

**PUBLIC TENDER**

**agreement no. \_\_\_\_\_\_\_\_\_**

***On Procurement of anti – COVID-19 vaccine for use within***

***the COVID-19 national immunization plan***

**\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_** **2021 Chisinau**

*(locality)*

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| **The Seller**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  *(full name of the enterprise, association, organization)*  represented by the Manager, **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  *(Title, name, surname)*  acting under the **Articles of association,**  *(Articles, regulation, resolution etc.)*  hereinafter referred to as the Seller*,*  **IDNO:**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,**  *(please specify the registration number and date in the State Register)* | **The Beneficiary**  **National Agency for Public Healthcare,**  *(full name of the enterprise, association, organization)*  represented by \_*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*,  *(Title, name, surname)*  acting under the *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*,  *(Articles, regulation, resolution etc.)*  Hereinafter referred to as the *Beneficiary,* ***\_****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*,  *(please specify the registration number and date in the State Register)* | **Contracting authority**  **Center for Centralized Public Procurement in Healthcare**  represented by the Manager, **Antoci Ivan**,  *(Title, name, surname)*  acting under  **The rules of organization and operation,**  *(Articles, regulation, resolution etc.)*  Hereinafter referred to as the *Center,*  **IDNO: 1016601000212**,  *(please specify the registration number and date in the State Register)* |

hereinafter referred to as the Parties, have concluded this Agreement with respect to the following:

1. ***„Procurement of the anti-COVID-19 vaccine for use within the national immunization plan COVID-19.”,*** hereinafter referred to as Goods, according to public tender ocds-b3wdp1-MD-1616075654229, under the Center working group decision of **\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

2. The following documents will be considered component and integral parts of the Agreement:

a) Specification No.1 (List of goods) - Annex no.1;

b) The performance guarantees in the amount of 2% of the total awarded amount of the agreement - Annex no.2;

3. This Agreement shall prevail over all other component documents. In the event of discrepancies or inconsistencies between the component documents of the Agreement, the documents will have the priority order listed above.

4. As consideration for the payments to be made by the Contracting Authority, the Seller undertakes to deliver the Goods to the Beneficiary and to remove their defects, in accordance with the provisions of the Agreement in all respects.

6. The Contracting Authority undertakes to pay to the Seller, as consideration for the delivery of the goods, the price of the Agreement or any other amount that may become payable according to the provisions of the Agreement within the terms and in the manner established by the Agreement.

**SPECIAL TERMS**

**1. Subject of the Agreement**

1.1. The Seller undertakes to deliver the Goods according to the terms and conditions of delivery specified in clause 2.1 of this Agreement, in the quantity and assortment provided in the Specification of Annex no. 1, which is an integral part of this Agreement.

1.2. The Contracting Authority and the Beneficiary undertake to receive the Goods delivered by the Seller. The Contracting Authority undertakes to pay the Seller for the goods delivered.

1.3. Upon delivery of the good, the Seller will ensure that each batch of vaccine is accompanied by:

1.3.1. Batch release certificate issued by the national supervisory authority of the country of origin;

1.3.2. Compliance certificate issued by the manufacturer and the protocol of tests and investigations conducted by the manufacturer certifying the quality of the product;

1.3.3. the product’s certificate of origin.

1.4. The Seller will ensure that the good is conditionally authorized in the Republic of Moldova until the moment of delivery.

1.5. The remaining validity term of the Goods at the time of delivery will be:

- not less than 80% of the original term.

**2. Terms and conditions of delivery**

2.1. The delivery of the Goods shall be made by the Seller under INCOTERMS 2020, CIP with the transport of the Seller, in **two equal installments:**

**First installment: up to 20 days from the signing of this Agreement (50 %);**

**Second installment: 30 days from the day of delivery of the first installment (50 %).**

Place of delivery of the Goods: **Chisinau customs, Republic of Moldova.**

2.2. The documentation accompanying the Goods shall include:

2.2.1. INVOICE (tax invoice) - 3 copies;

2.2.2. Packing list (specification) - 3 copies;

2.2.3. Shipping invoice - 3 copies;

2.2.4. Batch release certificate issued by the national supervisory authority of the country of origin;

2.2.5. Compliance certificate issued by the manufacturer and the protocol of tests and investigations conducted by the manufacturer certifying the quality of the product;

2.2.6. The product’s certificate of origin;

2.2.7. Other documents required for the customs clearance procedure, as appropriate, at the request of the Contracting Authority,

which shall be submitted to the Contracting Authority (according to clause 4.2) and to the Beneficiary together with the good.

The originals of the above mentioned documents shall be submitted to the Contracting Authority and to the Beneficiary no later than the moment of delivery of the Goods, instead of the delivery of the good specified in clause 2.1.

2.3. The Beneficiary may request, with the written consent of the Contracting Authority, a reasonable decrease or increase in the number of Goods within the framework of the current legislation on public procurement, notifying the Seller 20 days before delivery.

2.4. Upon delivery of the Goods by the Seller, the Contracting Authority and the Seller sign the tax invoice. At the same time, the Seller, the Contracting Authority and the Beneficiary sign the acceptance certificate. The signed tax invoice and the acceptance certificate serve as a basis for making the payment according to the provisions of the Agreement.

2.5. The delivery of the goods shall be deemed completed on the date of signing the tax invoice / acceptance certificate and their receipt by the Contracting Authority.

**3. Price and payment**

3.1. The price of the Goods delivered under this Agreement shall be established in MDL and shall be specified in the Specification of Annex no. 1 of this Agreement.

3.2. The total amount of this Agreement, including VAT, shall be expressed in MDL and shall be:

3.3. Payment for delivered goods will be made by the Contracting Authority in MDL, according to the exchange rate of the National Bank of Moldova on the day of payment, within 30 calendar days after delivery of Goods and receipt of tax invoices by the Contracting Authority.

3.4. Payment for the delivered Goods will be made by bank transfer to the Seller's settlement account specified in this Agreement.

**4. Terms of acceptance**

4.1. The Goods shall be deemed delivered by the Seller and accepted by the Contracting Authority and the Beneficiary where:

a) the quantity of the delivered Goods corresponds to the information specified in the List of Goods and all the accompanying documents provided for in clause 2.2 of this Agreement;

b) the quality of the Goods corresponds to the information specified in Annex no.1;

c) the packaging and the integrity of the Goods correspond to the information specified in Annex no.1.

4.2. The Seller undertakes to provide the Contracting Authority for making the payment, an original copy of the tax invoice, signed by the Beneficiary and the Seller, together with the delivery of the Goods. If the Seller fails to comply with this clause, the Contracting Authority reserves the right to extend the payment term provided in clause 3.3 of this Agreement.

**5. Standards**

5.1. The Goods delivered under this Agreement will comply with the standards provided by the Seller in its technical proposal.

**6. Liabilities of the Parties**

6.1. Pursuant to this Agreement, the Seller undertakes:

a) to deliver the Goods under the terms provided by this Agreement;

b) to notify the Contracting Authority and the Beneficiary, within 5 calendar days from the signing of this Agreement, by telephone / fax or authorized telegram, about the availability of the delivery of the Goods;

c) to ensure the appropriate conditions for the receipt of the Goods by the Contracting Authority and the Beneficiary within the established terms, in compliance with the requirements of this Agreement;

d) to ensure the integrity and quality of the Goods for the entire period until their receipt by the Contracting Authority and the Beneficiary.

6.2. Pursuant to this Agreement, the Beneficiary undertakes:

a) to take all the necessary measures to ensure the receipt within the established term of the Goods delivered in compliance with the requirements of this Agreement.

6.3. Pursuant to this Agreement, the Contracting Authority undertakes:

a) to ensure the payment of the delivered Goods, in compliance with the manner and terms specified in this Agreement, as well as the expenses related to the customs clearance procedure from the financial means allocated from the State Budget / Compulsory Healthcare Insurance Fund / Government Emergency Fund;

b) to collect penalties from the Seller according to clauses 9.2, 9.8, 9.9.

**7. Justification due to an impediment**

7.1. Failure of the Parties to this Agreement to perform an obligation shall be justified if it is due to an impediment beyond its control and if the Party could not reasonably be required to avoid or overcome such impediment or its consequences.

7.2. Failure to perform shall not be justified if the Party could reasonably have considered the impediment at the time of conclusion.

7.3. If the justifying impediment is only temporary, the justification shall take effect during the existence of the impediment. If the justifying impediment is permanent, the obligation shall be canceled. However, if the delay acquires significant signs of non-performance, the creditor may have recourse to legal remedies based on such non-performance.

7.4. The party referencing this clause shall be obliged to ensure that the other party receives notice of the impediment and its effect on performance immediately, but no later than 10 days after it became aware or should have known about these circumstances.

7.5. Justification of the impediment shall not exempt the debtor from paying compensation if the impediment arose after the failure to fulfill the obligation, unless the party could not, in any case, because of the impediment, benefit from the performance of the obligation.

**8. Contract Termination**

8.1. The termination effect shall cancel the unfulfilled obligations arising from this Agreement or the relevant part of such obligations.

8.2. The right of termination shall be exercised by the entitled Party by written notification to the other Contracting Party.

8.3. Termination due to non-performance shall take place if the non-performance of the contractual obligation is material. It shall be material in one of the following cases:

a) the seller's refusal to sell the Goods provided for in this Agreement;

b) non-compliance by the Beneficiary and the Center with the payment terms for the delivered Goods;

c) non-compliance by the Seller with the terms of delivery of the Goods;

d) failure of one of the contracting Parties to satisfy the claims submitted under this Agreement,

8.4. The terminating Party shall retain the right to compensation or penalties accrued on the termination date and, in addition, shall be equally entitled to compensation or penalties as if the obligations canceled by the effect of the terminations had not been fulfilled.

**9. Claims and sanctions**

9.1. Claims on the quantity of delivered Goods shall be submitted to the Seller at the time of their receipt and are confirmed by a document drawn up jointly with the Seller's representative.

9.2. The Seller shall be obliged to notify the Beneficiary about the impossibility of delivery of the Goods within 5 calendar days from the date of the circumstances that prevent the delivery occur. In the event of violation of the information term stipulated in this clause, the Seller shall bear a penalty of 1% of the total amount of undelivered Goods.

9.3. Claims regarding the quality of the delivered Goods shall be submitted to the Seller within 15 working days from the detection of quality deficiencies and must be confirmed by a certificate issued by a neutral and authorized independent organization.

9.4. The Seller undertakes to examine the claims submitted within 5 working days from the date of their receipt and to inform the Beneficiary about the decision taken.

9.5. In the event of acceptance of the claims, the Seller undertakes, within 5 days, to deliver additionally to the Beneficiary the undelivered quantity of goods, and in case of finding the improper quality - to replace or correct them in compliance with the requirements of this Agreement.

9.6. The Seller shall be responsible for the quality of the Goods within the established limits, including for hidden defects.

9.7. In the event of a deviation from the quality confirmed by the quality certificate drawn up by an independent neutral organization and authorized for this purpose, the costs of parking or delay shall be borne by the Party at fault.

9.8. For refusal to sell the Goods provided for in this Agreement, the Seller shall bear a penalty of 30% of the amount of the undelivered Goods.

9.9. For late delivery of the Goods, the Seller shall be financially responsible as follows:

a) for the first 30 calendar days of delay, the penalty shall be 0.1% of the amount of undelivered Goods for each day of delay;

b) for the following days of delay, exceeding 30 calendar days, the penalty shall be 0.5% of the amount of undelivered Goods for each day of delay, but not more than 30% of the amount of undelivered Goods for the entire period of delay.

9.10. For the late payment of funds to the Seller, the Contracting Authority shall be financially responsible in the amount of 0.1% of the amount of the unpaid Goods for each day of delay, but not more than 5% of the total amount of the unpaid Goods.

9.11. The Seller shall be exempted from the obligation to deliver the Goods if the drug registration certificate is suspended or withdrawn under legislation in force.

**10. Intellectual property rights**

10.1. The Seller undertakes to indemnify the Beneficiary and the Contracting Authority against any:

a) claims and legal actions resulting from the infringement of some intellectual property rights (patents, names, trademarks, etc.) regarding the equipment, materials, installations or machinery used for or in connection with the purchased products; and

b) damages, costs, fees and related expenses of any kind, except for the situation in which such a violation results from the observance of the Specifications drawn up by the Center.

**11. Final provisions**

11.1. Disputes that may arise from this Agreement will be settled amicably by the Parties. Otherwise, they will be sent for examination to the competent court, according to the legislation of the Republic of Moldova.

11.2. From the date of signing this Agreement, all negotiations and previously completed documents shall cease to be valid.

11.3. The contracting parties are entitled to agree on the contractual clauses amendment, by additional act, only in case of occurrence of some circumstances that could not be foreseen at the date of concluding the Agreement. Amendments and additions made to this Agreement shall be valid only if made in writing and signed by all Parties.

11.4. Neither Party has is entitled to transfer its obligations and rights stipulated in this Agreement to third parties without the written consent of the other Parties.

11.5. This Agreement is drawn up in three identical copies, in the state language of the Republic of Moldova and in English or Russian, one copy for the Seller, the Beneficiary and the Contracting Authority.

11.6. This Contract shall be deemed concluded on the date of signing, shall enter into force on the date of registration by the Contracting Authority and shall be valid until June 30, 2021. The Agreement not registered in the established manner shall have no legal force.

11.7. This Agreement represents the will of the Parties and is signed today, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2021.

To attest the aforementioned, the Parties have signed this Agreement in accordance with the legislation of the Republic of Moldova, on the date and year specified above.

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| **Legal, postal and banking details of the Parties:** | | |
| **The Seller** | **The Beneficiary**  **National Agency for Public Healthcare** | **Contracting Authority**  **Center for Centralized Public Procurement in Healthcare** |
| Mailing address: | Mailing address: | **Mailing address:**  **MD-2028, Republic of Moldova, Chisinau, 22/2 Grigore Vieru street** |
| Phone:  Fax: | Phone: | Phone:  (**022) 222 445**  **(022) 222 490**  **E-mail:** [**medicamente@capcs.md**](mailto:medicamente@capcs.md)  [**office@capcs.md**](mailto:office@capcs.md)  [**monitorizare@capcs.md**](mailto:monitorizare@capcs.md)  **Website: http://capcs.md** |
| IBAN: | Current account: | IBAN:  MD75TRPCCC518430C01859AA |
| The Bank: | The Bank: | The Bank:  **MF-TT Chisinau-state budget** |
| The Bank’s mailing address: | The Bank’s mailing address: | The Bank’s mailing address: |
| IDNO: | IDNO: | IDNO: **1016601000212** |
| BIC: | BIC: | BIC: **TREZMD2X** |
|  |  |  |
| Authorized signature: | Authorized signature: | Authorized signature: |
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| seal | seal | seal |
|  | Accountant |  |
|  | Registration number: |  |
|  | Treasury |  |
|  | Date: |  |

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|  | **Technical specifications (F4.1)** | | | | | | |  |  | | |
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|  | *[This table will be completed by the supplier in columns 3, 4, 5, 7, and by the contracting authority - in columns 1, 2, 6, 8]* | | | | | | |  |  | | |
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| **Tender's Number:** | | **Tender:** | | | **Data: "\_\_\_\_\_\_\_\_"     \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_** | | | | **Alternative no: \_\_\_\_\_\_\_** | | |
| **Tender's name** | |  | | | **Lot:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | | | | **Page: \_\_\_** | | |
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| **CPV's Code** | | **Name of goods and / or services  (International Common Name)** | **Item model (Trade name)** | **Country of origin** | **Manufacturer** | **The full technical specification requested by the contracting authority** | **Full technical specification proposed by the supplier** | | **Reference standards (GMP)** | | |
| **1** | | **2** | **3** | **4** | **5** | **6** | **7** | | **8** | | |
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|  | | **TOTAL** |  |  |  |  |  | |  | | |
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|  | | Signed :\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Last name, first name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as: \_\_\_\_\_\_\_\_ | | | | | | |  | | |
|  | |  |  |  |  |  |  | |  | | |
|  | | Supplier: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | | |  | | |

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| Performance Guarantee (F3.3)  *[The commercial bank, at the request of the successful tenderer, will complete this form on the letterhead, in accordance with the instructions below.]*  Date: “\_\_\_” \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_  Public procurement procedure No .: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Bank Office**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  *[enter the full name of the guarantor]*  **Beneficiary**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  *[enter the full name of the contracting authority]*  **PERFORMANCE GUARANTEE**  **No.** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  We, *[enter the legal name and address of the bank],* have been informed that the company *[enter the full name of the Supplier]* (hereinafter referred to as “Supplier”) has been awarded the Public Procurement Delivery Contract \_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[object of the procurement, describe the goods]* according to the invitation to the public procurement procedure no. from \_\_\_\_\_\_\_\_\_. 201\_\_ *[number and date of the public procurement procedure]* (hereinafter referred to as "Contract").  Therefore, we understand that the Supplier must submit a Performance Guarantee in accordance with the provisions of the award documents.  At the request of the Supplier, we hereby irrevocably undertake to pay you any amount (s) not exceeding *[enter the amount (s) in figures and words]* upon receipt of the first written request from you, by which you declare that the Supplier does not fulfill one or more obligations under the Contract, without discussion or clarification and without the need to demonstrate or show the grounds or reasons for your request or for the amount indicated therein.  This Guarantee will expire no later than *[enter the number]* from *[enter the month] [enter the year]*,*[[1]](#footnote-1)* and any request for payment related to it must be received by us at the office up to this date including.  *[signatures of the authorized representatives of the bank and of the Supplier]* |

1. *The contracting authority must take into account the situations when, in case of an extension of the execution period of the Contract, the contracting authority will need to request an extension of this guarantee from the bank as well. Such a request must be made in writing and must be made before the expiry of the date set out in the guarantee. In preparing this Guarantee, the contracting authority may consider adding the following text to the form at the end of the penultimate paragraph: “We agree to a single extension of this Guarantee for a period not exceeding [six months] [one year], in response to a written request from the contracting authority for such an extension, and such a request shall be submitted to us before the expiry of this guarantee. "* [↑](#footnote-ref-1)