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**MASTER SERVICES AGREEMENT**

**BY AND BETWEEN**

**International Federation of Pharmaceutical Manufacturers and Associations**

**AND**

**Trustees of Boston University**

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List of Exhibits:

Exhibit A: Form of Work Order



## MASTER SERVICES AGREEMENT

This Master Services Agreement ("**Agreement**") is entered into on the date of last signature to this Agreement ("**Effective Date**") by and between

- (1) **International Federation of Pharmaceutical Manufacturers and Associations**, a trade association incorporated and validly existing under the laws of Switzerland, having its business address at Chemin des Mines 9, 1211 Geneva 20, Switzerland (hereinafter referred to as "**IFPMA**"), and
- (2) **Trustees of Boston University**, a non-profit corporation incorporated and validly existing under the laws of Massachusetts, registered with the Commonwealth of Massachusetts and having a business address at 25 Buick Street, Boston, MA 02215 (hereinafter referred to as "**University**").

University and IFPMA are hereinafter also referred to individually as "**Party**" or collectively as "**Parties**".

**WHEREAS**, IFPMA represents research-based pharmaceutical companies and associations across the globe whose mission is to research, develop and provide medicines and vaccines that improve the life of patients worldwide and certain pharmaceutical companies ("**Sponsors**") are sponsoring an initiative relating to access to medicines for non-communicable diseases ("**the Initiative**"), which is being managed by the IFPMA.

**WHEREAS**, IFPMA represents and warrants to University that it has the requisite authority to enter into this Agreement and any applicable Work Order;

**WHEREAS**, in connection with the Initiative IFPMA may wish to retain University to perform certain services as detailed in work orders an example of which is attached hereto as Exhibit A; and

**WHEREAS** the Parties wish to enter into this Agreement under which University may perform such services on behalf of IFPMA.

**NOW THEREFORE**, the parties agree as follows:

### **1. THE SERVICES**

- 1.1 University agrees to provide professional services to IFPMA. University shall provide services on the basis of written Work Orders for individual projects under the provisions of this Agreement ("**Services**"); the Work Orders shall be in a format substantially similar to the template set forth in **Exhibit A**, which is attached hereto and incorporated herein by reference. Performance of the Services shall be in accordance with this Agreement and the terms and conditions of the respective Work Order. Neither, University nor IFPMA are under any obligation to contract with each other for individual projects.

It is agreed and understood that University shall be permitted to sub-contract to other third parties in order to perform the Services as set out in this Agreement or any respective Work Order. The University will provide the names of sub-contractors and their qualifications to IFPMA for approval prior to engagement of those resources. This Agreement shall be incorporated by reference in any such subcontract which will require any subcontractor to comply with the terms of this Agreement.

- 1.2 University represents and warrants that its performance of the Services shall be: (i) in compliance with all applicable federal, state and local laws, statutes, rules, regulations and orders; (ii) in conformance with the level of care and skill ordinarily exercised in similar circumstances by providers of the same or similar services.
- 1.3 The Services shall be identified in the applicable Work Order, and shall not be substituted, amended or modified without the prior written approval of IFPMA as applicable.
- 1.4 If IFPMA requests University to provide services which are additional to or different from the Services set forth in the respective Work Order, the services and costs shall be mutually agreed on in writing prior to initiation, and documented in a written amendment to that Work Order.
- 1.5 University shall prepare and maintain complete and accurate written records, accounts, reports and data of the Services ("**Records**") for the duration of this Agreement and any Work Orders and for as long as required to by applicable law, University shall use its reasonable best efforts to ensure the safety and secure storage of such Records.

## 2. FEES & EXPENSES

- 2.1 In consideration of the Services performed by University IFPMA agrees to pay to University the amounts set forth in the applicable Work Order, subject to the terms and conditions of this Agreement and the applicable Work Order. IFPMA shall pay all undisputed amounts within thirty (30) days after its receipt and approval of the applicable invoice.
- 2.2 Invoices shall be sent as an electronic file in pdf format, by email to the email-address b.shaw@IFPMA.org with a cc to l.renaud@ifpma.org, or to any other e-mail address as may be notified by IFPMA in the future.

Each invoice must at least contain or be accompanied by the following data:

- University's name, address and account information (for electronic payment),
- IFPMA (name and address) as invoice recipient
- the date of this Agreement
- the amount invoiced
- the applicable tax (if any) with regard to fees and expenses and all information required under applicable law regarding applicable taxes (such as, for example the TAX ID number, if applicable)
- the Services and Work Order to which the invoice relates and the delivery date or the delivery period covered by the invoice

Each invoice shall set forth separate figures for the fees and the billable expenses incurred by University in connection with the Services (if any). Receipts and other documentation of payment of any Work Order related expenses must be sent to IFPMA together with the corresponding invoice.

- 2.3 **Contact Persons.** The Parties hereby appoint the following contact persons who shall be solely authorized to communicate to the other Party any binding decisions regarding the performance of this Agreement. Either Party shall immediately inform the other Party in the event that a new contact person or a representative shall be appointed.

(a) **IFPMA Contact:** the contact person for the University at IFPMA shall be:

Brendan Shaw, Assistant Director General

[REDACTED]

(b) **University Contact:** the contact person for IFPMA at University shall be:

William P. Segarra, JD, MPH  
Associate Director, Industry Contracts and  
Agreements  
Boston University, Office of Sponsored  
Programs

[REDACTED]

### 3. INFORMATION GATHERING

- 3.1 It is understood that part of the University's work may involve receiving, considering and processing information from IFPMA, Sponsors, other IFPMA members or other sources. The Parties acknowledge the principle that the University's output will be enhanced by the transparent publication of its findings and results and therefore the Parties agree that all information delivered to the University for the purposes described in this Agreement will be deemed non-confidential, except as provided otherwise below.
- 3.2 The Parties also acknowledge that, for the purposes of verification, to ensure that a robust data set is considered or other legitimate reasons, it may also be beneficial for the University to receive and consider information that may not be published, whether at all, or in its original form (for example, for legal reasons). In the event that IFPMA and the University agree that such information should be considered an addendum to this Agreement shall be signed by both Parties prior to the disclosure of such information to University, setting out the terms under which such information may be provided or disclosed by Sponsors and/or IFPMA to University used by University pursuant to a specific Work Order, and explaining the legitimate reasons for any restrictions on the publication of such Confidential Information. The foregoing notwithstanding, University retains the right to refuse to accept any information from IFPMA, Sponsors, other IFPMA members or other sources which it does not consider to be essential for the completion of the work described in a particular Work Order.
- 3.3 Therefore, as an exception to the general principle of transparency above, the Party providing any information (IFPMA, Sponsors, other IFPMA members or other sources) to the University hereunder shall indicate clearly by appropriate marking at the time of disclosure to University that any such information is "**Confidential Information**" in which case the University undertakes that it shall not publish, disclose, or reference such information in any form to any other third party without the express consent of the party that provided the Confidential Information.

*[Handwritten signature]*

The obligations under this Agreement do not apply to any information which: (i) is or becomes public knowledge through no fault of the University, (ii) is in the lawful possession of University prior to disclosure to it hereunder, (iii) is disclosed to the University without restriction on disclosure by a third party who has the lawful right to disclose the information, (iv) is disclosed pursuant to the lawful requirement or formal request of a governmental agency, (v) is disclosed by IFPMA, Sponsors, other IFPMA members or other sources without restriction on further disclosure, or (vi) is independently developed by the University.

- 3.4 Consistent with the principle of transparency, the Parties will work with information providers to minimize the amount of Confidential Information. In particular, the Parties will explore whether it may still be possible to publish observations, trends or conclusions based on Confidential Information if this can be achieved in a manner that shields the underlying Confidential Information from disclosure, for example through aggregation with other information. The aggregation of such Confidential Information foreseen by this provision may be performed by the Parties or sub-contracted to a third party on terms to be agreed. The Parties agree that the provider of the Confidential Information will in all cases be the arbiter of whether its confidentiality concern is addressed by the manner of presentation proposed, and whether it chooses to give its consent to that particular use of its Confidential Information.
- 3.5 It is agreed and understood that - the existence and general subject matter of this Agreement shall not be deemed Confidential Information and nothing herein shall prevent University from representing to third parties that it has certain publication rights pursuant to this Agreement.
- 3.6 Notwithstanding the foregoing, it is agreed and understood that prior to the public launch of the Initiative (currently foreseen for January 19, 2017), the existence of the Initiative shall be treated as Confidential Information by the University and not disclosed without prior consent from IFPMA. In the event the public launch does not occur on January 19 2017, the Parties will discuss in good faith and agree terms regarding the disclosure of the University's role.

#### 4. PUBLICATIONS

- 4.1 Subject only to the provisions of Section 3 of this Agreement, University may publish and present its results of the services generated by University or otherwise make the results of the services generated by University available to the public in furtherance of University's academic and educational purposes after giving IFPMA an opportunity to review and comment in accordance with this Section 4.
- 4.2 University shall submit a copy of any manuscript and/or abstract to IFPMA for review and comment thirty (30) days prior to submission of such manuscript or abstract for publication. IFPMA shall then have thirty (30) days from the receipt of such materials to review and provide University with written comments with respect to the material. In its written comments, IFPMA shall specifically identify any information in such publication that might disclose patentable inventions. University shall in good faith give due consideration to IFPMA's comments and requests but is not required to modify the publication in response. In the event a proposed publication contains information which could negatively affect the intellectual property interests of IFPMA, upon written request from IFPMA, University shall delay the publication for an additional thirty (30) days to allow IFPMA to file an application for patent or to take other action to protect such interests. If University receives no written response from IFPMA within the thirty (30)-day review period, University may proceed with publication. It is agreed and understood that the requirements of this section shall not apply to teaching materials generated and presented to students by University.

- 4.3 Each Party agrees that it shall not use the other Party's names, logos, symbols or trademarks in any advertising or promotional materials or statement to the public without the prior written approval of such other Party.
- 4.4 It is further agreed and understood that, subject to section 3.6 above, University may post on its publicly available website or otherwise make publicly available copies of this Agreement or any Work Order. The foregoing notwithstanding, University shall redact all financial information contained in this Agreement or any Work Order prior to posting a copy of this Agreement on its publicly available website or otherwise making publicly available copies of this Agreement or any Work Order.

## 5. INTELLECTUAL PROPERTY

- 5.1 Intellectual property shall include without limitation all rights to, and any interests in any patent, design, manuscript, results, data, trade mark, copyright, know-how, trade secret and any other proprietary right or form of intellectual property (whether protectable by registration or not) customer list, agreement, specification, formula, device, drawing programme, design, system, process, logo, mark or style ("**Intellectual Property**"). All Intellectual Property provided to University by and/or on behalf of IFPMA or Sponsor, in any form whatsoever, which is owned by or licensed to IFPMA or Sponsor prior to being provided to University, shall remain the property of IFPMA or Sponsor ("**IFPMA Intellectual Property**" or "**Sponsor Intellectual Property**"). University shall acquire no right, title or interest in the IFPMA Intellectual Property or Sponsor Intellectual Property as a result of its performance of the Services.
- 5.2 It is agreed and understood that University shall own its own work product, including the publishable results, data and information produced or developed by University or its collaborators which are generated as a result of activities in pursuance of this Agreement and/or any Work Orders ("**Results**") however IFPMA and Sponsor have and retain copies of such Results, and to the extent legally able University agrees to grant and shall grant IFPMA and Sponsor a non-exclusive, royalty free, perpetual right to use and exploit, and allow other third parties to use and exploit (whether for commercial or non-commercial purposes) worldwide and at its sole discretion such Results. It is agreed and understood that any data or information collected from IFPMA, Sponsors, other IFPMA members or other sources as a result of activities in pursuance of this Agreement and/or any Work Orders ("**Raw Data**") shall remain the property of the party providing it and shall be used by University only in accordance with any terms of use agreed with such party.
- 5.3 University and its collaborators shall, to the extent required for the above purpose, and at no additional cost to IFPMA:
- (a) provide copies of such Results and Raw Data to IFPMA in electronic format;
  - (b) provide each quarter a complete aggregated electronic copy of all Results and Raw Data; and
  - (c) provide all assistance and execute all documents that may be necessary for IFPMA to exercise their respective rights hereunder.
- 5.4 Notwithstanding anything to the contrary contained in this Agreement, University reserves all rights, title and interest in and to University's Intellectual Property, including without limitation, templates, manuals, designs, utilities, tools, models, methodologies, programs, systems, analysis frameworks, leading practices and specifications, owned, developed or licensed by, or on behalf of, University prior to, or independent of its performance under this

Agreement, even if utilized to provide the Services ("Components"), including without limitation, all modifications or enhancements to such Components developed in the course of performing the Services, except to the extent that such modifications or enhancements to the Components incorporate or are based upon IFPMA's Intellectual Property or Sponsor Intellectual Property. To the extent necessary to exercise its right hereunder, and notwithstanding the foregoing, IFPMA shall have a non-exclusive, non-transferable worldwide, royalty-free license to use such Components for any lawful purposes that are appropriate within the scope of this Agreement, including without limits any interpretation purposes or regulatory authorities' purposes.

## 6. INDEMNIFICATION

- 6.1 Each Party ("**Indemnifying Party**") will indemnify and hold harmless the other Party and its Affiliates and their respective successors, assigns, directors, officers, employees and agents ("**Indemnified Party**") from and against any and all liabilities, claims, damages, losses, settlements, penalties, fines, costs and expenses, including attorneys' fees, (collectively, "**Damages**") (but not including taxes) arising from any third party demand, investigation, claim, action or suit to the extent based on (i) the gross negligence, bad faith or willful or intentional misconduct of the Indemnifying Party or its Affiliates under this Agreement, (ii) a material breach by the Indemnifying Party or its Affiliates of any term of this Agreement, or (iii) a violation of any relevant law, rule or regulation by the Indemnifying Party or its Affiliates in the performance of its duties under this Agreement.
- 6.2 In the event of a claim for indemnification, the Indemnified Party will notify the Indemnifying Party as soon as possible in writing of the details. The Indemnified Party will allow the Indemnifying Party, at its cost and expense, to handle and control the defense and/or settlement of the claim and will reasonably cooperate with the Indemnifying Party in such defense however the Indemnifying Party shall not settle or otherwise resolve any claim in a manner that admits fault or wrongdoing on the part of the Indemnified Party without the Indemnified Party's express prior written consent which shall not be unreasonably withheld.
- 6.3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NONE OF THE PARTIES, OR THEIR AFFILIATES, OR ANY OF THEIR RESPECTIVE DIRECTORS, TRUSTEES, OFFICERS, EMPLOYEES, OR AGENTS SHALL HAVE ANY LIABILITY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO THE LOSS OF OPPORTUNITY, OR LOSS OF REVENUE OR PROFIT.

UNIVERSITY MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES CONCERNING THE CONDITION OF THE SERVICES OR ANY INVENTION(S) OR PRODUCT(S), WHETHER TANGIBLE, CONCEIVED, DISCOVERED, OR DEVELOPED UNDER THIS AGREEMENT; OR THE MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE SERVICES OR ANY SUCH INVENTION OR PRODUCT.

## 7. TERM

This Agreement shall be deemed effective as of the Effective Date and shall remain in effect for a period of five (5) years from that date unless terminated earlier in accordance with the terms of this Agreement.



**8. TERMINATION**

- 8.1 This Agreement may be terminated by either Party at any time and for any reason by giving ninety (90) days prior notice to the other Party. Any Work Order may be terminated by either Party at any time and for any reason by giving forty-five (45) days prior notice to the other Party.
- 8.2 Either Party may terminate this Agreement or any Work Order with immediate effect at any time by written notice if the other Party:
- (a) is in breach of any of its obligations under this Agreement or the respective Work Order and fails or is unable to remedy such breach within thirty (30) days of receipt of notice in writing specifying the breach.
  - (b) is or states that it is unable to pay its debts as they fall due, enters into any scheme of arrangement or composition with, or assignment for the benefit of all or any class of creditors, is wound up or has a liquidator, provisional liquidator, receiver and manager or statutory or other official manager appointed over all or any part of its property.
- 8.3 Upon the expiry or termination of this Agreement or any Work Order, University shall discontinue the respective Services in the most cost effective manner feasible.
- 8.4 If this Agreement or any Work Order is terminated:
- (a) on notice in accordance with Section 8.1 then IFPMA will remunerate University for all reasonable costs and, in case IFPMA terminates, non-cancellable commitments incurred based on the affected Work Order up to the termination and University will provide IFPMA with all Results obtained up to termination. It is agreed and understood that any University salary commitments referenced in a Work Order would be prorated accordingly.
  - (b) IFPMA shall pay any fees or costs incurred by University under this Agreement for service that were correctly performed and the results to which are provided to IFPMA.

**9. REVIEW/DISCUSSION/VISITS**

- 9.1 University shall promptly respond to any reasonable request by IFPMA from time to time during the performance of Services that University and its employers and collaborators review and discuss with representatives of IFPMA the progress of any Services and related matters.
- 9.2 The University will provide IFPMA a written summary of progress on the Work Order(s) every three (3) months during the Term.
- 9.3 If University encounters any unanticipated problem during the conduct of the Services, the University shall report this to IFPMA without delay, and any further action to be taken shall be decided in consultation with IFPMA.
- 9.4 At mutually agreeable times and upon reasonable prior notice, representatives of IFPMA or Sponsor may visit the facilities where the Services are being performed.

**10. MISCELLANEOUS**

- 10.1 **Assignment.** Neither Party may assign its rights and obligations under this Agreement or any Work Order without the other Party's prior written consent, except that IFPMA may: (a) assign

its rights and obligations under this Agreement or any Work Order or any part hereof to one or more of its Sponsors or affiliates who agree to be bound by the terms of this Agreement; or (b) assign this Agreement and any Work Orders in their entirety to a successor to all or substantially all of its business or assets to which this Agreement relates who agrees to be bound by the terms of this Agreement. Any permitted assignee will assume all obligations of its assignor under this Agreement and any affected Work Order (or related to the assigned portion in case of a partial assignment). Any attempted assignment in contravention of the foregoing will be void. Subject to the terms of this Agreement, this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

- 10.2 **Debarment and Disqualification.** University represents and warrants that: (a) neither it, nor any person employed or retained by University who provides any of the Services under this Agreement has been debarred under Section # 306 (a) or (b) of the Federal Food, Drug and Cosmetic Act or disqualified under any applicable law, rule or regulation; (b) that no debarred or disqualified person will be employed or retained by University in connection with any Service to be performed for or on behalf of IFPMA; and (c) that if at any time after the execution of this Agreement, University becomes aware that University or any person employed or retained thereby is, or is in the process of being debarred or disqualified, University will promptly notify IFPMA in writing.
- 10.3 **Conflicting obligations.** Each Party represents and warrants that: (a) it has full right and authority to enter into this Agreement and to accept all the obligations under this Agreement, (b) that to the best of its knowledge, it has no obligations with any third party which violate the terms of this Agreement, and that it will, during the term of this Agreement and that of any Work Order, not enter into such obligations
- 10.4 **Applicable law, Venue.** The parties agree to remain silent as to Applicable Law. Each party shall comply with all applicable laws of the country in which it is located. In the event of any dispute arising out of or in connection with the present Agreement, the Parties shall first use reasonable efforts to resolve the dispute informally within 21 days. In the event that such efforts do not lead to a resolution the Parties agree to refer the dispute to proceedings under the ICC Mediation Rules. Any mediation under this clause shall be held in in English. If the dispute has not been settled pursuant to the said Rules within 45 days following the filing of a Request for Mediation or within such other period as the parties may agree in writing, such dispute shall thereafter be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration. The language of arbitration shall be English. The arbitrators shall determine the applicable law and the venue of any arbitration necessitating the parties' presence.
- 10.5 **Notices.** Any notice required or authorized to be served hereunder shall be deemed to have been properly served if delivered by hand, by courier, or sent by registered or certified mail, or sent by facsimile transmission confirmed by registered or certified mail, to the party to be served at the address specified in the preamble to this Agreement and any relevant Work Orders. Notices sent by courier, or registered or certified mail shall be deemed to have been delivered within seven days after the date of posting. Notices sent by facsimile shall be deemed to have been delivered within 24 hours of the time of transmission.
- 10.6 **Entire Agreement.** This Agreement represents the entire agreement and understanding between the Parties relating to the subject matter of this Agreement, and supersedes all documents or verbal consents or understandings (if any) given or made between the parties prior to the date of this Agreement. None of the terms of this Agreement may be amended or

modified except by an instrument in writing signed by authorized representatives of the parties.

- 10.7 **Waivers.** Neither Party shall be deemed to have waived its rights under this Agreement or any Work Order unless such waiver is in writing and signed by such party and such waiver by one Party of a breach of any provision of this Agreement or any Work Order by the other party shall not be deemed to be a waiver of any subsequent or continuing breach of such provision or of the breach of any other provision of this Agreement by that other party. Any delay or omission on the part of any Party in the exercise of its strict rights hereunder will not impair those rights nor will it constitute a renunciation or waiver of those rights. All rights, remedies, undertakings, obligations and agreements contained in this Agreement and any Work Orders shall be cumulative, and none of them shall be a limitation of any other right, remedy, undertaking, obligation, or agreement of any of the parties.
- 10.8 **Force Majeure.** Neither Party shall be liable to the other Party for any failure to perform any obligation on its part hereunder to the extent that such failure is due to circumstances beyond its control which it could not have avoided by the exercise of reasonable diligence. The affected Party shall however notify the other Party as soon as practicable of the occurrence of any such circumstance, and the Parties shall meet to consider what steps, if any, can be taken to overcome any issues.
- 10.9 **Relationship.** In performing the Services, University is acting as an independent contractor and not as servant or agent of IFPMA. Further, nothing in this Agreement shall be construed or applied to create a legal relationship of partners, agency, or joint venture.
- 10.10 **Headings.** Headings in this Agreement are included for ease of reference only and have no legal effect.
- 10.11 **Preamble, Exhibits and Work Orders.** The preamble and all exhibits to this Agreement shall form an integral part of this Agreement. With regard to any conflict between the preamble, the exhibits and the terms of this Agreement, this Agreement shall govern.
- 10.12 **Survival.** Termination or expiration of this Agreement will not relieve either Party of any obligation accruing prior to expiration or termination, including any breach of such obligations, and all provisions which are expressed to or by implication survive this Agreement will remain in full force and effect.

*[Remainder of page intentionally left blank -- signature page follows.]*

Signature Page

IN WITNESS WHEREOF, the Parties intending to be bound have caused this Agreement to be executed by their duly authorized representatives effective as of the Effective Date.

IFPMA

By: 

Name: BRENDAN SHAW

Title: ASSISTANT DIRECTOR GENERAL

Date: 1 NOVEMBER 2016

Trustees of Boston University

By: 

Name:

Title:

Date:

<p><b>William P. Segarra</b> <b>Director of Contracting, Sponsored Programs</b> <u>11/1/2016</u></p>
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