



**AGREEMENT
VACCINE COLD CHAIN MANAGEMENT SERVICE FEE
(HEALTH-22-SERVICES-088)**

KNOW ALL MEN BY THESE PRESENTS:

This Agreement entered into by and between:

QUEZON CITY GOVERNMENT, a public corporation existing under the laws of the Philippines, represented herein by the Honorable **MA. JOSEFINA G. BELMONTE**, in her capacity as City Mayor, with office at Quezon City Hall Compound, Elliptical Road, Diliman, Quezon City, Metro Manila, and hereinafter referred to as the "**CITY**"

-and -

ZUELLIG PHARMA CORPORATION, a corporation duly organized and incorporated under the laws of the Republic of the Philippines with office address at Km 14 West Service Road, Edison Ave, Parañaque, Metro Manila, Philippines, represented herein by its Authorized Representative, **MR. DANILO J. CAHOY** hereinafter referred to as the "**SERVICE PROVIDER**"

(**CITY** and **SERVICE PROVIDER** may be referred to individually as a "Party" and collectively, as "Parties.")

RECITAL

WHEREAS, in view of the **CITY**'s mandate to mitigate and contain the transmission of COVID-19, it is imperative to procure a service provider who will provide Vaccine Cold Chain Management Service Fee for Three Hundred Eleven Thousand Five Hundred (311,500) doses of COVID-19 Vaccines which are to be stored at 2°C to 8°C;

WHEREAS, in its Resolution No. 02-019 Series of 2022 duly approved by the City Mayor, the Bids and Awards Committee on Goods and Services (the "**Committee**") recommended the use of negotiated mode as an alternative method **Vaccine Cold Chain Management Services Fee** under Project Number **HEALTH-22-SERVICES-088** (the "**Project**") pursuant to **Section 53.2**, of the Revised Implementing Rules and Regulations of RA 9184, states among others that negotiated procurement may be resorted to when time is of the essence arising from other causes where immediate action is necessary to prevent damage to or loss of life or property;

MA. JOSEFINA G. BELMONTE
CITY MAYOR

DANILO J. CAHOY
Authorized Representative



WHEREAS, in accordance with pertinent laws, rules and issuances on Negotiated Procurement (Emergency Cases), the CITY sent Requests for Quotation to various suppliers of known qualification who are technically, legally and financially capable of delivering the required services for the Project;

WHEREAS, the SERVICE PROVIDER participated and submitted its quotation for the Project and upon evaluation, was determined to be a supplier which possesses the technical, legal and financial capabilities to deliver the required services;

WHEREAS, the SERVICE PROVIDER was declared as the Single Calculated and Responsive Price Quotation/Offer;

NOW THEREFORE, for and in consideration of the foregoing premises, the Parties hereto agreed and do hereby mutually agree to be bound by the covenants and stipulations herein set forth as follows:

Section 1. Scope of Work. Pursuant to and in accordance with the Contract Documents provided herein, the SERVICE PROVIDER undertakes to deliver to the CITY the required services, which includes processes relating to handling from the receipt of the order, receiving, storing, quality control, release for transportation and shipment to various vaccination sites to ensure the quality and integrity of the vaccines, the technical specifications of which are specifically defined in the Terms of Reference.

Section 2. Contract Documents. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:

- (a) Request for Quotation;
- (b) Terms of Reference (TOR);
- (c) The Service Provider's Quotation;
- (d) Eligibility requirements, documents, undertakings and/or statements;
- (e) Purchase Request;
- (f) Affidavit of Undertaking;
- (g) Omnibus Sworn Statement;
- (h) Notice of Award; and
- (i) Notice to Proceed.

The documents mentioned above shall be collectively referred to as "Contract Documents".

Section 3. Term. This Agreement shall be effective for a period commencing from receipt of the Notice to Proceed MAR 03 2022 and to end on 31 December 2022.

Section 4. Contract Price. In consideration of the complete and faithful delivery of any and all Services and performance of any and all obligations of the SERVICE PROVIDER under this Agreement, the SERVICE PROVIDER shall be

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DANILO J. CAHOY
Authorized Representative



paid for the entire duration of the Agreement the total amount of **Ten Million Two Hundred Seventy-Nine Thousand Five Hundred Pesos (P 10,279,500.00)** inclusive of the 12% Value Added Tax (VAT) (the "**Contract Price**") in accordance with the conditions set forth in Section 5 hereof.

Section 5. Terms of Payment. The City shall be billed thirty (30) days after delivery to the COVID-19 vaccination facility identified.

The processing of payments will entail the approval by the CITY of the **SERVICE PROVIDER'S** complete documentation and deliverables before invoices may be processed for payment. The CITY likewise reserves the right to validate billing/invoice before payment of fees.

Section 6. Project Cost Adjustment. As stated in Republic Act 9184, otherwise known as the Government Procurement Reform Act, Section 61.2, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the Government of the Philippines, promulgated after the date of bid opening, [such as, but not limited to, increase in minimum daily wage pursuant to law or new wage order], a contract price adjustment shall be made on a no loss-no gain basis.

Section 7. Standard of Performance. The **SERVICE PROVIDER** shall, consistent with the TOR, perform the required services and carry out its obligations with all due diligence, efficiency and economy. It shall observe the highest degree of standards based on industry practice.

Section 8. Penalties. The **SERVICE PROVIDER** shall be liable for penalty for any breach of contract under all applicable laws, issuances and regulations.

Section 9. Liquidated Damages. It is understood and agreed that time is of the essence of this Agreement. In the event the **SERVICE PROVIDER** refuses or fails to completely supply and deliver to the CITY the Services defined herein within the delivery schedule at no fault of the CITY, the **SERVICE PROVIDER** shall be liable for liquidated damages in the amount equivalent to one tenth of one percent (1/10 of 1%) of the Contract Price for every day of delay until the Project is completely delivered: *Provided*, that, the total cumulative amount of liquidated damages shall not exceed ten percent (10%) of the Contract Price: *Provided*, further, that, once the cumulative amount of liquidated damages exceeds ten percent (10%) as provided herein, the CITY, in accordance with Section 68 of the IRR of R.A. 9184, may rescind or terminate this Agreement without prejudice to other remedies and other courses of action available to the CITY under this Agreement and pursuant to any and all applicable laws.

Section 10. Authority to Deduct Liquidated Damages. For purposes of assessment and enforcement of the penalties and liquidated damages in the immediately preceding sections, the CITY, upon written notice to the **SERVICE PROVIDER**, is hereby authorized to deduct any amount due as penalty and/or liquidated damages from any amount due or may become due and owing to the **SERVICE PROVIDER** or from any and all bonds or securities posted by

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Authorized Representative



the **SERVICE PROVIDER** in favor of the **CITY**, at the option of the latter. It is hereby agreed and understood that the imposition of penalty and assessment of liquidated damages are cumulative and not alternative remedies of the **CITY** under this Agreement.

Section 11. Assignment and Sub-contracting. This Contract or any portion hereof shall not be assigned, transferred or ceded to any other party/ies without the written consent of the **CITY**. **SERVICE PROVIDER** is further prohibited from sub-contracting any obligations in this contract to any other party.

Section 12. Representations and Warranties of the Service Provider. The **SERVICE PROVIDER** hereby represents and warrants to the **CITY** as follows:

- a. The **SERVICE PROVIDER** is a corporation duly organized, validly existing and in good standing under the laws of the Republic of the Philippines.
- b. The **SERVICE PROVIDER** has full legal right, power and authority to carry on its present business, to own its properties and assets, and to execute and deliver this Agreement and all other documents executed, or required or necessary to be executed pursuant thereto, and to perform and observe the terms and conditions thereof.
- c. All appropriate and necessary corporate and legal actions have been taken by it to authorize the execution and delivery of this Agreement, and all other documents executed, or required or necessary to be executed pursuant thereto and the performance of all provisions, conditions, covenants, and other terms hereof and thereof, as well as all the transactions contemplated herein.
- d. This Agreement and all other documents executed, or required or necessary to be executed pursuant thereto, constitute, or when executed and delivered pursuant thereto, will constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms.
- e. The execution and delivery of this Agreement and all other documents executed, or required or necessary to be executed pursuant thereto and the performance of its obligations hereunder will not:
 - i. Conflict with its Articles of Incorporation, By-Laws or other constitutive documents;
 - ii. Conflict with, result in the breach of, or constitute an event which would either immediately or with the lapse of time or giving of notice or both, result in a default under, or accelerate the performance required by, the terms of any agreement, document, contract, instrument or commitment to which it is a party or by which it or any of its assets is bound;
 - iii. Conflict with or require any written consent or approval under any judgment, order, writ, decree, permit or license to which it is a party or by which any of its assets is bound; or

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CITY MAYOR

DANILO J. CAHOY
Authorized Representative



iv. Require the written consent or approval of any other party to any agreement, document, contract, instrument or commitment to which it is a party or by which any of its assets is bound.

f. There are no actions, suits or proceedings existing, pending or, threatened against or directly affecting the **SERVICE PROVIDER** and/or any of its assets before any court, arbitrator or governmental or administrative body or agency that affect the validity or enforceability of this Agreement or that would affect the ability of the **SERVICE PROVIDER** to perform its obligations hereunder.

g. No event has occurred and is continuing which might materially and adversely affect the carrying out of its obligations under this Agreement.

h. It is in compliance with all applicable laws and regulations in connection with the delivery of the Project.

i. Each of the representations and warranties herein shall survive the execution of this Agreement and shall be deemed repeated during the effectivity of this Agreement.

Section 13. Indemnification. The **SERVICE PROVIDER** shall indemnify and save the **CITY** and all its officers, employees, personnel and persons acting as agents or representatives and render them free and harmless from any and all claims, actions, liabilities, losses and suits which may be brought or instituted against them arising out of or resulting from the **SERVICE PROVIDER's** supply, deliver and performance of its Services under this Agreement.

Section 14. Events of Default of the Service Provider. Any of the following shall constitute an Event of Default under this Agreement:

a. When the **SERVICE PROVIDER** becomes insolvent, or commits or suffers any act of bankruptcy, which term shall include: (i) the filing of a petition, by or against the **SERVICE PROVIDER**, in any bankruptcy, insolvency, administration, suspension of payment, reorganization, winding-up or liquidation proceeding, or any other proceeding analogous in purpose and effect; (ii) the making of an assignment by the **SERVICE PROVIDER** for the benefit of its creditors; (iii) the admission in writing by the **SERVICE PROVIDER** of its inability to pay its debts; (iv) the entry of any order of judgment of any competent court, tribunal or administrative agency or body confirming the bankruptcy or insolvency of the **SERVICE PROVIDER** or approving its reorganization, winding-up or liquidation, or (v) the lawful appointment of a receiver or trustee to take possession of the properties of the **SERVICE PROVIDER**;

b. When the **SERVICE PROVIDER** suspends or discontinues all or a substantial portion of its business operations, whether voluntarily or involuntarily, for a period of at least sixty (60) days;

c. Any material breach by the **SERVICE PROVIDER** of any of its warranty, representation or covenant made under this Agreement.

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CITY MAYOR

DANILO J. CAHOY
Authorized Representative



Section 15. Consequences of Default. Upon occurrence of any Events of Default under this Agreement, the CITY may declare the SERVICE PROVIDER in default and shall have the right to:

- a. Terminate this Agreement;
- b. Call on the Performance Security to answer for any and all damages of whatever nature suffered by the CITY resulting or arising from the SERVICE PROVIDER's default; and
- c. Take such other steps or actions against the SERVICE PROVIDER for the full protection and enforcement of the CITY's rights and interests.

Section 16. Compliance with Laws, Ordinances and Regulations. The SERVICE PROVIDER shall comply with any and all laws, ordinances and regulations of the national and local government applicable to or binding upon the parties hereto. For this purpose, any and all pertinent provisions of RA 9184 and its IRR, and other applicable laws and regulations are deemed written and incorporated in this Agreement. In case of conflict between any of the provisions of this Agreement and those of the applicable laws and regulations, the latter shall prevail.

Section 17. Indemnities and Attorney's Fees. Should any of the parties resort to court action in order to enforce their respective rights under this Agreement, the prevailing party or its successors-in-interest shall be entitled to be indemnified by the other party by way of attorney's fees, a reasonable sum equivalent to the actual amount of fees paid or to be paid by the prevailing party.

Section 18. Notification. All notices and communications shall be done in writing and shall be directed as follows:

CITY : **OFFICE OF THE CITY MAYOR**
c/o Bids and Awards Committee Secretariat
2nd Floor Finance Bldg, Quezon City Hall
Complex, Elliptical Road, Diliman, Quezon City

SERVICE PROVIDER : **ZUELLIG PHARMA CORPORATION**
Km 14 West Service Road, Edison Ave,
Parañaque, Metro Manila, Philippines

Section 20. Effectivity. This Agreement shall be effective upon execution by the parties hereto.

Section 21. Miscellaneous Provisions.

- a. This Agreement, including the documents and/or agreements specifically incorporated herein by reference, constitutes the entire agreement

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CITY MAYOR

DANILO J. CAHOY
Authorized Representative



Republic of the Philippines
PROCUREMENT DEPARTMENT
Quezon City Government



2202027

between the parties. This Agreement may be amended and supplemented in writing at any time as decided and agreed upon by mutual consent of the parties.

b. This Agreement and all documents related thereto shall be binding upon and inure to the benefit of the parties herein and/or their respective heirs, agents, representatives, successors-in-interest, and assigns. The **SERVICE PROVIDER** shall not assign its rights and obligations under this Agreement without the written consent of the **CITY**.

c. This Agreement embodies the entire arrangement or agreement of the parties and no undertaking, verbal or otherwise, in relation thereto, shall exist between the parties except as herein expressly set forth.

d. The parties hereby certify that they have read or caused to be read to them all the provisions of the foregoing Agreement, receipt of a signed copy of which is hereby expressly acknowledged by the parties and that they have fully understood the same.

e. The parties hereby represent and warrant that they have the necessary power and corporate authority to execute and deliver this Agreement and perform their obligations as incorporated herein and that such execution, delivery and performance do not and will not contravene any provision of their respective Articles of Incorporation, by-laws, any agreements or instruments to which they are a party or any laws or regulations of any governmental authority.

f. If any provision of this Agreement be declared by any court or other authorized agency of the government to be null and void, the nullity thereof shall not affect the validity of this transaction or any other provisions herein which shall then be considered as valid and binding between the parties.

g. Any and all disputes arising from the implementation of this Agreement shall be submitted to arbitration in the Philippines according to the provisions of RA 876, otherwise known as the "Arbitration Law" and RA 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004": Provided, that, by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution.

IN WITNESS WHEREOF the parties have hereunto set their hands to this Agreement on MAR 03 2022, at Quezon City.


QUEZON CITY GOVERNMENT

ZUellig PHARMA CORPORATION

By:

By:


MA. JOSEFINA G. BELMONTE
City Mayor


DANILO J. CAHOY
Authorized Representative



Signed in the presence of:

[Handwritten Signature]

RUBY G. MANANGU
City Accountant

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES }
_____ }s.s.

MAR 03 2022

BEFORE ME, a Notary Public for and in _____, this _____, personally appeared:

MA. JOSEFINA G. BELMONTE
CITY MAYOR

Name

Competent Proof of Identity

HON. MA. JOSEFINA G. BELMONTE, in her capacity as Mayor of the Local Government of Quezon City

OCM - 0081744

DANILO J. CAHOY in his capacity as the Authorized Representative of ZUELLIG PHARMA CORPORATION

DRIVERS LICENSE - K01-88-017442

all known to me and to me known to be the same persons who executed this Agreement, and they acknowledged to me that the same is their free and voluntary act and deed, and the free and voluntary act and deed of the parties which they respectively represent.

I certify that the foregoing Agreement, signed by the parties and their instrumental witnesses, consists of eight (8) pages, including this page on which the acknowledgement is written.

WITNESS MY HAND AND SEAL on the date and place above-written.

Doc. No. 497;
Page No. 92;
Book No. 002;
Series of 2022.



ATTY. MARK JOSUE MARCELO
Notary Public
Room 305, Security Bank Building,
Mataho St., Quezon City
Adm. Matter No. NP-103
Commission expires on December 31, 20
Attorney's Roll No. 69314
IBP Lifetime No. 016806, Quezon City CB
PIR No. 038973401 on 04/11/2011 Quezon City
MCLE Compliance No. A-0026035



Republic of the Philippines
PROCUREMENT DEPARTMENT
 Quezon City Government



PO Number **2202027**

Purchase Order Date: MAR 03 2022

Procuring Unit : QUEZON CITY HEALTH DEPARTMENT ✓
 Company Name : ZUELLIG PHARMA CORPORATION ✓
 Address : Km 14 West Service Rd., SSH, cor Edison Ave., Brgy. Sun Valley, Parañaque City ✓
 Business Type : Corporation Registration #7738 ✓
 Project Number : HEALTH-22-SERVICES-088 ✓
 Mode of Procurement : 53.2 ✓
 Resolution No. : 22-A-020 ✓
 TIN Number : 000-172-443-000 ✓
 Contact Number : (02) 908-2222

Sir/Madam:
 Please furnish this office the following articles subject to the terms and conditions contained here:

Place of Delivery : Quezon City Health Department ✓ **Delivery Schedule :** Upon request by the end-user not later than December 31, 2022 ✓
Payment Term : Credit

| Stock No. | Item | Unit of Issue | QTY | Unit Cost | Amount |
|-----------|---|---------------|---------|-----------|---------------|
| 1 | VACCINE COLD CHAIN MANAGEMENT SERVICES FEE which includes processes relating to handling from the receipt of the order, receiving, storing, quality control, release for transportation and shipment to various vaccination sites. To ensure the quality and integrity of the vaccine Attached Terms of Reference with detailed scope of work ***** Nothing Follows ***** | Dose | 311,500 | 33.00 | 10,279,500.00 |

Total Amount : 10,279,500.00 ✓

Total Amount In Words (Pesos): Ten Million Two Hundred Seventy-Nine Thousand Five Hundred Pesos Only ✓

MA. JOSEFINA G. BELMONTE
 City Mayor

DANILO J. CAHOY
 Signature Over Printed Name of Supplier / Date

Funds Available:

RUBY G. MANANGU
 City Accountant



OBR : 100 - 2022 - 03 - 1350
 PR Amount : 10,591,000.00

TERMS AND CONDITIONS

1. ALL PRICES INDICATED HEREIN ARE VALID, BINDING AND EFFECTIVE AT LEAST WITHIN THIRTY (30) CALENDAR DAYS FROM DATE OF RECEIPT.
2. AWARDEE shall be responsible for the source(s) of its supplies/materials/equipment and shall make deliveries in accordance with the schedule, quality and specification of the award and purchase order. Failure by the AWARDEE to comply with the same shall be a ground for cancellation of the award and purchase order issued to that AWARDEE and for re-awarding the item(s) to the ALTERNATE AWARDEE.
3. AWARDEE shall pick up purchase order(s) issued in its favor within three (3) days after receipt of notice to that effect. A telephone call, fax transmission or electronic mail (e-mail) shall constitute an official notice to the AWARDEE. Thereafter, if the purchase order(s) remains unclaimed, the said purchase order(s) shall be sent by mailing or courier, messengerial service to the AWARDEE. To avoid delay in the delivery of the requesting end-user's requirement, all DEFAULTING AWARDEES shall be precluded from proposing or submitting a substitute sample.
4. Subject to the provisions of the preceding paragraph, where AWARDEE has accepted a purchase order but fails to deliver the required product(s) within the time called for in the same order, the delivery period may be extended a maximum of fifteen (15) calendar days under liquidated damages to make good the delivery. Thereafter, if AWARDEE has not completed the
5. delivery within the extended period, the subject purchase order shall be cancelled and the award for the undelivered balance, withdrawn from that AWARDEE. The BAC-Goods and Services shall then purchase the required item(s) from such other source(s) as it may determine, with the difference in price to be charged against the DEFAULTING AWARDEE. Refusal by the DEFAULTING AWARDEE to shoulder the price difference shall be ground for its disqualification from future bids of the same items, without prejudice to the imposition of other sanction as prescribed under RA 9184 and its RIRR.
6. When the supplier fails to satisfactorily deliver goods/services under the contract within the specified delivery schedule, inclusive of duly granted time extensions, if any, the supplier shall be liable for damages for the delay and shall pay the procuring entity liquidated damages, not by way of penalty, an amount equal to one-tenth (1/10) of one percent (1%) of the cost of the delayed goods/services scheduled for delivery for everyday of delay until such goods/services are finally delivered and accepted by the procuring entity concerned.
7. Rejected deliveries shall be construed as non-delivery of product(s)/item(s) so ordered and shall be subject to liquidated damages, subject to the terms and conditions prescribed under paragraph 4 hereof.
8. Supplier shall guarantee its deliveries to be free from defects. Any defective item(s)/product(s), therefore that maybe discovered by the **Quezon City Government** within three (3) months after acceptance of the same, shall be replaced by the supplier within seven (7) calendar days upon receipt of a written notice to that effect.
9. All duties, excise and other taxes and revenue charges, if any, shall be for the supplier's account.
10. As a pre-condition to payment, IMPORTANT DOCUMENTS specifically showing the condition and serial numbers of the imported equipment purchased should be submitted by the supplier to the **Quezon City Government**.
11. All transactions are subject to applicable withholding taxes in accordance with existing BIR rules and regulations.
12. Supplier shall furnish the End-user through the City General Services Department stockroom, the articles, described above;
13. The **Quezon City Government** reserves the right to accept or reject delivered articles if found not in conformity to the specifications, terms and conditions stipulated.
14. Provisions contained in Title VI, Book IV of the Civil Code of the Philippines on Sales are hereby incorporated and made as an Integral part hereof.
15. This contract shall also serve as **Notice to Proceed**, to take effect on MAR 03 2022 and to expire on - DEC 31 2022

CONFORME:

DANILO J. CAHOY

SIGNATURE OVER PRINTED NAME

General Manager

IN THE CAPACITY OF

DATE

Duly authorized to sign this Purchase Order for and on behalf of

Zuellig Pharma

COMPANY NAME

SUBSCRIBED AND SWORN to before me this MAR 03 2022 day of MAR 03 2022 at _____, Philippines. Affiant personally known to me and were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiants exhibited to me his/her _____ with his/her photograph and signature appearing thereon with No. _____

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 Series of 2022

ATTY. MARK JOSEPH E. MARCELO
 Notary Public
 Room 405, Security Bank Building,
 Matalino St., Quezon City
 Adm. Matter No. NP-103
 Commission expires on December 31, 2022
 Attorney's Roll No. 69314

***This Purchase Order shall be deemed invalid without Notary Seal (for project amounting to Php 2,500,000.00 and above only)

IBP Lifetime No. 016605, (Law Office of)
 IBP No. 069973341-08-2021 Quezon City
 MCLE Compliance No. VI-0026095