

General terms and conditions for Procurement d.d. 7 November 2024

Please see the following pages for:

General terms and conditions for Procurement of Goods by Hitachi Construction Machinery (Europe) N.V., please see pages 2 - 11.

General Terms and Conditions for Procurement of Services by Hitachi Construction Machinery (Europe) N.V., please see pages 12 - 20.

General terms and conditions for Procurement of Goods by Hitachi Construction Machinery (Europe) N.V.

Article 1. Definitions

Affiliates:	Any legal entity that, directly or indirectly, owns, is owned by, or is under common ownership with a Party for so long as such ownership exists. For the purposes of the foregoing, "own," "owned," or "ownership" shall mean majority ownership or controlling interest of such legal entity.
HCME:	Hitachi Construction Machinery (Europe) N.V. having its principal place of business at the Siciliëweg 5 in Amsterdam and all its Affiliates.
HCM group:	Hitachi Construction Machinery Co., Ltd, and its Affiliates
Procurement Terms and Conditions:	These general terms and conditions for procurement of goods by HCME.
Supplier:	The natural person or legal entity with whom or which HCME is carrying on negotiations with about the conclusion of an Agreement or who or which supplies Goods to HCME.
Goods:	Any and all goods (objects and proprietary rights) to be delivered by the Supplier to HCME.
Agreement:	Any agreement, contract, or order by and between HCME and the Supplier regarding the delivery of Goods, including additions and changes and these Procurement Terms and Conditions.
Party (Parties):	HCME and/or the Supplier.
Personal Data:	Personal data within the meaning of the General Data Protection Regulation (GDPR) that are processed by the Supplier in the context of the Agreement.
In Writing/Written:	For the purpose of these Procurement Terms and Conditions "in writing" or "written" is also understood as electronic communication, e.g. data connections, Electronic Data Interchange (EDI), or email.
SME:	also known as Small and Medium-sized Enterprises (MKB), being a company with fewer than 250 employees, and with an annual turnover of not more than EUR 50 million or an annual balance sheet total that does not exceed EUR 43 million.

Article 2. Applicability

1. These Procurement Terms and Conditions are applicable to all requests, proposals, and all Agreements and other legal understandings regarding the supply and/or delivery of Goods to HCME.
2. If the Supplier, in addition to Goods, also supplies services to HCME, including services for the benefit of installation and/or assembly of Goods, then the General Terms and Conditions for Procurement of Services by HCME are (also) applicable.
3. Parties agree that HCME's Procurement Terms and Conditions are the sole general terms applicable. Applicability of any general terms of the Supplier is hereby expressly rejected.
4. Changes of and additions to the Agreement and/or the Procurement Terms and Conditions are only binding if they were expressly stipulated in writing and signed by the duly authorized representatives of each Party.
5. These Procurement Terms and Conditions shall be interpreted in accordance with the English language. If these Procurement Terms and Conditions are translated to and used in another language and the construction and interpretation presents any discrepancy and/ or inconsistency, the construction and interpretation of English language shall prevail.
6. In case of a discrepancy between the provisions set forth in the Agreement and in the Procurement Terms and Conditions, the provisions set forth in the Agreement shall prevail.

Article 3. Offer and conclusion of the Agreement

1. An offer made by the Supplier is irrevocable for a period of 90 (ninety) days.

2. HCME does not reimburse expenses associated with the preparation of offers, quotations, and proposals.
3. If HCME requires the submission of drawings, specifications or other data for approval, the Supplier shall submit them on or before the time specified by HCME free of charge.
4. An Agreement is exclusively concluded after a duly authorised person has expressly accepted an offer of the Supplier in writing on behalf of HCME. Oral commitments of employees shall not have binding effect on HCME.

Article 4. Supplier acceptance

1. Acceptance of any purchase order issued by HCME to the Supplier must be made within five (5) working days of receipt and be in writing.
2. The Supplier's acceptance must include confirmation of the expected delivery date for the Goods.
3. If the Supplier fails to accept the purchase order within the five (5) working days, HCME may cancel the purchase order without liability.

Article 5. Delivery and transfer of title

1. Unless otherwise agreed in the Agreement, delivery takes place Delivered at Place (DAP, according to the Incoterms 2020) HCME premises specified in the purchase order.
2. The delivery period stipulated in the Agreement or delivery date in the Supplier's acceptance is qualified as a fatal deadline, barring prior written consent of the delay by HCME.
3. If the Supplier expects that the Goods cannot be supplied within the stipulated period or on the delivery date, then it shall forthwith inform HCME accordingly in writing. The Supplier shall take all reasonable measures to avoid further delays. This, however, shall not affect the rights of HCME in case of failing or late performance by the Supplier.
4. During the delivery of the Goods, the Supplier shall follow all reasonable directions and instructions of HCME.
5. The delivery of the Goods must be completed in accordance with the specifications in the Agreement, on the agreed date and time, accompanied by all the documents relating to it, acknowledged by receipt by a duly authorized representative of HCME, in HCME's customary acceptance manner.
6. The title/ownership of the Goods transfers to HCME upon delivery and after acceptance of the Goods by HCME. The Supplier shall not reserve rights in respect of Goods delivered to HCME, unless a reservation of title has been stipulated in writing by the Parties. Nonetheless, HCME shall be allowed to further process and/or sell delivered Goods to the extent that this is common practice during the normal business operations of its company. The Goods must be free from any right or claim of a third party.
7. The Supplier must, at its own expense, ensure that the approvals, certificates and permits that are required for the implementation of the Agreement are acquired in good time. The Supplier shall inform itself, in a timely manner, of the nature and the capacity of the location where the Goods are delivered, and of all other circumstances, which are important for the implementation of the Agreement.
8. Delivery in instalments is only permitted if this was stipulated in writing and in advance by the Parties. In case of a deviation from the quantities to be delivered as indicated in the Agreement or in case of partial deliveries, HCME can refuse the relevant deliveries and return these deliveries at the risk and expense of the Supplier should the Supplier not have approval for delay or delivery in instalments as stipulated herein.
9. Unless otherwise agreed, Supplier shall inform HCME of the shipping date of Goods in writing 1 (one) week prior to the shipping.
10. The Supplier shall make all user instructions and product information pertaining to the Goods as well as potential quality marks or certificates available to HCME and transfer the title thereof without any additional costs.
11. The Supplier represents and warrants that all third parties hired by the Supplier for the production or delivery of Goods shall implement the Agreement in a correct and timely manner.

12. The Supplier shall ensure that its staff and the third parties hired by the Supplier are familiar and shall comply with the HCME code of conduct, safety rules, rules in general and the regulations applicable at the location where the Goods are delivered. Upon Suppliers request, HCME shall supply these documents.
13. If Supplier fails to effect delivery of a part or all of the Goods within the period agreed with HCME, the Supplier shall be in default without further notice of default. In this event HCME is entitled to claim a penalty of minimum 0,5% (a half percent) and maximum 15% (fifteen percent) of the total value of the Agreement for each working day of delay. This amount shall be calculated excluding VAT, without prejudice to HCME's rights to claim performance of the Agreement or other remedies provided by law including full compensation.
14. HCME is entitled to set-off payments to the Supplier and any of its Affiliates against the penalty and/or compensation referred to in the previous paragraph of this article.

Article 6. Quality, warranty, and inspection of the Goods

1. The Supplier represents and warrants that the Goods:
 - a) are fit for the purposes for which they are intended and possess the qualities which Supplier expressly or impliedly made known to HCME at the time of the conclusion of an Agreement;
 - b) are in accordance with the conditions and specifications outlined in the Agreement and with samples, models and drawings potentially approved by HCME;
 - c) are of good quality, without defects in design, construction, dimensions, model, and safety;
 - d) are packaged and transported properly as stated in article 7;
 - e) comply with the applicable European Union and United Kingdom legislation and regulations regarding the Goods, including the packaging, including, but not limited to, rules in the area of safety, health, the environment, sustainability and hazardous substances and any due diligence required in the supply chain;
 - f) are free from any right or claim of a third party, including but not limited to rights or claims based on industrial property or other intellectual property;
 - g) are free from either patent or latent defects in design, material, workmanship, and quality for a period of 24 (twenty-four) months after the date of the acknowledgment of receipt of delivery;
 - h) comply with the common norms and standards.
2. If HCME reviews drawings, specifications or data submitted by Supplier in connection with any Agreement and makes suggestions or comments, or approves such drawings, specifications or other data, such HCME's actions shall only be deemed an expression of its opinion and shall not relieve Supplier of its obligations for the reliability, quality, rate of output, costs, delivery, performance or any other requirements of any Agreement and are without prejudice to any warranty obligations.
3. The Supplier shall thoroughly check and/or test all Goods before shipment. Such inspection shall confirm that Goods or any part thereof conform to the Agreement and the warranties mentioned above. Unless otherwise agreed by the Parties in writing, Supplier shall maintain such checks record for seven (7) years and submit it to HCME free of charge upon HCME request. HCME or other representative(s) of HCME shall have the right to audit such records and supporting data upon thirty (30) days' notice. Any audit shall be at the Supplier's expense.
4. HCME is entitled to (pre-)inspect the Goods. Depending on the nature of the Goods to be delivered. The Supplier shall give HCME the opportunity to (pre-)check them during the production, processing, and storage, or after delivery. To this end, the Supplier provides access to the locations where the Goods are produced or stored and lends cooperation in the required inspections, checks and tests.
5. HCME shall inspect the delivered Goods and/or services within as a reasonable period as is practicable in the given circumstances. If Goods are not in conformity with the warranty as intended in paragraph 1 of this article, then HCME shall be entitled to:
 - a. reject the relevant Goods and to return them at the expense of the Supplier after which HCME shall, without additional costs, be entitled to replacement and delivery within the imposed delivery period;
 - b. retain the Goods and use them subject to a fair reduction of the purchase price;

- c. repair the non-conforming Goods or have them repaired by third parties at the expense of the Supplier.
All additional costs, e.g. for disassembly, transport, and the reassembly, are also at the expense of the Supplier. This does not affect all other claims vested in HCME in pursuance of the Agreement or by law.
6. Irrespective of the fact whether HCME relied on its right to inspect in pursuance of paragraph 4 of this article, the Supplier shall remain responsible in full for a correct implementation of the Agreement.
7. The Supplier shall provide HCME with a copy of ISO 9001 certificate obtained by the Supplier. In the absence of ISO certificate Supplier warrants that he shall use quality assurance system corresponding or equivalent to ISO 9001 and provide HCME with a written proof of such quality assurance system.
8. The Supplier represents and warrants that for a period of at least ten (10) years after delivery of the Goods, parts for the Goods can be delivered. In case if the Supplier ceases the manufacture of Goods, The Supplier shall inform HCME about it promptly in advance, so HCME shall be able to order the Goods from them. In this event Supplier shall give an opportunity to HCME to order the Goods at reasonable prices
9. In case of a recall, HCME shall be entitled to recover all additional costs from the Supplier.

Article 7. Packaging and transport

1. The Supplier shall ensure that the Goods are packaged properly for such transport of the Goods that they reach the place of delivery in a good state. The Supplier shall be liable for damages caused by insufficient and/or improper packaging or packaging that does not comply with requirements pursuant to transport and environmental legislation and regulations.
2. Unless otherwise agreed in writing, Supplier shall comply with the packaging instructions provided by HCME.
3. The Supplier shall on demand of HCME take back all packaging.

Article 8. Forecast, Prices, invoicing, and payment

1. Unless otherwise agreed in writing, forecast submitted by HCME is provided as a good faith estimate based on current market conditions and does not constitute a commitment to purchase any quantity of Goods and/or services. No rights can be derived from the forecast and should the Supplier decide to take action based on the forecast, this is at the Supplier's risk.
2. All prices are fixed and exclusive of VAT. Prices include all additional costs, surcharges, and taxes. Additional costs that are not mentioned in the Agreement will not be reimbursed. If no price for the Goods has been agreed in the Agreement, the Supplier's price list at the moment of the conclusion of these Procurement Terms and Conditions shall apply.
3. The price mentioned in the purchase order is leading. There should be no price change between the issuance of the purchase order and the related invoice.
4. The Supplier must address the invoice to the invoice address of HCME as mentioned on the purchase order and shall mention the following on the invoice:
 - invoice date, name, address, postcode, place of establishment / residence, IBAN, VAT number, Chamber of Commerce (CoC) number;
 - the invoice address of the Supplier;
 - the number of the purchase order and, where applicable, the number of the framework agreement.
5. If the invoice does not comply with the conditions as set forth in the previous paragraphs of this article, then the invoice will not be due and payable and HCME reserves the right to not pay the invoice.
6. Unless otherwise agreed by the Parties in writing, invoicing takes place after delivery and acceptance of the Goods.

7. HCME will pay invoices within 60 (sixty) days after receipt, on the condition that the invoice has been approved by HCME. Notwithstanding the previous sentence, HCME will pay invoices of Supplier(s) classified as an SME within 30 (thirty) days after receipt, on the condition that the invoice has been approved by HCME.
8. HCME is entitled to suspend payment of an invoice fully or partly if there are reasons to believe that the Supplier is in breach with its obligations under the Agreement or these terms.
9. HCME can settle the payable invoice amount with amounts that the Supplier is liable to pay to HCME on any account whatsoever.
10. Payment of the invoice by HCME shall by no means imply a waiver of any right.
11. Receivables of the Supplier on HCME cannot be transferred or pledged. This provision has proprietary effect.

Article 9. Changes of Goods to be purchased

1. HCME is entitled to require reasonable changes in the delivery address, the specifications, the quantity and/or the capacity of the Goods to be purchased by HCME.
2. If a change has, at the discretion of the Supplier, consequences for the stipulated price and/or the time of delivery then, before implementing the change, the Supplier shall forthwith, however at the latest within 5 (five) working days after notification of the change, inform HCME accordingly in writing. If the consequences for the price and/or the delivery time are, at the discretion of HCME, unreasonable then the Parties will discuss this with each other.

Article 10. Liability

1. The Supplier shall be liable for any and all direct, indirect and/or consequential damages incurred by HCME and the HCM group because of a failure of the Supplier, or failure of third parties hired by the Supplier, to comply with the Agreement or as a result of any unlawful act of the Supplier towards HCME.
2. The Supplier shall be liable for all financial losses, other disadvantages and damages that are caused to persons and/or inflicted on properties of HCME and/or of third parties by the Supplier and/or its employees and/or third parties hired by the Supplier. The Supplier shall indemnify and hold harmless, and defend HCME and the HCM group, at its own expense, against claims of third parties in connection with the Agreement.
3. The Supplier shall indemnify and hold harmless, and defend HCME and the HCM group, at its own expense, against claims of third parties and/or potential penalties on account of non-compliance of the Supplier with its obligations pursuant to the Agreement or the violation of statutory provisions, legislation and regulations.
4. The Supplier shall indemnify and hold harmless HCME, the HCM group, its distributors and end-users harmless, and defend at its own expense from all Claims brought against HCME for any injury, death or property damage (including without limitation for consequential damages), resulting from improper or defective material, workmanship, design or content of prohibited controlled chemical substances in the Goods or spare parts or arising out of the product liability legislation and regulations. HCME shall cooperate with the Supplier in the defence thereof.
5. During the term of the Agreement the Supplier shall, at its sole expense, take out and maintain insurance against liability as intended in this article. The insured amount for the business liability of the Supplier amounts to a minimum of EUR 5 million per occurrence and if the Supplier is also the producer for product liability, additionally for a minimum of EUR 2.5 million per occurrence. At the request of HCME, the Supplier shall furnish sufficient evidence of the said insurances and the premium payment.

Article 11. Limitation of Liability of HCME

1. HCME shall never be liable to the Supplier for loss of profits and indirect or consequential damages including but not limited to loss of profit, loss of revenue, loss of savings, loss of investments and damages arising out of Supplier's liability against third parties.

2. In any event, the total liability of HCME, whether arising out of or in connection with an Agreement, tort, or other legal basis, shall not exceed the lesser (i) a purchase price of the Goods giving rise to a claim or (ii) an amount compensated by an insurance company of HCME in a specific occurrence.
3. HCME shall not rely on any limitations of liability provided for in these Procurement Terms and Conditions if and to the extent that any damages are the result of the wilful misconduct or gross negligence of HCME's executive management.

Article 12. Force majeure

1. Neither Party shall be liable for failing or late compliance with their obligations if this is the result of force majeure. In case of force majeure, the affected Party shall be authorised to suspend its obligations either in whole or in part. However, the affected Party shall endeavour to shorten any delay or failure caused by force majeure.
2. Force majeure shall be defined as a delay or failure in the performance which arises from forces beyond the Party's control including acts of God, acts or economic sanctions of any governmental authority, riot, revolution, fire, war, or pandemic.
3. Force majeure shall, in any case, not include sickness or lack of staff, industrial action (strikes), failures of third parties hired by the Supplier, failure or unsuitability of auxiliary materials or liquidity issues of the Supplier.

Article 13. Use of goods and tools

1. All goods furnished to Supplier by HCME, and all replacements thereof and materials fixed or attached thereto, shall be and remain the property of HCME. Such property and, whenever applicable, each individual item thereof, shall be plainly marked or otherwise adequately identified by Supplier as "Property of Hitachi Construction Machinery (Europe) N.V." and shall, at Supplier's expense, be safely stored separately and apart from Supplier's property.
2. The Supplier shall use goods, e.g. tools or computer equipment, made available by HCME at its own expense and return them to HCME in a good state. Unless otherwise agreed in writing, the Supplier shall only use the goods made available for the correct implementation of the Agreement and shall not permit third parties to use the goods.

Article 14. Rules in respect of staff at the premises / in the buildings of HCME

1. The Supplier ensures that its presence, and the presence of its staff and the third parties hired by the Supplier, at the premises and in the buildings of HCME shall not cause any impediment to the operations of HCME. The Supplier ensures that its staff and the third parties hired by the Supplier shall always comply with the company and safety rules applicable at HCME.
2. The Supplier must ensure that its staff and the third parties hired by the Supplier shall always be able to provide proof of identity.

Article 15. Confidentiality

1. The Supplier shall, both during the term of an Agreement and thereafter, not disclose confidential information of HCME to third parties. Confidential information of HCME is understood as information that has been qualified as confidential or that is, due to its nature, confidential, including but not limited to business information, trade secrets, know-how as well as personal data originating from HCME, the latter in accordance with article 15.5.
2. The confidentiality obligation as intended in the previous article is not applicable to the extent that (a) disclosure is required by or pursuant to the law or a competent authority or (b) the relevant information has already been available in the public domain, without any unlawful act of the Supplier, its employees or third parties hired by the Supplier.
3. The Supplier shall impose equivalent confidentiality obligations as elaborated in the previous paragraphs of this article on its employees or third parties who were hired by the Supplier for the implementation of the Agreement and shall exclusively provide them access to the confidential information that they require for the performance of their activities.

4. In case of a violation of the obligations set forth in this article, the Supplier may cause irreparable harm to HCME and agrees that the Supplier shall be liable to pay an immediately claimable penalty to HCME of EUR 250,000.00 per violation, without prejudice to the right of HCME to claim the actually incurred damages and other available remedies, injunctive relief against the Supplier in breach or anticipated breach hereof.
5. After termination of the Agreement, the Supplier shall immediately return or demonstrably destroy all confidential information of HCME that it has in its possession.
6. Neither Party can disclose the content or the existence of an Agreement, without prior written consent of the other Party.

Article 16. Intellectual property rights

1. All intellectual property rights in respect of (i) the Goods that are manufactured for or under the authority of HCME and (ii) the drawings, texts, models, manuals, samples, tools, calculations, software, moulds, dies, and other documents and data carriers manufactured or used specifically for HCME are owned by HCME. Where required, the said rights are hereby already transferred by the Supplier to HCME, and the Supplier shall lend cooperation in formalities that are required for the transfer.
2. In respect of intellectual property rights that are vested on Goods not specifically manufactured for HCME, HCME acquires a free, non-exclusive, worldwide, perpetual licence to use, where required.
3. The Supplier waives, also on behalf of its staff, all personality rights as intended in the Dutch Copyrights Act.
4. The Supplier guarantees that the use of the Goods does not infringe intellectual property rights and other rights of third parties. The Supplier shall indemnify, hold harmless and defend HCME and the HCM group, at its own expense, against claims of third parties in connection therewith.
5. HCME reserves all intellectual property rights in respect of all goods and data that were made available to the Supplier by HCME in connection with the Agreement.

Article 17. Termination of the Agreement

1. HCME can always terminate the Agreement early by means of a written notice to the Supplier, in consideration of a notice period of 90 (ninety) days.
2. Either Party can terminate the Agreement, either in whole or in part, with immediate effect, without prejudice to its other legal remedies if:
 - a. there is a breach or default by the other Party of a material obligation pursuant to the Agreement, which is not remedied within thirty (30) days after written notice;
 - b. the other Party was declared insolvent / bankrupt or was granted suspension of payment, or a relevant application was filed;
 - c. an attachment is imposed on an important part of the business assets of the other Party;
 - d. the business operations of the other Party are, either in whole or in part, transferred, liquidated, discontinued or moved abroad or the other Party is dissolved;
 - e. a Party is affected by force majeure that has continued for a period of 30 (thirty) days or more;
 - f. the other Party suffers or initiates any proceedings in any jurisdiction which correspond or have an effect equivalent to any of the foregoing.
3. In the event of a material breach of any Agreement by either Party, the other Party may, at its option, suspend the performance (or further performance) of the Agreement and/or give written notice stating the nature of the breach and its intention to terminate the Agreement. Where the breach is not capable of being remedied, the Agreement may be terminated forthwith by written notice. Termination by HCME shall be without prejudice to any right to damages or any other rights by virtue of law, Agreement or otherwise.
4. HCME can rescind the Agreement with immediate effect if there is question of (an attempt to) bribery by the Supplier or by third parties hired by the Supplier or staff of HCME.

5. HCME may terminate any Agreement forthwith without any further liability or obligations if there is a change of ownership or control in the business of Supplier including sufficient change in the management of the Supplier.
6. The articles of the Procurement Terms and Conditions and the Agreement that are, due to their nature, meant to also continue their existence after termination of the Agreement shall remain in full force and effect. This shall, in any case, include the provisions regarding liability, confidentiality, and intellectual property rights.

Article 18. Transfer of rights and obligations

1. Assignment by the Supplier of any Agreement or any right, interest, or obligation thereunder or of any payment due or to become due hereunder or there under to the third parties, without written consent of HCME shall be void. In the event if HCME gives such consent to the Supplier, the Supplier shall be jointly and severally liable for the performance of the third party, to whom the Agreement or any right, interest or obligation thereunder is assigned.

Article 19. Applicable laws, and export and import restrictions:

Anti-bribery

1. Neither Supplier nor any of its Affiliates has taken and neither will take any actions in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any government official (including any officer or employee of a government or government-controlled entity or instrumentality, or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or official thereof, or candidate for political office, all of the foregoing being referred to as "Government Officials") or to any other person while knowing that all or some portion of the money or value was or will be offered, given or promised to a Government Official for the purposes of obtaining or retaining business or securing any improper advantage or influencing official action.
2. No part of the payments received by Supplier from HCME will be used for any purpose which would cause a violation of law, including, without limitation, the anti-bribery laws of any country or jurisdiction, by Supplier.

Import and export Control

3. The Supplier is in compliance with import and export restrictions and other applicable laws, rules, regulations, and orders as shall from time to time be adopted or imposed by the European Union and/or all other applicable jurisdictions, if any.
4. Without limiting the foregoing, (i) the Supplier represents and warrants that it is not listed on any list of prohibited or restricted parties or located in (or a national of) a country that is subject to embargo or that has been designated as a "terrorist supporting" country, and (ii) the Supplier will not (and will not permit any third parties to) access or use any service, Goods or information provided by HCME (and the HCM group) in violation of any trade sanctions or export control laws or regulations (collectively, the "Export Control Regulations"), and (iii) the Supplier will not cause HCME (and the HCM group) to engage in dealings or transactions with or that benefit any person or entity with whom HCME (and the HCM group) is restricted from transacting under the Export Control Regulations.
5. The Supplier will inform HCME, if a Good provided by the Supplier is classified as a controlled good according to applicable export control laws including but not limited to the Export Administration Regulations (EAR) or the EU export control Regulation 2021/821.
6. Upon request, the Supplier will provide to HCME and overview of the Goods, provided by the Supplier, with the Export Control Classification Number (ECCN).
7. The Supplier shall make any import and export information required available to HCME without any additional costs.

Product regulation

8. The Supplier shall confirm that it is in conformity with the applicable product regulation legislation, and provide, together with the Goods and/or services, the statements, documentation and any other

evidence required by the legislation and regulations or required by HCME, and where permitted in a mutually agreed digital format.

9. If indicated by HCME, the Supplier shall take into account in their conformity assessment the expected time before placing concerning Goods and/or services on the European Union market.

Personal and general data protection

10. The Supplier shall process any Personal Data in accordance with GDPR as amended from time to time and any other applicable local privacy laws and regulations being in force at the moment of the performance of its obligations under an Agreement. The Supplier shall exclusively process Personal Data to the extent that this is required to comply with its obligations under an Agreement.
11. To the extent that the Supplier, processes Personal Data in the capacity of processor within the meaning of the GDPR, the Supplier shall exclusively process the Personal Data based on documented instructions from HCME and under the authority of and in conformity with the rules of HCME, including those described below, unless legislation and regulations required otherwise, in which case the Supplier qualifies as joint controller, the Parties shall determine any additional or alternative terms to be agreed upon within the meaning of article 26 GDPR.
12. The Supplier will implement appropriate technical and organisational measures to protect Personal Data against unintended or unlawful processing, taking into account the state of the art, implementation costs, processing risks, and the nature of the Personal Data.
13. Without prior written consent of HCME, Personal Data shall only be processed by the Supplier within the European Economic Area (EEA). Should Personal Data be processed outside of the EEA, the Supplier will ensure that the transfer complies with Chapter V of the GDPR.
14. In case of an actual or suspected data breach, or any form of unauthorised access, loss, misuse, damage or a breach of security, confidentiality or integrity of the Personal Data, the Supplier must inform HCME immediately, and at least within 24 hours after the said breach has been discovered. In this respect, the Supplier shall provide HCME with the information necessary to notify the breach to the relevant Data Protection Authority and, potentially, the Data Subject(s) involved..
15. The Supplier represents and warrants that their IT security adheres to the ISO27001 standards or something corresponding or equivalent.
16. The Supplier represents and warrants that in the event of a cyber-attack or other similar disruptive events, the retention of obtained data, and drawings, documents, self-created data, or prototypes created for the benefit of HCME remains available to avoid any kind of delay in the performance of the obligations of the Supplier.
17. The Supplier ensures that all authorised persons processing Personal Data are bound by confidentiality, either by agreement or by law.
18. The Supplier shall not engage a processor without HCME's prior written consent and ensures that it enters into an agreement with the processor which imposes the same obligations in relation to the processing of Personal Data as are imposed on the Supplier under these Procurement Terms and Conditions. The Supplier shall be fully responsible and liable to HCME for the performance of the processor's obligations.
19. Upon HCME's request, the Supplier will assist HCME in complying with HCME's GDPR obligations, including in relation to handling data subject requests and pursuant to articles 32-36 GDPR. The Supplier will immediately notify HCME of any received data subject request.
20. After termination of an Agreement, the Supplier will, at the choice of HCME, delete or return all the Personal Data to HCME, and delete all existing copies, unless retention is legally required.
21. The Supplier will provide all information and cooperation necessary to demonstrate GDPR compliance and will allow HCME, or a party authorised by HCME, to audit its adherence to these Procurement Terms and Conditions and GDPR obligations.

Sustainability

22. The Supplier represents and warrants that it conducts its business in accordance with the Corporate Social Responsibility (CSR) and the Environmental Social and Governance (ESG) policy of HCME and the applicable CSR and ESG laws, rules, and regulations. Optionally, the Parties may agree

that the Supplier's compliance with its own CSR and ESG policy will satisfy if it has equivalent or corresponding protections. The Supplier shall make any CSR/ESG information required available to HCME without any additional costs.

Indemnification

23. The Supplier shall indemnify and hold, and defend HCME and the HCM group harmless, at its own expense, all loss, costs, expenses, and liabilities (including reasonable attorney's fees), and damages as a result of authority enforcement, that result from the non-compliance with the obligations set forth in this article by the Supplier or by third parties hired by the Supplier, including in relation to any actions of the Supplier which result in a breach of the GDPR.

Article 20. Applicable law and dispute resolution

1. Dutch law is applicable to these Procurement Terms and Conditions and to each and every Agreement. The UN Convention on Contracts for the International Sales of Goods, 1980 (CISG) shall not be applicable.
2. Disputes between the Parties shall, as much as possible, be settled amicably.
3. If the Parties cannot reach an amicable solution, then disputes shall be settled by the competent court in Amsterdam, The Netherlands. However, HCME shall have the right to submit any claim or dispute to a court that would have jurisdiction pursuant to the applicable rules of international law in the absence of the foregoing stipulation.
4. As an exception to the above, if the Supplier is domiciled outside the European Union, or in Iceland, Switzerland or Norway, all claims and disputes between the Parties arising out of or relating to these Procurement Terms and Conditions, or any Agreement or any other legal relations between the Parties shall be finally settled in accordance with the Arbitration Rules of The Netherlands Arbitration Institute (Netherlands Arbitrage Institute). The arbitral tribunal shall be composed of three arbitrators. The place of arbitration shall be Amsterdam, The Netherlands. The arbitral procedure shall be conducted in the English language. The arbitral tribunal shall decide in accordance with the rules of Dutch law. Consolidation of the arbitral proceedings with other arbitral proceedings pending in The Netherlands, as provided for in Section 1046 of the Dutch Code of Civil Procedure, shall be excluded.

Article 21. Other provisions

1. HCME is entitled to amend the Procurement Terms and Conditions unilaterally upon thirty (30) days' notice to the Supplier. Should the Supplier not object in writing to the changes contained in the updated version of the Procurement Terms and Conditions within two (2) weeks after receipt of an updated version of the Procurement Terms and Conditions then the updated version shall be effective and replace the previous version.
2. If a provision of the Procurement Terms and Conditions is invalid or nullified, then the other provisions remain in full force and effect. The Parties shall replace the invalid or nullified provisions in joint consultation during which the objective and the scope of the Agreement are considered as much as possible.
3. HCME is not held to purchase a certain minimum quantity of Goods, unless otherwise agreed by the Parties in writing.
4. The Supplier is not granted exclusivity about the delivery of the Goods to HCME. HCME reserves the right to purchase comparable Goods and/or services from other suppliers.

General Terms and Conditions for Procurement of Services by Hitachi Construction Machinery (Europe) N.V.

Article 1. Definitions

Affiliates:	Any legal entity that, directly or indirectly, owns, is owned by, or is under common ownership with a Party for so long as such ownership exists. For the purposes of the foregoing, "own," "owned," or "ownership" shall mean majority ownership or controlling interest of such legal entity.
HCME:	Hitachi Construction Machinery (Europe) N.V. having its principal place of business at the Siciliëweg 5 in Amsterdam, and all its Affiliates.
HCM group:	Hitachi Construction Machinery Co., Ltd, and its Affiliates.
Procurement Terms and Conditions:	These general terms and conditions for procurement of services by HCME
Supplier:	Each and every natural person or legal entity, institution, professional partnership, commercial partnership, private limited company with whom or which HCME is carrying on negotiations with about the conclusion of an Agreement or who or which supplies Services to HCME.
Agreement:	Any agreement by and between HCME and the Supplier regarding the supply of Services, including additions and changes and these Procurement Terms and Conditions.
Party (Parties):	HCME and/or the Supplier.
Services:	Any and all activities to be performed by or on the behalf of the Supplier for the benefit of HCME as well as the Result.
Personal Data:	Personal data within the meaning of the General Data Protection Regulation (GDPR) that are processed by the Supplier in the context of the Agreement.
Result:	The performances that must be delivered by the Supplier in pursuance of the Agreement.
In Writing/Written:	For the purpose of these Procurement Terms and Conditions "in writing" or "written" is also understood as electronic communication, e.g. data connections, Electronic Data Interchange (EDI), or email.
SME:	also known as Small and Medium-sized Enterprises (MKB), being a company with fewer than 250 employees, and with an annual turnover of not more than EUR 50 million or an annual balance sheet total that does not exceed EUR 43 million.

Article 2. Applicability

1. These Procurement Terms and Conditions are applicable to all requests, proposals, Agreements and other legal understandings regarding the supply of Services to HCME as well as the performance thereof.
2. If the Supplier, in addition to Services, also delivers goods to HCME then the General Terms and Conditions for procurement of goods by HCME are (also) applicable.
3. Parties agree that HCME's Procurement Terms and Conditions are the sole general terms applicable. Applicability of any general terms of the Supplier is hereby expressly rejected.
4. Changes of and additions to the Agreement and/or the Procurement Terms and Conditions are only binding if they were expressly stipulated in writing and signed by the duly authorized representatives of each Party.
5. These Procurement Terms and Conditions shall be construed and interpreted in accordance with the English language. If these Procurement Terms and Conditions are translated to and used in another language and the construction and interpretation presents any discrepancy and/ or inconsistency, the construction and interpretation of English language shall prevail.
6. In case of a discrepancy between the provisions set forth in the Agreement and in the Procurement Terms and Conditions, the provisions set forth in the Agreement shall prevail.

Article 3. Offer and conclusion of the Agreement

1. An offer made by the Supplier is irrevocable for a period of 90 (ninety) days.
2. HCME does not reimburse expenses associated with the preparation of offers, quotations, and proposals.
3. If HCME requires the submission of drawings, specifications or other data for approval, the Supplier shall submit them on or before the time specified by HCME free of charge.
4. An Agreement is exclusively concluded after a duly authorised person has expressly accepted an offer of the Supplier in writing on behalf of HCME. Oral commitments of employees shall not have binding effect on HCME.

Article 4. Performance of the Services

1. During the supply of the Services, the Supplier shall follow all reasonable directions and instructions of HCME.
2. The Supplier must, at its own expense, ensure that the approvals, certificates and (work) permits that are required for the implementation of the Agreement are acquired in good time.
3. The Supplier ensures that the staff deployed meets all requirements imposed by Dutch law or all requirements imposed pursuant to the applicable law of the country of deployment.
4. The Supplier shall perform the Services itself, unless HCME gave written consent for the hiring of third parties. Conditions can be imposed on the said consent.
5. The Supplier represents and warrants that all third parties hired by the Supplier shall implement the Agreement in a correct and timely manner.
6. The Supplier shall inform itself, in a timely manner, of the nature and the capacity of the location where the Services are performed, as well as of all other circumstances, which are important for the implementation of the Agreement.
7. The Supplier shall ensure that its staff and the third parties hired by the Supplier are familiar and shall comply with the HCME code of conduct, safety rules, rules in general, and regulations applicable at the location where the activities are carried out.

Article 5. Quality and inspection of the Services

1. The Supplier represents and warrants that the Services:
 - a) are supplied by competent staff in accordance with the requirements of good and proper craftsmanship; who have all the potentially required training, certificates and/or quality marks;
 - b) are in accordance with the conditions and specifications outlined in the Agreement;
 - c) are of good quality and without defects;
 - d) comply with the applicable legislation and regulations;
 - e) comply with the common norms and standards.
2. If HCME reviews specifications or data submitted by Supplier in connection with any Agreement and makes suggestions or comments, or approves such specifications or other data, such HCME's actions shall only be deemed an expression of its opinion and shall not relieve Supplier of its obligations for the reliability, quality, rate of output, costs, delivery, performance or any other requirements of any Agreement and are without prejudice to any warranty obligations.
3. HCME is entitled to inspect the Services. Depending on the nature of the Services to be performed, the Supplier shall give HCME the opportunity to (pre-)check them prior to, during or after the supply of the Services.
4. Irrespective of the fact whether HCME relied on its right to inspect in pursuance of the previous paragraph of this article, the Supplier shall remain solely responsible for a correct performance of the Services.
5. The Supplier shall provide HCME with a copy of ISO 9001 certificate obtained by the Supplier. In the absence of ISO certificate Supplier warrants that he shall use quality assurance system corresponding or equivalent to ISO 9001 and provide HCME with a written proof of such quality assurance system.

Article 6. Delivery

1. The delivery of the Services must be completed in accordance with the specifications in the Agreement, on the agreed date and time, accompanied by all the documents relating to it, acknowledged by receipt by a duly authorized representative of HCME, in HCME's customary acceptance manner. The ownership of the goods and/or Services must be transferred and goods and/or Services must be free from any right or claim of a third party.
2. The delivery period stipulated in the Agreement is qualified as a fatal deadline, barring prior written consent of the delay by HCME.
3. If the Supplier expects that the Services cannot be supplied within the stipulated period, then it shall forthwith inform HCME accordingly in writing. The Supplier shall take all reasonable measures to avoid (further) delays. The above shall, however, not affect the rights of HCME in case of failing or late performance by the Supplier.

Article 7. Staff of the Supplier

1. If HCME is reasonably of the opinion that staff of the Supplier do not contribute to the proper performance of the Services or are insufficiently qualified then the Supplier shall, in consultation with HCME, replace the said staff as soon as possible.
2. The Supplier shall only replace staff by persons who are, in terms of expertise, training and experience, at least equivalent to the persons to be replaced.

Article 8. Forecasts, Prices, invoicing, and payment

1. Unless otherwise agreed in writing, forecast submitted by HCME is provided as a good faith estimate based on current market conditions and does not constitute a commitment to purchase any quantity of goods and/or Services. No rights can be derived from the forecast and should the Supplier decide to take action based on the forecast, this is at the Supplier's risk.
2. All prices are fixed and excluding VAT. Prices include all additional costs, surcharges, and taxes. Additional costs that are not mentioned in the Agreement will not be reimbursed. If no price for the Services has been agreed in the Agreement, the Supplier's price list at the moment of the conclusion of these Procurement Terms and Conditions shall apply
3. The price mentioned in the purchase order is leading. There should be no price change between the issuance of the purchase order and the related invoice.
4. The Supplier must address the invoice to the invoice address of HCME as mentioned on the purchase order, and shall mention the following on the invoice:
 - invoice date, name, address, postcode, place of establishment / residence, IBAN, VAT number, Chamber of Commerce (CoC) number
 - the invoice address of the Supplier
 - the number of the purchase order and, where applicable, the number of the framework agreement.
5. If the invoice does not comply with the conditions as set forth in the previous paragraphs of this article, then the invoice will not be due and payable and HCME reserves the right to not pay the invoice.
6. In case of invoices based on subsequent costs, the Supplier shall attach an hourly time sheet to the invoice.
7. Unless otherwise agreed by the Parties in writing, invoicing shall take place after the Services have been performed.
8. HCME will pay invoices within 60 (sixty) days after receipt, on the condition that the invoice has been approved by HCME. Notwithstanding the previous sentence, HCME will pay invoices of Supplier(s) classified as an SME within 30 (thirty) days after receipt, on the condition that the invoice has been approved by HCME.
9. HCME is entitled to suspend payment of an invoice fully or partly if there are reasons to believe that the Supplier is in breach with its obligations under the Agreement of these terms.

10. HCME can settle the payable invoice amount with amounts that the Supplier is liable to pay to HCME on any account whatsoever.
11. Payment of the invoice by HCME shall by no means imply a waiver of any right.
12. Receivables of the Supplier on HCME cannot be transferred or pledged. This provision has proprietary effect.

Article 9. Changes in Services and contract extras

1. HCME is entitled to require reasonable changes in the scope and/or capacity of the Services.
2. If a change has, at the discretion of the Supplier, consequences for the stipulated price and/or the time of delivery then, before implementing the change, the Supplier shall forthwith, however at the latest within 5 (five) working days after notification of the change, inform HCME accordingly in writing. If the consequences for the price and/or the delivery time are, at the discretion of HCME, unreasonable then the Parties will discuss this with each other.
3. Additional work can only be charged if this was stipulated in advance by the Parties and were approved by HCME in advance.

Article 10. Liability

1. The Supplier shall be liable for any and all direct, indirect and/or consequential damages incurred by HCME and the HCM group because of a failure of the Supplier or of third parties hired by the Supplier to comply with the Agreement or as a result of any unlawful act of the Supplier towards HCME.
2. The Supplier shall be liable for all financial losses, other disadvantages and damages that are caused to persons and/or inflicted on properties of HCME and/or of third parties by the Supplier and/or its employees and/or third parties hired by the Supplier. The Supplier shall indemnify and hold harmless, and defend HCME and the HCM group, at its own expense, against claims of third parties in connection with the Agreement.
3. The Supplier shall indemnify and hold harmless, and defend HCME and the HCM group, at its own expense, against claims of third parties and/or potential penalties on account of non-compliance of the Supplier with its obligations pursuant to the Agreement or the violation of statutory provisions, and regulations.
4. The Supplier shall indemnify and hold harmless, and defend HCME and the HCM group, at its own expense, from all claims brought in connection with or arising out of HCME's use of the rendered Services.
5. During the term of the Agreement the Supplier shall, at its sole expense, take out and maintain insurance against liability as intended in this article. The insured amount for the business liability of the Supplier amounts to a minimum of EUR 5 million per occurrence and for its professional liability a minimum of EUR 2.5 million per occurrence. At the request of HCME, the Supplier shall furnish sufficient evidence of the said insurances and the premium payment.

Article 11. Limitation of Liability of HCME

1. HCME shall never be liable to the Supplier for loss of profit and indirect or consequential damages including but not limited to loss of profit, loss of revenue, loss of savings, loss of investments and damages arising out of Supplier's liability against third parties.
2. In any event, the total liability of HCME, whether arising out of or in connection with an Agreement, tort, or other legal basis, shall not exceed the lesser (i) a purchase price of a Service giving rise to a claim or (ii) an amount compensated by an insurance company of HCME in a specific occurrence.
3. HCME shall not rely on any limitations of liability provided for in these Procurement Terms and Conditions if and to the extent that any damages are the result of the wilful misconduct or gross negligence of HCME's executive management.

Article 12. Force majeure

1. Neither Party shall be liable for failing or late compliance with their obligations if this is the result of force majeure. In case of force majeure, the affected Party shall be authorised to suspend its obligations either in whole or in part, however the affected Party shall endeavour to shorten any delay or failure caused by force majeure.
2. Force majeure shall be defined as a delay or failure in the performance which arises from forces beyond the Party's control including acts of God, acts or economic sanctions of any governmental authority, riot, revolution, fire, war, or pandemic.
3. Force majeure shall, in any case, not include sickness or lack of staff, industrial action (strikes), failures of third parties hired by the Supplier, failure or unsuitability of auxiliary materials or liquidity issues of the Supplier.

Article 13. Use of goods and tools

1. All goods furnished to Supplier by HCME, and all replacements thereof and materials fixed or attached thereto, shall be and remain the property of HCME. Such property and, whenever applicable, each individual item thereof, shall be plainly marked or otherwise adequately identified by Supplier as "Property of Hitachi Construction Machinery (Europe) N.V." and shall, at Supplier's expense, be safely stored separately and apart from Supplier's property.
2. The Supplier shall use goods, e.g. tools or computer equipment, made available by HCME at its own expense and return them to HCME in a good state. Unless otherwise agreed in writing, the Supplier shall only use the goods made available for the correct implementation of the Agreement and shall not permit third parties to use the goods.

Article 14. Rules in respect of staff at the premises / in the buildings of HCME

1. The Supplier ensures that its presence, and the presence of its staff and the third parties hired by the Supplier, at the premises and in the buildings of HCME shall not cause any impediment to the operations of HCME. The Supplier ensures that its staff and the third parties hired by the Supplier shall always comply with the rules applicable at HCME, such as house, visiting safety rules and common practices.
2. The Supplier must ensure that its staff and the third parties hired by the Supplier shall always be able to provide proof of identity.

Article 15. Confidentiality

1. The Supplier shall, both during the term of an Agreement and thereafter, not disclose confidential information of HCME to third parties. Confidential information of HCME is understood as information that has been qualified as confidential or that is, due to its nature, confidential, including but not limited to business information, trade secrets, know-how, as well as personal data originating from HCME, the latter in accordance with article 15.5.
2. The confidentiality obligation as intended in the previous article is not applicable to the extent that (a) disclosure is required by or pursuant to the law or a competent authority or (b) the relevant information has already been available in the public domain, without any unlawful act of the Supplier, its employees or third parties hired by the Supplier.
3. The Supplier shall impose equivalent confidentiality obligations as elaborated in the previous paragraphs of this article on its employees or third parties that were hired by the Supplier for the implementation of the Agreement and exclusively provide them access to the said confidential information to the extent that this is required for the performance of their activities.
4. In case of a violation of the obligations set forth in this article, the Supplier may cause irreparable harm to HCME and agrees that the Supplier shall be liable to pay an immediately claimable penalty to HCME of €250,000.00 per violation, without prejudice to the right of HCME to claim the actually incurred damages and other available remedies, injunctive relief against the Supplier in breach or anticipated breach hereof.

5. After termination of the Agreement the Supplier shall immediately return or demonstrably destroy all confidential information of HCME that it has in its possession.
6. Neither Party can disclose the content or the existence of an Agreement without prior written consent of the other Party.

Article 16. Intellectual property rights

1. All intellectual property rights in respect of the Results are owned by HCME. Where required, the said rights are hereby already transferred by the Supplier to HCME, and the Supplier shall lend cooperation in formalities that are required for the transfer.
2. If intellectual property rights are vested on the Results that were not created because of the performance of the Services, then HCME acquires a free, non-exclusive, worldwide, perpetual licence for use in accordance with the objective of the Agreement.
3. The Supplier waives, also on behalf of its staff, all personality rights as intended in the Dutch Copyrights Act.
4. The Supplier guarantees that the use of the supplied Services does not infringe intellectual property rights and other rights of third parties. The Supplier shall indemnify, hold harmless and defend, at its own expense, HCME and HCM group against claims of third parties in connection therewith.
5. HCME reserves all intellectual property rights in respect of all goods and data that were made available to the Supplier by HCME in connection with the Agreement.

Article 17. Termination of the Agreement

1. HCME can always terminate the Agreement early by means of a written notice to the Supplier, in consideration of a notice period of 90 (ninety) days, unless otherwise agreed by the Parties in writing.
2. Either Party can terminate the Agreement, either in whole or in part, with immediate effect, without prejudice to its other legal remedies if:
 - a. there is a breach or default by the other Party of a material obligation pursuant to the Agreement, which is not remedied within fourteen (14) days after written notice;
 - b. the other Party was declared insolvent / bankrupt or was granted suspension of payment, or a relevant application was filed;
 - c. an attachment is imposed on an important part of the business assets of the other Party;
 - d. the business operations of the other Party are, either in whole or in part, transferred, liquidated, discontinued or moved abroad or the other Party is dissolved;
 - e. a Party is affected by force majeure that has continued for a period of 30 (thirty) days or more;
 - f. the other Party suffers or initiates any proceedings in any jurisdiction which correspond or have an effect equivalent to any of the foregoing.
3. In the event of a material breach of any Agreement by either Party, the other Party may, at its option, suspend the performance (or further performance) of the Agreement and/or give written notice stating the nature of the breach and its intention to terminate the Agreement. Where the breach is not capable of being remedied, the Agreement may be terminated forthwith by written notice. Termination by HCME shall be without prejudice to any right to damages or any other rights by virtue of law, Agreement or otherwise.
4. HCME can rescind the Agreement with immediate effect if there is question of (an attempt to) bribery by the Supplier or by third parties hired by the Supplier or staff of HCME.
5. HCME may terminate any Agreement forthwith without any further liability or obligations if there is a change of ownership or control in the business of Supplier including sufficient change in the management of the Supplier.
6. The articles of the Procurement Terms and Conditions and the Agreement that are, due to their nature, meant to also continue their existence after termination of the Agreement shall remain in full force and effect. This shall, in any case, include the provisions regarding liability, confidentiality, and intellectual property rights.

Article 18. Transfer of rights and obligations

1. Assignment by the Supplier of any Agreement or any right, interest, or obligation thereunder or of any payment due or to become due hereunder or there under to the third parties, without written consent of HCME shall be void. In the event if HCME gives such consent to the Supplier, the Supplier shall be jointly and severally liable for the performance of the third party, to whom the Agreement or any right, interest or obligation thereunder is assigned.

Article 19. Wage taxes and payable contributions

1. The Supplier guarantees that it shall provide for timely payment of wage taxes and national insurance contributions for its employees relied on during the implementation of the Agreement or third parties hired by the Supplier.
2. HCME is always entitled to pay a part of the invoice to the Supplier through payment to a blocked account of the Supplier (G account). The said part shall regard the amount for which HCME is estimated to be held jointly and severally liable in pursuance of the Dutch Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act or other regulations.
3. The Supplier indemnifies HCME against every claim of the Employee Insurance Agency (UWV) or the (Dutch) Tax Administration in connection with wage tax and national insurance contributions payable in connection with the Agreement by the Supplier or by third parties hired by the Supplier.

Article 20. Applicable laws, and export and import restrictions:**Anti-bribery**

1. Neither Supplier nor any of its Affiliates has taken and neither will take any actions in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any government official (including any officer or employee of a government or government-controlled entity or instrumentality, or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or official thereof, or candidate for political office, all of the foregoing being referred to as "Government Officials") or to any other person while knowing that all or some portion of the money or value was or will be offered, given or promised to a Government Official for the purposes of obtaining or retaining business or securing any improper advantage or influencing official action.
2. No part of the payments received by Supplier from HCME will be used for any purpose which would cause a violation of law, including, without limitation, the anti-bribery laws of any country or jurisdiction, by Supplier.

Import and export Control

3. The Supplier is in compliance with import and export restrictions and other applicable laws, rules, regulations, and orders as shall from time to time be adopted or imposed by the European Union and/or all other applicable jurisdictions, if any.
4. Without limiting the foregoing, (i) the Supplier represents and warrants that it is not listed on any list of prohibited or restricted parties or located in (or a national of) a country that is subject to embargo or that has been designated as a "terrorist supporting" country, and (ii) the Supplier will not (and will not permit any third parties to) access or use any Service, goods or information provided by HCME (and the HCM group) in violation of any trade sanctions or export control laws or regulations (collectively, the "Export Control Regulations"), and (iii) the Supplier will not cause HCME (and the HCM group) to engage in dealings or transactions with or that benefit any person or entity with whom HCME (and the HCM group) is restricted from transacting under the Export Control Regulations.
5. The Supplier shall make any import and export information required available to HCME without any additional costs.

Personal and general data protection

6. The Supplier shall process any Personal Data in accordance with GDPR as amended from time to time and any other applicable local privacy laws and regulations being in force at the moment of the performance of its obligations under an Agreement.. The Supplier shall exclusively process Personal Data to the extent that this is required to comply with its obligations under an Agreement.
7. To the extent that the Supplier, processes Personal Data in the capacity of processor within the meaning of the GDPR, the Supplier shall exclusively process the Personal Data based on documented instructions from HCME and under the authority of and in conformity with the rules of HCME, including those described below, unless legislation and regulations required otherwise, in which case the Supplier qualifies as joint controller, the Parties shall determine any additional or alternative terms to be agreed upon within the meaning of article 26 GDPR.
8. The Supplier will implement appropriate technical and organisational measures to protect Personal Data against unintended or unlawful processing, taking into account the state of the art, implementation costs, processing risks, and the nature of the Personal Data.
9. Without prior written consent of HCME, Personal Data shall only be processed by the Supplier within the European Economic Area (EEA). Should the Personal Data be processed outside of the EEA, the Supplier will ensure that the transfer complies with Chapter V of the GDPR.
10. In case of an actual or suspected data breach, or any form of unauthorised access, loss, misuse, damage or a breach of the security, confidentiality or integrity of the Personal Data, the Supplier must inform HCME immediately, and at least within 24 hours after the said breach has been discovered. In this respect, the Supplier shall provide HCME with the information to notify the breach to the relevant Data Protection Authority and, potentially, the Data Subject(s) involved.
11. The Supplier represents and warrants that their IT security adheres to the ISO27001 standards or something corresponding or equivalent.
12. The Supplier represents and warrants that in the event of a cyber-attack or other similar disruptive events, the retention of obtained data. and drawings, documents, self-created data, or prototypes created for the benefit of HCME remains available to avoid any kind of delay in the performance of the obligations of the Supplier.
13. The Supplier ensures that all authorised persons processing Personal Data are bound by confidentiality, either by agreement or by law.
14. The Supplier shall not engage a processor without HCME's prior written consent and ensures that it enters into an agreement with the processor which imposes the same obligations in relation to the processing of Personal Data as are imposed on the Supplier under these Procurement Terms and Conditions. The Supplier shall be fully responsible and liable to HCME for the performance of the processor's obligations.
15. Upon HCME's request, the Supplier will assist HCME in complying with HCME's GDPR obligations, including in relation to handling data subject requests and pursuant to articles 32-36 GDPR. The Supplier will immediately notify HCME of any received data subject request.
16. After termination of an Agreement, the Supplier will, at the choice of HCME, delete or return all the Personal Data to HCME, and delete all existing copies, unless retention is legally required.
17. The Supplier will provide all information and cooperation necessary to demonstrate GDPR compliance and will allow HCME, or a party authorised by HCME, to audit its adherence to these Procurement Terms and Conditions and GDPR obligations.

Sustainability

18. The Supplier represents and warrants that it conducts its business in accordance with the Corporate Social Responsibility (CSR) and the Environmental Social and Governance (ESG) policy of HCME and the applicable CSR and ESG laws, rules, and regulations. Optionally, the Parties may agree that the Supplier's compliance with its own CSR and ESG policy will satisfy if it has equivalent or corresponding protections. The Supplier shall make any CSR/ESG information required available to HCME without any additional costs.

Indemnification

19. The Supplier shall indemnify and hold, and defend HCME and the HCM group harmless, at its own expense, any and all loss, costs, expenses, and liabilities (including reasonable attorney's fees), and damages as a result of authority enforcement that result from the non-compliance with the obligations set forth in this article by the Supplier or by third parties hired by the Supplier, including in relation to any actions of the Supplier which result in breach of the GDPR.

Article 21. Applicable law and dispute resolution

1. Dutch law is applicable to these Procurement Terms and Conditions and to each and every Agreement. The UN Convention on Contracts for the International Sales of Goods, 1980 (CISG) shall not be applicable.
2. Disputes between the Parties shall, as much as possible, be settled amicably.
3. If the Parties cannot reach an amicable solution, then disputes shall be settled by the competent court in Amsterdam, The Netherlands. However, HCME shall have the right to submit any claim or dispute to a court that would have jurisdiction pursuant to the applicable rules of international law in the absence of the foregoing stipulation.
4. As an exception to the above, if Supplier is domiciled outside the European Union, or in Iceland, Switzerland or Norway, all claims and disputes between the Parties arising out of or relating to these Procurement Terms and Conditions, or any Agreement or any other legal relations between the Parties shall be finally settled in accordance with the Arbitration Rules of The Netherlands Arbitration Institute (Netherlands Arbitrage Institute). The arbitral tribunal shall be composed of three arbitrators. The place of arbitration shall be Amsterdam, The Netherlands. The arbitral procedure shall be conducted in the English language. The arbitral tribunal shall decide in accordance with the rules of Dutch law. Consolidation of the arbitral proceedings with other arbitral proceedings pending in The Netherlands, as provided for in Section 1046 of the Dutch Code of Civil Procedure, shall be excluded.

Article 22. Other provisions

1. HCME is entitled to amend the Procurement Terms and Conditions unilaterally upon thirty (30) days' notice to the Supplier. Should the Supplier not object in writing to the changes contained in the updated version of the Procurement Terms and Conditions within two (2) weeks after receipt then the updated version shall be effective and replace the previous version.
2. If a provision of the Procurement Terms and Conditions is invalid or nullified, then the other provisions remain in full force and effect. The Parties shall replace the invalid or nullified provisions in joint consultation during which the objective and the scope of the Agreement are considered as much as possible.
