

**Pandemic Influenza Preparedness Framework for the  
sharing of influenza viruses and access to vaccines and other benefits**

**Standard Material Transfer Agreement 2 (SMTA2)**

**Article 1. Parties to the Agreement**

Duke University (hereinafter “the Establishment”)  
2200 West Main Street, Suite 1000  
Durham, NC 27705

and

The World Health Organization (hereinafter “WHO”)  
20 avenue Appia  
1211 Geneva 27  
Switzerland

hereinafter together the “Parties” and each a “Party”

**Article 2. Subject matter of the Agreement**

PIP biological materials as defined in Section 4.1 of the Framework (hereinafter “PIP biological materials”) transferred to the Establishment are subject to the provisions of this Agreement.

**Article 3. Definitions**

3.1 As provided for in Section 4 of the Pandemic Influenza Preparedness Framework for the sharing of influenza viruses and access to vaccines and other benefits.

3.2 Other terms as agreed by the Parties.

**Article 4. Obligations of WHO**

WHO will report to the Advisory Group any exceptional transfers of PIP biological materials authorized by the Director-General under Article 5.7 below.

**Article 5. Obligations of the Establishment**

5.1 The Establishment does not manufacture, for commercial purposes, influenza vaccines, antivirals or products relevant to pandemic influenza preparedness and response.

5.2 The Establishment shall consider contributing to the measures listed below:

- Donations of vaccines;
- Donations of pre-pandemic vaccines;

- Donations of antivirals;
- Donations of medical devices;
- Donations of diagnostic kits;
- Affordable pricing;
- Transfer of technology and processes;
- Granting of sublicenses to WHO;
- Laboratory and surveillance capacity building.

5.3 The Establishment shall inform WHO in writing within 90 days of the entry into force of this Agreement that it has duly considered contributing to the measures listed above.

5.4 In the event that one of the measures in 5.2 above is selected, the Establishment shall inform WHO accordingly and, if necessary, the Parties shall negotiate a separate agreement in connection therewith.

5.5 The Establishment shall ensure that PIP biological materials are handled in accordance with applicable WHO guidelines and national bio-safety standards.

5.6 If applicable, the Establishment shall appropriately acknowledge in presentations and publications, the contributions of laboratories that are part of the Global Influenza Surveillance and Response System, which are providing PIP biological materials, using existing scientific guidelines.

5.7 The Establishment shall only further transfer the PIP biological materials if the prospective recipient has concluded an SMTA with the World Health Organization. The Establishment shall report any such further transfers to the World Health Organization. The Director-General may, under exceptional circumstances, allow the PIP biological materials to be transferred to a prospective recipient while requesting this aforementioned recipient to enter into an SMTA.

5.8 The Establishment may exchange PIP biological materials with any other holder of an SMTA concluded with the World Health Organization.

5.9 In the event that the Establishment enters into any contract or formal agreement with a manufacturer for the purpose of using PIP biological materials for commercialization, public use or regulatory approval of that manufacturer's vaccine, diagnostics, or pharmaceuticals, the Establishment shall:

- Inform the manufacturer that it will be contacted by WHO to discuss conclusion of an SMTA 2 (if one is not already concluded); and
- Inform WHO of the use of the PIP biological materials on behalf of that manufacturer and provide WHO with the name of said manufacturer by sending an email to [pipframework@who.int](mailto:pipframework@who.int) with the subject line: "SMTA 2 Notice".

## **Article 6. Dispute resolution**

If a dispute cannot be resolved through negotiations or other non-binding means of the Parties' choice, disputes shall be subject to final binding arbitration in a mutually agreed location, or a location chosen by the chair of the arbitration tribunal if the parties cannot agree, pursuant to the commercial arbitration rules of the International Chamber of Commerce, in accordance with the following procedures:

- (a) The arbitration tribunal shall consist of three arbitrators. The Parties shall respectively nominate one arbitrator in the request for arbitration and one arbitrator in the answer thereto, and the two arbitrators so named will then jointly appoint a third arbitrator as chairperson of the arbitration tribunal.
- (b) The decision of the arbitration tribunal shall be final and binding upon the Parties hereto, and judgment upon such decision may be entered in any court of competent jurisdiction. Each Party hereby submits itself to the courts of the place of arbitration, but only for the entry of judgment with respect to the decision of the arbitrators hereunder.

#### **Article 7. Liability and indemnity**

The Establishment assumes all liability for damages that may arise from its use, storage, transfer, release or disposal of the PIP biological materials. The Establishment agrees that it will indemnify and hold harmless WHO from any claims, costs, damages, or expenses arising out of or related to this Agreement or its use of the PIP biological materials, except to the extent those claims, costs, damages, or expenses arise due to the gross negligence or wilful misconduct of WHO employees. In no event will WHO be liable for any special, incidental or consequential damages of any kind in connection with or arising out of this Agreement, or the PIP biological materials.

#### **Article 8. Privileges and Immunities**

Nothing in or relating to these clauses shall imply the obligation of WHO to submit to any national legislation or jurisdiction, or be deemed a waiver of any of the privileges and immunities of WHO in conformity with the Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on November 21, 1947 or otherwise under any national or international law, convention or agreement.

#### **Article 9. Use of Name and/or Emblem**

Except as otherwise explicitly provided in this Agreement, neither Party shall, in any statement or material of an advertising or promotional nature, refer to the relationship of the Parties under this Agreement, or otherwise use the other Party's name, acronym and/or emblem, without the prior written consent of that other Party.

#### **Article 10. Warranties**

WHO makes no warranties as to the safety of the PIP biological materials, or as to the accuracy or correctness of any data provided with them. Likewise, WHO does not make any warranties as to the quality, viability, or purity (genetic or mechanical) of the PIP biological materials being furnished. The Establishment assumes full responsibility for complying with its national bio-security and bio-safety regulations and rules as to import, export or release of biological materials.

#### **Article 11. Entry into Force and Duration of Agreement**

11.1 This Agreement shall enter into force upon the date it has been signed by both Parties. It shall remain in force until 31 December 2031, unless terminated under Article 12.

#### Article 12. Termination

12.1 This Agreement may be terminated by either Party with three months written notice.

12.2 Upon termination, the Establishment shall return to the provider or destroy (as advised by the provider) any PIP biological materials.

#### Article 13. Governing law

The Parties agree to remain silent as to the governing law of this Agreement.


#### Article 14. Signature and Acceptance

This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall constitute a single instrument. Further, the Parties agree that this Agreement may be signed and/or transmitted by electronic mail of a .PDF document or electronic signature (e.g., DocuSign or similar electronic signature technology) and thereafter maintained in electronic form, and that such electronic record shall be valid and effective to bind the Party so signing as a paper copy bearing such Party's hand-written signature. The Parties further consent and agree that the electronic signatures appearing on this Agreement shall be treated, for purpose of validity, enforceability and admissibility, the same as hand-written signatures.

In WITNESS Whereof, this Agreement has been duly executed by the Parties.

SIGNED for and on behalf of WHO

SIGNED for and on behalf of the Establishment

Signature   
Name: Dr Chikwe Ihekweazu  
Title: Executive Director  
WHO Health Emergency Preparedness  
and Response Programme

Signature **W. Gavin** Digitally signed  
by W. Gavin  
Name: **Foltz, J.D,** Foltz, J.D, Assoc.  
Title: **Assoc.** Dean, Exec. Dir.  
**Dean, Exec.** Date:  
**Dir.** 2025.07.17  
13:54:05 -04'00'

Date: **13 AUG 2025**

Date:

The Terms of this Agreement have been read and acknowledged by the Establishment's researcher using the PIP Biological Materials:

Brook Heaton  
Signature

Name: Brook Heaton  
Title: Director of Pathogens Unit  
Date: 07/21/2025