

## **BIOLASE TECHNOLOGY, INC.**

### **AUDIT COMMITTEE CHARTER**

#### **Purpose of the Audit Committee**

The purpose of the Audit Committee is to assist the Board of Directors (the “Board”) in fulfilling its responsibilities relating to the general oversight of the Company’s accounting and financial reporting processes, the system of internal controls, the audit of the financial statements and such other duties as directed by the Board. The Committee’s role includes a particular focus on the qualitative aspects of financial reporting to stockholders, and on the Corporation’s processes to manage business and financial risk, and for compliance with significant applicable legal, ethical, and regulatory requirements. The Committee is directly responsible for the appointment, compensation, and oversight of the public accounting firm engaged to prepare or issue an audit report on the financial statements of the Corporation.

The Committee’s responsibility is limited to oversight as set forth in this Charter. It is not the duty of the Committee to duplicate or certify the activities of management and the independent auditor.

#### **Membership and Structure**

The Audit Committee shall be comprised of at least three directors determined by the Board to meet the independence and experience requirements of the applicable rules of the National Association of Securities Dealers, Inc. governing companies listed on the NASDAQ Stock Market and Rule 10A-3(b)(1) under the Securities Exchange Act of 1934, as amended. The Board shall appoint the members based on the recommendation of the Nominating Committee.

Each Committee member must be able to read and understand fundamental financial statements, including a company’s balance sheet, income statement and cash flow statement. At least one member of the Committee shall have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual’s financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities. In addition, at least one member of the Committee shall be an “audit committee financial expert” within the definition adopted by the Securities and Exchange Commission.

The entire Committee or any individual Committee member may be removed from such Committee with or without cause by the affirmative vote of a majority of the Board. Any Committee member may resign from the Committee effective upon giving oral or written notice to the Chairman of the Board, the Corporate Secretary, or the entire Board (unless the notice specifies a later time for the effectiveness of such resignation). The Board may appoint a qualified successor to take office when such resignation becomes effective.

#### **Chairperson**

A chairperson of the Committee (the “Chairperson”) may be designated by a majority of the members of the Committee or by the Board upon recommendation, if any, by the Nominating and Corporate Governance Committee of the Board. In the absence of such designation, the members of the Committee may designate the Chairperson by majority vote of the full Committee membership. The Chairperson shall determine the agenda, the frequency and the length of meetings. All Committee members, including the Chairperson, shall have unlimited access to management, employees and information.

#### **Meetings**

The Audit Committee shall meet at such times and places as the Audit Committee shall determine but not less frequently than quarterly. The Audit Committee shall periodically meet separately with the independent auditor and with management. Notice of meetings shall be given in accordance with the provisions of the Corporation’s by-laws.

The Committee may retain any independent counsel, experts or advisors (accounting, financial or otherwise) that the Committee believes to be necessary or appropriate. The Committee may also utilize the services of the Company’s regular legal counsel or other advisors to the Company. The Company shall provide for appropriate funding, as determined by the Committee, for payment of compensation to the independent auditor for the purpose

of rendering or issuing an audit report or performing other audit, review or attest services, for payment of compensation to any advisors employed by the Committee and for ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.

## **Responsibilities**

### General:

- The Audit Committee shall be directly responsible for the appointment, compensation and oversight of the work of the independent auditor (including resolution of disagreements between management and the independent auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work. The independent auditor shall report directly to the Audit Committee.
- The Audit Committee shall establish procedures for the receipt, retention and treatment of the complaints received by the issuer regarding accounting, internal accounting controls or auditing matters, and the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.
- The Audit Committee shall have the authority to engage independent counsel and other advisers as it determines necessary to carry out its duties.
- The Audit Committee shall determine appropriate funding by the Company for payment of compensation to the independent auditor employed by the Company for the purpose of rendering or issuing an audit report and to any advisers employed by the Audit Committee.

### Relationship with the Independent Auditor

- The Audit Committee shall assess the independence of the independent auditor (“Auditor”) based on a written statement from the Auditor delineating any relationship between the Auditor and the Company, consistent with Independence Standards Board Standard No. 1, or any other relationships that may adversely affect the independence of the Auditor. The Committee will actively engage in a dialogue with the Auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the Auditor and take appropriate action as necessary to oversee the independence of the Auditor.
- The Audit Committee shall approve all auditing services and permitted non-audit services to be performed by the Auditor, with exceptions provided for de minimis amounts under certain circumstances described in applicable rules of the SEC.
- The Audit Committee shall meet with the Auditor prior to the audit and discuss the audit plan and procedures, including the scope, timing and fees of the audit.
- The Audit Committee shall establish procedures for hiring employees or former employees of the Auditor.

### Financial Reporting

- The Audit Committee shall meet with the Auditor and management following the conclusion of the annual audit to discuss the audited financial statements to be included in the Company’s annual report, including disclosures made in management’s discussion and analysis. Discuss matters required to be communicated to the Audit Committee in accordance with generally accepted auditing standards, including the quality and appropriateness of the Company’s accounting principles. Recommend to the Board whether the audited financial statements should be included in the Company’s Form 10-K.
- The Audit Committee shall discuss with management and the Auditor the Company’s quarterly financial statements, including the quarterly earnings press release, prior to filing the Company’s Form 10-Q.
- The Audit Committee shall review and discuss periodically with management and the Auditor: (1) critical accounting policies and practices used by the Company; (2) alternative accounting treatments related to material items that have been discussed with management, ramifications of the use of such alternatives and the treatment preferred by the Auditor; (3) various topics and events that may have a significant financial impact on the Company; and (4) other material written communications between the Auditor and management.
- The Audit Committee shall review and discuss with management and the Auditor: (1) the adequacy and effectiveness of the Company’s internal controls, any significant deficiencies or significant changes in the

design or operation of internal financial or disclosure controls; (2) the Company's internal audit procedures; and (3) any fraud involving management or other employees who have a significant role in the Company's internal controls.

- The Audit Committee shall discuss with management and the Auditor the Company's major financial risk exposures, management's plans to minimize such risks and the Company's risk assessment and risk management policies.
- The Audit Committee shall discuss with management and the Auditor the use of any non-GAAP or pro-forma information.
- The Audit Committee shall discuss with management and the Auditor any correspondence with regulators or government agencies and any published reports which raise material issues regarding the Company's financial statements or accounting policies.
- The Audit Committee shall discuss with the Company's legal counsel legal matters that may have a material impact on the financial statements or the Company's compliance policies.
- The Audit Committee shall advise the Board with respect to the Company's policies and procedures regarding compliance with applicable laws and regulations and with the Company's Code of Ethics.

#### Other

- The Audit Committee shall prepare the report required by the rules of the SEC to be included in the Company's annual proxy statement.
- The Audit Committee shall review, with prior approval authority, insider or related party transactions.
- The Audit Committee shall engage in an annual self-assessment, with the goal of continuous improvement, and at least annually review and assess the adequacy of this Charter and recommend any changes to the Board.
- The Audit Committee shall comply with any SEC, NASDAQ or other applicable regulatory agency rules relating to the duties of the Audit Committee and the content of the Audit Committee Charter.
- The Audit Committee shall review the Directors and Officers Liability Insurance policy and work with management to determine parameters of any renewal of the policy.
- The Audit Committee shall perform any other activities consistent with this Charter, the Company's bylaws and governing law as the Audit Committee or the Board deems necessary or appropriate including causing an investigation to be made into any matter brought to the attention of the Audit Committee within the scope of its duties, with power to retain outside counsel or advisers if, in its judgment, that is appropriate.

#### **Reliance on Information Provided**

In adopting this Charter, the Board acknowledges that the Committee members are not necessarily legal experts and are not providing any expert or special assurance as to the Corporation's legal compliance. Each member of the Committee shall be entitled to rely on the integrity of those persons and organizations within and outside the Corporation that provide information to the Committee and the accuracy and completeness of the information provided to the Committee by such persons or organizations absent actual knowledge to the contrary.

#### **Amendment**

This Charter and any provision contained herein may be amended or repealed by the Board.