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TENDER PROCEDURE NO. COVA/2020/1.1

**FRAMEWORK AGREEMENT FOR THE PURCHASE OF CRUDE OIL AND OIL
PRODUCTS**

Framework Agreement for the purchase of crude oil and oil products

Parties:

1. STICHTING CENTRAAL ORGAAN VOORRAADVORMING

AARDOLIEPRODUCTEN (hereinafter referred to as: “**COVA**”), having its registered office in Rotterdam (the Netherlands), Boompjes 40, 3011 XB Rotterdam, registered in the Chamber of Commerce of Rotterdam under number 24134320, duly represented by Mr. G.J. Ten Broeke and Mr. B. Ent;

and

2. _____ (hereinafter referred to as: the “**Selected Seller**”), a private company with limited liability, having its registered office in _____, _____, registered in the Chamber of Commerce of _____ under number _____, duly represented by _____];

Each of COVA and the Selected Seller is hereinafter referred to as: a “**Party**”, and jointly referred to as: “**Parties**”;

whereas:

- a. COVA is the independent national organization that is responsible for managing a part of the strategic oil stocks of the Netherlands. The aim of COVA is to fulfil, on behalf and by mandate of the Minister of Economic Affairs and Climate Policy, the purchase, sale and storage of crude oil and oil products based on the requirements set by the International Energy Agency (IEA) and the European Union (EU). COVA's function is to maintain the quantities of compulsory stocks imposed under prevailing legislation, both as crude and products, at the lowest possible cost;
- b. Selected Seller is a seller of crude oil and oil products;
- c. COVA wishes to replace the framework agreement regarding the purchase of crude oil and oil products dated April 12th 2016 with a new framework agreement and has therefore put this Framework Agreement to tender in accordance with Article 2.33 2-C of the Dutch Public Procurement Act 2012;
- d. Selected Seller submitted a tender and is, as well as other sellers of crude oil and oil products, selected by COVA to conclude this Framework Agreement;
- e. Parties wish to lay down in this Framework Agreement the terms and conditions governing the tenders for the purchase of crude oil and oil products for the term of four (4) years.

have agreed as follows:

Article 1: Definitions and interpretation

Words and phrases capitalised in this Framework Agreement which are normally not capitalized are defined either in this Framework Agreement, either in the applicable Appendix:

Appendix:	The appendices A up to and including C attached to this Framework Agreement.
Framework Agreement:	This framework agreement including the Appendices.
GT&C Purchase:	The general terms and conditions of COVA for the purchase of crude oil and oil products attached to this Framework Agreement as Appendix B, as may be amended time to time by COVA;
GT&C Sale:	The general terms and conditions of COVA for the sale of crude oil and oil Products, attached to this Framework Agreement as Appendix C, as may be amended time to time by COVA;
Purchase-tender:	The mini-tender under this Framework Agreement whereby COVA puts a call for tender of a Purchase Contract under the terms and conditions as set forth in this Framework Agreement.
Purchase Contract:	The individual contract for the purchase crude oil and oil products that will be concluded between Parties if the Selected Seller wins the Purchase-tender, corresponding to the specimen attached to this Framework Agreement as Appendix A, as may be amended form time to time;
Selected Sellers:	Selected Seller and the other sellers of crude oil and oil products which have concluded this Framework Agreement with COVA.

Article 2: Subject of this Framework Agreement

- 2.1 The subject of this Framework Agreement and its Appendices is to set out the rights and obligations of COVA and the Selected Seller during a Purchase-tender. For each Purchase-tender COVA is entitled, pursuant to objective criteria, to choose between the following three (3) options:
- (i) COVA will invite all the Selected Sellers for a Purchase-tender;
 - (ii) COVA will invite only certain Selected Sellers for a Purchase-tender; or,
 - (iii) COVA will enter into direct negotiations with only one Selected Seller.
- 2.2 The Selected Seller may – when invited to – submit an offer to COVA. COVA is not obliged to accept the offer(s) of the Selected Seller.
- 2.3 COVA is not obliged to purchase and/or sell crude oil and oil products exclusive under this Framework Agreement.

Article 3: The Purchase-tender procedure

- 3.1 Selected Sellers to whom this Framework Agreement is definitely awarded, are placed on the shortlist and COVA will invite (chosen) Selected Sellers to submit a tender for each Purchase tender.
- 3.2 The Purchase-tender procedure entails the purchase by COVA of crude oil and oil products, the details of which (i.e. the Product, the Storage Facility where the delivery needs to take place, the delivery period, fixation of price, etc.) will be set out in the (call for) the Purchase-tender.
- 3.3 Selected Sellers are not obliged to tender for one or more Purchase tenders.
- 3.4 By entering a Purchase-tender, the Selected Seller expressly waives his own (general and specific) terms and conditions, even if these are mentioned in its statement(s) (e.g. in one or another appendix) or in any later invoice on the front or the back and the Selected Seller declares himself in agreement with the terms of this Framework Agreement, the terms of the specifications of the specific Purchase-tender and the GT&C Purchase.
- 3.5 The details of the Purchase-tender will be e-mailed to all (chosen) Selected Sellers.
- 3.6 To submit an offer in the Purchase-tender, Selected Sellers must comply with the following procedural rules. The offer must:
 - a. be submitted within the deadline and in the format specified in the call for the Purchase tender;
 - b. meet the conditions stipulated in the specifications of the call for the Purchase-tender;
 - c. comply with the conditions as set out in this Framework Agreement;
 - d. be signed by the authorised person(s).
- 3.7 Further detailed information on the procedural rules may be included in each call for a specific Purchase-tender.
- 3.8 Tenders that do not satisfy the criteria as mentioned in 3.6 shall not be considered in awarding the Purchase-tender.
- 3.9 The information provided by Selected Sellers will not be returned once the Purchase-tender has been completed.
- 3.10 The risk of information and/or answers being missing due to the incorrect or incomplete inclusion of overviews, data or statements rests entirely with the Selected Seller; depending on the nature and severity of the omission or inaccuracy, this may lead to exclusion of the Selected Seller.
- 3.11 Selected Sellers must notify COVA as soon as possible of any changes or imminent changes to their operations which affect the progress and finalisation of a Purchase-tender or which affect the business activities relevant to a Purchase-tender. COVA reserves the right to disregard the tender on these grounds and not consider it any further.
- 3.12 Tenders must not entail any costs for COVA.
- 3.13 Tenders must be drawn up without reservation of rights.
- 3.14 Tenders, correspondence and contact must be in English.
- 3.15 COVA will treat the tenders and correspondence confidentially.
- 3.16 A standstill period of 20 days is not applicable to the Purchase tender procedure.
- 3.17 COVA reserves the right to discontinue all or part of a Purchase-tender either temporarily or definitively.

Article 4: The Purchase-tender award criterion

- 4.1 Once the deadline for submitting offers specified in the call to the Purchase-tender has elapsed, COVA shall give its award decision by e-mail. The award will be made on the basis of a single criterion: the lowest price. The calculation method will be specified in the call to the Purchase-tender.
- 4.2 If COVA accepts an offer from a Selected Seller, such company becomes COVA's Seller for this specific purchase of crude oil or oil products.
- 4.3 If COVA wishes to combine a Purchase-tender for the purchase with a tender for sale of crude oil and oil products, the award will be made on the basis of a single criterion: the lowest price. The calculation method will be specified in the specific combined tender for purchase and sale). If COVA accepts an offer from a Selected Seller, that company becomes COVA's Seller for that specific combined purchase and sale.
- 4.4 COVA will inform all the Selected Sellers that have submitted a tender in a Purchase-tender regarding the award decision by e-mail. With this confirmation the Purchase Contract is concluded between COVA and the concerned Selected Seller. Only for the purpose of a proper contract administration the Selected Seller must sign the Purchase Contract and (if applicable the Sales Contract and) send it to COVA within fourteen (14) calendar days from the award-decision.

Article 5: General terms and Conditions

- 5.1 The GT&C Purchase shall apply to this Framework Agreement as well as to any Purchase Contract.
- 5.2 If COVA chooses to combine a Purchase-tender with a tender from COVA to sell crude oil and oil products, the GT&C Sale shall apply to the specific sale.
- 5.3 General terms and conditions of the Selected Seller of any third party will not apply to this Framework Agreement and/or the Purchase Contract.

Article 6: Duration

- 6.1 This Framework Agreement shall enter into force on 1 June 2020 and will be concluded for the period ending at 31 May 2024.
- 6.2 For Selected Sellers entering the present Framework Agreement after 1 June 2020, the duration of the Framework Agreement will be limited to the period until 31 May 2024.
- 6.3 Parties may terminate the Framework Agreement before the end of the agreed term by written notice subject to a notice period of six (6) months.

Article 7: Termination

- 7.1 In addition to article 15 of the GT&C Purchase, COVA has the right to terminate the Framework Agreement unilaterally by means of written notice with immediate effect, without prior legal intervention or a notice of default and without any liability whatsoever (including but not limited to any damages for breach of contracts, penalties, costs, fees and expenses), if:
 - a. The Framework Agreement is in breach with trade restrictions as meant in article 11 of the GT&C Purchase;

- b. If the Framework Agreement is in breach of any of the representations, warranties or undertakings as meant in article 12 of the GT&C Purchase (anti-corruption), COVA shall terminate the Framework Agreement in accordance with section 12.4 of the GT&C Purchase;
 - c. The Selected Seller does no longer fulfil the selection criteria for this Framework Agreement, which is the case if:
 - i. One of the grounds for exclusion of the ESPD becomes applicable to the Selected Seller;
 - ii. The Selected Seller has no longer an equity capital of at least EUR 250,000.- and a positive operational cashflow. COVA is entitled to request the information necessary to check the financial status of the Selected Seller at its external auditor.
 - d. or in the event of a change of control, directly or indirectly, as regards the activities of the Selected Seller.
 - e. the Tenderer has concluded another Framework Agreement with COVA and this other Framework Agreement has ended for any reason whatsoever.
- 7.2 The Selected Seller is obliged to notify COVA if the information he provided during the Framework Agreement regarding the elements of section 7.1.c are no longer accurate or current, or when one of the grounds for termination of section 7.1.c becomes applicable to his situation. COVA reserves the right to verify that the information provided by the Seller is accurate and current at any time and, if necessary, to check it with the competent authorities.
- 7.3 COVA will notify the Selected Seller concerned if the information provided is no longer current. If the information provided by a Selected Seller is no longer current, the Selected seller has 1 (one) calendar month as from the notification to or by COVA to remedy the situation. The Selected Seller may not submit any tender under the Framework Agreement until the situation has been remedied. If the tenderer fails to remedy the situation within the aforementioned period, it shall be removed from the shortlist and the Framework Agreement will end by law.

Article 8: Priority

- 8.1 If various documents in the Purchase-tender are contradictory, the following priority sequence will apply:
- a. Purchase Contract;
 - b. The call for the Purchase tender;
 - c. This Framework Agreement;
 - d. Appendix A: the specimen of the Purchase Contract;
 - e. Appendix B: GT&C's Purchase; and,
 - f. Appendix C: GT&C's Sale

Article 9: Applicable law and jurisdiction

- 9.1 This Framework Agreement is governed by, and shall be interpreted in accordance with, the laws of the Netherlands.
- 9.2 All disputes arising in connection with this Framework Agreement, the Purchase tenders and the Purchase Contracts, including disputes concerning the existence and validity thereof, shall in the first instance be determined by the competent

court in Rotterdam. The procedure shall take place in the Dutch language, or if COVA decides so in the English language.

- 9.3 Without prejudice to the provisions under paragraph 2 the possibility exists, in cases of urgency, for the Parties to institute summary proceedings. In that case the president (in Dutch: *Voorzieningenrechter*) of the district court in Rotterdam shall be competent.
- 9.4 The application of the Vienna Convention of 11 April 1980 (on international purchase Agreements concerning movable properties and the Convention of 14 June 1974 concerning limitation during international purchase of movable properties) shall be excluded.

Article 10: Miscellaneous

- 10.1 This Framework Agreement takes the place of all earlier framework agreements (if concluded with the Selected Seller) between the Parties with the same subject, including verbal and implicit agreements.
- 10.2 The invalidity of any provision of this Framework Agreement does not prejudice the other provisions of this Framework Agreement. If a provision proves to be invalid, the Parties will strive to replace it by a provision that is not invalid and that is in accordance with the invalid provision to the extent possible.
- 10.3 If any matter is not regulated in this Framework Agreement, the Parties will strive to regulate it in a supplement to this Framework Agreement.
- 10.4 Deviations from that agreed in this Framework Agreement or in one of the Appendices will only be binding on the Parties if laid down in writing and signed by duly authorised representatives of the Parties.

In evidence whereof:

For:

By:

Title:

Date:

Stichting COVA

Stichting COVA

G.J. Ten Broeke
Managing Director

B. Ent
Strategy & Compliance Manager

Date:

Date:

Appendices

- Appendix A The specimen of the Purchase Contract
- Appendix B General Terms & Conditions for Purchase
- Appendix C General Terms & Conditions for Sale

APPENDIX A – THE SPECIMEN OF THE PURCHASE CONTRACT



2.A. Purchase
Contract of crude oi

APPENDIX B – GENERAL TERMS & CONDITIONS FOR PURCHASE



GTC Purchase
3May2016.pdf

APPENDIX C – GENERAL TERMS AND CONDITIONS FOR SALE



GTC Sale
3May2016.pdf