

**HYCOM B.V.**

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E [info@hycom.nl](mailto:info@hycom.nl) | W [www.hycom.nl](http://www.hycom.nl) | Trade Register:08080097**TERMS & CONDITIONS OF HYCOM BV PROCUREMENT****Article 1. Definitions**

In these Terms and Conditions of Procurement the terms and expressions used below are defined as follows:

- Client: Hycom BV, user of these Terms and Conditions of Procurement;
- Supplier: the counterparty of the Client, it can provide both material delivery and a service;
- Agreement: the written agreements between the Client and Supplier regarding the delivery of goods;
- Delivery: placing one or more items in the possession of, or bringing into the control of, the Client and any installation / assembly of these items;
- Goods: material items to be supplied;
- Parties: Client and Supplier.

**Article 2. Applicability**

- a. In the event of a dispute, commitments specifically agreed shall prevail over these terms and conditions of procurement.
- b. These terms and conditions of procurement are applicable to all requests, offers and orders relating to the delivery of goods by the Supplier to the Client, whereby the general terms and conditions of the Supplier are explicitly rejected.

**Article 3. Amendments**

- a. The Client is always authorized, in consultation with the Supplier, to change the scope and / or capacity of the goods to be delivered. Changes are agreed in writing.
- b. If, in the opinion of the Supplier, a change may affect the agreed fixed price and / or time of delivery, it is obliged, before giving effect to the change, to inform the Client about this as soon as possible, in writing, within 8 working days after the notification of the change. If these consequences for the price and / or delivery time are unreasonable in the opinion of the Client, the parties shall consult on this.

**Article 4. Transfer of obligations**

- a. The Supplier may only transfer an obligation under the Agreement to a third party with the prior written consent of the Client. Reasonable conditions can be attached to this permission.
- b. In case of a transfer of (a part of) the obligations arising from the Supplier's Agreement to a third party, the latter is obliged to inform the Client of the securities that have been provided for the payment of VAT, wage tax and social contributions, which are legally prescribed for employers.

**Article 5. Price and price revision**

- a. The prices are exclusive of VAT and include all costs associated with the fulfilment of the Supplier's obligations.
- b. The prices are fixed, unless the Agreement states the circumstances that may lead to a price adjustment, as well as how the adjustment takes place.

**Article 6. Invoicing and payment**

- a. Payment of the invoice, including VAT, shall take place within 60 days after receipt of the invoice and approval of the goods and any installation / assembly thereof by the Client. Invoices must be submitted to Hycom to the attention of the creditor administration, sent digitally to [invoice@hycom.nl](mailto:invoice@hycom.nl) and include the relevant purchase order numbers and a description of the relevant goods and / or services.
- b. Client is entitled to suspend payment if it finds a shortcoming in the goods and possible installation / assembly thereof.
- c. The Client has the right to reduce the total sum of the invoice by the amounts that Supplier owes to the Client.
- d. Payment by the Client does not in any way constitute a waiver of rights.



#### **Article 7. Time of delivery**

- a. The agreed time of delivery is essential. In the event of a late delivery, the Supplier shall be in default without further notice of default.
- b. The Supplier must immediately report any imminent delay in delivery time to the Client in writing. This is without prejudice to the possible consequences of this delay under the Agreement or legal provisions.

#### **Article 8. Delivery**

- a. Delivery takes place at the agreed place and time, in accordance with the applicable Incoterm DDP (Delivered Duty Paid).
- b. The Client has the right to postpone delivery. In this case the Supplier shall store, secure and insure the goods, properly packaged and in a separated and recognizable manner.

#### **Article 9. Shortcomings**

- a. In the event of an attributable shortcoming by the Supplier, it shall be in default without further notice of default.
- b. Without prejudice to the right to compensation and other legal rights arising from an attributable shortcoming, the Client is entitled to collect an immediately due and payable fine of 2% per day from the day of the default, up to a maximum of 10% of the amount payable by the Client for the delivery.
- c. The statutory interest on amounts that the Client has paid in advance shall be settled with invoices to be paid over the period of the default.
- d. In the event of a non-attributable shortcoming, the obligations of both parties are suspended in consultation.
- e. The parties can only invoke non-attributable shortcomings vis-à-vis if the party concerned notifies the other party in writing of such an appeal as well as submitting the necessary supporting documents. This is to be done as soon as possible, however within 5 working days after the occurrence of the non-attributable shortcoming.
- f. If the Supplier states that one or more of its shortcomings cannot be attributed to him and the Client accepts this statement, the Client is nevertheless entitled to terminate the Agreement. In such a situation, the parties shall not charge each other for damages.

#### **Article 10. Guarantee**

- a. The supplier guarantees that the goods and any installation / assembly thereof comply with what has been agreed.
- b. The supplier guarantees that the goods are fully complete and ready for use. It ensures that, among other things, all parts, auxiliary materials, attachments, tools, spare parts, instructions for use and instruction books, needed for the realization of the purpose stated in writing by the Client, are included, even if they are not mentioned by name.
- c. The supplier guarantees that the delivered goods comply with all relevant legal provisions regarding, among other things, quality, environment, safety and health.
- d. If the Client finds that the delivered goods do not comply (wholly or in part) with what the Supplier has guaranteed in accordance with paragraphs a to c of this article, the Supplier is in default, unless the latter can demonstrate that the shortcoming cannot be attributed to it.

#### **Article 11. Intellectual and industrial property rights**

- a. The Supplier guarantees the free and undisturbed use of the delivered goods by the Client. It indemnifies the Client against the financial consequences.
- b. In the event of a violation of the provisions in the previous paragraph, the Client shall impose an immediately due and payable fine on the Supplier of EUR 25,000 for each violation. The amount of the fine has to be paid by the Supplier immediately after the aforementioned determination and notification thereof to the Supplier.
- c. The supplier ensures that the use of "counterfeit" parts is excluded in its complete supplier base. If the Supplier finds that a third party is guilty of this in any way, the Supplier must immediately inform the Client of this.

#### **Article 12. Examination**

- a. At all times, the client is entitled to inspect the goods or have them inspected during production, processing and storage as well as after delivery.
- b. Upon first request, the Supplier shall grant access to the Client, Authorities or inspection bodies to the place of production, processing or storage. The Supplier shall cooperate in this inspection free of charge.



c. If an inspection as referred to in this article cannot take place at the intended time due to the Supplier's responsibility, or if an inspection has to be repeated, the costs ensuing from this for the Client shall be borne by the Supplier.

d. In the event of rejection of the delivered goods, the Supplier shall arrange for repair or replacement of the delivered goods within 5 working days. If the Supplier does not comply with this obligation within the period specified in this article, the Client is entitled to purchase the required items from a third party, or take measures himself or have measures taken by a third party, at the expense and risk of the Supplier.

e. If the Supplier does not retrieve the rejected delivered goods within 5 days, the Client is entitled to return the goods to the Supplier at the Supplier's expense.

#### **Article 13. Packaging**

a. At all times, Client has the right to return the (transport) packaging materials to Supplier at the expense of Supplier.

b. Processing or destroying (transport) packaging materials is under the responsibility of the Supplier. If packaging materials are processed or destroyed at the request of the Supplier, this shall be at the expense and risk of the Supplier.

#### **Article 14. Termination**

a. In the event of a shortcoming by the Supplier in the fulfilment of its obligations under the Agreement or under other Agreements ensuing therefrom, as well as, inter alia, in the event of its bankruptcy, suspension of payment and in the event of a shutdown, withdrawal of any permits, seizure of (a part of) company property or items intended for the execution of the Agreement, liquidation or takeover or any comparable situation of the Supplier's company, it is legally in default.

b. Without prejudice to any other rights, the Client may wholly or partially terminate the Agreement if the Supplier or one of its subordinates or representatives has or offers any advantage to a person who is involved in the Client's business or one of its subordinates or representatives.

#### **Article 15. Documentation**

a. The Supplier is obliged to make the accompanying documentation available to the Client prior to or at the same time as the delivery. Material certificates must be made available digitally at email address [documentation@hycom.nl](mailto:documentation@hycom.nl)

b. The client is free to use this documentation, including copying it for its own use.

c. Documentation is kept in accordance with applicable retention periods.

#### **Article 16. Liability**

a. The Supplier is liable for all damage that may arise in connection to the execution of the obligations arising from the Agreement.

b. The Supplier indemnifies the Client against any financial consequence of claims from third parties related to the execution of its obligations arising from the Agreement.

c. The Client has the right to require the Supplier to have an insurance to cover the risks. The Supplier has the obligation, upon the Client's first request, to inspect the relevant policy.

#### **Article 17. Risk and transfer of ownership**

a. The ownership of the goods is transferred to the Client after they have been delivered and, if necessary, assembled or installed.

b. If the Client makes materials available to the Supplier for the fulfilment of its obligations, such as raw materials, auxiliary materials, tools, drawings, specifications and software, these shall remain the property of the Client. The Supplier shall store these separately from goods belonging to it or third parties. The Supplier shall mark them as the property of the Client.

c. When materials, such as raw materials, consumables, and software from the Client are processed in Supplier's goods, a new item is involved, owned by the Client.

d. The risk of the goods transfers to the Client during delivery and subsequently the approval of the goods is provided by Article 11 of these terms & conditions of procurement.

#### **Article 18. Confidentiality and prohibition of disclosure**

a. The Supplier shall keep the existence, nature and content of the Agreement as well as other company information secret and shall not disclose anything about it without written permission by the Client.

b. In the aforementioned cases, the Client has the right to unilaterally wholly or partially dissolve the Agreement without notice of default and without judicial intervention.

c. Termination takes place by means of a registered letter or bailiff's notification to the Supplier.

#### **Article 19. Order, safety and environment**



The Supplier and its employees, as well as third parties engaged by him, are obliged to comply with legal safety, health and environmental regulations. Any business rules and regulations related to safety, health and environment of the Client must also be followed. A copy of these rules and regulations is immediately provided to the Supplier upon request, free of charge.

#### **Article 20. Disputes**

- a. Disputes between parties, including those that are only considered as such by one of the parties, shall be resolved as much as possible through proper consultation.
- b. If the parties fail to reach a solution, the disputes shall be settled by the competent court in the district where the Client's company is established.

#### **Article 21. Applicable law**

Only Dutch law applies to the Agreement, which includes these terms and conditions of procurement. Foreign legislation and treaties such as the Vienna Sales Convention are excluded.

#### **Article 22. Additional definitions**

In these additional purchase conditions, the terms used below are defined as follows:

- materials: items that are processed in the material goods to be produced, or that are used in the execution of the work, except for the equipment to be used;
- equipment: all vehicles, equipment, cranes, scaffolding and parts thereof, consumables and similar, which the Supplier uses in the execution of the Agreement, but excluding the goods that must be incorporated into the material goods to be produced.

#### **Article 23. Applicability**

- a. These additional terms and conditions apply to all requests, offers and Agreements relating to the execution of assignments and / or the acceptance of work by the Supplier.
- b. In addition to these additional terms and conditions, the terms & conditions of procurement of Hycom BV also apply to the aforementioned requests, offers and Agreements, unless the additional terms and conditions or otherwise expressly deviate from the nature of the articles.
- c. For the application of these terms and conditions, personnel of the Supplier must also refer to third parties involved by the Supplier in the performance of the Agreement (s).

#### **Article 24. Personnel, equipment and materials**

- a. Personnel engaged by the Supplier in the execution of the Agreement shall meet the special requirements set by the Client and, in the absence thereof, the general requirements of professional competence and expertise.
- b. If in the opinion of the Client the personnel is not qualified enough, the Client is authorized to order the removal of this personnel and the Supplier is obliged to replace them without delay, under the provisions of paragraph a of this article.
- c. The Client has the authority of inspection and check all materials and equipment to be used by the Supplier in the execution of the Agreement and identify personnel involved by the Supplier in the execution of the Agreement.

#### **Article 25. Site and buildings of the Client**

- a. Before commencing the execution of the Agreement, the Supplier must be informed of the conditions of the site and buildings of the Client where the work shall be carried out.
- b. Costs of delay in the execution of the Agreement caused by the conditions mentioned above are at the risk and expense of the Supplier.

#### **Article 26. Work on the site / in the buildings of the Client**

- a. The Supplier ensures that its presence and the presence of its personnel on the site and in the buildings of the Client do not constitute an obstacle to the undisturbed progress of the activities of the Client and third parties.
- b. Before starting of the implementation of the Agreement, the Supplier and its staff must be informed on the content of the rules and the regulations applicable on the site and in the buildings of the Client, including safety, health and the environment, and behave accordingly.
- c. A copy of the aforementioned rules and regulations is made available to the Supplier by the Client at its request.



#### **Article 27. Payment**

a. The Client shall only pay the work once it has been delivered by the Supplier, to the satisfaction of the Client and / or the assignment has been completed to the satisfaction of the Supplier and after the Supplier has demonstrated at the first request of the Client it has properly paid the personnel and employees employed in the work.

#### **Article 28. Obligations of the Supplier**

a. The Supplier is responsible for achieving a satisfactory result in the work, independently and under its own responsibility, complying with the prevailing regulations regarding safety and the environment, among other things.

b. The work and / or assignment must be carried out properly and solidly and in accordance with the provisions of the Agreement.

c. The Supplier's representatives are, in principle, available on the work site during working hours, with their absence, replacement and reachability being arranged in consultation with the Client.

d. Have intermediaries comply with the Aliens Employment Act, the Aliens Act and the Labour Force Allocation Act;

e. Have a valid proof of registration with the Tax Authorities, a recent extract from the trade register at the Chamber of Commerce and, if article 34 (employer's liability) or 35 (chain liability) of the 1990 Collection Act applies, the original G account agreement. The Contractor must provide the Client with a copy of these documents before the start of the work in accordance with the Agreement;

f. Before commencing the work in accordance with the Agreement and, in the event of changes to the data during the term of the Agreement, prior to the relevant change, to the extent required and permitted by law, provide the data as referred to in the Implementing Regulations for Recipient, Chain and Client Liability 2004, including (but not limited to) the names and Citizen service numbers, copies of valid identity documents, employment permits, residence permits, A1 statements and certificates of competence of all Employees employed by it at Client or Employer based on a model to be provided by Client;

g. Before the commencement of the work, indicate which CLA applies and at the request of the Client provide the wage statements for inspection, and comply with the relevant CLA applicable;

h. Strictly comply with all its obligations towards the Employees;

i. At the request of the Client and within three months from the commencement of the work, provide an original statement with regard to its payment history to the Tax Authorities, as referred to in the legislation and guidelines laid down in the context of hirer's liability and chain liability;

j. Keep a payroll record in accordance with the applicable Wage Tax Act 1964, the Collection Act 1990, the Healthcare Insurance Act and the Social Insurance Financing Act;

k. If an Employee qualifies as a self-employed person, enter into an agreement with this self-employed person in accordance with a model agreement approved by Hycom and provide Hycom with a copy of the signed agreement. The contractor is responsible for the self-employed person to carry out the work in accordance with the agreement;

l. Before the commencement of the work in accordance with the Agreement, provide the Client with the relevant quality mark or certificate, such as NEN 4001-01 or VCA certificate that may be relevant to the work.

2. The Agreement shall only come into effect if all documents requested in the previous paragraph have been provided to the Client in timely manner.

3. The Supplier must indemnify the Client against fines and / or punitive measures imposed on the Client and / or Employer and / or third parties as a result of the actions and / or omissions of the Contractor and / or subsequent contractors in violation of the Aliens Employment Act, the Aliens Act and the Workforce Allocation Act.

4. The Supplier indemnifies the Client against all possible claims from the tax authorities in connection with Payroll taxes and sales tax owed by the Contractor and / or subsequent contractors.

5. The Supplier indemnifies the Client against claims by Employees on the basis of the applicable laws and regulations and / or CLA and fines in connection with non-compliance with the applicable laws and regulations and / or CLA, including claims by Employees within the framework of the Act Tackling Fake Constructions.

6. The Supplier is obliged to inform the Client if it wishes to make use of third parties to perform the Work, prior to entering into an agreement with these third parties. Prior to entering into an agreement with these third parties, the Contractor is obliged to request them to provide the documents referred to in paragraph 1 of this article to the Contractor and provide the Client with the Agreement, as well as the documents referred to and the Agreement with the third party.