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PURCHASE CONTRACT NO. 02

This **PURCHASE CONTRACT NO. 02** (this "**Purchase Contract**"), dated as of the 18th day of March, 2022 (the "**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 Peter Merian-Weg 10, 4052 Basel, Switzerland ("**Moderna**"). Purchaser and Moderna are referred to in this Purchase Contract individually as a "**Party**" and together as the "**Parties**".

WHEREAS, Purchaser and Moderna entered into that certain agreement, dated as of August 5, 2020, by and between Purchaser and Moderna, as amended, restated and/or modified from time to time (the "**Supply Agreement**");

WHEREAS, the Supply Agreement permits the Parties to enter into Purchase Contracts; =

WHEREAS, Purchaser and Moderna entered into a Purchase Contract No. 01 under the Supply Agreement, dated May 4, 2021, relating to the supply of a booster version of mRNA-1273 (the "**Purchase Contract No. 1**"); and

WHEREAS, the Parties wish to enter into this Purchase Contract No. 2 to supply an additional Seven Million (7,000,000) doses of Product (as defined below) for anticipated delivery in 2023 with the option for a further additional Seven Million (7,000,000) of Product for anticipated delivery in 2023 or 2024, each in accordance with the terms and conditions set forth herein.

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

1. DEFINITIONS.

Capitalized terms that are not otherwise defined herein will have the meanings ascribed to such terms in the Supply Agreement. Unless specifically set forth to the contrary herein, the following terms, whether used in the singular or plural, will have the respective meanings set forth below:

1.1 "**Change Notice**" has the meaning set forth in Appendix A.

1.2 "**Combination Product**" means the finished and packaged form of any combination vaccine that (a) is developed and controlled by Moderna or its Affiliates, and (b) targets SARS-CoV-2 together with one or more non-SARS-CoV-2 viruses or pathogens, such as influenza.

1.3 "**Delivered Doses**" means, as of the applicable time, the actual aggregate number of doses of Product delivered under this Purchase Contract.

1.4 "**Delivered Product Payment**" means, for each delivery of Product, the US dollar amount equal to (a) the number of Delivered Doses multiplied by (b) seventy percent (70%) of the relevant Price Per Dose for such Delivered Doses.

1.5 "**Delivered Product Payments**" means, collectively, all of the Delivered Product Payments hereunder.

1.6 "**Delivery Site**" means warehouse in Switzerland operated by the Swiss Armed Forces Pharmacy and to be specified by Purchaser to Moderna in writing at least thirty (30) days prior to the first delivery of the Product (or any other location as mutually agreed to by Purchaser and Moderna).

1.7 "**End Date**" has the meaning set forth in Article 8.1.

1.8 "**Firm Order Quantity**" means (a) as of the Effective Date, Seven Million (7,000,000) doses of the Product, and (b) at any given time during the Term, Seven Million (7,000,000) doses of the Product as may be adjusted in accordance with this Purchase Contract.

1.9 "**Initial Upfront Payment**" means US$67,200,000.00, representing a US dollar amount equal to thirty percent (30%) of the Firm Order Quantity multiplied by the Price Per Dose in Article 1.19(i) for Product presented in 5 dose vials.

1.10 "**mRNA-1273 Booster**" has the meaning set forth in Appendix A

1.11 "**mRNA-1273 Product**" means Moderna's proprietary primary series vaccine product(s) to target the SARS-CoV-2 coronavirus 2019 strain identified as the cause of the pandemic outbreak in early 2020 or certain variants or mutations thereto, which is currently identified as mRNA-1273.

1.12 "**Next Generation Booster**" means the finished and packaged form of any booster vaccine that (a) is developed and controlled by Moderna or its Affiliates and (b) receives Marketing Approval in the Territory after the Effective Date. For clarity, the Next Generation Booster may (i) incorporate modifications to the mRNA sequence for the purpose of targeting mutations or variants of the SARS-CoV-2 virus, including any monovalent or multivalent versions of the vaccine; and/or (ii) incorporate a new formulation or dosage, including any booster specific formulation/dosage; and/or (iii) any combination of (i) and (ii); in each case ((i)-(iii)) whether covered by the same or a separate Marketing Approval.

1.13 "**November Delivery Schedule**" has the meaning set forth in Section 5.1(ii).

1.14 "**Option Exercise Payment**" means, the US dollar amount equal to thirty percent (30%) of the sum of:

(i) the number of doses of Product in the Option Increase presented in 5 dose vials multiplied by the Option Price Per Dose in Article 1.17(i); plus

(ii) the number of doses of Product in the Option Increase presented in single dose vials multiplied by the Option Price Per Dose in Article 1.17(ii); plus

(iii) the number of doses of Product in the Option Increase presented in pre-filled syringes multiplied by the Option Price Per Dose in Article 1.17(iii).

1.15 "**Option Increase**" has the meaning set forth in Article 3.3.

1.16 "**Option Notice**" has the meaning set forth in Article 3.3.

1.17 "**Option Price Per Dose**" means

(i) For Product presented in 5 dose vials, US$32.00 (Thirty Two US Dollars); and

(ii) For Product presented in single dose vials, US$35.00 (Thirty Five US Dollars); and

(iii) For Product presented in pre-filled syringes, US$38.00 (Thirty Eight US Dollars).

1.18 **"Payment Amount"** means the US dollar amount equal to the Initial Upfront Payment, the True-Up Payment (if applicable), the Option Exercise Payment (if applicable), and the Delivered Product Payments, in each case actually paid to Moderna under this Purchase Contract.

1.19 **"Price Per Dose"** means:

(i) For Product presented in 5 dose vials, US$32.00 (Thirty Two US Dollars); and

(ii) For Product presented in single dose vials, US$35.00 (Thirty Five US Dollars); and

(iii) For Product presented in pre-filled syringes, US$38.00 (Thirty Eight US Dollars).

1.20 **"Product"** have the meaning set forth in Appendix A.

1.21 **"Refund Amount"** means, for the number of doses of Product (a) reduced in accordance with Article 5.3(i), (b) cancelled in accordance with Article 5.3(iii), or (c) undelivered as a result of a termination of this Agreement pursuant to Articles 8.2(iii) and subject to the termination consequences pursuant to Article 8.3(iii) (as applicable), the US dollar amount equal to seventy percent (70%) of the amounts actually paid by Purchaser to Moderna prior to the applicable reduction, cancellation or termination date for such number of reduced, cancelled or undelivered doses of Product, respectively.

1.22 **"SARS-CoV-2"** means the SARS-CoV-2 coronavirus 2019 strain identified as the cause of the pandemic outbreak in early 2020.

1.23 **"Term"** has the meaning set forth in Article 8.1.

1.24 **"True-Up Payment"** has the meaning set forth in Appendix A.

2. PURCHASE CONTRACT.

2.1 This Purchase Contract will be considered a "Purchase Contract" for purposes of the Supply Agreement, and the terms and conditions of the Supply Agreement will apply with respect to the Product as defined herein purchased under this Purchase Contract unless otherwise specified herein. For clarity, (a) any references to "Product" under the Supply Agreement will be deemed to be for the "Product" as defined in this Purchase Contract, (b) "Product" as defined in this Purchase Contract will not be considered "Confirmed Volume", "Additional Volume" or "Second Additional Volume", each as defined in the Supply Agreement and (c) this Purchase Contract will not apply to (i) the purchase of the original "Product" (i.e., mRNA-1273 Product) under the Supply Agreement, (ii) "Product" under the

Purchase Contract No. 1, or (iii) any other Purchase Contracts that the Parties may execute from time to time. In the event of a conflict between the terms of the Supply Agreement and this Purchase Contract, this Purchase Contract will apply with respect to the specific terms set forth herein.

3. ORDERS.

3.1 Firm Order Quantity. Subject to the terms set forth herein (including Article 5.3), Purchaser will purchase, and Moderna will Manufacture and supply, the Firm Order Quantity of the Product in accordance with this Purchase Contract. For clarity, the Firm Order Quantity is binding and non-cancellable, except as expressly provided for in Articles 5.3(i), 5.3(iii) and 8.3(iii).

3.2 Option. Purchaser may, at its sole discretion, exercise in up to two (2) tranches an option to increase the number of doses of Product to be purchased by Purchaser under this Purchase Contract by up to Seven Million (7,000,000) additional doses of Product for anticipated delivery in 2023 or 2024; provided that any such option must be exercised with a minimum quantity of Two Million Five Hundred Thousand (2,500,000) doses of Product.

3.3 Option Exercise. Purchaser may exercise its option in up to two (2) tranches at any time during the period commencing on the Effective Date and continuing until 11:59 pm EDT on April 1, 2023 regarding deliveries in the second semester 2023, respectively September 1, 2023 regarding deliveries in the calendar year 2024 by providing written notice to Moderna (each such written notice, the "**Option Notice**"), which Option Notice will include (a) the number of additional doses of Product (including the requested allocation of the Product in 5 dose vials or single dose vials or pre-filled syringes) that Purchaser is committing to purchase under this Purchase Contract (such additional doses, the "**Option Increase**") and (b) a calculation of the Option Exercise Payment for the respective Option Increase. In the event that Purchaser issues a proper and timely Option Notice, then, subject to the terms set forth herein, Moderna will Manufacture and supply the doses of the Product in the respective Option Increase to Purchaser in accordance with this Purchase Contract. Any written notification issued after 11:59 pm EDT on April 1, 2023 regarding deliveries in the second semester 2023, respectively September 1, 2023 regarding deliveries in the calendar year 2024 will be deemed void and have no effect hereunder, and if Purchaser only partially exercises its option in the Option Notice(s), the remaining doses of Product subject to the option contemplated by Article 3.2 will be deemed void and have no effect hereunder. For clarity, once an Option Notice is issued, the Option Increase is binding and non-cancellable, except as expressly provided for in Articles 5.3(i), 5.3(iii) and 8.3(iii).

3.4 Order of Doses. For purposes of this Purchase Contract, the doses of Product delivered in a calendar quarter will be deemed first to be doses included in the Firm Order Quantity and second to be doses included in the Option Increase, and the doses of Product delivered will be deemed first to be the earliest doses required to be delivered pursuant to the latest communicated estimated delivery schedule in accordance with Article 5.1(ii).

4. PAYMENTS; REFUND.

4.1 Payments. Purchaser will pay to Moderna the following payments for the Product according to the following schedule:

(i) By or before July 31, 2022, Purchaser will pay the Initial Upfront Payment to Moderna. The Initial Upfront Payment is deemed a reservation fee for the reservation of the Firm Order Quantity and shall be counted as a payment towards the Payment Amount.

(ii) If the Parties execute a Change Notice and a True-Up Payment is due and payable as set forth in Appendix A, then within fifteen (15) days after the date of such Change Notice, Purchaser will pay the True-Up Payment to Moderna.

(iii) In the event Purchaser exercises the Option Increase, then within fifteen (15) days after the date of the Option Notice, Purchaser will pay the Option Exercise Payment to Moderna.

(iv) Within thirty (30) days after receipt of Moderna's invoice for each delivery of Delivered Doses, Purchaser will pay the Delivered Product Payment to Moderna for such delivery.

4.2 Payment Instructions. All amounts payable to Moderna under this Purchase Contract will be paid in US dollars, without deduction, and by authenticated and value dated Swift telegraphic transfer for any such payments made from outside the United States, to the bank account identified by Moderna.

4.3 Taxes.

(i) All payments hereunder will be exclusive of any sales taxes, VAT, duties, levies, surcharges, or other similar taxes or governmental charges and any penalties levied thereon and will be increased as a result of any such amounts.

(ii) Each Party will be solely responsible for the payment of all taxes imposed on its share of income arising directly or indirectly from the activities of the Parties under this Purchase Contract.

(iii) Purchaser will make all payments in full without set-off or counterclaim and without deduction or withholding for taxes except to the extent that any such deduction or withholding is required by applicable Laws in effect at the time of payment. Purchaser may withhold from payments due to Moderna amounts for payment of any withholding tax that is required by applicable Laws to be paid to any taxing authority with respect to such payments. Purchaser will give proper evidence, as may be reasonably requested by Moderna, from time to time, as to the payment of any such tax. If Purchaser is required by applicable Laws to withhold any taxes from or in respect of any amount payable under this Purchase Contract, then any such amount payable under this Purchase Contract will be increased to take into account the taxes withheld as may be necessary so that, after making all required withholdings (including withholdings on the withheld amounts), Moderna receives an amount equal to the sum it would have received had no such withholding been made.

(iv) The Parties will cooperate with respect to all documentation required by any taxing authority, the preparation of any tax returns, or reasonably requested by either Party to secure a reduction in the rate of applicable taxes.

(v) Purchaser's VAT number is as follows: CHE-113.617.417 (Swiss Armed Forces Pharmacy).

4.4 Refunds. If any refund is required to be paid by Moderna to Purchaser as a result of Article 5.3(i), 5.3(iii) or 8.3(iii), Moderna will issue a refund to Purchaser due no later than ninety (90) days following such refund becoming due hereunder. Moderna's right of set off under Section 4.8 (*Set-off*) of the Supply Agreement will apply to enable Moderna, in its sole discretion, to set off any refund that is payable under this Purchase Contract against any amounts owed to any Moderna Party by

Purchaser under the terms of this Purchase Contract or the Supply Agreement (including the indemnification provided in Section 4.1 (*Indemnification of Moderna Parties*) of the Supply Agreement). Notwithstanding anything herein to the contrary, until all payments are paid in full hereunder, any refund to be paid under this Article 4.4 by Moderna to Purchaser will first be satisfied through a reduction of any outstanding payments (e.g., Delivered Product Payments) prior to Moderna paying an amount to Purchaser directly under this Article 4.4 (and Moderna will have no obligation to make such payment to the extent of the reduction of the outstanding payments). Moderna's maximum liability to Purchaser for refunds under or in connection with this Purchase Contract or for failure to make payments properly under this Article 4.4 will not exceed seventy percent (70%) of the Payment Amount. By way of illustration, examples of the calculation of a refund under this Article 4.4 are set forth on Appendix D.

4.5 Excluded Provisions. Notwithstanding anything herein to the contrary, Section 5.6 (*Untitled*) of the Supply Agreement will not apply to this Purchase Contract.

5. DELIVERY

5.1 Delivery Schedule.

(i) Appendix B contains information related to the estimated delivery of the Firm Order Quantity to Purchaser. In the event Purchaser exercises the Option Increase, Appendix C contains information related to the estimated delivery of the doses in the Option Increase to Purchaser.

(ii) On or before November 1, 2022, Moderna will provide an update to Appendix B (the "**November Delivery Schedule**"), provided that the anticipated first delivery date for the Firm Order Quantity in such November Delivery Schedule shall be in the first calendar quarter of 2023. Upon its release on or before November 1, 2022, the November Delivery Schedule will be the deemed Anticipated Delivery Schedule for purposes of this Agreement; provided that the November Delivery Schedule will be updated in the following events: (a) in the event that the Purchaser exercises the Option Increase, then Moderna will update the November Delivery Schedule to include the anticipated delivery schedule for the Option Increase set forth in Appendix C; (b) in the event that the Purchaser exercises its reduction remedies in Article 5.3(i), then Moderna will update the November Delivery Schedule for the Firm Order Quantity and/or (if applicable) the Option Increase taking into account such reductions and the terms of Article 5.3(i); (c) in the event that the Purchaser exercises its substitution remedies in Article 5.3(ii), then Moderna will update the November Delivery Schedule for the Firm Order Quantity and/or (if applicable) the Option Increase taking into account such substitution (including the allocation of the applicable product(s) following such substitution) and the terms of Article 5.3(ii); and (d) in the event that the Purchaser exercises its cancellation remedies in Article 5.3(iii), then Moderna will update the November Delivery Schedule for the Firm Order Quantity and/or (if applicable) the Option Increase taking into account such cancellation and the terms of Article 5.3(iii).

(iii) On or before January 1, 2023 and continuing each calendar month until the end of the Term, Moderna will provide for information purposes a rolling update on the status of the delivery of the Product to Purchaser.

5.2 Incoterms. Moderna will deliver, or procure the delivery of, each quantity of the Product to Purchaser DDP (Incoterms 2020) at the Delivery Site, and title to such Product will transfer to Purchaser when such quantity of Product is made available at the Delivery Site.

5.3 Remedies for Delivery Delays.

(i) In the event that Moderna (itself or through its Affiliates, collaborators or contractors), has not a) actually obtained Marketing Approval for Next Generation Booster in the Territory on or before March 31, 2023, and b) Marketing Approval for mRNA-1273 Booster in the Territory is not maintained beyond March 31, 2023, Purchaser may, by written notice received by Moderna at any time between April 1, 2023 and April 30, 2023, reduce the number of doses in the Firm Order Quantity and/or (if applicable) the Option Increase by up to fifty percent (50%) (a "**Reduction Notice**"). The Reduction Notice must (a) be received during the applicable time period set forth above, (b) include a reference to this Article 5.3(i), and (c) specify the number of doses in the Firm Order Quantity and/or the (if applicable) Option Increase that Purchaser is electing to reduce in accordance with this Article 5.3(i) (including the cap set forth herein). In the event that Purchaser issues a proper Reduction Notice, then (1) the definitions of Firm Order Quantity and Option Increase will be deemed to be amended accordingly, (2) Moderna will provide Purchaser with an updated November Delivery Schedule for the Firm Order Quantity and/or (if applicable) the Option Increase taking into account such reductions and the terms of this Article 5.3(i), and (3) Moderna will issue a refund to Purchaser in an amount equal to the Refund Amount for such reduced doses in accordance with, but subject to the limitations set forth in, Article 4.4. For the avoidance of doubt, any written notification issued outside of the time period set forth above will be deemed void and have no effect hereunder, and such reduction right will not apply to any other doses of Product.

(ii) In lieu of or in addition to the provisions of Articles 5.3(i) and 5.3(iii), (a) in the event that Moderna (itself or through its Affiliates, collaborators or contractors) has not (aa) actually obtained Marketing Approval for Next Generation Booster in the Territory on or before March 31, 2023, and (bb) Marketing Approval for mRNA-1273 Booster in the Territory is not maintained beyond March 31, 2023, or (b) Moderna has not actually delivered the full amount of doses of Product foreseen for a given calendar quarter according to the November Delivery Schedule by at least fifteen (15) days after the last day of such calendar quarter in which such doses were expected to be delivered (e.g., for doses that are expected to be delivered in Q1 2023, such doses have not been delivered by April 15, 2023; for doses that are expected to be delivered in Q2 2023, such doses have not been delivered by July 15, 2023; etc.), Purchaser may, by written notice received by Moderna at any time between April 1, 2023 and April 30, 2023 for clause (a) or during the period starting on the first day following the expiration of the applicable fifteen (15) day period and ending thirty (30) days thereafter for clause (b), request that Moderna use Reasonable Best Efforts to substitute up to one hundred percent (100%) of the Firm Order Quantity and/or (if applicable) the Option Increase with an equal number of doses of (1) mRNA-1273 Product if, at such time, mRNA-1273 Product is available at such time and/or (2) any other of Moderna's proprietary primary series vaccine products that are intended to address mutations or variants of SARS-CoV-2 in each case if, at such time, there is a Marketing Approval for such product in the Territory and such product is available at such time. The substitution notice must (A) be received during the applicable time period set forth above, (B) include a reference to this Article 5.3(ii), and (C) specify the number of doses in the Firm Order Quantity and/or the (if applicable) Option Increase that Purchaser is requesting to substitute in accordance with this Article 5.3(ii). In the event that Purchaser issues a proper substitution notice, then the Parties will negotiate in good faith an amendment to this Purchase Contract, including (X) amendments to the definitions of Product, Firm Order Quantity and (if applicable) Option Increase to address such substitution accordingly, and (Y) an update to the November Delivery Schedule taking into account such substitution (including the allocation of the applicable product(s) following such substitution) and the terms of this Article 5.3(ii). For the avoidance of doubt, any written notification issued outside of the applicable notification window will be deemed void and have no effect hereunder, and such right to request that Moderna use Reasonable Best Efforts to substitute shall not apply.

(iii) In the event that Moderna has not actually delivered the full amount of doses of Product foreseen for a given calendar quarter according to the November Delivery Schedule by

at least forty-five (45) days after the last day of such calendar quarter in which such doses were expected to be delivered (e.g., for doses that are expected to be delivered in Q1 2023, such doses have not been delivered by May 15, 2023; for doses that are expected to be delivered in Q2 2023, such doses have not been delivered by August 14, 2023; etc.), then Purchaser will have the right to cancel up to one hundred percent (100%) of the number of doses of Product in the late delivery that have not been delivered as of such date by providing written notice to Moderna, which notice must (a) be received by Moderna during the period starting on the first day following the expiration of the applicable forty-five (45) day period and ending thirty (30) days thereafter (e.g., for doses that are expected to be delivered in Q1 2023 but have not been delivered by May 15, 2023, such cancellation notice must be received by Moderna between May 16, 2023 and June 14, 2023; for doses that are expected to be delivered in Q2 2023 but have not been delivered by August 14, 2023, such cancellation notice must be received by Moderna between August 15, 2023 and September 13, 2023; etc.), and (b) identify the number of doses of Product in the late delivery that have not been delivered as of such date that Purchaser requests to cancel in accordance with this Article 5.3(iii) (including the cap set forth herein). In the event that Purchaser issues a proper and timely cancellation notice, then Moderna will issue a refund to Purchaser in an amount equal to the Refund Amount for such cancelled doses in accordance with, but subject to the limitations set forth in, Article 4.4. For the avoidance of doubt, any written notification issued outside of the applicable cancellation window will be deemed void and have no effect hereunder, and such cancellation right will not apply to any other doses of Product.

(iv) This Article 5.3 sets out the sole and exclusive remedy (however arising, including contract, tort, negligence, indemnity, breach of statutory duty, equity or otherwise) for shortages, late deliveries, failure to deliver or cancelled doses of Product, in each case in accordance with this Purchase Contract.

5.4 In the event that Moderna, in its sole discretion, elects to commercialize a Combination Product, Moderna shall inform Purchaser of such proposed commercialization and at the Purchaser's written request, the Parties may discuss in good faith the terms (including pricing and timing) of supply of such Combination Product. For the avoidance of doubt, nothing in this Purchase Contract creates any obligation for Moderna to supply or for Purchaser to purchase any Combination Product. For the avoidance of doubt, Moderna will have the sole and exclusive right to (1) direct the development process, and to determine the regulatory strategy, for any Combination Product and (2) select the product candidate(s) to develop and commercialize as any Combination Product.

5.5 Equitable Allocation. The Parties acknowledge the need for Moderna to provide fair and equitable allocation and delivery of Product to support global public health needs in light of the limited global supply of vaccines. With respect to Moderna's obligation to supply Product, Moderna shall in allocating supplies of Product for delivery under this Purchase Contract act reasonably, fairly and in good faith regarding the scheduling and allocation of such supplies to the Purchaser relative to Moderna's then pre-existing contractual obligations owed to other Third Party purchasers (including NGOs such as GAVI or CEPI) of Product.

6. LIABILITY.

6.1 Maximum Liability. Except as expressly provided in Article 4.4 or 5.3 of this Purchase Contract or as set forth in Section 6.4(i) (*Product Claim*) of the Supply Agreement, Moderna's maximum aggregate liability to Purchaser under or in connection with this Purchase Contract (however arising, including contract, tort, negligence, indemnity, breach of statutory duty, equity or otherwise) will not exceed thirty percent (30%) of the Payment Amount.

6.2 Consequential and Other Damages. UNDER NO CIRCUMSTANCES WHATSOEVER WILL MODERNA (OR ITS AFFILIATES) BE LIABLE TO PURCHASER OR ANY RELATED PARTIES IN CONTRACT, TORT, NEGLIGENCE, INDEMNITY, BREACH OF STATUTORY DUTY, OR OTHERWISE FOR: (I) ANY DELAY, PENALTY, LOSS OF PROFITS, OF ANTICIPATED SAVINGS, OF BUSINESS, OF GOODWILL, OR OF USE OF THE PRODUCT OR COSTS OF ANY SUBSTITUTE SERVICES; (II) ANY RELIANCE DAMAGES, INCLUDING TO COSTS OR EXPENDITURES INCURRED TO EVALUATE THE VIABILITY OF ENTERING INTO THIS PURCHASE CONTRACT OR TO PREPARE FOR PERFORMANCE UNDER THIS PURCHASE CONTRACT; OR (III) FOR ANY OTHER LIABILITY, DAMAGE, COSTS, PENALTY, OR EXPENSE OF ANY KIND INCURRED BY THE OTHER PARTY OF AN INDIRECT OR CONSEQUENTIAL NATURE, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF THESE DAMAGES.

6.3 Allocation of Risk. The limitations of liability reflect the allocation of risk between the Parties. The limitations specified in this Article 6 will survive and apply even if any limited remedy specified in this Purchase Contract is found to have failed its essential purpose. Purchaser acknowledges the urgent nature of the circumstances giving rise to this Purchase Contract and acknowledge that vaccine development, especially with the accelerated development time frame in respect of the Product, involves risk including in relation to safety and efficacy. However, given the nature of the current pandemic and its global health and economic impact Purchaser has determined that the potential benefits of the accelerated development, manufacture, supply, and use of the Product outweighs the potential risks and is in the best interest of the public.

6.4 Excluded Provisions. Notwithstanding anything herein to the contrary, Sections 10.1 (*Limitation of Liability*), 10.2 (*Consequential and Other Damages*) and 10.3 (*Allocation of Risk*) of the Supply Agreement will not apply to Product purchased under this Purchase Contract.

7. REPRESENTATIONS AND WARRANTIES.

7.1 Moderna Warranties. Moderna represents and warrants to Purchaser as of the Effective Date that:

(i) Moderna is a limited liability company ("*Gesellschaft mit beschränkter Haftung*") duly incorporated, validly existing, and in good standing under the Laws of Switzerland;

(ii) it has the full power and right to enter into this Purchase Contract and to carry out its obligations under this Purchase Contract;

(iii) the execution and delivery of this Purchase Contract by Moderna has been authorized by all requisite company action and this Purchase Contract is and will remain a valid and binding obligation of Moderna, enforceable in accordance with its terms, subject to laws of general application;

(iv) the execution, delivery and performance of this Purchase Contract, and compliance with the provisions of this Purchase Contract, by Moderna does not and will not: (a) violate in any material respect any provision of applicable Laws or any ruling, writ, injunction, order, permit, judgment or decree of any Governmental Authority, (b) constitute a material breach of, or default under (or an event which, with notice or lapse of time or both, would become a default under) or materially conflict with, or give rise to any right of termination, cancellation or acceleration of, any agreement, arrangement or instrument, whether written or oral, by which Moderna or any of its assets are bound, or

(c) violate or conflict with any of the provisions of Moderna's organizational documents (including any articles or memoranda of organization or association, charter, bylaws or similar documents); and

(v) unless the Parties agree otherwise in writing, any Product delivered in multidose vials and/or single dose vials and/or pre-filled syringes shall have at least (A) six (6) months shelf life from the date of filling and finishing the bulk Product into multi-dose vials for use in the Territory and (B) three (3) months shelf life from delivery of the Product at the Delivery Site.

7.2 Purchaser Warranties. Purchaser represents and warrants to Moderna as of the Effective Date that:

(i) it has the full power and right to enter into this Purchase Contract and to carry out its obligations under this Purchase Contract;

(ii) the execution and delivery of this Purchase Contract by Purchaser has been authorized by all requisite action and this Purchase Contract is and will remain a valid and binding obligation of Purchaser, enforceable in accordance with its terms, subject to laws of general application;

(iii) the execution, delivery and performance of this Purchase Contract, and compliance with the provisions of this Purchase Contract, by Purchaser does not and will not: (a) violate in any material respect any provision of applicable Laws or any ruling, writ, injunction, order, permit, judgment or decree of any Governmental Authority, or (b) constitute a material breach of, or default under (or an event which, with notice or lapse of time or both, would become a default under) or materially conflict with, or give rise to any right of termination, cancellation or acceleration of, any agreement, arrangement or instrument, whether written or oral, by which Purchaser or any of its assets are bound;

(iv) it has sufficient, liquid funds to pay all amounts hereunder; and

(v) the Product, if labelled, Manufactured and (if applicable) imported in accordance with this Purchase Contract, the Marketing Approval for the Product by the Regulatory Authority in the Territory, and in compliance with cGMP and Applicable Laws, may be lawfully distributed, administered and used in the Territory.

7.3 Disclaimer. MODERNA AND ITS AFFILIATES MAKE NO OTHER WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, OF NON-INFRINGEMENT, OR REGARDING RESULTS OBTAINED THROUGH THE USE OF ANY PRODUCT.

8. TERM; TERMINATION.

8.1 Term. The term of this Purchase Contract will commence on the Effective Date and will continue until the earliest of (i) the date that all of the then current Firm Order Quantity and doses in the Option Increase (if applicable) have been delivered by Moderna to Purchaser, (ii) June 30, 2025 (the "**End Date**") and (iii) the termination of this Purchase Contract in accordance with Article 8.2 (the "**Term**").

8.2 Termination.

(i) The Parties may terminate this Purchase Contract for any reason by mutual written agreement if set forth in writing and executed by an authorized representative of each Party.

(ii) Moderna may terminate this Purchase Contract, in its sole discretion, by written notice to Purchaser if the Initial Upfront Payment, the True-Up Payment (if applicable), the Option Exercise Payment, or any Delivered Product Payment is not paid in accordance with Article 4.1 and such non-payment is not cured within fifteen (15) days of Moderna's written notice of such non-payment, unless its failure to pay is caused by administrative or technical error and payment is made within five (5) days of its due date.

(iii) Purchaser may terminate immediately this Purchase Contract for cause, by written notice to Moderna upon the occurrence of any of the following: (a) Moderna ceases its business operations, (b) Moderna becomes insolvent or unable to pay its debts as they mature, or ceases to so pay them, or makes an assignment for the benefit of its creditors, (c) bankruptcy or insolvency proceedings under bankruptcy or insolvency code or similar law, whether voluntary or involuntary are properly commences by or against Moderna, (d) a trustee or receiver is appointed for Moderna over any or all of Moderna's assets, or (e) Moderna is dissolved or liquidated.

(iv) Either Party may terminate this Purchase Contract, by written notice to the other Party, for any material breach of this Purchase Contract by the other Party (except as set forth in Article 8.2(ii) above), if such breach is not cured within thirty (30) days after the breaching Party receives written notice of such breach from the non-breaching Party; *provided, however*, that if such breach is not capable of being cured within such thirty (30)-day period and the breaching Party has commenced and diligently continued actions to cure such breach within such thirty (30)-day period, except in the case of a payment default or a breach of safety and any of the security obligations set out at Sections 7.5 (*Records*) or 8.1 (*Moderna Technology*) of the Supply Agreement, the cure period will be extended to ninety (90) days, so long as the breaching Party is making diligent efforts to do so. Such termination will be effective upon expiration of such cure period; *provided*, that in the event that the breaching Party disputes in good faith the non-breaching Party's grounds for terminating this Purchase Contract pursuant to this Article 8.2(iv), then either of the Parties may refer such dispute for resolution in accordance with Section 13.3 (*Dispute Resolution*) of the Supply Agreement, and the provisions therein will apply.

(v) Purchaser may terminate this Purchase Contract, in its sole discretion, by written notice to Moderna if Moderna (itself or through its Affiliates, collaborators or contractors) has not a) obtained Marketing Approval for Next Generation Booster in the Territory on or before May 31, 2023, and b) Marketing Approval for mRNA-1273 Booster in the Territory is not maintained beyond May 31, 2023.

8.3 Effects of Expiration or Termination.

(i) In the event of the expiration or termination of this Purchase Contract in accordance with the terms hereof, this Purchase Contract will forthwith become void and thereafter there will be no liability on the part of any Party, any Moderna Party or any Related Party, *provided*, that any expiration or termination of this Purchase Contract will not affect any payments due prior to and unpaid as of the effectiveness of such expiration or termination; *provided, further*, that (a) the provisions of Articles 4, 5.3(iv), 5.5, 6, 7.3, 8.3 and Appendix A and Articles 1 and 9 of this Purchase Contract (solely as each applies to the foregoing Articles and Appendices of this Purchase Contract) will remain in full force and effect and survive any termination or expiration of this Purchase Contract and (b) Sections 4 *(Purchaser Obligations)* (except for Sections 4.3 *(Limitations on Indemnification)*

and 4.8 *(Set-off)* and Section 4.9 *(Purchaser Responsibilities)* will survive solely with respect to Product delivered prior to the effective date of expiration or termination), 6.4 *(Acceptance/Rejection of Product)*, 6.5 *(Disposition of Deficient Product)*, 7.3 *(Pharmacovigilance)*, 7.4 *(Product Recalls)*, 7.5 *(Records)*, 8 *(Confidentiality)*, 9 *(Intellectual Property)*, 10.1(i) *(Remedies for Deficient Product)*, and Exhibits B *(Product Marks)* and C *(Dispute Resolution)* and Sections 1 *(Definitions)* and 13 *(Miscellaneous)* of the Supply Agreement (solely as each applies to the foregoing Sections and Exhibits of the Supply Agreement) will remain in full force and effect and survive any termination or expiration of this Purchase Contract.

(ii) In the event of a termination of this Purchase Contract by Moderna pursuant to Article 8.2(ii) or 8.2(iv) (solely as a result of Purchaser's uncured, material breach), any unpaid Delivered Product Payments will be paid by Purchaser to Moderna within five (5) Business Days after such termination.

(iii) In the event of a termination of this Purchase Contract by Purchaser pursuant to Article 8.2(iii), (a) any then outstanding payment under this Purchase Contract for undelivered doses of Product as of the effective date of termination will not be due, and (b) Moderna will issue a refund to Purchaser in an amount equal to the Refund Amount for such undelivered doses of Product in accordance with, but subject to the limitations set forth in, Article 4.4.

(iv) In the event of a termination of this Purchase Contract by Purchaser pursuant to Article 8.2(v), there will be no liability on the part of any Party; provided that Moderna has used Reasonable Best Efforts to secure Marketing Approval for Next Generation Booster and mRNA-1273 Booster in the Territory.

(v) Upon the expiration or termination of this Purchase Contract, at the written request of the disclosing Party, the receiving Party will return to the disclosing Party or destroy all originals, copies, and summaries of documents, materials, and other tangible manifestations of Confidential Information in the possession or control of the receiving Party (including its employees, advisors, agents and Affiliates); *provided, however,* that (a) one (1) copy of the Confidential Information may be retained by the receiving Party for the sole purpose of monitoring its ongoing obligations hereunder and (b) one (1) copy of Purchaser's Confidential Information may be retained and used by or on behalf of Moderna or its Affiliates in connection with regulatory filings for the Product. Purchaser also will promptly return to Moderna all materials, equipment, samples, data, reports, and other property, information or know-how in recorded form that was provided by or on behalf of Moderna or developed for Purchaser hereunder.

8.4 Excluded Provisions. Notwithstanding anything herein to the contrary, Section 12.2 (*Termination*) and 12.3 (*Effect of Expiration or Termination*) of the Supply Agreement will not apply to Product purchased under this Purchase Contract.

9. MISCELLANEOUS.

9.1 Notice.

(i) Moderna hereby notifies Purchaser, in accordance with Section 13.10 of the Supply Agreement, that all notices sent to Moderna under the Supply Agreement, Purchase Contract No. 1 or this Purchase Contract shall be sent to Peter Merian-Weg 10, 4052 Basel, Switzerland; Attention: [redacted]; Email: [redacted].

(ii) Purchaser hereby notifies Moderna, in accordance with Section 13.10 of the Supply Agreement, that all notices sent to Purchaser under the Supply Agreement, Purchase Contract No. 1 or this Purchase Contract shall be sent to: Federal Office of Public Health, Schwarzenburgstrasse 157, 3003 Bern, Switzerland, Attention: [redacted] with a copy to: Swiss Armed Forces Pharmacy, Worblentalstrasse 36, 3063 Ittigen, Switzerland, Attention: [redacted]

9.2 Assignment. Except as expressly provided in this Purchase Contract, this Purchase Contract may not be assigned or otherwise transferred, nor may any right or obligation hereunder be delegated, assigned or transferred, by either Party without the written consent of the other Party. Notwithstanding the foregoing, Moderna may, without Purchaser's written consent, assign this Purchase Contract and its rights and obligations hereunder in whole to any Affiliate of Moderna or any party that acquires, by or otherwise in connection with, merger, sale of assets, reorganization, consolidation or otherwise, all or substantially all of the business of Moderna to which the subject matter of this Purchase Contract relates. Any purported assignment in violation of this Article 9.12 will be null, void, and of no legal effect.

9.3 Governing Law. This Purchase Contract 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 Purchase Contract. The Parties expressly reject any application to this Purchase Contract of the United Nations Convention on Contracts for the International Sale of Goods.

9.4 Entire Agreement; Amendments. This Purchase Contract (including the Appendices), together with the Supply Agreement, contains the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all previous arrangements with respect to the subject matter hereof, whether written or oral. This Purchase Contract (or any Appendix to it) may be amended, or any term hereof modified, only by a written instrument duly executed by authorized representatives of both Parties. For clarity, any other Purchase Contracts executed by the Parties will be subject to the terms and conditions of such Purchase Contracts.

9.5 Counterparts. This Purchase Contract may be executed in two or more counterparts, including electronically or by facsimile or PDF signature pages, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

9.6 Parent Guarantee. Moderna agrees to deliver a Parent Guarantee Agreement for Purchase Contract #02 (in the form attached to this Purchase Contract as Appendix E) duly executed by ModernaTX, Inc. of the Effective Date (the "**Purchase Contract #02 Parent Guarantee**"). For clarity, the Newly Amended Guarantee Agreement, dated as of February 8, 2021 and the Purchase Contract #01 Parent Guarantee Agreement dated as of May 5, 2021, in each case by and between ModernaTX, Inc. in favor of Swiss Confederation, represented by Federal Office of Public Health and The Swiss Armed Forces Pharmacy will remain in full force and effect with respect to the matters covered therein.

9.7 Condition Subsequent. This Purchase Contract shall be null and void if the Swiss Federal Government and Parliament have not approved the additional required budget by 30 June 2022.

Purchaser shall keep Moderna informed of the budget process, promptly upon the outcome thereof and no later than 6:00 pm CET on 1 July 2022.

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

SWISS CONFEDERATION, represented by FEDERAL OFFICE OF PUBLIC HEALTH

BY: Levy Goldblum Anne [redacted]
NAME: [redacted]
TITLE:

BY: Nartey Stuber Linda [redacted]
NAME:
TITLE:

THE SWISS ARMED FORCES PHARMACY

BY: Suessli Thomas [redacted]
NAME:
TITLE:

BY: Kaiser Thomas [redacted]
NAME:
TITLE:

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

MODERNA SWITZERLAND GMBH

BY: [redacted]
NAME:
TITLE:

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APPENDIX A

PRODUCT DESCRIPTION

"**Product**" means (a) the finished and packaged form of Moderna's proprietary one dose booster vaccine known as mRNA-1273 targeting variants of concern or mutations identified thereto in the formulation that has received Marketing Approval in the Territory ("**mRNA-1273 Booster**") or (b) Next Generation Booster, solely in the case of clause (b) that such Next Generation Booster has received Marketing Approval in the Territory and is available for delivery, in each case at least one hundred twenty (120) days prior to the expected delivery date; provided, that the Parties shall meet within 30 days of filing of marketing authorization application with Swissmedic for the Next Generation Booster to discuss in good faith the allocation of doses of "Product" hereunder and an update to the November Delivery Schedule taking into account such substitution. Moderna shall inform Purchaser of the filing of marketing authorization application with Swissmedic without undue delay. For the avoidance of doubt, Moderna will have the sole and exclusive right to direct the development process and to determine the regulatory strategy for any Next Generation Booster and to select the product candidate(s) to develop and commercialize as the Next Generation Booster. For clarity, Moderna's obligations to supply Product to Purchaser pursuant to the terms of this Purchase Contract shall be satisfied by the supply of any Product described in this Appendix A.
The Product is anticipated to be presented in 5 dose vials or single-dose vials or pre-filled syringes, subject to Marketing Approval of the Product in the Territory.

On or prior to June 30, 2022 (or such other date as may be mutually agreed by the Parties), the Parties will agree on the allocation of the Product by dose presentation (in 5 dose vials or single-dose vials or pre-filled syringes) to be purchased by Purchaser under this Purchase Contract. If no allocation is agreed, all Product will be mRNA-1273 Booster and will be presented in 5 dose vials (or, if the only Marketing Approval of the Product in the Territory is single-dose vials or pre-filled syringes, in single-dose vials or pre-filled syringes).

On or before July 31, 2022 (or such other date as may be mutually agreed by the Parties), the Parties may execute a written change notice (the "**Change Notice**"), which will include the following information: (a) the final allocation of 5 dose vials and single-dose vials or pre-filled syringes of the Product that Purchaser will order in the Firm Order Quantity under this Purchase Contract; and (b) for the number of doses of Product in the Firm Order Quantity with a single-dose vial or pre-filled syringe presentation, the calculation of a true-up payment that Purchaser will pay to Moderna in an amount equal to thirty percent (30%) of a) US$3.00 times the number of doses of Product in the Firm Order Quantity with a single-dose vial presentation and b) US$6.00 times the number of doses of Product in the Firm Oder Quantity with a pre-filled syringe presentation (the "**True-Up Payment**") to reflect the increased Price Per Dose for the Product with a single-dose vial or pre-filled syringe presentation. Purchaser will pay the True-Up Payment to Moderna in accordance with the payment terms set forth in Article 4.1(ii). In the event that one hundred percent (100%) the Product is purchased in 5 dose vial presentations only, then no True-Up Payment is due with respect to the Firm Order Quantity.

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APPENDIX B

ANTICIPATED DELIVERY SCHEDULE FOR FIRM ORDER QUANTITY

Anticipated Delivery Schedule for the Firm Order Quantity:

Period	Doses of Product
First calendar quarter of 2023	1,750,000
Second calendar quarter of 2023	1,750,000
Third calendar quarter of 2023	1,750,000
Fourth calendar quarter of 2023	1,750,000

Moderna's obligation to make such supply on such schedule will be subject to (and it will not be a breach of Article 5 or this Appendix B if) the conditions on delivery of the Product as set forth in this Purchase Contract (including the requirements of Section 7.7 (*Drug Label*) of the Supply Agreement) and reasonable adjustments that are made by Moderna to prevent inefficient periodic allocation and to allow for optimization that is more useful for governments or multi-country organizations in specific periods of time.

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APPENDIX C

ANTICIPATED DELIVERY SCHEDULE FOR OPTION INCREASE

In the event that there is an Option Increase, then on or prior to 11:59 pm EDT on April 1, 2023 regarding deliveries in the second semester 2023, respectively September 1, 2023 regarding deliveries in the calendar year 2024, Purchaser will provide written notice to Moderna with a proposed allocation for the doses of Product in the Option Increase (including the allocation of the Product in 5 dose vials or single-dose vials or pre-filled syringes) to be purchased by Purchaser and proposed delivery schedule during 2023, respectively 2024. Within thirty (30) days after the receipt of such notice, the Parties will discuss and agree in good faith on an anticipated delivery schedule for the Option Increase (taking into account Product availability), which will include the number of doses of Product and the calendar quarter(s) for delivery of such doses of Product (including the allocation of the Product in 5 dose vials or single-dose vials or pre-filled syringes). Following the Parties' agreement on the anticipated delivery schedule for the Option Increase, this Appendix C will be updated accordingly. Upon Purchaser's express request and four-month advance notice, the Parties will discuss in good faith potential amendments to this Purchase Contract to enable the distribution of the Product for use and administration in the Territory during such calendar quarter(s) through customary distribution channels and/or in accordance with customary pricing and reimbursement mechanisms of pharmaceutical and medical products in the Territory. For clarity, this applies to both the Firm Order Quantity and the Option Increase.

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APPENDIX D

EXAMPLES OF CALCULATION OF REFUNDS

1. ***Reduction under Article 5.3(i)***

Example 1

In the event that (a) Moderna (itself or through its Affiliates, collaborators or contractors) has not actually obtained, respectively maintained Marketing Approval for the Product in the Territory on or before March 31, 2023 and (b) Purchaser issues a proper Reduction Notice to reduce fifty percent (50%) of 7,000,000 doses in the Firm Order Quantity (i.e., reduction of 3,500,000 doses), then (1) the definition of Firm Order Quantity will be deemed to be amended to be 3,500,000 doses, (2) Moderna will provide Purchaser with an updated November Delivery Schedule for the Firm Order Quantity taking into account such reduction, and (3) Moderna will issue a refund to Purchaser in an amount equal to the Refund Amount for such reduced doses in accordance with, but subject to the limitations set forth in, Article 4.4. Assuming that all of the reduced Product are in 5 dose vials, the Refund Amount will equal thirty percent (30%) of the amounts actually paid by Purchaser to Moderna prior to the applicable reduction for such 3,500,000 reduced doses of Product, which is equal to:

30% * (30% * US$32.00 * 3,500,000 reduced doses) = 30% * (US$33,600,000.00) = US$10,080,000.00.

Example 2

In the event that (a) Moderna (itself or through its Affiliates, collaborators or contractors) has not actually obtained, respectively maintained Marketing Approval for the Product in the Territory on or before March 31, 2023 and (b) Purchaser issues a proper Reduction Notice to reduce twenty-five percent (25%) of 7,000,000 doses in the Firm Order Quantity (i.e., reduction of 1,750,000 doses), then (1) the definition of Firm Order Quantity will be deemed to be amended to be 5,250,000 doses, (2) Moderna will provide Purchaser with an updated November Delivery Schedule for the Firm Order Quantity taking into account such reduction, and (3) Moderna will issue a refund to Purchaser in an amount equal to the Refund Amount for such reduced doses in accordance with, but subject to the limitations set forth in, Article 4.4. Assuming that all of the reduced doses of Product are in 5 dose vials, the Refund Amount will equal thirty percent (30%) of the amounts actually paid by Purchaser to Moderna prior to the applicable reduction for such 1,750,000 reduced doses of Product, which is equal to:

30% * (30% * US$32.00 * 1,750,000 reduced doses) = 30% * (US$16,800,000.00) = US$5,040,000.00.

2. **Cancellation under Article 5.3(iii)**

Example 1

In the event that (a) Moderna has delivered only 6,000,000 of the 7,000,000 doses of Product foreseen to be delivered in 2023 (according to the November Delivery Schedule) by December 31, 2023, and (b) Purchaser issues a proper and timely cancellation notice to cancel the remaining 1,000,000 doses of Product foreseen, then Moderna will issue a refund to Purchaser in an amount equal to the Refund Amount for such cancelled doses in accordance with, but subject to the limitations set forth in, Article

4.4. Assuming that all of the cancelled doses of Product are in 5 dose vials, the Refund Amount will equal thirty percent (30%) of the amounts actually paid by Purchaser to Moderna prior to the applicable cancellation for such 1,000,000 cancelled doses of Product, which is equal to:

30% * ((30% * US$32.00 * 1,000,000 cancelled doses) = 30% * (US$9,600,000.00) = US$2,880,000.00.

Example 2

In the event that (a) Moderna (itself or through its Affiliates, collaborators or contractors) has not actually obtained, respectively maintained Marketing Approval for the Product in the Territory on or before March 31, 2023, but Purchaser does not exercise its reduction rights under Article 5.3(i), and (b) Moderna has delivered none of the 7,000,000 doses of Product foreseen to be delivered in 2023 (according to the November Delivery Schedule) by December 31, 2023, and (b) Purchaser issues a proper and timely cancellation notice to cancel all of the 7,000,000 doses of Product foreseen, then Moderna will issue a refund to Purchaser in an amount equal to the Refund Amount for such cancelled doses in accordance with, but subject to the limitations set forth in, Article 4.4. Assuming that all of the cancelled doses of Product are in 5 dose vials, the Refund Amount
will equal thirty percent (30%) of the amounts actually paid by Purchaser to Moderna prior to the applicable cancellation for such 7,000,000 cancelled doses of Product, which is equal to:

30% * (30% * US$32.00 * 7,000,000 cancelled doses) = 70% * (US$67,200,000.00) = US$20,160,000.00.

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APPENDIX E

FORM OF PURCHASE CONTRACT #02 PARENT GUARANTEE AGREEMENT

This **PURCHASE CONTRACT #02 PARENT GUARANTEE AGREEMENT** (this "**Guarantee Agreement**"), entered into as of this 18th day of March, 2022, by and between ModernaTX, Inc., a Delaware corporation with file number 4676789 and address at 200 Technology Square, Cambridge, MA 02139, USA ("**Parent Guarantor**"), in favor of 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 together with Parent Guarantor, the "**Parties**" and each a "**Party**").

WHEREAS, Purchaser and Moderna entered into that certain Agreement, dated as of August 5, 2020, by and between Purchaser and Moderna, as amended, restated and/or modified from time to time (the "**Supply Agreement**");

WHEREAS, the Supply Agreement permits the Parties to enter into Purchase Contracts;

WHEREAS, the Parties entered into that certain Purchase Contract #01, dated as of May 4, 2021, as amended, restated and/or modified from time to time (the "**Purchase Contract #01**");

WHEREAS, the Parties entered into that certain Purchase Contract #02, dated as of [month] [day], 2022, as amended, restated and/or modified from time to time (the "**Purchase Contract #02**");

WHEREAS, Purchaser may become entitled to certain refund payments upon the terms and subject to the conditions set forth in the Purchase Contract #02;

WHEREAS, Parent Guarantor is a parent company to Moderna;

WHEREAS, Parent Guarantor and Moderna are engaged in related businesses, and Parent Guarantor shall derive substantial direct and indirect benefit from entry by Moderna into the Purchase Contract #02 with Purchaser; and

WHEREAS, it is an obligation of Moderna under the Purchase Contract #02 to cause Parent Guarantor to execute and deliver this Guarantee Agreement to Purchaser.

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

SECTION 1. DEFINITIONS

1.1. Definitions. Unless specifically set forth to the contrary herein, terms, whether used in the singular or plural, defined in the Purchase Contract #02 will have the respective meanings set forth therein.

SECTION 2. GUARANTEE

2.1. Guarantee. Parent Guarantor hereby unconditionally and irrevocably, guarantees, as primary

obligor and not merely as surety, to Purchaser and its successors, permitted transferees and permitted assigns, the prompt and complete payment by Moderna when due of the Guaranteed Obligations. For purposes hereof, "**Guaranteed Obligations**" means, without duplication, (a) the refund obligations required to be paid by Moderna to Purchaser pursuant to Articles 4.4, 5.3 and 8.3(iii) of the Purchase Contract #02 (after taking into account the exercise of any right to set-off any such amount by a Moderna Party under the Purchase Contract #02) (the "**Refund Obligations**"); and (b) the payment of any damages if awarded (without further right of appeal) to Purchaser for a claim under the Purchase Contract #02, whether in contract, tort, negligence or otherwise, subject to the limitations set forth in the Purchase Contract #02 (the "**Damages Obligations**"). For the avoidance of doubt, Purchaser will be entitled to enforce this Guarantee Agreement directly against the Parent Guarantor without exhausting remedies against Moderna for any such damages claims.

(i) Anything herein or in the Purchase Contract #02 to the contrary notwithstanding, the maximum liability of Parent Guarantor hereunder shall in no event exceed the amount which can be guaranteed by Parent Guarantor under applicable federal and state Laws relating to the insolvency of debtors and in no event shall the amount payable by Moderna and Parent Guarantor in respect of the Guaranteed Obligations exceed seventy percent (70%) of the Total Payment in relation to the Refund Obligations with respect to Articles 4.4 (inclusive of any reductions as contemplated by Article 4.4 of the Purchase Contract #02), 5.3 and 8.3(iii).

(ii) This Guarantee Agreement shall remain in full force and effect until the Termination Date occurs, notwithstanding that from time to time during the term of the Purchase Contract #02 no Guaranteed Obligations may be outstanding. Upon the Termination Date, this Guarantee Agreement shall automatically terminate without any further action required by any Party. For purposes hereof, "**Termination Date**" means the earliest of the following: (a) the date on which the Guaranteed Obligations have been paid in full by Moderna or Parent Guarantor; (b) the date on which Moderna no longer has any obligation to make any refund payment under the Purchase Contract #02 pursuant to Article 4.4 of the Purchase Contract #02; or (c) the date of termination or expiration of the Purchase Contract #02 with no Guaranteed Obligations that remain due and payable as of such date.

2.2. Modification of the Guaranteed Obligations. To the fullest extent permitted by applicable Law, Parent Guarantor shall remain obligated hereunder notwithstanding that any demand for payment of any of the Guaranteed Obligations made by Purchaser may be rescinded by Purchaser and any of the Guaranteed Obligations be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by Purchaser, and the Purchase Contract #02, and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, in accordance with the terms thereof.

2.3. Guarantee Absolute and Unconditional. Parent Guarantor waives to the fullest extent permitted by applicable Law any and all notice of the creation, renewal, extension or accrual of any of the Guaranteed Obligations and notice of or proof of reliance by Purchaser upon this Guarantee Agreement. To the fullest extent permitted by applicable Law, the Guaranteed Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon this Guarantee Agreement and all dealings between Moderna and Parent Guarantor, on the one hand, and Purchaser, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon this Guarantee Agreement. Parent Guarantor understands and agrees, to the fullest extent permitted by applicable Law, that this Guarantee Agreement shall be construed as a continuing, absolute and unconditional guarantee of payment and not of collection without regard to any defense, set-off or counterclaim (other than a defense of payment) which may at any time be available to or be asserted by Moderna, Parent Guarantor or any other Person against

Purchaser, except, in each case, any and all defenses available to be raised by Moderna under the Purchase Contract #02 and the right to set-off expressly provided for in the Purchase Contract #02). To the fullest extent permitted by applicable Law, when making any demand hereunder or otherwise pursuing its rights and remedies hereunder against Parent Guarantor, Purchaser may, but shall be under no obligation to, make a similar demand on or otherwise pursue such rights and remedies as it may have against Moderna or any other Person or against any guarantee for the Guaranteed Obligations or any right of offset with respect thereto, and any failure by Purchaser to make any such demand, to pursue such other rights or remedies or to collect any payments from Moderna or any other Person or to realize upon any such guarantee or to exercise any such right of offset, or any release of Moderna, any other Person or any such guarantee or right of offset, shall, to the extent permitted by applicable Law, not relieve Parent Guarantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of Purchaser against Parent Guarantor.

SECTION 3. REPRESENTATIONS AND WARRANTIES

3.1. Representations of Parent Guarantor. Parent Guarantor represents and warrants to Purchaser as of the date hereof that:

(i) Parent Guarantor is a Delaware corporation duly organized, validly existing, and, if applicable, in good standing under the Laws of its jurisdiction of formation;

(ii) it has the full power and right to enter into this Guarantee Agreement and to carry out its obligations under this Guarantee Agreement;

(iii) the execution and delivery of this Guarantee Agreement by Parent Guarantor has been authorized by all requisite company action and this Guarantee Agreement is and will remain a valid and binding obligation of Parent Guarantor, enforceable in accordance with its terms, subject to laws of general application; and

(iv) the execution, delivery and performance of this Guarantee Agreement, and compliance with the provisions of this Guarantee Agreement, by Parent Guarantor does not and will not: (a) violate in any material respect any provision of applicable Laws or any ruling, writ, injunction, order, permit, judgment or decree of any Governmental Authority, (b) constitute a material breach of, or default under (or an event which, with notice or lapse of time or both, would become a default under) or materially conflict with, or give rise to any right of termination, cancellation or acceleration of, any agreement, arrangement or instrument, whether written or oral, by which Parent Guarantor or any of its assets are bound, or (c) violate or conflict with any of the provisions of Parent Guarantor's organizational documents (including any articles or memoranda of organization or association, charter, bylaws or similar documents).

SECTION 4. MISCELLANEOUS

4.1. Assignment. Except as expressly provided in this Guarantee Agreement, this Guarantee Agreement may not be assigned or otherwise transferred, nor may any right or obligation hereunder be delegated, assigned or transferred, by either Party without the written consent of the other Party. Notwithstanding the foregoing, Parent Guarantor may, without Purchaser's written consent, assign this Guarantee Agreement and its rights and obligations hereunder in whole to any Party that acquires, by or otherwise in connection with, merger, sale of assets, reorganization, consolidation or otherwise, all or substantially all of the business of Parent Guarantor to which the subject matter of this Guarantee

Agreement relates. Any purported assignment in violation of this Section 4.1 will be null, void, and of no legal effect.

4.2. Governing Law. This Guarantee Agreement 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.

4.3. Dispute Resolutions. The following will apply to disputes of any nature arising under, relating to, or in connection with this Guarantee Agreement ("**Disputes**").

(i) Jurisdiction. In the event of a Dispute between the Parties, each Party (a) hereby irrevocably submits to the exclusive jurisdiction of the courts located in Bern, Switzerland for the purpose of any and all unresolved Disputes, (b) hereby waives to the extent not prohibited by Law, and agrees not to assert, by way of motion, as a defense or otherwise, in any such action, suit or proceeding, any claim of sovereign immunity and/or that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such action, suit or proceeding brought in one of the above-named courts in such jurisdiction should be dismissed on grounds of forum non conveniens, should be transferred to any court other than one of the above-named courts, or should be stayed by reason of the pendency of some other action, suit or proceeding in any other court other than one of the above-named courts, or that this Guarantee Agreement or the subject matter hereof may not be enforced in or by such courts, and (c) hereby agrees not to commence any such action, suit or proceeding other than before one of the above-named courts nor to make any motion or take any other action, suit or proceeding seeking or intending to cause the transfer or removal of any such action, suit or proceeding to any court other than one of the above-named courts whether on the grounds of inconvenient forum or otherwise. Notwithstanding the foregoing, application may be made to any court of competent jurisdiction with respect to the enforcement of any judgment or award.

(ii) Injunctive Relief. Notwithstanding the Dispute resolution procedures set forth in this Section 4.3, in the event of an actual or threatened breach of this Guarantee Agreement, the aggrieved Party may seek provisional equitable relief (including restraining orders, specific performance or other injunctive relief), without first submitting to any Dispute resolution procedures hereunder.

(iii) Tolling. The Parties agree that all applicable statutes of limitation and time-based defenses, as well as all time periods in which a Party must exercise rights or perform obligation hereunder, will be tolled once the dispute resolution procedures set forth in this Section 4.3 have been initiated and for so long as they are pending, and the Parties will cooperate in taking all actions reasonably necessary to achieve such a result.

4.4. Entire Agreement; Amendments. This Guarantee Agreement contains the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all previous arrangements with respect to the subject matter hereof, whether written or oral. This Guarantee Agreement may be amended, or any term hereof modified, only by a written instrument duly executed by authorized representatives of both Parties. For clarity, the Newly Amended Guarantee Agreement, dated as of February 8, 2021, by and between ModernaTX, Inc. in favor of Swiss Confederation, represented by Federal Office of Public Health and The Swiss Armed Forces Pharmacy will remain in full force and effect with respect to the matters covered therein.

4.5. Severability. Any provision of this Guarantee Agreement held to be invalid, illegal or unenforceable will be ineffective to the extent of such invalidity, illegality or unenforceability without

affecting the validity, legality and enforceability of the remaining provisions hereof, and the remaining provisions will be construed and enforced in all respects as if such invalid or unenforceable provision or provisions had been omitted and substituted with a provision that is valid, legal and enforceable and most closely effectuates the original intent of this Guarantee Agreement. The invalidity of a particular provision in a particular jurisdiction will not invalidate such provision in any other jurisdiction.

4.6. Headings. The captions to the Sections hereof are not a part of this Guarantee Agreement, but are merely for convenience to assist in locating and reading the several Sections hereof.

4.7. Waiver of Rule of Construction. Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Guarantee Agreement. Accordingly, the rule of construction that any ambiguity in this Guarantee Agreement will be construed against the drafting Party will not apply.

4.8. Interpretation. Except where the context expressly requires otherwise: (a) the use of any gender herein will be deemed to encompass references to either or both genders, and the use of the singular will be deemed to include the plural (and vice versa); (b) the words "include", "includes" and "including" will be deemed to be followed by the phrase "without limitation" and will not be interpreted to limit the provision to which it relates; (c) the word "shall" will be construed to have the same meaning and effect as the word "will"; (d) any definition of or reference to any agreement, instrument or other document herein will be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein); (e) any reference herein to any Person will be construed to include the Person's successors and permitted assigns; (f) the words "herein," "hereof," and "hereunder," and words of similar import, will be construed to refer to this Guarantee Agreement in each of their entirety, as the context requires, and not to any particular provision hereof; (g) all references herein to Sections will be construed to refer to sections of this Guarantee Agreement; (h) the word "notice" means notice in writing (whether or not specifically stated); (i) provisions that require that a Party or the Parties "agree," "consent," or "approve" or the like will require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes or otherwise (but instant messaging); (j) references to any specific law, rule or regulation, or article, section or other division thereof, will be deemed to include the then current amendments thereto or any replacement or successor law, rule or regulation thereof; (k) the term "or" will be interpreted in the inclusive sense commonly associated with the term "and/or"; (l) unless otherwise specified, "day" means a calendar day; and (m) the interpretation of this Guarantee Agreement, any notice, consent or the like delivered hereunder, and any action, dispute or proceeding, will be provided or conducted in English.

4.9. No Implied Waivers: Rights Cumulative. Except as expressly provided in this Guarantee Agreement, no failure on the part of a Party to exercise, and no delay in exercising, any right, power, remedy or privilege under this Guarantee Agreement, or provided by statute or at Law or in equity or otherwise, will impair, prejudice or constitute a waiver of any such right, power, remedy or privilege or be construed as a waiver of any breach of this Guarantee Agreement or as an acquiescence therein, nor will any single or partial exercise of any such right, power, remedy or privilege preclude any other or further exercise thereof or the exercise of any other right, power, remedy or privilege.

4.10. Notices. All notices or other communications to or upon Parent Guarantor or Purchaser hereunder shall be effected in the manner provided for in Section 13.10 of the Supply Agreement; provided, that, for purposes of this Guarantee Agreement, the address for Parent Guarantor shall be deemed to be the same as the address of Moderna as set forth in Section 13.10 of the Supply Agreement.

4.11. Counterparts. This Guarantee Agreement may be executed in two or more counterparts, including

electronically or by facsimile or PDF signature pages, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.12. Binding Effect; No Third Party Beneficiaries. As of the date hereof, this Guarantee Agreement will be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Except as expressly set forth in this Guarantee Agreement, no Person other than the Parties and their respective Affiliates, and permitted assignees hereunder will be deemed an intended beneficiary hereunder or have any right to enforce any obligation of this Guarantee Agreement.

4.13. Condition Subsequent. This Guarantee Agreement shall be null and void if the Swiss Federal Government and Parliament have not approved the additional required budget for the Purchase Contract #02 by June 30, 2022. Purchaser shall keep Moderna informed of the budget process, promptly upon the outcome thereof and no later than 6:00 pm CET on July 1, 2022.

[Signature Pages Follows]

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IN WITNESS WHEREOF, the parties hereto have caused this Guarantee Agreement to be executed by their duly authorized representatives as of the date first written above.

SWISS CONFEDERATION, represented by

FEDERAL OFFICE OF PUBLIC HEALTH

BY: Levy Goldblum Anne [redacted]
NAME:
TITLE:

BY: Nartey Stuber Linda [redacted]
NAME:
TITLE:

THE SWISS ARMED FORCES PHARMACY

BY: Suessli Thomas [redacted]
NAME:
TITLE:

BY: Kaiser Thomas [redacted]
NAME:
TITLE:

MODERNATX, INC.

BY: [redacted]
NAME:
TITLE: