

## NOTICE OF 2009 ANNUAL GENERAL MEETING

Notice is hereby given that the Annual General Meeting of DataMotion Asia Pacific Limited (“**the Company**”) will be held at **4:00pm AWST on Monday, 23 November 2009** at DataMotion Asia Pacific Limited, Level 1 Westcentre, 1260 Hay Street, West Perth, Western Australia.

## Agenda

### Ordinary Business

#### **Financial Statements and Reports**

To receive and consider the financial report for the year ended 30 June 2009 and the related Directors’ Report, Directors’ Declaration and Auditor’s Report.

#### **Resolution 1 – Adoption of Remuneration Report**

To consider and if thought fit to pass the following advisory resolution as an ordinary resolution, in accordance with section 250R(2) of the *Corporations Act*:

*“That the Remuneration Report in the 2009 Annual Report of the Company be adopted.”*

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

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

*“To re-elect as a director Mr Mark Popham who retires in accordance with clause 7.3(a) of the Company’s constitution and being eligible offers himself for re-election.”*

## **Special Business**

### **Resolution 3 – Ratify Share placement of 21 October 2009**

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

*“That for the purposes of ASX Listing Rule 7.4 and for all other purposes, shareholders ratify the allotment and issue of 139,803,019 fully paid ordinary shares in the capital of the Company at an issue price of 0.15 cents per Share on 21 October 2009.”*

#### **Voting Exclusion Statement**

Any votes cast on this resolution by a person who participated in the issue and any of their associates will be disregarded. However, the Company will not disregard a vote if:

- a) it is cast by an allottee as proxy for a person who is entitled to vote in accordance with the directions on the proxy form; or
- b) it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with the direction of the proxy form to vote as the proxy decides.

### **Resolution 4 – Grant of Options to Cunningham Peterson Sharbanee Securities Pty Ltd or nominee**

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

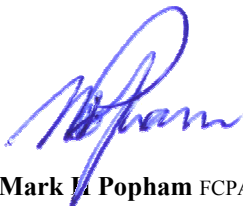
*“That for the purposes of ASX Listing Rule 7.1 and for all other purposes, shareholders ratify the allotment and issue of 20,000,000 listed options to Cunningham Peterson Sharbanee Securities Pty Ltd or nominee, on the terms and conditions set out in the Explanatory Statement.”*

#### **Voting Exclusion Statement**

Any votes cast on this resolution by a person who may participate in the proposed issue and a person who might obtain a benefit, except a benefit solely in the capacity of a holder of ordinary securities, if the resolution is passed and any of their associates will be disregarded. However, the Company will not disregard a vote if:

- a) it is cast by an allottee as proxy for a person who is entitled to vote in accordance with the directions on the proxy form; or
- b) it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with the direction of the proxy form to vote as the proxy decides.

By Order of the Board



**Mark J. Popham** FCPA GAICD  
Company Secretary  
Dated 21 October 2009

#### ***“Snapshot” Date***

***The directors have determined that for the purposes of Regulation 7.11.37 of the Corporations Act, the persons eligible to vote at the meeting will be those persons who are registered as shareholders at 4:00pm AWST on Saturday, 21 November 2009. Accordingly, share transfers registered after that time will be disregarded in determining entitlements to attend and vote at the meeting***

# Explanatory Statement

This Explanatory Statement has been prepared for the information of shareholders of the Company in connection with the **Annual General Meeting** (“AGM”) of shareholders to be held at **4:00pm AWST on Monday, 23 November 2009** at DataMotion Asia Pacific Limited, Level 1 Westcentre, 1260 Hay Street, West Perth, Western Australia. This Explanatory Statement should be read in conjunction with the accompanying Notice of Annual General Meeting.

## Ordinary Business

### **Resolution 1 - Adoption of Remuneration Report**

The Remuneration Report appears in the Directors’ Report section of the Company’s Annual Report. By way of summary, the Remuneration Report:

- a) explains the Company’s remuneration policy and the process for determining the remuneration of its directors and executive officers;
- b) addresses the relationship between the Company’s remuneration policy and the Company’s performance; and
- c) sets out remuneration details for each director and each of the Company’s executives and group executives named in the Remuneration Report for the financial year ended 30 June 2009.

The Directors recommend that shareholders vote in favour of Resolution 1. Section 250R(2) of the *Corporations Act* requires companies to put a resolution to their members that the Remuneration Report be adopted. The vote on this resolution is advisory only, however, and does not bind the board or the Company.

The Chairman will give shareholders a reasonable opportunity to ask questions about or to make comments on the Remuneration Report.

All shareholders may vote on the resolution.

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

Clause 7.3(a) of the Company’s Constitution requires one third of directors to retire at each AGM, and ASX Listing Rule 14.5 states that an entity with directors must hold an election of directors each year. Mr Mark Popham was appointed a director of the Company on 3 July 2003 and now, by rotation, retires at this AGM but offers himself for re-election.

Mr Popham joined the Company on 23 September 2002 and is the Company’s Chief Financial Officer and Company Secretary. He is a Fellow of CPA Australia and a Graduate of the Australian Institute of Company Directors, and brings a wealth of professional experience to the Company’s Board through his financial background in banking, investment, accounting and corporate management.

All shareholders may vote on the resolution.

## Special Business

### **Resolution 3 - Ratify Share placement of 21 October 2009**

In general terms, Listing Rule 7.1 of the ASX Listing Rules imposes a 15% cap on the number of securities that can be issued by the Company, without approval of shareholders in any 12 month period. However, the Company is permitted to issue securities in excess of the 15% cap if those securities are issued in reliance on an exception to Listing Rule 7.1 or the issue is approved by shareholders.

ASX Listing Rule 7.4 provides that an issue of securities made without shareholder approval is treated as having been made with approval for the purposes of ASX Listing Rule 7.1 if shareholders subsequently approve it. Accordingly, the Company is seeking shareholder ratification for the issue of 139,803,019 shares at 0.15 cents per share on 21 October 2009 pursuant to a placement made pursuant to section 708 of the *Corporations Act* to raise \$209,704.53. For the purposes of ASX Listing Rule 7.5, the following information is provided:

- 1) the number of shares allotted and issued was 139,803,019 shares;
- 2) the issue price of the shares was 0.15 cents each;
- 3) the shares issued rank pari passu with existing fully paid ordinary shares;

- 4) the shares were allotted to the following allottees:
- |  |            |
|--|------------|
| Dolphin Technology Pty Ltd.....                    | 20,000,000 |
| Intercorp Pty Ltd .....                            | 75,303,019 |
| Mr Adam Wellisch atf the Welson Family Trust ..... | 3,500,000  |
| Mr Michal Safrata .....                            | 7,000,000  |
| Mr Meng Kang Lim .....                             | 3,500,000  |
| Ms Nicole Joan Gallin.....                         | 27,000,000 |
| Ms Renee Carter .....                              | 3,500,000  |
- 5) the funds raised by the issue will be used to fund the sales & marketing of the DataMotion Intelligent Information Transport platform throughout Australia and the Asia Pacific region.

#### **Resolution 4 - Grant of Options to Cunningham Peterson Sharbanee Securities Pty Ltd**

In general terms, Listing Rule 7.1 of the ASX Listing Rules imposes a 15% cap on the number of securities that can be issued by the Company, without approval of shareholders in any 12 month period. However, the Company is permitted to issue securities in excess of the 15% cap if those securities are issued in reliance on an exception to Listing Rule 7.1 or the issue is approved by shareholders.

##### **background**

The Company has entered into an agreement with Cunningham Peterson Sharbanee Securities Pty Ltd to fully underwrite a non-renounceable Rights Issue to all eligible shareholders (“Rights Issue”). The Rights Issue will be an offer of two (2) fully paid New Shares for every three (3) fully paid Shares held, at a price of \$0.0015 (0.15 cents) for every New Share subscribed, with one (1) free Attaching Option in the same class as those currently listed under the ASX code DMNOA for every two New Shares subscribed. The options have an exercise price of \$0.01 (1 cent) and expire on 06 May 2013 (the ASX announcement of 21 Oct 09 refers).

In accordance with its underwriting agreement with Cunningham Peterson Sharbanee Securities Pty Ltd, the Company is seeking shareholder approval for the issue of 20,000,000 listed options to Cunningham Peterson Sharbanee Securities Pty Ltd or nominee as part of the underwriting fee (“broker options”). For the purposes of ASX Listing Rule 7.3, the following information is provided:

- 1) **the maximum number of securities to be issued (if known) or the formula for calculating the number of securities to be issued to the person**  
20,000,000 listed options.
- 2) **the date by which the Company will issue the securities, which must not be more than three months after the date of the meeting**  
the Company intends to issue the securities at the same time as the payment of the cash component of the Underwriting Fee for the Rights Issue to Cunningham Peterson Sharbanee Securities Pty Ltd, which in any case will be within three months of the date of the 2009 Annual General Meeting.
- 3) **the issue price of the securities**  
the options are to be issued as part of the underwriting fee, and as such no monies will be payable by Cunningham Peterson Sharbanee Securities Pty Ltd.
- 4) **the names of the allottees (if known)**  
Cunningham Peterson Sharbanee Securities Pty Ltd or nominee.
- 5) **the terms of the securities**  
The Options to be issued under the proposed issue to Cunningham Peterson Sharbanee Securities Pty Ltd or nominee have the same term and pricing as the Company’s existing listed options (class DMNOA), set out as follows:
  - a) *exercise price*  
the exercise price is \$0.01 (1 cent) per New Option.
  - b) *entitlement*  
each New Option shall entitle the holder the right to subscribe (in cash) for one Share in the capital of the Company.
  - c) *new option period*  
The New Options will expire at 5.00pm (AWST) on 06 May 2013. Subject to clause (g), New Options may be exercised at any time prior to the expiry date and New Options not so exercised shall automatically expire on the expiry date.
  - d) *ranking of share allotted on exercise of new option*  
Each Share allotted as a result of the exercise of any New Option will rank in all respects pari passu with the existing Shares in the capital of the Company on issue at the date of allotment.

- e) *voting*  
A registered owner of a New Option will not be entitled to attend or vote at any meeting of the members of the Company unless they are also a member of the Company.
  - f) *transfer of a new option*  
New Options are transferable at any time prior to the expiry date.
  - g) *method of exercise of a new option*
    - i) the Company will provide a notice that is to be completed when exercising the New Options. New Options may be exercised by completing the notice and forwarding the same to the Company Secretary to be received prior to the expiry date accompanied by payment in full for the relevant number of shares being subscribed for.
    - ii) within 14 days from the date of exercise of New Options the Company shall issue that number of Shares in the capital of the Company subscribed for.
    - iii) the Company will after issue and allotment of Shares pursuant to the exercise of a New Option, apply to the ASX for official quotation of all such Shares, in accordance with the Corporations Act and the ASX Listing Rules.
    - iv) the Company will generally comply with the requirements of the ASX Listing Rules in relation to the timetables imposed when quoted options are due to expire. Where there shall be any inconsistency between the timetables outlined herein regarding the expiry of the options and the timetable outlined in the ASX Listing Rules, the timetable outlined in the ASX Listing Rules shall apply.
  - h) *reconstruction*  
In the event of a reconstruction (including consolidation, sub-division, reduction or return) of the issued capital of the Company, the New Options will be reconstructed to the extent necessary to comply with the Listing Rules applying to the reconstruction of capital, at the time of the reconstruction.
  - i) *participation in share issues*  
There are no participating rights or entitlements inherent in the New Options to participate in any new issues of capital which may be made or offered by the Company to its shareholders from time to time prior to the expiry date unless and until the options are exercised.
  - j) *no change of new options' exercise price or number of underlying shares*  
There are no rights to change the exercise price of the New Options or the number of underlying Shares if there is a bonus issue to holders of Shares. If the Company makes a pro rata issue of securities (except a bonus issue) to the holders of Shares (other than in lieu or in satisfaction of dividends or by way of dividend reinvestment) the New Option exercise price shall be reduced according to the formula specified in the ASX Listing Rules.
- 6) **the intended use of the funds raised**  
not applicable.
- 7) **the dates of allotment**  
the Company intends to allot the options all at once, and at the same time as the payment of the cash component of the Underwriting Fee for the Rights Issue to Cunningham Peterson Sharbanee Securities Pty Ltd, which in any case will be within three months of the date of the 2009 Annual General Meeting.
- 8) **voting exclusion statement**  
a voting exclusion statement for the Resolution is included in the Notice of Extraordinary General Meeting.

## Proxies

If you are unable to attend and vote at the meeting and wish to appoint a person who is attending as your proxy, please complete the attached form of proxy.

Each member entitled to attend and vote at the meeting may appoint not more than two proxies to attend and vote instead of such member. Where more than one proxy is appointed each proxy must be appointed to represent a specific proportion of the member's voting rights. If the appointment does not specify the proportion of the member's voting rights each proxy may exercise half of the member's voting rights.

The instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney duly authorised in writing or if such appointor is a corporation as required by its constitution or the hand of its attorney. A proxy need not be a member of the Company. In the case of joint holders the proxy form may be signed by any one holder. Should you wish to direct your proxy how to vote please indicate your direction in the appropriate box(es) on the proxy form otherwise your proxy will have a discretion to vote as he/she thinks fit.

To be effective a completed proxy form and the power of attorney (if any) under which the proxy form is signed (or a certified copy of the power of attorney) must be received at *the Company's registered office at Level 1 Westcentre, 1260 Hay Street, West Perth WA, Australia, or by facsimile transmission to (+61 8) 9415 2221 by 4:00pm AWST on Saturday, 21 November 2009.*

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# Voting By Proxy - how to complete the Proxy Form

## 1. Your Name and Address Details

Please complete your name and address as it appears on the share register of DataMotion Asia Pacific Limited. Shareholders sponsored by a broker should advise their broker of any changes. Please note that you cannot change ownership of your shares using this form.

## 2. Appointment of a Proxy

If you wish to appoint the chairman of the meeting as your proxy, mark the box. If the person you wish to appoint as your proxy is someone other than the chairman of the meeting please write the name of that person. If you leave this section blank, or your named proxy does not attend the meeting, the chairman of the meeting will be your proxy and vote on your behalf. A proxy need not be a shareholder of DataMotion Asia Pacific Limited.

## 3. Votes on Items of Business

You may direct your proxy how to vote by placing a mark in one of the three boxes opposite the item of business. All your shares will be voted in accordance with such a direction unless you indicate only a portion of voting rights on any item by inserting the percentage or number of shares you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on a given item, your proxy will vote as he or she chooses. If you mark more than one box on an item your vote on that item will be invalid.

## 4. Appointment of a Second Proxy

If you wish to appoint a second proxy, an additional Proxy Form may be obtained by telephoning DataMotion Asia Pacific Limited's share registry (Computershare Investor Services Pty Limited / ( +61 8 ) 9323 2000) or you may copy this form, or download a copy from the Company's website located at [www.datamotion.asia](http://www.datamotion.asia).

To appoint a second proxy you must:

- a) indicate that you wish to appoint a second proxy by marking the box;
- b) on each of the first Proxy Form and the second Proxy Form state the percentage of your voting rights or number of shares applicable to that form; and
- c) return both forms together in the same envelope.

## 5. Authorised Signature/s

You must sign this form as follows in the spaces provided:

- |                   |   |
|-------------------|---|
| Joint Holding     | in the case of joint holders the proxy form may be signed by any one holder.  |
| Power of Attorney | if signed under a Power of Attorney you must have already lodged it with the registry, or alternatively, attach a certified photocopy of the Power of Attorney to this Proxy Form when you return it.   |
| Companies         | a director can sign jointly with another director or a company secretary, a sole director who is also a sole company secretary can also sign. A sole director of a corporation without a company secretary can sign. Please indicate the office held by signing in the appropriate space. |

If a representative of the corporation is to attend the meeting and a proxy form is not used, then an appropriate "Certificate of Appointment of Representative" should be produced prior to admission. A form of the certificate may be obtained from DataMotion Asia Pacific Limited's share registry.

# Lodgement of Proxy Form

This Proxy Form (and any Power of Attorney under which it is signed) must be received no later than 48 hours before the commencement of the meeting. Any Proxy Form received after that time will not be valid for the scheduled meeting. **Documents may be lodged by posting, hand delivery or facsimile to DataMotion Asia Pacific Limited** or Computershare Investor Services Pty Limited at one of the following addresses:

### Mailing Address

#### DataMotion Asia Pacific Limited

Private Box 1288  
West Perth Western Australia 6872  
Australia

Facsimile (+61 8 ) 9415 2221

### Registered Office

#### DataMotion Asia Pacific Limited

Level 1  
Westcentre  
1260 Hay Street  
West Perth Western Australia 6005  
Australia

Facsimile (+61 8 ) 9415 2221

### Computershare Investor

#### Services Pty Limited

Level 2  
45 St Georges Terrace  
Perth Western Australia 6000  
Australia

Facsimile (+61 8 ) 9323 2033

# Proxy Form

**All Correspondence to:**  
The Company Secretary  
DataMotion Asia Pacific Limited  
Private Box 1288  
West Perth WA 6872  
AUSTRALIA  
Telephone (+61 8) 9415 2212  
Facsimile (+61 8) 9415 2221  
[www.datamotion.asia](http://www.datamotion.asia)

**DATAMOTION**™  
ASIA PACIFIC LIMITED  
ABN 44 009 148 529

## 1. I / We (please print):

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Securityholder Reference Number (SRN) \_\_\_\_\_  
or Holder Identification Number (HIN) \_\_\_\_\_

## 2. Appointment of a Proxy

I/We being a member/s of DataMotion Asia Pacific Limited hereby appoint:

the chairman of the meeting (mark with an 'X') OR

(Write here the name of the person you are appointing if this person/s is someone other than the chairman of the meeting).

or failing the person named, or if no person is named the chairman of the meeting, as my/our proxy and to vote in accordance with the following directions (or if no directions have been given, as the proxy sees fit) at the Annual General Meeting of DataMotion Asia Pacific Limited to be held at DataMotion Asia Pacific Limited, Level 1 Westcentre, 1260 Hay Street, West Perth WA, Australia at **4:00pm AWST on Monday, 23 November 2009** and at any adjournment of that meeting.

## 3. Votes on Items of Business

(Voting directions to your proxy – please mark  to indicate your directions)

	For	Against	Abstain
Resolution 1 – Adoption of remuneration report.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2 – Re-election of Mark Popham as director.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3 – Ratify share placement of 21 October 2009.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 4 – Grant of Options to Cunningham Peterson Sharbanee Securities Pty Ltd or nominee.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## 4. Appointment of a Second Proxy

I/We wish to appoint a second proxy

(Mark with an 'X' if you wish to appoint a second proxy) and  % or  State the percentage of your voting rights or the number of shares for this Proxy Form.

## 5. Authorised Signature/s

This section must be signed in accordance with the instructions overleaf to enable your directions to be implemented.

*Individual or Security Holder 1*

*Individual / Sole Director and  
Sole Company Director*

*Security Holder 2*

*Director*

*Security Holder 3*

*Director / Company Secretary*

\_\_\_\_\_  
Contact Name

\_\_\_\_\_  
Contact Daytime Telephone

\_\_\_\_\_  
Date