



## AUDIT COMMITTEE CHARTER

### **I. Overview.**

- A.** This document shall be the formal written Charter (the “Charter”) of the Compensation Committee (the “Committee”) of the Board of Directors (the “Board”) of Flamel Technologies S.A., a *société anonyme* organized pursuant to the laws of the Republic of France (“Flamel”), adopted by the Committee and the Board as of March 2, 2016 and adopted by the Board of Avadel Pharmaceuticals plc, a public limited company organized pursuant to the laws of the Republic of Ireland (the “Company”), pursuant to the effectiveness of that certain Common Draft Terms Merger Agreement on December 31, 2016 between Flamel and the Company. This Charter hereby replaces and supersedes all former charters of the Committee. Definitions of certain terms used in this Charter are included in Article VI hereof.
- B.** The responsibilities granted or delegated to the Committee in this Charter are in each case subject always to the powers reserved by Irish law to the CEO, the Chairman of the Board, the Board and the shareholders' meetings, and the Committee is authorized to seek any clarifications or waivers from applicable U.S. securities laws and regulations and The Nasdaq Stock Market (“Nasdaq”) rules, as it deems appropriate with respect to the foregoing. To the extent required under applicable U.S. securities law and regulations and Nasdaq rules, any such waivers or non-compliance shall be disclosed annually in the Company’s annual report on Form 10-K or such other Form as may be applicable.
- C.** The members of the Committee shall be appointed by the Board and shall be directly responsible for (a) overseeing the accounting and financial reporting process of the Company and the audits of the financial statements of the Company; and (b) assisting in Board oversight of: (1) the integrity of the financial statements of the Company provided to any governmental body, the public, or any lender or other third party; (2) the adequacy of the Company’s system of internal controls; (3) the compliance by the Company with accounting, auditing, financial reporting and related legal and regulatory requirements; (4) the qualifications and independence of the Company’s independent auditors; and (5) the performance of the company’s independent auditors, all as more particularly set forth elsewhere in this Charter.

### **II. Committee Membership.**

- A.** The Committee shall consist of at least three (3) members, which number shall be determined by the Board from time to time in its discretion. The composition of the Committee shall satisfy the applicable requirements of the Securities and Exchange Commission (“SEC”) and the rules of Nasdaq.
- B.** The Board annually shall elect the members of the Committee to serve for a term of one (1) year or other length of term, in the discretion of the Board, and such members shall serve until their successors are duly elected and qualified. Each member of the Committee shall serve at the pleasure and discretion of the Board and may be replaced or removed by the Board at any time and from time to time in its discretion. At the time of each annual election of the Committee members, or at other times in the discretion of the Committee or the Board, the Committee shall designate one member



of the Committee to be its Chairman; in the absence of such designation by the Committee, the Board shall designate the Chairman.

- C. Each member of the Committee shall be an Independent Director (as defined by the applicable Nasdaq rules) and have Financial Knowledge (as defined in Article VI hereof) at the time of his or her appointment to the Committee, and shall be free from any relationship that, in the judgment of the Board, would interfere with the exercise of his or her independent judgment as a member of the Committee. At least one (1) member of the Committee shall be an Audit Committee Financial Expert (as defined in Article VI hereof) at the time of his or her appointment to the Committee.

### **III. Committee Powers, Authority, Duties and Responsibilities.**

#### **A. Approval of Audit and Non-Audit Services.**

1. The Committee shall be directly responsible for the appointment, compensation, retention and oversight of the work of any registered public accounting firm engaged as auditors (including resolution of disagreements between management and such auditors regarding financial reporting) for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the listed issuer, and each such registered public accounting firm shall report directly to the Committee.
2. The Committee shall approve in advance the provision by the independent auditors of all services to the Company whether or not related to the audit.

#### **B. Independent Auditor Evaluation.**

1. The Committee shall receive from, and discuss with, the independent auditors, periodic reports, at least annually, consistent with Public Company Accounting Oversight Board (PCAOB) Rule 3526 regarding: the auditors' independence; the auditors' internal quality-control procedures; 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 respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and all relationships between the independent auditors and the Company.
2. The Committee shall evaluate the performance of the independent auditors at such times as are appropriate.
3. The Committee will oversee hiring policies for employees or former employees of the independent auditors.

#### **C. Planning and Reviewing Auditing Activities.**

1. The Committee shall meet with the independent auditors prior to the commencement of the auditor's work, to review the planning and staffing of the audit and other examinations or reviews of the Company's quarterly, annual and other financial information.

2. The Committee shall also review with management and the independent auditors the coordination of audit efforts to assure completeness of coverage, reduction of redundant efforts and the effective use of external audit resources.
3. In connection with the annual audit, the Committee shall review with the independent auditors any problems or difficulties the auditors may have encountered and any management letter provided by the auditors and management's response to any such problems or difficulties and to any management letter.
4. The Committee shall review major changes to the Company's auditing and accounting principles and practices suggested by the independent auditors or management.
5. The Committee shall inquire of management and the Company's independent auditors concerning any deficiencies in the Company's policies and procedures that could adversely affect the adequacy of internal controls and the financial reporting process and review the timeliness and reasonableness of proposed corrective actions.

**D. Review of Unaudited and Audited Financial Statements, Earnings Releases, and Information Provided to Analysts and Rating Agencies; Preparation of Proxy Disclosure.**

1. The Committee shall review the annual audited financial statements with management and the independent auditors, including major issues regarding accounting and auditing principles and practices, the Company's disclosures under "Management's Discussion and Analysis of Results of Operations and Financial Condition," the adequacy of internal controls that could significantly affect the Company's financial statements, any material correcting adjustments that have been identified by the independent auditors, any material off-balance sheet transactions, arrangements, obligations and other relationships of the Company with unconsolidated entities and other matters related to the conduct of the audit which are to be communicated to the Committee under Statement on Auditing Standards No. 61, Communications with Audit Committees.
2. The Committee shall determine whether to recommend to the Board that the annual audited financial statements and the Company's disclosures under "Management's Discussion and Analysis of Results of Operations and Financial Condition" be included in the Company's annual report on Form 10-K.
3. The Committee shall review analyses and reports prepared by management and the independent auditors of significant financial reporting issues and judgments and critical accounting policies and practices in connection with the preparation of the Company's financial statements and the ramifications of the use of alternative disclosures and treatments, the treatment preferred by the independent auditors, and other material written communications between the independent auditors and management, including any management letter or schedule of unadjusted differences.
4. The Committee shall meet periodically with management and the independent auditors to review the Company's major financial risk exposures and the steps



management has taken to monitor and control such exposures. The Committee shall also review and evaluate the Company's processes for identifying and assessing key financial statement risk areas and for formulating and implementing steps to address such risk areas.

5. The Committee shall review with management and the independent auditors the Company's quarterly financial statements and the Company's disclosures under "Management's Discussion and Analysis of Results of Operations and Financial Condition" included in the Company's 10-Q's for quarterly results.
6. The Committee shall review with management and the independent auditors, as appropriate, earnings press releases and financial information and earnings guidance provided to analysts and to rating agencies.

**E. Review of Conflicts of Interest.**

1. The Committee shall review Company policies and procedures with respect to Company transactions in which officers or directors have an interest; where appropriate, including when their review is requested by management or the independent auditors, review policies and procedures with regard to officer use of corporate assets and consider the results of any review of these areas by the independent auditors.
2. The Committee shall review all Related Party Transactions (as defined in Article VI hereof) and similar matters to the extent required by Nasdaq's listing standards to be approved by an audit committee or comparable body.

**F. Compliance with Law and the Procedures for Handling Complaints about Accounting Matters.**

1. The Committee shall establish procedures for the receipt, retention and treatment of complaints received by the Company regarding material violations of applicable law, unethical conduct, or breaches of the Company's Code of Business Conduct and Ethics (the "Code") for all employees of the Company and the Board of Directors regarding accounting, internal accounting controls or auditing matters. Such procedure shall provide for the confidential and anonymous submission by employees of the Company of such concerns, as may be required by the Sarbanes-Oxley Act of 2002 or other applicable law (collectively, "Audit Compliance Matters"). The Committee shall have the authority to oversee, investigate and take remedial action with respect to any and all complaints regarding Audit Compliance Matters.
2. The Company's General Counsel or Corporate Compliance Officer shall report directly to the Committee as to the receipt by the Company of any complaints relating to Audit Compliance Matters on a quarterly basis. In addition, at least annually, the General Counsel or Corporate Compliance Officer shall report to the Board as to the status of all complaints relating to Audit Compliance Matters of which the Committee has been made aware.
3. The Committee shall review with the Board as necessary in the Committee's judgment the Company's policies and procedures regarding compliance with applicable laws and regulations and with the Code if any.

4. The Committee shall obtain reports from management and the independent auditors as to whether the Company's foreign affiliates and subsidiaries, if any, are in conformity with applicable legal requirements.
5. The Committee shall discuss with the independent auditors any information brought to its attention by the auditors regarding potential illegal acts and shall take action with respect to such information as required by applicable law.
6. The Committee shall review with the Company's General Counsel legal and regulatory matters that may have a material impact on the financial statements, the Company's compliance policies and any material reports or inquiries received from external counsel, regulators or governmental agencies.

**G. Periodic Reports to the Board, Executive Sessions and Annual Review.**

1. The Committee shall make a report to the Board at the next regularly scheduled meeting following a meeting of the Committee accompanied by any recommendation to the Board.
2. The Committee shall meet at least annually with the chief financial officer, the senior internal auditing executive, if any, the other senior members of management designated by the Committee, and the independent auditors, each in separate executive sessions.
3. The Committee shall review and reassess the adequacy of this Charter annually and recommend any proposed changes to the Board for approval.
4. The Committee shall annually review its own performance.
5. The Committee shall prepare the Audit Committee Report required by the SEC to be included in the Company's annual proxy statement.

**H. Conducting or Authorizing Investigations.**

1. The Committee shall have the power to conduct or authorize investigations into any matters within the Committee's scope of responsibilities.
2. The Committee shall be empowered to retain independent counsel, accountants or others to assist in the conduct of any investigations.
3. The Committee may ask members of management or others to attend its meetings and provide pertinent information as necessary.

**I. Process and Organizational Improvements.**

1. The Committee, following the completion of the annual audit, shall review separately with each of management, the independent auditors and the Company's internal auditors any problems and difficulties encountered during the course of the audit, including any restrictions on the scope of work or access to required information, and management's response.



2. The Committee shall review and resolve any significant disagreement among management and the independent auditors or the Company's internal auditors in connection with the preparation of the financial statements.
3. The Committee shall review with the independent auditors, the company's internal auditors and management the extent to which changes or improvements in financial or accounting practices, as approved by the Committee, have been implemented.
4. The Committee shall perform any other activities consistent with this Charter, the Company's Bylaws and governing law, as the Committee or the Board may request or deems necessary or appropriate.
5. The Committee shall be authorized to retain outside counsel, experts, consultants and other advisors and to agree to fees and other terms of engagement of such retention, as it deems necessary to carry out its duties.

#### **IV. Responsibilities of Others.**

- A. While the Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Committee to plan or conduct audits or to determine that the Company's financial statements are complete and accurate and are in accordance with generally accepted accounting principles. This is the responsibility of management and the independent auditors. Nor is it the duty of the Committee to conduct investigations, to resolve disagreements, if any, between management and the independent auditors or to assure compliance with laws and regulations and the Company Code of Business Standards, if any.

#### **V. Funding.**

- A. The Committee shall have the authority to engage, and obtain advice and assistance from, outside legal, accounting and other advisers, and the Company shall provide appropriate funding thereof as determined by the Committee.
- B. The Company shall provide for appropriate funding, as proposed by the Committee, for payment or compensation to any registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the Company, including, but not limited to, the independent auditors.
- C. The Company shall provide for appropriate funding, as proposed by the Committee, for the payment of ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.

#### **VI. Definitions.**

In the event the applicable rules and requirements of the SEC or Nasdaq are amended from time to time to revise their defined terms, the corresponding definitions herein shall be automatically amended to conform to such definitions as revised by the SEC or Nasdaq, as applicable.

Audit Committee Financial Expert means a person who has the following attributes: (i) an understanding of generally accepted accounting principles and financial statements, (ii) the



ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves, (iii) experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the Company's financial statements, or experience actively supervising one or more persons engaged in such activities, (iv) an understanding of internal control over financial reporting, and (v) an understanding of audit committee functions. In addition, the person shall have acquired such attributes through: (i) education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions, (ii) experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions, (iii) experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements, or (iv) other relevant experience.

Financial Knowledge means a working familiarity with basic finance and accounting practices, including the ability to read and understand fundamental financial statements, including balance sheets, income statements and cash flow statements. Persons who will become so qualified within a reasonable period of time after his or her appointment to the Audit Committee also comply with this provision. Committee members may enhance their familiarity with finance and accounting by participating in educational programs conducted by the Company or an outside consultant.

Related Party Transaction means any transaction required to be disclosed pursuant to Securities and Exchange Commission Regulation S-K, Item 404.