

THIRD AMENDMENT AGREEMENT

This **THIRD AMENDMENT AGREEMENT** (this “**Third Amendment**”), entered into as of the 5th day of May, 2021 (the “**Third Amendment Effective Date**”), is by and between (1) Swiss Confederation, represented by Federal Office of Public Health, Schwarzenburgstrasse 157, 3003 Bern, Switzerland and The Swiss Armed Forces Pharmacy, Worblentalstrasse 36, 3063 Ittigen, Switzerland (collectively “**Purchaser**”), and (2) Moderna Switzerland GmbH, a limited liability company (“*Gesellschaft mit beschränkter Haftung*”) organized and existing under the Laws of Switzerland with company number CHE-344.522.989 and registered address at Aeschenvorstadt 48 [REDACTED] 4051 Basel, Switzerland (“**Moderna**”). Purchaser and Moderna are referred to in this Third Amendment individually as a “**Party**” and together as the “**Parties**”.

WHEREAS, Purchaser and Moderna entered into a supply agreement, dated August 5, 2020, relating to the supply of filled and finished mRNA-1273, as amended by that First Amendment Agreement dated as of December 4, 2020 and that Second Amendment Agreement dated as of February 2, 2021 (the “**Supply Agreement**”); and

WHEREAS, the Parties wish to amend the Supply Agreement as provided in this Third Amendment.

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

1. DEFINITIONS. Unless specifically set forth to the contrary herein, capitalized terms used but not defined herein will have the meanings ascribed to such terms in the Supply Agreement.

2. PURCHASE CONTRACTS.

2.1 The Parties hereby acknowledge and agree that the Parties may enter into one or more separate purchase contracts that have been agreed to by the Parties (each a “**Purchase Contract**”). Each Purchase Contract will include, at a minimum, a reference to the Supply Agreement, a description of the product(s) to be purchased by Purchaser, the payment terms for such product(s), a delivery schedule for such product(s), the term of such Purchase Contract, and any other relevant terms set forth therein. Each Purchase Contract will be governed by, subject to and incorporated into the Supply Agreement, although the terms of the relevant Purchase Contract will apply only to the product(s) described in that Purchase Contract and certain terms of the Supply Agreement may be expressly disclaimed in such Purchase Contract for purposes of such product(s). For clarity, any references to the Supply Agreement in each Purchase Contract will include all amendments included in this Third Amendment and any other amendments or restatements to the Supply Agreement that may be executed by the Parties from time to time unless any such amendment or restatement provides that it shall not apply to any given Purchase Contract.

3. AMENDMENTS.

3.1 Section 4.10(ii) of the Supply Agreement is hereby deleted and restated as follows:

“(ii) Moderna and its Affiliates, or any other Moderna Party acting on its behalf, will not sell, resell, transfer, hypothecate, assign, import or distribute the Product in the Territory for use and administration in Switzerland to any person other than Purchaser or any of its Related Parties until the earliest of (a) six (6) months following the final Delivery of the then-current Confirmed Volume

under this Agreement, (b) the distribution of all of the Confirmed Volume of Product from the Delivery Site for administration (to be notified promptly by the Purchaser to Moderna in writing). (c) a termination of this Agreement under Section 12.2(ii), 12.2(iv), or 12.2(v) as a result of Purchaser's material breach, or (d) six (6) months following a termination of this Agreement under Section 12.2 (other than Section 12.2(ii), 12.2(iv), or 12.2(v) as a result of Purchaser's material breach); provided, however, that this Section 4.10(ii) will not in any way restrict the ability of any Moderna Party to (A) carry out any and all activities in the Territory relating to the Manufacture of the Product (in any form, including bulk or filled and finished Product) or the sale, resale, transfer, hypothecation, assignment, import, export or distribution of the Product (in any form, including bulk or filled and finished Product) for any country or jurisdiction other than the Territory, (B) perform any activities that are reasonably necessary or useful to file, obtain and maintain any Marketing Authorization or pricing or reimbursement approval, license or authorization for the Product in the Territory, or (C) perform any activities that are reasonably necessary or useful for the marketing, sale, resale, transfer, hypothecation, assignment, import, export or distribution of the Product (in any form, including bulk or filled and finished Product) for use and administration in the Territory through customary distribution channels and in accordance with customary pricing and reimbursement mechanisms of pharmaceutical and medicinal products in the Territory by July 1, 2022 or as soon as reasonably practicable thereafter."

3.2 A new Section 7.2(iv) is hereby added to the Supply Agreement:

"(iv) Moderna (itself or through its Affiliates, collaborators or contractors) will use Reasonable Best Efforts to be able to distribute the Product for use and administration in the Territory through customary distribution channels and in accordance with customary pricing and reimbursement mechanisms of pharmaceutical and medicinal products in the Territory by July 1, 2022 or as soon as reasonably practicable thereafter."

3.3 Section 12.1 of the Supply Agreement is hereby deleted and restated as follows:

"12.1 Term.

(i) The term of this Agreement will commence on the Effective Date and will continue until the earliest of (a) the date that all of the then current Confirmed Volume, then current Additional Volume and then current Second Additional Volume of the Product has been delivered by Moderna to Purchaser, (b) the termination of this Agreement in accordance with Section 12.2 or (c) June 30, 2023 (the "**Term**").

(ii). Independently, and solely to the extent of each identified volume stated in the applicable subsection below, the Term of this Agreement will expire as follows:

(a) solely with respect to the Confirmed Volume, on December 31, 2021 in the event that all of the then current Confirmed Volume has not been delivered by Moderna to Purchaser by such date;

(b) solely with respect to the Additional Volume, on March 31, 2022 in the event that all of the Additional Volume has not been delivered by Moderna to Purchaser by such date; or

(c) solely with respect to the Second Additional Volume, on (1) June 30, 2022 (if Purchaser does not exercise its option to delay delivery pursuant to Section 6.10), (2) September 30, 2022 (if Purchaser exercises its option pursuant to Section 6.10 to delay delivery of all or any part of the Second Additional Volume to the first Calendar Quarter of 2022

only) or (3) December 31, 2022 (if Purchaser exercises its option pursuant to Section 6.10 to delay delivery of all or any part of the Second Additional Volume to the second Calendar Quarter of 2022), in the event that all of the Second Additional Volume has not been delivered by Moderna to Purchaser by such date.

For example, if on January 1, 2022, all of the then current Confirmed Volume has not been delivered by Moderna to Purchaser, then this Agreement will expire solely with respect to the Confirmed Volume, and this Agreement will continue in full force and effect with respect to the Additional Volume and the Second Additional Volume.

(ii) The term of any Purchase Contract will be set forth in such Purchase Contract. In the event that the Term of this Agreement expires or terminates while any Purchase Contract is still in effect, such Purchase Contract (including any provisions of this Agreement applicable thereto or referenced therein) will continue in full force and effect in accordance with its terms until the end of the term of such Purchase Contract.”

4. MISCELLANEOUS.

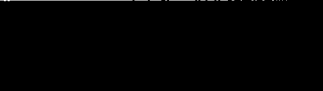
4.1 This Third Amendment will be construed and the respective rights of the Parties determined in accordance with the substantive Laws of Switzerland, notwithstanding any provisions of Swiss Laws or any other Laws governing conflicts of laws to the contrary, and the patent Laws of the relevant jurisdiction without reference to any rules of conflicts of laws to the contrary. Each Party, and its Affiliates and Related Parties, disclaims any reliance on any representation, act or omission other than what is expressly set forth in this Third Amendment. The Parties expressly reject any application to this Third Amendment of the United Nations Convention on Contracts for the International Sale of Goods.

4.2 The provisions of Section 13.3 (*Dispute Resolution*), Section 13.5 (*Severability*), Section 13.6 (*Headings*), Section 13.7 (*Waiver of Rule of Construction*), Section 13.8 (*Interpretation*), Section 13.12 (*Independent Parties*) and Section 13.13 (*Counterparts*) of the Supply Agreement are incorporated herein by reference as though set forth herein, *mutatis mutandis*.

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IN WITNESS WHEREOF, the Parties have caused this Third Amendment to be executed by their duly authorized representatives as of the Third Amendment Effective Date.

**SWISS CONFEDERATION, represented by
FEDERAL OFFICE OF PUBLIC HEALTH**

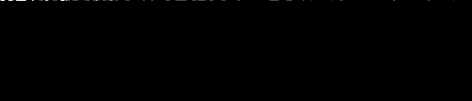
BY: 

NAME: Anne Lévy
TITLE: Director-General of the Federal Office of Public Health

BY: 

NAME: ROBERTO RUFFALO INSA
TITLE: VICE DIRECTOR GENERAL

THE SWISS ARMED FORCES PHARMACY

BY: 

NAME: J. Süssli S.S. 2021
TITLE: Chief of Armed Forces

BY: 

NAME:
TITLE:

IN WITNESS WHEREOF, the Parties have caused this Third Amendment to be executed by their duly authorized representatives as of the Third Amendment Effective Date.

MODERNA SWITZERLAND GMBH

BY: 
NAME: 
TITLE: 