

**For immediate release**

**28 September 2007**



**Napo Pharmaceuticals, Inc**

("Napo" or "the Company")

**Placing and Subscription, Potential Further issue of Indicated Funds,  
Proposed Acquisition of Indus Pharmaceuticals, Inc and Block Listing of  
Shares**

**South San Francisco, California, 28 September, 2007** - South San Francisco, California, Napo Pharmaceuticals, Inc., (LSE: NAPL), which focuses on the development and commercialisation of proprietary pharmaceuticals for the global marketplace in collaboration with local partners, is pleased to announce the Company's intention to raise £2.0 million (\$4.0 million) (approximately £1.1 million (\$2.3 million) net of expenses) by way of an issuance of 2,844,584 new Common Shares (representing 6.0 per cent of Napo's Existing Issued Share Capital) at the Issue Price. The Placing Price of 70 pence represents a discount of 6.7 *per cent* from the mid market price of Common Shares as at the day before publication.

The net proceeds of £1.1 million, together with existing resources and other funds which the Directors expect to raise through other fundraising activities such as debt and equity finance and business development activities such as those set out on below, will be used to finance costs of the US CRO-HIV Phase 3 Two Stage Adaptive Design clinical trial.

**Highlights:**

1. Placing and Subscription of 2,844,584 Common Shares at 70 pence each, raising £2.0 million (\$4.0 million) (approximately £1.1 million (\$2.3 million) net of expenses);
2. The Placing of 1,214,284 new Common Shares at the Issue Price is fully underwritten by Nomura Code Securities Limited;
3. Potential further issue of Indicated Funds Shares of up to 1,417,655 Commons Shares of 70 pence each;

4. The proposed acquisition of IndUS Pharmaceuticals, Inc for total consideration of approximately £2.0 million (\$4.1 million) to be satisfied by the issuance by the Company of Consideration Shares (the "Acquisition");
5. The appointment, subject to completion of the Acquisition, of Dr Pravin Chaturvedi, IndUS's CEO and co-founder, as Chief Scientific Officer;
6. An agreement providing Glenmark with a right of first negotiations for a European marketing agreement in respect of CRO-HIV;
7. Block Listing of 1,818,890 Common Shares to be issued pursuant to the Equity Incentive Plan and the 2006 Equity Incentive Plan to non-employees of the Company.

The fundraising is subject share holder approval at the company's annual meeting which is scheduled to take place at 10.00 am on 22 October 2007. A prospectus incorporating notice for the annual meeting is expected to be posted to shareholders today.

It is expected that Application will be made to the Financial Services Authority for the New Common Shares, issued and to be issued in connection with the Committed Fundraising (including Adviser Fee Shares), the Acquisition, and to the extent they are taken up, the Indicated Funds to be admitted to listing on the Official List and to the London Stock Exchange and for such Common Shares to be admitted to trading on the London Stock Exchange's market for listed securities on 23 October 2007

**Commenting on the announcement, Lisa A. Conte, CEO of Napo Pharmaceuticals, Inc. said:** "Napo is pleased to have completed this equity fund-raise, the first in expected resource-generating efforts to allow the company to execute on an optimized product development program to bring CRO-HIV to market, as well as provide diversification of our clinical pipeline."

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**Disclaimer**

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defined in Regulation S) unless they are registered under the Securities Act or they are exempt from registration under the Securities Act. No offer or sale of Regulation S securities has been made or will be made in the United States. Hedging transactions involving these securities may not be conducted unless in compliance with the Securities Act.

Nomura Code Securities Limited, which is authorised and regulated in the United Kingdom by the Financial Services Authority, is acting for Napo Pharmaceuticals, Inc as sponsor, financial adviser, broker and underwriter in relation to the Placing. Nomura Code Securities Limited is not acting for, and will not be responsible to, any person other than Napo Pharmaceuticals, Inc for providing the protections afforded to customers of Nomura Code Securities Limited or for advising any other person on the contents of this document or any transaction or arrangement referred to herein.

## **Placing and Subscription of 2,844,584 Common Shares at 70 pence each and potential further issue of Indicated Funds Shares of up to 1,417,655 Common Shares at 70 pence each, Acquisition of IndUS Pharmaceuticals, Inc, Block Listing of 1,818,890 Common Shares, and Notice of Annual Meeting**

### **Introduction**

The Board announced today the Company's intention to raise £2.0 million (\$4.0 million) (approximately £1.1 million (\$2.3 million) net of expenses) by way of an issuance of 2,844,584 new Common Shares (representing 6.0 per cent of Napo Pharmaceuticals, Inc's existing issued share capital) at the Issue Price. The Placing Price of 70 pence represents a discount of 6.7 *per cent* from the mid-market price of Common Shares as at the day before publication. The Committed Fundraising consists of the Placing of 1,214,284 new Common Shares at the Issue Price which is fully underwritten by Nomura Code Securities Limited; and the Subscription for 1,630,300 new Common Shares at the Issue Price.

The Placing and the Subscription (in aggregate representing up to 2,844,584 new Common Shares at the Issue Price) are conditional upon *inter alia* the passing of the Pre-emption Resolution. The amounts raised in the Placing (approximately £0.85 million (\$1.7million)) will be underwritten by Nomura Code. Approximately £0.6 million (\$1.2 million) of the £1.1 million (\$2.3 million) raised pursuant to the Subscription is held in escrow pending completion of the Subscription. The net proceeds of the Committed Fundraising, together with existing resources and other funds which the Directors expect to raise through other fundraising activities such as debt and equity finance and business development activities such as those set out on page 4 of the Prospectus, will be used to finance costs of the US CRO-HIV Phase 3 Two Stage Adaptive Design clinical trial. In addition to the net proceeds of the Committed Fundraising, a further

\$13.4 million is required to complete the trial and progress CRO-HIV to the point of application for NDA approval.

The Company also has Indicated Funds of up to approximately £1.0 million (\$2.0 million), being 1,417,655 Common Shares at the Issue Price. Indicated Funds are funds which are not committed and for which no Subscription Agreements have been received. However, certain potential investors have indicated their interest in investing in Common Shares in advance of the Annual Meeting. Any Indicated Funds for which Subscription Agreements are received are conditional upon the passing of the Pre-emption Resolution.

In addition, the Board has announced today the following matters:

- the proposed acquisition of IndUS Pharmaceuticals, Inc for total consideration of approximately £2.0 million (\$4.1 million) to be satisfied by the issuance by the Company of Consideration Shares (the "Acquisition");

- the appointment, subject to completion of the Acquisition, of Dr Pravin Chaturvedi,

IndUS's CEO and co-founder, as Chief Scientific Officer;

- an agreement providing Glenmark with a right of first negotiations for a European

marketing agreement in respect of CRO-HIV; and

- the block listing of 1,818,890 Common Shares to be issued pursuant to the Equity Incentive Plan and the 2006 Equity Incentive Plan to non-employees of the Company.

## **Strategy**

Napo's strategy is the development of proprietary drugs for the global marketplace and it aims to develop and commercialise pharmaceuticals in conjunction with local partnerships. The Company has applied this strategy to the development of its late-stage gastro-intestinal product, crofelemer. Crofelemer is the subject of three corporate partnerships which together have worldwide reach. Napo will employ the same global strategy for the development and commercialisation of all its products, including NP-500, for diabetes and metabolic disease.

The Directors expect that the first half of 2008 will mark the convergence of 4 key clinical events:

-Phase 3 results for CRO-HIV;

-Phase 2b results for CRO-IBS;

-initiation of Phase 3 for CRO-ID with a potentially lower cost manufacturing process;  
and

-cholera results for CRO-ID.

In addition, during this period, Napo aims to partner CRO-PED in the western territory. The Directors intend that such arrangement should provide up-front fees and cash milestones. Further details of these arrangements are described in the prospectus published today.

The Directors believe that the Company will have proof of concept Phase 2a data on NP-500 for diabetes and metabolic disease endpoints by the end of 2008 subject to raising the necessary funds.

## **Business Development**

The Company is pursuing the following business development opportunities:

-discussions with potential partners in relation to the development and marketing of

NP-500 in Asia; and

-fundraising and/or collaboration associated with the CFTR inhibitor mechanism, including certain crofelemer rights.

## **NP-500 Phase 2a Trial**

NP-500 targets type 2 diabetes and metabolic disease. Diabetes and metabolic disorders afflict up to an estimated 30 *per cent* of the population worldwide. This product has demonstrated a powerful combination of physiological benefits in animal pre-clinical testing for type 2 diabetes and metabolic disease, with a novel mechanism of action. In these trials, NP-500 lowered glucose, increased insulin sensitivity, lowered blood pressure, lowered free fatty acids and lowered triglycerides. The Directors believe that the beneficial effects of NP-500 on both lipids and blood pressure observed in preclinical

studies in addition to the beneficial impact on glucose and insulin give it an advantage compared to the standard of care provided by other products for diabetes, such as sulfonureas, thiazolidine diones, and the recently approved DPP-4 inhibitors, which affect only one of these disease targets.

NP-500 is the subject of an issued use patent in the US, but is a known compound and therefore no patent protection relating to the composition of matter is available. On 27 February 2007, the Company in-licensed the use patent together with the rights to a US IND with Phase 1 data. Short term Phase 1 trials showed no specific toxicities. Adverse events were mild, with no differentiation between placebo and active groups, nor were these adverse events dose-dependent or irreversible. However, in separate, longer term higher dose trials (5 to 10 times the level of dose anticipated by the Directors for the Phase 2a trial) adverse events included gastrointestinal disturbance and elevation of liver enzymes which were neither dose-dependent nor irreversible.

The Phase 1 data is supportive of the proposed study, and subject to the Company being able to raise sufficient additional funds, the Company intends to conduct in parallel medicinal chemistry and formulation activities with the intention of generating a stronger intellectual property position, while validating the clinical benefit of the mechanism of action.

Subject to the Company raising the necessary funds, or entering into a strategic alliance in respect of NP-500, the Company intends that the study will be a multi-center Phase 2a study of treatment-naïve patients with type 2 diabetes mellitus in India and the US.

Patients with hyperglycemia (fasting blood glucose levels between 150 to 225 mg/dL) and hypertriglyceridemia (fasting triglyceride levels between 150 to 225 mg/dL) will receive NP-500 orally for up to 28 days to evaluate the relationship between different dose levels of NP-500 and its glucose and triglyceride lowering effects. Approximately 40 patients will be dosed at three levels for up to 28 days in this dose-response study. The Directors believe that the NP-500 development plan will benefit from the regulatory experience and know-how within IndUS, in particular that of Dr. Chaturvedi, who has advised on the development plan since November 2006 as a consultant to Napo.

## **Acquisition of IndUS Pharmaceuticals, Inc**

The Company proposes to enter into an agreement to acquire IndUS for total consideration of approximately £2.0 million (\$4.1 million) to be satisfied by the issuance by the Company of Consideration Shares. IndUS is a Delaware corporation with an Indian subsidiary, Sindu Pharmaceuticals Pvt. Ltd. which is a registered company in Hyderabad, India. IndUS's research and development is conducted in both India and the United States. IndUS was co-founded in 2005 by Dr Pravin Chaturvedi and Palaniyandi Manivasakam. If the Acquisition is consummated, Dr Chaturvedi would become the Company's President and Chief Scientific Officer. IndUS is focused on the discovery and development of NCEs from natural sources based on ayurvedic practice with therapeutic activity in cancer, diabetes and infectious diseases which are being developed for global registration. IndUS's research and development operations are conducted in both India and the United States. IndUS both in-licences intellectual property developed by research institutions and is directly engaged in the discovery and development of new drugs. IndUS's pre-clinical diabetes compounds will provide Napo with a more substantial pipeline for the diabetes program. In addition, the proposed Acquisition is intended to further diversify Napo's intellectual property portfolio through IndUS's pre-clinical pipeline in two additional therapeutic areas: oncology and infectious diseases. IndUS holds 5 issued patents in the oncology area. Napo does not immediately intend to progress development and commercialisation of the pre-clinical candidates that form part of the IndUS acquisition and none of the proceeds of the Committed Fundraising have been allocated to the development of these compounds. If consummated, the Acquisition would bring Napo significant benefits from IndUS's technical and regulatory know-how in performing cost effective clinical trials in India. The acquisition is subject to final agreement among all parties and the entering into of a definitive agreement among other anticipated conditions.

### *Intellectual Property*

Pursuant to its diabetes program, IndUS has identified several plant species with

glucose-lowering properties from the Southern Indian region and has advanced one of the plant fractions into late stages of animal research focused on the isolation and identification of a novel anti-diabetic NCE. In the course of its oncology research program, IndUS has obtained exclusive, worldwide rights to a library of synthetic, novel and patented NCEs which are analogues to naturally occurring anti-tumour antibiotics such as anthramycin and neothramycin. These compounds are from a new chemical class of compounds called pyrrolobenzodiazepines ("PBDs") and they act as anticancer agents. The efficacy of these natural anti-tumour antibiotics is limited by several factors such as poor water solubility, metabolic inactivation and cardiotoxicity. The synthetic PBDs address some of the deficiencies of the naturally occurring agents and have demonstrated pre-clinical anti-cancer activity. The pre-clinical activity of these synthetic PBDs was demonstrated by the National Cancer Institute, in a panel of about 60 different human tumour cell lines across nine different types of tumours including breast, lung and renal cancers. Based on the potent in vitro activity of the IndUS PBD compounds, four of the IndUS PBDs were scaled up to conduct pharmacokinetic ("PK") studies with these compounds and to determine their formulation development as well as their metabolic stability. These novel PBDs showed better formulation properties and

have been dosed orally and intravenously in rats to evaluate their PK properties as well as acute tolerability following intravenous and oral dosing.

IndUS's partnership with the Indian chemistry company, ThinQ Pharma, will, subject to the Company raising additional funds in excess of the amount required for CRO-HIV, enable Napo to take forward the NP-500 medicinal chemistry program. Napo will be able to access the skills of IndUS's co-founder and senior consultant, Dr. P. Manivasakam, who has knowledge of biological assays, HTS and proteomics (for target identification). The IndUS infrastructure and networks in India, including skill sets, contracts, relationships and employees, are expected to assist Napo in implementing future NP-500 development requirements rapidly and efficiently. As at 31 December 2006, IndUS and Sindu had combined gross assets, being the total non-current assets plus the total current assets of \$104,217 and made a combined gross loss of \$261,346 for the year ended 31 December 2006.

### **CRO-HIV expanded access study in US**

Subject to raising funds in excess of the amount required in relation to CRO-HIV and NP-500, the Company intends to provide expanded access and extension testing of CRO-HIV to patients in need, prior to product approval. Extension testing will enable patients who participated in the clinical trial to continue with CRO-HIV therapy after the completion of the protocol. Expanded access programs allow any HIV patient with diarrhoea the opportunity to access the product post completion of the final Phase 3 trial, prior to NDA approval, under a physician's care. In both cases, additional safety data is collected and these patients often form the core of product usage upon approval. The Directors believe the expanded accessibility will:

- expand the safety database of CRO-HIV;
- accelerate market penetration upon CRO-HIV approval; and
- provide additional impetus for FDA accelerated review of this fast-track indication.

### **Global product pre-marketing**

Subject to the availability of funds, the Company proposes to undertake efforts towards pre-commercialisation global positioning of CRO-HIV, which the Directors believe will increase the awareness building and rate of market penetration.

### **Glenmark European right of first negotiation**

The Company has granted to Glenmark a right of first negotiation agreement for the

commercialisation rights in the European Union for CRO-HIV. Glenmark is already Napo's strategic licensee to develop and commercialise CRO-HIV in approximately 140 emerging and Developing Countries, and is actively engaged in the manufacture of crotelemer API. The Directors believe that such a relationship would further align Glenmark and Napo's commercial incentives. In order for the Company to commercialise CRO-HIV in the EU it will be required to obtain European Medicine Evaluation Agency ("EMEA") approval. The Company has already had preliminary meetings with the EMEA and is putting together the development plan, including one additional Phase 3 study in the EU, to supplement the US clinical data package. The current Committed Fundraising proceeds will not be used for the Phase 3 study. Under this agreement, upon Glenmark acquiring commercialisation and distribution capability in at least 80 *per cent* of the "Required Territory" (as defined in the agreement), in the event that the Company decides to out-license the commercialisation rights of CRO-HIV in the EU, then Glenmark will have a right of first negotiation for these rights. Glenmark has 30 days to provide notice of its intention to exercise its first right of negotiation and a maximum of 90 days from the date of such notice to agree terms for such a licence. There is no commitment on Napo's part to accept terms offered by Glenmark, and if no agreement is reached Napo would be free to seek another partner. The Directors believe that Glenmark's first right to negotiate will not adversely affect any large pharmaceutical interest in the development and commercialisation of CRO-IBS. Glenmark is actively acquiring commercial marketing partners in the European Union, having already launched a program to develop its product commercialisation capabilities for the European market through strategic acquisitions. On 26 March 2007, it announced its first acquisition in Eastern Europe of 90 *per cent* of the shares of Medicamenta, a Czech corporation.

### **Use of Proceeds**

The Committed Funds of £2.0 million (\$4.0 million) (approximately £1.1 million (\$2.3 million) net of expenses) of which £0.8 million (\$1.7 million) will be raised in the Placing, and £1.1 million (\$2.3 million) from the Subscription (of which £0.6 million (\$1.2 million) is held in escrow), together with existing resources and further funds which the Directors expect to raise through the fundraising opportunities set out in this Part VI, including debt and/or equity and/or business development activities, are intended to fund the Phase 3 CRO-HIV Two Stage Adaptive Design clinical trial in US and subsequent application for NDA approval (the total cost of which is estimated to be \$15.7 million).

### **Current Trading and Prospects**

As of 31 December 2006, Napo had an accumulated deficit of US\$22.9 million. Napo's historical financial results reflect primarily research and development and general and administrative expenses. It is expected that research and development and general and

administrative expenses will increase for the foreseeable future as a result of continuing clinical development and research and development activities, the regulatory approval process and expansion of operations. To date, Napo has not generated any product revenue and has financed its operations and internal growth almost exclusively through private placements of shares and debt convertible into shares with venture investors, individuals, institutions and corporate investors.

The operating results from the first six months of 2007 reflect higher legal expenses associated with the resignation of four non-executive directors as well as the appointment of three new ones, plus costs associated with the proposed IndUS acquisition. Napo incurred costs associated with business development and fundraising activity, both of which led to higher than anticipated general and administrative expenses.

Research and development expenses were lower than anticipated for the six month period due to delays in the CRO-HIV trial as Napo pursued the Special Protocol Assessment process with the FDA. However, expenses for the CRO-HIV trial are anticipated to increase over the next several months and costs for the trial will be significantly higher than earlier anticipated as a result of costs necessitated by the adaptive trial design as well as higher expenses associated with personnel, manufacturing and related expenses.

Following the Committed Fundraising and in light of other potential sources of funds, including take up of Indicated Funds, out-licensing, other business development activities and debt and/or equity financing opportunities currently under discussion, the Directors view the financial and trading prospects of the Group for the current financial year end and for the foreseeable future with confidence.

### **Principal Terms of the Placing**

The Placing, which has been fully underwritten by Nomura Code pursuant to the terms of the Placing Agreement, will raise gross proceeds of approximately £0.8 million (\$1.7 million). The Placing Shares will rank *pari passu* in all respects with the Company's existing Common Shares. Pursuant to the Placing Agreement, Nomura Code has conditionally agreed to use reasonable endeavours to place the Placing Shares with institutional investors. To the extent that Nomura Code is unable to procure subscribers for the Placing Shares, it has agreed itself to subscribe for such shares, subject to the Placing Agreement becoming unconditional in all respects.

The Placing is conditional, *inter alia*, upon the passing of the Pre-emption Resolution, all Subscription Agreements becoming unconditional, and Admission of the Placing Shares occurring not later than 8.00 a.m. on 23 October 2007 or such later time and/or date as the Company and Nomura Code may agree being no later than 5.00 p.m. on 1 November 2007. If the conditions of the Placing Agreement relating to the Placing are not fulfilled or waived by Nomura Code on or before 1 November 2007, under the terms of the Placing Agreement, the Placing Agreement shall cease and determine. Nomura Code has the right to be able to terminate its obligations under the Placing Agreement in the event of, *inter alia*, a breach of any of the warranties or any other term of the Placing Agreement, which Nomura Code reasonably considers to be material in the context of the Placing or if a force majeure event has taken place. Further details of the Placing Agreement are set out in paragraph 12(a) of Part XIV of the Prospectus. Pending receipt of certificates in respect of such Placing Shares, transfers will be certified against the register of members.

### **Subscription Arrangements**

In addition, and separate to the Placing, certain investors have conditionally agreed to subscribe for a total of 1,630,300 Subscription Shares at the Issue Price raising gross proceeds of approximately £1.1 million (\$2.3 million), of which £0.6 million (\$1.2 million) is held in escrow. The Directors are confident that the £0.5 million (\$1.1 million) of the Subscription monies not held in escrow will be received on 18 October 2007 in accordance with the terms of the Subscription Agreement. The Subscription Shares will rank *pari passu* in all respects with the Company's existing Common Shares. All such subscription arrangements are collectively referred to in the Prospectus as the Subscriptions. Further details of the Subscription Agreement are set out at paragraph 12(b) of Part XIV of the Prospectus.

One of the Subscriptions and potentially certain subscriptions for Indicated Funds Shares will be made by Indian investors. Due to Indian regulatory requirements, these subscribers will invest funds directly in an Indian company, Sindu, which will become an indirect subsidiary of the Company upon completion of the Acquisition. This investment will be in the form of optionally convertible redeemable preference shares ("Sindu OCRPs"). Sindu will invest amounts paid to it for the Sindu OCRPs in new Common Shares at the Issue Price ("Sindu Napo Common Stock"). Details of these arrangements are set out at paragraph 12(b)(ii) of Part XIV of the Prospectus.

### **Escrow Account**

Reed Smith LLP ("Reed Smith") has established a segregated account to receive all payments made by investors (each, a "Subscriber") pursuant to the Subscriptions (the "Escrow Funds"). The Escrow Account is non-interest bearing, and Reed Smith will not invest the Escrow Funds. The term of the escrow began on 21 September 2007 and will cease upon Admission (the "Escrow Period"). During the Escrow Period, the Company is

not entitled to any Escrow Funds, and no amounts deposited in the Escrow Account will be the property of the Company or be subject to the debts of the Company. If the escrow terminates because the Admission does not take place or the Subscription is otherwise terminated, Reed Smith will refund in full to each Subscriber the amount received from that Subscriber. Otherwise, upon Admission, Reed Smith will transfer the funds in the Escrow Account to a separate account for the benefit of the Company in Reed Smith or as otherwise directed by the Company. The terms of the Escrow Agreement are otherwise standard for arrangements of this type.

### **Indicated Funds**

In addition to the investors who have signed Subscription Agreements, the Company has received indications of interest from certain other potential investors who have not yet signed Subscription Agreements. The Directors note that it is possible that none of the Indicated Funds will result in signed Subscription Agreements, however the Directors believe that some or all of these persons may subscribe for Common Shares. The Company intends to make an announcement regarding take up of Indicated Funds Shares on or around 19 October 2007.

### **Block listing of Common Shares**

This Prospectus has also been produced in respect of the proposed block listing of 1,818,890 Common Shares which are to be issued to consultants, non-executive directors and other non-employees upon the exercise of options granted under the Company's Equity Incentive Plan and its 2006 Equity Incentive Plan.

### **Admission to trading of Common Shares issued in January and May 2007**

As announced on 10 January 2007 and 15 May 2007, the Company carried out earlier this year a placing of two tranches of Common Shares at 94.5p per share, 3,150,914 of which were issued and admitted to trading on 12 January 2006 and 170,482 of which were issued and admitted to trading on 17 May 2007. The prospectus prepared in connection with this fundraising has also been prepared in respect of that placing in addition to the Common Shares issued in the present fundraising.

### **Settlement**

As a result of certain US securities laws and restrictions on transfer of the Placing Shares, the Placing Shares must be held in certificated form for a period of at least two years following Admission, and therefore the Placing Shares will not be eligible for settlement in CREST for as long as they remain in certificated form. Crest is a paperless

settlement system enabling shares to be evidenced and transferred otherwise than by written instrument.

### **Annual Meeting**

The Prospectus includes copy of the notice which convenes an Annual Meeting of the Company to be held at 10.00 a.m. on 22 October 2007 at 1170 Veterans Boulevard, Suite 244, South San Francisco, CA, 94080 to consider and, if thought fit, pass the following Resolutions:

(a) To disapply the pre-emption rights set out at Article X of the Company's Bylaws in respect of the transactions to which this Prospectus relates. In the case of a new allotment of Common Shares for cash, the Bylaws grant pre-emption rights to existing Shareholders.

Given the number of shareholders who are US persons, the Directors consider that it is in the best interests of the Company for those pre-emption rights to be disapplied in respect of the allotment of the Placing Shares, Subscription Shares and the maximum number possible of the Indicated Funds Shares as such disapplication will avoid the considerable cost and complexity of making an open offer into the United States. The number of Common Shares to which this disapplication applies includes a further ten *per cent* of the maximum enlarged share capital on Admission. Such headroom will allow the Company to make such issues of shares for cash as may be considered appropriate in connection with the business development activities described above and to take advantage of such other equity fundraising opportunities as may arise.

The Company believes raising finance by way of a non pre-emptive fundraising rather than by way of an open offer is in the best interests of Shareholders as it will provide the certainty preferred by potential placees and subscribers. It is proposed that the waiver will

apply to up to 9,711,881 Common Shares having a maximum aggregate nominal value of \$971.19. The Directors believe it to be in the best interests of the Company for the Board to be granted these authorities to enable the Board to take advantage of appropriate opportunities should they arise. The Consideration Shares and Adviser Fee Shares being issued for cash and are therefore not subject to pre-emption rights. No disapplication is being requested in respect of them.

(b) To amend Section 2(a) of Article X of the Company's Bylaws to clarify that a resolution passed by the holders of seventy-five (75) *per cent* of the shares whose

holders are eligible to vote and who vote on such resolution (rather than seventy-five *per cent* (75 *per cent*) of the Shareholders who are eligible to vote and who vote) is sufficient to disapply pre-emptive rights provided in Article X of the Company's Bylaws. The amendment to Section 2(a) of Article X will provide that, "The corporation may at any time resolve by the affirmative vote of holders of seventy-five *per cent* (75%) or more of the shares of Common Stock represented in person or by proxy at any stockholders meeting referred to in this section and entitled to vote thereon (the "Required Vote"), that the board of directors be empowered to issue equity securities for cash..." thereby replacing the following: "The corporation may at any time resolve by seventy-five (75) *per cent* of the stockholders who are eligible to vote, and who vote at a Stockholders' Meeting referring to this section (the "Required Vote"), that the board of directors be empowered to issue equity securities for cash. . . "

The Directors consider that it is in the best interests of the Shareholders to amend the articles in the manner as set out above, as this will provide a more equitable standard of voting i.e. one vote per share, as opposed to one vote per Shareholder as currently provided.

(C) To elect or re-elect the members of the Board of Directors, each to serve until the next annual meeting of shareholders held to elect directors and until their successors are elected and qualified.

(d) To receive the Company's annual accounts for the financial year ended 31 December 2006 together with the last directors' report and auditors' report on those accounts.

(e) To re-appoint BDO Seidman, LLP as the Company's Auditors.

The record date for the meeting is 27 September 2007.

**Action to be taken**

A Form of Proxy for use at the Annual Meeting accompanies the Prospectus. Whether or not you intend to be present at the meeting you are asked to complete the Form of Proxy in accordance with the instructions thereon and return it by post to the Company's registrars, so as to be received as soon as possible and, in any event, not later than 5.00 p.m.UK time on 19 October 2007. Completion and return of the Form of Proxy will not preclude you from attending the Annual Meeting and voting in person should you so wish.

### **Further Information**

The Directors believe that the Committed Fundraising is in the best interests of Shareholders as it will provide together with existing resources and further funds which the Company expects to raise through the fundraising activities set out in the Prospectus, funds to progress the Phase 3 CRO-HIV trial. At the time of the IPO in July 2006, and including the net proceeds from the placing at IPO, the Company had sufficient funds based on the Company's estimate at that time of the trial costs to take CRO-HIV to a point where it could generate significant revenues, namely completion of Phase 3 clinical trial. Since the IPO, and based on the results of safety analysis and other clinical, pre-clinical and formulation data generated since the original dose selection, the Company approached the FDA with a view to amending the Phase 3 trial design. The Company has worked closely with the FDA and has obtained agreement under the SPA process and has also obtained IRB approval for the "adaptive design" trial (details of which are set out in Part VII of the Prospectus) which includes 2 parts and multiple (3) dose levels, whereby patients completing the first part of the trial will continue into a 5 month extension to provide additional safety and efficacy data. This process has increased the costs involved in relation to the clinical development of CRO HIV and increased the time to completion of the current Phase 3 trial. However, based on the results from a pre-enrollment study, the Company believes it will accelerate patient enrollment and complete the trial in June 2008 and be in a position to file the NDA in July 2008. There are currently 55 patients pre-enrolled in Phase 3. Moreover, the Directors believe that this revised trial design increases the likelihood of successfully meeting the trial end points, and by establishing the optimal dose, reduces potential risk of adverse affects and helps determine pricing, thereby maximising the commercial terms available if the trial is successful.

The Company is of the opinion that, taking into account the net proceeds of the Placing and Subscription proceeds held in the Escrow Account (as more particularly described at paragraph 12(b)(i) of this Part XIV of the Prospectus), the Group does not have sufficient working capital for its present requirements, that is for at least the next 12 months from the date of the Prospectus. The Directors believe that taking into account the proceeds of the Placing and Subscription, and on the basis of the projected cash utilisation for the CRO-HIV trial, that is without management taking any mitigating actions, the Company will run out of funds in February 2008, thereby being unable to complete the CRO-HIV trial.

The Directors believe that in order to make an unqualified working capital statement for the purposes of the Prospectus Rules, including making provision for the sensitivities required under the CESR Recommendations and the Listing Rules, the Company would need to raise approximately \$24 million after expenses through the Placing and Subscription (where monies are in escrow). On this basis, the Company is of the opinion that it does not have sufficient working capital for its present requirements. Based upon the Company's existing cash resources and monies committed through the Placing or Subscription monies held in escrow the Company has a shortfall of \$21.1 million.

The Subscription monies other than those in escrow, which are conditionally due to the Company under the Subscription Agreements and amount to \$1.1 million, cannot be taken into consideration for the purpose of this working capital statement. Further, any Indicated Funds of up to \$2.0 million, which may become due to the Company subsequent to the date of the Prospectus, cannot be taken into consideration for the purpose of this working capital statement made by the directors in paragraph 16 of Part XIV of the Prospectus.

The Company intends to make up the above-mentioned deficit of \$21.1 million in working capital through in the first instance Subscription monies other than those in escrow (being \$1.1 million). In addition, the Company will apply any Indicated Funds taken up (up to \$2.0 million) to make good the shortfall. The Company will also pursue additional funding strategies including, *inter alia*, debt, further equity issuances and business development. The Company is currently exploring several business development opportunities from page 98 to provide additional funding opportunities to the Group which may or may not include the further issue of Common Shares and/or debt. Given the 4 key potentially value enhancing clinical events expected between now and June 2008, and the ongoing fundraising opportunities and business development activities highlighted above, the Company is reasonably confident that one or more of these funding opportunities will provide the funds required to rectify the working capital shortfall. In the event that the Placing, the Subscription and any Indicated Funds taken up do not become unconditional, for instance if the Pre-emption Resolution is not passed, and Admission does not take place, neither the net proceeds of the Placing nor the net proceeds of the Subscription nor any Indicated Funds taken up will be available to the Company. The Directors estimate that the Company's current working capital, under the Company's current business plan, would run out in January 2008. In such circumstances, the Company would need to pursue additional or alternative funding sources including by way of equity, debt or out-licensing which may not be available before January 2008 or at all or, if they are available, may be expensive and/or onerous for the Company. In this case in order to avoid the risk of insolvency, the Company would have to curtail certain expenditure which the Board considers necessary for optimising the probability of success of the Company's clinical development programs, including delaying the CRO-HIV clinical trial, which would have a material adverse effect on the Company's operations.

## Recommendation

The Directors believe the adoption of the resolutions that will be proposed at the Annual Meeting to be in the best interests of the Company and its Shareholders as a whole. Accordingly the Directors recommend that you vote in favour of each resolution.

Yours sincerely,

Sir William Neil Young

*Non-Executive Chairperson*

## PLACING AND SUBSCRIPTION STATISTICS

|  |            |
|--|------------|
| Issue Price  | 70 pence   |
| Number of Common Shares in issue immediately prior to Admission                      | 47,042,278 |
| Number of Consideration Shares being issued in connection with the Acquisition up to | 2,906,193  |
| Percentage of the Issued share capital represented by the Consideration Shares       | 6.2%       |

|  | \$m        | £m         | Shares     | % Issued<br>Share<br>Capital |
|--|------------|------------|------------|------------------------------|
| Enlarged share capital at the Issue Price  | 74,882,465 | 37,155,138 | 53,078,769 | -                            |
| Enlarged Share Capital (including maximum Indicated Funds Shares) at the Issue Price | 76,882,465 | 38,147,497 | 54,496,424 | -                            |
| <b>Committed Funds</b>   |            |            |            |                              |
| The Placing and the Subscriptions  | 2,913,087  | 1,445,414  | 2,064,876  | 4.4                          |
| where monies are held in the Escrow Account  |            |            |            |                              |
| The remainder of the Subscriptions   | 1,100,000  | 545,797    | 779,708    | 1.7                          |

|   |           |           |           |     |
|---|-----------|-----------|-----------|-----|
| Total Proceeds of Placing and Subscription  | 4,013,088 | 1,991,211 | 2,844,584 | 6.0 |
| Estimated costs of Placing and Subscription | 1,750,280 | 868,453   | -         | -   |
| Net proceeds of Placing and Subscription    | 2,262,808 | 1,122,759 | -         | -   |

**Indicated Funds**

|   |           |           |           |     |
|---|-----------|-----------|-----------|-----|
| Total maximum   | 2,000,000 | 992,358   | 1,417,655 | 3.0 |
| Indicated Funds   |           |           |           |     |
| Estimated incremental costs relating to                             | 60,000    | 29,770    | -         | -   |
| Indicated Funds   |           |           |           |     |
| net proceeds from maximum   | 1,940,000 | 962,588   | -         | -   |
| Indicated Funds   |           |           |           |     |
| Total Placing, Subscription, and maximum                            | 6,013,087 | 2,983,570 | 4,262,239 | 9.1 |
| Indicated Funds   |           |           |           |     |
| Net proceeds from Placing, Subscription and maximum Indicated Funds | 4,202,807 | 2,085,347 | -         | -   |

|                |               |
|----------------|---------------|
| ISIN number    | USU 629901039 |
| SEDOL number   | B140VT8       |
| CUSIP number   | U62990 10 3   |
| Trading Symbol | "NAPL"        |

Unless otherwise indicated the rates of exchange are £1:\$2.0154 which is the prevailing rate of exchange at the close of business on 26 September 2007 as shown in the Financial Times on 27 September 2007 (being the latest practicable date prior to the publication of the Prospectus).

**EXPECTED TIMETABLE OF PRINCIPAL EVENTS**

|  |                   |
|--|-------------------|
| Publication of the Prospectus  | 28 September 2007 |
| Expected announcement of the take up of Indicated Funds  | 19 October 2007   |
| Annual Meeting   | 22 October 2007   |
| Issue of Placing Shares, Subscription Shares and Indicated Funds Shares and Admission to trading | 23 October 2007   |

Each of the dates in the above timetable is subject to change.

All times are London times unless otherwise stated.

## **Definitions**

“Acquisition” the proposed acquisition by the Company of the entire issued share capital of IndUS Pharmaceuticals, Inc

“Admission” the admission of the Placing Shares, Subscription Shares, Consideration Shares and the Indicated Funds Shares to the Official List and to trading on the London Stock Exchange market for listed securities

“Admission Date” the date of Admission, being 23 October, 2007

“Advisor Fee Shares” Common Shares issued to Nomura Code and Reed Smith as part of their fees in relation to their engagement

“Certificated” or “in Certificated Form” a share which is not in Uncertificated Form (that is, a share not held in CREST)

“Committed Fundraising” the Placing and the Subscription

“Committed Funds” funds for which the Company has written commitments from

investors pursuant either to the Placing or the Subscription

“Common Shares” shares in the common stock of the Company with a par value of US\$0.0001 each the “Company” or “Napo” Napo Pharmaceuticals, Inc

“Consideration Shares” the Common Shares to be issued in connection with the Acquisition

“Enlarged Group” the Group following the Acquisition

“Enlarged Issued Share Capital” the issued Common Share capital of the Company immediately following Admission including Consideration Shares and Advisor Fee Shares but excluding any Indicated Funds Shares

“Escrow Account” the account with Reed Smith LLP opened for the purpose of receiving monies from the Subscription

“Glenmark” Glenmark Pharmaceuticals Limited

“Group” the Company, and its subsidiaries including the Subsidiary and the term “Group Company” shall be construed accordingly

“IL&FS” IL&FS Investment Managers Limited

“IndUS” IndUS Pharmaceuticals, Inc

“Indicated Funds” those funds for which the Company has received indications of interest from potential investors but not received signed Subscription Agreements or received any payment into escrow

“Indicated Funds Shares” Common Shares of the Company proposed to be issued upon actual payment of funds which at the time of the Prospectus were Indicated Funds

“Issue Price” 70 pence per Placing Share, Subscription Share and Indicated Funds Shares

“Napo India” Napo India Private Limited

“New Common Shares” the 7,454,146 Common Shares proposed to be issued by the Company pursuant to the Placing, Subscription and Acquisition together with any Indicated Funds Shares and Adviser Shares

“Non-Executive Directors” the non-executive directors of the Company, being Sir William Young, Gregory Stock, Thomas Van Dyck and Jack van Hulst.

“Nomura Code” Nomura Code Securities Limited

“NPIL” Nicholas Piramal India Limited

“OCRPS” optionally convertible redeemable preference shares

“Options” options to acquire Common Shares granted under the Equity Incentive Plan

“Placing” the placing of 1,214,284 Common Shares by Nomura Code with institutional investors in the UK and EEA pursuant to the Placing Agreement

“Placing Agreement” the agreement between the Company and Nomura Code details of which are set out at Paragraph 12(a) of Part XIV of the Prospectus

“Placing Shares” the 1,214,284 new Common Shares proposed to be issued by the Company at the Issue Price pursuant to the Placing

“Pre-emption Resolution” the resolution to disapply shareholder pre-emption rights set out in the notice of annual general meeting

“Preferred Share” any of: Series A Preferred Shares; Series B Preferred Shares; or Series C Preferred Shares

“Prospectus” the prospectus to be published by the Company on 28 September 2007

“Rule 144” the United States of America Securities and Exchange Commission rule that sets the conditions under which restricted, unregistered and control securities can be sold

“Senior Managers” Charles O. Thompson, Dr Steven King, Bobba Venkatadri, Dr Scott Harris, Dr Pravin Chaturvedi and Dr Merfyn Williams

“Share Option Schemes” the Equity Incentive Scheme and the 2006 Equity Incentive Scheme

“Sindu” or “Sindu Pharmaceuticals” Sindu Pharmaceuticals Pvt Ltd

“Subscriber” potential investor pursuant to a Subscription

“Subscription” the subscription for 1,630,300 Common Shares by investors in the US and non-EEA countries pursuant to the Subscription Agreements

“Subscription Agreements” the agreements more particularly described at paragraph 12(b) of Part XIV of the Prospectus

“Subscription Shares” the 1,630,300 new Common Shares to be issued by the company at the Issue Price pursuant to the Subscription

“Subsidiary” Napo India

“Trine” Trine Pharmaceuticals Inc

“UCSF” University of California, San Francisco

“Uncertificated” or “in certificated form” recorded on the register of the shares or security concerned as being held in uncertificated form in CREST, entitlement to which, by virtue of the CREST Regulations, may be transferred by means of CREST

“US GAAP” United States generally accepted accounting principles

“US Person” a “US Person” as defined in Rule 902(k) of US Regulation S

“US Regulation D” or “Regulation D” Regulation D promulgated by the US SEC under the US Securities Act, including the preliminary notes thereto the United States Securities and Exchange Commission the United States Securities Act of 1933, as amended

“US Regulation S” or “Regulation S”: Regulation S promulgated by the US SEC under the US Securities Act, including the preliminary notes thereto

“US Subscription Agent”: The Chart Group LP

Save where otherwise stated, for the purpose of this announcement, “subsidiary”, “subsidiary undertaking” and “associate” have the respective meanings given to them by the Act. In this announcement, the singular includes the plural and vice versa, unless the context otherwise requires.

END