

Dated

and

ASTRAZENECA AB

ASTRAZENECA INDEMNIFICATION AGREEMENT (AZD1222)

This Agreement is made on **between:**

(1)

(“**COVAX Participant**”);

and

(2) AstraZeneca AB, a company incorporated in Sweden under No. 556011-7482 whose registered office is at SE-151 85 Södertälje, Sweden (“**AstraZeneca**”).

Whereas:

- (A) AstraZeneca and Pan American Health Organization (“**PAHO**”) have entered into a Long Term Agreement ([the “**LTA**”) for the Vaccine (as defined below), whereby PAHO agreed to be the Designated Procurement Agency for the COVAX Participant, in (the “**Territory**”).
- (B) Under the LTA, the COVAX Participant has the ability to access doses of Vaccine developed and produced by AstraZeneca in accordance with the mechanism prescribed by the LTA and as agreed between the COVAX Participant and the Designated Procurement Agency.
- (C) In recognition of the circumstances in which the Vaccine has been developed, the COVAX Participant has agreed to indemnify AstraZeneca against certain risks, as set out in this Agreement.

It is agreed as follows:

1 Interpretation

1.1 Definitions

In this Agreement, unless the context otherwise requires:

“**Confidential Information**” has the meaning given to it in Clause 3.1.1;

“**Control**” means the power (whether direct or indirect through one or more other persons) to direct or cause the direction of a person’s affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise, and “**Controlled**” will be construed accordingly;

“**Designated Procurement Agency**” means PAHO which will procure Vaccine on behalf of the COVAX Participant pursuant to the LTA;

“**Good Manufacturing Practice**” means the then-current mandatory standards, rules, principles and guidelines of good manufacturing practice and general biologics products standards in each case contained in Applicable Laws and Guidance which apply to the Vaccine supplied under this Agreement, which may include: Directive 2001/83/EC (as amended by Directive 2004/27/EC), Directive 2003/94/EC and EudraLex - Volume 4 of the Rules Governing Medicinal Products in the EU entitled “EU Guidelines to Good Manufacturing Practice Medicinal Products for Human and Veterinary Use”;

“**Group**” means, in respect of any person, any persons that Control, are Controlled by or are under the common Control with that person from time to time;

“**Indemnified Claim**” means a claim in respect of which the COVAX Participant has an obligation to indemnify the Indemnified Persons pursuant to Clause 2.1;

“**Indemnified Persons**” means AstraZeneca and any other member of AstraZeneca’s Group, and the sub-contractors, licensors, sub-licensees, officers, directors, employees and other agents and representatives of each;

“**Losses**” means death, physical, mental, or emotional injury, illness, disability, or condition, fear of the foregoing, property loss or damage, and business interruption of the injured party or a Related Person of such injured person;

“**Related Persons**” means spouses, heirs, children (whether natural or adopted), descendants, successors and assigns, estates, or legal representatives, executors, administrators or any other person or entity representing the rights of the injured person or any of the foregoing;

“**Territory**” has the meaning set forth in the recitals of this Agreement;

“**Third Party Claim**” has the meaning set forth in Clause 2.1.1;

“**Vaccine**” or “**Vaccines**” means any *COVID-19 Vaccine AstraZeneca* which has been supplied to the COVAX Participant, having been allocated to the COVAX Participant pursuant to the terms of the LTA; and

“**Wilful Misconduct**” means an act or omission taken (a) intentionally to achieve a wrongful purpose; (b) knowingly without legal or factual justification; and (c) in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit. Each of the foregoing conditions must be proven with clear and convincing evidence.

1.2 Interpretation

1.2.1 References to the “**Parties**” mean the COVAX Participant and AstraZeneca and their respective successors and permitted assigns.

1.2.2 References to a statute or statutory provision include:

- (i) that statute or statutory provision as from time to time modified, re-enacted or consolidated, whether before or after the date of this Agreement; and
- (ii) any subordinate legislation made from time to time under that statute or statutory provision.

2 Indemnifications

2.1 Indemnity

2.1.1 COVAX Participant. The COVAX Participant shall indemnify and hold harmless the Indemnified Persons from and against any and all damages and liabilities, including settlements for which the COVAX Participant has given its consent pursuant to Clause 2.1.2, and reasonable legal costs relating to, resulting from or associated with any third party claim (a “**Third Party Claim**”) for Losses relating to or arising from the use or administration of the Vaccine shipped or allocated to its jurisdiction. Such indemnification will be available regardless of where the Vaccine is administered, where the claim is brought, and whether the claim of a defect originates from the distribution, administration and use, clinical testing or investigation, manufacture, labelling, formulation, packaging, donation, dispensing, prescribing or licensing of the Vaccine in the Territory. Such indemnification will not be available to Indemnified Persons (a) to the extent such Losses are the result of

such Indemnified Person's Willful Misconduct, or (b) to the extent that there has been a final determination by a court of competent jurisdiction that a defect in the Vaccine has arisen from AstraZeneca's failure to comply with current Good Manufacturing Practices or applicable pharmacovigilance regulations.

Indemnification under this Clause 2.1.1 will be available for Losses arising from the use and administration of the Vaccine procured by the Designated Procurement Agency and supplied to the COVAX Participant pursuant to the LTA, regardless of when or where vaccination occurred and regardless of when or where the injury leading to the Losses occurs or is reported.

2.1.2 Process. The Indemnified Person shall give (or cause AstraZeneca to give) the COVAX Participant, prompt notice of any Third Party Claim served upon the Indemnified Person stating the nature and basis of such Third Party Claim and the maximum estimated amount (in USD) of such Third Party Claim, to the extent known (which estimate may be updated from time to time). Notwithstanding the foregoing, no delay or deficiency on the part of the Indemnified Person in so notifying the COVAX Participant shall limit any right of any Indemnified Person to indemnification under this Article 2, except to the extent such failure materially prejudices the defense of such Third Party Claim. AstraZeneca shall assume and control the defense of any Third Party Claim using legal counsel reasonably chosen by AstraZeneca. Each of the Parties shall (i) use commercially reasonable efforts to mitigate the effects of the Third Party Claim and (ii) fully cooperate with AstraZeneca and its legal representatives in the investigation and defense of any matter which is the subject of indemnification, at the COVAX Participant's cost and expense. AstraZeneca shall keep the COVAX Participant reasonably informed of the progress of the defense of the Third Party Claim. The COVAX Participant shall pay the invoices of legal counsel and other expenses of AstraZeneca arising from defending the Third Party Claim promptly upon presentment of an invoice and in any case within ninety (90) days of presentment thereof. AstraZeneca shall have the right to seek settlement or compromise of, and to so settle or compromise, the Third Party Claim; *provided* that AstraZeneca shall not settle or compromise a Third Party Claim without the prior written consent of the COVAX Participant and the COVAX Participant shall not unreasonably withhold, condition or delay its approval of the settlement of any Third Party Claim, liability or action covered by this Article 2.

2.1.3 Release. The COVAX Participant waives and releases any claim against AstraZeneca arising out of or relating to: (a) lack of safety or efficacy of the Vaccine, subject to compliance by AstraZeneca with applicable regulatory requirements in the Territory for a pandemic product, limited to manufacture by AstraZeneca of the Vaccine in accordance with Good Manufacturing Practices; (b) use or administration of the Vaccine under pandemic conditions, except to the extent such claim arises from AstraZeneca's Willful Misconduct or failure by AstraZeneca to manufacture the Vaccine in accordance with Good Manufacturing Practices; (c) issues relating to storage or transport of the Vaccine by the Designated Procurement Agency and/or the COVAX Participant; or (d) lack of proper aseptic technique or dosing at the point of administration of the Vaccine.

3 Confidentiality

- 3.1.1** Each Party shall treat as strictly confidential and not disclose or use any information received or obtained in connection with this Agreement (or any agreement entered into pursuant to this Agreement) in addition to the terms of this Agreement (collectively, "**Confidential Information**"), unless the disclosing Party has given prior written approval to the disclosure or use.
- 3.1.2** The provisions of Clause 3.1.1 above shall not prohibit disclosure or use of Confidential Information if and to the extent:
- (i) AstraZeneca and/or members of AstraZeneca's Group use information provided by the COVAX Participant in relation to Indemnified Claims for its own business purposes;
 - (ii) required by applicable law or regulation or for the purpose of any judicial or regulatory proceedings or to a tax authority in connection with the tax affairs of a Party or pursuant to any applicable listing rules;
 - (iii) it becomes publicly available other than as a result of a breach of an obligation of confidentiality; or
 - (iv) the information is already in the lawful possession of the receiving Party or is independently developed by the receiving Party.

4 Warranties

Each Party warrants and represents that, as at the date of this Agreement:

- (i) it has full capacity and authority to enter into and to perform this Agreement;
- (ii) this Agreement is executed by a duly authorised representative of that Party; and
- (iii) once duly executed, this Agreement will constitute its legal, valid and binding obligations.

5 Other Provisions

5.1 Whole Agreement

5.1.1 This Agreement constitutes the entire agreement between the Parties with respect to the subject of this Agreement and (to the extent permissible by law) supersedes all prior representations or oral or written agreements between the Parties with respect to that subject matter.

5.1.2 Each Party agrees and acknowledges that it has not been induced to enter into this Agreement by any representation, warranty or undertaking not expressly incorporated into it.

5.2 Assignment

5.2.1 Neither Party shall assign, novate or otherwise transfer any of its rights or obligations under this Agreement to any person without the prior written consent of the other Party (not to be unreasonably withheld or delayed); provided that, AstraZeneca may assign, novate or otherwise transfer any of its rights or

obligations under this Agreement to any other member of AstraZeneca's Group without requiring the COVAX Participant's consent.

5.3 Third Party Rights

- 5.3.1** A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement except to the extent set out in Clause 5.3.2 (*Third Party Rights*).
- 5.3.2** Each Indemnified Person may enforce and rely on this Agreement to the same extent as if it were a Party.
- 5.3.3** This Agreement may be terminated and any term may be amended or waived without the consent of any person described in Clause 5.3.2 (*Third Party Rights*).

5.4 Costs

Each Party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement.

5.5 Several Obligations

No Party to this Agreement is responsible for the obligations of the other Party to this Agreement. The rights and obligations of each Party under or in connection with this Agreement are separate and independent.

5.6 Construction

Except where the context requires otherwise, whenever used the singular includes the plural, the plural includes the singular, the use of any gender is applicable to all genders and the word "or" has the inclusive meaning represented by the phrase "and/or". The headings of this Agreement are for convenience of reference only and do not define, describe, extend or limit the scope or intent of this Agreement or the scope or intent of any provision contained in this Agreement. The term "including" or "includes" as used in this Agreement means including, without limiting the generality of any description preceding such term. The wording of this Agreement shall be deemed to be the wording mutually chosen by the Parties and no rule of strict construction shall be applied against either Party.

5.7 Amendment

No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the Parties to it.

5.8 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall be deemed to constitute one and the same agreement. The Parties agree that execution of this Agreement by industry standard electronic signature software and/or by exchanging executed signature pages in .pdf format via email shall have the same legal force and effect as the exchange of original signatures, and that in any proceeding arising under or related to this Agreement, each Party hereby waives any right to raise any defence or waiver based upon execution of this Agreement by means of such electronic signatures or maintenance of the executed agreement electronically.

5.9 Notice

Any notice, request, or other communication permitted or required under this Agreement shall be in writing, shall refer specifically to this Agreement and shall be deemed given only if hand delivered or sent by an internationally recognized overnight delivery service, costs prepaid, addressed to the applicable Party at its address first set forth above (or to such other address as the Party to whom notice is to be given may have provided to the other Party in accordance with this Clause 5.9), and sent to the attention of the AstraZeneca Legal Department (with respect to AstraZeneca), or to _____ (with respect to COVAX Participant). A copy of the communication shall also be emailed to AstraZeneca at legalnotices@astrazeneca.com, or to COVAX Participant at _____ . Such notice shall be deemed to have been given as of the date delivered by hand, or on the fourth calendar day (at the place of delivery) after deposit with an internationally recognized overnight delivery service, whichever is the earlier.

5.10 Invalidity

5.10.1 If any provision in this Agreement shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the Parties.

5.10.2 To the extent it is not possible to delete or modify the provision, in whole or in part, under Clause 5.10.1 (*Invalidity*) then such provision or part of it shall, to the extent that it is illegal, invalid or unenforceable, be deemed not to form part of this Agreement and the legality, validity and enforceability of the remainder of this Agreement shall, subject to any deletion or modification made under Clause 5.10.1 (*Invalidity*), not be affected.

5.11 Waiver

A Party's failure to enforce, at any time or for any period of time, any provision of this Agreement, or to exercise any right or remedy shall not constitute a waiver of that provision, right or remedy or prevent such Party from enforcing any or all provisions of this Agreement and exercising any rights or remedies. To be effective any waiver must be in writing. The rights and remedies provided herein are cumulative and do not exclude any other right or remedy provided by law or otherwise available except as expressly set forth herein.

5.12 Governing Law and Submission to Jurisdiction

5.12.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by English law.

5.12.2 In the event of a dispute arising out of or in connection with this Agreement between the Parties, including any dispute regarding the Agreement's conclusion, binding effect, breach, amendment or termination, the Parties shall first refer such dispute to informal dispute resolution discussions between their respective senior representatives. AstraZeneca, on the one hand, or the COVAX Participant shall initiate such informal dispute resolution by sending written notice of the dispute to the other Party, and, within twenty (20) days of such notice, the senior representatives shall meet and attempt to resolve the dispute by good faith negotiations.

- 5.12.3** If such senior representatives are unable to resolve the dispute during a period of thirty (30) days following the meeting of senior representatives pursuant to Clause 5.12.2, the dispute shall be finally resolved by arbitration in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL Arbitration Rules) then-current in force. The appointing authority shall be the President of the Swiss Arbitration Association. The number of arbitrators shall be one, unless the Parties agree otherwise. The arbitration proceedings shall take place in Geneva. The language of the arbitration shall be in English. The Parties agree to be bound by any award made by the arbitrator(s). Any award made by the arbitrator(s) shall be final. The Parties shall keep confidential all awards in the arbitration, together with all materials in the arbitration created for the purpose of the arbitration and all other documents produced by another Party in the proceedings not otherwise in the public domain, save and to the extent that disclosure may be required of a Party by legal duty, to protect or pursue a legal right, or to enforce or challenge an award in legal proceedings before a state court or other legal authority. The Parties shall seek the same undertaking of confidentiality from all those that it involves in the arbitration, including but not limited to any authorized representative, witness of fact, expert or service provider.
- 5.12.4** The COVAX Participant hereby expressly, unconditionally and irrevocably waives, to the fullest extent possible, in respect of itself and its assets, any right of immunity (including, without limitation, any immunity from service, jurisdiction, attachment or execution) under the laws of any jurisdiction on the grounds of sovereignty or otherwise which may now or hereafter exist, and agrees not to assert any such right or claim in any legal action or proceeding, wherever such action or proceeding occurs. This waiver includes waiving any right of sovereign immunity as to the COVAX Participant and any of its property, whether commercial or non-commercial, including any bank account belonging to the COVAX Participant.

5.13 Sovereign immunity waiver

The COVAX Participant hereby expressly, unconditionally and irrevocably waives, to the fullest extent possible, in respect of itself and its assets, any right of immunity (including, without limitation, any immunity from service, jurisdiction, attachment or execution) under the laws of any jurisdiction on the grounds of sovereignty or otherwise which may now or hereafter exist, and agrees not to assert any such right or claim in any legal action or proceeding, wherever such action or proceeding occurs. This waiver includes waiving any right of sovereign immunity as to the COVAX Participant and any of its property, whether commercial or non-commercial, including any bank account belonging to the COVAX Participant.

5.14 Language

This Agreement is entered into in the English language. Where this Agreement is translated into an additional language, any translated version shall not create any duplication of the rights and obligations of the Parties and the Parties acknowledge that the English version of this Agreement binds the Parties. In the event of any inconsistency or difference in interpretation between any translated version and the English version, the English version shall prevail.

In witness whereof this Agreement has been duly executed.

SIGNED for and on behalf of

ASTRAZENECA AB by:

Authorized Signatory

SIGNED for and on behalf of

By:

Title: