



## GENERAL CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

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This document sets out the applicable general terms and conditions for the purchase of goods and/or services by Coryton Advanced Fuels Limited.

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### 1 Definitions

- 1.1 “**CDM Regulations**” means The Construction (Design and Management) Regulations 2015 and any Codes of Practice or guidance issued in respect thereof by any competent authority, in each case as the same may be amended or supplemented from time to time.
- 1.2 “**CAF**” or the “**Company**” means Coryton Advanced Fuels Limited, which is the only the legal entity specified as the Company in the purchase requisition and the General Conditions.

- 1.3 **“Supplier”** means the party that supplies the goods, works, services and/or a combination thereof as specified in the Agreement.
- 1.4 **“Agreement”** means an agreement between the Supplier and CAF for the supply of goods, works, services and/or a combination thereof by the Supplier to CAF, to which these General Conditions will attach.
- 1.5 **“Party”** and/or **“Parties”** means either the Supplier or CAF or, collectively, both.
- 1.6 **“Price”** means the price agreed between the Supplier and CAF for the provision of goods, works, services and/or a combination thereof, as referred to and provided for in the Agreement.

## **2 General**

- 2.1 These General Conditions apply to all offers and orders for the supply of construction and/or performance of goods, works, services and/or a combination thereof by the Supplier to CAF and to all Agreements entered into with CAF in this regard.
- 2.2 The applicability of conditions of the Supplier to CAF is hereby expressly excluded.
- 2.3 The Parties may only rely on any provision deviating from these General Conditions if and to the extent the Parties agree such provision in writing.
- 2.4 These General Conditions shall also apply to all future offers to and Agreements with CAF.
- 2.5 The contract order of precedence:
- Contract amendment
  - Contract
  - Purchase requisition
- 2.6 For Engineering and Project works the supplier may request copies of CAF Engineering Standards to aid in the design and construction of the supplied equipment.

## **3 Offers, conclusion of the Agreement**

- 3.1 All offers or acceptances of orders by the Supplier are binding and irrevocable.
- 3.2 Agreements are binding upon CAF only if and as accepted and/or confirmed and/or otherwise laid down in writing by CAF.
- 3.3 In the absence of a binding Agreement as described in article 3.2 or a purchase requisition of CAF, the execution of supply of goods, works or services shall be for the full risk and account of the Supplier and does not bind CAF except and insofar as CAF accepts in writing.

## **4 Price**

- 4.1 The Price includes all costs and rights, proper packaging, inspections, tests, certificates, (un)loading and transport charges, cost of insurance, duties, taxes, social security contribution, required permits, (compliance with) safety instructions, all other delivery costs, all other items specified in the Agreement and similar costs that CAF may reasonably expect to be included in the Price.
- 4.2 The Price is fixed and in no event shall be subject to any increase or surcharge, unless specifically agreed to in writing by CAF.

## **5 Payment**

- 5.1 The Supplier will invoice CAF in accordance with an agreed payment schedule.

- 5.2 The Supplier shall submit an application for payment before each assessment date and each application shall include the following detail:
- Contract number (if applicable) and purchase requisition number
  - Date
  - Invoice number
  - Company number and VAT number
  - Submission period
  - Payment Value
  - VAT amount
  - Total Value
  - Payment terms
  - Due date
  - Supplier name and address
  - Company name and address
- 5.3 In consideration of the proper execution by the Supplier of its duties and obligations under and in accordance with the Agreement, CAF shall pay the Price to the Supplier in the instalments set out in the agreed payment schedule and such Price shall, unless otherwise provided, include payment in respect of all disbursements and expenses (whether in-house or external).
- 5.4 The Supplier shall submit each invoice on completion of the services or delivery of the goods or by the end of each calendar month for ongoing services. For the avoidance of doubt, if an instalment invoicing date is defined by reference to a period of time (as opposed to a date), or a particular stage of work the instalment may not be invoiced until the last day of such period or the completion of that stage of work unless the contrary is clearly stated elsewhere in the Agreement.
- 5.5 The final date for payment of each said installment will be 30 (thirty) days after the submission of a valid and approved invoice. Invoices submitted prematurely or which are not valid, will not be approved for payment until they are re-submitted in the proper form and/or at the proper time.
- 5.6 CAF will give notice to the Supplier not later than 5 (five) days after the due date for payment for each instalment of the Price due under the Agreement, or the date on which such instalment would have become due if:
- (a) the Supplier had carried out its obligations under the agreement; and
  - (b) no set off or abatement was permitted by reference to any sum claimed to be due under any contracts with the Supplier.
- specifying the amount (if any) of the payment made or proposed to be made, and the basis on which the amount has been calculated.
- 5.7 CAF will give written notice to the Supplier not later than 1 (one) day prior to the final date for payment of any sums payable hereunder specifying any amount proposed to be withheld and the grounds for withholding such amount. A notice given of a variation may constitute a notice of intention to withhold if it specifies the matters referred to and is given within the time required in this article.
- 5.8 CAF will pay Value Added Tax (VAT) where applicable, subject to the receipt by CAF of a valid VAT invoice.
- 5.9 If the appointment of the Supplier is terminated or suspended other than as a result of a breach by the Supplier, the Supplier will be paid (in addition to any amounts which shall have become payable under article 5.1) a due proportion of the next interim payment due in respect of work undertaken up to the date of suspension or termination.

## **6 Delivery**

- 6.1 Delivery of goods shall take place on the basis of the Incoterms 2010, DDP (Delivered Duty Paid) that applies at the date of the Agreement.
- 6.2 The agreed delivery date is of the essence. The Supplier is automatically in default, without any notice of default being required, if the agreed delivery date is not met.
- 6.3 The Supplier shall in a timely and adequate manner inform CAF in advance of the exact time of delivery of any possible delays in delivery. The Supplier shall upon request provide CAF with a production and/or progress update and shall enable CAF to verify the actual progress made.
- 6.4 When the Supplier encounters a delay in delivery, it shall as soon as practicable, but latest within 3 (three) days, give written notice to CAF of such occurrence. The notice shall specify: (i) the circumstances, (ii) the likely duration of the circumstances (if known) and (iii) a recovery plan with the steps necessary to remedy such occurrence.
- 6.5 Partial deliveries or deliveries scheduled before the agreed delivery date will require CAF's prior written approval.
- 6.6 Goods, works or services shall be deemed to be delivered only if delivered complete and fully in accordance with the Agreement and including all related documentation such as test, quality, inspection and warranty certificates, drawings, maintenance and instruction manuals, user guides and, if applicable, signed certificates of acceptance.
- 6.7 The Supplier is responsible for obtaining all applicable certificates, all necessary approvals and import licenses; and for customs clearance and satisfaction of all excise duties where applicable.

## **7 Planning**

- 7.1 The Supplier shall conform to the working hours and/or schedule requirements of CAF. The Supplier shall plan its work in such way that the activities of CAF and other (sub)contractors or suppliers of CAF are not interrupted or disturbed.
- 7.2 The Supplier must immediately notify CAF if it plans to make any changes to the personnel, equipment and/or methodology to the contracted works being undertaken on site. CAF will assess the impact of proposed changes and advise of any further risk reduction measures required for the works to continue. The Supplier must obtain CAF's authorisation for any proposed changes to the agreed scope of works / services prior to implementation.

## **8 Packaging and transport**

- 8.1 The goods must be marked to CAF's instructions and must be properly packed according to the requirements of transport and destination. The goods shall be packed in a way to prevent damage or deterioration during transport.
- 8.2 All packaging must be removed and disposed of by the Supplier, upon first request of CAF.
- 8.3 All liquid deliveries must be in compliance with ADR Regulations (European Agreement concerning the International Carriage of Dangerous Goods by Road), 2015, particularly in terms of the display of labels and hazard information on the packaged goods.
- 8.4 All materials of a hazardous nature shall be supplied with a MSDS (Material Safety Data Sheets), as required by REACH and COSHH. The Supplier shall not attempt to make a delivery to CAF of any hazardous material without the relevant MSDS.

**9 Supporting materials, tools, energy etc.**

- 9.1 The Supplier shall provide for all the auxiliary materials, tools, (personal protection) equipment including appropriate clothing and safety devices necessary for the proper and safe execution of the Agreement.
- 9.2 If auxiliary materials, tools, (personal protection) equipment or gas, electricity, lighting or water is made available to the Supplier by or on behalf of CAF, CAF will be entitled to charge the costs thereof to the Supplier. The use of the materials, tools, (personal protection) equipment or energy made available shall be at the Supplier's own risk and for the account of the Supplier.

**10 Contracting out**

- 10.1 The Supplier may not assign or subcontract the execution of the Agreement in whole or in part to any third party, or make use of personnel of third parties, without the prior written approval of CAF.
- 10.2 Approval by CAF as referred to above shall not release the Supplier from any obligation under the Agreement.

**11 Inspection and testing**

- 11.1 CAF will, at all times and at any place, be entitled to carry out inspections, tests and audits with regard to the goods, works or services ordered.
- 11.2 Inspection and/or testing by or on behalf of CAF will not release the Supplier from any obligation, warranty or liability under the Agreement or these General Conditions.

**12 Risk and title**

- 12.1 The Supplier warrants that all goods supplied are not subject to any retention of title or any other (limited) rights of third parties. Upon request, the Supplier shall deliver to CAF proof of its full and unencumbered title to the goods.
- 12.2 Goods to be delivered and/or goods (of CAF) in respect of which works or services are supplied shall be for the account, and at the risk, of the Supplier until completion of delivery in accordance with article 6.6. Title to the goods (to be) supplied to CAF, will transfer to CAF at the latest when these goods are placed at any of CAF's locations or those of any of its agents or contractors.
- 12.3 If CAF makes any payment prior to delivery and acceptance, title to the goods in respect of which such payment was made, and/or the parts or materials present at the Supplier's site that pertain to these goods, shall pass to CAF at the time of payment. The Supplier shall identify and keep identifiable the goods it holds on behalf of CAF and give CAF free access to and control of such goods. The Supplier shall be considered to hold the goods on behalf of CAF and shall undertake to have the goods insured adequately with a reputable insurance company until the completion of the delivery as defined in article 6.6.

**13 Intellectual and industrial property rights**

- 13.1 The Supplier hereby grants to CAF an irrevocable, royalty-free, non-exclusive license to use and to reproduce the documents referred to in article 13.3, for whatsoever reason connected with the goods, works and services. This license carries the right for CAF to grant sub-licenses and is freely assignable to third parties. The Supplier shall not be

liable for any of the documents if used for any purpose other than that for which they were prepared and provided for by the Supplier.

13.2 The Supplier warrants that (the use of) the goods delivered and works or services supplied does not infringe any intellectual or industrial property right. The Supplier shall indemnify and hold CAF harmless for and against any claim by third parties in this respect, and pay any loss or costs incurred by CAF or any of its agents and (sub)contractors as a consequence.

13.3 Drawings, sketches, illustrations, designs, models, calculations, formulas, working methods, equipment and other such information and tools furnished by CAF or made under orders of CAF or made by or on behalf of the Supplier in connection therewith, and the intellectual and industrial property rights related thereto, shall vest in CAF only. This intellectual property will be the property of CAF in native file format (i.e. not just a PDF version) and the Supplier is obligated to provide the native file format of the intellectual property. CAF shall be considered as the maker and designer of all intellectual property that is the subject of this article 13.3, irrespective of whether it has been separately charged to CAF. The Supplier hereby, to the extent necessary and possible, transfers these rights to CAF and shall do all that is necessary or conducive to enable CAF to exercise these rights.

## **14 Confidentiality**

14.1 The Supplier undertakes to keep strictly confidential the materials and all business and technical information provided to it by or on behalf of CAF (together to be referred to as the “**Confidential Information**”) and undertakes to only use the Confidential Information for the execution of the Agreement. The Supplier undertakes to impose the same obligations on any employees and third parties that obtain Confidential Information for the execution of the Agreement and warrants that such employees and third parties will comply with such obligations.

## **15 Business conduct, safety and environment**

15.1 The Supplier, its employees and any third parties it engages shall comply with all applicable rules, relevant Acts of Parliament, EU Regulations and directions, regulations, requirements or bye-laws of any local authority, any statutory undertaker or any other body having jurisdiction over the goods, works and/or services including but not limited to the rules and instructions on safety and the environment, applicable at the location where the work is executed as well as the UN Supplier Code of Conduct (2006).

15.2 The Supplier, its employees and any third parties it engages shall comply with all codes of conduct, rules and regulations CAF has in place pertaining without limitation to the relevant Safety, Health and Environment policy, and the CAF Code of Conduct, as may be amended from time to time.

15.3 Without prejudice to article 15.1 the Supplier shall comply with its duties in relation to the works, goods and/or services under the CDM Regulations.

## **16 Warranty**

16.1 The Supplier warrants that all goods delivered and works or services supplied shall be industry best practice in terms of design, construction, performance, material, composition and quality in accordance with drawings, other documentation and the standards and specifications used by CAF, fit for the intended use, safe and in conformity with any government regulation, and that the goods delivered and works or

services supplied are free from any defects in terms of design, construction, material or manufacturing.

- 16.2 CAF may rely on any warranty given or otherwise pertaining to the goods and/or works and/or services, irrespective of CAF having conducted any inspection or having filed any previous complaint.
- 16.3 A warranty period under the Agreement shall mean a term from delivery within which the Supplier is required to arrange for repair of any failure or defect or redelivery at no charge and without prejudice to the Supplier's liability under the Agreement.
- 16.4 The warranty period on the part of the Supplier within which the Supplier is required to correct defects shall be at least 24 (twenty-four) months from the date of delivery.
- 16.5 If pursuant to this article (parts of) goods delivered and/or works and/or services supplied are replaced, repaired or altered, the full warranty period shall apply to these (parts of) goods and/or works and/or services as of the time of delivery.
- 16.6 If the Supplier states that CAF is not entitled to invoke a warranty, the Supplier shall be obligated to prove the relevant facts.
- 16.7 The Supplier (hereby) assigns to CAF all rights under warranties given by manufacturers or suppliers of goods, works or services forming (part of) the goods, works and services delivered. CAF (hereby) authorizes the Supplier to rely on such warranty rights, if necessary for the fulfillment of the Supplier's obligations under this article 16.

## **17 Liability**

- 17.1 The Supplier is liable for all costs and damages (including any third-party claims) caused by the Supplier, its personnel, the persons and companies it engages or by any defect in the goods delivered or works or services supplied, unless CAF agrees in writing to bear any specific costs. The Supplier's liability for costs and damages under this article, however, is at all times limited to GBP5,000,000 per single event.

## **18 Taxes**

- 18.1 The Supplier will bear and shall pay all taxes, fines, penalties, duties, levies, charges and interest thereon assessed on the Supplier, its subcontractors and the officers, employees and agents of the Supplier and the subcontractor, by competent authorities in connection with the supply of goods and/or works and/or services.
- 18.2 The Supplier warrants complying with the obligations arising from social security laws and tax laws. The Supplier indemnifies and holds harmless CAF in respect of all damages, including interest, penalties and costs, incurred by CAF in relation to any claims of the tax authorities resulting from the Supplier's non-compliance with such laws. The Supplier shall take all measures, which CAF may reasonably require, to avoid that it becomes liable for any claims and/or additional levies for taxes related to personnel of or hired by the Supplier. The Supplier shall indemnify CAF against any claims and/or additional levies or taxes related to the Agreement.

## **19 Non-assignment**

- 19.1 The Supplier is not permitted to assign its claims against CAF to any third party, without CAF's prior written approval.

## **20 Suspension/Rescission/Termination**

- 20.1 CAF shall be entitled to suspend its obligations in whole or in part and without any prior notice of default, if and when the Supplier fails to adequately fulfill any of its obligations towards CAF on a timely basis, as well as in the case of; (filing a petition for) a moratorium with its creditors or the bankruptcy of the Supplier; attachment of (a part of) the Supplier's property or the goods intended for the execution of the Agreement; the granting of an Administration Order against the Supplier; the closing down or liquidation of its business; or any other compromise or procedure that materially affects the ability of the Supplier to fulfill its obligations under the Agreement.
- 20.2 Non-timely fulfillment as referred to in article 20.1 is deemed to also occur if the presumption is reasonably justified by the relevant facts that a delay will occur in the fulfillment of (part of) any obligation under the Agreement.
- 20.3 CAF shall be entitled to terminate the Agreement on the grounds specified in article 20.1 if the failure and/or occurrence have not been fully remedied within a period of 14 (fourteen) days following receipt by the Supplier of a demand to do so from CAF. CAF may terminate the Agreement with immediate effect if the Supplier is already in default with respect to a contractual obligation. In the event of termination CAF will only be obligated to compensate the Supplier at the pro rata price for works or services supplied and for goods already delivered, but only insofar that CAF retains the goods or the benefit of the works or services delivered, without prejudice to CAF's other rights.
- 20.4 CAF may terminate the Agreement for convenience and without cause, either in whole or in part, by means of not less than 30 (thirty) days written notice. In this event, CAF shall only be obligated to compensate the Supplier at the pro rata price for works or services supplied or goods already delivered and shall not be obligated to compensate the Supplier for future commitments already assumed by the Supplier for the execution of the Agreement at the time of termination. CAF will not be liable for any other loss or damage suffered by the Supplier as a result of termination of the Agreement
- 20.5 If as a consequence of force majeure CAF or the Supplier is unable to fulfill its obligations under the Agreement for a term exceeding 30 (thirty) days, either Party shall be entitled to terminate the Agreement with immediate effect by means of written notice. In such event, compensation will be due to the Supplier at the pro rata price for works or services supplied or goods already delivered, if CAF retains the goods or the benefit of the works or services delivered.

## **21 Miscellaneous**

- 21.1 Any reference in these General Conditions to CAF pertains to the user of these General Conditions or the legal entity that is specified in the order or accepted the order in writing only.
- 21.2 If a provision of these General Conditions is or becomes invalid or non-binding, the Parties shall remain bound to the remaining part of the General Conditions. The Parties shall replace the invalid or non-binding provision by a provision which is valid and binding, and the effect of which, given the contents and purpose of the General Conditions, is to the greatest extent possible, equal or similar to that of the invalid or non-binding part.
- 21.3 If the Supplier is of the opinion that a provision of the General Conditions conflicts with another provision of the General Conditions, it shall inform CAF thereof. Within 7 (seven) days thereafter, CAF shall advise the Supplier which provision shall prevail, if CAF agrees that the provisions are conflicting.



- 21.4 If the Agreement is a framework agreement, any subsidiary or affiliate of CAF, or any joint venture of the aforementioned or any other party that is part of the CAF Network shall have, without limitation, the right to place orders under the Agreement with application of the agreed terms and conditions, if and to the extent that CAF approved the placing of such orders. The same applies to contractors of CAF who desire goods and/or services of the Supplier for delivery of goods and/or services to CAF. CAF shall not be liable in relation to orders placed under a framework agreement by any party other than CAF.
- 21.5 The obligations of the Supplier under article 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 will be of a continuing nature and survive the termination or expiration of the Agreement.
- 21.6 A Party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right power or remedy.
- 21.7 Except as otherwise provided in the General Conditions, the following principles shall be applied for the interpretation of these General Conditions: (i) the singular includes the plural and the plural the singular, (ii) references to "writing" include only letters (by courier, registered or unregistered), faxes and e-mail, (iii) the words "include", "including" and "includes" shall be deemed to be followed by the words "without limitation", and (iv) headings of articles and annexes are for convenience only and shall not affect the interpretation of these General Conditions.
- 21.8 Each Party to the Agreement must pay its own costs of negotiating, preparing and executing the Agreement.
- 21.9 Nothing in the Agreement confers on any third party any benefit or right to enforce any term of the Agreement pursuant to the Contracts (Rights of Third Parties Act) 1999.
- 21.10 No approvals, consents, advice, information, comments or representations from CAF shall in any way relieve the Supplier of its obligations under the Agreement.
- 21.11 The Agreement may be executed in any number of counterparts and by the different Parties hereto in separate counterparts each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement. Delivery of an executed counterpart of a signature page to the Agreement by telecopier or email shall be effective as delivery of a manually executed counterpart of the Agreement.
- 21.12 The Agreement constitutes the entire Agreement between the Parties and supersedes any previous Agreement between the Parties relating to the subject matter of the Agreement.

## **22 Applicable law and disputes**

- 22.1 The Agreement shall be governed by and construed in accordance with the laws of England and Wales.
- 22.2 The Parties shall seek to resolve in good faith any dispute or difference arising between them in respect of any matter connected with the Agreement. If the Parties cannot resolve any dispute or difference within 14 days, or such period as the Parties may subsequently agree, then either Party may submit the dispute or difference to adjudication in accordance with article 22.3.
- 22.3 Notwithstanding any other provision of the Agreement, either Party may refer a dispute arising under the Agreement or these General Conditions to adjudication at any time

under Part I of the Scheme for Construction Contracts (England and Wales) Regulations 1998, which Part shall take effect as if it was incorporated into this article.

**23 Audit**

- 23.1 During the term of the Agreement and for two years after payment of the Supplier's final invoice, the Supplier shall maintain all records, books, accounts, correspondence, receipts, invoices, vouchers and any other papers held by the Supplier relating to the Agreement including, without limitation, any provision of the Agreement that is capable of being verified by audit.
- 23.2 CAF or its representatives shall have the right to audit any and all such records at all reasonable times and shall be entitled to enter the Supplier's premises during normal business hours for the purpose of so doing.
- 23.3 All costs incurred by the Company in conducting any such audit shall be borne by the Company. The Supplier shall bear all its costs relating to any such audit.
- 23.4 The Supplier shall obtain similar rights of audit as this article 23 from all its subcontractors, agents and representatives and shall extend such rights to the Company.

**Signed and Agreed**

**Coryton Advanced Fuels Limited**

**Supplier???**

**Full Name:**

**Full Name:**

**Title / Position:**

**Title / Position:**

**Signature:**

**Signature:**

**Date:**

**Date:**