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

Universiteit Gent (Ghent University), a public institution with legal personality, having its administrative offices in Belgium, 9000 Gent, Sint-Pietersnieuwstraat 25, company registration number 0248.015.142 (**"Recipient"**), represented by its rector, Prof. dr. Anne De Paepe, for whom Mr. Wim Van Camp, general manager UGent TechTransfer, acts by delegation, pursuant to the Board of Governors' decision of April 3, 2015, and who assigns the further execution of the Agreement to Prof. dr. Kristien Van Reeth, Department of Virology, parasitology and immunology (hereinafter "the Establishment")

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

2.1 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

4.1 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 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 SMTA2 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.

Article 6. Dispute resolution

6.1 If a dispute cannot be resolved through negotiations or other non-binding means of the parties' choice, disputes shall be subject to binding arbitration on conditions that are mutually agreed by the parties.

Article 7. Liability and indemnity

7.1 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. 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

8.1 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

9.1 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

10.1 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 as long as the Establishment, through its Department of Virology, parasitology and immunology, does not manufacture influenza vaccines, antivirals or products relevant to pandemic influenza preparedness and response or until 31 December 2031, whichever comes first.

11.2 In the event that the Establishment begins manufacturing influenza vaccines, antivirals or products relevant to pandemic influenza preparedness and response, paragraph 12.2 shall apply.

Article 12. Termination

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

12.2 This Agreement shall automatically terminate if the Establishment, through its Department of Virology, parasitology and immunology, begins manufacturing influenza vaccines, antivirals or products relevant to pandemic influenza preparedness and response. In such case, the Establishment shall immediately inform WHO and cease any and all use of PIP biological materials unless and until a new SMTA2 is concluded between the Parties.

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

Article 13. Governing law

13.1 Any matter relating to the interpretation or application of this Agreement which is not covered by its terms will be resolved by reference to the laws of Switzerland.

Article 14. Signature and Acceptance

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

In witness thereof, the Parties have executed this Agreement on ...23-09-... 2015 in two (2) originals. Each Party hereby acknowledges to have received one (1) fully signed copy.

SIGNED for and on behalf of WHO

Signature

Dr. Keiji Fukuda
Assistant Director General, Health Security

Date 16 oct 2015

SIGNED for and on behalf of the Establishment

Signature

Mr. Wim Van Camp
General Manager UGent TechTransfer

Date 06-10-2015

Signature

Prof. dr. Kristien Van Reeth
Department of Virology, parasitology and immunology

Date 23/9/15