

**GENERAL SALES, DELIVERY AND PAYMENT TERMS AND CONDITIONS CHEESEPOP B.V., HAVING ITS REGISTERED OFFICE AND PRINCIPAL PLACE OF BUSINESS IN DE MEERN (HOLLAND), STRIJKVIERTEL 19.**

**I Applicability**

1. These terms and conditions apply to all quotations, orders and Agreements for supplying goods, work and services by Cheesepop B.V. in De Meern (Holland) (hereinafter called "Cheesepop").
2. Departures from these terms and conditions or from the terms and conditions of the other party (hereinafter called "Customer") only apply if these have been confirmed or accepted by Cheesepop in writing. In the event of contrariety between these terms and conditions and those of the Customer, the former shall prevail.
3. Once these terms and conditions have applied to an Agreement with a particular Customer, these terms shall also apply to all further Agreements and quotations for that Customer, unless explicitly agreed otherwise under special circumstances.
4. If any provision in this Agreement should be null and void, the other provisions shall retain their full effect. In these circumstances the parties shall replace the null and void provision by a valid provision in accordance with the object and purport of it.

**II Quotations**

1. All quotations by Cheesepop are obligation-free unless explicitly expressed otherwise, and can be revoked by Cheesepop within three days after acceptance by the Customer.
2. Quotations will always be based upon information received from the Customer and realisation under normal and foreseeable circumstances, as well as during usual business hours.
3. Quotations expire after 60 days unless stipulated otherwise, and a quotation is cancelled when a new quotation is issued.
4. Any documentation and information given with the quotation, such as drawings, designs, illustrations, brochures, price lists, calculations, dimensions, weights, quality and the like are at the best of Cheesepop's knowledge but are not binding; Cheesepop has the right to make modifications at any time.
5. Any documentation and information given with the quotation as referred to in paragraph 4 above will remain the property of Cheesepop. The Customer is not allowed to copy this information, show it to others, or use it in any other fashion.

**III Formation of Agreements**

1. Orders and Agreements are not binding for Cheesepop until accepted in writing or confirmed respectively, or until the realisation has commenced.
2. For proceedings where the nature and the amount of work involved does not require a quotation or order confirmation, the invoice itself plus retaining the invoice unchallenged shall be regarded as the Agreement.
3. Neither do changes and amendments to existing orders or Agreements apply until confirmed by Cheesepop in writing.
4. Arrangements, promises and statements by Cheesepop personnel are not binding until confirmed by authorised Cheesepop staff in writing.

**IV Pricing**

1. Unless shown otherwise, the quoted prices are carriage paid to the address requested by the Customer, provided this address is within the Netherlands, and exclusive of turnover tax or other government taxes or fees levied on services and/or supplies. Cheesepop shall be entitled to pass any such taxes or levies on to the Customer.
2. Prices are always based on the exchange rates and price levels at the time the quotation was made or the Agreement was entered into. In the event of any later fluctuations in exchange rates and/or raw material prices, salaries and wages or social insurance premiums, or in other price factors, Cheesepop shall be entitled to pass these on to the Customer.
3. In the event of changing circumstances under which an order is to be executed in relation to normal or foreseen circumstances at the time of accepting the order, Cheesepop is entitled to pass any consequential extra costs on to the Customer.
4. Any changes in the order, be it on request of the Customer or necessary for any other reason, will be regarded as extra work if these incur further costs, or as work-saving if these reduce costs.
5. Extra work and work-savings shall in all fairness be offset against payment of the principal sum, or against the final payment term respectively.

**V Transport**

1. Any transport, packaging and insurance by Cheesepop is done on the request and on behalf of the Customer and are consequently arranged at his expense and risk. In that case Cheesepop is free to choose the carrier and the way of transport, but while acting in the best interest of the Customer, Cheesepop does not accept any liability for losses and damages.

**VI Performance Cheesepop**

1. Cheesepop shall perform its duties as required for proper and sound work, in accordance with the order given and/or the Agreement entered into. It will be entitled to engage the services of third parties to perform these duties if necessary or desirable.
2. Activities by Cheesepop are restricted to performing duties in accordance with the description thereof in the quotation, the order, or other documentation which may form the basis of the legal relationship between parties. In the event of inconsistencies, only the latest description from Cheesepop or explicitly accepted by Cheesepop shall prevail.
3. All preparatory and additional work not included in the description are not part of the work to be done by Cheesepop but shall be regarded as extra work if carried out by Cheesepop anyway.
4. Cheesepop shall be deemed to have fulfilled its obligations when:

- small differences in colour and/or quality occur;
- after a test delivery the sample is slightly different;
- the supplied goods differ from the order specifications with regard to weight, volume or quantity, on the understanding that the goods shall be invoiced on the basis of the actual delivery.

**VII Customer obligations**

1. The Customer shall ensure that all information and documentation for the performance of the ordered tasks is available to Cheesepop in time, in so far the order shows that Cheesepop itself shall not be responsible for these matters.
2. The Customer shall ensure that third party work or deliveries are made in such a manner that Cheesepop is not burdened with disruptions or delays, and that Cheesepop can work in an undisturbed fashion.
3. If the start or continuation of work to be performed by Cheesepop is disrupted or delayed by events beyond the control of Cheesepop, the Customer shall be bound to reimburse the consequential costs and damages to Cheesepop.

**VIII Delivery**

1. The Cheesepop delivery terms are only indicative and not binding. The Customer cannot derive rights from late deliveries.
2. The stated delivery terms or the realisation do not commence until the Customer has made all required information available to Cheesepop and will be extended by the time the Customer remains in default regarding the fulfilment of any obligation toward Cheesepop and/or by the time Cheesepop needs to perform the extra work or for making changes to the original order.
3. Cheesepop shall be entitled to deliver supplies (including mixed deliveries) to the Customer in several parts and to invoice these partial deliveries separately. A mixed delivery is defined as "a delivery of certain quantities of different products".
4. Goods are deemed to be delivered once they are delivered at the agreed address or have been offered for delivery by Cheesepop.
5. Performed work is deemed to be completed once Cheesepop reports the completion to the Customer and the latter approves the work results. Small deficiencies that do not affect the usefulness are no valid reason for withholding approval.
6. Should the Customer fail to inspect the work results after receiving notification of the work being completed, then the work is deemed to be approved after eight (8) days following the notification.
7. Should the Customer withhold his approval due to deficiencies of the work, he must advise Cheesepop in full within eight (8) days following the notification of completion and give Cheesepop the opportunity to rectify the alleged deficiencies. Approval should still be given after the deficiencies have been rectified to the satisfaction of the Customer.
8. The goods, if not accepted by the Customer after the delivery term has expired, may be stored by Cheesepop at the Customer's expense and risk for no more than two months. After two months Cheesepop shall be entitled to sell these goods and offset the proceeds against the purchase price owing by the Customer.

**IX Complaints**

1. On delivery, the Customer is to check the goods for any shortages, (quality-) differences and visible damage or

deficiencies, subsequently make a note on the transport papers and report to Cheesepop within eight (8) days if ascertaining any such matters.

2. Damages, differences and deficiencies which are not visible from the outside must be reported in writing to Cheesepop within six (6) weeks from the date the goods were received.
3. With no observation for the above deadlines, the Customer shall lose all his rights with regard to alleged shortages, differences, damages or deficiencies.
4. The Customer shall give Cheesepop the opportunity to inspect the correctness of - and possibly rectify - the alleged complaint.

**X Transfer of risk and ownership**

1. The risk of the supplied goods is transferred to the Customer on delivery. Cheesepop retains title of all the goods until the Customer has fulfilled his payment obligations toward Cheesepop in respect of such delivery.
2. If goods supplied by Cheesepop are becoming part of other (present or future) goods in such a manner that they will lose their individual values, the Customer shall, on first demand by Cheesepop, pledge the then newly formed goods or - instead - provide a collateral that largely offsets the loss of the individuality of the goods supplied, such under a penalty of €10.000,00 for every day the Customer fails to fulfil this obligation.
3. The Customer shall be obliged to maintain and treat the delivered goods with utmost care and insure the same against accidental damage, loss and destruction, for as long as Cheesepop retains title.
4. The Customer may use and sell the goods supplied as part of his normal business activities whilst Cheesepop still retains title. However, he may not dispose of the goods, encumber the same, or in any other way grant rights to third parties.
5. Should the goods, while still owned by Cheesepop, be sold on to third parties who have not yet fully paid the outstanding purchase price, the Customer shall, on first demand by Cheesepop, pledge the outstanding claims in question to Cheesepop, such under a penalty of €10.000,00 for every day the Customer fails to fulfil this obligation.
6. The Customer is obliged to always make Cheesepop's property rights resulting from the above paragraphs unmistakably clear toward others (such as creditors serving garnishment orders), as soon as these third parties may consider the goods to be the Customer's property, and to always inform Cheesepop immediately of any pending bankruptcy, application for a moratorium on payments, attachment of (a part of) his property, or any other circumstances which could be important to Cheesepop to exercise its earlier mentioned property rights.
7. Without prejudice to its other rights, Cheesepop shall always be entitled to repossess any goods which, on the basis of the above stipulations, are still its property, if the Customer fails to fulfil any of his obligations toward Cheesepop.
8. The Customer shall enter the supplied goods, which are still the property of Cheesepop, as a separate asset on his Balance Sheet.
9. Goods entrusted to Cheesepop for processing shall always be at the risk of the Customer, who retains title of these goods and who should properly insure the same. Cheesepop will take due caution with regard to these goods while under its care, but accepts no liability for any damage unless such damage is caused by its culpable fault or negligence.

**XI Right of retention**

1. Cheesepop shall be entitled to hold back any of the Customer's goods for treatment or processing until all outstanding claims on the Customer have been paid in full.

**XII Payment**

1. Invoices must be paid within 30 days from the invoice date into a bank account in the name of Cheesepop.
2. Unless explicitly agreed otherwise, settlement of mutual claims is not permitted. Complaints and objections do not suspend the obligation to pay.
3. Any overdue payments shall incur a penalty interest of 1.5 per cent per month or part thereof from the due date, without a warning or default notice being required, without prejudice to Cheesepop's other rights. If the Customer fails to pay the amount(s) due after reminders or warnings, Cheesepop shall be entitled to defer or stop any further work on behalf of the Customer until the latter has fulfilled his obligations. Earlier stated terms of delivery are then extended for the duration of the delay.
4. Any outstanding invoices in the name of the Customer shall become immediately due and payable after dissolution of the Agreement as referred to in chapter XV below.
5. Cheesepop shall always be entitled to demand further securities for payment from the Customer before starting or continuing the execution of an order or Agreement.

**XIII Force Majeure**

1. No liability for damage or loss is assumed if by force majeure Cheesepop is unable to (further) fulfil its obligations toward the Customer. Cheesepop shall also be entitled to dissolve the Agreement without being liable to pay compensation for losses, or to postpone further execution thereof in full or in part for the duration of the force majeure.
2. In the event of dissolution of the Agreement due to force majeure, Cheesepop shall be entitled to payment for all goods and services it has supplied until the dissolution took effect.
3. In this context force majeure is defined as any circumstance beyond the control of Cheesepop, whether foreseeable or not, causing the execution of the order to be prevented or hampered in such a manner that, in all fairness, continuation cannot be required from Cheesepop. These circumstances include war; war risk; hostilities; revolt; riots; government measures; fire; explosion; storm; flooding; earthquake; strike; transport problems; export, import or transit embargos; and non-delivery or late delivery by suppliers.

**XIV Liability**

1. Products supplied and made or processed by Cheesepop, which are showing deficiencies that can be attributed to material or manufacturing faults, shall be taken back and replaced with other products by Cheesepop free of charge. The Customer must report such deficiencies to Cheesepop within eight (8) days after discovery. However, rather than replacing the deficient products, Cheesepop shall be entitled to take back the deficient products against a refund of the purchase price.
2. With regard to supplying deficient products, Cheesepop's liability will never extend beyond replacing or returning these products. Cheesepop assumes no liability whatsoever for any damages and/or losses caused by deficiencies, i.e. both direct and consequential damage.
3. The Customer shall indemnify Cheesepop against any third party claims for compensation for damage resulting from or related with products supplied by Cheesepop.
4. Cheesepop's liability for deficiencies to supplied products ends as soon as the Customer transfers the products in question to a third party.
5. Furthermore, Cheesepop assumes no liability for damages or losses as a result of unforeseen circumstances. In the event of final products and goods purchased by Cheesepop in an unprocessed state, these are sold "as is". In such matters Cheesepop assumes no liability whatsoever, unless explicitly agreed otherwise in writing.

**XV Dissolution**

1. Cheesepop shall be entitled to postpone or delay execution of the order in full or in part, or to dissolve the Agreement without recourse to the courts, if the Customer fails to fulfil his obligations.
2. Any costs and damages or losses, caused by the Customer remaining in default, are at his expense.
3. The Customer shall be in default by mere non-fulfilment of any obligation without further notice of default being required.
4. Cheesepop shall also be entitled to dissolve the Agreement without recourse to the courts when:

- a) the Customer applies for a moratorium on payments;
- b) the Customer is declared bankrupt;
- c) any of the Customer's goods are being seized;
- d) the Customer has passed away or, in the event of the Customer being a legal entity, when this legal entity has been dissolved;
- e) the Customer has lost the right to dispose of his property in full or in part;
- f) the Customer ceases his business activities or transfers them to others.

**XVI Costs**

1. Any costs, both in and out of court, Cheesepop believes it needs to incur to maintain or execute its rights toward the Customer, shall be at the Customer's expense.

**XVII Choice of law and forum**

1. The legal relationship between the Customer and Cheesepop is governed by the Netherlands law, on the understanding that the applicability of the provisions of the Vienna Sales Convention (C.I.S.G.) is excluded.
2. Any disputes between the Customer and Cheesepop, including those which only one of the parties considers to be a dispute, shall only be submitted to the competent court in the Midden-Nederland district (location Utrecht).