

General terms and conditions with regard to the execution of activities and/or the supply of services by Van der Heide Bliksembeveiliging B.V., Van der Heide Bliksembeveiliging Inspecties B.V., Van der Heide Cathodic Protection & Corrosion Engineering B.V. and Van der Heide Opleidingen & Inspecties B.V., hereinafter both jointly and each individually referred to as: 'Van der Heide'.

1. General

These terms and conditions are hereinafter referred to as the GTC-Van der Heide-2016 and form part of each and every offer issued by Van der Heide and each and every agreement concluded with Van der Heide with regard to the delivery of goods, the execution of activities and/or the supply of (consultancy) services, unless Van der Heide and its other party deviate from the same in writing in joint consultation. If one or more articles in these general terms and conditions would be invalid or cancelled, either in whole or in part, then this shall not affect the applicability and the validity of the other terms and conditions. The other party of Van der Heide is hereinafter referred to as: the 'Client'.

2. Applicability of general terms and conditions

The Uniform Administrative Conditions for the Execution of Works 2012 (hereinafter referred to as: 'UAC 2012') are applicable to the activities to be executed by Van der Heide with regard to the execution and realisation of works. The New Rules 2011 (hereinafter referred to as: 'TNR 2011') are applicable to consultancy activities to be executed. The Client is deemed to be familiar with TNR 2011 and UAC 2012 with potential schedules. In case of a discrepancy between the following terms and conditions and TNR 2011 and/or UAC 2012 the GTC-Van der Heide-2016 shall always prevail.

3. Offer

1. An offer issued by Van der Heide can be accepted by the Client during a period of one month after the date thereof unless the offer indicates otherwise. Offers are always based on implementation of the agreement under normal conditions, during working days as defined in UAC 2012 and on working hours from 08:00 o'clock up to 17:00 o'clock.
2. Any and all drawings and data, e.g. dimensions, weights, capacities and quantities, supplied with the offer and/or the agreement are as accurate as possible. Rights cannot be derived from the information supplied by Van der Heide.
3. Any and all prices specified by Van der Heide in the offer and elsewhere are excluding turnover tax, unless expressly indicated otherwise.
4. Offers, drawings, designs and calculations are owned by Van der Heide and cannot be forwarded or made available to third parties for inspection without its consent.

4. Rates, payment and invoicing

1. Van der Heide is authorised to change rates. In case of a wage or price measure imposed by or pursuant to the law and/or in conformity with provisions of the Statistics Netherlands (CBS) the said rate change can take effect on the first day of the month following that of the measure. If so required rate increases are communicated to the Client in writing and calculated over the activities to be executed thereafter.
2. Van der Heide shall be free to send advance invoices.
3. Any and all payments must take place without any deduction in the manner indicated by Van der Heide. Reliance by the Client on settlement is excluded.
4. Payment of (advance) invoices issued by Van der Heide must take place within thirty days after the date of the invoice, unless indicated otherwise. In case of an overstepping of the said payment term the Client shall, without any prior notice of default being required, be in default and be liable to pay interest to Van der Heide equal to the statutory commercial interest increased by 2% (pursuant to section 119a of Book 6 of the Dutch Civil Code) on the amount of the outstanding (advance) invoice.
5. If Van der Heide did, whether or not after demand, not receive payment then it shall be authorised to outsource its claim and the Client shall be liable to pay any and all costs associated with the same, plus turnover tax. In addition the Client shall be liable to pay any and all other costs that Van der Heide needs to incur in order to collect its claim.
6. Payments by the Client are always first applied to payable costs and interest (in this order) and then to principal sums in the course of which old claims take precedence over new claims.
7. Invoicing method:
 - a. in case of contracts up to an invoice amount of € 2,500.00:
 - 100% upon delivery;
 - b. in case of contracts of € 2,500.00 and more:
 - 30% upon award of the contract;
 - 30% upon completion of 60% of the work;
 - 30% upon completion of 100% of the work; and
 - 10% upon delivery.



5. Cooperation with third parties

1. If Van der Heide cooperates, at the request of the Client, with one or more other parties or relies on other third parties then Van der Heide shall not be liable for the part of the contract executed by the said third parties, unless and to the extent that Van der Heide expressly accepted the said liability in writing. In those instances the Client is personally responsible for the information to be made available to Van der Heide by these third parties.
2. If within the framework of the execution of a contract awarded to Van der Heide Van der Heide personally relies on one or more third parties then Van der Heide shall only be liable for the part of the contract executed by the said third party (parties) to the extent that the said third party is liable vis-à-vis Van der Heide.

6. CAR insurance

Unless expressly stipulated otherwise, Van der Heide is included in the Construction All Risks (CAR) insurance taken out by the Client for the benefit of the work of which the terms and conditions are available for inspection by Van der Heide at the Client at the request of the former. At the express written request of the Client Van der Heide can take out Construction All Risks (CAR) insurance for the benefit of the work. The costs of this kind of insurance shall be at the expense of the Client, unless the parties expressly stipulate otherwise.

7. Activities in the field

1. It is noted with regard to activities, research and analyses to be executed in the field that if access to plots is required permission for the same must be granted and/or obtained by or on behalf of the Client from the relevant owner(s) and/or entitled party (parties). Potential damages on the part of Van der Heide, occurring as a result of failing or late obtaining of the said permission, shall be at the expense of the Client.
2. Van der Heide shall not be liable for damages, on account of any cause whatsoever, to properties of the Client or third parties occurring during or in connection with the execution of its activities, unless there is question of intent or gross negligence of staff employed by or on behalf of Van der Heide. The Client shall indemnify Van der Heide against any and all claims of third parties with regard to the aforementioned damages.

8. Obligations of the Client

1. The Client is responsible for:
 - the constructions and methods prescribed by or on behalf of the Client as also for orders, guidelines and instructions given by or on behalf of the Client;
 - the timely supply and the correctness of the data and information supplied by the Client. Costs due to a delay in the supply of these data and, in general, stagnation through no fault of Van der Heide shall be at the expense of the Client.
2. The Client is liable for:
 - any and all damages that are the result of defects in goods, building materials or auxiliary materials that are made available by the Client or that are prescribed by the Client; any and all damages that are the result of activities executed or supplies made by the Client or by third parties under the authority of the Client.
3. The consequences of compliance with statutory regulations or official orders that take effect after the date of the offer are at the expense of the Client.
4. Documents or other data carriers (including drawings) sent to the Client by Van der Heide for approval are deemed to have been approved by the Client if the Client does not give written and unambiguous notice of the contrary within two weeks after the date of despatch.
5. In the period of execution of the contract and within a period of one year after termination thereof, other than after consent of Van der Heide, the Client commits not to employ members of staff employed by Van der Heide encumbered with the execution of the contract or to in any way whatsoever rely on and/or have the said members of staff execute activities subject to an immediately claimable penalty of the gross annual salary of the relevant employee, without prejudice to the right to recover the actually incurred damages.
6. The Client guarantees that Van der Heide can in a timely fashion dispose of:
 - the data and permissions (e.g. permits, exemptions and individual decisions) required for the set-up of the work;
 - the building, the premises or the water in which or on which the work is executed;
 - a proper opportunity in the direct vicinity of the building site for the supply, storage and/or disposal of building materials, waste materials and auxiliary materials;
 - proper connection possibilities for electrical machines, telephone, facsimile, lighting, heating, gas, pressurised air and water;
 - the required electricity, gas and water, which are at the expense of the Client.
7. The Client guarantees that activities to be executed and/or supplies to be made by others, which are not part of the contract of Van der Heide, are carried out such and in such timely fashion that the execution of the contract does consequently not experience any delay or any other nuisance.
8. The site manager is authorised to represent the Client unless and to the extent not expressly stipulated otherwise.
9. Where relevant the Client is held to inform Van der Heide prior to commencement of the work in writing of the presence and location of cables and pipes as intended in the Dutch Underground Grids (Information Exchange) Act.



9. Reservation of title, security

1. Any and all goods delivered by Van der Heide remain the property of Van der Heide until the Client has complied with its payment obligations vis-à-vis Van der Heide on account of the relevant agreement or on account of any other agreements concluded with Van der Heide. As long as the Client did not comply with all its payment obligations the Client commits vis-à-vis Van der Heide to handle the delivered goods as befits a good pater familias, to keep the said goods insured and not to pledge, process, transfer or release these to third parties. In case of non-compliance with this obligation the full contract sum on account of the relevant agreement immediately falls due.
2. If the Client fails to comply with its obligations vis-à-vis Van der Heide then Van der Heide shall be entitled to immediately take back the goods in respect of which the title was reserved. If so required the Client shall grant Van der Heide, at the request of the same, immediate access to the buildings and/or premises, of which the Client is the owner or administrator, in order that Van der Heide can claim back its property (properties).
3. The Client grants Van der Heide irrevocable authorisation to do everything that the latter deems useful or required in order to take back the goods of which the title was reserved.
4. Payments effectuated by the Client are first and foremost and as much as possible applied to claims of Van der Heide that are not subject to reservation of title.
5. Van der Heide shall always be authorised, before commencing or continuing its activities and before commencing or continuing deliveries, to desire sufficient security for compliance with the payment obligations of the Client. This provision is equally applicable if the Client stipulated credit.
6. If the Client refuses to provide the desired security then Van der Heide shall be authorised to dissolve the agreement. The costs that Van der Heide needs to incur in connection therewith are at the expense of the Client, such without prejudice to the right of Van der Heide to claim compensation for the damages actually incurred by the same.
7. Despite the reservation of title stipulated in this article, the costs and the risk of the goods delivered by Van der Heide shall transfer to the Client as soon as the said goods have left the warehouse of Van der Heide or – to the extent that it regards goods that are not delivered from the warehouse stock – as soon as the goods have been delivered to the Client by Van der Heide.

10. Compliance

1. Van der Heide makes an effort to comply with the agreement concluded with the Client in the best way possible.
2. With regard to the agreement concluded with the Client Van der Heide is subject to a best efforts obligation and not a result obligation.
3. The Client guarantees that no circumstances occur that could hinder or impede a timely and correct compliance by Van der Heide. Should these kinds of circumstances nonetheless occur then Van der Heide shall by no means be liable for the same and the Client must compensate Van der Heide for potential additional costs and/or damages on the part of Van der Heide.
4. Van der Heide tries to execute its activities as much as possible within the time limits stipulated with the Client. The stipulated time limits and times are, however, not fatal deadlines within the meaning of section 83 under a of Book 6 of the Dutch Civil Code.
5. The Client shall never be entitled to compensation if Van der Heide oversteps the stipulated time limits and times due to force majeure. Nor can the Client, as the occasion arises, suspend or dissolve its obligations on account of or in connection with the agreement.
6. Force majeure is understood as any and all circumstances beyond the control of Van der Heide that render compliance with the agreement within reason impossible, including but not limited to delayed delivery of materials ordered in a timely fashion, transport difficulties, mechanical or other breakdowns at the company of Van der Heide, fire, weather conditions, industrial action, lock-outs, riots, nuclear reactions and war.

11. Scope of the work

1. The contract includes the entire work as outlined in the offer and/or the order confirmation.
2. Should it at any time become apparent that proper implementation of the agreement requires that Van der Heide executes additional activities – not outlined in the agreements – then Van der Heide shall enter into discussions with the Client. If the Client does not wish to award a contract to Van der Heide for these additional activities or if it becomes apparent that agreement cannot be reached about the terms and conditions on the basis of which these activities shall be executed then Van der Heide shall be authorised to dissolve the agreement concluded with the Client. As the occasion arises Van der Heide shall be authorised to claim compensation for the damages incurred as a result of the dissolution.
3. Unless expressly stipulated otherwise in writing the following activities, deliveries and facilities are expressly not part of the obligations of Van der Heide. The Client shall see to it that the said deliveries, activities and facilities are carried out according to the standards of the trade and in a timely fashion in order that the execution of the work contracted to Van der Heide is not delayed:
 - a. ground works, paving, pile driving, breaking, foundation works, masonry, concrete works, carpentry, plastering, paintwork and upholstery or other occurring works of any nature whatsoever;



- b. moving of goods not belonging to Van der Heide, including but not limited to hoisting gear and/or tools to be used;
 - c. the availability, set-up and removal after completion of the work of scaffoldings and platforms;
 - d. the supply of water and electricity required for the execution of the activities as also for potential tests and commissioning;
 - e. activities required to return parts of the installation(s) that were dirtied or damaged at the work in a good state, unless the contamination or the damages can be blamed on staff of Van der Heide;
 - f. before the delivery of the installation(s) the commissioning and/or continued commissioning thereof for the sake of the Client;
 - g. lighting of the building site in order that the assembly work can continue.
4. the Client shall see to it that applications are made and/or payments regarding, inter alia, municipal encroachments in, on or above public land, the Dutch Environmental Management Act, permits, and the like are paid in a timely fashion.
 5. Unless expressly stipulated otherwise in writing potential residual materials shall belong to Van der Heide.
 6. Unless expressly stipulated otherwise in writing the delivery of revision drawings is not part of the obligation of Van der Heide.
 7. Contract extras or reductions are agreed on separately by the parties. Contract extras are understood as everything that Van der Heide executes in addition to the originally stipulated work. Contract reductions are the opposite. Van der Heide is also entitled to a fee for contract extras executed by the same if this was not stipulated with the Client in writing.

12. Liability

1. If the stipulated performance consists of the contracting of work then the liability of Van der Heide is regulated by the provisions set forth in the present article and UAC 2012. If the performance consists of (consultancy) services then the liability of Van der Heide is regulated by the provisions set forth in the present article and TNR 2011.
2. If and to the extent that the Client and Van der Heide agreed on a warranty the Client can exclusively and solely desire compliance with the said warranty from Van der Heide.
3. In all instances the Client shall first offer Van der Heide the opportunity to remedy a potential defect or to again execute the processing act within a reasonable time limit. The Client informs Van der Heide of the defect within 30 days after discovery of the same failing which the relevant claims of the Client expire.
4. The Client can only rely on the obligations as intended in this article if the Client personally complied with all its obligations vis-à-vis Van der Heide.
5. Van der Heide shall never be liable for indirect damages and/or consequential damages, including trading losses, loss of turnover volume, lost profit, reputational damage, environmental damage, et cetera.
6. The liability of Van der Heide shall at all times be limited to (at most) the amount that is, as the occasion arises, paid out by the insurer of Van der Heide. It is moreover noted that the liability of Van der Heide shall at all times be limited to an amount equal to the contract sum with a maximum of € 1,000,000.
7. The Client shall be liable for damages of third parties if reports / documents were used by parties other than the Client or if they were used by the Client for a purpose other than for which the agreement between the parties was concluded.
8. If the contract entails that Van der Heide supervises the execution of a work without there being question of daily supervision then Van der Heide can only be liable for the damages for the periods during which Van der Heide actually supervised on account of the contract.
9. The offers, reports, accounts, documents, cost schedules and the like prepared by Van der Heide can only be used by the Client for the purpose for which they were prepared. The Client indemnifies Van der Heide against any and all claims of third parties that are based on the said documents. Van der Heide does not accept any liability whatsoever for use of the aforementioned documents by parties other than the Client or for use for a purpose other than for which the documents are meant.

13. Consequences of cancellation of the contract

If the Client cancels the contract then the Client is held to pay Van der Heide on the basis of the state of the activities for the hours and additional costs, travel and subsistence expenses and any and all reasonable costs incurred and yet to be incurred deriving from the obligations that Van der Heide has already entered into at the time of cancellation in view of the further execution of the contract. The Client is moreover held to pay 10% of the remaining contract that the Client would be liable to pay in case of full completion of the contract.

14. Intellectual property rights

1. The intellectual property rights associated with or related to offers, drawings, designs, calculations, manuals, course materials and other documents prepared by Van der Heide are vested in Van der Heide. The Client must respect these intellectual property rights.
2. The goods and materials as intended in paragraph 1 cannot be made available to third parties or shown to third parties for inspection without written consent of Van der Heide.

15. Confidentiality and use as reference



The Client and Van der Heide shall handle data and documents made available by the one to the other confidentially and only use these data within the framework of the execution of the contract. The Client is only authorised to make documents supplied by Van der Heide available to third parties if this was expressly stipulated in writing or derives from a statutory obligation. In derogation from the above Van der Heide is entitled to use the contract by way of reference.

16. Applicable law and disputes

1. Dutch law is applicable to the agreement concluded by and between Van der Heide and the Client.
2. In case of disputes the civil court in Leeuwarden shall be competent, unless the parties agree on arbitration.

17. Open tendering and in-company training

1. Apart from the provisions above the following provisions are in addition applicable to open tendering and/or in-company training by Van der Heide Opleidingen & Inspecties (hereinafter referred to as: the 'course'). In case of discrepancies with the aforementioned provisions this article shall prevail.
2. The Client receives a confirmation of the registration for each participant. Approximately three weeks before the start of the course the Client receives notification whether the course continues definitively as well as all additional information. Registrations are only binding after Van der Heide Opleidingen & Inspecties has confirmed these in writing.
3. Invoicing method:
 - a. in case of contracts up to an invoice amount of € 2,500.00:
 - 100% upon definitive confirmation of the course;
 - b. in case of contracts of € 2,500.00 and more:
 - 50% upon definitive confirmation of the course;
 - 50% within 30 days after completion of the course.
- 4.a. The course times are from 09:00 o'clock up to 16:00 o'clock (unless indicated otherwise).
- b. The course fees include lunch, teaching materials, certificate of participation and exclude VAT.
- c. In case of insufficient registrations for a course Van der Heide Opleidingen & Inspecties shall always be entitled to cancel a course and not to accept a registration without being held to pay compensation for damages or costs. In case of cancellation in connection with insufficient registrations Van der Heide Opleidingen & Inspecties shall, where possible, offer alternative options for participation in the course.
- d. The Client or the participant can only cancel or reschedule participation in the course in writing. The following rules apply to cancellation / rescheduling. The Client can cancel / reschedule free of charge up to six weeks prior to the start of the course. As from six to three weeks before the start half of the course fees are payable. The full course fees are payable in case of cancellation and/or rescheduling fewer than three weeks before the start of the course. If Van der Heide Opleidingen & Inspecties is, after notification of definitive continuation, unexpectedly required to cancel the course then an appropriate alternative is offered or the already invoiced course fees are credited.
- e. Potential parking fees at the course accommodation are at the expense of the participant / the Client.
- f. The participant is deemed to comply with the safety instructions and standards. If the participant fails to do this then he / she is fully liable for the damages that derive from the same.
- g. Van der Heide Opleidingen & Inspecties is not responsible for potential damages that may be inflicted on properties of the participant or the Client during the course.