

Shire plc  
22 Grenville Street  
Jersey JE4 8PX

Attention: Bill Mordan

**and**

Takeda Pharmaceutical Company Limited  
1-1 Doshomachi 4-chrome  
Chuo-ku  
Osaka  
540-8645  
Japan

Attention: Christophe Weber

**STRICTLY PRIVATE AND CONFIDENTIAL**

22 April 2018

Dear Sirs

We refer to the proposed or possible transaction involving the acquisition by Takeda Pharmaceutical Company Limited or a member of its Group of the whole of the issued and to be issued share capital of Shire plc (the "**Proposed Transaction**").

In consideration of each Party, the members of its Group and their respective Agents agreeing to make available to the other Party and its respective Agents certain Confidential Information (as more particularly defined in paragraph 1.1 of this letter), each Party undertakes to the other in the terms set out below. For the avoidance of doubt, nothing in this letter shall impose any restriction of a type prohibited by Rule 2.3(d) or any other provision of the Code.

**1 Definitions**

**1.1** The following definitions apply for the purposes of this letter:

"**acting in concert**" means actively co-operating pursuant to an agreement or understanding (whether formal or informal) in the acquisition (directly or indirectly) of securities of the Company to obtain or consolidate control of the Company (control having the meaning given to it by the Code);

"**Agents**" means directors, officers, employees and professional advisers;

"**Business Day**" means a day (other than Saturday or Sunday) on which banks are open for business in the City of London, New York and Tokyo;

"**Code**" means the City Code on Takeovers and Mergers as from time to time amended and interpreted by the Panel;

"**Confidential Information**" means:

(A) all Information relating directly or indirectly to the Proposed Transaction (including the existence of this letter and of the discussions and negotiations between Takeda and Shire (or in each case their respective Agents), the terms of the Proposed Transaction (including

any terms under consideration or which have been considered previously) and the willingness of each of Takeda and Shire to enter into such discussions and negotiations with each other or any other party); and

(B) all Information of whatever nature relating directly or indirectly to the Provider and/or any member of the Provider's Group, including, without limitation, Information relating to the property, assets, business, trading practices, plans, proposals, research, development, know-how, product plans and pipeline and/or trading prospects of the Provider and/or any member of the Provider's Group,

which is made available to the Recipient, any member of the Recipient's Group and/or its or their respective Agents (whether directly or indirectly, or before, on, or after the date that of this letter) by the Provider, any member of the Provider's Group and/or its or their respective Agents, and includes all Information, analyses, compilations, notes, studies, memoranda or other documents prepared by the Recipient, any member of the Recipient's Group and/or its or their respective Agents which contains or otherwise reflects or is generated from such Information,

BUT EXCLUDES INFORMATION WHICH:

- (a) is publicly available at the time of its disclosure under this letter; or
- (b) becomes publicly available following disclosure under this letter otherwise than: (i) as a direct or indirect consequence of any breach of any undertaking contained in or given pursuant to this letter; and/or (ii) which the Recipient knows (or ought reasonably to have known having made reasonable enquiry) to have been disclosed in breach of any duty of confidentiality owed to the Provider, any member of the Provider's Group, and/or any of its or their respective Agents;
- (c) in relation to (B) only, was lawfully in the possession of the Recipient, the Recipient's Group and/or its or their respective Agents prior to disclosure under this letter (as can be demonstrated by their written records or other reasonable evidence) free of any restriction as to its use or disclosure; or
- (d) following disclosure under this letter, becomes available to the Recipient, any member of the Recipient's Group and/or its or their respective Agents (as can be demonstrated by their written records or other reasonable evidence) from a source other than the Provider, the Provider's Group and/or its or their respective Agents, which source is not bound by any obligation of confidentiality to the Provider, any member of the Provider's Group and/or its or their respective Agents in relation to such Information; or
- (e) is or has been independently developed (as can be demonstrated by its written records) by the Recipient without using or referring to the Confidential Information;

**"Control"**, in relation to a body corporate, means the ability of a person to ensure that the activities and business of that body corporate are conducted in accordance with the wishes of that person, and a person shall be deemed to have Control of a body corporate if that person possesses or is entitled to acquire: (i) the majority of the issued share capital or the voting rights in that body corporate; and/or (ii) the right to receive the majority of the income of that body corporate on any distribution by it of all of its income or the majority of its assets on a winding up; and/or (iii) the right to appoint or remove more than fifty percent (50%) of the directors (or persons performing similar functions) of such body corporate;

**“Data Incident”** has the meaning given in paragraph 6.1.2;

**“Data Protection Law”** means:

- (A) the Data Protection Directive (95/46/EC) (as amended from time to time) and any implementing legislation thereunder, including without limitation the UK Data Protection Act 1998 (as amended from time to time);
- (B) from and including 25 May 2018, the General Data Protection Regulation (EU) (2016/679) (as amended from time to time); and
- (C) any other applicable data protection and privacy laws, regulations and other similar instruments in any other jurisdiction;

**“EEA”** means the European Economic Area;

**“Group”**, in relation to any person, means that person, any corporations which are holding companies, subsidiary undertakings and associated undertakings (subsidiary undertaking and associated undertaking each having the meaning ascribed to it in the Companies Act 2006 and Schedule 6 of The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 SI 2008/410 respectively (but for this purpose ignoring paragraph 19(1)(b) of Schedule 6 of those Regulations)) of it or of any such holding company from time to time;

**“Information”** means all information of whatever nature and in whatever form including, without limitation, in writing, orally, electronically and in a visual or machine readable medium including CD ROM, magnetic and digital form;

**“Panel”** means the Panel on Takeovers and Mergers;

**“Part VI Rules”** means any of the Listing Rules, Disclosure Guidance & Transparency Rules or Prospectus Rules made by the Financial Conduct Authority in exercise of its functions as competent authority pursuant to Part VI of the Financial Services and Markets Act 2000;

**“Party”** means each of Takeda and Shire (and the term **“Parties”** shall be construed accordingly);

**“person”** includes a reference to an individual, a body corporate, government body, association or partnership;

**“Personal Data”** means any personal data (as defined under applicable Data Protection Law) that is disclosed by or acquired in any way pursuant to the Proposed Transaction (and whether directly or indirectly, or before, on or after the date of this letter) from the Provider, any member of the Provider’s Group, and/or any of its or their respective Agents and includes all copies of any such personal data prepared by either Party, any member of its Group and/or any of its of their respective Agents which contains such personal data;

**“Provider”**, in relation to either Party as the context requires, means the person providing Confidential Information (which may include Personal Data) to the Recipient or any of its Agents (either directly or indirectly through any member of its Group or any of its or their respective Agents) pursuant to this letter;

**“Recipient”**, in relation to either Party as the context requires, means the person who receives Confidential Information (which may include Personal Data) (either directly or

indirectly) from the Provider, any member of the Provider's Group or any of its or their respective Agents pursuant to this letter;

"**securities**" means any shares or security (including depositary receipts) in the capital of the relevant company, any option to acquire any such share or security and any derivative relating to, or any rights whatsoever in respect of, any such share or securities; and

"**Shire**" means Shire plc;

"**Takeda**" means Takeda Pharmaceutical Company Limited; and

"**Unauthorised Use**" has the meaning given in paragraph 6.1.2.

- 1.2 The obligations expressed to be undertaken by each Party are obligations each Party owes to the other Party and each member of that other Party's Group.

## 2 Confidential Information

- 2.1 Subject to paragraph 10 (Permitted Disclosure), the Recipient shall:

2.1.1 keep the Confidential Information secret and confidential and not disclose (directly or indirectly) any of it to any person other than:

- (i) to members of the Recipient's Group and the respective Agents of the Recipient and the members of the Recipients' Group who, in each case, in the reasonable opinion of the Recipient, strictly need to receive and consider Confidential Information for the purposes of considering, evaluating, negotiating and advising on, furthering and/or implementing the Proposed Transaction;
- (ii) to the auditors of Takeda who, in the reasonable opinion of Takeda, strictly need to receive and consider such Confidential Information for the purposes of permitting Takeda's auditors to sign-off on the Proposed Transaction as a post-balance sheet event in connection with Takeda's annual securities report, and provided, in the case of the provision of Confidential Information falling within limb (B) of the definition thereof, that Takeda's auditors shall only be entitled to inspect and not to make or retain copies of any such Confidential Information;
- (iii) to a provider or prospective provider of debt financing to Takeda in connection with the Proposed Transaction (and the Agents of such provider or prospective provider), to the extent that they strictly need to receive and consider the Confidential Information for the purposes of considering, evaluating, negotiating and advising on, furthering and/or implementing the financing of the Proposed Transaction and subject, in the case of the provision of Confidential Information falling within limb (B) of the definition thereof to providers or prospective providers of debt financing who are not also acting as financial advisers to Takeda in connection with the Proposed Transaction (and their Agents), to the prior written consent of Shire,  
  
(the persons referenced in (i), (ii) and (iii) together, the "**Authorised Recipients**");
- (iv) to the Tokyo Stock Exchange and/or any other listing authority or securities regulator in Japan having jurisdiction over Takeda or any aspect of the

Proposed Transaction who, in the reasonable opinion of Takeda, needs to receive and consider such Confidential Information for the purposes of the Parties being able to implement the Proposed Transaction, and subject, in the case of the provision of Confidential Information falling within limb (B) of the definition thereof, to the prior written consent of Shire; and

(v) as permitted pursuant to paragraph 10.

2.1.2 only use the Confidential Information for the sole purpose of considering, evaluating, negotiating, advising on, furthering and/or implementing the Proposed Transaction and shall not use it for any other purpose;

2.1.3 keep the Confidential Information and any copies thereof with the same security measures and degree of care that would apply to its own confidential information, and, without prejudice to paragraph 6 (Personal Data), shall in any case comply with Data Protection Law, including by taking such security measures against unauthorised or unlawful processing or actual loss or destruction of, or damage to, Personal Data as may be required under that legislation;

2.1.4 not make, or permit or procure to be made, any copies of Confidential Information or reproduce, or permit or procure to be reproduced, Confidential Information in any form except for the purpose of supplying the same to those to whom disclosure is permitted by the terms of this letter or otherwise with the Provider's prior written consent; and

2.1.5 to the extent permitted by law or regulation, promptly inform the Provider if the Recipient becomes aware of any breach, or threatened breach, of this letter.

2.2 The Recipient will ensure that where Personal Data is disclosed by the Recipient under sub-paragraph 2.1.1, disclosure of Personal Data is limited to those persons who need access to the Personal Data for the purposes specified in the applicable sub-paragraph and that access will only be granted to such part or parts of the Personal Data as is strictly necessary in relation to that person's particular duties in assessing the Proposed Transaction.

2.3 Subject to paragraph 10, each Party undertakes that it will not at any time, without the prior written consent of the other Party, such consent not to be unreasonably withheld, discuss the other Party's Confidential Information with any financial rating agency, any governmental or supervisory body or any regulatory organisation.

### **3 Nominated Representatives**

Without prejudice to paragraph 2, each Party shall, in relation to the Proposed Transaction and the Confidential Information, make contact and deal only with the directors, employees and advisers of the other Party's Group who may from time to time be notified by the other Party in writing, and shall not make contact or deal with any other representatives of either Party or its advisers.

### **4 Recipient Employees, Group Members and Advisers**

4.1 The Recipient shall ensure that:

- 4.1.1 each of its professional advisers and auditors to whom Confidential Information is disclosed in accordance with paragraph 2 (Confidential Information) is provided with a copy of this letter; and
- 4.1.2 each person to whom the Recipient, any member of its Group and/or its or their respective Agents (which, for the avoidance of doubt, includes professional advisers) discloses Confidential Information in accordance with paragraph 2 (Confidential Information) observes the terms of this letter as if it were a party to the letter and had undertaken the same obligations as are undertaken by the Recipient (except that there shall be no such requirement if the relevant recipient is subject to professional obligations to maintain the confidentiality of the Information) and the Recipient will be responsible for any breach of the terms of this letter by any such person.

## **5 Return and Destruction of Confidential Information**

- 5.1 The Recipient shall maintain a list (or will procure that a list is maintained) of the names of all persons (including the Agents of the Recipient and the Recipient's Group) who have received or have access to any Confidential Information, and will, promptly upon written request from the Provider, supply the Provider with a copy of such list.
- 5.2 The Recipient shall, at its expense, as soon as practicable following termination of discussions concerning the Proposed Transaction and in any event within 10 Business Days of receipt of a written demand from the Provider:
  - 5.2.1 (i) return or destroy, or procure the return or destruction of, all originals and hard copies of documents; and (ii) erase (or procure the erasure of) all other materials which are in a form reasonably capable of delivery (including, without limitation, computer tapes and disks), which in each case contain or reflect any Confidential Information provided by the Provider, any members of the Provider's Group and/or its or their respective Agents and all copies thereof which have been made by, or on behalf of, the Recipient, any member of the Recipient's Group, and its and their respective Agents;
  - 5.2.2 ensure that where Confidential Information has not been returned, destroyed or erased under paragraph 5.2.1 above, no step will be taken to access or recover, such Confidential Information from any computer, word processor, telephone, computer tape, disk, hard drive or other device containing such Information or which is otherwise stored or held in electronic, digital or other machine-readable form. The Recipient will continue to hold such Confidential Information subject to the terms of this letter; and
  - 5.2.3 confirm to the Provider in writing signed by a duly authorised representative that the Recipient, each member of its Group and its and their respective Agents and its Authorised Recipients have complied with this paragraph 5,

provided that, without prejudice to any duties of confidentiality in relation to such Confidential Information contained in this letter:

- (i) the Recipient and its Authorised Recipients may retain any Confidential Information:
  - (a) as is required by law or the rules of any applicable regulatory, governmental or supervisory organisation to which the Recipient, each member of the

Recipient's Group and/or its or their respective Agents (as applicable) are subject; or

- (b) in board minutes and supporting documents in keeping with the Recipient's *bona fide* existing and usual document retention practices;
- (ii) the Recipient's advisers may keep one copy of any document in their possession for record keeping purposes provided that, if those documents contain Personal Data, the Recipient's advisers shall not retain them to the extent the retention is in breach of Data Protection Law; and
- (iii) nothing in this paragraph 5 shall require the Recipient or any of its Agents to put in place measures to prevent individuals employed in the Information Technology or Information Systems departments of the Recipient and its Agents from being able to access Confidential Information in the normal course of performing their functions.

and further provided that such Confidential Information will in each case continue to be held subject to the terms of this letter, and this proviso shall not apply to any materials relating to any existing or contemplated litigation and/or intellectual property matters.

## 6 Personal Data

6.1 Each Party acknowledges that Confidential Information may include Personal Data, the handling, processing and/or transfer of which may be subject to the requirements of Data Protection Law. Without limitation to any other term of this letter, in relation to the Personal Data, each :

- 6.1.1 Party shall comply with all relevant provisions of Data Protection Law;
- 6.1.2 Recipient shall take appropriate technical and organisational measures to guard against: (i) the unauthorised or unlawful disclosure or processing of the Personal Data (an "**Unauthorised Use**"); and (ii) the loss, misuse, corruption or destruction of, or damage to, the Personal Data (a "**Data Incident**");
- 6.1.3 Recipient shall notify the Provider promptly upon becoming aware of any Unauthorised Use or Data Incident;
- 6.1.4 Recipient shall notify the Provider promptly on receipt of any communication: (i) which relates to either Party's compliance with Data Protection Law in respect of the Personal Data; or (ii) from any individual (or any person acting on behalf of such individual) whose Personal Data the Recipient or its Agents process;
- 6.1.5 Recipient shall only transfer Personal Data outside the EEA or otherwise process Personal Data outside the EEA without the prior written consent of the Provider if:
  - (i) the country or territory to which the Personal Data is to be transferred or in which it will be processed is deemed adequate by the European Commission pursuant to Data Protection Law;
  - (ii) the entity to which the Personal Data is to be transferred or by which it will be processed has subscribed in full to the EU-US Privacy Shield requirements; and/or
  - (iii) the transfer and/or processing of Personal Data outside of the EEA is done on the basis of the standard contractual clauses for the transfer and

processing of personal data outside the EEA approved by the EU Commission in accordance with Data Protection Law.

- 6.2** In compliance with Data Protection Law, the Parties have entered into the standard contractual clauses for the transfer and processing of personal data outside the EEA approved by the EU Commission in accordance with Data Protection Law, as set out in the Schedule to this letter.

## **7 Ownership of Confidential Information**

The Confidential Information shall remain the property of the Provider and its disclosure shall not confer on the Recipient or any other person any rights (including any intellectual property rights) over the Confidential Information whatsoever beyond those contained in this letter.

## **8 No Offer**

Neither the Confidential Information nor anything else in this letter or made available by one Party to the other (or the members of their respective Group or its or their respective Agents) prior to, in the course of, or for the purpose of, negotiations, shall constitute an offer, inducement, or invitation by or on behalf of either Party and neither Party shall be under any obligation to accept any offer or proposal which may be made by either Party or on either Party's behalf.

## **9 No Representation**

- 9.1** None of the Confidential Information has been subject to verification, and neither the Provider nor any member of its Group nor any of its or their respective Agents accepts responsibility for or makes any representation, express or implied, or gives any warranty or undertaking with respect to the accuracy or completeness of the Confidential Information or any oral communication in connection with the Confidential Information, and no person assumes or is under any obligation to provide further Information, to update the Confidential Information or to correct any inaccuracies, or to enter into, or continue, discussions or negotiations in respect of the Proposed Transaction. The Recipient undertakes to the Provider (for itself and as trustee for all other companies in its Group and its Authorised Recipients) to waive any liability which such parties may incur by reason of the Recipient's use of, or reliance upon, any of the Confidential Information.
- 9.2** Each Party acknowledges that it will be responsible for making its own decisions on the Confidential Information and the Proposed Transaction. Each statement in this paragraph 9 is made subject to the terms of any definitive written agreement or agreements entered into between the Parties relating to the Proposed Transaction and shall have no application in the case of fraud.

## **10 Permitted Disclosure**

- 10.1** The provisions of paragraph 2.1.1 (Confidential Information) shall not restrict any disclosure of Confidential Information:
- 10.1.1** where it is disclosed by, or on behalf of, Shire in accordance with Rule 2.3(d) and/or Rule 21.2(b) of the Code; and/or



**10.1.2** subject to paragraph 10.2, which is required to be disclosed by law or the rules of any applicable regulatory, governmental or supervisory organisation (including, without limitation, by any court of competent jurisdiction, the Part VI Rules, the rules and regulations of the Securities Exchange Commission, the London Stock Exchange, NASDAQ, the New York Stock Exchange or the Tokyo Stock Exchange (or any other stock exchange on which the Recipient's or the Provider's shares are listed, traded or quoted), the Code or any enquiry or investigation by any governmental, official or regulatory body which is lawfully entitled to require any such disclosure).

**10.2** Save where any disclosure is made by, or on behalf of, Shire in accordance with Rule 2.3(d) and/or Rule 21.2(b) of the Code, if either Party becomes (or it is reasonably likely that it will become) compelled by law, or the rules of any applicable regulatory, governmental or supervisory organisation to whose jurisdiction the relevant person is subject, to disclose any Confidential Information, the person compelled to make such disclosure will, where and to the extent permitted by law or any such rules, promptly notify the other Party so that they may seek any appropriate means to prevent or minimise that disclosure or waive compliance with the provisions of this letter (and the person compelled to make such disclosure will co-operate with the other Party and take such steps as it may reasonably require for that purpose) and the disclosing Party shall consult with the other Party concerning any disclosure of Confidential Information.

**10.3** To the extent permitted by law and subject the requirements of the Code, the provisions of paragraph 2.1.1 (Confidential Information) shall not restrict any disclosure by Shire to its shareholders of any Information which falls within limb (A) of the definition of Confidential Information.

**10.4** Any notification required pursuant to this letter will be made immediately by telephone or email to:

for notifications to the Company:

Bill Mordan  
Tel: +1 617 588 8872  
Email: wrmordan@shire.com

for notifications to Takeda:

Yasushi Kojima  
Tel: +81 6 6204 2054  
Email: yasushi.kojima@takeda.com

and

Paul Sundberg  
Tel: +1 224 554 5728  
Email: paul.sundberg@takeda.com

or to such other person or contact numbers as may be notified by one Party to the other Party in writing from time to time.

**10.5** The restrictions in paragraph 12 (Restrictions on share acquisitions) (without prejudice to other obligations or restrictions) shall cease to apply:

- 10.5.1 if Takeda makes an offer under Rule 2.7 of the Code to acquire shares carrying over 50% of the voting rights (as defined in the Code) of Shire, which has been recommended by the board of directors of Shire; or
- 10.5.2 if any person (other than Takeda or any entity Controlled by Takeda or acting in concert with Takeda or any such entity):
- (i) makes an offer under Rule 2.7 of the Code to acquire shares carrying over 50% of the voting rights (as defined in the Code) of Shire; or
  - (ii) enters into any confidentiality agreement with Shire, where such person is considering an offer for Shire and which confidentiality agreement does not contain provisions substantially equivalent to those contained in paragraph 12 (Restrictions on share acquisitions) and this paragraph 10.5 or Shire waives or releases any such person from any provisions substantially similar to those contained in paragraph 12 (Restrictions on share acquisitions) to which such third party is a party (in which case the Company will inform Takeda promptly that the provisions of paragraph 12 (Restrictions on share acquisitions) have ceased to apply).

## **11 Non-solicitation of employees**

- 11.1 Each Party agrees that it shall not, and shall procure that members of its Group shall not, for a period of 18 months from the date of this letter, solicit, endeavour to entice away or employ any person who is at any time during the negotiation of the Proposed Transaction employed by the other Party or any member of its Group and is a person who: (i) is a director, officer or senior manager of such other Party; (ii) has at any time, participated or been involved in discussions or negotiations relating to the Proposed Transaction or the supply of Confidential Information; and/or (iii) has been identified in Confidential Information received by such Party, any member of its Group and/or its or their respective Agents from the other Party, any member of its Group and/or its or their respective Agents, whether or not such person would commit any breach of his contract of service in leaving its employment.
- 11.2 Nothing in paragraph 11.1 will prevent either Party from:
- 11.2.1 placing a general recruitment advertisement not specifically targeted at any of the persons specified in paragraph 11.1 of a post and the employment of any persons pursuant to any such advertisement;
  - 11.2.2 employing any persons who approach a Party or any member of its Group for employment or retention without prior solicitation by the Party and its Group;
  - 11.2.3 employing any persons who had been in employment discussions with the other Party or any member of its Group prior to the date of this letter; and
  - 11.2.4 employing any persons as the result of the use of an independent employment agency (so long as the agency was not directed to solicit such persons).

## **12 Restrictions on share acquisitions**

- 12.1 Subject to paragraph 10.5, and without prejudice to any obligations it may have at law, under other provisions of this letter, under the Code or otherwise, Takeda agrees that it shall not, and shall procure that any entity Controlled by Takeda and any person acting in

concert with Takeda or any such entity shall not, directly or indirectly, alone or with others, for a period of one year from the date of this letter, without the prior consent in writing of Shire, be involved in any Prohibited Activity.

**12.2** For the purposes of this paragraph 12, each of the following is a “**Prohibited Activity**”:

**12.2.1** acquiring, or offering or seeking to acquire, any interest in the securities of Shire, including rights to acquire, rights to subscribe for, options in respect of, and derivatives referenced to, such securities and/or the voting rights attached to such securities; or

**12.2.2** entering, or offering or seeking to enter, into any agreement, arrangement or understanding (conditionally or otherwise and whether legally binding or not) with any person in relation to the acquisition of such an interest; or

**12.2.3** subject to paragraph 10 (Permitted Disclosure), directly or indirectly communicating with any shareholder of Shire (or any member of the Shire Group if such shareholder is not itself a member of the Shire Group) in each case, except if:

- (i) Takeda has first obtained Shire’s prior written consent to any such communication, including agreement to the nature and content of that communication; or
- (ii) the shareholder in question is also a shareholder in Takeda and the communication is made to that shareholder only in their capacity as a shareholder in Takeda,

and provided further that there shall be no breach of this paragraph solely as a result of a person receiving an unsolicited phone call, email or other communication or approach from any shareholder of Shire (or any member of the Shire Group if such shareholder is not itself a member of the Shire Group), provided that such person does not engage in any substantive discussion with such shareholder (including, without limitation, any discussion which would constitute a Prohibited Activity (other than under this paragraph 12.2.3)) and terminates such phone call as soon as reasonably possible following its receipt;

**12.2.4** entering, or offering or seeking to enter, into any discussions, or negotiations, with or disclose any Confidential Information to another potential bidder in relation to a Proposed Transaction without the prior written consent of the Company;

**12.2.5** entering, or offering or seeking to enter, into any agreement, arrangement, understanding or transaction or doing, or omit to do, any act as a result of which Takeda or any person Controlled by, or acting in concert with, Takeda will become obliged or required (whether under the Code or otherwise) to make any general offer or invitation to acquire any securities of Shire;

**12.2.6** entering, or offering or seeking to enter, into any agreement, arrangement or understanding (whether legally binding or not) with any person relating to or in connection with the making by such person (or other person acting in concert with such person) of any offer, invitation or solicitation for any securities of Shire; or

**12.2.7** announcing, or taking any action which, under the Code or otherwise, would require the announcement of, any proposals for any takeover, merger, consolidation or share exchange or similar transaction involving the securities of Shire (including, without limitation, any announcement of a firm intention to make

an offer to acquire the Company in accordance with Rule 2.7 of the Code or any announcement of a possible offer to acquire the Company in accordance with Rule 2.4 of the Code) or of the matters referred to in this paragraph 12.2 generally; or

12.2.8 taking any step which might give rise to any obligation under the Code or its equivalent in any jurisdiction to make any offer for all or any part of the share capital of Shire; and

12.2.9 assisting or advising any person in relation to, any of the foregoing.

**12.3** Nothing in paragraph 12.1 (Restrictions on share acquisitions) (without prejudice to other obligations or restrictions) shall prevent the acquisition of any interest in securities of Shire:

12.3.1 by any exempt principal trader in the same group as Takeda's financial advisers on the Proposed Transaction where the acquisition or disposal is in the ordinary course of business and the decision to acquire or dispose is taken by an individual who is not in possession of Confidential Information, and provided also that any such dealings comply with Rule 38 of the Code; or

12.3.2 by any person acquiring such interests as part of ordinary course index tracking activities or normal activity as a fund manager, market-maker, broker or provider of trustee or nominee services, provided such action is not taken on the instructions of, or otherwise in conjunction with Takeda, is carried out in the ordinary course of business and the decision to acquire is taken by an individual who is not in possession of Confidential Information: or

12.3.3 with the prior written consent of Shire.

**12.4** If Takeda, any entity Controlled by Takeda or any person acting in concert with Takeda or any such entity acquires any interest in securities of Shire in breach of paragraph 12.1, then on written request by Shire (without prejudice to any other right of Shire under this letter) Takeda will (to the extent permitted by law or regulation) dispose of (or, to the extent it is able to do so, procure the disposal of) such interest within 30 days of such written request.

## **13 Privilege**

**13.1** Each Party represents and agrees that to the extent any Confidential Information attracts any form of privilege or refers to other documents which attract any form of privilege, then such privilege shall not be waived, prejudiced or otherwise affected in any way (directly or indirectly) by being made available to the other Party, the members of its Group and/or its or their respective Agents. Each Party acknowledges that the other Party expressly relies on such representation and agreement in permitting the Recipient to have access to such Confidential Information.

**13.2** The Parties agree that they share joint and/or common interest privilege in materials relating to any existing or contemplated litigation and/or intellectual property matters and the sharing of Information hereunder shall not amount to a waiver of any such rights or privilege.

## **14 Principal**

Each Party confirms in respect of itself only that it is acting as a principal on its own account and not as nominee, an agent or broker for or acting in concert (as defined in the

Code) with any other person and that it shall be responsible for any costs incurred by it, members of its Group or its or their respective Agents in connection with the Proposed Transaction, the consideration and evaluation of the Confidential Information, and/or in complying with the terms of this letter.

## **15 Duration**

The obligations set out in this letter shall cease to have effect upon completion of the Proposed Transaction. In the event of the termination of discussions or negotiations relating to the Proposed Transaction, the obligations set out in this letter shall continue in full force and effect notwithstanding the return or destruction of Confidential Information and any copies of it until the expiry of the period ending three years from the date of this letter (unless expressly provided otherwise in the terms of this letter).

## **16 Insider dealing and market abuse**

### **16.1** Each Party acknowledges and agrees that:

**16.1.1** the Confidential Information is provided to it in confidence and it will not engage in any behaviour while in possession of the Confidential Information which would amount to market abuse for the purposes of, or is otherwise prohibited under, Regulation (EU) No 596/2014 on market abuse; and

**16.1.2** the Proposed Transaction and some or all of the Confidential Information may constitute inside information for the purposes of the Criminal Justice Act 1993 (“**CJA**”) and accordingly by receiving such Confidential Information it may become an ‘insider’. That Party consents to being made (or acknowledges that it may be) an insider by virtue of receiving the Confidential Information and acknowledges that, subject to and in accordance with applicable law, it may not deal in securities that are price-affected securities (as defined in the CJA) in relation to any such inside information, encourage another person to deal in price-affected securities or disclose the information except as permitted by the CJA before the Confidential Information has been made public.

## **17 Waiver**

No failure or delay by either Party in exercising any of its rights under this letter shall operate as a waiver thereof, nor shall any single or partial exercise preclude any other or further exercise of such rights.

## **18 Remedies**

**18.1** Without prejudice to any other rights or remedies which either Party may have, each Party acknowledges and agrees that damages would not be an adequate remedy for any breach by either Party of the provisions of this letter and each Party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of any such provision by the other Party or any other relevant person and no proof of special damages shall be necessary for the enforcement by either Party of the rights under this letter.

**18.2** No failure or delay by either Party in exercising any right, power or privilege under this letter will operate as a waiver of it, nor will any single or partial exercise of it preclude any

further exercise or the exercise of any right, power or privilege under this letter or otherwise. The terms of this letter may not be varied or terminated without the prior written consent of each Party. No waiver of any provision of this letter will be binding upon either Party unless in writing signed by the Party granting the waiver.

- 18.3** The rights, powers and remedies provided in this letter are cumulative and not exclusive of, any rights, powers and remedies provided by law.

**19 Variation**

No variation of this letter shall be effective unless in writing and signed by or on behalf of each of the parties.

**20 Severability**

If any provision of this letter shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable. To the extent it is not possible to delete or modify the provision, then such provision or part of it shall, to the extent that it is illegal, invalid or unenforceable, be deemed not to form part of this letter and the legality, validity and enforceability of the remainder of this letter shall, subject to any deletion or modification made under this paragraph, not be affected.

**21 Notices**

Any notice, claim or demand in connection with this letter shall be given in writing to the relevant Party at the address stated in paragraph 10.4 of this letter (or such other address as it shall previously have notified to the other Party in writing from time to time). Any notice sent by email shall be received at the time of sending provided that receipt shall not occur if the sender receives an automated message indicating that the message has not been delivered to the recipient, any notice sent by hand shall be deemed received when delivered and any notice sent by next day international courier shall be deemed received two Business Days after dispatch.

**22 Third Party Rights**

- 22.1** The provisions of this letter confer benefits on the persons specifically referred to in paragraph 1.2 (each, a "**Third Party**") and, subject to the remaining terms of this paragraph 22, are intended to be enforceable by each Third Party by virtue of the Contracts (Rights of Third Parties) Act 1999.

- 22.2** Any claim or action brought by a Third Party against either Shire or Takeda (as the case may be) in respect of any provision of this letter shall be conducted solely by Shire or Takeda (as the case may be). Any claim conducted by Shire or Takeda on behalf of a Third Party shall be conducted as a representative acting on behalf of that Third Party (and the Parties acknowledge that in taking any action on behalf of a Third Party, a Party will not be acting, or construed as acting, as agent or trustee on behalf of the Third Party).

- 22.3** Notwithstanding paragraph 22.1, this letter may be rescinded or varied in any way and at any time without the consent of any Third Party.

## **23 Entire Agreement**

This letter sets out the entire agreement and understanding between the Parties in respect of the Confidential Information. Neither Party has entered into this letter in reliance on any statement, representation, warranty or undertaking made by or on behalf of the other Party other than those expressly set out in this letter.

## **24 General**

- 24.1** This letter is personal to each Party and may not be assigned or transferred by a Party to any third party without the prior written consent of the other Party. Subject to the foregoing, this letter will enure to the benefit of, and be enforceable by, each Party's successor and assigns and each Party agrees to procure that its terms are observed by any successors and assigns of its business or interests or any part thereof as if they had been party to this letter.
- 24.2** Any consent to be given by a Party under this letter may be given on such terms as that Party determines or may not be given.
- 24.3** Each Party acknowledges and agrees that no right or licence is granted to a Recipient or its Agents in relation to the Confidential Information except as expressly set forth in this letter.

## **25 Counterparts**

This letter may be entered into in any number of counterparts, and by the Parties on separate counterparts, but will not be effective until each Party has executed at least one counterpart. Each counterpart will constitute an original of this letter, but all the counterparts will together constitute but one and the same instrument.

## **26 Governing Law and Jurisdiction**

- 26.1** This letter and any matter, claim or dispute (whether contractual or non-contractual) arising out of, or in connection with it, and the relationship between the Parties and the conduct of any negotiations in relation to the Proposed Transaction, shall be governed by, and construed in accordance with, English law.
- 26.2** Each of the Parties irrevocably agrees that the English courts have exclusive jurisdiction to settle any claim or dispute which may arise out of, or in connection with, this letter or the relationship between the Parties or the conduct of any negotiations in relation to the Proposed Transaction and that accordingly any proceedings arising out of, or in connection with, this letter shall be brought in such courts. Each of the Parties irrevocably submits to the jurisdiction of such courts and waives any objection to proceedings in any such court on the ground of venue or on the ground that proceedings have been brought in an inconvenient forum.
- 26.3** Takeda hereby irrevocably appoints the person identified below as its agent for service of process in England and Wales.

Please indicate your acceptance of these terms by signing the enclosed duplicate of this letter and returning it to us.

Yours faithfully

/s/ W R Mordan

Name: Bill Mordan

Title: General Counsel and Company Secretary

For and on behalf of Shire plc

We hereby agree to the terms of your letter dated 22 April 2018 of which a copy is set out above.

Furthermore, we hereby irrevocably appoint the following entity as our agent for service of process in England and Wales:

Hackwood Secretaries Limited

One Silk Street, London EC2Y 8HQ

/s/ Yasushi Kojima

Name: Yasushi Kojima

Title: Deputy General Manager, Japan Legal

For and on behalf of Takeda Pharmaceutical Company Limited

Dated: 22 April 2018



**Schedule**

**Standard contractual clauses for the transfer of personal data from the European Community to third countries (controller to controller transfers)**

Data transfer agreement

between

the Provider (as defined in the non-disclosure agreement to which these clauses are attached) (hereinafter “**data exporter**”)

and

the Recipient (as defined in the non-disclosure agreement to which these clauses are attached) (hereinafter “**data importer**”)

each a “**party**”; together “**the parties**”.

**Definitions**

For the purposes of the clauses:

(a) “personal data”, “special categories of data/sensitive data”, “process/processing”, “controller”, “processor”, “data subject” and “supervisory authority/authority” shall have the same meaning as in Directive 95/46/EC of 24 October 1995 (whereby “the authority” shall mean the competent data protection authority in the territory in which the data exporter is established);

(b) “the data exporter” shall mean the controller who transfers the personal data;

(c) “the data importer” shall mean the controller who agrees to receive from the data exporter personal data for further processing in accordance with the terms of these clauses and who is not subject to a third country’s system ensuring adequate protection;

(d) “clauses” shall mean these contractual clauses, which are a free-standing document that does not incorporate commercial business terms established by the parties under separate commercial arrangements.

The details of the transfer (as well as the personal data covered) are specified in Annex B, which forms an integral part of the clauses.

**I. Obligations of the data exporter**

The data exporter warrants and undertakes that:

(a) The personal data have been collected, processed and transferred in accordance with the laws applicable to the data exporter.

(b) It has used reasonable efforts to determine that the data importer is able to satisfy its legal obligations under these clauses.

(c) It will provide the data importer, when so requested, with copies of relevant data protection laws or references to them (where relevant, and not including legal advice) of the country in which the data exporter is established.

(d) It will respond to enquiries from data subjects and the authority concerning processing of the personal data by the data importer, unless the parties have agreed that the data importer will so

respond, in which case the data exporter will still respond to the extent reasonably possible and with the information reasonably available to it if the data importer is unwilling or unable to respond. Responses will be made within a reasonable time.

(e) It will make available, upon request, a copy of the clauses to data subjects who are third party beneficiaries under clause III, unless the clauses contain confidential information, in which case it may remove such information. Where information is removed, the data exporter shall inform data subjects in writing of the reason for removal and of their right to draw the removal to the attention of the authority. However, the data exporter shall abide by a decision of the authority regarding access to the full text of the clauses by data subjects, as long as data subjects have agreed to respect the confidentiality of the confidential information removed. The data exporter shall also provide a copy of the clauses to the authority where required.

## **II. Obligations of the data importer**

The data importer warrants and undertakes that:

(a) It will have in place appropriate technical and organisational measures to protect the personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, and which provide a level of security appropriate to the risk represented by the processing and the nature of the data to be protected.

(b) It will have in place procedures so that any third party it authorises to have access to the personal data, including processors, will respect and maintain the confidentiality and security of the personal data. Any person acting under the authority of the data importer, including a data processor, shall be obligated to process the personal data only on instructions from the data importer. This provision does not apply to persons authorised or required by law or regulation to have access to the personal data.

(c) It has no reason to believe, at the time of entering into these clauses, in the existence of any local laws that would have a substantial adverse effect on the guarantees provided for under these clauses, and it will inform the data exporter (which will pass such notification on to the authority where required) if it becomes aware of any such laws.

(d) It will process the personal data for purposes described in Annex B, and has the legal authority to give the warranties and fulfil the undertakings set out in these clauses.

(e) It will identify to the data exporter a contact point within its organisation authorised to respond to enquiries concerning processing of the personal data, and will cooperate in good faith with the data exporter, the data subject and the authority concerning all such enquiries within a reasonable time. In case of legal dissolution of the data exporter, or if the parties have so agreed, the data importer will assume responsibility for compliance with the provisions of clause I(e).

(f) At the request of the data exporter, it will provide the data exporter with evidence of financial resources sufficient to fulfil its responsibilities under clause III (which may include insurance coverage).

(g) Upon reasonable request of the data exporter, it will submit its data processing facilities, data files and documentation needed for processing to reviewing, auditing and/or certifying by the data exporter (or any independent or impartial inspection agents or auditors, selected by the data exporter and not reasonably objected to by the data importer) to ascertain compliance with the warranties and undertakings in these clauses, with reasonable notice and during regular business hours. The request will be subject to any necessary consent or approval from a regulatory or supervisory authority within the country of the data importer, which consent or approval the data importer will attempt to obtain in a timely fashion.

(h) It will process the personal data, at its option, in accordance with the data processing principles set forth in Annex A.

(i) It will not disclose or transfer the personal data to a third party data controller located outside the European Economic Area (EEA) unless it notifies the data exporter about the transfer and

(i) the third party data controller processes the personal data in accordance with a Commission decision finding that a third country provides adequate protection, or

(ii) the third party data controller becomes a signatory to these clauses or another data transfer agreement approved by a competent authority in the EU, or

(iii) data subjects have been given the opportunity to object, after having been informed of the purposes of the transfer, the categories of recipients and the fact that the countries to which data is exported may have different data protection standards, or

(iv) with regard to onward transfers of sensitive data, data subjects have given their unambiguous consent to the onward transfer.

### **III. Liability and third party rights**

(a) Each party shall be liable to the other parties for damages it causes by any breach of these clauses. Liability as between the parties is limited to actual damage suffered. Punitive damages (i.e. damages intended to punish a party for its outrageous conduct) are specifically excluded. Each party shall be liable to data subjects for damages it causes by any breach of third party rights under these clauses. This does not affect the liability of the data exporter under its data protection law.

(b) The parties agree that a data subject shall have the right to enforce as a third party beneficiary this clause and clauses I(b), I(d), I(e), II(a), II(c), II(d), II(e), II(h), II(i), III(a), V, VI(d) and VII against the data importer or the data exporter, for their respective breach of their contractual obligations, with regard to his personal data, and accept jurisdiction for this purpose in the data exporter's country of establishment. In cases involving allegations of breach by the data importer, the data subject must first request the data exporter to take appropriate action to enforce his rights against the data importer; if the data exporter does not take such action within a reasonable period (which under normal circumstances would be one month), the data subject may then enforce his rights against the data importer directly. A data subject is entitled to proceed directly against a data exporter that has failed to use reasonable efforts to determine that the data importer is able to satisfy its legal obligations under these clauses (the data exporter shall have the burden to prove that it took reasonable efforts).

### **IV. Law applicable to the clauses**

These clauses shall be governed by the law of the country in which the data exporter is established, with the exception of the laws and regulations relating to processing of the personal data by the data importer under clause II(h), which shall apply only if so selected by the data importer under that clause.

### **V. Resolution of disputes with data subjects or the authority**

(a) In the event of a dispute or claim brought by a data subject or the authority concerning the processing of the personal data against either or both of the parties, the parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.

(b) The parties agree to respond to any generally available non-binding mediation procedure initiated by a data subject or by the authority. If they do participate in the proceedings, the parties

may elect to do so remotely (such as by telephone or other electronic means). The parties also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.

(c) Each party shall abide by a decision of a competent court of the data exporter's country of establishment or of the authority which is final and against which no further appeal is possible.

## **VI. Termination**

(a) In the event that the data importer is in breach of its obligations under these clauses, then the data exporter may temporarily suspend the transfer of personal data to the data importer until the breach is repaired or the contract is terminated.

(b) In the event that:

(i) the transfer of personal data to the data importer has been temporarily suspended by the data exporter for longer than one month pursuant to paragraph (a);

(ii) compliance by the data importer with these clauses would put it in breach of its legal or regulatory obligations in the country of import;

(iii) the data importer is in substantial or persistent breach of any warranties or undertakings given by it under these clauses;

(iv) a final decision against which no further appeal is possible of a competent court of the data exporter's country of establishment or of the authority rules that there has been a breach of the clauses by the data importer or the data exporter; or

(v) a petition is presented for the administration or winding up of the data importer, whether in its personal or business capacity, which petition is not dismissed within the applicable period for such dismissal under applicable law; a winding up order is made; a receiver is appointed over any of its assets; a trustee in bankruptcy is appointed, if the data importer is an individual; a company voluntary arrangement is commenced by it; or any equivalent event in any jurisdiction occurs

then the data exporter, without prejudice to any other rights which it may have against the data importer, shall be entitled to terminate these clauses, in which case the authority shall be informed where required. In cases covered by (i), (ii), or (iv) above the data importer may also terminate these clauses.

c) Either party may terminate these clauses if (i) any Commission positive adequacy decision under Article 25(6) of Directive 95/46/EC (or any superseding text) is issued in relation to the country (or a sector thereof) to which the data is transferred and processed by the data importer, or (ii) Directive 95/46/EC (or any superseding text) becomes directly applicable in such country.

(d) The parties agree that the termination of these clauses at any time, in any circumstances and for whatever reason (except for termination under clause VI(c)) does not exempt them from the obligations and/or conditions under the clauses as regards the processing of the personal data transferred.

## **VII. Variation of these clauses**

The parties may not modify these clauses except to update any information in Annex B, in which case they will inform the authority where required. This does not preclude the parties from adding additional commercial clauses where required.

## **VIII. Description of the Transfer**

The details of the transfer and of the personal data are specified in Annex B. The parties agree that Annex B may contain confidential business information which they will not disclose to third parties, except as required by law or in response to a competent regulatory or government agency, or as required under clause 1(e). The parties may execute additional annexes to cover additional transfers, which will be submitted to the authority where required. Annex B may, in the alternative, be drafted to cover multiple transfers.

Dated: 22 April 2018

/s/ Yasushi Kojima

**FOR DATA IMPORTER**

/s/ W R Mordan

**FOR DATA EXPORTER**

## ANNEX A

### DATA PROCESSING PRINCIPLES

1. Purpose limitation: Personal data may be processed and subsequently used or further communicated only for purposes described in Annex B or subsequently authorised by the data subject.
2. Data quality and proportionality: Personal data must be accurate and, where necessary, kept up to date. The personal data must be adequate, relevant and not excessive in relation to the purposes for which they are transferred and further processed.
3. Transparency: Data subjects must be provided with information necessary to ensure fair processing (such as information about the purposes of processing and about the transfer), unless such information has already been given by the data exporter.
4. Security and confidentiality: Technical and organisational security measures must be taken by the data controller that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, presented by the processing. Any person acting under the authority of the data controller, including a processor, must not process the data except on instructions from the data controller.
5. Rights of access, rectification, deletion and objection: As provided in Article 12 of Directive 95/46/EC, data subjects must, whether directly or via a third party, be provided with the personal information about them that an organisation holds, except for requests which are manifestly abusive, based on unreasonable intervals or their number or repetitive or systematic nature, or for which access need not be granted under the law of the country of the data exporter. Provided that the authority has given its prior approval, access need also not be granted when doing so would be likely to seriously harm the interests of the data importer or other organisations dealing with the data importer and such interests are not overridden by the interests for fundamental rights and freedoms of the data subject. The sources of the personal data need not be identified when this is not possible by reasonable efforts, or where the rights of persons other than the individual would be violated. Data subjects must be able to have the personal information about them rectified, amended, or deleted where it is inaccurate or processed against these principles. If there are compelling grounds to doubt the legitimacy of the request, the organisation may require further justifications before proceeding to rectification, amendment or deletion. Notification of any rectification, amendment or deletion to third parties to whom the data have been disclosed need not be made when this involves a disproportionate effort. A data subject must also be able to object to the processing of the personal data relating to him if there are compelling legitimate grounds relating to his particular situation. The burden of proof for any refusal rests on the data importer, and the data subject may always challenge a refusal before the authority.
6. Sensitive data: The data importer shall take such additional measures (e.g. relating to security) as are necessary to protect such sensitive data in accordance with its obligations under clause II.
7. Data used for marketing purposes: Where data are processed for the purposes of direct marketing, effective procedures should exist allowing the data subject at any time to “opt-out” from having his data used for such purposes.
8. Automated decisions: For purposes hereof “automated decision” shall mean a decision by the data exporter or the data importer which produces legal effects concerning a data subject or significantly affects a data subject and which is based solely on automated processing of personal data intended to evaluate certain personal aspects relating to him, such as his performance at work, creditworthiness, reliability, conduct, etc. The data importer shall not make any automated decisions concerning data subjects, except when:

(a) (i) such decisions are made by the data importer in entering into or performing a contract with the data subject, and

(ii) (the data subject is given an opportunity to discuss the results of a relevant automated decision with a representative of the parties making such decision or otherwise to make representations to that parties.

or

(b) where otherwise provided by the law of the data exporter.

## ANNEX B

### DESCRIPTION OF THE TRANSFER

#### Data subjects

The personal data transferred concern the following categories of data subjects:

Directors, officers, employees, agents, contractors and consultants of the data exporter.

#### Purposes of the transfer(s)

The transfer is made for the following purpose(s):

To explore a potential transaction involving the acquisition by the data importer or a member of its group of the whole of the issued and to be issued share capital of the data exporter (the “**Proposed Transaction**”).

#### Categories of data

The personal data transferred concern the following categories of data:

Names, addresses, dates of birth, telephone numbers, email addresses, details of employment.

#### Recipients

The personal data transferred may be disclosed only to the following recipients or categories of recipients:

The data importer, members of the data importer’s group, the directors, officers, employees and professional advisers of the data importer and the data importer’s group, in each case subject to applicable law and who strictly need to receive and consider the personal data for the purposes of considering, evaluating, negotiating and advising upon, furthering and/or implementing the Proposed Transaction (as more fully defined pursuant to the terms of the non-disclosure agreement between the parties to which these model clauses are appended).

#### Contact points for data protection enquiries

#### Data importer

See Clause 10.4 of the non-disclosure agreement between the Parties to which these model clauses are appended.