



## NOMINATING AND CORPORATE GOVERNANCE COMMITTEE CHARTER

### I. Overview

- A. This document shall be the formal written Charter (the "Charter") of the Nominating and Corporate Governance Committee (the "Committee") of the Board of Directors (the "Board") of Avadel Pharmaceuticals plc, a public limited company incorporated under the laws of Ireland (the "Company"). This Charter hereby replaces and supersedes all former charters of the Committee. The Company shall make this Charter available on the Corporate Governance page of the Investors section of its website at <http://investors.avadel.com>.
- B. The responsibilities granted or delegated to the Committee in this Charter are in each case subject always to Irish law and the Company's Constitution, 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 laws 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 Committee's overall purposes are to (1) identify individuals qualified to become Board members consistent with criteria approved by the Board; (2) recommend to the Board director nominees for the next annual or special meeting of shareholders at which directors are to be elected; (3) recommend individuals to the Board to fill any vacancies or newly created directorships that may occur between such meetings; (4) identify and recommend directors for membership on Board committees; (5) evaluate and oversee the performance of the Board, its committees and management; (6) develop, recommend and oversee compliance with the corporate governance procedures to be followed by the Company, and oversee compliance with the Company's Code of Business Standards and the Code of Ethics; (7) review the Company's reporting in documents filed with the Securities and Exchange Commission (the "SEC"), to the extent related to corporate governance and other matters set forth in this Charter; and (8) oversee public policy and legislative matters applicable to the Company as well as the Company's regulatory compliance. Recommendations of Board nominees is subject to the legal rights, if any, of third parties to direct the nomination or appointment of directors.

### II. Committee Membership

- A. The Committee shall consist of at least three (3) Independent Directors (as defined by the applicable Nasdaq rules), which number shall be determined by the Board from time to time in its discretion.



- B. Committee members shall be appointed by the Board on an annual basis to serve for a term of one (1) year or other length of term, in the discretion of the Board, and shall otherwise serve until their successors are duly elected and qualified. Each member of the Committee may be removed or replaced by the Board at any time. The Board shall designate the Chair of the Committee.

### **III. Authority and Responsibilities**

In addition to any other responsibilities which may be assigned to it from time to time by the Board, the Committee is authorized to undertake, and has responsibility for, the following matters:

#### **A. Meetings**

- The Committee shall meet as often as it deems appropriate. The Committee may meet in person or by telephone, video conference or other appropriate manner of communicating that enables all persons participating in the meeting to hear each other. A majority of the members of the Committee shall constitute a quorum for purposes of a meeting, and the Committee may act by a vote of a majority of members present at a meeting. The Committee may also act by unanimous written consent in accordance with the Company's Constitution.

#### **B. Board/Committee Nominees**

- The Committee shall conduct searches for qualified individuals for membership on the Board.
- At least annually and as vacancies or newly created positions occur, the Committee shall recommend individuals for membership on the Board, directors for appointment to the committees of the Board and directors for appointment as chair of the committees. In making its recommendations, the committee must (i) review and recommend criteria for Board and committee membership, including, but not limited to, a description of any specific qualifications that the Committee believes must be met by a candidate, as indicated on Exhibit A hereto; (ii) review candidates' qualifications for membership on the Board or a committee of the Board (including, but not limited to, a determination as to the independence of the candidate and the number of other public and private company boards on which a director candidate serves) and any potential conflicts of such candidates with the Company's interests; (iii) assess the contributions of current directors in connection with their nomination to additional terms on the Board or



participation on any committee; periodically review the composition of the Board and its committees to determine whether it may be appropriate to add individuals with different backgrounds or skills from those already on the Board or any such committee; and (v) consider rotation of committee members and committee chairs.

- The Committee will also take into consideration director nominees proposed or recommended by shareholders and related policies and procedures.
- The Committee will timely recommend to the Board individuals for nomination as directors at each annual meeting of shareholders and recommend to the board individuals for appointment to fill vacancies on the Board.

#### **C. Evaluating the Board, its Committees, and Management**

- Annually, the Committee shall review and assess the performance of the Board and its committees and report such assessment, including, but not limited to, any recommendations for proposed changes, to the Board. The review will include individual director performance, evaluating director expertise, experience, qualifications, attributes, skills and willingness to serve actively.
- Periodically prepare or assemble materials and conduct sessions for directors on topics that will assist them in discharging their duties.

#### **D. Management Succession**

- The Committee shall, in consultation with the CEO, periodically review the Company's management succession planning, including, but not limited to, policies for selection and succession in the event of the incapacitation, retirement or removal of the CEO, and evaluations of, and development plans for, potential successors to the CEO.
- The Committee may review and discuss with the Board corporate succession plans for other key officers of the Company.

#### **E. Continuing Education**

- Periodically prepare or assemble materials and conduct sessions for Directors on topics that will assist them in discharging their duties.

#### **F. Corporate Governance Matters**



- There The Committee shall assist the Board to ensure that all appropriate corporate formalities are followed in the actions undertaken by the Board.
- The Committee shall periodically review, and recommend improvements in, the corporate governance procedures to be followed by the Company, as well as the Code of Business Standards and the Code of Ethics.
- The Committee shall oversee compliance with the corporate governance procedures to be followed by the Company, as well as the Code of Business Standards and the Code of Ethics, and report on such compliance to the Board. The Committee shall also review and approve any waivers to the corporate governance procedures to be followed by the Company, as well as the Code of Business Standards and the Code of Ethics for the Company's directors, executive officers and senior financial officers.
- The Committee shall identify potential conflicts of interest involving directors and shall determine whether such director or directors may vote on any such issue.
- The Committee shall assist the Board to ensure that any transaction with a related party is thoroughly reviewed on a regular basis so that such transaction is, and remains, on the terms that are at arms' length and calculated to promote long term shareholder value.
- The Committee shall assist the Board to ensure that all of its material contractual and other business relationships are connected at arm's length and calculated to promote long term shareholder value.
- Annually, the Committee shall review the number, size and responsibilities of the Board and its committees and recommend any actions in this regard to the Board.

#### **G. Disclosure**

- The Committee shall have the authority to oversee, investigate and take remedial action with respect to any and all complaints regarding corporate governance procedures, including, but not limited to, compliance matters, to be followed by the Company. The Committee shall review the Company's reporting in documents filed with the SEC, to the extent related to corporate governance or any other matter for which the Committee has responsibility.



- The Committee is at all times authorized to have direct, independent and confidential access to the Company's other directors, management and personnel to carry out the Committee's purposes. The Committee is authorized to conduct or authorize investigations into any matters relating to the purposes, duties or responsibilities of the Committee.

#### **H. Reporting to the Board**

- There The Committee shall report to the Board as appropriate. This report shall include a review of any recommendations or issues that arise with respect to Board or committee nominees or membership, Board or management performance, corporate governance or any other matters that the Committee deems appropriate or is requested to be included by the Board.
- Annually, the Committee shall review and assess the adequacy of this Charter, evaluate its own performance as a committee and report the results thereof to the Board, and recommend any proposed changes in such report.

#### **I. Other Functions**

- The Committee may perform any other activities consistent with this Charter, the corporate governance procedures to be followed by the Company, and applicable listing standards, laws and regulations as the Committee or the Board considers appropriate and report to the Board the major items covered by the Committee at each meeting thereof.
- The Committee shall also have authority to obtain advice and assistance from internal legal counsel or other such experts, advisors and professionals with whom the Committee may consult.

#### **IV. Procedures**

- A. The Committee shall meet as often as it determines is appropriate to carry out its responsibilities under this Charter. Special meetings to the Committee may be held from time to time pursuant to the call of the Chair of the Committee or a majority of the members of the Committee. The Chair of the Committee, in consultation with the other committee members, shall determine the frequency and length of the Committee meetings, shall set meeting agendas consistent with this charter and shall, when present, preside at all meetings of the Committee. The Committee shall meet at such times and places as shall be determined by the Chair of the Committee and the Committee may meet in person or by telephone or video conference. At each meeting of the Committee, a majority of the members shall constitute a quorum, and a majority



of the members present at any meeting at which a quorum is present may act on behalf of the Committee. In lieu of a meeting, the Committee may also act by unanimous written consent. The Committee shall designate a person (who need not be a member of the Committee) to keep minutes of its meetings. The minutes shall be retained by the Secretary of the Company.

- B. The Committee has the sole authority to appoint, at the Company's expense, any search firm to consult with the Committee to identify director candidates, independent counsel or other advisers to the Committee, and to approve the related fees and other retention terms and the Committee may terminate such appointment. The Committee will have sole authority to approve the engagement of any such consultant or its affiliates for additional services to the Company, including, but not limited to, the purchase of any products from such consultant or its affiliates.
  
- C. The Committee may, to the fullest extent permitted by applicable law, form and delegate its authority to subcommittees of the Committee when it deems to be appropriate and in the best interests of the Company.



## Exhibit A

### **POLICIES AND PROCEDURES FOR DIRECTOR CANDIDATES**

The Nominating and Corporate Governance Committee (the “Committee”) of the Board of Directors (the “Board”) of Avadel Pharmaceuticals plc (the “Company”) and the Board, as applicable, has adopted this policy in accordance with proxy disclosure requirements set forth in rules adopted by the Securities and Exchange Commission (“SEC”) and the Nasdaq Stock Market LLC.

#### **I. Shareholder Recommendations and Nominations**

##### **A. Candidate Recommendations**

The Committee is responsible for identifying individuals qualified to become members of the Board and its committees and recommending candidates for the Board’s selection as nominees for election to the Board at the next annual or other properly convened meeting of shareholders. The Committee may solicit recommendations from any or all of the following sources: non-management directors, the Chief Executive Officer, other executive officers, third-party search firms or any other source it deems appropriate.

The procedures to be followed by shareholders in submitting recommendations to the Committee for director candidates are set forth below:

- Shareholder recommendations for director candidates must be submitted in writing to the Secretary of the Company at Ten Earlsfort Terrace Dublin 2 D02 T380 Ireland not less than one hundred twenty (120) calendar days prior to the date on which the Company’s proxy statement was released to shareholders in connection with its previous year’s annual meeting.
- Shareholders recommendations for director candidates must comply with the applicable process and provide the information set out in the Company’s Constitution.

##### **B. Candidate Nominations**

A shareholder desiring to nominate a person directly for election to the Board at an annual meeting of shareholders must meet the deadlines and other requirements in the Company’s Constitution and the rules and regulations of the SEC. The Secretary of the Company will provide a copy of the Company’s Constitution upon written request from a shareholder.

#### **II. Identifying and Evaluating Nominees for Director**



The Committee will use the following guidelines to identify and evaluate any individual recommended by a shareholder for nomination to the Board:

- The Committee will consider candidates properly recommended by shareholders holding at least three percent (3%) of the Company's ordinary shares continuously for at least twenty-four (24) months before the date the recommendation was submitted in the same manner as candidates recommended to the Committee from other sources.
- In evaluating director candidates, including directors eligible for re-election, the Committee will consider the following:
  - The current size and composition of the Board and the needs of the Board and its respective committees;
  - Such factors as character, integrity, judgment, diversity, independence, skills, education, expertise, business acumen, business experience, length of service, understanding of the Company's business and industry, conflicts of interest, and other commitments. The Committee need not assign any particular weight or priority to any one factor; and
  - Any other factors the Committee considers appropriate.
- The Committee requires the following qualifications to be satisfied by any candidate for a position on the Board:
  - High standards of personal and professional ethics and integrity;
  - Proven achievement and competence in the candidate's field and the ability to exercise sound business judgment;
  - Skills that are complementary to those of members of the existing Board;
  - The ability to assist and support management and make significant contributions to the Company's success; and
  - An understanding of the fiduciary responsibilities required of a director and a commitment to devote the time and energy necessary to perform those responsibilities.
- If the Committee decides that an additional or replacement director is required, it may do whatever it considers appropriate to evaluate a director candidate, including interviewing the candidate and the shareholder(s) recommending the candidate, engaging an outside search firm to gather additional information, and relying on the knowledge of the members of the Committee, other directors and management.



- The Committee may propose to the Board a candidate recommended or offered for nomination by a shareholder as a nominee for election to the Board.

### **III. Decision by Board of Directors**

After receiving the Committee's recommendations, the Board will have final authority to determine the candidates to be nominated by the Board.

### **IV. Modification of Policies and Procedure**

These policies and procedures may be modified at any time by the Committee or the Board.

Adopted by the Avadel Pharmaceuticals plc Board of Directors on August 14, 2020.