access to confidential electronic data should be restricted through the use of passwords.

## **QUIET PERIODS**

The objective of the Quiet Period is to minimize the potential for misinterpretation and the spread of any rumors prior to our earnings announcement. To avoid the potential for Selective Disclosure or even the perception or appearance of Selective Disclosure, the Company will observe Quiet Periods prior to quarterly earnings announcements or when Material Changes are pending. Regular Quiet Periods will commence on the first day following the end of a quarter and end with the issuance of a news release disclosing results for the quarter just ended.

During a Quiet Period, the Company will not initiate any meetings or telephone contacts with analysts and investors, but will respond to unsolicited inquiries concerning factual matters. If the Company is invited to participate, during a Quiet Period, in investment meetings or conferences organized by others, the Committee will determine, on a case-by-case basis, if it is advisable to accept these invitations. If accepted, extreme caution will be exercised to avoid Selective Disclosure of any material, non-public information.

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## **DESIGNATED SPOKESPERSONS**

The Company designates a limited number of spokespersons with authority for communication with the investment community, regulators and the media. The CEO, CFO and IRO shall be the official spokespersons for the Company. Individuals holding these positions may, from time to time, designate others within the Company with authority to speak on behalf of the Company as back-ups or to respond to specific inquiries.

Employees who are not authorized spokespersons must not respond under any circumstances to inquiries from the investment community, the media or others, unless specifically asked to do so by an authorized spokesperson. All such inquiries are to be referred to the IRO.

In addition, the primary spokespeople may refer media-related inquiries to an external consultant or other persons within the Company who are considered experts on the subject matter.

Under securities laws, a Company team member who is not authorized to be an external communicator, and makes a public oral statement that contains a misrepresentation could be sued. Furthermore, the Company's directors and officers and the Company itself could also be sued as a result of such unauthorized statement.

## **NEWS RELEASES**

Once the Committee determines that a development is material, it will authorize the issuance of a news release unless the Committee determines that such developments must remain confidential for the time being. If developments are to remain confidential, appropriate confidential filings must be made as required and control of the inside information must be instituted. Should a material statement inadvertently be made in a selective forum, the Company will immediately issue a news release to fully disclose that information. If the inadvertent disclosure occurs during business hours of Market Regulation Services, Inc. (RS), the Company must call RS to discuss and/or request a halt in trading while the news release is written.

The Audit Committee and board will review news releases containing earnings guidance and financial results prior to issuance. Financial results will be publicly released immediately following Audit Committee and board approval of the MD&A, financial statements and notes.

If the stock exchange upon which shares of the Company are listed is open for trading at the time of a proposed announcement, prior notice of a news release announcing material information must be provided to its market surveillance division to enable a trading halt, if deemed necessary by the stock exchange. If a news release announcing material information is issued outside of trading hours, RS must be notified promptly and in any event before the market reopens. For





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NYSE MKT, when such disclosure is to be made during trading hours, it is essential that the Stock Watch Department be notified prior to the announcement.

News releases will be disseminated through an approved newswire service that provides simultaneous national distribution. Full-text news releases will be transmitted to all stock exchange members, relevant regulatory bodies, major business wires, national financial media, and the local media in areas where the Company has its headquarters and operations.

News releases will be posted on the Company's website immediately after confirmation of dissemination over the newswire. The website will include a notice that advises the reader that the information posted was accurate at the time of posting, but may be superseded by subsequent disclosures.

If the subject of a press release is a Material Change for the Company, any required Material Change report will also be filed with applicable securities regulators as soon as practicable, but in any event on the earlier of the date such filing is required to be made or within 10 days of the issuance of the news release.

## **CONFERENCE CALLS**

Conference calls are held at least twice a year. These calls are broadcast live by phone as well as webcast live from our Internet site. They are held after a press release is issued and after the close of the market. The calls are accessible by all investors. An audio tape replay of the conference call will be made available for a minimum of seven days and an archived audio webcast or text transcript will be made available on the Company's website for a minimum of 30 days.

At the beginning of the call, a Company spokesperson will provide appropriate cautionary language regarding any forward-looking information and direct participants to publicly available documents containing the assumptions, sensitivities and a full discussion of the risks and uncertainties applicable to the news.

The Company will provide advance notice of the conference call and webcast by issuing a news release announcing the date, time and topic and providing information on how interested parties may access the call and webcast. These details will be provided on the Company's website. In addition, the Company may send invitations to analysts, institutional investors, the media and others. Any non-material supplemental information provided to participants will also be posted to the website for others to view.

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The Committee will hold a debriefing meeting immediately after the conference call and if it determines that Selective Disclosure of previously undisclosed material information or misleading disclosure has occurred, the Company will immediately disclose or correct the information broadly via news release. If the inadvertent disclosure occurs during business hours of RS, the Company must call NYSE MKT to discuss and/or request a halt in trading while the news release is written.

## **RUMORS**

The Company does not comment, affirmatively or negatively, on Rumors originating outside the Company. This also applies to Rumors on the Internet. The Company's spokespersons will respond consistently to any Rumors, saying, "It is our policy not to comment on market Rumors or speculation."

However, our policy is to disclose any material corporate developments that would render a prior Company disclosure inaccurate. Moreover, when authorized by the Disclosure Committee, spokespersons, including media or investor relations, may make exceptions, and respond to certain Rumors that are deemed harmful to Company interests, if not rebutted; for example, Rumors that an executive has left the Company or is ill, when this is not the case.

Pursuant to the New York Stock Exchange (NYSE MKT) Rules, whenever the Company becomes aware of a rumor, true or false, that is causing or is likely to cause significant volatility in the stock, or would likely to have a bearing on investment decisions, the Company is required to publicly clarify the rumor or report as promptly as possible. Whenever unusual market action takes place in the Company's securities, the Company is expected to make inquiry to determine whether rumors or other conditions requiring corrective action exist, and, if so, to take whatever action is appropriate.

## **CONTACTS WITH ANALYSTS, INVESTORS AND THE MEDIA**

Company team members who are not authorized to be external communicators will not respond on behalf of the Company to any inquiries from, or initiate communication with, the financial community, shareholders or the media. All such communication must be referred to an authorized spokesperson, as appropriate, unless specifically instructed by a primary spokesperson. In particular, Company team members should refer inquiries from analysts and institutional investors about significant investor relations issues and inquiries from the media to the IRO, Investor Relations ([Investorrelations@novabaypharma.com](mailto:Investorrelations@novabaypharma.com)), their designate or another authorized spokesperson.

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On occasion, members of the financial community are invited to the Company to be present at staff meetings, divisional meetings, etc. All speaking engagements involving the financial community are to be arranged through Investor Relations and none of these are to occur in the weeks prior to our earnings release date.

Disclosure in individual or group meetings does not constitute adequate disclosure of information that is considered material non-public information. If the Company intends to discuss material information at an analyst or shareholder meeting or a press conference or conference call, the discussion must be preceded by a news release of the material information.

The Company recognizes that meetings with analysts and significant investors are an important element of its investor relations program. The Company will meet with analysts and investors individually or in small groups as needed and will initiate contacts or respond to analyst and investor calls in a timely, consistent and accurate fashion in accordance with this disclosure policy. All analysts will receive fair treatment regardless of whether they are recommending buying or selling the Company's securities.

The Company will provide only non-material information through individual and group meetings, in addition to previously publicly disclosed information, recognizing that an analyst or investor may construct this information into a mosaic that could result in material information. The Company cannot alter the materiality of information by breaking down the information into smaller, non-material components. Any disclosure of material non-public information by an authorized spokesperson, which is made in advance of the public announcement of such information, shall only be made pursuant to an appropriate confidentiality arrangement or to a person who owes a duty of trust and confidence to the company, such as an attorney, investment banker or accountant retained by the company or except as may be allowed meeting the requirements of applicable securities laws.

The Company will provide the same sort of detailed, non-material information to individual investors or reporters that it has provided to analysts and institutional investors and may post this information on its website.

Spokespersons will keep notes of telephone conversations with analysts and investors and when practicable more than one Company representative should be present at all individual and group meetings. A debriefing will be held after these meetings and if it is determined that Selective Disclosure of previously undisclosed material information has occurred, the Company will immediately disclose the information broadly via news release.

Members of the media should not receive material information on an exclusive, embargoed or selective basis. They will receive material information at the same time as everyone else: when a

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full public announcement is made. Company spokespersons will keep notes of telephone conversations with reporters and will follow up with reporters when there is an inaccuracy in an article, in order to set the record straight, and ensure that the same error does not recur in future articles.

The Company is to maintain a “frequently asked questions” section on the Company website and will endeavor to provide, if requested, similar non-Material Information to other third parties that it has provided to analysts and institutional investors.

If for any reason Material Information is Selectively Disclosed to analysts, investors or media in any forum, or a misrepresentation is made, the members of the Disclosure Committee should be immediately notified so they may take appropriate action.

#### **REVIEWING ANALYST REPORTS AND FINANCIAL MODELS**

Upon request, the Company may review analysts’ draft research reports or financial models for factual accuracy based on publicly disclosed information. The Company will not confirm, or attempt to influence, an analyst’s opinions or conclusions and will not express comfort with the analyst’s financial model and earnings estimates.

To avoid appearing to endorse an analyst’s report or model, the Company will provide its comments orally or will attach a disclaimer to written comments to indicate the report was reviewed only for factual accuracy.

#### **LIMITS ON DISTRIBUTING ANALYST REPORTS**

Analyst reports are proprietary products of the analyst’s firm. Distributing, referring to or providing links to analyst reports may be viewed as an endorsement by the Company of the reports. For these reasons, the Company will not provide analyst reports through any means to persons outside of the Company or generally to employees of the Company, including posting such reports on its website. Notwithstanding the foregoing, the Company will distribute analyst reports to its directors and senior officers to monitor the communications of the Company and to assist them in understanding how the marketplace values the Company and how corporate developments affect the analysis.

Analyst reports may also be provided to the Company’s financial and professional advisors in the Necessary Course of Business. The Company may post on its website a complete listing, regardless of the recommendation, of all the investment firms and analysts who provide research coverage on the Company. If provided, this list will not include links to the analysts’ or any other third party websites or publications.

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## FORWARD-LOOKING INFORMATION

Forward-looking information should only be released with caution, and only in circumstances determined by the Chief Financial Officer, Controller or the IRO. To the extent any forward-looking information is provided in required disclosure documents under securities legislation, it should be clearly marked as forward-looking and all material assumptions used in the preparation of the forward-looking information should be identified.

Written and oral statements should be accompanied by appropriate contingency and cautionary language or notices, which should identify or refer to the risks and uncertainties that may cause the actual results to differ materially from those projected in the statements. Should subsequent events prove past statements to be materially different, the Company may in its discretion choose to issue a news release. In this case, the Company may update its guidance on the anticipated impact on revenue and earnings or other key metrics. The information will be accompanied by a statement that the information is stated as of the current date, is subject to change after that date and the Company does not undertake to update any forward-looking statement that is contained in that particular disclosure document or other communications.

Once disclosed, the Company's practice for updating forward-looking information will be to regularly assess whether previous statements of forward-looking information should be replaced by new financial outlooks, and ensure that past disclosure of forward-looking information is accurately reflected in current MD&A.

At the beginning of any conference call or presentation, a Company spokesperson should make a statement that forward-looking information may be discussed. This will include appropriate cautionary language or references to cautionary statements contained in publicly available documents containing the assumptions, sensitivities and a full discussion of the risks and uncertainties.

If the Company has issued a forecast or projection in connection with an offering document pursuant to securities legislation, the Company will update that forecast or projection periodically, as required by securities legislation.

A consistent approach to disclosure is important. Should the Company elect to disclose forward-looking information in continuous disclosure documents, speeches, conference calls, etc., the following guidelines must be observed and are necessary in order to qualify for safe harbor protection under amendments to the Ontario Securities Act which extend statutory civil liability to secondary market disclosures for any reporting issuer(which includes all TSX listed issuers):

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- All material forward-looking information will be broadly disseminated via news release;
- The information will be published only if there is a reasonable basis for drawing the conclusions or making the forecast and projections set out in the forward-looking information;
- The document or public oral statement containing the forward-looking information must have, proximate to that information:
  - reasonable cautionary language identifying the forward-looking information as such, and identifying material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information; and
  - a statement of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information.
- Additionally, the information may be accompanied by supplementary information such as a range of reasonably possible outcomes or a sensitivity analysis to indicate the extent to which different business conditions may affect the actual outcome. Public oral statements also require a cautionary statement that actual results could differ materially and a reference to material factors and assumptions that could cause actual results to differ materially and to one or more readily available documents that outline such factors or assumptions.

## **PROVIDING GUIDANCE**

Through regular public dissemination of quantitative and qualitative information, the Company will try to ensure that analysts' estimates are in line with the Company's expectations. The Company will not confirm, or attempt to influence, an analyst's opinions or conclusions and will not express comfort with analysts' financial models or earnings estimates.

If the Company has determined that it will be reporting results materially below or above publicly held expectations, then it will disclose this information in a news release to enable discussion without risk of Selective Disclosure and to protect against a civil lawsuit alleging misleading disclosure (see "Forward-Looking Information") or failure to provide timely disclosure.

## **DISCLOSURE RECORD**

The disclosure committee will maintain a record of all public information about the Company pursuant to the Company's Document Retention Policy.

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## **Mandatory Disclosure Requirement of NYSE MKT**

### **The Company must publicly disclose the following:**

- Receipt of a written notice indicating that a stock exchange where the Company's securities are listed has determined to remove the Company's securities from listing (or unlisted trading) as a result of non-compliance with the continued listing requirements.
- Receipt of an audit opinion that contains a going concern qualification.
- Receipt of written notice indicating that a stock exchange has determined that the Company is noncompliant and/or has failed to satisfy one or more continued listing requirements.

## **RESPONSIBILITY FOR ELECTRONIC COMMUNICATIONS**

### **Electronic Communication**

All communications, including electronic communications, must comply with securities laws. Electronic communications include electronic mail, websites, the Internet, the System for Electronic Document Analysis and Retrieval ("SEDAR") and the Electronic Data Gathering, Analysis and Retrieval system ("EDGAR").

Investor Relations, and the Corporate Secretary's Office, will monitor and ensure that disclosure through electronic communications made on behalf of the Company comply with relevant disclosure requirements under applicable securities laws in all relevant jurisdictions. The Company will not, through electronic communication, publish documents offering securities to the general public or related promotional materials before or during a public offering, unless permitted pursuant to applicable securities laws.

Electronic communication should include a disclaimer to the effect that the posting of offering documents through electronic communications that can be accessed in jurisdictions where such securities are not qualified for distribution and are not intended to constitute an offering in that jurisdiction.

Electronic communications will not be used to "tip" or leak Material Information. Proper precautions should be taken when using electronic communications to discuss undisclosed Material Information about the Company.

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### **Company Corporate Website**

The disclosure committee is also responsible for ensuring that postings on the Company's website are reviewed and approved and that such disclosure is accurate, complete, up-to-date and in compliance with relevant securities laws.

Investor Relations will be responsible for updating the Company website disclosure documents. Disclosure on the Company's website alone does not constitute adequate disclosure of information that is considered material non-public information. Any disclosures of Material Information on the website will be preceded by the issuance of a news release. All publicly filed documents, including news releases containing Material Information, should be included on the Company website as soon as practicable after such material has been accepted for filing or posted on SEDAR and/or EDGAR.

The Company website should have a notice advising the reader that the information that is posted is accurate at the time of posting but that the Company specifically disclaims any intention or responsibility to update this information and it may be superseded by subsequent disclosures. All disclosure posted to the Company website, including text and audiovisual, should show the date such material was issued. The minimum retention period for Material Information on the Company website will be two (2) years.

All continuous disclosure documents will be provided in the Investor Relations section of the Company's website. All information posted, including text and audiovisual material, will show the date the material was issued. Any Material Changes in information must be updated immediately, following issuance of a news release. The Company's website will include a notice that advises the reader that the information was accurate at the time of posting, but may be superseded by subsequent disclosures.

The IRO will ensure that a log is maintained indicating the date that Material Information is posted and/or removed from the Investor Relations section of the website. Documents filed with securities regulators will be maintained on the website for a minimum of two (2) years.

The IRO will ensure that all links from the Company website to third party websites are approved. The website will include a notice that advises readers they are leaving the Company's website and that the Company is not responsible for the contents of the other site.

### **Internet Discussion Forums, Chat Rooms, Bulletin Boards, and Blogs**

Due to the immediacy of the communication, Company team members (including designated spokespersons) are not allowed to participate in discussions about the Company on Internet



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discussion forums, chat rooms, blogs or bulletin boards.

## **TIPPING, SELECTIVE DISCLOSURE AND NECESSARY COURSE OF BUSINESS**

The Company is extremely sensitive to the issues of Selective Disclosure and our aim is to treat all investors fairly and equally. The Company believes that conference call and guidance policies help to prevent Selective Disclosure.

Selective Disclosure is a prohibited activity unless such disclosure is made in the Necessary Course of Business. This is a limited exception to the Tipping provision and exists so as not to unduly interfere with a company's ordinary business activities. The exception would generally cover communications that are required to be made to further the business purposes of the Company with:

- vendors, suppliers or strategic partners on issues such as sales and marketing and supply contracts;
- employees, officers and board members;
- lenders, legal counsel, auditors and underwriters, and other professional advisors to a company;
- parties to negotiations;
- credit rating agencies;
- labor unions and industry associations; or
- government agencies.

The Necessary Course of Business exception would not generally permit a Company to make a Selective Disclosure of Material Information to an analyst, institutional investor or other market professional.

Disclosure made pursuant to a confidentiality agreement does not necessarily mean the disclosure being made would fall within the Necessary Course Business exception set out in the Tipping provision.

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## UNINTENTIONAL SELECTIVE DISCLOSURE

Any Selective Disclosure made, whereby the person who made the disclosure either did not know or was reckless in not knowing (prior to making such disclosure) that the information was both Material Information and had not been Generally Disclosed, is commonly referred to Unintentional Selective Disclosure.

If it appears possible that a Company team member has made an Unintentional Selective Disclosure, one of the members of the Disclosure Committee should be immediately contacted. If it is determined that there has been Unintentional Selective Disclosure, the Disclosure Committee should immediately take all appropriate steps including: filing a current report on Form 8-K or Generally Disclosing the Material Information that has been Unintentionally Selectively Disclosed and notifying the person to whom the Unintentional Selective Disclosure was made that such information has not been Generally Disclosed and must remain confidential and that he or she may not trade in securities of the Company with knowledge of such information until it is Generally Disclosed. In the event any material information is disclosed inadvertently during meetings or phone calls, it is the company's policy to issue a news release or file an 8-K as soon as practicable (within 24 hours), or, before the market opens the next business day.

Where the Disclosure Committee determines that General Disclosure of an Unintentional Selective Disclosure is required, Investor Relations should notify the relevant stock exchanges immediately of the Unintentional Selective Disclosure and determine, with the approval of the Disclosure Committee, whether trading should be halted pending the issuance of a news release.

Similarly, if it appears possible that a misrepresentation has been made to a member of the investment community, one of the members of the Disclosure Committee should be immediately contacted. If it is determined that such a misrepresentation has been made, the Disclosure Committee should take the appropriate courses of action.

## DISCLOSURE MODEL

Generally, Investor Relations should use the following disclosure model when making a planned disclosure of Material Information, such as a scheduled quarterly earnings release:

- (a) where practicable, contact the relevant stock exchanges immediately prior to the release of Material Information;
- (b) issue a news release containing the Material Information through a widely circulated news or

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wire service;

- (c) provide advance notice by news release of the date and time of any conference call to discuss the Material Information, the subject matter(s) of the call and the means for accessing it;
- (d) hold the conference call in an open manner, permitting investors and others to listen either by telephone or through Internet Web casting; and
- (e) provide dial-in and/or Web replay or make transcripts of the call available for a reasonable period of time after the analyst conference call.

Investor Relations may take all other actions as may be necessary or appropriate when making a planned disclosure of Material Information. Notwithstanding the above, if the Material Information is straightforward steps (c) through (e) may not be necessary.

## **DISCLOSURE RESPONSIBILITY**

In practice, Investor Relations and the Corporate Secretary's Office take the lead role in preparing most disclosure documents by working in cooperation with each other and with other areas of the Company, which, depending on the subject matter, can include, for example: Controller, Treasury, and Regulatory. In particular, Investor Relations and Communications should be consulted with respect to all news releases.

Where disclosure of a Material Change is delayed pursuant to securities legislation, the Company is under a duty to take precautions to keep the Material Change confidential. During the period before Material Information is Generally Disclosed, Investor Relations should closely monitor market activity in the Company's securities.

## **RETENTION OF DISCLOSURE DOCUMENTS**

The General Counsel and Corporate Secretary will maintain a file of all disclosure documents prepared and filed with the securities regulators during the last ten (10) years.

The IRO will maintain records of the decisions of the Disclosure Committee for ten (10) years.

Investor Relations will keep copies for five (5) years of all widely distributed information sent to analysts and investors and copies of analyst reports on Company and transcripts or tape recordings of conference calls and notes from executive meetings with analysts or investors.



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**CERTIFICATION**

I hereby certify that I have read and understand the **NovaBay Pharmaceuticals, Inc.** Disclosure Policy.

\_\_\_\_\_

Name:

Title:

Date:

**Nothing in this Policy is intended to lessen the number of years documents must be kept by the Company pursuant to any applicable legal requirements.**

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**Schedule A**  
**Examples of Potentially Material Information**

The following are examples of information that may constitute Material Information:

- Changes in share ownership that may affect control of a Company
- Major reorganizations, amalgamations or mergers
- Takeover bids, issuer bids or insider bids
- Public or private sale of additional securities
- Planned repurchases or redemptions of securities
- Planned splits of common shares
- Changes in a Company's dividend payments or policies
- Material modification to rights of security holders
- A significant increase or decrease in near-term earnings prospects
- Unexpected changes in financial results for any periods
- Changes in the value or composition of a Company's assets
- Any development that affects the company's technology, products or markets
- Major labor disputes or disputes with major contractors or suppliers
- Significant new contracts, products, patents or services or significant losses of contracts or business
- The commencement of, or developments in, material legal proceedings or regulatory matters
- Significant acquisitions or dispositions of assets, property or joint venture interests
- The borrowing or lending of a significant amount of money
- Any mortgaging or encumbering of a company's assets
- Changes in rating agency decisions
- Significant new credit arrangements



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RIDER A

As described in such policy, all directors, officers and employees are subject to certain trading blackouts, including quarterly blackout periods, and must comply with securities law requirements, including the prohibition from trading in the Company's securities when in possession of material, nonpublic information about the Company. Please review the Insider Trading Policy for additional information.