

## **Nivalis Therapeutics, Inc. Corporate Governance Guidelines**

The Board of Directors (the “Board”) of Nivalis Therapeutics, Inc. (the “Company”) has adopted these Corporate Governance Guidelines (“Guidelines”) to assist the Board in the exercise of its responsibilities and to best serve the interests of the Company and its stockholders. These Guidelines should be interpreted in the context of applicable laws and the Company’s Certificate of Incorporation, Bylaws and other corporate governance documents. These Guidelines are intended to serve as a flexible framework within which the Board may conduct its business and not as a set of legally binding obligations. These Guidelines are subject to periodic review by the Board and the Nominating and Corporate Governance Committee, which may recommend to the Board that they be modified, amended and/or expanded at any time, when appropriate.

### **I. Board Size**

The Company’s Bylaws provide for the number of directors to be fixed from time to time by resolution of the Board. The appropriate size of the Board will be reviewed by the Board periodically to ensure that the Board can efficiently discharge its fiduciary duties and applicable legal and regulatory responsibilities.

### **II. Roles and Responsibilities of the Board and its Committees**

The business of the Company is conducted by management under the direction of the Chief Executive Officer (“CEO”). The Board is responsible, including through one or more of its committees as set forth in the Bylaws and committee charters, and for the Company’s overall performance, through its oversight of the management and attention to the long-term interests of the Company’s stockholders.

Among other things, the Board’s responsibilities include:

- review and approval of the Company’s strategic plan and policies, as developed by the CEO and senior management;
- approval of director candidates recommended by the Nominating and Corporate Governance Committee to be nominated for election by stockholders at annual meetings of stockholders;
- approval of material acquisitions, investments or divestitures, strategic transactions, and other significant transactions not in the ordinary course of the Company’s business;
- oversight of the Company’s performance in relation to its strategic plan and financial and non-financial objectives;

- oversight of the performance and effectiveness of the Company's management team;
- succession and development plans for key Company executives, including the CEO;
- the evaluation of and compensation for the CEO, taking into account the recommendations of the Compensation Committee of the Board;
- oversight of the Company's financial reporting processes, internal controls and risk management processes;
- oversight of the Company's compliance with legal and regulatory requirements; and
- assessing major risks that the Company is facing and overseeing the management of these risks

### **III. Selection and Composition of the Board**

#### **a) Member Criteria**

The Company seeks to align Board composition with the Company's strategic direction so that the Board members bring skills, experience and backgrounds that are relevant to the key strategic and operational issues that they will oversee and approve. Directors are selected for their integrity, character, independent judgment, breadth of experience, insight, knowledge and business acumen. Leadership skills and executive experience, expertise in the pharmaceutical, biotechnology or related industries, familiarity with issues affecting global businesses, financial and accounting knowledge, prior experience in the Company's core markets, expertise in capital markets, strategic planning and marketing expertise, among others, may also be among the relevant selection criteria. In addition, the Company strives to maintain a Board that reflects a diversity of experience and personal background. These criteria will vary over time depending on the needs of the Board. Accordingly, the Board may adopt new criteria and amend or abandon existing criteria as and when it determines such action to be appropriate.

Board members shall exercise their business judgment and act in ways that they reasonably believe will serve the best interests of the Company and its stockholders.

#### **b) Independence Requirements**

Subject to any applicable "phase in" provisions relating to Board composition, the Board shall have a majority of directors who meet the criteria for independence as defined by The NASDAQ Global Market ("NASDAQ") and the Company's Director Independence Standards attached hereto as Annex A. The Board must annually determine, based on all of the relevant facts and circumstances, whether each director satisfies these criteria for independence and must disclose each of these determinations.

The Nominating and Corporate Governance Committee shall review Board and committee composition at least annually to ensure compliance with NASDAQ rules and other

applicable regulatory requirements. In so doing, the Nominating and Corporate Governance Committee shall conduct a review of the independence of all members of the Board for the purposes of determining which Board members are deemed independent and which are not. Board members must notify the Chairperson of the Nominating and Corporate Governance Committee, as soon as practicable, in the event that their circumstances change in a manner that may impact the committee's view of their independence.

c) Nominating Process

The Board is responsible for selecting candidates to fill vacancies on the Board and for nominating individuals for election as directors by the stockholders, in each case, based on the recommendation of the Nominating and Corporate Governance Committee. The Nominating and Corporate Governance Committee shall consider candidates for nomination to the Board in the first instance, and shall recommend such candidates as it chooses for approval by the full Board before being submitted to the Company's stockholders for election.

The Nominating and Corporate Governance Committee considers recommendations for Board candidates submitted by stockholders pursuant to the Company's Policy on Stockholder Recommendations for Board of Director Candidates.

d) Director Terms

The Board is divided into three (3) classes. As a result, approximately one-third (1/3) of the Board will stand for election by the stockholders of the Company each year at the Company's annual meeting of stockholders for three (3) year terms. As each director is periodically subject to nomination by the Board and election by stockholders, the Board does not believe it is in the best interests of the Company to establish term limits at this time or require a mandatory retirement age, because such limits could deprive the Company of the valuable contributions made by a director who develops, over time, significant insight into the Company and its operations. The Nominating and Corporate Governance Committee shall review this policy regarding term and age limits periodically to determine whether it continues to serve the best interests of the Company and its stockholders. The Nominating and Corporate Governance Committee shall also review the performance of each director annually in determining whether to nominate each director for re-election.

e) Change of Position or Other Significant Event

Any director whose principal occupation changes or whose job responsibilities change significantly during his or her tenure as a director, or who becomes aware of circumstances that may adversely affect the director's ability to fulfill his or her responsibilities to the Company and its stockholders or adversely reflect upon the Company, will promptly notify the Chairperson of the Nominating and Corporate Governance Committee of such change and offer to resign from the Board. In addition, an employee director shall offer to resign from the Board when his or her employment with the Company ends. In each case, the Nominating and Corporate Governance Committee will consider the tendered resignation and recommend to the Board the action, if any, to be taken with respect to the resignation.

f) Other Board Service

In general, the Company does not have a policy limiting the number of other public company boards of directors upon which a Board member may serve; provided, however, that the CEO of the Company may not serve on the Board of more than one other public company.

In considering prospective nominees, the Board shall consider the number of other public company boards and other boards (or comparable governing bodies) on which a prospective nominee is a member. Although the Company does not impose a limit on outside directorships, except with respect to the CEO of the Company, it does recognize the substantial time commitments attendant to membership on the Board and expects that the members of the Board be fully committed to devoting all such time as is necessary to fulfill their accompanying responsibilities, both in terms of preparation for, and attendance and participation at, meetings.

Prior to becoming a director of another public company, a director shall notify the Chairperson of the Board, or, if one has not been elected, the CEO, in order to avoid potential conflicts of interest and to address whether the aggregate number of directorships held by such director would interfere with his or her ability to carry out his or her responsibilities as a director of the Company. In the event that the Board determines that the additional directorship constitutes a conflict of interest or interferes with such director's ability to carry out his or her responsibilities as a director of the Company, such director, upon the request of the Board, shall either offer his or her resignation or not accept the other directorship.

The CEO and any other executive officer of the Company who serves on the Board must receive the Board's prior approval before accepting any invitation to serve as a director of any other public or private company.

#### **IV. Board Operations**

a) Board Leadership

The Chairperson of the Board shall preside at all meetings of the Board and of the stockholders, and shall perform such other duties, and exercise such powers, as prescribed by the Bylaws or by the Board from time to time. The Board may select its Chairperson in its discretion at any time; provided, however, that the CEO of the Company shall not serve as the Chairperson of the Board. The Board will periodically review its leadership structure to ensure that it continues to meet the Company's needs and may in the future determine that the CEO of the Company may serve as Chairperson of the Board.

b) Board Meetings

The Chairperson, in consultation with other members of the Board, will determine the frequency and length of Board meetings. In addition, special meetings may be called from time to time as provided in the Company's Bylaws. The Board may also act by unanimous written consent as provided in the Company's Bylaws.

c) Conduct of Board Meetings

The Chairperson of the Board, in consultation with the CEO and other members of management, shall establish the agenda for Board meetings and distribute it to directors in advance of the meeting. Upon the absence, disability or death of the Chairperson of the Board, the CEO, in consultation with the Nominating and Corporate Governance Committee, will establish an agenda prior to any meeting and at any such meeting the Board shall consider the election of a new Chairperson. Other directors are also encouraged to suggest items for inclusion on the agenda. Directors may raise subjects at Board meetings that were not specifically included on the agenda.

d) Pre-Reading Materials

Pre-reading materials for Board and committee meetings shall be distributed to directors sufficiently in advance of each meeting to permit meaningful review.

e) Board Committees

The Board currently has three standing committees: the Audit Committee, the Compensation Committee, and the Nominating and Corporate Governance Committee. The Nominating and Corporate Governance Committee shall periodically review the Board's committee structure and charters and may recommend that the board create additional standing or special committees. Committee charters shall be updated where necessary to ensure compliance with NASDAQ listing rules, and any other applicable laws or regulations. Each committee will perform its duties as assigned by the Board in compliance with the Company's Bylaws and the committee's charter.

The Nominating and Corporate Governance Committee shall make recommendations to the Board regarding membership and chairs of committees consistent with the membership criteria outlined in the applicable committee charter. Committee appointments are subject to approval of the full Board. The Board may replace any committee chair or member or add additional members to a Board committee at any time during the year.

The committee chair, in consultation with the other committee members, will determine the frequency and length of committee meetings and, in consultation with the Chairperson of the Board and the CEO, develop agendas for committee meetings. The agendas and meeting minutes of the committees will be shared with the full Board. Any director that is not a member of a particular committee may attend any committee meetings with the concurrence of the committee chair.

f) Executive Sessions of Independent Directors

The independent directors will meet in executive session, without any non-independent directors or members of management present, at least twice each year. If the Chairperson of the Board is not an independent director, then the independent directors shall elect on an annual basis a presiding director (the "Presiding Director") to preside at such sessions.

g) Director Attendance at Meetings

Each director is expected to adequately prepare for and attend all Board meetings and all meetings of the committee(s) of which the director is a member (with the understanding that, on occasion, a director may be unable to attend a meeting) and to spend the time needed and meet as frequently as necessary to discharge his or her responsibilities. Absent unusual circumstances, each director is expected to attend the annual meeting of stockholders.

h) Director Orientation and Continuing Education

A thorough understanding of the Company's business is required to enable a director to make a substantial contribution to the Board. Accordingly, all new directors shall participate in an orientation program developed by the Company after their election to the Board to familiarize new directors with the Company's operations and strategic plans, its significant financial, accounting and risk management issues, its compliance programs, its standards of business conduct and ethics, its principal officers, and its internal and independent auditors. The Nominating and Corporate Governance Committee shall explore and make available continuing education opportunities for directors, from time to time. In addition, directors are encouraged to participate in continuing education and other programs provided by outside sources.

i) Director Compensation

Compensation of the non-employee Directors shall be approved from time to time by the Board, upon recommendation of the Compensation Committee. Non-employee directors should be compensated for their time dedicated to and other contributions to the Company, and their compensation may consist of cash and equity compensation. The Compensation Committee will annually review and approve, or recommend changes to, the compensation of non-employee Directors. In fulfilling this responsibility, the members of the Compensation Committee should take into consideration the following factors, among others as they find appropriate:

- compensation should fairly pay Directors for the responsibilities and duties undertaken in serving as a director of a company of the size and complexity of the Company;
- compensation should align the interests of Directors with the long-term interests of shareholders; and
- compensation of Directors should be targeted to be consistent with the compensation philosophy applicable to senior management of the Company.

Members of management who are also members of the Board shall not receive any additional compensation for their services as directors, committee members or committee chairs.

j) Attendance of Non-Directors at Board Meetings

Members of the Company's senior management and outside advisors and consultants will be invited to attend and participate in Board and committee meetings from time to time to brief the Board and its committees on particular topics. The Board encourages senior management to bring into Board or committee meetings and other scheduled events members of management who can provide additional insight into matters being considered and/or whom senior management believes have future growth potential with the Company and should be given exposure to the Board.

k) Board Access to Management and Independent Advisors

Directors shall have complete access to the Company's management and employees, facilities and relevant information and records in order to ensure that directors can ask any questions and receive all information necessary to perform their duties. Directors should exercise judgment to ensure that their contact with management and employees does not distract individuals from their jobs or disturb the business operations of the Company. Any meetings or contacts that a director wishes to initiate should generally be arranged through the CEO or the Chairperson of the Board or, if neither are available or neither is appropriate, directly by the director.

As necessary and appropriate, the Board and its committees, consistent with their charters, may retain outside legal, financial or other advisors. The Company shall provide adequate funding to cover the professional fees and reasonable expenses of any such outside advisors.

**V. Executive Succession Planning and CEO Performance**

The Board shall plan for succession to the position of the CEO and other members of the Company's senior management team. The Nominating and Corporate Governance Committee will oversee the succession planning process. To assist the Board in this process, the CEO shall periodically provide the Board with an assessment of the performance of senior executives and their potential to succeed to the position of CEO and other key positions within the Company. The CEO, in consultation with the Nominating and Corporate Governance Committee, will also recommend to the Board an emergency succession plan in the event of the unexpected departure, disability or death of the CEO or other key members of the Company's senior management team.

Through an annual process overseen and coordinated by the Compensation Committee, with input of the Chairperson of the Board (if not the CEO), the Board shall evaluate the CEO's performance. This evaluation is shared with the CEO and is used by the Compensation Committee in setting the CEO's compensation. Other non-management directors are invited to participate in the evaluation.

**VI. Annual Self-Evaluation**

The Board and each committee thereof shall perform an annual self-evaluation of its performance, with a particular focus on overall effectiveness. The Nominating and Corporate

Governance Committee is responsible for overseeing the self-evaluation process and for proposing any modifications or alterations in Board or committee practices, procedures or charters, as well as these Guidelines. The self-evaluation results and any recommendations made by the Nominating and Corporate Governance Committee to enhance the Board's functioning will be discussed by the full Board.



## **ANNEX A**

### **Nivalis Therapeutics, Inc.**

#### **Director Independence Standards**

The NASDAQ Global Market (“NASDAQ”) requires listed companies to have a majority of independent directors, subject to any applicable “phase in” provisions relating to the composition of the Board of Directors. Each year, the Board of Directors will affirmatively determine whether a director has any material relationship with the Company (either directly or as a partner, stockholder or officer of an organization that has a relationship with the Company) and will disclose these determinations in its annual proxy statement.

A director will not be considered independent if:

- (a) the director is, or has been within the last three years, an employee of the Company, or an immediate family member is, or has been within the last three years, an executive officer of the Company or any of its affiliates;
- (b) the director has received, or has an immediate family member who has received, during any twelve-month period within the last three years, more than \$120,000 in direct compensation from the Company or any of its affiliates, other than director and committee fees (including fees paid to the Chairperson of the Board of Directors and the Chairperson of any committee of the Board of Directors) and payments under a tax qualified retirement plan or other non-discretionary compensation;
- (c) (1) the director or a family member of the director is a current partner of a firm that is the Company’s outside auditor; (2) the director or an immediate family member of the director was a partner or employee of the outside and worked on the Company’s audit within the past three years;
- (d) the director or a family member of the director is an executive officer of another company at which any of the Company’s executive officers are or were during the past three years members of the compensation committee;
- (e) the director or a family member of the director is currently a controlling stockholder, partner or executive of another entity that (1) makes payments to or receives payments from the Company for property or services; and (2) the amount of these payments made in the current fiscal year or any one of the past three fiscal years exceeds the greater of \$200,000 or 5% of that other entity’s consolidated gross revenues for that year;
- (f) the director or family member is an executive officer of a charitable organization, the director is not considered independent if the company contributes more than \$200,000 or 5%, whichever is greater, of the charity’s revenues.

Notwithstanding the foregoing, if the Board of Directors affirmatively determines that a director who does not meet the standards in subsection (f) is nevertheless independent, the Board of Directors will provide an explanation of its determination in the Company's annual proxy statement.

For purposes of these guidelines, the terms:

- “Company” includes any parent or subsidiary in a consolidated group with Nivalis Therapeutics, Inc.; and
- “Immediate family” includes a person's spouse, parents, children, siblings, whether by blood, marriage or adoption, and anyone else sharing the director's home.