DEPOMED INC
Form PRRN14A
August 19, 2015

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

(Rule 14a 101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

(Amendment No. 2)

Filed by the Registrant ¨

Filed by a Party other than the Registrant x

Check the appropriate box:

x Preliminary Proxy Statement
¨ Confidential, for Use of the Commission Only (as permitted by Rule 14a 6(e)(2))

¨ Definitive Proxy Statement

¨ Definitive Additional Materials

¨ Soliciting Material Under Rule 14a 12

DEPOMED, INC.

(Name of Registrant as Specified in Its Charter)

HORIZON PHARMA PUBLIC LIMITED COMPANY

HORIZON PHARMA, INC.

(Name of Persons(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

x No fee required.

¨ Fee computed on table below per Exchange Act Rules 14a 6(i)(1) and 0 11.

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(4) Proposed maximum aggregate value of transaction:

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(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

PRELIMINARY SOLICITATION STATEMENT SUBJECT TO COMPLETION

SOLICITATION OF PROXIES

TO CALL A SPECIAL MEETING

OF DEPOMED, INC. SHAREHOLDERS

SOLICITATION STATEMENT

OF

HORIZON PHARMA PUBLIC LIMITED COMPANY

AND

HORIZON PHARMA, INC.

To the Fellow Shareholders of Depomed, Inc.:

This solicitation statement (the Solicitation Statement), the enclosed form of Special Meeting Request attached as Exhibit A (the Special Meeting Request Form), the accompanying WHITE Proxy Card (the WHITE Proxy Card) and the other exhibits to the Solicitation Statement are being furnished to you as a shareholder of Depomed, Inc., a California corporation (the Company or Depomed), by and on behalf of Horizon Pharma public limited company, an Irish public limited company, and its wholly owned subsidiary, Horizon Pharma, Inc., a Delaware corporation (the Horizon Sub) (collectively unless context requires otherwise, we, our or Horizon), for the purpose of soliciting revocable proxies in the form of the accompanying WHITE Proxy Cards from Company shareholders to empower us to deliver to the Company the Special Meeting Request Form on your behalf to call a special meeting of the Company s shareholders for the purposes described in the Solicitation Statement (the Special Meeting).

Pursuant to the General Corporation Law of the California Corporations Code (the CGCL) and the Company s Amended and Restated Bylaws, effective July 12, 2015 (the Bylaws), the holders of shares of Company Common Stock (as defined below) entitled to cast not less than 10% of the votes at the Special Meeting (the Special Meeting Percentage) are entitled to call the Special Meeting, subject to the information and procedural requirements of Sections 2 and 5(d) of the Bylaws.

As of August 18, 2015, the Horizon Sub was the holder of record and beneficial owner of 750,000 shares of Company Common Stock and the beneficial owner of an additional 1,375,000 shares of Company Common Stock, representing in the aggregate approximately 3.52% of such shares that would be entitled to call the Special Meeting pursuant to the CGCL and the Bylaws if the Request Record Date (as defined below) had been set as August 18, 2015, based on 60,311,961 shares of Company Common Stock outstanding as of July 30, 2015, the Company s most recent publicly available number of outstanding shares of Company Common Stock.

On July 7, 2015, after our repeated attempts to engage the Depomed board of directors (the Board) and Depomed s management in friendly and confidential discussions regarding a

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business combination with Horizon were rebuffed with no meaningful engagement (as further described in the Solicitation Statement), Horizon publicly proposed to acquire the Company (the Horizon Offer) in an all-stock transaction for $29.25 per share of common stock, no par value, of the Company (Company Common Stock), with such consideration consisting of Horizon ordinary shares, no par value (Horizon Ordinary Shares). Then, on July 10, 2015, one of Depomed s representatives suggested to us that if Horizon would increase its proposed price to acquire Depomed by $3.00 to $4.00 per share in Horizon Ordinary Shares, Depomed would engage in a constructive dialogue with Horizon regarding negotiating a transaction. That weekend, we indicated to Depomed representatives that Horizon would be willing to increase its proposed price to acquire Depomed by $3.00 to $32.25 per share in Horizon Ordinary Shares, contingent on Depomed engaging in constructive dialogue toward a transaction. The Depomed representatives stated that they would discuss the new price with Depomed management and with the Board on July 12, 2015, and would follow up with us after the Board meeting of that day. They never followed up. Instead, Depomed announced the next day that it had taken formal measures to hinder the shareholders statutory right to consider the Horizon Offer by implementing what we believe are onerous Bylaw amendments with respect to shareholder special meetings and shareholder proposals and by adopting a so-called poison pill (as further described in the Solicitation Statement).

Nevertheless, to demonstrate our commitment to pursuing the combination, on July 21, 2015, Horizon publicly revised the terms of the Horizon Offer to increase its offer to $33.00 per share of Company Common Stock, representing approximately a 60% premium to Company shareholders based on the closing per share price of Company Common Stock as of July 6, 2015, the last trading day prior to the first public announcement of the Horizon Offer. The Horizon Offer, at $33.00 per share of Company Common Stock, is valued at more than $3 billion on an enterprise basis. On August 13, 2015, we publicly reiterated the Horizon Offer at $33.00 per share of Company Common Stock and fixed the exchange ratio of such offer at 0.95 Horizon Ordinary Shares for each share of Company Stock based on the 15-day volume weighted average price of a Horizon Ordinary Share as of August 12, 2015, or $34.74 per share. That same day, subject to our ongoing discussions with Depomed shareholders, we also publicly announced our willingness to amend the Horizon Offer to offer Depomed shareholders a cash-stock mix with up to 25% of the consideration in cash at the election of each respective Depomed shareholder, subject to certain terms and conditions, including a reduction in the total consideration per share to $32.50 per share to partially offset incremental costs associated with including cash as a component of the consideration. The premium, if any, represented by the fixed exchange ratio of the Horizon Offer or any revised Horizon Offer may be larger or smaller depending on the market price of shares of Company Common Stock and Horizon Ordinary Shares on any given date and will fluctuate between the date of the Solicitation Statement and the date of the Special Meeting and between the date of the Solicitation Statement and the date of consummation of any such Horizon Offer.

We firmly believe, but cannot assure, that a combination of Horizon and Depomed would yield significant revenue, operating and tax synergies, accelerated revenue and earnings growth and strong cash flow, as well as create substantial, immediate and long-term value for our and Depomed s shareholders. Despite our repeated attempts beginning in March 2015 to engage the Board and Depomed s management in friendly and confidential discussions, the Board and Depomed s management have refused to engage in meaningful discussions with us, have rejected the Horizon Offer and have even created new obstacles for shareholder consideration of the Horizon Offer by, among other things, amending the Bylaws to hinder Depomed shareholders statutory right to call a special meeting and the process for shareholder proposal submission and adopting a shareholder rights plan, or so-called poison pill, that precludes a party from acquiring the 10% of the votes of Depomed necessary to call a special shareholders meeting or privately soliciting up to ten (10) other shareholders for the purpose of calling a special meeting.

While we have sought to comply in good faith with what we believe is an onerous process for calling a special meeting of shareholders imposed by the Board, we also are challenging such process as contrary to California law in a judicial proceeding seeking to protect the Company shareholders franchise rights.

For additional background on the Horizon Offer, please see the section titled Background and Past Contacts in the Solicitation Statement below. For additional background on the foregoing litigation, please see the section titled Litigation in the Solicitation Statement below.

We are seeking your support to call the Special Meeting to hold an indirect referendum on the Horizon Offer and Depomed s refusal to engage with us by considering and voting upon the following proposals:

1. to remove from office, without cause, the seven members of the current Board, constituting the entire current Board, Peter D. Staple, Vicente Anido, Jr., Karen A. Dawes, Louis J. Lavigne, Jr., Samuel R. Saks, James A. Schoeneck and David B. Zenoff, as well as any person or persons elected or appointed to the Board without shareholder approval after Depomed s 2015 Annual Meeting of Shareholders, and up to and including the date of the Special Meeting, each such removal to become effective upon the election of each successor by the shareholders of the Company;

2. to repeal the amendments to Sections 2 and 5 of the Bylaws adopted and approved by the Board on July 12, 2015 to remove what Horizon believes are onerous requirements imposed thereby on the process for calling a special meeting of shareholders and for submitting shareholder proposals;

3. to repeal any amendment or provision of the Bylaws adopted and approved by the Board that changes the Bylaws in any way from the version of the Bylaws adopted and approved by the Board on July 12, 2015 through the date of the

Special Meeting, and to amend the section of the Bylaws entitled AMENDMENT OF BYLAWS to eliminate the power of the Board to adopt, amend or repeal the Bylaws from the date of the Special Meeting through 120 days following the Special Meeting; and

4. to elect the following seven individuals to serve as directors on the Board, contingent on Proposal 1 being passed: Robert M. Daines, Charles M. Fleischman, Elizabeth M. Greetham, Jack L. Kaye, Steven A. Lisi, Steven J. Shulman and Ralph H. Thurman (each, a Horizon Nominee and, collectively, the Horizon Nominees) (Proposals 1 through 4 above are collectively referred to as the Proposals).

At this time, we are soliciting your revocable proxy in the form of the accompanying WHITE Proxy Card to empower us to deliver the valid, executed and completed Special Meeting Request Form on your behalf to a designated officer of the Company to call the Special Meeting. We are not currently seeking your proxy, consent, authorization or agent designation for approval of any proposals or any other actions that would be considered at the Special Meeting. In the event the Special Meeting is called, we will send you proxy materials relating to a vote on the Proposals. Neither the calling of the Special Meeting nor the approval by Depomed shareholders of any of the Proposals at the Special Meeting would ensure that Depomed pursues or consummates the Horizon Offer or any other business combination with Horizon. Depomed shareholders who submit WHITE Proxy Cards are not, therefore, receiving an opportunity to vote directly on the Horizon Offer or any other business combination with Horizon and are not obliged to vote in favor of any of the Proposals.

For additional details on the Proposals, please see the section titled Our Plans for the Special Meeting in the Solicitation Statement below.

Shareholder-Called Special Meeting Process Overview

Generally, under the current Bylaws, for Depomed shareholders to call the Special Meeting, (i) a shareholder must request that the Board set a record date for determining shareholders entitled to request the Special Meeting (the Request Record Date) by sending written notice to the Secretary of the Company (the Record Date Request Notice), which date may be set as many as eighty-eight (88) days from the Secretary s receipt of such notice, and (ii) one or more written requests for the Special Meeting and signed by shareholders entitled as of the Request Record Date to cast not less than the Special Meeting Percentage must be submitted to and received by any designated officer of the Company within thirty (30) days of the Request Record Date. Once such written requests are received by a designated officer of the Company, the Company shall have five (5) business days to determine whether such submitting shareholders have satisfied the requirements under the Bylaws for calling the Special Meeting. Prior to the Board s July 12, 2015 amendments to the Bylaws and adoption of the poison pill, any Company shareholder or group of shareholders who owned shares of Company Common Stock entitled to cast not less than 10% of the votes at a special meeting

could have immediately called a special meeting of shareholders without the need for a special record date (i.e., the Request Record Date), a special notice for such record date (i.e., the Record Date Request Notice), or a public and burdensome proxy solicitation process. Under the previous Bylaws and the CGCL, such shareholder-called special meeting would have been required to be held on a date selected by such requesting shareholder(s) not less than thirty-five (35) nor more than sixty (60) days from the date such request was received by the Company.

In seeking to call the Special Meeting, we have strived to comply in good faith with the foregoing special meeting process. In particular, the enclosed Special Meeting Request Form reflects our good faith effort to identify all the information required by the Bylaws in connection with shareholders written request for the Special Meeting with respect to the Horizon Sub as the shareholder soliciting fellow shareholders to call such meeting. While Depomed did confirm in a letter to Horizon on August 10, 2015 that unaffiliated beneficial owners of shares of Company Common Stock will not be required to provide information that would not be customary for a solicitation process of this nature, there can be no assurances that the Company will not take actions seeking to further frustrate the calling of the Special Meeting, including by claiming that the Special Meeting Request Form we are seeking to submit on your behalf does not comply with the Bylaws in an attempt to avoid or delay the call of the Special Meeting. We encourage you to submit your WHITE Proxy Card to permit us to submit the Special Meeting Request Form. At the same time, in what we view as an effort to protect shareholders best interests, we are also challenging, among other things, what we believe is an onerous special meeting process imposed by the Board, which we believe serves only to thwart shareholders best interests and further entrench the Board and Depomed management and which we believe is wholly inconsistent with California law, in a judicial proceeding, as discussed further in the section titled Litigation in the Solicitation Statement below.

Acting in good faith, on August 3, 2015, the Horizon Sub submitted a Record Date Request Notice to Depomed as the holder of record and beneficial owner of 750,000 shares of Company Common Stock as of such date, representing approximately 1.24% of such shares that would be entitled to call the Special Meeting pursuant to the CGCL and the Bylaws if the Request Record Date had been set as of July 30, 2015, based on 60,311,961 shares of Company Common Stock outstanding as of such date. The Horizon Sub submitted a supplement to its Record Date Request Notice to Depomed on August 19, 2015 (the Supplemental Record Date Request Notice) in order to include Proposal 4, which nominates a slate of replacement directors and is contingent on Proposal 1 being approved by Company shareholders, in the agenda for the Special Meeting. Horizon s Record Date Request Notice and its Supplemental Record Date Request Notice are attached as Exhibit C and D, respectively, to the Solicitation Statement. Pursuant to the Bylaws, the Request Record Date has not yet been set by the Board. While we understand the Bylaws ostensibly permit the Board to set the Request Record Date as many as eighty-eight (88) days from the date of the Company s receipt of the Record Date Request Notice, Horizon has asked that the Board act promptly to set the Request Record Date as we believe that any delay in doing so comes at the expense of the franchise rights of the Company s shareholders and serves only to support the

claim that such process was imposed by the Board primarily to entrench the Company s directors and management. Holders of record of shares of Company Common Stock as of that date will be entitled to submit a WHITE Proxy Card to permit us to submit the Special Meeting Request Form on their respective behalves to call the Special Meeting.

As the next step in calling the Special Meeting, we are now soliciting revocable proxies from Company shareholders to empower us to deliver the Special Meeting Request Form on your behalf to call the Special Meeting. From the Request Record Date, we have thirty (30) days to solicit such revocable proxies and for the Company to be in receipt of the valid, executed and completed Special Meeting Request Form from the Horizon Sub and WHITE Proxy Cards from shareholders holding shares of Company Common Stock representing the Special Meeting Percentage together with Horizon s shares of Company Common Stock before a new Request Record Date must be requested from the Board and the process for a shareholder-called special meeting must be restarted.

Please join us in requesting that Depomed call the Special Meeting and show the Board that shareholders want to have their voices heard.

Why You Were Sent The Solicitation Statement

As noted above, we have repeatedly attempted to convince the Board and Depomed management that the Horizon Offer is strategically and financially compelling for Depomed s and Horizon s shareholders. We sent Depomed management a letter on May 27, 2015, setting forth the Horizon Offer, which at the time represented approximately a 40% premium to Depomed s then-most recent closing trading price per share of Company Common Stock. Since sending that letter, we have repeatedly attempted to engage with the Board and Depomed s advisors as well as Depomed management, including by sending a follow-up offer letter on June 12, 2015, which reiterated the Horizon Offer and set out again the merits of the combination. Notwithstanding the follow-up letter, the Board, Depomed s advisors and Depomed s management continued to be unwilling to engage with us. In light of what we see as the clear benefits that would result from a combination of Horizon and Depomed, we were compelled to make the Horizon Offer known to Depomed s shareholders and publicly disclosed it on July 7, 2015 via a press release and open letter to Depomed management.

Then, on July 10, 2015, one of Depomed s representatives suggested to us that if Horizon would increase its proposed price to acquire Depomed by $3.00 to $4.00 per share in Horizon Ordinary Shares, Depomed would engage in a constructive dialogue with Horizon regarding negotiating a transaction. That weekend, we indicated to Depomed representatives that Horizon would be willing to increase its proposed price to acquire Depomed by $3.00 to $32.25 per share in Horizon Ordinary Shares, contingent on Depomed engaging in constructive dialogue toward a transaction. The Depomed representatives stated that they would discuss the new price with Depomed management and with the Board on July 12, 2015, and would follow up with us after the Board meeting of that day. They never followed up. Instead, Depomed announced the next day that it had taken formal measures to hinder the

shareholders statutory right to consider the Horizon Offer by implementing what we believe are onerous Bylaw amendments with respect to shareholder special meetings and shareholder proposals and by adopting a poison pill.

Nevertheless, to demonstrate our commitment to pursuing the combination, on July 21, 2015, we increased the value of the Horizon Offer to $33.00 per share in Horizon Ordinary Shares, representing an approximate 60% premium to the Depomed share price on the day prior to our original proposal being made public. Unfortunately, the Board and Depomed management again rejected the Horizon Offer. On August 13, 2015, we reiterated the Horizon Offer at $33.00 per share in Horizon Ordinary Shares and fixed the exchange ratio of such offer at 0.95 Horizon Ordinary Shares for each share of Company Stock based on the 15-day volume weighted average price of a Horizon Ordinary Share as of August 12, 2015, or $34.74 per share. However, despite the significant price increase represented by our reiterated July 21, 2015 offer, the Board and Depomed s management remain unwilling to meet for or engage in any serious, meaningful discussions with us.

Given the Board and Depomed management s refusal to meaningfully engage with us, we feel strongly that the Board, as currently constituted, does not provide assurance that the interests of Depomed shareholders are being sufficiently taken into account with respect to the Horizon Offer, especially in light of what we believe are onerous Bylaws adopted by the Board limiting shareholders rights and the adoption of the poison pill.

We believe that removal of the current Board and the election of a new slate of directors, together with the proposed Bylaw amendments, are important steps for Depomed s shareholders to show their indirect support for the Horizon Offer or any future business combination offer made by Horizon. Although the Horizon Nominees have not made any commitment to us if elected other than that they will serve as directors, exercise their independent judgment in accordance with their fiduciary duties in all matters before the Board and otherwise discharge their duties as directors of the Company consistent with all applicable legal requirements, we believe that the Horizon Nominees, if elected, are more likely than the current Board to engage in good faith discussions with Horizon with respect to the Horizon Offer or any future business combination offer from Horizon. Accordingly, if any Horizon Nominees are elected, there can be no assurances that Depomed will meaningfully engage with Horizon regarding the Horizon Offer or any future business combination offer made by Horizon or that the Horizon Offer or any future business combination offer made by Horizon would be consummated.

Summary Proxy Submission Procedures

We are asking the Company s shareholders to complete, sign and date the accompanying WHITE Proxy Card so that the Horizon Sub may submit the Special Meeting Request Form and to return such completed, signed and dated WHITE Proxy Card in the enclosed envelope to MacKenzie Partners, Inc. (MacKenzie Partners), which is assisting us in this solicitation of proxies to call the Special Meeting, at the address set forth below.

The Special Meeting Request Form that the Horizon Sub would submit on your behalf to the Company asks that the Special Meeting be held on a date and at a time to be specified by the Horizon Sub, as permitted under the CGCL and the Bylaws. Subject to the CGCL and the Bylaws, the WHITE Proxy Card grants the Horizon Sub the discretion to specify such date and such time as it deems appropriate in the Special Meeting Request Form.

We ask that your executed WHITE Proxy Card be delivered as promptly as possible by mail in the enclosed postage-paid envelope to MacKenzie Partners at the address below.

If you have any questions about completing, executing and dating your WHITE Proxy Card or delivering the WHITE Proxy Card to MacKenzie Partners, or otherwise require assistance, please contact MacKenzie Partners at the address and telephone numbers below. We encourage you to submit your completed, executed and dated WHITE Proxy Card to join us in calling the Special Meeting; however, we reserve the right not to submit any WHITE Proxy Cards if we believe that they do not comply with the CGCL and the Bylaws. If we believe that your WHITE Proxy Card does not so comply, or the Company notifies us of such non-compliance, we expect to contact you.

If you do not wish to join us in calling the Special Meeting, no action on your part is needed with respect to your WHITE Proxy Card.

The Solicitation Statement is dated [ ], 2015. The Solicitation Statement, the Special Meeting Request Form and the accompanying WHITE Proxy Card are first being sent or given to Depomed shareholders on or about [ ], 2015. The WHITE Proxy Cards to submit the Special Meeting Request Form to call the Special Meeting should be delivered as promptly as possible, by mail (using the enclosed envelope), to Horizon s proxy solicitor, MacKenzie Partners, as set forth below. A copy of the Company s current Bylaws (which we are challenging in litigation) may be found on file with the Securities and Exchange Commission (the SEC) as Exhibit 3.2 to the Current Report on Form 8-K filed by the Company on July 13, 2015.

IMPORTANT

Please complete, sign and date the enclosed WHITE Proxy Card as soon as possible to join us in calling the Special Meeting.

From the Request Record Date, we have thirty (30) days to solicit revocable proxies and for the Company to be in receipt of the valid, executed and completed Special Meeting Request Form from the Horizon Sub and WHITE Proxy Cards from shareholders holding shares of Company Common Stock representing the Special Meeting Percentage together with Horizon s shares of Company Common Stock before a new Request Record Date must be requested from the Board and the process for a shareholder-called special meeting must be restarted.

If your shares of Company Common Stock are held in the name of a brokerage firm, bank nominee or other institution, only it can sign the WHITE Proxy Card with respect to your

shares and only upon receipt of specific instructions from you. Accordingly, you should contact the person responsible for your account and give instructions for the WHITE Proxy Card to be signed representing your shares of Company Common Stock. We urge you to confirm in writing your instructions to the person responsible for your account and to provide a copy of such instructions to us in care of MacKenzie Partners to the address below, so that we will be aware of all instructions given and can attempt to ensure that such instructions are followed.

If you have any questions about completing, executing and dating your WHITE Proxy Card, or delivering the document to MacKenzie Partners, or otherwise require assistance, please contact:

MacKenzie Partners, Inc.

105 Madison Avenue

New York, NY 10016

Email: proxy@mackenziepartners.com

Call collect: (212) 929-5500

Call toll-free: (800) 322-2885

Please complete, sign and date the enclosed WHITE Proxy Card and return the document to MacKenzie Partners in the enclosed postage-paid envelope today.

ONLY AFTER THE SPECIAL MEETING IS CALLED WOULD DEPOMED SHAREHOLDERS BE ASKED TO VOTE ON THE PROPOSALS. NEITHER THE CALLING OF THE SPECIAL MEETING NOR THE APPROVAL BY DEPOMED SHAREHOLDERS OF ANY OF THE PROPOSALS AT THE SPECIAL MEETING WOULD ENSURE THAT DEPOMED PURSUES OR CONSUMMATES THE HORIZON OFFER OR ANY OTHER BUSINESS COMBINATION WITH HORIZON. DEPOMED SHAREHOLDERS WHO SUBMIT WHITE PROXY CARDS ARE NOT, THEREFORE, RECEIVING AN OPPORTUNITY TO VOTE DIRECTLY ON THE HORIZON OFFER OR ANY OTHER BUSINESS COMBINATION WITH HORIZON AND ARE NOT OBLIGED TO VOTE IN FAVOR OF ANY OF THE PROPOSALS.

WE HOPE THAT HOLDING THE SPECIAL MEETING WILL ULTIMATELY PROVE UNNECESSARY. WE REMAIN HOPEFUL THAT THE BOARD WILL TAKE A STEP BACK, LISTEN TO DEPOMED SHAREHOLDERS AND ULTIMATELY DO WHAT IS RIGHT AND ENGAGE WITH HORIZON.

THIS SOLICITATION IS BEING MADE BY HORIZON, AND NOT ON BEHALF OF THE COMPANY OR THE BOARD. AT THIS TIME, WE ARE NOT CURRENTLY SEEKING YOUR PROXY, CONSENT, AUTHORIZATION OR AGENT DESIGNATION FOR APPROVAL OF THE PROPOSALS OR ANY OTHER ACTIONS THAT WOULD BE CONSIDERED AT THE SPECIAL MEETING. WE ARE ONLY SOLICITING YOUR REVOCABLE PROXY TO EMPOWER US TO DELIVER TO THE COMPANY S DESIGNATED OFFICERS THE VALID, EXECUTED AND COMPLETED SPECIAL MEETING REQUEST FORM TO CALL THE SPECIAL MEETING.

AFTER THE SPECIAL MEETING REQUEST FORM AND WHITE PROXY CARDS FOR SHARES OF COMPANY COMMON STOCK REPRESENTING THE SPECIAL MEETING PERCENTAGE HAVE BEEN DELIVERED TO AND PROPERLY RECEIVED BY THE COMPANY, WE WILL SEND YOU PROXY MATERIALS URGING YOU TO VOTE IN FAVOR OF THE PROPOSALS ONCE THE SPECIAL MEETING RECORD DATE AND MEETING DATE ARE SET.

YOUR WHITE PROXY CARD IS IMPORTANT, NO MATTER HOW MANY OR HOW FEW SHARES YOU OWN. WE URGE YOU TO COMPLETE, SIGN, DATE AND RETURN THE ENCLOSED WHITE PROXY CARD.

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS

FOR THE SOLICITATION OF PROXIES TO CALL A SPECIAL MEETING OF

DEPOMED SHAREHOLDERS.

In addition to delivering printed versions of the Solicitation Statement, the Special Meeting Request Form and the WHITE Proxy Card to all shareholders by mail, the Solicitation Statement, the Special Meeting Request Form and the WHITE Proxy Card are also available on the Internet. You have the ability to access and print the Solicitation Statement, the Special Meeting Request Form and the WHITE Proxy Card at [ ].

QUESTIONS AND ANSWERS REGARDING THE SOLICITATION STATEMENT

Q: What is the Solicitation Statement and why is Horizon sending it to me?

A: The Solicitation Statement, the Special Meeting Request, the WHITE Proxy Card and the other exhibits to the Solicitation Statement are being furnished to you as a shareholder of Depomed by and on behalf of Horizon for the purpose of soliciting revocable proxies from Company shareholders to empower us to deliver to the Company the Special Meeting Request Form on your behalf to call the Special Meeting for Company shareholders to consider and vote upon the Proposals, each as described further in the section titled Our Plans for the Special Meeting in the Solicitation Statement below.

This solicitation of WHITE Proxy Cards to call the Special Meeting is one of the initial steps in a multi-step proxy solicitation process in connection with submitting the Proposals to a vote of Depomed shareholders. As an initial step in this process, under the Bylaws and the CGCL, we are seeking WHITE Proxy Cards from holders of Company Common Stock, who, together with Horizon s shares of Company Common Stock, would be entitled to cast votes representing not less than the Special Meeting Percentage and would thereby be entitled to call the Special Meeting, subject to the information and procedural requirements of Sections 2 and 5(d) of the Bylaws. As another step in this process, once the Special Meeting is called, we would then solicit revocable proxies for votes on the Proposals and provide proxy materials for voting on the Proposals at the Special Meeting. If Depomed refuses to accept the Supplemental Record Date Request Notice or deems it a new Record Date Request Notice and refuses to permit Horizon to include Proposal 4 in the agenda for the Special Meeting, Horizon will take other appropriate action, including, among others, calling an additional special meeting of Depomed shareholders to approve Proposal 4.

Q: What is the process for calling the Special Meeting?

A: Generally, for Depomed shareholders to call the Special Meeting, (i) a shareholder must request that the Board set the Request Record Date via a Record Date Request Notice, which date may be set as many as eighty-eight (88) days from the Secretary s receipt of such notice, and (ii) one or more written requests for the Special Meeting and signed by shareholders entitled as of the Request Record Date to cast not less than the Special Meeting Percentage must be submitted to and received by any designated officer of the Company within thirty (30) days of the Request Record Date. Once such written requests are received by a designated officer of the Company, the Company shall have five (5) business days to determine whether such submitting shareholders have satisfied the requirements under the Bylaws for calling the Special Meeting.

On August 3, 2015, the Horizon Sub submitted a Record Date Request Notice to Depomed as the holder of record and beneficial owner of 750,000 shares of Company Common Stock as of such date, representing approximately 1.24% of such shares that would be entitled to call the Special Meeting pursuant to the CGCL and the Bylaws if the Request Record Date had been set as of July 30, 2015, based on 60,311,961 shares of Company Common Stock outstanding as of such date. On August 19, 2015, the Horizon Sub submitted the Supplemental Record Date Request Notice in order to include Proposal 4, which nominates a slate of replacement directors and is contingent on Proposal 1 being approved by Company shareholders, in the agenda for the Special Meeting as the beneficial owner of 2,125,000 shares of Company Common Stock, representing approximately 3.52% of such shares that would be entitled to call the Special Meeting pursuant to the CGCL and the Bylaws if the Request Record Date had been set as of August 18, 2015, based on 60,311,961 shares of Company Common Stock outstanding as of July 30, 2015. Horizon s Record Date Request Notice and its Supplemental Record Date Request Notice are attached as Exhibit C and D, respectively, to the Solicitation Statement. Pursuant to the Bylaws, the Request Record Date has not yet been set by the Board. While we understand the Bylaws ostensibly permit the Board to set the Request Record Date as many as eighty-eight (88) days from the date of the Company s receipt of the Record Date Request Notice, Horizon has asked that the Board act promptly to set the Request Record Date as we believe that any delay in doing so comes at the expense of the franchise rights of the Company s shareholders and serves only to support the claim that such process was imposed by the Board primarily to entrench the Company s directors and management. Holders of record of shares of Company Common Stock as of that date will be entitled to submit a WHITE Proxy Card to permit us to submit the Special Meeting Request Form on their respective behalves to call the Special Meeting.

The enclosed Special Meeting Request Form reflects our good faith effort to identify all the information required by the Bylaws in connection with shareholders written request for the Special Meeting with respect to the Horizon Sub as the shareholder soliciting fellow shareholders to call such meeting. We are seeking WHITE Proxy Cards from shareholders to permit us to submit the Special Meeting Request Form on behalf of shareholders entitled to cast a vote of shares of Company Common Stock representing not less than the Special Meeting Percentage.

From the Request Record Date, we have thirty (30) days to solicit such WHITE Proxy Cards and for the Company to be in receipt of the valid, executed and completed Special Meeting Request Form from the Horizon Sub and WHITE Proxy Cards from shareholders holding shares of Company Common Stock representing the Special Meeting Percentage together with Horizon s shares of

Company Common Stock before a new Request Record Date must be requested from the Board and the process for a shareholder-called special meeting must be restarted.

Q: What am I being asked to do?

A: We are asking you join us in requesting that Depomed call the Special Meeting by delivering your executed WHITE Proxy Card as promptly as possible by mail in the enclosed postage-paid envelope to MacKenzie Partners, Inc., 105 Madison Avenue, New York, NY 10016, Attn: Bob Marese.

Q: How many shareholders must submit executed WHITE Proxy Cards to call the Special Meeting?

A: Based on 60,311,961 shares of Company Common Stock outstanding as of July 30, 2015, we are seeking WHITE Proxy Cards from holders of an aggregate of at least 3,906,197 shares of Company Common Stock, who, together with the 2,125,000 shares of Company Common Stock beneficially owned by Horizon, would be entitled to cast votes representing not less than the Special Meeting Percentage at the Special Meeting and would thereby be entitled to call the Special Meeting, subject to the information and procedural requirements of Sections 2 and 5(d) of the Bylaws.

Q: If the Special Meeting is called, what proposals will be presented at the Special Meeting?

A: Depomed shareholders will be asked to consider the Proposals, each as described further in the section titled Our Plans for the Special Meeting in the Solicitation Statement below. If Depomed refuses to accept the Supplemental Record Date Request Notice or deems it a new Record Date Request Notice and refuses to permit Horizon to include Proposal 4 in the agenda for the Special Meeting, Horizon will take other appropriate action, including, among others, calling an additional special meeting of Depomed shareholders to approve Proposal 4.

Q: If I submit the enclosed WHITE Proxy Card and join in calling the Special Meeting, am I voting, or agreeing to vote, in favor of the Proposals or the Horizon Offer?

A: No. We are not currently seeking your proxy, consent, authorization or agent designation for approval of any of the Proposals or any other actions that would be considered at the Special Meeting. In the event the Special Meeting is called, we will send you proxy materials relating to a vote on the Proposals. In connection with such vote, Depomed shareholders would be permitted to vote in favor of all, some or none of the Proposals. Moreover, neither the calling of

the Special Meeting nor the approval by Depomed shareholders of any of the Proposals would ensure that Depomed pursues or consummates the Horizon Offer or any other business combination with Horizon. Depomed shareholders who submit WHITE Proxy Cards are not, therefore, receiving an opportunity to vote directly on the Horizon Offer or any other business combination with Horizon and are not obliged to vote in favor of any of the Proposals.

Q: Whom should I call with any questions?

A: Depomed shareholders should call MacKenzie Partners, our proxy solicitor, toll-free at (800) 322-2885 with any questions about the Solicitation Statement, the Special Meeting Request Form, the WHITE Proxy Card, or the other exhibits to the Solicitation Statement.

BACKGROUND AND PAST CONTACTS

Horizon regularly considers a variety of potential transactions to acquire products in primary care, orphan diseases and specialty businesses. As part of this process, Horizon identified Depomed as a possible acquisition target. The following is a chronology of events leading up to the Solicitation Statement:

On February 24, 2015, the Horizon board of directors held a regularly scheduled meeting in Dublin, Ireland, and discussed, among other things, a possible combination with Depomed and authorized management to make a proposal to Depomed.

On March 11, 2015, Horizon s Chairman, President and Chief Executive Officer, Timothy P. Walbert, spoke to Depomed s President and Chief Executive Officer, James A. Schoeneck, about engaging in confidential discussions to combine the two companies. Mr. Schoeneck declined to engage citing less than ideal timing.

On March 24, 2015, the transaction committee of the Horizon board of directors (the Horizon Transaction Committee), which had been delegated authority to oversee the offers made to Depomed and authorize changes to the terms of the offers, at a meeting in Dublin, Ireland, discussed, among other things, a potential combination with Depomed, including changes in Depomed s stock price since February 2015 and the terms of Depomed s recent high yield financing, including expected breakage costs. The Horizon Transaction Committee authorized Horizon to continue to pursue the proposed combination, within authorized terms, and authorized the engagement of Citigroup and Jefferies to serve as financial advisors in connection with the potential transaction.

On May 7, 2015, the Horizon board of directors, at its regular meeting in Dublin, Ireland, discussed, among other things, the continuing interest of the Horizon to pursue a combination with Depomed, the recent stock price performance of Depomed and the proposed acquisition structure.

On May 14, 2015, Mr. Walbert requested a meeting with Mr. Schoeneck. Mr. Schoeneck responded on May 19, 2015 that he would be available for a call on May 27, 2015.

On May 27, 2015, Mr. Walbert spoke to Mr. Schoeneck and subsequently sent a letter setting forth the Horizon Offer as an all-stock transaction in which Depomed shareholders would receive $29.25 in Horizon Ordinary Shares.

On June 12, 2015, Horizon sent Depomed a follow-up letter reiterating the Horizon Offer sent on May 27, 2015.

On June 18, 2015, one of Horizon s directors called the Depomed Chairman of the Board to encourage Depomed to engage in discussions with Horizon regarding a possible combination.

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On June 20, 2015, the Horizon Transaction Committee met telephonically to discuss the status of discussions with Depomed.

On June 25, 2015, Depomed sent a letter to Horizon indicating that the Board had unanimously rejected the Horizon Offer.

On June 29, 2015, one of Horizon s directors communicated electronically with the Depomed Chairman of the Board about the Horizon Offer.

On the same day, Depomed s financial advisors, Morgan Stanley and Leerink, also spoke to Horizon s financial advisors, Citi and Jefferies, about the Horizon Offer. Morgan Stanley and Leerink told Citi and Jefferies that the Horizon Offer was not compelling enough to justify engaging further.

On June 30, 2015, the Horizon Transaction Committee held a telephonic meeting to consider next steps in light of the Board s rejection of the Horizon Offer and stated unwillingness to engage in any discussions about value or price based on Horizon s May 27 offer. The Horizon Transaction Committee authorized Horizon to issue a public letter to the Board in response to Depomed s rejection of the Horizon Offer.

On July 7, 2015, Horizon delivered a letter to Depomed further reiterating the Horizon Offer and its value and issued a press release detailing the proposal.

Later that day on July 7, 2015, Horizon held a conference call to answer questions about the Horizon Offer and discuss its benefits.

On the same day, Depomed confirmed receipt of the Horizon Offer.

From July 9, 2015 through August 18, 2015, Horizon, through the Horizon Sub, purchased 2,125,000 shares of Company Common Stock, representing approximately 3.52% of the outstanding shares of Company Common Stock as of July 30, 2015.

On July 10, 2015, one of Depomed s financial advisors, Leerink, spoke with one of Horizon s financial advisors, Citi, and suggested that if Horizon would increase its proposed price to acquire Depomed by $3.00 to $4.00 per share in Horizon Ordinary Shares, Depomed would engage in a constructive dialogue with Horizon regarding negotiating a transaction.

During the weekend of July 10, 2015, Depomed s financial advisors spoke with Horizon s financial advisors, and Horizon s financial advisors indicated that Horizon would be willing to increase its proposed price to acquire Depomed by $3.00 to $32.25 per share in Horizon Ordinary Shares, contingent on Depomed engaging in constructive dialogue toward a transaction. Depomed s financial advisors stated that they would discuss the new price with Depomed management and discuss with the Board on July 12, 2015, and would

follow up with Horizon s financial advisors after the Board meeting of that day. They never followed up, and Depomed instead announced the next day the adoption of the Rights Agreement and the Bylaw amendments discussed immediately below.

On July 12, 2015, Depomed adopted a rights agreement declaring a dividend of one right for each outstanding share of Company Common Stock (the Rights Agreement). The plan is triggered by, among other things, a person or group acquiring 10% or more of the outstanding shares of Company Common Stock.

On the same day, Depomed amended its previous Bylaws and instituted various notice and information requirements with respect to the shareholders right to call a special meeting, making it more difficult and time-consuming to do so.

On July 13, 2015, Horizon issued a press release voicing its disappointment with Depomed s decision to limit shareholders ability to take advantage of the Horizon Offer by implementing the Rights Agreement and amending the Bylaws to delay and make more difficult the calling of a special meeting.

On July 18, 2015, one of Horizon s directors spoke to the Depomed Chairman of the Board to encourage Depomed to engage in discussions with Horizon.

On July 21, 2015, Horizon delivered a letter to Depomed increasing its proposed price to acquire the Company to $33.00 per share in Horizon Ordinary Shares.

On the same day, Depomed confirmed receipt of the revised Horizon Offer.

On July 23, 2015, Mr. Walbert contacted Mr. Schoeneck to yet again encourage discussions on the potential combination.

On July 29, 2015, Depomed issued a press release announcing that the Board had unanimously rejected Horizon s July 21, 2015 offer of $33.00 per share in Horizon Ordinary Shares.

On the same day, Depomed sent a letter to Horizon stating that the Board had rejected the revised Horizon Offer.

On July 30, 2015, Mr. Walbert had a discussion with Mr. Schoeneck to request feedback regarding a value and terms that would compel Depomed to engage with Horizon. Mr. Schoeneck committed to follow up within one (1) day.

On July 31, 2015, Morgan Stanley and Leerink, financial advisors to Depomed, informed Citi and Jefferies, financial advisors to Horizon, that Depomed again would not be providing any guidance other than that Horizon should submit a substantially more compelling offer.

On the same day, Mr. Walbert sent a letter via email to Mr. Schoeneck further clarifying the Horizon Offer to ensure consistency with the message being delivered to Depomed by its financial advisors and reiterating the value being offered by Horizon to the Depomed shareholders. Additionally, the letter made clear that if Depomed did not provide feedback on what value and terms it would be willing to consider and

Depomed did not engage in constructive discussions with Horizon, Horizon would take its proposal directly to Depomed s shareholders and challenge the decision making of the Board.

On August 1, 2015, letters substantially similar to the July 31st letter sent by Mr. Walbert to Mr. Schoeneck described immediately above were sent via email by two Horizon directors to the Depomed Chairman of the Board and another Depomed director.

On August 3, 2015, Horizon issued a press release announcing, among other things, that it had submitted to Depomed the Record Date Request Notice to begin the process for calling a shareholder meeting to consider the Proposals (other than Proposal 4, which Horizon subsequently proposed adding to the agenda of the Special Meeting pursuant to the Supplemental Record Date Request Notice submitted to Depomed on August 19, 2015) and delivered such notice to Depomed in accordance with the Bylaws.

On the same day, Horizon announced it is judicially challenging the Rights Agreement and Bylaw amendments that delay and make more difficult the calling of a special meeting. For additional background on the foregoing litigation, please see the section titled Litigation in the Solicitation Statement below.

On the same day, Horizon sent a letter to Depomed requesting clarification as to how it will apply certain portions of the Bylaws to the special meeting process.

On the same day, Depomed announced it would review the Record Date Request Notice and that it was filing a lawsuit to assert a claim for violation of the California Uniform Trade Secrets Act and breach of contract and alleging that Horizon made fraudulent and misleading statements to the Company s shareholders. For additional background on the foregoing litigation, please see the section titled Litigation in the Solicitation Statement below.

On August 7, 2015, Depomed sent a letter to Horizon indicating its unwillingness to make a counter-offer to the revised Horizon Offer.

On August 10, 2015, Depomed sent a letter to Horizon asking Horizon to clarify Proposal 1 and confirming that unaffiliated beneficial owners of shares of Company Common Stock will not be required to provide information that would not be customary for a solicitation process of this nature.

On August 12, 2015, Horizon sent a letter to Depomed in response to the letter immediately above providing clarification with respect to Proposal 1 and acknowledging Depomed s confirmation that unaffiliated beneficial owners of shares of Company Common Stock would not be required to provide information that would not be customary for a solicitation process of this nature.

On August 13, 2015, Horizon issued a press release and delivered a letter to the Board reiterating the Horizon Offer to acquire Depomed for $33.00 per share in Horizon Ordinary Shares and fixing the exchange ratio of such offer at 0.95 Horizon Ordinary Shares for each share of Company Stock based on the 15-day volume weighted average price of a Horizon Ordinary Share as of August 12, 2015, or $34.74 per share. Additionally, in that same press release and letter, Horizon announced that, subject to its ongoing discussions with Depomed shareholders, it would be willing to amend the Horizon Offer to offer Depomed shareholders a cash-stock mix with up to 25% of the consideration in cash at the election of each respective Depomed shareholder, subject to certain terms and conditions, including a reduction in the total consideration per share to $32.50 per share to partially offset incremental costs associated with including cash as a component of the consideration.

On the same day, Depomed issued a press release, among other things, commenting on the Horizon August 13, 2015 letter and indicating that the Board, consistent with its fiduciary duties, would carefully review and evaluate the revised offer to determine the course of action it believes is in the best interests of Depomed and its shareholders.

Between August 13, 2015 and August 18, 2015, Horizon entered into nominee agreements with each of the Horizon Nominees. For additional background on the nominee agreements, please see the section titled Information Regarding Horizon Nominees in the Solicitation Statement below.

On August 14, 2015, Horizon filed amendment no. 1 to the Solicitation Statement with the SEC.

On August 19, 2015, Horizon submitted to Depomed the Supplemental Record Date Request Notice to provide for Proposal 4 to elect the Horizon Nominees to the Board, contingent on Proposal 1 being passed, and delivered such notice to Depomed in accordance with the Bylaws.

On the same day, Horizon issued a press release announcing Proposal 4 and the Horizon Nominees.

OUR PLANS FOR THE SPECIAL MEETING

If we, with the support of other shareholders, are successful in requesting that the Special Meeting be called pursuant to the Bylaws and the Special Meeting is called, we expect to ask Depomed shareholders to consider and vote on the Proposals below. If Depomed refuses to accept the Supplemental Record Date Request Notice or deems it a new Record Date Request Notice and refuses to permit Horizon to include Proposal 4 in the agenda for the Special Meeting, Horizon will take other appropriate action, including, among others, calling an additional special meeting of Depomed shareholders to approve Proposal 4.

> ***Proposal 1:*** **RESOLVED, that the seven members of the current Board, constituting the entire current Board, Peter D. Staple, Vicente Anido, Jr., Karen A. Dawes, Louis J. Lavigne, Jr., Samuel R. Saks, James A. Schoeneck and David B. Zenoff, as well as any person or persons elected or appointed to the Board without shareholder approval after Depomed s 2015 Annual Meeting of Shareholders, and up to and including the date of the Special Meeting, be removed from office as directors of the Company, each such removal to become effective upon the election of each successor by the shareholders of the Company.**

Section 19 of the Bylaws, together with Section 303(a) of the CGCL, provide that any or all of the directors may be removed without cause if such removal is approved by the affirmative vote of a majority of the outstanding shares of Company Common Stock entitled to vote.

If Proposal 1 passes, but none of the Horizon Nominees are elected pursuant to Proposal 4, the directors will remain on the Board until successors are duly elected and qualified at a special or annual meeting of the shareholders of the Company. We are seeking to remove Peter D. Staple, Vicente Anido, Jr., Karen A. Dawes, Louis J. Lavigne, Jr., Samuel R. Saks, James A. Schoeneck and David B. Zenoff because we believe they refused to act in the best interests of shareholders by willfully failing to engage in meaningful discussions or negotiations with, or provide information to, Horizon following the Horizon Offer. Further, we are seeking to remove the entire current Board rather than a lesser number of directors based on the view that doing so ensures the greatest likelihood that the successor Board will engage in good faith discussions with Horizon with respect to the Horizon Offer or any future business combination offer from Horizon. Though we seek to remove the entire Board while beneficially owning approximately 3.52% of the outstanding shares of Company Common Stock, we will only succeed in doing so if shareholders holding a majority of the outstanding shares of Company Common Stock entitled to vote at the Special Meeting vote in favor of such action. Moreover, we believe such action is in the best interests of all Company shareholders in light of the current Board s actions.

Indeed, the current Board has publicly, unanimously and summarily rejected Horizon s $29.25 per share offer of May 27, 2015, and its increased $33.00 per share offer of July 21, 2015 and has been unwilling to engage in any meaningful discussions with Horizon or provide Horizon access to any additional information relating to the Board s assessment of the Company s

value to support a higher offer from Horizon. Horizon s offers represent an approximately 42% and 60% premium, respectively, from the Company s market price of $20.64 at the close of business on July 6, 2015, the day before Horizon s first proposal was publicly announced. The primary actions taken by the Company have been to adopt the Rights Agreement and amend the Bylaws to make it more difficult for shareholders to call a special meeting.

Proposal 2: **RESOLVED, that the amendments to Sections 2 and 5 of the Bylaws adopted and approved by the Board on July 12, 2015 be and hereby are repealed as set forth in such sections of the Bylaws attached as Exhibit E to the Solicitation Statement so as to remove the onerous requirements imposed thereby on the process for calling a special meeting of shareholders and for submitting shareholder proposals.**[1]

Proposal 3: **RESOLVED, that any amendment or provision of the Bylaws adopted and approved by the Board that changes the Bylaws in any way from the version of the Bylaws adopted and approved by the Board on July 12, 2015 through the date of the Special Meeting be and hereby is repealed, and that the section of the Bylaws entitled AMENDMENT OF BYLAWS be and hereby is amended to eliminate the power of the Board to adopt, amend or repeal the Bylaws from the date of the Special Meeting through 120 days following such date as set forth in such section of the Bylaws attached as Exhibit E to the Solicitation Statement.**

Section 42 of the Bylaws, together with Section 211 of the CGCL, provide that approval of each of Proposals 2 and 3 requires the affirmative vote of a majority of the outstanding shares of Company Common Stock entitled to vote.

Proposals 2 and 3 are together designed to (i) undo the Board s efforts, via amendments to the Bylaws approved and adopted by the Board on July 12, 2015, to hinder the shareholders statutory right to call a special meeting and otherwise submit shareholder proposals at any meetings and (ii) prevent the Board from taking any such further actions to amend the Bylaws to attempt to nullify or delay the actions taken by, or proposed to be taken by, the shareholders pursuant to the other Proposals, or to create new obstacles to the consideration by shareholders of the Horizon Offer or any future business combination proposal.

[1] We note that the characterization of the requirements for calling a special meeting of shareholders and for submitting shareholder proposals as onerous is our belief and not a factual statement.

With respect to Proposal 2, the repeal of the amendments as set forth in the language marked as struck out in Sections 2 and 5 in the Bylaws attached as Exhibit E to the Solicitation Statement simplifies the mechanics for nominating directors or proposing business at any annual or special meeting by in particular removing the burdensome informational and procedural requirements for proposing business and nominating directors imposed by the Board, such as:

the shareholder having to provide detailed information regarding the business proposed to be conducted, as to the shareholder, any beneficial owner with respect to such shareholder s shares, if any, and any such beneficial owner s control person (as defined in the Bylaws), and as to each nominee, if any, which requirements may in sum require greater disclosure than that required by the federal proxy rules and California law;

the shareholder having to make a representation regarding its appearance in person or by proxy to present the matters at the applicable meeting; and

as described herein, to call a special meeting, shareholders must not only meet the Special Meeting Percentage required by the CGCL but must also follow a protracted request process that could take as many as eighty-eight (88) days following the Company s receipt of a valid Record Date Request Notice just to secure a record date (i.e., the Request Record Date) pursuant to which a shareholder may solicit other shareholders to obtain the Special Meeting Percentage. The Company has at least one (1) shareholder who owns in excess of 10% of the Company s shares. That shareholder could not, under the Bylaw amendments, call a special meeting without submitting a Record Date Request and waiting up to eighty-eight (88) days for the Company to comply.

Proposal 4: **RESOLVED, that the following seven individuals be and hereby are elected to serve as directors on the Board, contingent on Proposal 1 being passed: Robert M. Daines, Charles M. Fleischman, Elizabeth M. Greetham, Jack L. Kaye, Steven A. Lisi, Steven J. Shulman and Ralph H. Thurman.**

Section 18 of the Bylaws, together with Section 305(a) of the CGCL, provide that only shareholders may elect directors to fill any vacancies arising from any removal of directors by approval of the affirmative vote of a majority of the shares represented and voting at a duly called meeting of shareholders at which a quorum is present (in which shares voting affirmatively also constitute at least a majority of the required quorum). Consequently, if Proposal 1 passes, the resulting vacancies may only be filled by the shareholders. Pursuant to Section 9 of the Bylaws, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute the required quorum.

Each Horizon Nominee named in this Proposal 4 has consented to be named in any proxy or solicitation statement and proxy cards to be filed with the SEC and distributed to stockholders of Depomed by Horizon and to serve as a director of the Company, if elected, in accordance

with Section 5(d)(i)(2) of the Bylaws. Although the Horizon Nominees have not made any commitment to us if elected other than that they will serve as directors, exercise their independent judgment in accordance with their fiduciary duties in all matters before the Board and otherwise discharge their duties as directors of the Company consistent with all applicable legal requirements, we believe that the Horizon Nominees, if elected, are more likely than the current Board to engage in good faith discussions with Horizon with respect to the Horizon Offer or any future business combination offer from Horizon. Accordingly, if any Horizon Nominees are elected, there can be no assurances that Depomed will meaningfully engage with Horizon regarding the Horizon Offer or any future business combination offer made by Horizon or that the Horizon Offer or any future business combination offer made by Horizon would be consummated. If elected, each Horizon Nominee named in this Proposal 4 would serve as a director until the Company s annual meeting in 2016 or an intervening special meeting of Company shareholders at which directors are elected and a successor has been duly elected. We will, in accordance with SEC requirements, provide shareholders with a way to vote for inclusion of less than all of the Horizon Nominees in the elections contemplated by Proposal 4.

In the event that Proposal 1 passes and the directors named or described in Proposal 1 are removed from the Board creating seven (7) vacancies, but none of the Horizon Nominees are elected pursuant to Proposal 4, then the current Board shall be subject to removal upon their successors otherwise being duly elected and qualified at the Company s annual meeting in 2016 or an intervening special meeting.

If the Company refuses to accept the Supplemental Record Date Request Notice or deems it a new Record Date Request Notice and refuses to permit Horizon to include Proposal 4 in the agenda for the Special Meeting, Horizon will take other appropriate action, including, among others, calling an additional special meeting of Company shareholders to approve Proposal 4, contingent on Proposal 1 being passed. We believe that the Company must, if it is acting in the best interests of its shareholders, accept the Supplemental Record Date Request Notice and not deem the Supplemental Record Date Request Notice or the Record Date Request Notice, as supplemented by the foregoing notice, to be a new Record Date Request Notice for purposes of the Bylaws as of the date it is received by the Company. The Supplemental Record Date Request Notice merely supplements the Record Date Request Notice before the Company has set a Request Record Date, and therefore, the Company is not prejudiced in any way by such supplement. The rejection of the Supplemental Record Date Request Notice would unnecessarily require Horizon and other Company shareholders to call a second special meeting of Company shareholders for the sole purpose of submitting Proposal 4, causing unwarranted delay and needless further expenses.

Proposals 1 through 4 also represent a way for shareholders to demonstrate, in a coordinated and powerful manner, their indirect support for the Company to engage in a meaningful dialogue with Horizon. Examples of such meaningful engagement could include, without limitation, and in each case conducted in good faith:

- the participation in one or more substantive, face-to-face meetings between the chief executive and other senior-level officers of the Company and representatives of Horizon to address the terms of the Horizon Offer;

members of the Board making themselves available for face-to-face meetings with representatives of Horizon to discuss the terms of the Horizon Offer;

discussions between the financial advisors of the Company and the financial advisors of Horizon;

discussions between the legal advisors of the Company and the legal advisors of Horizon, including in respect of any proposed merger agreement between the companies; and

the Company and Horizon undertaking due diligence activities with respect to each other.

That said, neither the calling of the Special Meeting nor the approval by Depomed shareholders of any of the Proposals at the Special Meeting would ensure that Depomed pursues or consummates the Horizon Offer or any other business combination with Horizon.

We will solicit votes in favor of the Proposals only by means of a proxy statement and proxy card once the record date and meeting date for the Special Meeting have been established. In connection with such vote, Depomed shareholders would be permitted to vote in favor of all, some or none of the Proposals. If we are successful in requesting that the Special Meeting be called as a result of shareholders holding shares of Company Common Stock representing the Special Meeting Percentage together with Horizon s shares of Company Common Stock completing, executing, dating and returning the enclosed WHITE Proxy Card to MacKenzie Partners, and Horizon delivering the valid, executed and completed Special Meeting Request Form and such WHITE Proxy Card to a Company designated officer, then we will include in Horizon s definitive proxy statement for such Special Meeting more detailed information regarding voting at the Special Meeting. The sole purpose of this solicitation, and the only effect of your return of the WHITE Proxy Card, is to request the calling of the Special Meeting and to empower us to deliver the Special Meeting Request Form to a Company designated officer.

Accordingly, we urge you to join with us to request the call of the Special Meeting for the purpose of submitting the Proposals to shareholders for a vote thereon. To help us call the Special Meeting, please follow the instructions for delivering the WHITE Proxy Card described below.

WE URGE YOU TO COMPLETE, EXECUTE, DATE AND RETURN THE ENCLOSED WHITE PROXY CARD TO MACKENZIE PARTNERS.

LITIGATION

On August 3, 2015, the Horizon Sub filed a lawsuit in the Superior Court of the State of California, County of Santa Clara, naming as defendants the Company and the members of its Board, Vicente J. Anido, Jr., Karen A. Dawes, Louis J. Lavigne, Jr., Samuel R. Saks, James A. Schoeneck, Peter D. Staple, and David B. Zenoff. The lawsuit is captioned *Horizon Pharma, Inc. v. Vicente J. Anido, Jr., et al.*, Case Number 1:15-cv-283835. The lawsuit alleges that the adoption by the Board of the Rights Agreement and Sections 2(b), 2(c), 2(d), and 5(d) of the Bylaws violates the CGCL, constitutes ultra vires acts, and breaches the fiduciary duties of the members of the Board. The lawsuit seeks, among other things, an order (i) declaring that the Rights Agreement and Sections 2(b), 2(c), and 2(d) of the Bylaws are invalid under California law, (ii) declaring that the members of the Board breached their fiduciary duties by enacting the Rights Agreement and Sections 2(b), 2(c), 2(d), and 5(d) of the Bylaws, (iii) enjoining the members of the Board from relying on, implementing, applying or enforcing either the Rights Agreement or Sections 2(b), 2(c), 2(d), or 5(d) of the Bylaws, (iv) enjoining the members of the Board from taking any improper action designed to impede, or which has the effect of impeding, the Horizon Offer or the efforts of Horizon to acquire control of the Company, and (v) compelling the members of the Board to redeem the Rights Agreement or to render it inapplicable to Horizon.

On August 3, 2015, the Company filed a lawsuit in the Superior Court of the State of California, County of Santa Clara, against Horizon Pharma public limited company. The lawsuit is captioned *Depomed, Inc. v. Horizon Pharma plc*, Case Number 1:15-cv-283834. The complaint asserts a claim for violation of the California Uniform Trade Secrets Act and breach of contract in connection Horizon Pharma public limited company s alleged use in making the Horizon Offer of information obtained pursuant to a confidentiality agreement entered into as part of Horizon Pharma public limited company s consideration of a business arrangement with Janssen Pharmaceuticals Inc. relating to its U.S. rights to NUCYNTA, which are now owned by the Company. The complaint also alleges that Horizon Pharma public limited company made fraudulent and materially misleading statements to the Company s shareholders. The lawsuit seeks, among other relief, an injunction (i) to prevent Horizon Pharma public limited company from continuing its allegedly improper and unlawful use of Depomed s confidential and trade secret data and (ii) to prevent Horizon Pharma public limited company from continuing to make and failing to correct its allegedly false and misleading statements in connection with the Horizon Offer.

In both of the above litigation matters, the Court has calendared for September 8, 2015 a hearing on applications that Horizon and Depomed have yet to file.

THE SPECIAL MEETING

Request Record Date Process. Pursuant to the Bylaws, the Request Record Date has not yet been set by the Board. Holders of record of shares of Company Common Stock as of that date will be entitled to request that the Special Meeting be called. The Bylaws set forth a protracted process for determining the Request Record Date. Under that process, the Board has twenty-eight (28) days to set a Request Record Date from receipt of a valid Record Date Request Notice from a shareholder, which Request Record Date could be as many as sixty (60) days after the close of business on the date the Board sets the Request Record Date. If the Board fails to set a Request Record Date, the Request Record Date is to be twenty-eight (28) days after the Record Date Request Notice was validly submitted to and received by the Secretary of the Company (or, if the twenty-eighth (28th) day is not a business day, the first business day thereafter). Under this process, the Board has the option to set the Request Record Date as many as eighty-eight (88) days following the Company s receipt of a valid Record Date Request Notice. Horizon s Record Date Request Notice, which was delivered to Depomed on August 3, 2015, is attached as Exhibit C to the Solicitation Statement. Horizon s Supplemental Record Date Request Notice, which was delivered to Depomed on August 19, 2015, is attached as Exhibit D to the Solicitation Statement. We believe that the Company must, if it is acting in the best interests of its shareholders, accept the Supplemental Record Date Request Notice and not deem the Supplemental Record Date Request Notice or the Record Date Request Notice, as supplemented by the foregoing notice, to be a new Record Date Request Notice for purposes of the Bylaws as of the date it is received by the Company. The Supplemental Record Date Request Notice merely supplements the Record Date Request Notice before the Company has set a Request Record Date, and therefore, the Company is not prejudiced in any way by such supplement. The rejection of the Supplemental Record Date Request Notice would unnecessarily require Horizon and other Company shareholders to call a second special meeting of Company shareholders for the sole purpose of submitting Proposal 4, causing unwarranted delay and needless further expenses.

Special Meeting Request Form and the WHITE Proxy Card. Horizon is asking shareholders to complete, execute, date and return the enclosed WHITE Proxy Card to MacKenzie Partners, which is assisting us with this solicitation and, upon receiving your executed WHITE Proxy Card, will deliver the valid, executed and completed Special Meeting Request Form on behalf of Horizon and shareholders holding shares of Company Common Stock together representing the Special Meeting Percentage (once the WHITE Proxy Cards are received) to a Company designated officer to obligate the Company to call the Special Meeting pursuant to the Bylaws. We are furnishing the Solicitation Statement, the Special Meeting Request Form and the WHITE Proxy Card to enable you and the Company s other shareholders to support us in requesting the Special Meeting be called and held. If you do not wish to join us in calling the Special Meeting, no action on your part is needed with respect to your WHITE Proxy Card.

Pursuant to the Bylaws, from the Request Record Date, we have thirty (30) days to solicit such revocable proxies and for the Company to be in receipt of the valid, executed and completed Special Meeting Request Form from the Horizon Sub and WHITE Proxy

Cards from shareholders holding shares of Company Common Stock representing the Special Meeting Percentage together with Horizon s shares of Company Common Stock before a new Request Record Date must be requested from the Board and the process for a shareholder-called special meeting must be restarted.

Special Meeting Percentage. For the Special Meeting to be properly requested in accordance with the Bylaws, the Special Meeting Request Form requesting the call of the Special Meeting must be executed by the Horizon Sub as a shareholder as of the Request Record Date and the WHITE Proxy Cards must be executed by shareholders as of the Request Record Date authorizing the Horizon Sub to submit the Special Meeting Request Form on their behalves, which shareholders, together with the Horizon Sub, must hold shares of Company Common Stock equaling the Special Meeting Percentage.

According to the Company s Quarterly Report on Form 10-Q for the quarter ended June 30, 2015 and filed with the SEC on August 3, 2015, as of July 30, 2015, there were 60,311,961 shares of Company Common Stock outstanding. Based on such number, and the fact that Horizon already beneficially owns in the aggregate 2,125,000 shares of Company Common Stock, additional properly completed and unrevoked WHITE Proxy Cards from holders of an aggregate of at least 3,906,197 shares of Company Common Stock will have to be received by the Company in accordance with the Bylaws to request the Company to call the Special Meeting. Horizon anticipates submitting, through the Horizon Sub, all of such WHITE Proxy Cards to a Company designated officer as soon as practicable after Horizon obtains a sufficient number of WHITE Proxy Cards.

Special Meeting Date. The Special Meeting Request Form requests that the Special Meeting be held on a date and at a time to be specified by the Horizon Sub, which, in accordance with the CGCL and the Bylaws, will be no less than thirty-five (35) nor more than sixty (60) days after Depomed receives the WHITE Proxy Cards together with the valid, executed and completed Special Meeting Request Form from shares representing the Special Meeting Percentage. After the Special Meeting is called, we intend to solicit proxies from you in support of the Proposals via the Company sending you a notice of the Special Meeting (or, if the Company fails to do so in the required statutory period described below, we will send such notice or seek judicial relief that would require the Company to do so) and via our sending you a proxy statement and a proxy card for use therewith. At the Special Meeting, we will ask the shareholders to vote FOR the Proposals.

Record Date and Notice for Special Meeting. Pursuant to Section 701(a) of the CGCL, together with Section 7 of the Bylaws, the record date for determining shareholders entitled to notice of, and to vote at, the Special Meeting may be fixed by the Board as no less than ten (10) nor more than sixty (60) days prior to the Special Meeting. Pursuant to Section 601(c) of the CGCL, upon receipt of the WHITE Proxy Cards and the valid, executed and completed Special Meeting Request Form from shares representing the Special Meeting Percentage, a Company designated officer must give notice of the Special Meeting to shareholders within twenty (20) days. If the Company fails to do so, then we may mail such notice or seek judicial relief to require the Company to do so.

Location of Special Meeting. The Bylaws provide that all meetings of shareholders shall be held either at the principal office of the Company (which is 7999 Gateway Blvd., Suite 300, Newark, California 94560) or at any other place, within or without California, which is designated by the Board or the President of the Company.

PROCEDURES FOR SUBMITTING THE SPECIAL MEETING REQUEST FORM AND WHITE PROXY CARDS

Pursuant to the Solicitation Statement, Horizon is requesting that the holders of the outstanding shares of Company Common Stock request that a Company designated officer call the Special Meeting and hold the Special Meeting pursuant to the Special Meeting Request Form by taking the following actions: complete, execute and date the accompanying WHITE Proxy Card furnished to you, by which you will empower us to deliver the valid, executed and completed Special Meeting Request Form on behalf of ourselves and shareholders together holding shares of Company Common Stock representing the Special Meeting Percentage to a Company designated officer on your behalf and deliver to MacKenzie Partners at the address set forth on the enclosed envelope accompanying your executed WHITE Proxy Card. **Please note that because Section 2(d)(i) of the Bylaws provides that special meeting requests must identify the same purposes and the same matters proposed to be acted on at the Special Meeting as in the Record Date Request Notice, we request that you not change the purposes or Proposals referenced in the WHITE Proxy Card.**

In seeking to call the Special Meeting, we have strived to comply in good faith with the foregoing Special Meeting process. In particular, the enclosed Special Meeting Request Form reflects our good faith effort to identify all the information required by the Bylaws in connection with shareholders written request for a special meeting with respect to the Horizon Sub as the shareholder soliciting fellow shareholders to call such meeting. To this effect, on August 3, 2015, we sent a letter to Depomed requesting clarification as to how it will apply certain portions of the Bylaws to the Special Meeting process. While Depomed did confirm in a letter to Horizon on August 10, 2015 that unaffiliated beneficial owners of shares of Company Common Stock will not be required to provide information that would not be customary for a solicitation process of this nature, there can be no assurances that the Company will not take actions seeking to further frustrate the calling of the Special Meeting, including by claiming that the Special Meeting Request Form we are seeking to submit on your behalf does not comply with the Bylaws in an attempt to avoid or delay the call of the Special Meeting. We encourage you to submit your WHITE Proxy Card to permit us to submit the Special Meeting Request Form. At the same time, in what we view as an effort to protect shareholders best interests, we are also challenging, among other things, what we believe is an onerous special meeting process imposed by the Board, which we believe serves only to thwart shareholders best interests and further entrench the Board and Depomed management and which we believe is wholly inconsistent with California law, in a judicial proceeding, as discussed further in the section titled Litigation in the Solicitation Statement above.

The WHITE Proxy Card should be delivered by mail to MacKenzie Partners using the enclosed postage-paid envelope.

Written Request for the Special Meeting. If we receive executed WHITE Proxy Cards amounting to the Special Meeting Percentage, we will submit such WHITE Proxy Cards, together with the Special Meeting Request Form, to the Company as soon as practicable and

request a Company designated officer to promptly call the Special Meeting at such time. **Please note that the delivery of the enclosed WHITE Proxy Card will not commit you to cast any vote in respect of any Proposal to be brought before the Special Meeting**. To vote on the matters to be brought before the Special Meeting, you must vote by proxy or in person at the Special Meeting.

Representations. As a result of what we believe are onerous provisions in the Bylaws, the WHITE Proxy Card asks shareholders to represent that (i) they will notify the Company in writing within five (5) business days after the record date for the Special Meeting of the class or series and number of shares of stock of the Company owned of record by such shareholder, and (ii) they intend to appear in person or by proxy at the Special Meeting to propose such business as proposed in the Record Date Request Notice.

Revocation Procedure. Shareholders who have executed and delivered a WHITE Proxy Card may revoke it at any time before the proxy is exercised by delivering an instrument revoking the earlier WHITE Proxy Card, or a duly executed later-dated WHITE Proxy Card for the same shares, to MacKenzie Partners, our proxy solicitor, at 105 Madison Avenue, New York, NY 10016.

Delivery Procedures for Direct and Beneficial Owners. If your shares of Company Common Stock are registered in your own name, please sign, date and mail the enclosed WHITE Proxy Card to MacKenzie Partners in the postage-paid envelope provided.

If any of your shares of Company Common Stock are held in the name of a brokerage firm, bank nominee or other institution, only it can sign the WHITE Proxy Card. Accordingly, please contact the person responsible for your account and give instructions for the WHITE Proxy Card to be signed representing your shares of Company Common Stock.

Your WHITE Proxy Card is important, no matter how many or how few shares you own. Please send the WHITE Proxy Card to the address set forth on the enclosed envelope as promptly as possible. The failure to sign and return the WHITE Proxy Card will have the same effect as opposing the call of the Special Meeting.

If you have any questions about completing, executing and dating your WHITE Proxy Card or delivering the WHITE Proxy Card to MacKenzie Partners, or otherwise require assistance, please contact:

MacKenzie Partners, Inc.

105 Madison Avenue

New York, NY 10016

Email: proxy@mackenziepartners.com

Call collect: (212) 929-5500

Call toll-free: (800) 322-2885

By delivering the enclosed WHITE Proxy Card to MacKenzie Partners, you are not committing to cast any particular vote in respect of, nor are you granting us any proxy to vote on, any Proposal to be brought before the Special Meeting.

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INFORMATION REGARDING HORIZON NOMINEES

In the event that the Special Meeting is called and held and the Company shareholders approve the proposal to remove from office, without cause, the seven (7) members of the current Board, constituting the entire current Board, Peter D. Staple, Vicente Anido, Jr., Karen A. Dawes, Louis J. Lavigne, Jr., Samuel R. Saks, James A. Schoeneck and David B. Zenoff, as well as any person or persons elected or appointed to the Board without shareholder approval after Depomed s 2015 Annual Meeting of Shareholders**,** and up to and including the date of the Special Meeting, Proposal 4 provides that shareholders elect the Horizon Nominees. We reserve the right to request the appointment or election of substitute persons for any of the Horizon Nominees named herein. The information herein regarding a particular Horizon Nominee has been furnished to Horizon by such Horizon Nominee.

Name, Address, Age and Employment History. Set forth below are the name, age, business address, present principal occupation, and employment and material occupations, positions, offices, or employments for the past five (5) years of each of the proposed Horizon Nominees.

Name (Citizenship); Business Address	**Age**	**Present Principal Occupation or Employment; Five (5) Year Employment History**
Robert M. Daines Business Address: 559 Nathan Abbot Way Stanford University Stanford, CA 94305	51	Mr. Daines is currently the Pritzker Professor of Law and Business and Co-Director of the Rock Center for Corporate Governance at Stanford Law School. He teaches corporate law, corporate governance, mergers and acquisitions, corporate finance, and the law and economics of complex transactions. Mr. Daines regularly provides business and legal training to corporate directors as part of an executive education program on corporate governance and mergers and acquisitions run by Stanford Law School, Stanford Business School, The University of Chicago Booth School of Business and the Tuck School of Business at Dartmouth. From 1997 to 2004, Mr. Daines was a Professor of Law at New York University School of Law. In 2001 and 1999 he was a Visiting Professor and Visiting Olin Fellow at Yale Law School and Columbia Law School, respectively. Prior to his career as a professor, from 1993 to 1997, Mr. Daines was an Associate in Leveraged Finance at Goldman Sachs & Company, a global investment banking, securities and investment management firm. From 1992 to

		1993, Mr. Daines clerked for the Honorable Ralph K. Winter of the United States Court of Appeals for the Second Circuit. Mr. Daines is a former member of the NASDAQ Stock Market Review Council. He is also the former Chair of the Corporate and Securities Law Section of the American Law and Economics Association and the former Chair of the Law and Economics Section of the Association of American Law Schools. Mr. Daines has a J.D. from Yale Law School and a B.S. in Economics and a B.A. in American Studies from Brigham Young University. Mr. Daines extensive knowledge of corporate law and corporate governance qualifies him to serve on the Board.
Charles M. Fleischman Business Address: 3565 Curtis Drive, P.O. Box 552 Teton Village, WY 83025	57	Mr. Fleischman has served as an Advanced Leadership Fellow at the Harvard Advanced Leadership Initiative since 2015. Mr. Fleischman held multiple positions at Digene Corporation, a biotechnology medical device company that is now part of publicly-traded Qiagen N.V., from 1990 to 2006, including President, Chief Financial Officer, Chief Operating Officer and a director. Prior to Digene Corporation, from 1987 to 1990, Mr. Fleischman was an Associate Director at Furman Selz LLC, an investment firm that is now part of publicly-traded ING Group. Prior thereto, he co-founded what is now ICAP plc, one of the world s premier voice and electronic interdealer broker and a publicly-traded company. Mr. Fleischman served as director of Cord Blood Registry, a newborn stem cell company that is now part of publicly-traded AMAG Pharmaceuticals, Inc., from 2012 to 2015. He served as director of Assurex Health, Inc., a privately-held personalized medicine company that specializes in pharmacogenomics, from 2014 to 2015.

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		Mr. Fleischman also served as director of One Lambda, Inc., a developer and distributor of a line of histocompatibility typing and antibody detection products, laboratory instrumentation and computer software that is now part of publicly-traded Thermo Fisher Scientific Inc., from 2009 to 2012. Mr. Fleischman also served as a director of Dako A/S, a global leader in tissue-based cancer diagnostics that is now part of publicly-traded Agilent Technologies Inc., from 2007 to 2009. He is also a member of the National Advisory Council, Johns Hopkins University School of Education. Mr. Fleischman has a bachelor s degree in History from Harvard College and obtained his M.B.A. from the Wharton Graduate School of the University of Pennsylvania. Mr. Fleischman is qualified to serve on the Board based on his leadership experience in the pharmaceutical and medical technology industry. Mr. Fleischman qualifies as an audit committee financial expert.
Elizabeth M. Greetham Business Address: 12 Ensor Mews London SW7 3BT UK	66	Ms. Greetham is currently a member of the Research and Advisory Group and Strategic Advisor to the President of The Place2Be, a UK charity which provides mental and emotional support to school children. Ms. Greetham was the Chairman and Chief Executive Officer of Drug Abuse Sciences, Inc., a privately-held biotechnology company dedicated to developing and marketing therapies for alcohol and drug abusers, from March 1999 to October 2003. Prior to joining DrugAbuse Sciences, Inc., Ms. Greetham was a portfolio manager with Weiss, Peck & Greer, an institutional investment management firm, where she managed the WPG Life Sciences Funds, L.P., which invests in select biotechnology stocks from January 1990 to March 1999.

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		Ms. Greetham has also served on the boards of Guilford Pharmaceuticals Inc., a bioscience company that is now part of publicly-traded Eisai Co., Ltd., Stressgen Biotechnologies Corporation, a biopharmaceutical company that became part of Akela Pharma Inc. and Enzo Biochem, Inc., Pathogenesis Corporation, a chronic infectious diseases drug company that is now part of publicly-traded Novartis International AG, Sangstat Medical Corporation, a global biotechnology company that is now part of publicly-traded Sanofi S.A., Ligand Pharmaceuticals Incorporated, a publicly-traded pharmaceutical company, and King Pharmaceuticals, Inc., a pharmaceutical company that is now part of publicly-traded Pfizer Inc. Ms. Greetham earned a M.A. in Economics from the University of Edinburgh, Scotland. Ms. Greetham is qualified to serve on the Board on the basis of her thirty (30) years of experience in the pharmaceutical and biotechnology industries and her financial expertise. Ms. Greetham qualifies as an audit committee financial expert.
Jack L. Kaye Business Address: 184 Tournament Drive Monroe Township, NJ 08831	71	Prior to his retirement in 2006, Mr. Kaye was an audit partner at Deloitte LLP (Deloitte), an international accounting, tax and consulting firm, for twenty-eight (28) years. At Deloitte, he was responsible for serving a diverse client base of public and private, global and domestic, companies in a variety of industries. Mr. Kaye has extensive experience consulting with clients on accounting and reporting matters, private and public debt financings, SEC rules and regulations and corporate governance/Sarbanes-Oxley issues. In addition, he served as Deloitte s Tri-State liaison with the banking and finance community and assisted clients with numerous merger and acquisition transactions. Mr. Kaye served as Partner-in-

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		Charge of Deloitte s Tri-State Core Client practice for more than twenty (20) years.
		Mr. Kaye is the current Chairman of the Audit Committee of both Keryx Biopharmaceuticals, Inc., a publicly-traded biopharmaceuticals company, and Dyadic International, Inc., a publicly-traded biotechnology company, positions he has held since 2006 and 2015, respectively. He is also a member of the Nominating and Governance and Compensation Committees of these companies. Mr. Kaye s prior board service includes Tongli Pharmaceuticals (USA) Inc., a publicly-traded China-based pharmaceutical company, from June 2008 to September 2009 and Balboa Biosciences, Inc., a privately-held biotech company, from January 2007 to June 2008.
		Mr. Kaye has a bachelor s degree in Business Administration from Baruch College and is a Certified Public Accountant. Mr. Kaye is qualified to serve on the Board on the basis of Mr. Kaye s financial and accounting expertise and years of executive leadership in the biopharmaceutical industry. Mr. Kaye also qualifies as an audit committee financial expert.
Steven A. Lisi	45	Mr. Lisi served as Senior Vice President of Business and Corporate Development of Flamel Technologies S.A., a publicly-traded specialty pharmaceutical company, from 2012 to 2015. From 2007 to 2012, Mr. Lisi was a partner at Deerfield Management, a global healthcare focused hedge fund. Prior to 2007, Mr. Lisi founded Panacea Asset Management LLC, a global healthcare focused hedge fund, and was a Healthcare Portfolio Manager at Millennium Partners, a hedge fund.
Business Address:		
9 McGann Drive		
Rockville Centre, NY 11570		
		Mr. Lisi is the co-founder of MICO Innovations, LLC, a privately-held novel bare metal stent company, and has been the Chairman since 2006. He is also a director and

		member of the Audit Committee and Finance Committee of Trio Health, a privately-held healthcare IT company, since 2015.
		Mr. Lisi has a bachelor s degree in Economics from State University of New York at Albany and a master s degree in International Business from Pepperdine University. Mr. Lisi qualifies to serve on the Board on the basis of his leadership experience in the healthcare industry and his financial expertise. Mr. Lisi qualifies as an audit committee financial expert.
Steven J. Shulman Business Address: 35 Ellis Road West Caldwell, NJ 07006	64	Since 2008, Mr. Shulman has served as managing partner of Shulman Family Ventures, a private equity firm. Mr. Shulman served as an operating partner at Water Street Health Partners, a healthcare-focused private equity firm, from 2008 until March 2015. From 2008 until December 2013, Mr. Shulman served as operating partner at Tower Three Partners LLC, a private equity firm. From December 2002 to February 2008, Mr. Shulman served as chairman and chief executive officer of Magellan Health Services, a publicly-traded specialty healthcare management organization. From 2000 to 2002, he served as chairman and chief executive officer of Internet Healthcare Group, an early-stage healthcare services and technology venture fund that he founded. From 1997 to 1999, Mr. Shulman served as chairman, president and chief executive officer of Prudential Healthcare, Inc., a healthcare services provider that is now part of publicly-traded Aetna, Inc.
		He currently serves as Chairman of Accretive Health, Inc., a publicly-traded service and technology provider to healthcare providers and CareCentrix, Inc., a privately-held at-home healthcare provider, positions he has held since 2014 and 2008, respectively. Mr. Shulman currently serves as a director of

Healthmarkets, Inc., a publicly-traded technology-enabled health insurance marketplace, Quantum Health, Inc., a privately-held healthcare coordination and consumer navigation company, MedImpact Healthcare Systems, Inc., a privately-held pharmacy benefit manager, and Facet Technologies, LLC, a privately-held microsampling sharps products provider, positions he has held since 2006, 2013, 2013 and 2011, respectively. Mr. Shulman served as Chairman of Health Management Associates, Inc., a healthcare services provider that is now part of publicly-traded Community Health Systems, Inc., from 2013 to 2014. Mr. Shulman also served on the board of Access MediQuip, LLC, a privately-held surgical and implant management solutions company, from April 2009 to May 2015 and Digital Insurance, Inc., a privately-

held employee benefits agency, from 1999 to 2013. He also serves on the Dean s Council at the State University of New York at Stony Brook.

Mr. Shulman has a bachelor s degree in Economics and a master s degree in Health Services Administration from the State University of New York at Stony Brook. He also completed the Advanced Management program at Stanford University Graduate School of Business. Mr. Shulman s experience in private equity investment, his experience as an operating partner for a healthcare private equity firm and his experience as chief executive of several large organizations in the healthcare industry, as well as his financial expertise, qualifies him to serve on the Board.

Ralph H. Thurman Business Address: 139 Dutton Mill Rd Malvern, PA 19355	66	Mr. Thurman has served as a private equity senior advisor and operating executive since 2008. He is currently a member of the executive investment council of Levitt Equity Partners and a Senior Advisor for BC Partners, both private equity firms. Mr. Thurman served as an Operating Partner at AEA Investments LP, a private equity firm, from October 2012 through March 2014. Before joining AEA Investments LP, Mr. Thurman was a Senior Advisor at New Mountain Capital, LLC, a private and public equity investment firm, from May 2008 until October 2012. Mr. Thurman has served as a director of Presbia PLC, a publicly-traded ophthalmic device company, since October 2013 and has served as its Executive Chairman since January 2014. Mr. Thurman was the Executive Chairman of Cogent HMG, a portfolio company of AEA Investments LP engaged in healthcare technology, from October 2012 through March 2014. From July 2008 to October 2011, Mr. Thurman served as a director of CardioNet, Inc., a publicly-traded global medical technology company focused on diagnosing and monitoring cardiac arrhythmias, where he also served as Executive Chairman from July 2008 to January 2009, as President and Chief Executive Officer from February 2009 to June 2010 and as Chairman from June 2009 until his resignation from the board of directors in October 2011. From 2000 to 2007, he was a Founder, Chairman and Chief Executive Officer of VIASYS Healthcare Inc., a privately-held healthcare technology company. From 2001 to 2006, Mr. Thurman was Lead Director of Valeant Pharmaceuticals International, a publicly-traded global pharmaceutical company.

Mr. Thurman served as a director of Enzon, Inc., a publicly-traded biotechnology company, from 1993 to 2001 and served as Chairman from 1996 to 2001. From 1998 to 2000, Mr. Thurman served as Chairman and Chief Executive Officer of Strategic Reserves LLC, a privately-held company providing funding and strategic direction to healthcare technology companies. Prior to that, he served as Chairman and Chief Executive Officer of Corning Life Sciences, Inc., a subsidiary of publicly-traded Corning Incorporated that manufactures laboratory products for life sciences research from 1993 to 1998 and held various positions at Rhône-Poulenc Rorer Pharmaceuticals, Inc., a pharmaceutical company that is now part of publicly-traded Sanofi S.A., from 1984 to 1993, including President of both Rorer Pharmaceuticals, Inc. and Rhône-Poulenc Rorer Pharmaceuticals, Inc. Mr. Thurman currently serves on the board of directors of Allscripts Healthcare Solutions, Inc., a publicly-traded provider of practice management and electronic health record technology services for the healthcare industry. From November 2013 to February 2014, Mr. Thurman served as a director of Orthofix International N.V., a publicly-traded medical devices company. From January 2013 to November 2014, Mr. Thurman served as a director of Arno Therapeutics, Inc., a publicly-traded biopharmaceutical company.

Mr. Thurman received a B.S. in Economics from Virginia Polytechnic Institute and a M.A. in Management from Webster University. Mr. Thurman is qualified to serve as a director of the Company on the basis of his valuable financial and corporate governance expertise. Mr. Thurman qualifies as an audit committee financial expert.

Additional Information about the Horizon Nominees. Each Horizon Nominee named in the Solicitation Statement is independent under the Board s independence guidelines, the applicable rules of Nasdaq, and the independence standards applicable to the Company under paragraph (a)(1) of Item 407 of Regulation S-K under the Securities Exchange Act of 1934, as amended (the Exchange Act). Furthermore, all of the Horizon Nominees are independent of and unaffiliated with Horizon.

Each Horizon Nominee who will serve on the audit committee of the Board meets the financial literacy requirements under the applicable rules of Nasdaq, and Ms. Greetham and Messrs. Fleischman, Kaye, Lisi and Thurman each qualify as an audit committee financial expert under the applicable rules of Nasdaq.

Each Horizon Nominee named herein has consented to be named in any proxy or solicitation statement and proxy cards to be filed with the SEC and distributed to stockholders of Depomed by Horizon and to serve as a director of the Company, if elected. If these Horizon Nominees are elected, they intend to discharge their duties as directors of the Company consistent with all applicable legal requirements, including the fiduciary obligations imposed upon corporate directors under the CGCL. If elected, each of the Horizon Nominees would serve as a director until the Company s annual meeting in 2016 or an intervening special meeting of shareholders at which directors are elected and a successor has been duly elected.

If elected, the Horizon Nominees will be entitled to such compensation from the Company as may be determined by the Company for non-employee directors, and which is described in the Company s Definitive Proxy Statement for the 2015 Annual Meeting of Shareholders, as filed with the SEC on April 6, 2015.

None of the Horizon Nominees directly or indirectly beneficially or of record own any shares of capital stock or other securities of the Company.

Each of the Horizon Nominees has entered into a nominee agreement (the Horizon Nominee Agreements) pursuant to which Horizon Pharma public limited company has agreed to pay each such Nominee $10,000 upon the execution of the applicable Horizon Nominee Agreement and $40,000 in the event that such Nominee serves as a nominee for election to the Board at the Special Meeting until the Special Meeting (or the earlier abandonment of the proxy solicitation to be conducted by Horizon in respect of the Special Meeting), and to defend and indemnify such Horizon Nominees against, and with respect to, any losses that may be incurred by them in the event they become a party to litigation based on their nomination as candidates for election to the Board and the solicitation of proxies in support of their election. The Horizon Nominees will not receive any compensation from Horizon for their services as directors of the Company if elected. If elected, the Horizon Nominees will be entitled to such compensation from the Company as is consistent with the Company s practices for services of non-employee directors. Except for such Horizon Nominee Agreements, there are no agreements, arrangements or understandings between or among any of (i) Horizon, (ii) each Horizon Nominee and (iii) any other person, in each case, pursuant to which the nominations of the Horizon Nominees are being made by Horizon.

No Horizon Nominee or any associate of a Horizon Nominee is a party adverse to the Company or any of its subsidiaries or has a material interest adverse to the Company or any of its subsidiaries in any material proceeding, and there is no event that occurred during the past ten (10) years with respect to any of the Horizon Nominees that is required to be described under 401(d) or 401(f) of Regulation S-K.

Filling of Vacancies. Section 18 of the Bylaws, together with Section 305(a) of the CGCL, provides that only shareholders may elect directors to fill any vacancies arising from any removal of directors by approval the affirmative vote of a majority of the shares represented and voting at a duly meeting of shareholders at which a quorum is present (which shares voting affirmatively also constitute at least a majority of the required quorum).

SOLICITATION OF PROXIES; EXPENSES

The entire expense of preparing and mailing the Solicitation Statement and any other soliciting material and the total expenditures relating to the solicitation of proxies to call the Special Meeting will be borne by Horizon. In addition to the use of the mails, requests may be solicited by Horizon by mail, courier services, Internet, email, telephone, telegraph, facsimile, advertisements or in person. Banks, brokerage houses, and other custodians, nominees and fiduciaries will be requested to forward solicitation material to the beneficial owners of Company Common Stock that such institutions hold, and Horizon will reimburse such institutions for their reasonable out-of-pocket expenses in so doing.

Horizon has retained MacKenzie Partners, a proxy solicitation firm, to assist in the solicitation of proxies to call the Special Meeting and the proxy solicitation in connection with the Special Meeting. Horizon has agreed to pay MacKenzie Partners customary fees as may be mutually agreed. In addition, Horizon will reimburse MacKenzie Partners for its reasonable disbursements. MacKenzie Partners will be indemnified against certain liabilities and expenses. That firm will utilize approximately thirty-five (35) persons in its solicitation efforts.

Horizon estimates that its total expenditures relating to the solicitation of proxies to call the Special Meeting and the solicitation of proxies for approval of the Proposals at the Special Meeting will be approximately $675,000, excluding litigation costs. Total expenditures incurred to date relating to these solicitations have been approximately $225,000, excluding litigation costs.

CERTAIN INFORMATION REGARDING THE PARTICIPANTS

Horizon and the Horizon Sub may be deemed participants under SEC rules in this solicitation of proxies, in addition to the Horizon Nominees, Horizon s directors, Timothy P. Walbert, Chairman, President and CEO; William F. Daniel; Michael Grey; Jeff Himawan; Virinder Nohria; Ronald Pauli; Gino Santini; and H. Thomas Watkins, and the following other executives and employees of Horizon: Robert F. Carey, Executive Vice President, Chief Business Officer; Paul W. Hoelscher, Executive Vice President, Chief Financial Officer; David G. Kelley, Executive Vice President, Company Secretary and Managing Director, Ireland; John J. Kody, Executive Vice President, Chief Commercial Officer; Barry J. Moze, Executive Vice President, Corporate Development; Jeffrey W. Sherman, Executive Vice President, Research and Development and Chief Medical Officer; Miles McHugh, Senior Vice President and Chief Accounting Officer; John Thomas, Executive Vice President, Corporate Strategy and Investor Relations; Brian Beeler, Executive Vice President and General Counsel; Geoffrey M. Curtis, Group Vice President, Communications; and Tina Ventura, Vice President, Investor Relations.

For information regarding purchases and sales of securities of the Company during the past two years by the participants in this solicitation, see Schedule I.

Except as set forth in the Solicitation Statement (including the Exhibits and Annexes), (i) during the past 10 years, no participant in this solicitation has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors); (ii) no participant in this solicitation directly or indirectly beneficially owns any securities of the Company; (iii) no participant in this solicitation owns any securities of the Company which are owned of record but not beneficially; (iv) no participant in this solicitation has purchased or sold any securities of the Company during the past two years; (v) no part of the purchase price or market value of the securities of the Company owned by any participant in this solicitation is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such securities; (vi) no participant in this solicitation is, or within the past year was, a party to any contract, arrangements or understandings with any person with respect to any securities of the Company, including, but not limited to, joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profit, division of losses or profits, or the giving or withholding of proxies; (vii) no associate of any participant in this solicitation owns beneficially, directly or indirectly, any securities of the Company; (viii) no participant in this solicitation owns beneficially, directly or indirectly, any securities of any parent or subsidiary of the Company; (ix) no participant in this solicitation or any of his, her or its associates was a party to any transaction, or series of similar transactions, since the beginning of the Company s last fiscal year, or is a party to any currently proposed transaction, or series of similar transactions, to which the Company or any of its subsidiaries was or is to be a party, in which the amount involved exceeds $120,000; (x) no participant in this solicitation or any of his, her or its associates has any arrangement or understanding with any person with respect to any future employment by the Company or its affiliates, or with respect to any future transactions to which the Company or any of its affiliates will or may be a party; (xi) no participant in this solicitation has a substantial interest, direct or indirect, by securities

holdings or otherwise in any matter to be acted on at the special meeting; (xii) no participant in this solicitation holds any positions or offices with the Company; (xiii) no participant in this solicitation has a family relationship with any director, executive officer, or person nominated or chosen by the Company to become a director or executive officer; and (xiv) no corporations or organizations, with which any participant in this solicitation has been employed in the past five years, is a parent, subsidiary or other affiliate of the Company. Except as set forth in the Solicitation Statement (including the Exhibits and Annexes), there are no material proceedings to which any participant in this solicitation or any of his, her or its associates is a party adverse to the Company or any of its subsidiaries or has a material interest adverse to the Company or any of its subsidiaries.

CERTAIN EFFECTS RELATED TO THIS SOLICITATION

2021 Notes

Based on a review of the Company s public filings with the SEC, pursuant to the First Supplemental Indenture, dated as of September 9, 2014 to the Indenture dated as of September 9, 2014, between the Company and The Bank of New York Mellon Trust Company, N.A. (the Supplemental Indenture), regarding certain 2.50% Convertible Senior Notes due 2021 (the 2021 Notes), the Horizon Offer, if such proposed transaction is consummated, and the Proposals, if passed, are not likely to result in any payments in connection with a Fundamental Change (as defined in the Supplemental Indenture), which definition includes the consummation of (i) any recapitalization, reclassification or change of the Company Common Stock (other than changes resulting from a subdivision or combination) as a result of which the Company Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets; (ii) any share exchange, consolidation or merger of the Company pursuant to which the Company Common Stock would be converted into cash, securities or other property or assets; or (iii) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its subsidiaries, taken as a whole, to any person other than one of the Company s subsidiaries; provided, however, that a transaction described in clause (ii) in which all persons in whose names at the time each particular 2021 Note is registered in the Company s note register of all classes of the Company s Common Equity (as defined in the Supplemental Indenture) immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of Common Equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such transaction in substantially the same proportions as such ownership immediately prior to such transaction shall not be a Fundamental Change. However, any of the transactions listed in clauses (i) through (iii) of the foregoing sentence will not constitute a Fundamental Change if at least 90% of the consideration received or to be received by holders of Company Common Stock, excluding cash payments for fractional shares, in connection with such transaction or transactions consists of shares of publicly listed common stock and as a result of such transactions the 2021 Notes become convertible into such consideration, excluding cash payments for fractional shares. We expect the Horizon Offer, if such proposed transaction is consummated, to qualify under the exception from the definition of Fundamental Change transactions in the preceding sentence; the Proposals, if passed, would not otherwise trigger a Fundamental Change under the 2021 Notes.

Senior Secured Notes

Further based on a review of the Company s public filings with the SEC, pursuant to the Note Purchase Agreement, dated as of March 12, 2015, by and between the Company, the purchasers party thereto from time to time (Purchasers), and Deerfield Private Design Fund III, L.P. (the Note Purchase Agreement), pursuant to which the Company requested that the Purchasers purchase an aggregate principal amount of $575,000,000 of the Company s senior secured notes (the Senior Secured Notes), the Horizon Offer, if such proposed transaction is consummated, could potentially result in a Major Transaction (as defined in the Note

Purchase Agreement) that does not constitute a Permissible Change of Control (as defined below), triggering certain prepayment obligations and penalty prepayment premiums, though the Proposals are not likely to result in such payments. We cannot confirm whether this would be the case as of the date hereof as operative provisions of the Note Purchase Agreement as publicly disclosed have received confidential treatment. As publicly disclosed, a Major Transaction includes a consolidation, merger, exchange of shares, recapitalization, reorganization, business combination or any other event following which the holders of Company Common Stock immediately preceding such consolidation, merger, exchange, recapitalization, reorganization, combination or event either (i) no longer hold a majority of the shares of Company Common Stock or (ii) no longer have the ability to elect a majority of the Board. A Permissible Change of Control means any Major Transaction involving, among other things, the acquisition of a majority of the total voting power of the Company where after giving effect to such Major Transaction, the Company is a direct or indirect subsidiary or a person whose common stock is publicly listed and that has less than a certain undisclosed Debt to Adjusted EBITDA Ratio (as defined in the Note Purchase Agreement).

2014 Omnibus Incentive Plan

Further based on a review of the Company s public filings with the SEC, pursuant to the 2014 Omnibus Incentive Plan, effective as of February 19, 2014, the Horizon Offer, if such proposed transaction is consummated, and/or Proposal 1 if passed without election of any Horizon Nominee pursuant to Proposal 4 or Proposal 1 if passed together with the election of any Horizon Nominee pursuant to Proposal 4 could each potentially result in a Change in Control. A Change in Control means any event so determined by the Board and that also constitutes a change in the ownership or effective control of the Company or change in ownership of a substantial portion of the assets of the Company within the meaning of Internal Revenue Code Section 409A(a)(2)(A)(v) (provided, that the Board may specify a definition of Change in Control in an award agreement that is not inconsistent with this definition of Change in Control), and accordingly the Board may so determine that the Horizon Offer, if consummated, and/or Proposal 1 if passed without election of any Horizon Nominee pursuant to Proposal 4 or Proposal 1 if passed together with the election of any Horizon Nominee pursuant to Proposal 4 qualifies. In the event of a Change in Control, the Compensation Committee of the Board can accelerate the vesting or exercisability of an award, eliminate or make less restrictive any restrictions in an award, waive any restriction or other provision of the plan or an award or otherwise amend or modify an award in any manner that is, in either case, (i) not materially adverse to the participant to whom such award was granted, (ii) consented to by such participant or (iii) authorized by section 15(c) of the plan; provided, however, that subject to certain exceptions, no such action shall permit the term of any option or stock appreciation right to be greater than ten (10) years from its grant date. Section 15(c) of the plan provides that in the event of a corporate merger, consolidation, acquisition of property or stock, separation, reorganization or liquidation (which circumstances would include the Horizon Offer, if consummated), the Compensation Committee of the Board may make such adjustments to awards or other provisions for the disposition of awards as it deems equitable, and shall be authorized, in its discretion, (i) to provide for the substitution of a new award or other arrangement (which, if applicable, may be

exercisable for such property or stock as the Compensation Committee of the Board determines) for an award or the assumption of the award, regardless of whether in a transaction to which Internal Revenue Code Section 424(a) applies, (ii) to provide, prior to the transaction, for the acceleration of the vesting and exercisability of, or lapse of restrictions with respect to, the award and, if the transaction is a cash merger, provide for the termination of any portion of the award that remains unexercised at the time of such transaction, or (iii) to cancel any such award and to deliver to the participants cash in an amount that the Compensation Committee of the Board shall determine in its sole discretion is equal to the fair market value of such awards on the date of such event, which in the case of options or stock appreciation rights shall be the excess (if any) of the fair market value of the Company Common Stock on such date over the exercise price of such award.

2004 Equity Incentive Plan

Further based on a review of the Company s public filings with the SEC, pursuant to the Company s 2004 Equity Incentive Plan, as amended on December 20, 2011, the Horizon Offer, if such proposed transaction is consummated, and/or Proposal 1 if passed without election of any Horizon Nominee pursuant to Proposal 4 or Proposal 1 if passed together with the election of any Horizon Nominee pursuant to Proposal 4 could each potentially result in a Fundamental Transaction or Change in Control, as applicable, within the meaning of the 2004 Equity Incentive Plan, while the remaining Proposals are not likely to result in either such event. A Fundamental Transaction includes a merger in which the Company is the surviving corporation but after which the shareholders of the Company immediately prior to such merger (other than any shareholder that merges, or which owns or controls another corporation that merges, with the Company in such merger) cease to own their shares or other equity interest in the Company, which would include the transaction contemplated by the Horizon Offer, if consummated. In the event of a Fundamental Transaction any or all awards outstanding under the plan may be assumed, converted or replaced by the successor corporation (if any), which assumption, conversion or replacement shall be binding on all participants under the plan. In the alternative, the successor corporation may substitute equivalent awards or provide substantially similar consideration to participants as was provided to the Company s shareholders (after taking into account the existing provisions of the awards). The successor corporation may also issue, in place of outstanding shares of Company Common Stock held by participants, substantially similar shares or other property subject to repurchase restrictions no less favorable to the participants. In the event the successor corporation (if any) does not assume or substitute awards, the vesting with respect to such awards shall fully and immediately accelerate or the repurchase rights of the Company shall fully and immediately terminate, as the case may be, so that the awards may be exercised or the repurchase rights shall terminate before, or otherwise in connection with the closing or completion of the Fundamental Transaction, but then terminate.

Notwithstanding anything in the plan to the contrary, the Board may, in its sole discretion, provide that the vesting of any or all award shares subject to vesting or a right of repurchase shall accelerate or lapse, as the case may be, upon the occurrence of a Fundamental Transaction. If the Board exercises such discretion with respect to options, such options shall become exercisable in full prior to the consummation of such event at such time and on such

conditions as the Board determines, and if such options are not exercised prior to the consummation of the Fundamental Transaction, they shall terminate at such time as determined by the Board. The Board need not have adopted the same rules for each award or each awardee. Subject to any greater rights granted to participants as described under the foregoing provisions, in the event of the occurrence of any Fundamental Transaction, any outstanding awards shall be treated as provided in the applicable agreement or plan of merger, consolidation, dissolution, liquidation, or sale of assets, as the case may be.

The Board may also, but need not, specify that other transactions or events constitute a Change in Control. The Board may do that either before or after the transaction or event occurs. Examples of transactions or events that the Board may treat as Changes in Control are: (i) any person or entity, including a group as contemplated by Section 13(d)(3) of the Exchange Act, acquires securities holding 50% or more of the total combined voting power or value of the Company, or (ii) as a result of or in connection with a contested election of Company directors, the persons who were Company directors immediately before the election cease to constitute a majority of the Board. The transaction contemplated by the Horizon Offer, if consummated, and/or Proposal 1 if passed with Proposal 4 or Proposal 1 if passed together with Proposal 4 could each potentially be deemed by the Board to be a Change in Control. In connection with a Change in Control, notwithstanding any other provision of the plan, the Board may, but need not, take any one or more of the actions that would be taken in the event of a Fundamental Transaction. In addition, the Board may extend the date for the exercise of awards (but not beyond their original expiration date). The Board need not adopt the same rules for each award or each awardee.

Different rules apply under the 2004 Equity Incentive Plan in respect of individuals who are non-employee directors. In the event of a Fundamental Transaction while the awardee remains a non-employee director, the shares at the time subject to each outstanding option held by such awardee pursuant to the plan, but not otherwise vested, shall automatically vest in full so that each such option shall, immediately prior to the effective date of the Fundamental Transaction, become exercisable for all the shares as fully vested shares and may be exercised for any or all of those vested shares. Immediately following the consummation of the Fundamental Transaction, each such option shall terminate and cease to be outstanding, except to the extent assumed by the successor corporation (or affiliate thereof). In the event of a Change in Control while the awardee remains a non-employee director, the shares at the time subject to each outstanding option held by such awardee pursuant to the plan, but not otherwise vested, shall automatically vest in full so that each such option shall, immediately prior to the effective date of the Change in Control, become exercisable for all the shares as fully vested shares and may be exercised for any or all of those vested shares. Each such option shall remain exercisable for such fully vested Shares until the expiration or sooner termination of the option term in connection with a Change in Control. Each option under the plan which is held by a non-employee director and which is assumed in connection with a Fundamental Transaction shall be appropriately adjusted, immediately after such Fundamental Transaction, to apply to the number and class of securities which would have been issuable to the awardee in consummation of such Fundamental Transaction had the option been exercised immediately prior to such Fundamental Transaction. Appropriate adjustments shall also be

made to the option price payable per share under each outstanding option, provided the aggregate option price payable for such securities shall remain the same. The remaining terms of each such option shall, as applicable, be the same as terms in effect for awards granted under the plan.

Employee Stock Purchase Plan

Further based on a review of the Company s public filings with the SEC, pursuant to the 2004 Employee Stock Purchase Plan, as amended on February 19, 2014, the Horizon Offer, if such proposed transaction is consummated, could potentially result in the immediate termination of the Offering Period thereunder, while the Proposals are not likely to result in such termination. Each Offering Period consists of four (4) six (6)-month purchase periods during which payroll deductions of the participants are accumulated under the plan. In the event of, among other things, a merger in which the Company is the surviving corporation but after which the shareholders of the Company immediately prior to such merger (other than any shareholder that merges, or which owns or controls another corporation that merges, with the Company in such merger) cease to own their shares or other equity interest in the Company, each purchase right under the plan shall be assumed or an equivalent purchase right shall be substituted by the successor corporation or a parent or subsidiary of the successor corporation, unless the successor corporation does not agree to assume the option or to substitute an equivalent purchase right, in which case the Board may determine, in the exercise of its sole discretion and in lieu of such assumption or substitution, to shorten the Offering Period then in progress by setting a new purchase date.

Management Continuity Agreements

Further based on a review of the Company s public filings with the SEC, the Horizon Offer, if such proposed transaction is consummated, and/or Proposal 1 if passed without election of any Horizon Nominee pursuant to Proposal 4 or Proposal 1 if passed together with the election of any Horizon Nominee pursuant to Proposal 4 could each potentially trigger change in control payments under the May 2014 form of Management Continuity Agreement entered into with executive officers of the Company, while the other Proposals are not likely to trigger such payments.

The Management Continuity Agreement provides, among other things, that in the event an executive officer is subject to an involuntary termination (a termination by the Company without Cause or by the executive for Good Reason, as those terms are defined in the Management Continuity Agreements) within ninety (90) days before or twelve (12) months following a change in control (as defined in the 2014 Omnibus Incentive Plan above), the executive officer is entitled to receive: (i) 100% vesting acceleration of such officer s unvested Company equity awards; (ii) subject to execution of a release of claims, severance payments for a period of twenty-four (24) months (if the officer is the chief executive officer) or twelve (12) months (if the officer is not the chief executive officer) equal to the base salary which the officer was receiving immediately prior to the change in control (or immediately prior to the termination, if greater); (iii) a lump sum payment equal to two (2) times (if such

officer is the chief executive officer) or equal to (if the officer is not the chief executive officer) such officer s annual bonus target for the Company s fiscal year in which the termination occurs; and (iv) payment by the Company of the full cost of the health insurance benefits provided to such officers immediately prior to the change in control through the earlier of the end of the severance period or until such officer is no longer eligible for such benefits under applicable law. If the foregoing payments and benefits are subject to the golden parachute excise tax under the Internal Revenue Code, they will be reduced if and to the extent doing so would cause the executive to retain a greater amount on an after-tax basis.

The following table, from the Company s Definitive Proxy Statement for the 2015 Annual Meeting of Shareholders, as filed with the SEC on April 6, 2015, sets forth potential payments to the Company s named executive officers (as identified in such Proxy Statement) employed as of December 31, 2014 under the Management Continuity Agreements that would have been made had an involuntary termination occurred within twelve (12) months of a change in control that took place on December 31, 2014.

Potential Payments Involuntary Termination Following a Change in Control

Name	Severance Payments ($)		Bonus Payments ($)		Health Insurance Benefit ($)		Option and Stock Award Vesting Acceleration ($)(1)
James A. Schoeneck	1,250,000	(2)	1,050,000	(3)	42,506	(4)	5,010,382
August J. Moretti	376,620	(5)	163,265	(6)	19,828	(7)	1,595,386
Matthew M. Gosling	399,463	(5)	188,407	(6)	28,208	(7)	1,529,019
Thadd M. Vargas	341,038	(5)	137,089	(6)	20,436	(7)	1,424,345
Srinivas G. Rao, MD	375,000	(5)	150,000	(6)	18,289	(7)	642,000

(1) Accelerated equity value as if the involuntary termination occurred on December 31, 2014.

(2) The amount reported represents total severance payments over twenty-four (24) months.

(3)

The amount reported equals two times such officer s annual bonus target for the Company s fiscal year in which the termination occurs.

(4) The amount reported represents total health and dental insurance premiums to be paid on behalf of the named executive officer for twenty-four (24) months.

(5) The amount reported represents total severance payments over twelve (12) months.

(6) The amount reported equals such officer s annual bonus target for the Company s fiscal year in which the termination occurs.

(7) The amount reported represents health and dental insurance premiums to be paid on behalf of the named executive officer for twelve (12) months.

Filed Agreements

We have not independently verified if the copies of the agreements discussed above in this section of the Solicitation Statement titled Certain Effects Related to This Solicitation

(collectively, the Filed Agreements) and publicly filed by the Company with the SEC are the same as the executed copies of the Filed Agreements, and the analyses above are based on our review of the Company s public SEC filings. While we are not aware of any, there may be other agreements that may be triggered by a change in control in connection the Horizon Offer. The discussion of the potential impact of the Horizon Offer, if such proposed transaction is consummated, and the Proposals is based upon our review of the Filed Agreements and the Company s Annual Report on Form 10-K for the year ended December 31, 2014.

OTHER MATTERS

The principal executive offices of the Company are located at 7999 Gateway Boulevard, Suite 300, Newark, California 94560. Except as otherwise noted herein, the information concerning the Company has been taken from or is based upon documents and records on file with the SEC and other publicly available information. Although Horizon does not have any knowledge that would indicate that any statement contained herein that is based upon such documents and records is untrue, it does not take any responsibility for the accuracy or completeness of the information contained in such documents and records, or for any failure by the Company to disclose events that may affect the significance or accuracy of such information. For information regarding the security ownership of certain beneficial owners and management of the Company, see Schedule II.

SHAREHOLDER PROPOSALS

According to Depomed s 2015 Annual Meeting proxy statement, shareholders who wish to submit proposals for inclusion in the Company s proxy statement for their 2016 Annual Meeting must submit such proposals so as to be received by Depomed at 7999 Gateway Blvd., Suite 300, Newark, California 94560, on or before December 9, 2015.

In addition, according to Depomed s proxy statement for the 2015 Annual Meeting of Shareholders, the Company s nominating and corporate governance committee will consider written proposals from shareholders for nominees for director. Any such nominations should be submitted to the nominating and corporate governance committee c/o the Secretary of the Company and should include (at a minimum) the following information: (i) all information relating to such nominee that is required to be disclosed pursuant to Regulation 14A under the Exchange Act (including such person s written consent to being named in the proxy statement as a nominee and to serving as a director, if elected); (ii) the name(s) and address(es) of the shareholder(s) making the nomination and the number of shares of Company Common Stock which are owned beneficially and of record by such shareholder(s); and (iii) appropriate biographical information and a statement as to the qualifications of the nominee, and should be submitted in the time frame described in the Bylaws. Pursuant to the Bylaws, to be timely, a shareholder s notice for a nomination at an annual meeting of shareholders shall be delivered to the Company Secretary at the principal executive offices of the Company not less than one-hundred-twenty (120) or more than one-hundred-fifty (150) days prior to the first anniversary of the date on which the corporation first mailed its proxy materials for the preceding year s annual meeting of shareholders.

The information set forth above regarding the procedures for submitting shareholder proposals for consideration at Depomed s 2016 Annual Meeting is based on information contained in Depomed s 2015 proxy statement and Bylaws. The incorporation of this information in the Solicitation Statement should not be construed as an admission by Horizon that such procedures are legal, valid or binding.

FORWARD-LOOKING STATEMENTS

The Solicitation Statement contains forward-looking statements, including, but not limited to, statements related to solicitation of proxies of Depomed s shareholders to call the special shareholders meeting to consider the Proposals, the non-binding Horizon Offer, and the timing and benefits thereof, estimated future financial results and performance of the combined company and the combined company s strategy, plans, objectives, expectations and intentions, anticipated product portfolio, the potential actions of the Horizon Nominees to serve on the Board and other statements that are not historical facts. These forward-looking statements are based on Horizon s current expectations and inherently involve significant risks and uncertainties. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of these risks and uncertainties, which include, without limitation, risks that Horizon will ultimately not pursue a transaction with Depomed or Depomed will reject engaging in any transaction with Horizon; if a transaction is negotiated between Horizon and Depomed, risks related to Horizon s ability to complete the acquisition on the proposed terms; the possibility that competing offers will be made; other risks associated with executing business combination transactions, such as the risk that the businesses will not be integrated successfully, that such integration may be more difficult, time-consuming or costly than expected or that the expected benefits of the acquisition will not be realized; risks related to future opportunities and plans for the combined company, including uncertainty of the expected financial performance and results of the combined company following completion of the proposed acquisition; disruption from the proposed acquisition, making it more difficult to conduct business as usual or maintain relationships with customers, employees or suppliers; the possibility that if the combined company does not achieve the perceived benefits of the proposed acquisition as rapidly or to the extent anticipated by financial analysts or investors, the market price of Horizon s shares could decline, as well as other risks related to Horizon s and Depomed s respective businesses, including the ability to grow sales and revenues from existing products; competition, including potential generic competition; the ability to protect intellectual property and defend patents; regulatory obligations and oversight; and those risks detailed from time-to-time under the caption Risk Factors and elsewhere in Horizon s and Depomed s respective filings and reports with the SEC. Horizon undertakes no duty or obligation to update any forward-looking statements contained in the Solicitation Statement as a result of new information.

YOUR SUPPORT IS IMPORTANT

NO MATTER HOW MANY OR HOW FEW SHARES YOU OWN, WE ARE SEEKING YOUR SUPPORT. PLEASE COMPLETE, EXECUTE AND DATE THE ENCLOSED WHITE PROXY CARD AS SOON AS POSSIBLE.

IF YOUR SHARES OF COMMON STOCK ARE HELD IN THE NAME OF A BROKERAGE FIRM, BANK, BANK NOMINEE OR OTHER INSTITUTION, ONLY IT CAN SIGN THE WHITE PROXY CARD WITH RESPECT TO YOUR COMPANY COMMON STOCK. ACCORDINGLY, PLEASE CONTACT THE PERSON RESPONSIBLE FOR YOUR ACCOUNT AND GIVE INSTRUCTIONS FOR A WHITE PROXY CARD TO BE SIGNED REPRESENTING YOUR SHARES OF COMPANY COMMON STOCK.

WHOM YOU CAN CALL IF YOU HAVE QUESTIONS

If you have any questions or require any assistance, please contact MacKenzie Partners, Horizon s proxy solicitor, at the following address and telephone numbers:

MacKenzie Partners, Inc.

105 Madison Avenue

New York, NY 10016

Email: proxy@mackenziepartners.com

Call collect: (212) 929-5500

Call toll-free: (800) 322-2885

IT IS IMPORTANT THAT YOU SIGN AND DATE THE ENCLOSED WHITE PROXY CARD AND RETURN IT PROMPTLY IN THE ENCLOSED ENVELOPE TO AVOID UNNECESSARY EXPENSE AND DELAY. NO POSTAGE IS NECESSARY.

HORIZON PHARMA PUBLIC LIMITED COMPANY HORIZON PHARMA, INC.

[ ], 2015

SCHEDULE I

TRANSACTIONS IN SECURITIES OF THE COMPANY

DURING THE PAST TWO YEARS

Shares of Company Common Stock Purchased/(Sold)	Date of Purchase / Sale
HORIZON PHARMA, INC.	
1,000	July 9, 2015
250,000	July 24, 2015
249,000	July 27, 2015