



Defence Materiel Organisation
Ministry of Defence

Division Procurement

Projects

Procurement Section Ground
based Projects

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Contact

Art. 10 (2) (e)
Contracts manager

M [redacted]
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Our reference
1476416/02

Please quote date, our
reference and subject when
replying.

Return address Postbus 90125 3509 BB Utrecht

The consortium Liftking Manufacturing Corporation and
Van Santen Intern Transport B.V.

F.a.o:

Art. 10 (2) (e) : tender@vansantengrp.nl

[redacted]@liftking.com

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Date 14-04-2020
Subject Force majeure regarding COVID-19

References:

- a. Delivery Agreement 2017/S 051-093540 MM450 1476416 dated 19-04-2019;
- b. Your letter concerning force majeure dated 08-04-2020.

Dear Art. 10 (2) (e)

On 08-04-2020 we received a letter from you about the effects of COVID-19 (hereinafter "Coronavirus") and the measures consequently taken by the authorities on the performance of obligations under the contract concerning the delivery of Container Lifting Trucks according to reference a (hereinafter "Contract").

The Netherlands Ministry of Defence of course understands if a supplier may no longer be able to perform its obligations because of the Coronavirus and the resulting measures taken by the government as well as other measures. In your letter of 08-04-2020, you indicate that the delivery of numbers 3 – 68 probably cannot be performed according to Contract due to full or partial lockdown of Art. 10 (1) (c).

In accordance with Article 19 of the Contract, Supplier must forthwith inform the Netherlands Ministry of Defence of the specific obligations under the Contract that cannot be performed and why an appeal to force majeure is warranted.

In this context, in accordance with Article 19 of the Contract, Supplier must provide clarification regarding:

1. The specific circumstances and government measures that temporarily prevent performance of the obligations under the Contract;

2. The specific contractual consequences of this non-performance for the Netherlands Ministry of Defence; and
3. To the extent possible, a plan of action to limit the damage to the Netherlands Ministry of Defence as much as possible. Attention must also be given in this regard to the question as to when obligations can be performed.

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Based on the information referred to, the Netherlands Ministry of Defence will be able to assess the link between the situation of force majeure and non-performance of the obligations under the Contract, and will also be able to gain insight into the impact on the operational management of the Netherlands Ministry of Defence. The Netherlands Ministry of Defence therefore kindly requests Supplier to provide further explanation regarding the points referred to in an additional letter.

Pending your further explanation, the Netherlands Ministry of Defence requests that Supplier take measures to limit the damage caused by the Coronavirus and government measures to the greatest extent possible, not the least because the Netherlands Ministry of Defence fulfils an essential function in society.

Supplier may only suspend its obligations after the Netherlands Ministry of Defence has received the further explanation requested and deemed this further explanation acceptable. Until the explanation referred to has been received, performance of the Contract by Supplier shall remain the starting principle.

As stated above, the Netherlands Ministry of Defence of course understands that the Coronavirus has caused an exceptional situation. At the request of Supplier, the Netherlands Ministry of Defence is naturally prepared, if necessary, to explain this letter to you and/or clarify any ambiguities by telephone.

Yours sincerely,

Art. 10 (2)
(e)

Contracts Manager