

Memorandum of Understanding

Agreement No. 198928

THIS AGREEMENT is made as of the 20th day of July, 2017 ("Effective Date"), by and between Lala Lajpat Rai University of Veterinary and Animal Sciences (hereinafter referred to as "LUVAS") and The Pennsylvania State University (hereinafter referred to as "PSU"); and collectively referred to as "PARTIES".

WHEREAS, the Bill and Melinda Gates Foundation (hereinafter called "BMGF") may issue a Grant Agreement to PSU, and

WHEREAS, PARTIES believe it to be in their best interest to enter into a Prime Award/Subaward relationship to meet the BMGF's requirement, and

WHEREAS, PSU in consultation with LUVAS has submitted a proposal to above identified BMGF;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the Parties hereto agree as follows:

I. RELATIONSHIP OF THE PARTIES

a. PARTIES agree to work together to prepare a proposal for a Grant Agreement (hereinafter called the "Proposal"), to submit Proposal to the BMGF. PSU agrees to negotiate the Grant Agreement with the BMGF and the Parties agree to negotiate a subaward, and to carry out any follow-up work related to the foregoing (hereinafter collectively called the "Task"). In carrying out work pursuant to the Task, PSU shall serve as Prime awardee and shall submit the Proposal to the BMGF. PSU will identify LUVAS as the proposed subawardee for the portion of the effort which is described in Attachment A hereto. If PSU is awarded a Grant Agreement based on the Proposal, PSU agrees to award a subaward to LUVAS based on the portion of effort described in Attachment A hereto (hereinafter called the "Project") to the extent approved and authorized by BMGF and consistent with BMGF rules and regulations. Such subaward shall be subject to mutual agreement between PARTIES as to specific terms and conditions; provided, however, LUVAS hereby agrees to accept all provisions of the Prime Grant Agreement required by BMGF to flow down to LUVAS.

b. Nothing herein shall be taken or construed so as to create a partnership or joint venture or impose a partnership obligation or liability or an association for profit between PARTIES. Each party hereto, in conducting its portion of the Task, shall perform as an independent contractor and nothing herein shall be construed or applied so as to create the relationship of principal and agent, partnership, or employer and employee between PARTIES. The rights and obligations of the PARTIES under this Agreement are limited to those expressly set forth herein.

c. Nothing contained in this Agreement shall be construed to provide for the sharing of profits or losses arising out of any Grant Award or subaward that may result from the efforts of either or both parties pursuant to this Agreement.

d. Nothing contained in this Agreement shall restrict either party from the marketing or sale of products or services or other commercial efforts that are unrelated to the Project, Task, or Proposal.

e. It is agreed that PSU may enter into one or more agreements with other potential subawardees for portions of the effort in addition to that described in Attachment A hereto.

## 2. RESPONSIBILITIES OF THE PARTIES

a. PARTIES shall use their best efforts to prepare and submit the Proposal to BMGF, to secure any Grant Agreement that may be issued based on the Proposal, and to coordinate their efforts carried out pursuant to the Task. In carrying out the Task, PSU shall be responsible, in its sole reasonable discretion, for overall management and all other functions, responsibilities, and authorities required for the Task. LUVAS agrees to timely supply resumes of personnel and other information concerning its capabilities that are necessary in PSU's reasonable opinion for an adequate Proposal. This information will be of the type, variety, and format specified by PSU.

b. When and as requested by PSU, LUVAS shall submit to PSU accurate current, complete, reasonable pricing and other information in sufficient detail to be reasonably responsive in the Proposal and to permit PSU to negotiate a Grant Agreement with the BMGF and a subaward with LUVAS both pursuant to the Proposal.

c. PSU shall have final authority, in its sole reasonable discretion, to determine the final form and content of the Proposal.

d. It is also agreed that all research and investigations will be conducted as per requirements of the Project and in accordance with the proposed statement of work. All LUVAS investigators, researchers and participants agree to offer their best cooperation and make contributions to succeed with the goals of the project(s). All LUVAS participants related to this project agree to undertake and provide timely results and progress reports as required by the funding agency and PSU.

## 3. SUBAWARD

In the event that PSU is awarded a Grant Agreement for the Project, the PARTIES shall promptly enter into negotiations, in good faith, to reach agreement with respect to the terms and conditions of a subaward to be awarded by PSU to LUVAS for the portion of the effort described in Attachment A that is applicable to the Grant Agreement as awarded. Any subaward and the terms and conditions thereof agreed to by the PARTIES to be awarded by PSU to LUVAS pursuant to such Grant Agreement shall be subject to the prior authorization and final approval of the BMGF, and shall include all clauses and provisions required by the BMGF and the Grant Agreement to be included in any such subaward.

## 4. COST, EXPENSE, AND LIABILITY

Each party hereto shall bear any and all costs and expenses incurred by it pursuant to its performance under this Agreement and/or in connection with the Task. Each party hereto shall be responsible for all losses, claims, damages, judgments, costs, expenses, and liabilities for injuries to or death of its personnel or third parties or for damage to or destruction of its or third party property arising out of its efforts in connection with the subject matter of this Agreement and shall indemnify and hold the other party hereto harmless from all such losses, claims, damages, judgments, costs, expenses, and liabilities. Neither party hereto shall make any commitment or incur any charge or expense in the name of the other party hereto.

## 5. CONFIDENTIAL INFORMATION

In the performance of the Task inclusive of the proposal preparation, certain information (technical, financial and the like) may necessarily be exchanged between PARTIES. To the extent that such information is Confidential to the disclosing party, it is agreed that the disclosing party shall supply

such information, to the extent practical, in writing and shall identify such information as Confidential by marking it clearly as Confidential to the disclosing party. In the case of information disclosed in non-documentary form, made orally or by visual inspection, the disclosing party shall have the obligation to confirm in writing the fact and general nature of each disclosure within thirty (30) days after it is made. Each party shall take reasonable precautions to prevent disclosure of such Confidential Information received by it pursuant to this Agreement to any person or firm, other than the BMGF for use in evaluation of the Proposal. Confidential Information which is so exchanged shall only be disclosed and used by the receiving party in connection with the Task effort and/or the performance of the resulting Grant Agreement or subaward. Unless otherwise agreed by the parties hereto pursuant to a subaward relating to the Proposal, upon termination of the Agreement, all Confidential Information received here under shall be returned by the receiving party to the disclosing party except that the receiving party may retain one copy of such information for archival purposes. Except as limited below, the obligations and restrictions imposed by this Article 5 will survive the termination of this Agreement for a period of five (5) years from the Effective Date. The obligations and restrictions imposed are limited as follows:

a. Neither party shall be liable for disclosure or use of Confidential Information which:

(1) the receiving party is able to prove was known to it in writing prior to the time of receipt of same from the disclosing party;

(2) now is or hereafter becomes, part of the public knowledge without breach of this Agreement by the receiving party; or


(3) becomes available to the receiving party from a source other than the disclosure party, including the Government, and without breach of this Agreement by the receiving party.

All Confidential Information shall remain the exclusive property of the disclosing party. The Parties agree that this Agreement and the disclosure of the Confidential Information do not grant or imply any license, interest or right to the other Party in respect to any Intellectual Property rights.

## 6. TERMINATION

This agreement shall terminate upon the first occurrence of any of the following events and neither party shall have any further rights or obligations, except for those contained in Articles 4 and 5 above:

- a. Written notice by PSU that it will not submit a Proposal as contemplated herein.
- b. An official BMGF announcement that the Project has been canceled.
- c. An official BMGF announcement that a Grant Agreement will not be awarded to PSU.
- d. Negotiation and award by PSU of a subaward to LUVAS.
- e. Failure of the BMGF to consent to LUVAS as a subaward.
- f. Mutual written agreement of both parties to terminate this Agreement.
- g. Expiration of twelve (12) months from the date of submission of the Proposal.
- h. Material breach of this Agreement.



A handwritten signature in black ink is written over a circular stamp. The stamp contains the text "U.S. DEPARTMENT OF STATE" and "OFFICE OF THE ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS".

**7. EXPORT CONTROL**

PARTIES are subject to applicable U.S. export laws and regulations. Disclosing party shall identify any export controlled information or materials as such prior to providing such information or materials to receiving party.

**8. PUBLICITY AND INFORMATION TRANSFER**

No news release or public announcement may be made by LUVAS concerning the Project, Task, or Proposal, or the efforts of PARTIES in connection with same or any resulting Grant Agreement without prior review and written approval of PSU. Any announcements or publicity made by either party hereto shall give full consideration and representation to the roles and contributions of both parties hereto. Any information to be provided by LUVAS to the BMGF in respect of the Proposal or Task shall be provided through PSU. If the BMGF requests information directly from LUVAS, LUVAS will immediately notify PSU. The use of the logo and/or official emblem of the other Party will require prior review and written approval from that Party. The logo and/or official emblem shall not be misused.

**9. REPRESENTATIVES**

For all purposes of coordination and communication required by this Agreement, the parties will be represented as set forth below. The person named may be changed by either party by providing written notice of such change to the other party.

For contractual matters:

PSU:

John W. Hanold, VP for Research  
and Director of Sponsored Programs  
Office of Sponsored Programs  
110 Technology Center  
University Park, PA 16802-7000  
Phone: 814-865-1372  
Email: [osp@psu.edu](mailto:osp@psu.edu)

LUVAS:

Professor and Head  
Department of Veterinary Public Health and  
Epidemiology, College of Veterinary Sciences  
LUVAS, Hisar - 125 004  
India.  
Phone: +91-1662-256106  
Email: [hod.vpe@luvas.edu.in](mailto:hod.vpe@luvas.edu.in)

For technical information:

PSU:

Dr. Vivek Kapur  
College of Engineering  
205 Wartik Laboratory  
University Park, PA 16802  
Phone: 814-865-9788  
Email: [vxkl@psu.edu](mailto:vxkl@psu.edu)

Dr. Naresh Jindal  
Department of Veterinary Public Health and  
Epidemiology, College of Veterinary Sciences  
LUVAS, Hisar - 125 004  
India.  
Email: [nareshjindal1@gmail.com](mailto:nareshjindal1@gmail.com)

**10. APPLICABLE LAW**

This Agreement shall be deemed to be made under and shall be governed by laws of the Commonwealth of Pennsylvania in all respects, including matters of construction validity and performance.



## 11. ASSIGNMENT

This Agreement may not be assigned or otherwise transferred by either party hereto, in whole or in part, without the prior written consent of the other party hereto.

## 12. GLOBAL ACCESS

Per Article 1, LUVAS hereby agrees to accept all provisions of the Prime Grant Agreement required by BMGF to flow down to LUVAS. The following terms are what is expected to be received from the BMGF in the Prime Grant Agreement to PSU, in the event that PSU is awarded the Project. However, in the event that the Prime Grant Agreement to PSU does not include the following, this language will be superseded by the language received in the Prime Grant Agreement, which will be included in the Subaward to LUVAS.

### a. Global Access Commitment

LUVAS will conduct and manage the Project and the Funded Developments in a manner that ensures Global Access. LUVAS's Global Access commitments will survive the term of the Subaward. "*Funded Developments*" means the products, services, processes, technologies, materials, software, data, other innovations, and intellectual property resulting from the Project (including modifications, improvements, and further developments to Background Technology). "*Background Technology*" means any and all products, services, processes, technologies, materials, software, data, other innovations, and intellectual property created by LUVAS or a third party prior to or outside of the Project used as part of the Project. "*Global Access*" means: (a) the knowledge and information gained from the Project will be promptly and broadly disseminated; and (b) the Funded Developments will be made available and accessible at an affordable price (i) to people most in need within developing countries, or (ii) in support of the U.S. educational system and public libraries, as applicable to the Project.

### b. Publication

For the purpose of achieving Global Access, LUVAS will seek prompt publication of any Funded Developments consisting of data and results in a peer-reviewed journal, treatise, or trade publication, as applicable. Such publication may be delayed for a reasonable period for the sole purpose of seeking patent protection, provided the patent application is drafted, filed, and managed in a manner that best furthers the charitable purpose of the Subaward. LUVAS will also use good faith efforts to ensure that its subcontractors, agents, and affiliates, as applicable, likewise seek prompt publication of any Funded Developments consisting of data and results.

### c. Publication in Peer-Reviewed Journals

If LUVAS seeks publication of Funded Developments in a peer-reviewed journal, such publication shall be under "open access" terms and conditions consistent with the Foundation's Open Access Policy available at: <http://www.gatesfoundation.org/How-We-Work/General-Information/Open-Access-Policy>, which may be modified from time to time.

## 13. PUBLICATION

The following terms are expected to be in accordance with the BMGF's Prime Grant Agreement to PSU, in the event that PSU is awarded the Project. However, in the event that the following is not in accordance with the Prime Grant Agreement to PSU, this language will be



A handwritten signature in black ink is present, along with a circular stamp that is partially obscured and difficult to read. The signature appears to be written in a cursive style.

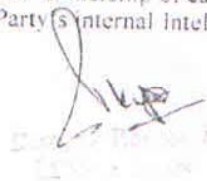
superseded by the language received in the Prime Grant Agreement, which will be included in the Subaward to LUVAS.

Both Parties agree they will make available to the public the results of the Project, or any reports or other publications regarding the Research (collectively, the "Materials"), and anticipate that the Materials will be published in a treatise, thesis, trade publication, or in any other format that is available for the interested public as soon as practical. Specifically, PSU and LUVAS will use good faith efforts and work in a collaborative fashion to facilitate broad dissemination and accessibility of the Materials. Consistent with this, both parties shall have the right to publish Materials.

Proper credit will be given to those individuals who make material contributions to activities which lead to scholarly reports, papers and publications. Co-authorship should be offered to anyone who has clearly made a material contribution to the work. Moreover, each coauthor should be furnished with a copy of the manuscript before it is submitted, and allowed an opportunity to review it prior to submission. An author submitting a paper, report or publication should never include the name of a coauthor without the person's consent. In cases where the contribution may have been marginal, an acknowledgment of the contribution in the publication might be more appropriate than co-authorship. Anyone accepting co-authorship of a paper must realize that this action implies a responsibility as well as a privilege. As a general rule, each coauthor should understand the content of the publication well enough to be able to take responsibility for all of it; otherwise, the publication should clearly indicate the parts of which each coauthor has responsibility. If a potential coauthor has doubts concerning the correctness of the content or conclusions of a publication, and if these doubts cannot be dispelled by consultation with the other coauthors, the individual should decline co-authorship.

#### 14. INTELLECTUAL PROPERTY

- (a) The following terms are expected to be in accordance with the BMGF's Prime Grant Agreement to PSU, in the event that PSU is awarded the Project. However, in the event that the following is not in accordance with the Prime Grant Agreement to PSU, this language will be superseded by the language received in the Prime Grant Agreement, which will be included in the Subaward to LUVAS.
- (b) "Intellectual Property" shall mean certain inventions and/or discoveries intellectually conceived and/or reduced to practice in performance of this Project and resulting patents, divisions, continuations, or substitutions of such applications and all reissues thereof.
- (c) "Joint Invention" shall mean any Intellectual Property intellectually conceived or made jointly by at least one employee of both University and Sponsor.
- (d) Any Intellectual Property conceived or made in the performance of the Project shall vest jointly or individually in PSU and/or LUVAS in accordance with the following criteria:
  - (i) Title to any Intellectual Property conceived or made jointly by at least one employee of both PSU and LUVAS ("Joint Invention") shall vest jointly in PSU and LUVAS.
  - (ii) Title to any Intellectual Property conceived or made solely by at least one employee of either PSU or LUVAS shall be owned solely by the party whose employees conceived such invention and discovery.
  - (iii) LUVAS will promptly disclose to PSU in writing any Intellectual Property conceived and/or reduced to practice during the Project. Such disclosure shall be sufficiently detailed for PSU to assess the commercial viability of the technology and shall be provided and maintained in confidence pursuant to the terms of Article 5.
  - (iv) Inventorship shall be determined according to patent law. Ownership of each invention shall reflect inventorship according to each Party's Internal Intellectual

A handwritten signature in black ink is written over a faint, circular stamp. The signature is stylized and appears to be 'LUVAS'. The stamp is mostly illegible but seems to contain some text around the perimeter.

Property policy. Each party shall notify the other Party of any invention arising from the Project.

**15. ENTIRE AGREEMENT AND AMENDMENT**

a. This Agreement contains the entire agreement between the PARTIES hereto with respect to the subject matter hereof and supersedes any prior oral or written agreements, commitments, understandings, negotiations, representations or communications with respect to the efforts of the parties hereto in respect of the Project, Proposal, and Task.

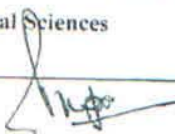
b. This Agreement may not be modified or amended except by written agreement signed by officers of both PARTIES hereto.

c. If any part, term, or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any federal, state, or local law, the remaining portions or provisions shall be constructed so as not to be affected thereby.

d. The waiver, express or implied, of a specific breach of a term or condition of this Agreement shall not be taken as a continuing waiver of any subsequent breach.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first written above.

LalaLajpat Rai University of Veterinary  
and Animal Sciences

  
\_\_\_\_\_

Name: DR. P.K. KAPOOR

Title: \_\_\_\_\_

Date: 13-02-2017

The Pennsylvania State University

  
\_\_\_\_\_

Name: Brenda L. Brooks

Title: Associate Director of Sponsored Programs

Date: 12/20/17