

## CONFIDENTIALITY AGREEMENT

This Agreement is made as of 2nd of October, 2009 ("the Effective Date")

Between: (1) Roche Products Limited  
Hexagon Place  
6 Falcon Way  
Shire Park  
Welwyn Garden City  
Herts  
AL7 1TW

and (2) Dr Tom Jefferson ("Counterparty")  
[REDACTED]  
Roma  
Italy

Roche and/or its affiliates (collectively "Roche") wishes to disclose to Counterparty certain **confidential information** for the purposes of updating the Cochrane Review on Tamiflu ("the Purpose") and in consideration thereof Counterparty agrees as follows:-

1. For the purposes of this Agreement, "Confidential Information" shall mean:
  - 1.1 **The existence and terms of this Agreement; and**
  - 1.2 All information in whatever form (including, without limitation, written, oral visual or electronic form or on tape or disk) disclosed by Roche to Counterparty, which:
    - (i) relates to Roche's business and is directly or indirectly disclosed to Counterparty or any of its representatives or which comes to Counterparty's attention in connection with the Purpose; or
    - (ii) is marked as or has been otherwise indicated to be confidential; or
    - (iii) derives value to Roche or any member of a group of companies to which Roche belongs from being confidential; or
    - (iv) would be regarded as confidential by a reasonable business personbut, for the avoidance of doubt, "Confidential Information" excludes the information described in clause 5.
2. The Confidential Information shall be regarded as the property of Roche. Roche warrants that it has the full and unconditional right to disclose the Confidential Information to Counterparty.
3. Counterparty agrees

- 3.1 not to use the Confidential Information for any purpose other than the Purpose;
  - 3.2 to treat the Confidential Information as confidential and as it would its own proprietary confidential information;
  - 3.3 not to directly or indirectly disclose the Confidential Information in whole or in part to any person (or allow it to be disclosed), or make copies of it, unless permitted by this Agreement; and
  - 3.4 **not to disclose:**
    - (i) the existence or terms of this Agreement;
    - (ii) the fact that negotiations are taking place between the parties relating to the Purpose; or
    - (iii) the content of the negotiations, except with the prior written consent of Roche.
4. Subject to the other terms of this Agreement, Counterparty may disclose Confidential Information to its directors, officers, employees, sub-contractors and professional advisers who need to know it for the Purpose, provided such persons have been informed of the confidential nature of the Confidential Information and the Purpose for which it may be used and have agreed to act in compliance with the terms of this Agreement as if they were party to it.
5. Counterparty will not be under any obligation to keep confidential any Confidential Information that it can demonstrate:-
- 5.1 is at the time of disclosure, or subsequently becomes, public knowledge otherwise than as a result of being disclosed in breach of this Agreement;
  - 5.2 was lawfully in the possession of Counterparty and was known to Counterparty without restriction as to its use (as demonstrated by written records), prior to disclosure hereunder by Roche;
  - 5.3 becomes available to Counterparty otherwise than in breach of a legal obligation of confidentiality in respect thereof; or
  - 5.4 it is required to disclose if and to the extent it is required to do so:
    - (i) by law or regulation of any country with jurisdiction over the affairs of Counterparty (provided that, in the case of any disclosure under the Freedom of Information Act 2000, none of the exemptions to that Act applies to the information disclosed) or
    - (ii) by order of any court of competent jurisdiction or any competent regulatory agency or authority
- provided that, to the extent that it is permitted to do so, Counterparty notifies Roche as soon as possible upon becoming aware of any such requirements and co-operates with Roche (at Roche's reasonable expense) to avoid or limit disclosure and to gain

assurances as to confidentiality from the body to whom the Confidential Information is to be disclosed.

6. Nothing contained in this Confidentiality Agreement shall be construed, by implication or otherwise, as an obligation to enter into any further agreement relating to any of the Confidential Information or as the grant of a licence to Counterparty to use the Confidential Information other than for the Purpose. Nothing contained or implied in this Agreement creates a joint venture or partnership between the parties or makes one party the agent or legal representative of the other party for any purpose.
7. Upon completion of the Purpose, and in the absence of further agreement between the parties, Counterparty shall cease all use and make no further use of the Confidential Information disclosed to it and shall upon receipt of a written request from Roche promptly deliver up to Roche or destroy (at Roche's option), all documents, materials and records in any medium (whether written, machine readable or otherwise) including accounts, documents, samples, drawings and other papers including private notes, or such parts thereof, as contain or reflect any of the Confidential Information, together with any copies which are in Counterparty's control.
8. This Agreement together with any documents referred to in it constitutes the entire agreement and supersedes any previous written or oral agreement between the parties relating to the subject matter of this Agreement.
9. Any notice or other communication given under this Agreement must be in writing, in English and served on a party at its address or fax number as specified at the commencement of this Agreement (or any other address it has notified to the other party in accordance with this clause) by hand, by registered post or by fax. Notices may not be sent by email.
10. If any provision in this Agreement is held illegal, invalid or unenforceable such illegality, invalidity or unenforceability will not affect the other provisions of this Agreement which shall remain in full force and effect.
11. Counterparty will not assign the Agreement.
12. No modification or waiver of any of the provisions of the Agreement shall be valid unless in writing and signed by the parties hereto.
13. The confidentiality and non-use obligations under this Agreement shall remain in force for ten (10) years from the Effective Date.
14. Subject to this Clause 14, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. Counterparty acknowledges that Roche has entered into this Agreement for its own benefit and for the benefit of each of its affiliates and that this Agreement is intended to be enforceable by each of Roche's affiliates by virtue of the Contracts (Rights of Third Parties) Act 1999. The term "affiliate" as used in this Agreement shall mean, in relation to any person, any entity (i) controlled, directly or indirectly, by the person, (ii) that controls,

directly or indirectly, the person or (iii) directly or indirectly under common control with the person. For this purpose "control" of any entity or person means ownership of a majority of the voting shares of the entity or person or actual control over the business and affairs of such person; provided, however, that Genentech, Inc., 1 DNA Way, South San Francisco, California 94080-4990 USA ("Genentech") and Chugai Pharmaceutical Co., Ltd., 1-1 Nishinobu Maunomachi 2-chome, Chiyoda-ku Tokyo 100-8374, Japan ("Chugai") shall not be considered affiliates of Roche for the purpose of this Agreement, unless Roche opts for such inclusion of Genentech and/or Chugai by giving written notice to you.

15. This Agreement shall be governed by and construed in accordance with English law and the parties hereby submit to the jurisdiction of the English Courts.

Signed \_\_\_\_\_

Dr Michelle Rashford  
Medical Director  
For and on behalf of  
**ROCHE PRODUCTS LIMITED**

Signed \_\_\_\_\_

Dr Tom Jefferson  
For and on behalf of **NSMF**

<b>Roche Administrative Use Only:</b>	
Roche internal contact	Dr Michelle Rashford
Department/Division	Medical Affairs
Project Agreement: ..	Data sources supplied for Tamiflu Cochrane Review