TRANSFER AGREEMENT

BETWEEN
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
AND INTERNATIONAL DEVELOPMENT ASSOCIATION

AND
WORLD HEALTH ORGANIZATION

UNDER
THE GLOBAL MEDICINES REGULATORY HARMONIZATION INITIATIVE
MULTI-DONOR TRUST FUND (TF No. 010887)

WHEREAS the Global Medicines Regulatory Harmonization Initiative Multi-Donor Trust Fund (TF No.071682) (the “GMRH Trust Fund”) will be/is established through certain Administration Agreements among the International Bank for Reconstruction and Development and the International Development Association as the Administrator (the “Administrator”) and each of the Donors (collectively, the “Donors”) contributing funds to the GMRH Trust Fund (the “Administration Agreements”);

WHEREAS the Administrator and the World Health Organization (“WHO”, together with the Administrator, the “Parties”), are entering into this Transfer Agreement for the transfer of funds from the GMRH Trust Fund to finance the activities executed by WHO as described in Annex 1 of the Administration Agreements, as may be amended from time to time (the “WHO-executed Activities”);

NOW THEREFORE, the Parties hereto agree as follows:

1. In the event WHO requires specific funds from the GMRH Trust Fund to implement WHO-executed Activities, WHO shall present request(s) in the form of Schedule 1 attached hereto ( “Request”) to the Administrator.

2. Upon receipt of the Request from WHO, the Administrator shall transfer the requested amount to WHO by wire transfer to the account specified in such Request (a “Transferred Amount”), provided that (a) the Transferred Amount does not exceed the available uncommitted funds in the GMRH Trust Fund, and (b) the Transferred Amount is consistent with the specific funding allocations decided by the Donors for the WHO-executed Activities, which for the first year shall not exceed one million United States dollars ($1,000,000). The Donors shall decide on any additional funding and communicate their decisions in writing to WHO. The Transferred Amount may be used to retroactively finance payments for eligible expenditures incurred after July 20, 2011 in accordance with WHO’s policies and procedures.

3. WHO agrees that any Transferred Amounts and any income earned thereon (the “Funds”) shall be used by WHO only for WHO-executed Activities, and shall be governed by the terms
and conditions of this Transfer Agreement. Any amendment to the Annex 1 of the Administration Agreements shall directly apply to this Transfer Agreement, without requiring further amendment hereof, on a prospective basis as of the effectiveness of such amendment to: (i) funds already transferred to WHO but not yet expended or committed by WHO; and (ii) funds yet to be transferred to WHO; provided that the Administrator notifies WHO of any such amendment promptly following its effectiveness. It is understood and agreed that the Administrator shall consult with WHO on any proposal to amend the WHO-executed Activities included in Annex 1 of the Administration Agreements.

4. WHO agrees that the Funds shall be kept in one or more dedicated project accounts and separate and apart from the funds of WHO. The Funds in these dedicated project accounts may be commingled and may be freely exchanged by WHO into other currencies as may facilitate their further disbursement.

5. In order to assist in the defrayment of the costs of administration and other expenses incurred by WHO under this Transfer Agreement, WHO may levy a charge for programme support costs equivalent to thirteen percent (13%) of expenditures of any Transferred Amount, and retain funds recovered through this charge for WHO’s own account.

6. Following the transfer of any amounts requested by WHO: (i) WHO shall be responsible for the Funds and agrees to administer and use the Funds, including employment and supervision of consultants and the procurement of goods financed by the Funds, in accordance with WHO’s regulations, rules, policies, procedures and administrative practices; and (ii) the Administrator shall have no responsibility, fiduciary or otherwise, to the Donors or WHO or otherwise, for the implementation and supervision of activities financed by the Funds.

7. WHO acknowledges and agrees that the Administrator has no responsibility, under the Administration Agreements or otherwise, for: (i) confirming the use of the Funds; (ii) implementing, monitoring, supervising, evaluating or providing quality assurance for activities financed by the Funds; (iii) providing Donors with financial, progress, results or impact reporting for activities financed by the Funds, other than transferring reports provided by WHO; and (iv) any misuse or misprocurement with respect to the Funds, it being understood that WHO in turn has no responsibility for the aspects listed above with respect to funds in the GMRH Trust Fund that are not transferred to WHO. WHO acknowledges and agrees that any financial reports with respect to use of the Funds are the responsibility of WHO. WHO further acknowledges and agrees that any Donor remedy or pursuit of Donor interests with respect to the Funds shall arise directly between each Donor and WHO, without involvement of the Administrator.

8. WHO shall maintain separate records and ledger accounts with respect to the Funds and provide to the Administrator for distribution to the Donors (i) annual financial statements and auditors’ reports in accordance with WHO’s regulations, rules, policies, procedures and administrative practices; (ii) annual financial reports on the use of the Funds; and (iii) within six (6) months of the End Date (as defined below in paragraph 14), a final financial report on the use of the Funds. All financial statements, auditors’ reports and financial reports shall be presented in United States dollars.
9. Subject to paragraph 7 above: (i) WHO shall provide annual summary reports on progress in carrying out activities financed by the Funds, each including an assessment of impacts, outputs, and results, to the Administrator for distribution to the Donors; and (ii) WHO shall provide a final report on all such activities to the Administrator within six (6) months of the End Date (as defined below in paragraph 14) for distribution to the Donors.

10. Any notice or request required or permitted to be given or made under this Transfer Agreement shall be in writing delivered to the address set forth below or such other address that may be notified in writing by one Party to the other Party from time to time.

Administrator Contact:

Mr. Andreas Seiter  
Program Manager for GMRH and Senior Health Specialist  
Health, Nutrition and Population  
Human Development Network  
The World Bank  
1818 H Street, NW  
Washington, DC 20433  
U.S. A.

Tel:  +1 202 473-3629  
Fax:  +1 202 522-3234  
Email: aseiter@worldbank.org

WHO Contact:

Dr. Lembit Rago  
Coordinator Quality Assurance and Safety: Medicines (QSM)  
Department of Essential Medicines and Pharmaceutical Policies (EMP)  
World Health Organization (WHO)  
20, Avenue Appia, CH-1211, Geneva 27, Switzerland

Tel:  +41 22 791 4420  
Fax:  +41 22 791 4167  
Email: ragol@who.int

11. Each of the Administrator and WHO shall be responsible only for performing their respective functions specifically set forth in this Transfer Agreement and shall not be subject to any duties or responsibilities, including, without limitation, any duties or obligations that might otherwise apply to a fiduciary or trustee under general principles of trust or fiduciary law. Nothing in this Transfer Agreement shall be considered (i) a waiver of any privilege or immunities of the International Bank for Reconstruction and Development, the International Development Association under their respective Articles of Agreement or any applicable law, all of which are expressly reserved; or (ii) a waiver of any of the privileges or immunities enjoyed
by WHO under national or international law, all of which are expressly reserved, and/or as submitting WHO to any national court jurisdiction.

12. The Administrator will disclose this Transfer Agreement and related information on the GMRH Trust Fund in accordance with the World Bank Policy on Access to Information. By entering into this Transfer Agreement, WHO consents to the disclosure of this Transfer Agreement and related information on the GMRH Trust Fund. This provision shall continue in full force and effect following the completion of all GMRH Trust Fund disbursements and termination of the Administration Agreements.

13. This Transfer Agreement may be terminated by either Party upon three (3) months prior written notice. In the event of any such termination, unless the Parties agree otherwise: (i) any agreement entered into prior to the termination between WHO and any consultants and/or other third parties will remain in effect and be unaffected by the termination; and (ii) WHO will be entitled to continue to disburse Funds in respect of such agreements to the extent necessary to fulfill WHO's obligations thereunder as if this Transfer Agreement had not been terminated. All other Funds remaining with WHO after such termination shall be returned to the Administrator for deposit in the GMRH Trust Fund.

14. It is expected that all Funds will be disbursed by WHO by June 30, 2016 (the "End Date"). Any undisbursed Funds remaining with WHO after the End Date shall be returned to the Administrator for deposit in the GMRH Trust Funds.

15. If consistent with WHO's own established procedures to address such matters, WHO shall immediately inform all Donors, with a copy to the Administrator, of any illegal or corrupt practice in any project activities financed under the Transfer Agreement. Furthermore, consistent with WHO's current practices, any such finding of confirmed illegal or corrupt practice will be included in the internal auditors' annual report to the World Health Assembly. The Donor and the Administrator may each request a copy. After consultation with WHO, the Donors collectively, may ask the Administrator to withhold disbursements in the Transfer Agreement in case of: (a) substantial deviation from work plans and budgets approved by the Donors; (b) failure of WHO to comply with any terms of the Transfer Agreement; or (c) evidence of financial mismanagement of the WHO-executed Activities. In the case when (a), (b) or (c) above occurs, the Donors may claim repayment in full or in part directly from WHO to the extent WHO has been able to obtain repayment from the negligent party if the funds are found to be misused or not satisfactorily accounted for. Such repayment shall be in accordance with WHO's regulations, rules, policies, procedures and administrative practices. Before withholding disbursement or claiming repayment, WHO and the Donors shall consult with a view to resolving the matter promptly.

16. WHO agrees that each of the Donors shall have the rights specified in this Transfer Agreement as third party beneficiaries with the ability to seek direct recourse against WHO at any time for any enforcement or breach thereof. Subject to WHO's privileges and immunities, WHO irrevocably consents to the novation and/or assignment by the Administrator to any such Donor of any and all of such rights and further agrees to take any actions required by the Administrator and/any such Donor to give full effect and force to any such novation and/or
assignment. WHO agrees that the purpose of this clause is to enable each such Donor to seek direct enforcement or recourse against WHO with respect to unmet or breached obligations, including but not limited to the intended use of the Funds, hereunder.

17. This Transfer Agreement may be amended only by a written agreement between the Administrator and WHO. In the event of conflict between this Transfer Agreement and the Administration Agreements, the Administration Agreements shall prevail.

18. The Parties agree that upon receipt by the Administrator of the copy of this Transfer Agreement countersigned by WHO, this Transfer Agreement will become effective as of the date of WHO’s countersignature.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
and
INTERNATIONAL DEVELOPMENT ASSOCIATION

/\ CRISTIAN BAEZA

Cristian C. Baeza
Director
Health, Nutrition and Population
Human Development Network

Date: 11/10/2011

WORLD HEALTH ORGANIZATION

/\ CARISSA ETIENNE

Dr Carissa Etienne
Assistant Director-General
Health Systems and Services

Date: 11/25/2011
SCHEDULE 1

FORM OF WHO REQUEST FOR TRANSFER OF FUND

[WHO Letterhead]

[Insert Date]

Mr. Andreas Seiter
Program Manager for GMHR and
Senior Health Specialist
(Administrator Contact pursuant to the Transfer Agreement)
Health, Nutrition and Population
Human Development Network
The World Bank
1818 H Street, NW
Washington, DC 20433
U.S. A.

RE: GMRH Trust Fund, Transfer Agreement between the World Bank and WHO
(TF No. 010887)

Dear [ ]:

Reference is made to the Transfer Agreement between the International Bank for Reconstruction and Development and the International Development Association (collectively, the “Bank”) and the World Health Organization (“WHO”), effective as of [insert date], 2011 (the “Transfer Agreement”), in which the Bank agreed to transfer funds to WHO from the Global Medicines Regulatory Harmonization Initiative Multi-Donor Trust Fund (GMRH Trust Fund) consistent with the terms of the Administration Agreements for the GMRH Trust Fund (TF No. 071682).

Pursuant to paragraph 1 of the Transfer Agreement, WHO hereby requests you to transmit [insert amount in words] United States dollars (US$ [insert US dollar amount]) for WHO’s use, consistent with the terms of the Transfer Agreement, for the implementation of WHO-executed Activities under the GMRH Trust Fund.

Please make the payment by wire transfer to: [insert the name of bank, account information and other transmittal details].

Sincerely,

WORLD HEALTH ORGANIZATION

[Insert Name]
[Insert Title]
As WHO Contact pursuant to the Transfer Agreement