



N.M. HEILIG B.V.

HEILIG GROUP

GENERAL TERMS AND CONDITIONS OF PURCHASE AND SUBCONTRACT

N.M. Heilig B.V.

Version 01/2016

1. DEFINITIONS

- 1.1 Heilig: the private company with limited liability N.M. Heilig B.V., located at 17 Newtonstraat, Heerhugowaard (Chamber of Commerce no.: 37071175), as well as all its affiliated enterprises.
- 1.2 Supplier: the party who, as a supplier (as a (sub)contractor of work or not) or as a seller, contracts or wishes to contract with Heilig in the broadest sense of the word.
- 1.3 Contract: contract between Heilig and Supplier in respect of the purchase of goods and/or the undertaking of work.
- 1.4 General Terms and Conditions: general terms and conditions of purchase and subcontract N.M. Heilig B.V.

2. APPLICABILITY

- 2.1 The General Terms and Conditions shall apply to all Contracts in which Heilig acts as the client or the buyer.
- 2.2 The applicability of the general terms and conditions of Supplier, whatever they are called, shall at any time be rejected and dismissed.
- 2.3 Heilig may modify the General Terms and Conditions at any time. After the changes have been made, Heilig shall provide Supplier with the modified General Terms and Conditions.

3. COMING INTO EXISTENCE OF THE CONTRACT

- 3.1 Heilig requests Supplier to submit a quote, stating technical specifications, the desired quantities, delivery times, place of delivery and other details that are relevant for Heilig, for the goods to be delivered and/or work to be undertaken by Supplier, while confirming the applicability of the present general terms of purchase. Heilig's request for quotation does not bind Heilig and serves merely as an invitation to Supplier to make an offer.
- 3.2 Supplier's oral or written quote is a binding and irrevocable offer. Supplier is responsible for the accuracy of the quote and cannot bring any claim whatsoever vis-à-vis Heilig for having submitted the quote.
- 3.3 The Contract between Heilig and Supplier comes into existence if and insofar as Heilig accepts in writing Supplier's quote, or after both parties have signed a written Contract.
- 3.4 Prices agreed and/or stated in the quote are binding and cannot be intermediately increased or changed. The prices listed are exclusive of VAT.

4. LAWS AND REGULATIONS, INSURANCE

- 4.1 Supplier is deemed to be familiar with all applicable laws and regulations as well as other (local) requirements. Unless expressly agreed otherwise in writing, applying for and obtaining licenses is for account and risk of Supplier. Supplier shall indemnify and hold Heilig fully harmless against any government claims related to the violation of or non-compliance with laws and regulations.
- 4.2 Supplier's company is deemed to be ISO and/or VCA certified. If the company does not have an ISO and/or VCA certificate, Supplier must advise Heilig prior to or upon concluding the Contract. The absence of an ISO and/or VCA certificate gives Heilig the right at any time to dissolve the Contract with Supplier without notice of default and with immediate effect, without Supplier being able to bring any claim against Heilig on account of the dissolution.
- 4.3 Supplier must take out sufficient insurance against and for damage amounting to a minimum of €2,500,000.00.

5. EXECUTION OF THE CONTRACT

- 5.1 Supplier is obliged to perform the Contract properly and in accordance with the terms of the Contract. Subject, moreover, to the stipulations in the Contract and – if applicable – the technical specification, the goods to be delivered and/or the work to be undertaken must: be in accordance, in terms of quantity, description and quality, with what is stated in the order; be made from adequate materials and have an adequate finish; be identical, in all respects, to samples or models made available, provided or manufactured by Supplier; deliver the performances (capacity, dimensions, efficiency, speed, finish etc.) described in the Contract; be entirely fit for the purpose of Heilig.
- 5.2 In the context of article 5.1, amongst others, Supplier has an advisor role. Supplier must advise Heilig with regard to (the execution of) the Contract.



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- 5.3 Supplier is obliged to use competent workers in the context of the execution of the Contract, as well as to skillfully supervise those workers in and during the execution.
- 5.4 Supplier guarantees that the design, the composition and the quality of the goods to be delivered and/or the work to be undertaken meet, in every respect (including during normal use), all relevant applicable requirements defined in laws and/or other regulations imposed by the government and/or regulations that are customary in the branch of trade which are in force at the time of the conclusion of the Contract.
- 5.5 In the event of a change in legislation that is relevant to Heilig, Supplier shall notify Heilig in writing and Supplier shall anticipate the change. All consequences regarding the implementation of the change in legislation in respect of the execution of the contract shall be at the expense of Supplier, except if this cannot reasonably be expected from Supplier.
- 5.6 The Supplier must not enlist the services of a third party to execute the Contract without written permission. Knowledge by Heilig of execution by a third party does not automatically result in consent or approval.
- 5.7 Supplier must obey, immediately and without any objections, all orders or directions given by Heilig, except if the orders or directions are incorrect, which Supplier must report to Heilig in writing.
- 5.8 If that is the case, Supplier is obliged, at the request of Heilig, to perform more or less work than contractually agreed. More or less work than contractually agreed shall only be accepted by Heilig if Heilig instructed Supplier accordingly in writing before the more or less work than contractually agreed was performed. Acceptance of the more or less work than contractually agreed does not automatically result in approval.
6. **APPROVAL AND DELIVERY/ COMPLETION**
- 6.1 Prior to shipment or delivery/completion, Supplier shall carefully examine, for own account and risk, the goods to be delivered and/or work undertaken, and test if the goods/work undertaken are/is in accordance with the Contract. If Heilig so desires, Supplier shall inform them in a timely manner of the time and place of the inspection. Heilig is entitled to attend the inspection, without Supplier being able to derive any rights from that. Also during the manufacture, the assembly or the execution of the Contract by Supplier, Heilig is authorized to carry out inspections at any time.
- 6.2 If Heilig, during an examination or test as defined above, finds that the goods to be delivered and/or the work undertaken are/is not consistent with the description in the Contract, or that it is likely, in the opinion of Heilig, that this will not be the case upon completion of the work, Heilig shall notify Supplier about it without delay (without prejudice to the right of Heilig to complain after completion/delivery). In such a case, Supplier is obliged, also without prejudice to what is stated in the General Terms and Conditions, to take all necessary measures to be able to still meet the technical specification provided in the Contract as well as the provisions of the Contract, without this resulting in an extension of the agreed delivery time, unless expressly agreed otherwise in writing.
- 6.3 Delivery shall occur free of charge at the place agreed in writing on the basis of Delivery Duty Paid (Incoterms 2000). The goods must be properly packaged (except if the nature of the goods does not allow it) and be secured in such a way that they will reach their destination in good order in case of normal transport. Supplier shall take out sufficient insurance, to Heilig's satisfaction, against risks that might reasonably be deemed to be present during transport.
- 6.4 Unless agreed otherwise in writing, Supplier is bound by the delivery/completion time and place stated in the quote. Agreed delivery/completion times are never approximate and are always deadlines. Exceeding the delivery/completion times is not allowed and renders Supplier liable for damages.
- 6.5 If Supplier knows or expects that he will be unable to meet the agreed delivery time, Supplier shall immediately notify Heilig in writing. Supplier shall make an effort (in consultation with Heilig and without prejudice to what is stipulated in the present General Terms and Conditions), for own account and risk, to limit the (detrimental) consequences of the late delivery/completion, without prejudice to the liability for damages resulting from the late delivery. Supplier is liable for any damage Heilig suffers as a result of the delay as well as of the late reporting of (probable) delay.
- 6.6 There is only (partial) delivery/completion after Heilig has signed for the delivery/completion. Delivery/completion leaves intact Heilig's right to complain to Supplier in the event of a poor service.
- 6.7 Ownership of the goods to be delivered by Supplier to Heilig passes from Supplier to Heilig at the time of delivery. Ownership of the goods to be manufactured passes to Heilig as soon as Supplier has begun processing them with a view to manufacture. Goods to be manufactured for the benefit of Heilig must be kept separate and marked clearly by Supplier as being the property of Heilig. Transfer of ownership does not imply approval of the delivery/completion.
- 6.8 At the time of delivery/completion, Supplier also makes all related goods available to Heilig, including but not limited to software, descriptions, drawings etc.
- 6.9 If, for whatever reason, Heilig is unable to take delivery of the goods at the agreed time and these goods are ready to be shipped, Supplier, if his storage facilities allow it, shall store, at his expense, at the request of Heilig, the goods separately; mark them clearly as being the property of Heilig; secure them as well as take all reasonable measures to prevent deterioration of quality until they have been delivered to Heilig.



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- 6.10 If the storage facilities do not allow for storage in the manner set out above, the goods will be stored externally in accordance with what is stated above. In such a case, Heilig shall bear the (reasonable) storage costs, at the rate that is customary in the sector, from the time the goods should have been delivered to Heilig until the day of actual delivery without prejudice to what is stated in the present terms and conditions.
- 6.11 In the case of articles 6.9 and 6.10, the goods shall remain, at any time, for risk of Supplier, being the keeper of the goods, until the goods have been completed/delivered to Heilig.
- 6.12 If necessary, Supplier shall, at any time, make available to Heilig, for a period of one week, instruction staff to instruct Heilig or a third party about the use, maintenance etc. of the delivered goods, unless expressly agreed otherwise in writing between the parties.

7. REJECTION

- 7.1 If, after the inspection as intended in article 6, or after inspection following delivery/completion, the goods and/or work undertaken, in the opinion of Heilig, have/has a defect, Heilig is entitled to reject the goods/work, unless Heilig believes that a simple repair of the defects is possible and that the agreed delivery time will not be exceeded due to this repair. This also applies to goods/work having been tested and/or repaired prior to delivery/completion.
- 7.2 Rejection of goods/work undertaken shall result in an imputable failure on the part of Supplier as well as in the powers on the part of Heilig, pursuant to article 11 of the General Terms and Conditions.

8. INTELLECTUAL PROPERTY AND OWNERSHIP OF GOODS MADE AVAILABLE

- 8.1 All goods/resources made available by Heilig to Supplier that are related to the execution of the Contract, which shall be understood to include drawings, images, models, calculations, procedures etc. remain the property of Heilig and must immediately be returned at Heilig's first request. The goods made available to Supplier shall only be used by him in connection with the execution of the Contract. Supplier is forbidden from making Heilig's goods available to a third party without the written permission of Heilig.
- 8.2 Supplier shall preserve and keep these resources in good condition and insure them and keep them insured against fire, theft etc. until the goods have been returned to Heilig.
- 8.3 If Supplier does not return the resources to Heilig, does not return them completely, or returns them in a damaged condition, Supplier owes damages to Heilig. Heilig is entitled to balance the damages with any amount Heilig still owes Supplier (by virtue of whatever legal relationship).
- 8.4 Any and all (business) information provided by Heilig to Supplier in relation to the execution of the Contract is and remains the property of Heilig and is secret information. Supplier is obliged, during the Contract and thereafter, to keep all this information and know-how gained secret, as well as to refrain from disclosing it to a third party. This also applies to other information from or about Heilig that Supplier knows or ought to know falls under his secrecy obligation. Supplier is obliged to take measures to ensure secrecy, such as but not limited to secrecy to be imposed upon the Supplier's employees.
- 8.5 Supplier shall indemnify and hold Heilig harmless against any third-party claims brought on account of a violation of industrial and intellectual property rights in the context of quotes submitted by Supplier, as well as drawings, delivered goods and/or work undertaken, and shall compensate Heilig for all the damage resulting from such third-party claims, including but not limited to all costs incurred by Heilig in respect of legal assistance.
- 8.6 All goods, works, whatever they are called, including but not limited to drawings, calculations, models, samples, inventions, software that come(s) into existence (through a collective effort or not) due to or in the context of the execution of the Contract become the property of Heilig and shall be respected as such by Supplier. All industrial or intellectual property rights as well as the right to deposit or register are/is held by Heilig. Supplier waives, in advance, any personality rights.
- 8.7 In the event of violation of article 8 of the General Terms and Conditions, Supplier shall immediately owe, without further notice of default, a penalty of €25,000.00, which is immediately due and payable, for each violation, and €1,000.00 for each day that the violation persists, without prejudice to Heilig's right to claim damages.

9. INVOICING AND PAYMENT

- 9.1 Unless expressly agreed otherwise in writing, the term of payment of Heilig shall be a minimum of 60 days without a term of payment being a final term.
- 9.2 Heilig is only obliged to settle the invoice of Supplier after correct and full delivery/completion by Supplier and insofar as the invoice meets all statutory requirements, such as but not limited to stating the quote or Contract number, accurate description of the service, the VAT number of Heilig, name of the buyer, Giro account number etc.
- 9.3 If these requirements are not satisfied, Heilig is entitled to suspend its payment obligation immediately and without notice of default, complaint etc., without prejudice to the right of Heilig to demand compliance or damages from Supplier.



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- 9.4 Heilig is entitled at any time to balance everything it owes Supplier for whatever reason with everything Supplier owes Heilig for whatever reason, regardless of whether Heilig's claim has already become due and payable.
- 9.5 Supplier is not allowed, without the written permission of Heilig, to cede the claim on Heilig or to transfer it to a third party in any other way, or to pledge it.
- 9.6 Supplier is not allowed, without the written permission of Heilig, to transfer his obligations derived from the Contract to a third party or to use a third party in the execution of the Contract.
- 9.7 If Heilig is obliged to pay a deposit or to pay in installments before completion, Heilig is entitled, at its discretion, to demand sufficient security from Supplier in the amount of the deposit or partial payments. Refusal to provide the required security shall result in failure, as a consequence of which Heilig can exercise its powers pursuant to article 10 of the General Terms and Conditions.

10. RELATIONS CLAUSE

- 10.1 Supplier is bound, both during the contract with Heilig and after it has ended, to secrecy of all particulars known to him regarding or in relation to the business of Heilig and its (potential) client(s) and other relations, as well as those of Heilig's affiliated enterprises.
- 10.2 Supplier is forbidden, both during the Contract with Heilig and after it has ended, from communicating to a third party, directly or indirectly, in any way, shape or form, about or regarding any particulars of the business of Heilig or regarding or in relation to its affiliated enterprises, or about its (potential) client(s) and other relations.
- 10.3 Supplier is forbidden, both during the Contract with Heilig and for two years after it has ended, from maintaining, directly or indirectly, in any way, business contacts in the broadest sense of the word, (which shall also be understood to mean direct contracting) with (potential) relations of Heilig or with those of Heilig's affiliated enterprises, whereby relations shall also be understood to mean clients of Heilig.
- 10.4 If Supplier acts contrary to his obligations on account of what is stated above under 1 through 3, he shall owe Heilig, immediately and without any injunction and/or notice of default being required, a penalty in the amount of €25,000.00 for each violation, as well as a penalty in the amount of €1,000.00 for each day or portion of a day that the violation persists, without prejudice to Heilig's right to claim full damages in addition to this penalty.

11. DISSOLUTION

- 11.1 Heilig is entitled, without any further notice of default, to dissolve the Agreement out of court if:
- a) Supplier does not fulfill (does not fulfill in time or does not entirely fulfill) any of the obligations arising from the Contract;
- b) Supplier has been granted postponement of payment;
- c) has been admitted to the debt restructuring scheme under the "WSNP" [Dutch Act on Debt Restructuring for Individuals] or has been declared bankrupt or a bankruptcy petition has been filed;

As a result of seizure, placement under guardianship or otherwise, he has lost the power to dispose of his capital.

- 11.2 In the event of a failure on the part of Supplier, Heilig is also entitled to suspend (in whole or in part) its obligations arising from the contract, a suspension which is entirely for account and risk of Supplier.
- 11.3 If the Contract is dissolved on the basis of a failure on the part of Supplier, the dissolution of the Contract shall remain for account and risk of Supplier. Supplier shall indemnify and hold Heilig harmless against any third-party claims stemming from the dissolution of the Contract.
- 11.4 If the Contract is dissolved because of a failure on the part of Supplier, Supplier shall immediately owe, without further notice of default, a penalty of €25,000.00, immediately due and payable, without prejudice to Heilig's right to claim full damages. After dissolution, Supplier must compensate Heilig for any loss resulting from the dissolution, both direct and indirect damage, including but not limited to loss due to delay and loss of profit.
- 11.5 If the goods or works, respectively, are not delivered or undertaken, respectively, in whole or in part, at the agreed time, and parties are unable to reach agreement on an extension of the delivery time and compensation for the loss due to delay, Heilig may dissolve the Contract by means of a written declaration. This dissolution extends not only to the goods/works not yet delivered/completed, but also to the goods/works already delivered/completed by virtue of that very Contract if those goods/works cannot be used effectively anymore as a result of non-delivery of the remaining goods/works. In regards to works, after dissolution, Heilig may order a third party to finish the works at Supplier's expense, without prejudice to the other provisions of the General Terms and Conditions.



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- 11.6 In the event of dissolution of the Contract, Heilig is entitled to return to Supplier, for his account and risk, the goods that were already delivered by virtue of the same Contract but that could not be used effectively anymore, and to claim back from Supplier the payments it might have made for those goods.
- 11.7 Supplier is required, after dissolution, to immediately pay back to Heilig the amounts already paid by virtue of the Contract, unless this is prevented by the obligations to undo performances as a result of the dissolution.
- 11.8 If Supplier does not pay back in time the amount owed under this article, Heilig may charge 1.5% default interest per month on the amount owed from the time Supplier began owing this amount to the day of payment in full, as well as claim reimbursement of all its (extralegal) collection charges with a minimum of €300.00.

12. LIABILITY

- 12.1 Supplier is liable for any loss, including consequential loss such as business interruption, environmental damage, bodily injury, damage to materials, loss of profit or loss of turnover, of Heilig or of a third party due to the untimely or defective delivery or execution of the Contract, except if the loss is the result of intent or deliberate recklessness on the part of Heilig.
- 12.2 Supplier shall fully compensate Heilig for any damage (direct or indirect) to goods or persons which might arise for Heilig, its staff or customers/clients of Heilig out of or result from actions insofar as those should be considered a failure or tort on the part of Supplier, his staff or of other persons involved by Supplier in the execution of the Contract.
- 12.3 In order to meet his liability obligations, Supplier is obliged, at any time, hence also after the Contract has ended, to repair free of charge, or to replace by new ones, within a reasonable period of time, the goods and/or work undertaken or the defective parts thereof. Supplier remains fully liable for any further damage.

13. GUARANTEE

- 13.1 Supplier shall provide, for a period of minimum 2 years, a guarantee for the proper execution of the Contract. In that regard, Supplier shall hand Heilig, after completion, a written statement explicitly stating the period of guarantee. Unless expressly departed from in the Contract, the period of guarantee shall be a minimum of two years from the date of delivery/completion. The guarantee pertains to the whole good/the whole work undertaken.
- 13.2 If a defect arises during the period of guarantee, Supplier must ensure, at his own expense and for his own account and risk, replacement or repair, without prejudice to Heilig's right to claim damages.

14. SUBCONTRACTING AND SEQUENTIAL LIABILITY ACT

- 14.1 Supplier must submit to Heilig, amongst others, at Heilig's first request:
- a) VAT number;
 - b) Extract from the Chamber of Commerce;
 - c) A statement from the tax authorities showing the wages tax number;
 - d) Administration and specification of payment behavior vis-à-vis the Tax Department;
 - e) Justification of man-hours;
 - f) Giro account details;
 - g) Licenses (insofar as required).
- 14.2 Heilig may require Supplier to keep a Giro account within the meaning of the Sequential Liability Act and stipulate in the contract that the payment of contributions as intended in article 13.2 of these General Terms and Conditions shall be made directly into the Giro account by Heilig. In that regard, Supplier shall extend, at Heilig's first request, his full cooperation, including the keeping of the necessary records which must be handed to Heilig on first request pursuant to 3.1 of these General Terms and Conditions.
- 14.3 If Heilig, pursuant to article 13.2 of these General Terms and Conditions, pays the contribution directly, Heilig shall be discharged vis-à-vis Supplier for the amount of the paid contribution.
- 14.4 Supplier and any third party whose services are to be enlisted by him for his account shall settle, by themselves, the social security contributions, wages tax, VAT and other (statutory) contributions in respect of the Contract, unless expressly agreed otherwise in writing. Supplier is liable for loss arising from his obligations under this article and shall indemnify and hold Heilig harmless against any and all claims on that account.
- 14.5 The insurance obligation of Supplier pursuant to article 4.3 of these General Terms and Conditions also applies to loss arising from the Sequential Liability Act.



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15. APPLICABLE LAW AND CHOICE OF COURT

- 15.1 The Contract and other legal relationships between Heilig and Supplier are governed by Dutch law.
- 15.2 The applicability of the Vienna Sales Convention is expressly rejected.
- 15.3 All disputes between Heilig and Supplier arising in connection with the General Terms and Conditions and/or out of the Contract, or out of agreements stemming from the Contract, shall be settled, initially, solely by the court in Alkmaar, unless this is prevented by any imperative judicial statutory provision. There is a dispute if either of the parties so asserts implicitly or explicitly.