

## INSTRUCTION LETTER

February 26, 2021

TO: Former holders of Common Shares of Liberty Health Sciences Inc. ("**Liberty**") who were Eligible Holders

RE: Instruction Letter for Eligible Holders who wish to file a Section 85 Election in respect of the acquisition of their shares by AYR Wellness Inc. ("**AYR**")

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Unless otherwise noted, all defined terms in this Instruction Letter have the meaning as set out in the NOTICE AND MANAGEMENT INFORMATION CIRCULAR FOR THE SPECIAL MEETING OF SECURITYHOLDERS OF LIBERTY HEALTH SCIENCES INC. TO BE HELD ON FEBRUARY 23, 2021, dated January 25, 2021 (the "**Liberty Circular**").

The purpose of this Instruction Letter is to describe the process for an Eligible Holder to make a joint election with AYR under subsection 85(1) of the *Income Tax Act* (Canada) (the "**Tax Act**") or, in the case of an Eligible Holder that is a partnership, under subsection 85(2) of the Tax Act (in either case, a "**Section 85 Election**"), in respect of the disposition of such Eligible Holder's Liberty Amalco Shares to AYR in exchange for the Consideration pursuant to the Plan of Arrangement as described in the Liberty Circular.

A Section 85 Election in respect of a disposition of Liberty Amalco Shares to AYR for the Consideration may only be made by a former Liberty Shareholder who was an "**Eligible Holder**". An Eligible Holder is a beneficial owner of Liberty Shares immediately prior to the Effective Time who is:

- Resident in Canada for the purposes of the Tax Act (other than a Tax Exempt Person), or
- A partnership any member of which is resident in Canada for purposes of the Tax Act (other than a Tax Exempt Person).

A Section 85 Election is not available if your Liberty Shares/Liberty Amalco Shares were held in an RRSP, RRIF, RESP, TFSA, RDSP or DPSP, as such plans are not Eligible Holders. If your Liberty Shares/Liberty Amalco Shares were held in such a plan there should be no tax payable as a result of the disposition of Liberty Shares/Liberty Amalco Shares pursuant to the Plan of Arrangement in any event. Please consult your tax advisor if you require additional information.

If you are an Eligible Holder that would otherwise realize a gain on the disposition of Liberty Amalco Shares to AYR, it may be to your advantage to make the Section 85 Election. **You should seek professional advice from your tax advisor to determine whether making the Section 85 Election is appropriate, considering your particular facts and circumstances.**

**Please review this Instruction Letter very carefully and consult your tax advisor as to the proper completion and delivery of the Section 85 Election Form (as defined below) to AYR (or its agents) and the applicable deadlines. The information provided herein and in the Liberty Circular with respect to such Section 85 Elections is provided for general assistance only, may not be exhaustive and is not intended to be, nor should it be construed as, legal or tax advice to any particular Eligible Holder. The law in this area is complex and contains numerous technical requirements not addressed in this Instruction Letter.**

Furthermore, apart from providing this Instruction Letter and enclosure(s) to an Eligible Holder for their convenience, none of AYR, Liberty, the Depository, or any of the appointed agents or representatives assisting with the Section 85 Election process and technology, nor any affiliate or successor of any such entity will provide an Eligible Holder with any advice on making a Section 85 Election. Accordingly, Eligible Holders wishing to make a Section 85 Election are urged to consult with their own tax advisors without delay for specific advice in respect of the process involved in making the Section 85 Election and how to comply with the requirements for making such Section 85 Election having regard to their own particular circumstances.

Such Eligible Holders should also review Information Circular 76-19R3 and Interpretation Bulletin IT-291R3 (archived) issued by the Canada Revenue Agency (“CRA”) for information in respect of the Section 85 Election under the Tax Act.

## **1. EXECUTION AND DELIVERY OF A SECTION 85 ELECTION**

A Section 85 Election may be made by an Eligible Holder by providing two signed copies of the necessary joint election forms (the “Section 85 Election Form”) to the appointed representative of AYR, Brad Asher (the “Representative”), at the address provided below. **As described in the Liberty Circular, the deadline for providing the Section 85 Election Form to AYR is 90 days after the Effective Date (the “Election Deadline”).**

The Effective Date is February 26, 2021. Accordingly, the Election Deadline is May 27, 2021.

The website established by Liberty with instructions and requirements to make a Section 85 Election, together with the relevant tax election forms (including the provincial tax election forms, if applicable) can be found at <https://www.libertyhealthsciences.com/investors/section-85-election/>.

**If the Section 85 Election Form for an Eligible Holder is not received by AYR by the Election Deadline and in accordance with the procedures set out in this Instruction Letter, AYR will have no obligation to make a Section 85 Election with such Eligible Holder. An Eligible Holder wishing to make a Section 85 Election should give their immediate attention to this matter. In its sole discretion, AYR may choose to sign and deliver a Section 85 Election based on a Section 85 Election Form received after the Election Deadline, but will have no obligation to do so and no assurances can be given that AYR will sign and deliver such a Section 85 Election.**

Each Eligible Holder who wishes to make a Section 85 Election must mail its Section 85 Election Form to the Representative by the Election Deadline at the following address:

Ayr Wellness Inc.  
590 Madison Ave, 26<sup>th</sup> Floor  
New York, NY 10022

Attention: Brad Asher

AYR will not verify the accuracy of the information provided on the Section 85 Election Form provided by or on behalf of any electing Eligible Holder.

## **2. PROVINCIAL OR TERRITORIAL ELECTIONS**

In certain provinces or territories, it may be necessary to file a separate copy of the Section 85 Election or a separate provincial or territorial tax election analogous to the Section 85 Election with the taxing authority of such province or territory.

AYR will also make such a provincial or territorial tax election with an Eligible Holder. **Eligible Holders are entirely responsible for determining whether any such separate provincial or territorial election is applicable and appropriate in their circumstances and (if so) completing and forwarding the related forms to AYR for execution by AYR by the Election Deadline.**

Please consult your advisor on the completion of any applicable provincial or territorial tax forms, the filing deadline for such forms with the applicable provincial or territorial taxing authorities and how to deliver such forms to such provincial or territorial taxing authorities.

## **3. FILING A SECTION 85 ELECTION WITH THE CRA**

After submission of your Section 85 Election Form to the Representative, AYR shall, within 75 days after receiving the completed joint election forms from an electing Eligible Holder, and subject to such joint election forms being correct and complete and in compliance with requirements imposed under the Tax Act (or any analogous provision of provincial income tax legislation), sign and return such forms to such Eligible Holder.

**Each Eligible Holder is solely responsible for ensuring the Section 85 Election Form is completed correctly and filed with the CRA (and any applicable provincial tax authority) by the required deadline. Neither Liberty, AYR nor any successor corporation shall be responsible for the proper completion and filing of any joint election form, except for the obligation to sign and return the duly completed joint election forms which are received by the Election Deadline. The Eligible Holder will be solely responsible for the payment of any taxes, interest or penalties arising as a result of the failure of an Eligible Holder to properly or timely complete and file such joint election forms in the form and manner prescribed by the Tax Act (or any applicable provincial tax legislation).**

The following is a brief summary of how to execute and deliver the forms to the CRA:

### **Filing Deadline**

Generally, for a Section 85 Election under subsection 85(1) of the Tax Act to be accepted by the CRA without an electing Eligible Holder being liable for a late filing penalty, such completed Section 85 Election must be filed with the CRA on or before the date that is the earlier of:

- (a) the day by which AYR is required to file an income tax return for the taxation year that includes the Effective Date; and
- (b) the day by which the electing Eligible Holder is required to file an income tax return for the taxation year that includes the Effective Date.

Special rules apply for partnerships when determining the filing deadline for a Section 85 Election under subsection 85(2) of the Tax Act. If you are an Eligible Holder that is a partnership, please consult your advisor on such filing deadlines.

AYR's taxation year that includes the Effective Date is scheduled to end on February 26, 2021, and its income tax return is required to be filed within six months from the end of the taxation year (August 26, 2021).

### **Where to file the Section 85 Election**

A Section 85 Election should be filed with your CRA Tax Centre. The Tax Services Offices and the associated Tax Centre are listed on the CRA website: <https://www.canada.ca/en/revenue-agency/corporate/contact-information/tax-services-offices-tax-centres.html>.

- For trusts, the applicable Tax Centre is based on the location of the Trustee.
- For a corporation or an individual, the CRA has designated specific Tax Centres for all corporations and individuals depending on where they are located. The Tax Centres and the areas they serve are listed on the CRA website referred to above.
- Where the Section 85 Election is made by a partnership or an Eligible Holder that owned Liberty Shares together with a co-owner or co-owners, the applicable Tax Centre is that of AYR, being:

Prince Edward Island tax centre  
275 Pope Road  
Summerside, PE C1N 6A2

Each Eligible Holder is urged to consult its own tax advisor as soon as possible respecting the Section 85 Election and the filing deadlines (at the federal and provincial and territorial level) that apply to it. However, regardless of the applicable filing deadline, a complete and accurate Section 85 Election Form must be received by AYR on or before the Election Deadline and in accordance with the procedures set out in this Instruction Letter.

**With the exception of execution and delivery of the election form by AYR following receipt of the Section 85 Election Form (provided such information is received by AYR by the Election Deadline), compliance with the requirements for a valid Section 85 Election will be the sole responsibility of the Eligible Holder making the election. None of AYR, Liberty, the Depository, or any of the appointed agents or representatives assisting with the Section 85 Election process and technology will be responsible or liable for taxes, interest, penalties, damages or expenses resulting from the failure by anyone to provide information necessary for the election in accordance with the procedures set out in this Instruction Letter, to properly complete any election form or to properly file it within the time prescribed and in the form prescribed under the Tax Act (or the corresponding provisions of any provincial or territorial tax legislation).**

#### **4. PROCEDURE FOR COMPLETING PRESCRIBED FORM T2057**

The following section illustrates the information required to be provided by an Eligible Holder completing Form T2057. **Please consult your advisor on the completion of any additional prescribed forms (such as Form T2058 and any applicable provincial or territorial tax forms).**

Note: Do not write the required information on this letter of instructions. The information should be typed or legibly printed on the prescribed forms.

**Page 1 of Form T2057**

Complete the information in this first box for the Eligible Holder making the election:

Name of taxpayer (transferor) (print)				Social insurance number or Business Number				
Address				Postal code				
Tax year of taxpayer for the period from	Year	Month	Day	to	Year	Month	Day	Tax services office

The taxation year for individuals and trusts (other than a “graduated rate estate” as defined in the Tax Act) is January 1, 2021 to December 31, 2021. A corporation, graduated rate estate, or a partnership must provide the taxation year that includes February 26, 2021.

Complete the information in this box if the Liberty Amalco Shares were held in joint ownership, otherwise leave the box blank or enter "N/A":

Name of co-owner(s), if any (if more than one, attach schedule giving similar details) (print)			Social insurance number	
Address			Postal code	Tax services office

The next section may be completed as follows:

Name of corporation (transferee) (print) AYR Wellness Inc.				Business Number 701847493 RC0001				
Address 666 Burrard Street, Suite 1700 Vancouver, BC				Postal code V6C 2X8				
Tax year of taxpayer for the period from	Year	Month	Day	to	Year	Month	Day	Tax services office Vancouver, BC

Complete the last line of this section by filling in your name and telephone number or, if appropriate, the name and telephone number of your tax advisor:

Name of person to contact for additional information	Area code	Telephone number
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The final section on page 1 of Form T2057 relates to late-filed elections and is only applicable to Eligible Holders whose elections will be filed late.

**Page 2 of Form T2057**

The answers to the first five questions may be completed as follows:

- 1. Is there a written agreement relating to this transfer? ..... Yes  No
- 2. Does a price adjustment clause apply to any of the properties? (See Income Tax Folio S4-F3-C1 for details.) ..... Yes  No
- 3. Do any persons other than the taxpayer own or control directly or indirectly any shares of any class of the transferee? ..... Yes  No
- 4. Does a non-arm's length rollover exist between 2 or more corporations? ..... Yes  No   
 If **yes** to question 4, have all or substantially all (90% or more) of all the properties of the corporation(s) been transferred to the transferee corporation? ..... Yes  No
- 5. Is the taxpayer a non-resident of Canada? ..... Yes  No

Eligible Holders should answer the question 6 and 6(b) based on their particular circumstances. The determination of whether the Liberty Amalco Shares were capital property or inventory to the Eligible Holder is a question of fact depending on the Eligible Holder’s particular circumstances. An Eligible Holder’s Liberty Amalco Shares generally would have been considered capital property to the Eligible Holder unless the Eligible Holder held or used them in the course of carrying on a business, or acquired such shares the course of an adventure or concern in the nature of trade.

If Yes:

6. Are any of the properties transferred capital properties? ..... Yes  No
- If yes, a) have they been owned continuously since Valuation Day (V-Day is defined in section 24 of the *Income Tax Applications Rules*)? ..... Yes  No
- b) have they been acquired after V-Day in a transaction considered not to be at arm's length? ..... Yes  No
- c) since V-Day, has the taxpayer or any person from whom shares were acquired in a non-arm's length transaction received any subsection 83(1) dividends for transferred shares? (If yes, attach a schedule, provide details of amounts and dates received.) ..... Yes  No

Eligible Holders who held their Liberty Amalco Shares as capital property and acquired their Liberty Shares in an arm's length transaction should check "No" in answer to question 6(b).

Questions 7 and 8 may be completed as follows:

7. Is the agreed amount of any of the transferred properties based on an estimate of FMV on V-Day? ..... Yes  No
- If yes to question 7, does a formal documented V-Day value report exist? ..... Yes  No
8. Has an election under subsection 26(7) of the *Income Tax Application Rules* (Form T2076) been filed by or on behalf of the taxpayer? ..... Yes  No

The final part of this section may left blank or completed as follows:

Corporation's name N/A	
Business number	Paid-up capital of shares transferred (under the Income Tax Act)

The section titled “Description of shares received” at the bottom of page 2 may be completed to indicate that the Consideration Shares are non-retractable subordinate voting shares with no stated redemption value. Eligible Holders must complete the number of shares received and the “paid-up capital” of such shares, which generally will be equal to the difference between the Eligible Holder’s Agreed Amount (as described below) and the aggregate amount of Cash Consideration received by the Eligible Holder.

Eligible Holders received 0.03683 of a subordinate voting share of AYR for each Liberty Amalco Share held. The Exchange Ratio for the Share Consideration is subject to adjustment in certain scenarios as described in more detail in the Liberty Circular.

In the last box on page 3 of Form T2057, the Eligible Holder or its authorized officer or authorized person must sign above the “Signature of Transferor or Authorized Officer or Authorized Person\*” line and date the form above the “Date” line.

**Page 3 of Form T2057**

On the top line of this section, the Eligible Holder should enter the date on which it disposed of its Liberty Amalco Shares and received the Consideration, being February 26, 2021.

If the Liberty Amalco Shares were capital property of the Eligible Holder, complete the information in each column of this section (within the area designated by the title “Capital Property Excluding Depreciable Property”), according to the instructions referenced below. If the Liberty Amalco Shares were inventory of the Eligible Holder, complete the below information within the area designated by the title “Inventory Excluding Real Property”.

Property Disposed of			Agreed Amount (cannot be zero) B	Amount to be reported B - A (If greater than 0 see Note 4)	Consideration Received		
Description	Elected Amount Limits				Non-share	Share	Fair Market Value of Total Consideration
	Fair Market Value	A			Description	Number and Class	
(1) _____ common shares of Liberty Health Sciences Inc.	\$ (2)	\$ (3)	\$ (4)	\$ (5)	(6)	(7) _____ subordinate voting shares of AYR Wellness Inc.	\$ (8)

- (1) Enter the number of Liberty Amalco Shares sold to AYR.
- (2) Enter the total fair market value of the Liberty Amalco Shares sold at the time of sale. The total fair market value of the Liberty Amalco Shares sold will be equal to the total of the amount of Cash Consideration and aggregate fair market value of the Share Consideration received by the Eligible Holder.
- (3) Enter the adjusted cost base (or cost amount in the case of inventory) of the Liberty Amalco Shares sold to AYR. **Each Eligible Holder should consult its own tax advisor to obtain assistance in determining the correct ACB or cost amount of the Liberty Amalco Shares disposed of pursuant to the Arrangement.**
- (4) Enter the Agreed Amount, which will be your deemed proceeds on sale of the Liberty Amalco Shares, subject to the rules described below with respect to calculation of the Agreed Amount.
- (5) Enter the result of B minus A, if it is greater than \$0.
- (6) Enter the dollar amount of Cash Consideration received by the Eligible Holder upon the disposition of the Liberty Amalco Shares. Each Eligible Holder will receive \$0.0001 for each Liberty Amalco Share held.
- (7) Enter the number of Subordinate Voting Shares received as the Share Consideration. Eligible Holders will receive 0.03683 of a Subordinate Voting Share for each Liberty Amalco Share held. The Exchange Ratio for the Share Consideration is subject to adjustment in certain scenarios as described in more detail in the Liberty Circular.
- (8) Enter the total fair market value at February 26, 2021 of the Consideration. The amount entered here should equal the amount entered in (2), above.

As described in the Liberty Circular, the Agreed Amount that is chosen by the Eligible Holder, within certain parameters defined in the Tax Act, will affect the tax results of the disposition of the Liberty Amalco Shares. The Agreed Amount will be the proceeds of disposition for purposes of computing any gain or loss on the Eligible Holder’s disposition of the Liberty Amalco Shares.

The Eligible Holder’s Agreed Amount for Liberty Amalco Shares disposed of pursuant to the Arrangement must comply with the following rules:

- (a) The Agreed Amount may not be less than than the amount of Cash Consideration received by the Eligible Holder.
- (b) The Agreed Amount may not be less than the lesser of (i) the ACB (or cost amount, if the Liberty Amalco Shares were inventory) to the Eligible Holder of the Liberty Amalco Shares sold, determined immediately before the time of the sale, and (ii) the fair market value of the Liberty Amalco Shares at that time.
- (c) The Agreed Amount may not exceed the fair market value of the Liberty Amalco Shares at the time of the sale.

An Agreed Amount that does not otherwise comply with the foregoing limitations will be automatically adjusted under the Tax Act, so that it is in compliance with such limitations.

**Eligible Holders should consult their tax advisors regarding the selection of the appropriate Agreed Amount in respect of their Liberty Amalco Shares.**