



# Aroa Biosurgery Share Option Plan Rules

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## **AROA BIOSURGERY SHARE OPTION PLAN RULES**

*Date:*

### **1 NAME OF PLAN**

The name of this plan is the "Aroa Biosurgery Share Option Plan".

### **2 OBJECTIVES**

The Plan is intended to:

- (a) align the incentives of its participants with the interests of the Company's shareholders; and
- (b) retain employees and executives of the Company.

### **3 BOARD**

#### **3.1 Administration**

The Board will administer all aspects of the Plan, including the making of Grants. Any matter to be determined by the Board will be determined as it sees fit in its sole discretion.

#### **3.2 Delegation**

The Board may delegate to any person (and revoke any delegation of) all or any of its powers, discretions, rights and obligations under the Plan from time to time as it sees fit, and reference to the "Board" will be construed accordingly.

### **4 GRANTS OF OPTIONS**

The Board may, make a Grant to an Employee. Each Grant will be contained in a Letter of Invitation, which will:

- (a) specify the number of Options granted to the Employee;
- (b) enclose a copy of the Plan Rules;
- (c) specify:
  - (i) the Vesting Dates;
  - (ii) the Tranches;
  - (iii) the Exercise Price;
  - (iv) the Termination Dates;
  - (v) any further terms and conditions applying to the Grant; and
- (d) specify the period during which the Employee may accept the Grant.

## **5 ACCEPTANCE OF GRANT**

### **5.1 Acceptance of Grant**

An Employee may accept a Grant by signing and returning to the Board the acknowledgement and acceptance contained in the Letter of Invitation, within the period stated in the Letter of Invitation. If the Employee does not accept a Grant within this time period, then the Grant will be deemed to have been cancelled and the right to receive Options under the Grant will lapse immediately.

### **5.2 Acknowledgement**

In accepting a Grant, a Participant acknowledges and agrees that:

- (a) the terms of the Plan are binding; and
- (b) participation in the Plan does not affect the terms of the Participant's Employment. In no event will the Company be deemed, by making a Grant or otherwise, to have represented that a Participant's Employment will continue until or beyond any Vesting Date or a Termination Date.

## **6 PROCEDURE FOR EXERCISE**

### **6.1 Exercise of Options**

Any Options may be exercised on the Vesting Date or any Business Day after the Vesting Date up until the Termination Date, at which time any unexercised Options will lapse. Options may not be exercised if the Board considers that such exercise would give rise to a breach of the Company's constitution and/or any laws or regulations.

### **6.2 Exercise Notice**

A Participant may exercise part or all of his or her Options in a Tranche (subject to any minimum number or multiple of a number of Options prescribed by the Board from time to time) by giving the Company an Exercise Notice.

### **6.3 Payment**

Any Exercise Notice must be accompanied by payment of the aggregate Exercise Price or arrangements acceptable to the Company in relation to such payment.

### **6.4 Net settled exercise**

At the Board's discretion (and on such terms as it determines), the Company may facilitate a cashless (net settled) exercise by issuing a reduced number of Shares to the Participant, such number of Shares to be equal to:

- (a) an amount equal to the difference between the Current Value and the Exercise Price, multiplied by the number of Options being exercised, divided by
- (b) the Current Value.

### **6.5 Issue**

Within five Business Days after the date on which the Company receives an Exercise Notice and (except where clause 6.4 applies) payment of the Exercise Price, in

accordance with this clause 6, the Company will issue the applicable Shares to the Participant.

## **7 LAPSE OF OPTIONS**

Unless otherwise determined by the Board, if a Participant leaves (by any means and for any reason) the Employment of the Company or any applicable subsidiary, the Participant's Options which have reached their Vesting Date, together with any other Options as may be nominated at the discretion of the Board in extraordinary circumstances (such as the redundancy, permanent disablement or death of a Participant), may be exercised within a period of 90 days (following which they will lapse) and the Participant's other Options will lapse immediately.

## **8 RIGHTS ON EXERCISE**

### **8.1 Shares issued rank pari passu**

Shares issued to Participants will be credited as fully paid and will rank pari passu in all respects with all Shares at the date of issue, except for any dividend declared on Shares where the record date occurs prior to issue.

### **8.2 Restriction on disposing of Shares**

In limited circumstances the Board may impose restrictions on a Participant's ability to dispose, transfer or otherwise deal with Shares issued to a Participant on the exercise of their Options.

## **9 ADJUSTMENTS**

### **9.1 Rights Issue**

If between the Grant Date and the Exercise Date in respect of any Option, the Company makes or announces any pro rata issue of shares (including a rights issue), the Board will make such adjustments or alterations to the terms of Options, as required under the ASX Listing Rules..

### **9.2 Bonus Issue**

If, prior to the exercise of Options, the Company issues Shares to the holders of Shares in a manner that maintains the existing relative voting and distribution rights of all holders of Shares, a Participant will be entitled, on exercising the Options, to receive additional Shares as if the Shares under the Grant received on exercising the Options had participated in the bonus issue.

### **9.3 Reconstruction**

If, prior to the exercise of an Option, there is a Reconstruction, the Company will adjust the terms of the Options to the extent necessary to comply with the ASX Listing Rules applying to a reorganisation of capital at the time of the Reconstruction.

### **9.4 Vesting Date acceleration**

The board may determine at its sole and absolute discretion that the Options may accelerate automatically, if, prior to the Vesting Date, a Corporate Transaction occurs, so that, immediately prior to the specified effective date for the Corporate Transaction, those Options may be exercised, and, in this case, the Participant may

then deliver an Exercise Notice for all or any portion of the Options which become eligible to be exercised under this clause 9.4 and, subject to receipt of payment of the aggregate Exercise Price (except where clause 6.4 applies), the Company will issue Shares to the Participant prior to the Corporate Transaction.

## **10 NO DIVESTMENT OF OPTIONS**

No Participant may sell, transfer, charge, encumber, mortgage, create any interest in or otherwise dispose of any Option, without the prior written consent of the Board. The Board may cancel any Option which becomes subject to a breach by a Participant of this clause.

## **11 TAXES**

### **11.1 Responsibility for Taxes**

Neither the Company nor any subsidiary is responsible for any Taxes which may become payable by a Participant in connection with this Plan, including:

- (a) the issue or transfer of Options; or
- (b) the issue, transfer or allocation of Shares; or
- (c) any other dealing by a Participant with such Options or Shares including the payment of any cash amount.

Participants are solely responsible for all such amounts.

### **11.2 Withholding for taxes**

Notwithstanding any other provision in these Plan Rules, if the Company or any subsidiary is required or deemed to make a payment to or on behalf of a Participant under or in respect of these Plan Rules or any Grant, or a Participant is treated as receiving a taxable benefit under or in respect of these Plan Rules or any Grant, the Company or applicable subsidiary may deduct or withhold any amount in respect of Taxes payable (including by withholding Options and/or Shares and selling them to raise the necessary funds at any price reasonably obtainable by the Company or making a deduction from the Participant's net salary or wages). Each Participant authorises and directs the Company and any applicable subsidiary to make any deduction or withholding contemplated by this clause 11 and consents to such deduction or withholding for the purposes of the Wages Protection Act 1983 and any other applicable laws.

## **12 AMENDMENT AND TERMINATION**

### **12.1 Board's Discretion**

Subject to clause 12.2, and all applicable laws, the Board may from time to time:

- (a) vary any term of a Participant's participation in the Plan, with the agreement of the Participant; or
- (b) amend the Plan, if the Board considers that the interests of Participants affected are not materially prejudiced.

## 12.2 **Notice to Participants**

The Company will give notice of any amendment to the Plan to all Participants affected. Similarly, the Board will give notice of any adjustment under clause 11 to all Participants affected.

## 13 **QUOTATION**

Options will not be quoted on any stock exchange.

## 14 **MISCELLANEOUS**

### 14.1 **Entire Agreement**

The Plan and the Letter of Invitation represent all of the terms on which Options are issued under the Plan, except those which the Board reasonably implies to give effect to the Plan.

### 14.2 **Conflict**

In the event of any inconsistency between the terms contained in these Plan Rules and the Letter of Invitation, the Board will determine which will prevail to the extent of such inconsistency.

### 14.3 **Delay**

No failure, delay or indulgence by the Company and/or Board in exercising any power or right conferred on it under the Plan will operate as a waiver of that power or right; nor will a single exercise of a power or right preclude further exercises, or the exercise of any other power or right under the Plan.

### 14.4 **Disputes**

Any dispute which arises under the Plan will be determined by the Board. The Board's decision will be final.

### 14.5 **Notice**

All notices and communications required to be given or made under the Plan will be in writing and addressed to the recipient at the address or email address from time to time designated by the recipient. Unless any other designations are given, the addresses and email addresses of the Company and a Participant are those (if any) set out in the relevant Grant. Any notice or communication will be deemed to have been received:

- (a) if delivered by hand, at the time of delivery;
- (b) if sent by post or airmail with postage prepaid, on the second Business Day after the date of mailing; or
- (c) if sent by email, on the day of transmission (unless the sender receives notification that the email has not been received).

### 14.6 **Governing Law**

The Plan will be governed by and construed in accordance with New Zealand law.

#### 14.7 **Construction**

Unless the context requires otherwise:

- (a) the singular includes the plural and vice versa, and words importing any gender include the other genders;
- (b) a reference to a "person" includes any individual, partnership and incorporated or unincorporated body (whether or not having a separate legal personality);
- (c) a reference to an "amendment" includes any deletion or addition;
- (d) a reference to an enactment (statute or regulation) includes enactments in New Zealand and in any other jurisdiction affecting the Plan, and is a reference to that enactment as amended, or any enactment substituted for that enactment;
- (e) where a word or expression is defined in the Plan, other parts of speech and grammatical forms of that word or expression have a corresponding meaning; and
- (f) a reference to a person includes its successors and permitted assigns.

#### 14.8 **Key terms**

Unless the context requires otherwise:

*ASX* means ASX Limited, or the market operated by it, as the context requires.

*ASX Listing Rules* means the listing rules of ASX as varied or modified from time to time.

*Business Day* means a day on which trading banks are open for normal banking business in Auckland (excluding Saturdays and Sundays);

*Board* means the board of directors of the Company or person nominated by the Board to administer this plan;

*Company* means Aroa Biosurgery Limited;

Controlling Interest means one person controlling another including where the first person directly or indirectly by the legal or beneficial ownership:

- (a) has, or may have, the power to appoint, remove, or direct the majority of the members of the governing body of the other person;
- (b) controls or has the power, or may have the power, to control the affairs or decisions of the other person; or
- (c) is in a majority position (of more than 50%) to obtain direct or indirect benefit from the existence or activities of the other person,



and Controlled or Control have a corresponding meaning.

*Corporate Transaction* means the sale (or the grant of a right to acquire or to dispose of) any of the Shares (in one transaction or as a series of transactions) which will result in the purchaser of such Shares (or grantee of such right) acquiring a Controlling Interest in the Company, or the sale or disposal of the assets of the Company which constitutes a "major transaction" at the term is defined in section 129 of the Companies Act 1993;

*Current Value* means, while the Company is listed on ASX, the Market Value;

*Employee* means:

- (a) an employee of the Company or a subsidiary of the Company; and
- (b) any person who otherwise provides services to or for the benefit of the Company or a subsidiary of the Company,

and *Employed* and *Employment* shall be construed accordingly;

*Exercise Notice* means notice of the exercise of an Option, in the form attached as Schedule 2;

*Exercise Price* means the higher of the share price at the last capital raise and the volume weighted average price for Shares on the ASX for the five (5) trading days immediately preceding the grant date, or such other exercise price determined by the Board and specified in a Letter of Invitation;

*Grant* means the grant of Options, as set out in a Letter of Invitation;

*Letter of Invitation* means a document in the form set out in Schedule 1, or such other form that the Board determines to be consistent with this Plan;

*Market Value* means the VWAP (volume weighted average market price) for Shares reported on the ASX for the five Business Days prior to the issue of the Shares;

*Option* means (subject to clause 9) an option to subscribe for a Share pursuant to this Plan;

*Participant* means an Employee who is given a Grant of Options and who has accepted that Grant in accordance with clause 5.1;

*Plan* means this document as amended from time to time;

*Plan Rules* means the rules set out in this document;

*Reconstruction* means any consolidation, subdivision, cancellation, redemption, acquisition by the Company or other rearrangement or reconstruction whatever of shares in the Company which changes the proportionate interest in the Company represented by a Share;

*Share* means an ordinary share in the Company;

*Taxes* means a tax, levy, impost, charge, deduction, withholding or duty of any nature (including stamp and transaction duty) imposed or levied by any government agency or required to be remitted to, or collected, withheld or assessed by, any government agency, together with any related interest, penalty, fine, expense or other charge on those amounts;

*Termination Date* means ten (10) years from Grant, or such other termination date determined by the Board and specified in a Letter of Invitation;

*Tranche* means such number of Options having the same Vesting Date and Termination Date, as specified in a Letter of Invitation;

*Vesting Date* means the date specified in a Letter of Invitation on which Options vest and may first be exercised.

## **SCHEDULE 1: FORM OF LETTER OF INVITATION**

Date:

To: [Full name of employee, and address for registration in Option register]

### **GRANT OF SHARE OPTIONS**

Aroa Biosurgery Limited (the *Company*) has selected you to receive an offer of options as detailed in the table scheduled to this letter (*Grant*). This Grant is subject to the terms and conditions of the Aroa Biosurgery Share Option Plan (*Plan*), a copy of which is enclosed.

The Plan has been designed to align the incentives of its participants with the interests of the Company's shareholders and retain you as a valued employee.

### **Statutory warning**

This is an offer of options to acquire ordinary shares. Ordinary shares give you a stake in the ownership of the Company. You are not entitled to any dividends in respect of your Options. If you exercise your options and receive ordinary shares, you may receive a return if dividends are paid. The options will not be quoted. The ordinary shares in the Company that you will receive if your options vest and you exercise those options have the rights of ordinary shares as set out in the Constitution of the Company. The Company intends to quote the ordinary shares in the Company that you will receive if your options vest and you exercise those options on the ASX. This means you may be able to sell them on the ASX if there are interested buyers. You may get less than you invested. The price will depend on the demand for the ordinary shares.

If the Company runs into financial difficulties and is wound up, you will not be paid anything in respect of any unexercised options. If you hold shares in the Company, you will only be paid after all other creditors have been paid. You may lose some or all of your investment.

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This information is designed to help investors to make an informed decision.

The usual rules do not apply to this offer because it is made under an employee share purchase scheme. As a result, you may not be given all the information usually required. You will also have fewer other legal protections for this investment.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself.

### **Annual Report and Financial Statements**

As an investor, you have the right to receive, free of charge, a copy of the Company's latest annual report and a copy of its relevant financial statements (including a copy of the auditor's report on those financial statements).

You can request the above documents in hard copy or by electronic means by contacting James Agnew, Chief Financial Officer.

### **Structure of Plan**

Under the Plan, you will receive options to subscribe for ordinary shares in the Company. The schedule sets out the details of the Grant.

The Grant is split into three tranches, with Vesting Dates on the first, second and third anniversary of the grant date respectively. No performance hurdles apply to these tranches.

If on the Vesting Date for a Tranche, you are still employed by the Company or a subsidiary you may exercise all or part of your Options at any date before the Termination Date (i.e. [10] years from the grant date).

If you are not employed on the Vesting Date for a Tranche that Tranche will lapse.

The Company's board has discretion to allow you to exercise all or part of your options if:

- (a) on a Vesting Date you are no longer employed; or
- (b) you cease to be employed before a Termination Date but you have not yet exercised your Options.

When you exercise your Options, you must pay the aggregate Exercise Price for the Options exercised. The Company may facilitate a cashless exercise alternative to assist you with this.

### **Rights of Shares**

On exercise of your Options, the Company will issue one ordinary share in the Company to you for each Option exercised.

### **Taxation**

Participation in the Plan will have tax consequences for you. You are responsible for all tax payable, and tax compliance obligations applying to you, in respect of the Plan. We recommend that you obtain tax advice.

### **Acceptance of Grant**

If you wish to accept this Grant, you must notify the Board of your acceptance by **[insert date]** (as defined in the Plan).

To accept this Grant, you must:

- (a) complete and sign the Acknowledgement and Acceptance section of this letter; and
- (b) return the signed letter to **James Agnew(Chief Financial Officer)** by 5pm, **[insert date]**.

If you do not complete the above within this time period, then the Grant will be deemed to have been cancelled.

You may only exercise your Options in accordance with the terms and conditions of the Plan.

Signed by and on behalf of the Board by:

\_\_\_\_\_

Name:

**Acknowledgement and Acceptance:**

I wish to receive the Options specified in the Schedule on the terms and conditions outlined above. I consent to becoming the holder of one ordinary share in the Company for each Option exercised.

\_\_\_\_\_

Signature

\_\_\_\_\_

Name

\_\_\_\_\_

Address

\_\_\_\_\_

Date

## SCHEDULE – DETAILS OF GRANT

TRANCHE 1	
<b>Number of Options:</b>	[●●●]
<b>Vesting Date (1):</b>	First anniversary of Grant Date
<b>Exercise Price:</b>	\$(●●●)

TRANCHE 2	
<b>Number of Options:</b>	[●●●]
<b>Vesting Date (2):</b>	Second anniversary of Grant Date
<b>Exercise Price:</b>	\$(●●●)

TRANCHE 3	
<b>Number of Options:</b>	[●●●]
<b>Vesting Date (3):</b>	Third anniversary of Grant Date
<b>Exercise Price:</b>	\$(●●●)

## SCHEDULE 2 - EXERCISE NOTICE

To: Aroa Biosurgery Limited (the *Company*)

I, \_\_\_\_\_, hereby exercise the share options granted to me pursuant to a grant of option dated \_\_\_\_\_, as to \_\_\_\_\_ shares, subject to the terms and conditions of the Company's Share Option Plan, and notify the company of my desire to purchase \_\_\_\_\_ ordinary shares of the Company at the specified exercise price of \$\_\_\_\_\_ per share for an aggregate price of \$\_\_\_\_\_, the payment of which accompanies this notice, and hereby give my consent to becoming the holder of those shares.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address