



**CHARTER OF THE AUDIT COMMITTEE  
OF THE BOARD OF DIRECTORS OF  
NOVABAY PHARMACEUTICALS, INC.  
(As amended, Effective May 1, 2015)**

**1. Purpose.**

The primary purposes of the Audit Committee (the “*Committee*”) of NovaBay Pharmaceuticals, Inc. (the “*Company*”) are to oversee on behalf of the Company’s Board of Directors (the “*Board*”): (a) the conduct of the Company’s financial reporting process and the integrity of the Company’s audited financial statements and other financial information provided by the Company to any governmental or regulatory body; (b) the functioning of the Company’s internal accounting and financial controls; (c) the engagement, replacement, compensation, qualifications, independence and performance of the Company’s independent auditors, and the conduct of the annual independent audit of the Company’s financial statements; and (d) the portions of the Company’s Code of Ethics and Business Conduct that relate to the integrity of the Company’s financial reports. The Committee’s function is one of oversight only and shall not relieve the responsibilities of the Company’s management for preparing financial statements that accurately and fairly present the Company’s financial results and condition, or the responsibilities of the independent auditors relating to the audit or review of financial statements.

**2. Composition.**

(a) At Least Three Members; Chairperson. The Committee shall consist of a minimum of three independent directors as defined in Section 2(b) below. The Board shall designate a Committee member as the Chairperson of the Committee, or if the Board does not do so, the Committee members shall appoint a Committee member as Chairperson by a majority vote of the authorized number of the Committee members.

(b) Independence. All members of the Committee shall be “*independent*” as determined by the Board and as defined in the listing standards of the American Stock Exchange or such other national securities exchange on which the Company’s securities are then listed, as the same may be amended from time to time (the “*listing standards*”), Rule 10A-3 of the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), any other rules or regulations of the Securities and Exchange Commission (the “*SEC*”) and any other laws applicable to the Company, subject to any transition rules under the listing standards.

Financial Literacy. Each member of the Committee shall, upon appointment to the Committee, be able to read and understand fundamental financial statements, including balance sheets, income statements and cash flow statements. At least one member of the Committee shall be an “*audit committee financial expert*” as defined in applicable SEC rules and regulations, or otherwise meet the “*financial sophistication*” requirements set forth in the listing standards.

(c) Appointment. Subject to the requirements of the listing standards and the Bylaws of the Company, the Board shall appoint the Committee members to serve on the Committee, and the Board may at any time for any reason remove any individual committee member and the Board of Directors may

fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee.

### **3. Meetings; Reports and Resources of the Committee.**

(a) Meetings. The Committee shall meet as often as it determines necessary or advisable, but not less frequently than quarterly. The Committee also may hold special meetings or act by unanimous written consent as the Committee may decide. The meetings may be in person or by telephone. The Committee periodically shall meet separately with management, persons (if any) performing internal audit functions, and the independent auditors. The Committee may request any officer or employee of the Company, the Company's legal counsel, the Committee's independent counsel or the Company's independent auditors to attend a meeting of the Committee or to meet with any members of, or consultants to, the Committee. The foregoing notwithstanding, the Committee also may exclude from its meetings any persons it deems appropriate including, but not limited to, any director who is not a member of the Committee.

(b) Procedures. The Committee may establish its own procedures in a manner not inconsistent with this Charter, the Company's Bylaws, applicable laws or regulations, or the listing standards. Any Committee member may call a meeting of the Committee.[note: this is specified in the Bylaws] A majority of the authorized number of Committee members shall constitute a quorum for the transaction of Committee business, and the vote of a majority of the Committee members present at the meeting at which a quorum is present shall be the act of the Committee, unless in either case a greater number is required by this Charter, the Company's Bylaws, applicable laws or regulations, or the listing standards.

(c) Minutes Reports. The Committee shall keep written minutes of its meetings and shall deliver a copy of such minutes to the Board and to the Corporate Secretary of the Company for inclusion in the Company's minute books. The Committee shall report its actions and recommendations to the Board after each Committee meeting. The Committee also shall make regular reports to the Board regarding, among other things, any issues that arise with respect to the quality or integrity of the Company's financial statements, the Company's compliance with legal or regulatory requirements, the performance and independence of the Company's independent auditors, and the performance of the Company's internal audit function (if applicable). The Committee shall provide to the Board at an appropriate time prior to preparation of the Company's proxy statement for its Annual Meeting of Stockholders, a report of the Committee, which report shall be included in such proxy statement. The report shall include such information as may be required under the SEC's rules and regulations.

(d) Committee Access and Resources. The Committee is at all times authorized to have direct, independent and confidential access to the Company's other directors, management and personnel, as well as to the Company's books, records and facilities, to carry out the Committee's purposes. The Committee shall have the sole authority, to the extent it deems necessary or appropriate, to retain and terminate independent legal, accounting or other experts or advisers selected by the Committee for matters related to the Committee's purposes. The Company shall provide for appropriate funding, as determined by the Committee, for payment of compensation to the independent auditors engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services, compensation to any independent legal, accounting or other experts or advisers employed by the Committee, and ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out the Committee's duties.

### **4. Authority and Responsibilities.**

The Committee's role is one of oversight. The Company's management is responsible for preparing the Company's financial statements and the Company's outside auditors are responsible for auditing those financial statements. Additionally, the Committee recognizes that financial management, as well as the Company's outside auditors, have more time, knowledge and more detailed information concerning the Company than do Committee members; consequently, in carrying out its oversight responsibilities, the Committee is not providing any expert or special assurance as to the Company's financial statements or any professional certification as to work of the Company's outside auditors. Further, auditing literature, particularly Statement of Auditing Standards No. 100, defines the term "review" to include a particular set of required procedures to be undertaken by independent auditors. The members of the Committee are not independent auditors, and the term "review" as applied to the Committee in this Charter is not intended to have that meaning and should not be interpreted to suggest that the Committee members can or should follow the procedures required of auditors performing reviews of financial statements.

In discharging its oversight role, the Committee encourages free and open communication among the Committee, the Company's outside auditors, and management, and is empowered to investigate any matter brought to its attention with all requisite access to all books, records, facilities and personnel of the Company and to the Company's auditors and outside legal counsel. The Committee has the power to retain separate outside counsel, auditors or other experts or advisors, different from the Company's regular outside counsel, auditors and other experts and advisors, and will receive adequate funding from the Company to engage such counsel, auditors, experts and advisors. The Committee shall have the sole authority to retain, compensate, terminate and oversee the Company's outside auditors and the outside auditors are ultimately accountable to the Committee. In addition to the powers and responsibilities expressly delegated to the Committee in this Charter, the Committee may exercise any other powers and carry out any other responsibilities delegated to it by the Board from time to time consistent with the Company's Bylaws and applicable laws and regulations.

Management is responsible for preparing the Company's financial statements and for their accuracy and the Company's outside auditors are responsible for auditing those financial statements. While the Committee has certain authority and oversight responsibilities under this Charter, it is not the responsibility of the Committee to plan or conduct audits. In the absence of their possession of reason to believe that such reliance is unwarranted, the members of the Committee may rely without independent verification on the information provided to them and on the representations made by the Company's management and the Company's outside auditors. Accordingly, the Committee's oversight does not provide an independent basis to determine that management has maintained appropriate accounting and financial reporting principles or appropriate internal controls and procedures designed to assure compliance with accounting standards and applicable laws and regulations. Furthermore, the Committee's authority and oversight responsibilities do not assure that the audits of the Company's financial statements have been carried out in accordance with generally accepted auditing standards, that the financial statements are presented in accordance with generally accepted accounting principles or that the Company's outside auditors are in fact "independent."

The following functions and responsibilities are set forth as a guide with the understanding that the Committee may diverge from this guide as appropriate given the circumstances. The Committee, in carrying out its responsibilities, believes its policies and procedures should remain flexible to best react to changing conditions and circumstances, and that the Committee should take appropriate actions to set the overall corporate "tone" for quality financial reporting, sound business risk practices and ethical behavior.

To fulfill its purpose the Committee shall:

(a) Have the direct responsibility for the appointment, evaluation, compensation, retention and oversight of the work of the Company's outside auditors and, where appropriate, the dismissal of the Company's outside auditors. The Company's outside auditors shall report directly to the Committee, and the Committee's responsibility includes the resolution of disagreements between management and the outside auditors regarding financial reporting.

(b) Report its findings regularly to the Board, including any issues that arise with respect to the quality or integrity of the Company's financial statements, the Company's compliance with legal or regulatory requirements, and the performance and independence of the Company's outside auditors.

(c) Consider and pre-approve all audit and non-audit services provided by the Company's outside auditors. All non-audit services permitted pursuant to law to be provided by the outside auditors must be considered and pre-approved by the Committee and such approvals must be disclosed in the Company's Annual Report on Form 10-K. The Committee may delegate the authority to grant pre-approvals to one or more members of the Committee, whose decisions must be presented to the full Committee at its scheduled meetings.

(d) Consider and review with the Company's outside auditors and management: (i) the adequacy and effectiveness of the Company's disclosure controls and procedures and internal controls; (ii) all significant deficiencies in the design or operation of the Company's internal controls that could adversely affect the Company's ability to record, process, summarize and report financial data; (iii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls; (iv) the adequacy and effectiveness of those portions of the Company's Code of Ethics and Corporate Conduct that relate to the integrity of the Company's financial reporting; and (v) the related findings and recommendations of the Company's outside auditors together with management's responses.

(e) Consider and review with management, the Chief Financial Officer (the "CFO") and/or the Controller, and the Company's outside auditors: (i) significant findings during the year, including the status of previous audit recommendations; (ii) any audit problems or difficulties encountered in the course of audit work including any restrictions on the scope of activities or access to required information; (iii) any changes required in the planned scope of the audit plan; (iv) the overall scope and plans for the audit (including the audit budget and the adequacy of compensation and staffing); and (v) the coordination of audit efforts to monitor completeness of coverage, reduction of redundant efforts, and the effective use of audit resources.

(f) Inquire of management, the CFO and/or the Controller, and the Company's outside auditors, about significant risks or exposures and assess the steps management has taken to minimize such risks. Discuss with management, the CFO and/or the Controller, and the Company's outside auditors the Company's systems and policies with respect to risk monitoring, assessment and management.

(g) Establish and maintain procedures for the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters, and the confidential, anonymous submissions by employees of concerns regarding questionable accounting or auditing matters.

(h) Inquire about the Company's outside auditors' view of the accounting treatment related to significant new transactions or other significant matters or events not in the ordinary course of business.

(i) Review periodically with the Company's General Counsel any legal and regulatory matters that may have a material impact on the Company's financial statement compliance policies and programs.

(j) Review and discuss with management and the Company's outside auditors the accounting policies that may be viewed as critical, and review and discuss any significant changes in the accounting policies of the Company and any accounting and financial reporting proposals that may have a significant impact on the Company's financial reports. Inquire about the Company's outside auditors' views of management's choices among alternative accounting principles and the quality, not just the acceptability, of the Company's accounting principles as applied in its financial reporting.

(k) The Committee shall review and discuss with management and the independent auditors any material off-balance sheet transactions, arrangements, obligations (including contingent obligations) and other relationships of the Company with entities of which the Committee is made aware whose accounts are not consolidated in the financial statements of the Company and that may have a material current or future effect on the Company's financial condition, results of operations, liquidity, capital expenditures, capital resources or significant components of revenues or expenses.

(l) Prior to any public disclosure thereof, the members of the Committee shall review and discuss (or otherwise have the opportunity to comment on) earnings press releases, as well as financial information and earnings guidance provided to analysts.

(m) Review with the independent auditors (i) all of their significant findings during the year, including the status of previous audit recommendations, (ii) any significant unadjusted audit differences, and (iii) any "management" or "internal control" letter issued by the independent auditors to the Company.

(n) Review the Company's financial statements, and, as part of that review, (i) review with management and the independent auditors, prior to public release, (A) the Company's annual and quarterly financial statements to be filed with the SEC, (B) the Company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations," (C) any certifications regarding the financial statements or the Company's internal accounting and financial controls and procedures and disclosure controls or procedures by the Company's Chief Executive Officer or Chief Financial Officer that will be filed with or furnished to the SEC; and (ii) discuss with the independent auditors the matters that the independent auditors inform the Committee are required to be discussed under applicable auditing standards;

(o) With respect to the independent auditors' annual audit report and certification, before release of the annual audited financial statements, (i) meet separately with the independent auditors without any management member present and discuss the adequacy of the Company's system of internal accounting and financial controls and the appropriateness of the accounting principles used in and the judgments made in the preparation of the Company's audited financial statements and the quality of the Company's financial reports, and (ii) make a recommendation to the Board of Directors regarding the inclusion of the audited annual financial statements in the Company's Annual Report on Form 10-K to be filed with the SEC.

(p) Periodically obtain and review a report by the Company's outside auditors describing: (i) the firm's internal quality-control procedures; (ii) any material issues raised by the most recent internal quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, regarding one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and (iii) all relationships between the Company and its outside auditors (to be set out in the formal written statement described in below).

(q) On an annual basis, request from the Company's outside auditors a formal written statement delineating all relationships between the outside auditors and the Company, consistent with Independence

Standards Board Standard No. 1. The Committee shall actively engage in a dialogue with the Company's management and outside auditors with respect to any disclosed relationships or services that may impact the objectivity and independence of the outside auditors from management and the Company and take appropriate action in response to the outside auditors' report to satisfy itself of the outside auditors' objectivity and independence. The Committee shall also: (i) confirm with the independent auditors that the independent auditors are in compliance with the partner rotation requirements established by the SEC; (ii) consider whether, in the interest of assuring continuing independence of the Company's outside auditors, the Company should regularly rotate its outside auditors; (iii) set clear policies for the Company's hiring of employees or former employees of the Company's outside auditors; and (iv) if applicable, consider whether the independent auditors' provision of any permitted non-audit services to the Company is compatible with maintaining the independence of the independent auditors.

(r) Prepare a report to be included in the Company's annual proxy statement stating whether or not the Committee: (i) has reviewed and discussed the audited financial statements with management; (ii) has discussed with the Company's outside auditors the matters (if any) that the Company's outside auditors have informed the Committee are required to be discussed under applicable auditing standards; (iii) has received the written disclosure and letter from the outside accountants (delineating all relationships they have with the Company) and has discussed with them their independence; and (iv) based on the review and discussions referred to above, the members of the Committee recommended to the Board that the audited financials be included in the Company's Annual Report on Form 10-K for filing with the SEC.

(s) Conduct an annual self-evaluation of the performance of the Committee and its members, including its and their effectiveness and the Committee's compliance with its Charter.

(t) Review and reassess, at least annually, the adequacy of this Charter and submit any recommended changes to the Board for its consideration.

(u) Perform any other functions required by applicable law, rules or regulations, including the rules of the SEC and the rules of any exchange or market on which the Company's securities are traded. The Committee also shall perform such other functions as are delegated to it by the Board from time to time.