

**Direct contract for supply of
Goods**

Ref No: COVID19/G/DC – 21 Project: Georgia Emergency COVID-19
Response Project (P173911)

Purchaser:

Ministry of Internally Displaced Persons, Labour, Health and Social
Affairs

Supplier

SD BIOSENSOR

Issued on:

17.09.2020

Contract Agreement

THIS AGREEMENT made the 16th day of September, 2020.

BETWEEN

(1) Ministry of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs and having its principal place of business at 144, Ak. Tsereteli ave, Tbilisi, Georgia (hereinafter called “the Purchaser”), of the one part, and

(2) SD BIOSENSOR, a corporation incorporated under the laws of Republic of Korea and having its principal place of business at C-4&5 F, 16, Deogyong-daero, 1556beon-gil, Yeongtong-gu, Suwon-si, Gyeonggi-do, Republic of Korea, 16690 (hereinafter called “the Supplier”), of the other part :

WHEREAS the Purchaser invited an offer for certain Goods and ancillary services, **Standard COVID-19 AG/AB total Test**, carried out contract negotiations as applicable, and has accepted the offer by the Supplier for the supply of those Goods and [Related Services, if any

The Purchaser and the Supplier agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.

2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.

(a) the Supplier’s offer

(b) Conditions of Contract

(c) the Purchaser’s Requirements (including the Schedule of Requirements and Technical Specifications)

(d) the completed Schedules (including Price Schedules)

(e) any other document listed as forming part of the Contract

33. In consideration of the payments to be made by the Purchaser to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Related Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of the Purchaser’s country, on the day, month and year indicated above.

To facilitate this emergency procurement, electronic signature of the Contract Agreement is acceptable to the Supplier and Purchaser.

For and on behalf of the Purchaser:

Signed: Giorgi Tsotskolauri

In the capacity of the Deputy Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia

For and on behalf of the Supplier:

Signed: Taylor Hor,

in the capacity of Vice President

The image shows a handwritten signature in black ink, which appears to be 'TH', followed by a red circular stamp. The stamp contains the text 'SD BIOSENSOR, INC.' around the perimeter and 'SD' in the center.

Conditions of Contract

1. Definitions	1.1 The following words and expressions shall have the meanings hereby assigned to them: (a) “Bank” means the World Bank and refers to the International Bank for Reconstruction and Development (IBRD) or the International Development Association (IDA). (b) “CC” means the Conditions of Contract. (c) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein. (d) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto. (e) “Contract Price” means the price payable to the Supplier as specified in CC 8.1, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract. (f) “Day” means calendar day. (g) “Completion” means the fulfillment of the Related Services, as applicable, by the Supplier in accordance with the terms and conditions set forth in the Contract. (h) “CC” means the Conditions of Contract. (i) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract. (j) “Party” means the Purchaser or the Contractor, as the context requires, and “Parties” means both of them. (k) “Purchaser” means the entity purchasing the Goods and Related Services as applicable, as specified in CC 2. (l) “Purchaser’s Country” is the country specified in the CC 2. (m) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Supplier under the Contract, as applicable. (n) “Subcontractor” means any person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier. (o) “Supplier” means the person, private or government entity, or a combination of the above, whose offer to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.
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	(p) "The Project Site," where applicable, means the place named in the CC.
2. Purchaser, Purchaser's Country, Project Site/Final Destination	2.1 The Purchaser is Ministry of Internally Displaced Persons from Occupied Territories, Labor, Health and Social Affairs 2.2 The Purchaser's Country Is: Georgia 2.3 The Project Site(s)/Final Destination(s) is/are: 99, Kakheti Highway, Tbilisi, Georgia
3. Incoterms	3.1 The edition of Incoterms that shall apply is: CIP- INCOTERM 2020
4. Notices and Addresses for notices	4.1 Any notice given by one Party to the other pursuant to the Contract shall be in writing to the address hereafter using the quickest available method such as electronic mail with proof of receipt. A notice shall be effective when delivered or on the notice's effective date, whichever is later. Address for notices to the Purchaser: Giorgi Tsotskolauri Deputy Minister 144, Ak. Tsereteli avenue, Tbilisi, Georgia info@moh.gov.ge Address for notices to the Supplier: Taylor Hor Vice President C-5 Floor, Digital Empire Building, 16, Deongyeong –daero 1556beon-gil, Yeongtong-gu, Suwon-si, Gyeonggi-do, 16690,8 Republic of Korea victor@sdbiosensor.com
5. Governing Law	5.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser's Country.
6. Settlement of Disputes	6.1 (a) Contract with foreign Supplier: One or more arbitrators appointed in accordance with the said Rules shall finally settle all disputes arising out of or in connection with the present contract under the Rules of Arbitration of the International Chamber of Commerce.
7. Shipping and other documents to be provided	7.1 The Delivery of the Goods and Completion of the Related Services as applicable shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. Details of Shipping and other Documents to be furnished by the Supplier are: Invoice, an airway bill, insurance certificate, and inspection certificate, Supplier's factory shipping details. The above documents shall be received by the Purchaser:

	(i) Before arrival of the Goods, if the mode of payment is through letter of credit if so specified in CC 9. If the documents are not received before arrival of the Goods, the Supplier will be responsible for any consequent expenses; or otherwise; (ii) On shipment.
8. Contract Price	8.1 The Contract Price is specified in Price Schedule 4. 8.2 The unit prices charged by the Supplier for the Goods supplied and the Related Services as applicable performed under the Contract shall not vary from the prices agreed in the Contract.
9. Terms of payment	9.1 The method and conditions of payment to be made to the Supplier under this Contract shall be as follows: The Purchaser shall not process the payments using the Direct Payment disbursement method, as defined in the World Bank's Disbursement Guidelines for Investment Project Financing. Payment for Goods supplied from abroad: Payment of foreign currency portion shall be made in USD currency of the Contract Price in the following manner: (ii) On acceptance: 1st payment upon delivery of the first batch, against invoice (for price of delivered goods) and interim acceptance certificate; payable within 15 days of submission of claim. 2nd payment upon delivery of the second batch, against invoice (for price of delivered goods) and delivery acceptance certificate; payable within 15 days of submission of claim.
10. Taxes and Duties	10.1 For Goods manufactured outside the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's Country. 10.2 For Goods Manufactured within the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser. 10.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.
11. Performance Security	11.1 N/A
12. Subcontractors	12.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in Supplier's offer. Such notification, in the original offer or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

13. Specifications and Standards	13.1 The Goods and Related Services if applicable supplied under this Contract shall conform to the technical specifications and standards mentioned in the Technical Specifications and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
14. Packing, marking and documentation	14.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit. 14.2 The packing, marking and documentation within and outside the packages shall be: refer to the Technical Specifications
15. Insurance cover	15.1 The insurance coverage shall be as specified in the Incoterms
16. Transportation	16.1 Responsibility for transportation of the Goods shall be as specified in the Incoterms. Mode of Transport: The main mode of international transport shall be by air.
17. Site of inspections and tests	17.1 The inspections and tests shall be conducted at: (i) on shipment in the supplier's country; (ii) On arrival at Tbilisi International Airport, purchaser's country.
18. Delivery Date and Completion Date	18.1 The Delivery Date of the Goods shall be: Delivery Date: specified in Price Schedule 1 but not exceeding four (4) weeks from the order placement.
19. Liquidated damages and bonuses	19.1 The liquidated damage shall be 1% of the price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance. The maximum amount of liquidated damages shall be 10 % of the Contract Price. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to CC 26.
20. Warranty	20.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract. 20.2 The Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination. 20.3 The warranty shall remain valid for total of shelf life of the goods supplied after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination. 20.4 The period for repair or replacement after being notified of the defect by the Purchaser shall be 30 days.

	20.5 If having been notified, the Supplier fails to remedy the defect within the period specified in CC 20.4; the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights, which the Purchaser may have against the Supplier under the Contract. 20.6 For purposes of this warranty, the place (s) of final destination (s) shall be: Tbilisi International Airport
21. Copyright	21.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.
22. Fraud and Corruption	22.1 The Bank requires compliance with the Bank's Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the WBG's Sanctions Framework, as set forth in the attachment to the Conditions of Contract. 22.2 The Purchaser requires the Supplier to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the direct contracting process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.
23. Inspections and Audit by the Bank	23.1 Pursuant to paragraph 2.2 e. of the attachment to the Conditions of Contract, the Supplier shall permit and shall cause its agents (where declared or not), subcontractors, subconsultants, service providers, suppliers, and personnel, to permit, the Bank and/or persons appointed by the Bank to inspect the site and/or the accounts, records and other documents relating to the respect to the direct contracting process or contract execution. The Supplier's and its subcontractors attention is drawn to CC 22.1 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank's prevailing sanctions procedures).
24. Limitation of Liability	24.1 Except in cases of criminal negligence or willful misconduct, (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser and (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Purchaser with respect to patent infringement.
25. Force Majeure	25.1 The Supplier shall not be liable for forfeiture of its Performance Security (if required), liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to

	perform its obligations under the Contract is the result of an event of Force Majeure. 25.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, and freight embargoes. 25.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. 25.4 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the currency of the Contract, the Parties will attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other Party.
26. Termination	26.1 Termination for Default The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part: (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser; (ii) if the Supplier fails to perform any other obligation under the Contract; or (iii) if the Supplier, in the judgment of the Purchaser has engaged in Fraud and Corruption, in competing for or in executing the Contract. In the event the Purchaser terminates the Contract in whole or in part, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services if applicable similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services if applicable. However, the Supplier shall continue performance of the Contract to the extent not terminated. 26.2 Termination for Convenience (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser’s convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

	(b) The Purchaser shall accept the Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination at the Contract terms and prices. For the remaining Goods, the Purchaser may elect: (i) to have any portion completed and delivered at the Contract terms and prices; and/or (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services if applicable and for materials and parts previously procured by the Supplier.
Additional Clauses	N/A

Price Schedule 1

Goods to be supplied from outside the Purchaser's country

1	2	3	4	5	6	7	8	9
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price CIP [insert place of destination] [as applicable, FCA (named place0]	CIP (or FCA as applicable) Price per line item (Col. 5x6)	[FOR CIP, IF REQUIRED] Price per line item for inland transportation and other services required in the Purchaser's Country to convey the Goods to their final destination specified in the invitation for direct contracting	Total Price per Line item (Col. 7+8)
09COV 60D	STANDAR D Q COVID-19 Ag/Ab Total Test	Republic of Korea	Within 7 days after contract signature	34, 125 Tests 1,365 Kits	\$10.34250 CIP Tbilisi	\$341 250		\$352 937.81250
09COV 60D	STANDAR D Q COVID-19 Ag/Ab Total Test	Republic of Korea	Within 1 week after delivery of the first batch	165,875 Tests 6,635 Kits	\$10.34250 CIP Tbilisi	\$1 658 750		\$1 715 562.18750
							Offered Price	\$2 068 500.00

Price Schedule 4

Total Price

The total cost for the supply and delivery of the Goods, and related Services is as follows:

Price Schedule	Amount
Goods: Price Schedule 1	\$2 068 500.00
Goods: Price Schedule 2	
Related Services: Price Schedule 3	
Total Price	\$2 068 500.00

Attachment A to the Conditions of Contract
Fraud and Corruption
(Text in this Appendix shall not be modified)

1. Purpose

1.1 The Bank's Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.

2.2 To this end, the Bank:

- a. Defines, for the purposes of this provision, the terms set forth below as follows:
 - i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v. "obstructive practice" is:
 - (a) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (b) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.
- b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to

address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;

d. Pursuant to the Bank's Anti-Corruption Guidelines and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;¹ (ii) to be a nominated² sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;

e. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers), consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the Bank to inspect³ all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appoint

¹ For the avoidance of doubt, a sanctioned party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

² A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

³ Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

