

## **GENERAL SALES CONDITIONS**

### **Clause 1. User of these General Conditions**

These General Conditions are used by the company G. van de Heg B.V., according to its Articles of Association having registered office in Barneveld, the Netherlands, also trading under the name [www.vandeheg.nl](http://www.vandeheg.nl), registered at the Chamber of Commerce under registration number 63759179.

### **Clause 2. Definitions**

In these Sales Conditions the following definitions apply:

Sales Conditions	:	the present General Sales Conditions of VandeHeg.
Parties	:	VandeHeg and the Customer jointly.
Customer	:	each contracting party of VandeHeg, being a legal entity or a natural person acting in the exercise of a profession or business.
Agreement	:	the Agreement concluded between VandeHeg and the Customer for the Delivery of Goods and/or an instruction to provide Services.
Delivery	:	placing one or more Goods in the possession of, or bringing one or more Goods in the power of, the Customer, as well as the provision of Services.
Goods	:	the material objects to be delivered by VandeHeg under an Agreement.
Services	:	the (project) activities to be carried out by VandeHeg under an Agreement.

### **Clause 3. Applicability**

1. These Sales Conditions shall apply to all offers and quotations made by VandeHeg, and to all Agreements.
2. Unless expressly agreed otherwise in writing between the Customer and VandeHeg, the general conditions of the Customer expressly do not apply to the Agreement, which therefore also means that they cannot tacitly be accepted by VandeHeg.
3. Deviations from these Sales Conditions shall only be valid in so far as the relevant deviations have been agreed by the Parties in writing.
4. In case of any conflict between the Agreement and these Sales Conditions, the Agreement shall prevail.
5. If these Sales Conditions or the Agreement provide that a declaration has to be made in writing, this can also be done electronically.
6. The Parties exclude the applicability of the CISG to offers, quotations and Agreements.

### **Clause 4. Conclusion of an Agreement**

1. All offers of VandeHeg, in whatever form, shall be without engagement. An offer or order confirmation may subsequently be revoked by VandeHeg, even after the conclusion of an Agreement, until five working days after acceptance of the offer by the Customer or until five working days after the order confirmation has been sent.
2. The Customer cannot derive any rights from any supplementary advice and/or sent along documentation and/or materials that VandeHeg is not held to provide under the Agreement.

3. Orders and requests of the Customer shall only be binding for VandeHeg after VandeHeg has confirmed them in writing, or after VandeHeg has started the actual execution of the Agreement. The written confirmation of VandeHeg shall be deemed to constitute a complete and accurate representation of the Agreement.
4. If a contracting party of VandeHeg consists of more than one (legal or natural) person, each one of those (legal or natural) persons shall jointly and severally be bound towards VandeHeg for the obligations arising from the Agreement.
5. The Customer cannot derive any rights from any shown and/or provided models, specifications of colours, sizes, dimensions, weights, capacities and/or other descriptions in brochures, promotional materials and/or on the website(s) of VandeHeg.
6. The models referred to in paragraph 5 shall remain the property of VandeHeg, and will at the first request of VandeHeg have to be returned to VandeHeg for the charge of the Customer.

### **Clause 5. Prices and Payments**

1. All prices quoted by VandeHeg are in Euros, excluding VAT, unless expressly agreed otherwise in writing.
2. If after the conclusion of the Agreement cost determining factors increase in price, VandeHeg shall have the right to charge that price increase through to the Customer, provided that the execution of the Agreement has not been fully completed at the time of the price increase.
3. Unless stated otherwise in the invoice, the Customer has to pay the invoice within 14 days after the invoice date.
4. The deadline for payment is a final payment term. After expiry of that period, the Customer shall automatically be in default; a notification of default by VandeHeg shall therefore not be necessary.
5. Upon expiry of the final payment term, the Customer shall automatically be in default, and shall be due a contractual interest of 1.5% per month or any part of a month on the unpaid part of the invoice, to be counted from the payment due date until the date of payment.
6. Objections against the invoice have to be sent to VandeHeg in writing while stating the reasons of the objections and within 14 days after the invoice date, failing which the right of the Customer to invoke a failure in the performance expires.
7. VandeHeg shall have the right to carry out the Agreement in several phases, and to invoice each executed part separately. VandeHeg may suspend the execution of any phases that have not been executed yet as long as preceding phases have not been paid in full.
8. Payments shall, irrespective of the designation thereof, first be used to pay the outstanding interest, then the costs, and then to settle the oldest outstanding invoice.
9. If VandeHeg is forced to hand over its claim to third parties for collection, all costs incurred by VandeHeg to safeguard its rights, including extrajudicial costs of collection, shall be for the charge of the Customer, without prejudice to the right to claim damages. These costs shall in any case be 15% of the amount due with a minimum of € 250.00, unless VandeHeg proves that these costs are higher than 15%; as then, the highest amount shall apply.
10. The Customer waives the possibility to set off his payment obligation on whatever grounds against any claim that he has on VandeHeg, or to suspend payment by him.

**Clause 6. Delivery and Execution**

1. Delivery shall take place ex works / warehouse / business premises. The risk of the Goods therefore passes to the Customer at the moment that the Goods leave the factory, the warehouse or the premises of VandeHeg, or at the moment that VandeHeg has notified the Customer that the Goods can be picked up by him. The costs of any insurance concluded by the Customer for the transportation shall be for the charge of the Customer.
2. Delivery in the Netherlands shall be free of charge in case of orders as from € 300.00 ex VAT and packing materials; Delivery in Belgium or Germany shall be free of charge in case of orders as from € 500.00 ex VAT and packing materials. Costs for Delivery in other countries shall be stated on request.
3. Any agreed Delivery period shall be an estimate and shall not constitute a deadline.
4. If the Customer alleges that there is a failure in the performance on the part of VandeHeg, the Customer must always place VandeHeg in default in writing, granting VandeHeg a minimum period of 30 days to remedy the alleged defect, before VandeHeg can be in default.
5. If Goods after Delivery have to be stored at VandeHeg, this shall be for the risk and expense of the Customer.
6. The Customer cannot derive any rights from deviations in delivered numbers, dimensions or weights of the Goods if the Delivery for 10% or less deviates from that which was agreed. The dimensions, measurements and/or weights established by VandeHeg shall be binding.
7. VandeHeg shall at all times have the right to deliver the Goods COD and to require a down payment of up to 50% of the invoice amount or a security of the Customer. If the Customer does not meet the request to make a down payment or to provide a security within two days, VandeHeg shall have the right to suspend or terminate the Agreement with immediate effect. The Customer shall in that case be due at least 25% of the invoice amount, without prejudice to the entitlement of VandeHeg to compensation of the costs already incurred and other damage suffered.

**Clause 7. Services**

1. VandeHeg shall have the right to let the activities that have to be carried out within the framework of the performance of an Agreement be carried out by third parties. The applicability of the Articles 7:404, 7:407 paragraph 2 and 7:709 of the Dutch Civil Code is expressly excluded.
2. The Customer who has given VandeHeg the instruction to provide certain services, can only cancel that instruction with due observance of a notice period of one month.
3. VandeHeg can cancel the Agreement for the provision of Services with immediate effect at any time.
4. In case of continuing performance contracts, VandeHeg shall have the right to adjust the prices and/or rates periodically. VandeHeg shall notify the Customer thereof in writing no later than one month before the effective date of the price or rate change. If the Customer does not agree with the announced price or rate change, he shall have the right to cancel the Agreement in writing within 14 days after the date of that notification and as per the effective date specified in the notification.
5. If the scope of the instruction given to the Contractor after the conclusion of the Agreement for whatever reason changes, the Contractor shall have the right to charge any extra work to the Customer, and the Customer shall be held to pay the extra costs.

**Clause 8. Cancellation and Dissolution**

1. If the Customer cancels an Agreement for the Delivery of Goods, the Customer shall be due 20% of the amount agreed in the cancelled Agreement if the Agreement is cancelled more than 14 days before the scheduled Delivery. If the Customer cancels an Agreement up to and including 14 days before the scheduled Delivery, the Customer shall be due the full amount agreed in the Agreement, without prejudice to the right of VandeHeg to claim damages, inter alia consisting of already incurred costs and lost profits.
2. If the Customer fails to perform an obligation towards VandeHeg, VandeHeg shall have the right to suspend the (further) execution of the Agreement without prior notice to the Customer, and only to continue the execution against a down payment or the provision of a security. In that case, the Customer will not be entitled to any indemnification, and his payment obligation will continue to exist in full.
3. The claim of VandeHeg on the Customer shall be due and payable immediately if:
  - a) the Customer fails to perform one or more of his obligations towards VandeHeg (including the failure to perform his payment obligations);
  - b) the Customer does not comply with the request of VandeHeg to make a down payment and/or to provide a security (Clause 6 paragraph 7);
  - c) the Customer dies, applies for a suspension of payments or files a petition for his own bankruptcy;
  - d) others file a petition for the bankruptcy of the Customer, or if his business is shut down, is liquidated or is take over by others in full or in part;
  - e) an attachment is levied on any asset of the Customer.
4. In the cases mentioned in paragraph 3, VandeHeg shall have the right to dissolve the Agreement without any formal notification of default being required, without prejudice to any other rights accruing to VandeHeg, including its right to claim damages and costs.
5. In all cases in which the Customer has to take into account the possibility that he will not be able to perform his obligations towards VandeHeg (any longer), he shall be held to notify VandeHeg thereof forthwith, but in any case within 24 hours.
6. Return shipments shall be for the risk and expense of the Customer, and can take place after written consent of VandeHeg.

#### **Clause 9. Reservation of Ownership**

1. VandeHeg shall remain the owner of all Goods delivered by VandeHeg as long as the claim(s) for payment of the purchase price of all Deliveries as well as any additional claims have not been paid in full by the Customer.
2. The Customer shall not have the right in any way to encumber any delivered Goods on which a reservation of ownership rests, or to alienate such Goods outside his normal business operations. Goods on which a reservation of ownership rests can only be resold within the framework of the normal business operations of the Customer, provided that the Customer has also towards his own customers stipulated a reservation of ownership of the delivered goods.
3. VandeHeg shall have the right to take back any Goods delivered by it under a reservation of ownership at any time, in any case if one or more of the circumstances referred to in Clause 8 paragraph 3 sub a through e occur or threaten to occur.
4. The Customer shall be held at the first request to grant VandeHeg access to the place where the relevant Goods are located.

5. The Customer undertakes at the first request of VandeHeg to establish a right of pledge as referred to in Article 3:239 of the Dutch Civil Code on any claims on third parties arising from the sale of the Goods delivered by VandeHeg.
6. The Customer shall be held to keep the Goods delivered by VandeHeg under a reservation of ownership in custody with observance of all due care and as recognizable property of VandeHeg. The Customer shall be held for the duration of the reservation of ownership to insure the relevant Goods against damage caused by fire, explosion and/or water, and against theft or embezzlement, and to provide a copy or allow inspection of the policies of those insurances at the first request of VandeHeg.

#### **Clause 10. Complaints**

1. The Customer shall on Delivery be held to check whether the Goods and/or Services comply with the Agreement. Any complaints regarding visible defects must be notified to VandeHeg in writing without delay, and not later than on the first day following the day of Delivery, on pain of forfeiture of all rights.
2. If the Customer has a complaint concerning not visible defects in the agreed performance, that complaint must be submitted to VandeHeg in writing while stating the reasons within 7 days after the Delivery.
3. If the complaint regards a defect that cannot reasonably be observed within 7 days after Delivery, the complaint must be submitted to VandeHeg in writing while stating the reasons within 7 days after the defect has been discovered.
4. Claims and defences based on facts that would justify the allegation that the delivered Goods do not comply with the Agreement, shall expire 6 months after Delivery.
5. The Customer shall be held to provide to VandeHeg his full cooperation to investigate the complaint. If the Customer does not cooperate, he can no longer invoke a defect in the agreed performance.
6. If the complaint in the opinion of VandeHeg is justified, and the Customer has complained within the time periods applicable for that referred to in the paragraphs 1, 2 and 3, VandeHeg may at its own choice remedy the defect, replace the defective Goods or (partially) take back the defective Goods, and credit to the Customer (a part of) the purchase price of the relevant Goods.
7. The costs of repair, replacement or taking back shall be for the charge of the Customer, unless VandeHeg notifies the Customer in writing and unequivocally that the Parties will share the costs, or that VandeHeg will take the costs entirely for its own charge.
8. The submission of a complaint shall not discharge the Customer from his payment obligations.
9. Minor deviations or complaints that in the opinion of VandeHeg are unfounded, shall not give the Customer any entitlement to repair, replacement and/or (partial) crediting.

#### **Clause 11. Intellectual Property**

1. VandeHeg is and remains the (sole) owner of all intellectual property rights that rest on, arise from, relate to and/or belong to the Goods delivered and/or the Services provided by VandeHeg under the Agreement.
2. The Goods referred to in the preceding paragraph may without written permission of VandeHeg not be copied in full or in part, nor be shown, made available or otherwise disclosed to third parties, nor be used by the Customer or made available otherwise than for the purpose for which they were provided by VandeHeg.

3. The Customer guarantees that all information and data provided and to be provided by him to VandeHeg do not infringe any intellectual property rights of third parties, and indemnifies VandeHeg against any claims based on infringements of intellectual property rights.
4. VandeHeg shall have the right to use any knowledge gained by it by the execution of an Agreement for its own advantage.

**Clause 12. Limitation of Liability**

1. Except in the event that the Customer proves that the damage is a direct consequence of intent or deliberate recklessness of VandeHeg, VandeHeg shall only be liable towards the Customer, his employees or third parties for any direct damage or loss suffered by the Customer within the framework of (the execution of) the Agreement.
2. Eligible for compensation shall only be the direct damage referred to in paragraph 1, in so far as the damage is covered by the insurance taken out by VandeHeg, or if the damage is not covered by the insurance, up to at most the invoice amount of the Agreement to which the damage-causing event relates. If partial deliveries have been agreed, the liability of VandeHeg shall be limited to the amount of the agreed price for that part of the Agreement with which the damage-causing event is the most connected.
3. In no case shall the liability of VandeHeg exceed € 2,000.00 per event or series of events with the same cause.
4. VandeHeg shall never be liable for any indirect damage, including (without limitation) lost profits, lost savings, business interruption damage and consequential damages.
5. Any claim of the Customer against VandeHeg to pay damages shall lapse after the expiry of one year counted from the moment that the Customer has become or could have become aware of the damage-causing event.
6. The Customer shall indemnify VandeHeg and its staff and auxiliary persons against any third party liability connected with the Agreement and the execution thereof.
7. The Customer shall indemnify VandeHeg against any claims of third parties for product liability resulting from any defect in any product delivered by the Customer to a third party that (also) consisted of products and/or materials delivered by VandeHeg.

**Clause 13. Packing Materials**

1. Packing materials not intended for once-only use shall at all times remain the property of VandeHeg, and will not be used by the Customer for any other purposes than for which they are intended.
2. VandeHeg shall have the right to charge to the Customer a user fee for the packing materials, which the Customer shall be held to pay. If the packing materials are returned by the Customer carriage paid within 30 days after the Delivery or within any other period agreed further, VandeHeg shall be held to take back the packing materials and VandeHeg will refund the fee charged to the Customer.
3. VandeHeg shall not be held to take back any packing materials that are intended for single use only. The packing materials that are intended for single use only can be charged to the Customer as cost price.
4. If packing materials are damaged, incomplete or lost, the Customer shall be responsible for that damage, and his entitlement to repayment of the user fee shall lapse, without prejudice to the entitlement of VandeHeg to additional damages.

**Clause 14. Force Majeure**

1. If performance by one of the parties is delayed by force majeure for more than one month, each of the Parties shall have the right to dissolve the Agreement without being held to pay damages to the other party. That which has as then already been paid or performed pursuant to the Agreement will not be made undone, but will be set off between the parties.
2. Force majeure shall inter alia include: strikes; quarantine; epidemics; mobilization; state of siege; war; extreme weather conditions; fire; transportation blockages; government measures, including export and import measures; disruptions in the delivery or availability of raw materials, energy or business supplies; non-performance by third parties or force majeure on the part of suppliers called in by VandeHeg in the execution of the Agreement.

**Clause 15. Changes of these Sales Conditions**

1. VandeHeg shall have the right to change these Sales Conditions and to declare the changed Sales Conditions applicable to already existing Agreements. Such changes shall be binding for the Customer after 30 days have passed after VandeHeg has notified the Customer thereof.
2. If the Customer does not agree to the changes, he will have to notify VandeHeg thereof in writing within the period of 30 days referred to in the first paragraph. Upon receipt of the notification by VandeHeg, VandeHeg shall have the right to terminate the Agreement immediately, without being liable for damages towards the Customer.

**Clause 16. Conversion**

1. If and in so far as one or more provisions of these Sales Conditions would be in conflict with any law and/or pursuant to a final judgment be declared null and void or nullified, the remaining provisions shall remain in full force and effect unabridged. The null and void or nullified provisions shall in mutual consultation be replaced by valid provisions that correspond as much as possible with the purpose and intent of the null and void or nullified provisions.

**Clause 17. Settlement of Disputes**

1. All offers of VandeHeg and all Agreements shall be governed by Dutch law.
2. Any disputes between the Parties shall be settled by the competent court in Arnhem, the Netherlands.