

General terms & conditions of Mushroom Office

Mushroom Office has its registered office in Den Dungen, The Netherlands, and its principal place of business in Litsersstraat 74, 5275XB Den Dungen, The Netherlands (Postal address: PO Box 2035, 5202 CA 's-Hertogenbosch, The Netherlands).

Mushroom Office gives advice and every day it renders services to companies, authorities and organizations in any possible way. This operational, techno-economical, strategic and organizational advice, information and guidance to small and medium-sized businesses, organizations, authorities and other companies in the mushroom industry is given, both by telephone and in writing, and also during company visits.

As Mushroom Office attaches much importance to good advice and guidance, Mushroom Office thinks it is also important to have clear "rules of the game". Both for Mushroom Office and for you. These rules of the game are given below in the General Terms and Conditions of Mushroom Office.

1. General

a. These terms and conditions apply to all offers and quotations and all agreements concluded with Mushroom Office with respect to services, like for example advice, information, research and sale of movable property by Mushroom Office.

b. Stipulations deviating from these terms and conditions are only valid if these have explicitly been agreed upon in writing by all parties.

2. Offer/order

a. All offers and/or quotations are without engagement, unless it has been stipulated explicitly that they are irrevocable, and - unless expressly otherwise stipulated - they are valid during fourteen days, counted from the date of the offer and/or quotation.

b. Agreements can only be concluded by written acceptance by Mushroom Office of an order, or by execution of the order by Mushroom Office.

c. The number of activities covered by an agreement is determined by the offer, including the changes that are inserted later on by mutual agreement.

3. Prices

a. The prices given by Mushroom Office are exclusive of value added tax (VAT) and other government levies.

b. The prices published by Mushroom Office in catalogues or in any other form, are not binding Mushroom Office. After concluding the agreement, Mushroom Office is entitled to raise the agreed prices in case of among other things interim price increases and/or surcharges on freight, customs tariffs, prices of goods and/or raw materials, taxes, wages or social security charges, depreciation of the Dutch currency and/or appreciation of foreign currency, and in case of those government measures that make prices rise.

c. In case of increased net prices, the customer is entitled to cancel the agreement, provided that he shall give notice in writing to mushroom office within fourteen days after having been informed about the increase of net prices. In case of cancellation of the agreement, the customer has no right to compensation.

4. Execution of the agreement

a. The agreement shall be executed within the (estimated) period that has been determined in consultation with the customer and that is mentioned in the offer, unless this turns out not to be reasonably feasible. If the deadline threatens to be exceeded, Mushroom Office shall discuss this as soon as possible with the customer. However, Mushroom Office shall never be in default de jure by just exceeding the deadline.

b. By concluding an agreement Mushroom Office only binds itself to carry out the ordered activities, seeking to achieve a useful result for the customer.

c. With respect to the application of crop protection advice, Mushroom Office bases its advice on the applicable statutory provisions (statutory user instructions, etc.). The user instructions (doses, application techniques, etc.), both given orally and in writing, are based on extensive tests. Mushroom Office advises its customers to the best of its ability and applies today's relevant know how, which also implies that Mushroom Office cannot vouch for the unknown harmful consequences of the advised use of crop protectors arisen at the time that advice was given.

d. In the event of Mushroom Office selling movable property, Mushroom Office will not provide any guarantee other than described in the offer, without prejudice to any guarantee given by the manufacturer that can solely be claimed against the manufacturer. Mushroom Office will solely carry out additional work following approval of the customer, after which the costs of additional work may be charged to the customer.

e. With respect to confidential information of the customer provided to Mushroom Office in the framework of execution of the agreement, Mushroom Office shall observe secrecy, in that sense that Mushroom Office shall never publish these data in a way that they can be directly traced to the customer. A further obligation to observe secrecy shall expressly apply if this has been explicitly agreed upon in writing.

f. Research results shall be disclosed anonymously, unless upon written request of the customer secrecy has been agreed, the period of secrecy not exceeding one year counted from delivery date/invoice date.

g. An obligation to observe secrecy, if any, of Mushroom Office does not apply as far as Mushroom Office would then act contrary to its legal tasks and obligations.

5. Obligations and responsibility of the customer

a. In case of inspection of samples, the customer is responsible for the selection and representativeness of the samples and he is also responsible for timely delivery of the samples to Mushroom Office.

b. In case of advice by Mushroom Office with respect to the use of crop protectors or fertilization the actual application or use and storage, are not controlled by Mushroom Office. This implies that the responsibility for correct execution of the given advice fully rests with the customer.

c. The customer accepts that there is a real possibility of misinterpretation of the questions or advice in case of telephone advice, and that the risk of misinterpretation of the question or misinterpretation of the advice shall be borne by him.

6. Delivery, risk and ownership

a. Movables will be delivered from the business address of the Mushroom Office branch with which a contract is concluded and at the moment of delivery the risk of these goods passes to the customer.

b. In case of delivery of movables Mushroom Office remains the owner of all goods delivered to the customer until the purchase price of all goods has been paid in full.

c. Copyright and all other intellectual or industrial property rights of given advice and information remain exclusively vested in Mushroom Office.

7. Payment

a. Payment shall be made within fourteen days of the date of invoice, unless otherwise explicitly agreed upon. Mushroom Office will send an itemized invoice to the customer.

b. If no fixed price has been mentioned in the order confirmation or agreement, then it has been admitted between the parties that the amount payable will be determined by Mushroom Office on basis of subsequent calculation according to Mushroom Office's usual rates and methods.

c. Mushroom Office is entitled to send invoices at regular intervals. Mushroom Office may at all times require payments in advance, even if this is not included in the order confirmation or agreement.

d. In case of overdue payment the statutory interest is, without notice of default being required, payable from due date and so are all costs incurred with respect to collection.

e. In case of payment, the other party does not have recourse to compensation, deduction or deferment.

f. In the event of the customer cancelling a consultancy visit, course or suchlike, which had been agreed between Mushroom Office and the customer, is made more than two weeks in advance of the time of consultancy visit, course or suchlike the customer shall pay 10% of the agreed price and the already made costs by Mushroom Office. If the customer cancel less than two weeks in advance of the time of consultancy visit, course or suchlike the customer shall pay 100% of the agreed price.

8. Liability

a. Mushroom Office is only liable for the damages that are directly caused by a failure in the execution of its obligations imputable to Mushroom Office. If Mushroom Office is liable for direct damage to the customer in virtue of the contractual liability referred to in the previous sentence and/or in virtue of any other matter, it is liable to a maximum amount of € 11,500.-- or to at most the amount that the customer is obliged to pay in virtue of the agreement if this amount is higher. This direct damage also includes the damage that the customer sustains due to application or use of the result of the activities of Mushroom Office; however it does not include any lost profits of the customer as a consequence of the activities of Mushroom Office.

b. The customer indemnifies Mushroom Office and/or the persons employed for the execution of the agreement against all claims from third parties in virtue of the damage sustained by these third parties due to the application or use of the activities of Mushroom Office by the customer or another person whom the customer has provided with the results of the activities.

9. Complaints

a. The customer cannot appeal against the fact that the deliverable does not comply with the agreement if he/she has not given notice in writing to Mushroom Office within the reasonable period after he/she has discovered or reasonably should have discovered that the deliverable is not in accordance with the agreement.

b. Complaints with respect to invoices, externally visible defects of the deliverable and reasonably detectable inaccuracies in case of advice or deviations from the assignment, should be submitted with Mushroom Office in writing within four weeks of the date of invoice, in default whereof any appeal against these shortcomings and/or inaccuracies becomes extinguished.

10. Dissolution

Mushroom Office shall be entitled to dissolve the agreement and shall have the right to claim damages from the customer, if the customer fails imputably, if he/she applies for a moratorium on payments, if he/she is declared bankrupt, if the customer dies, or - in case of a legal person - if this legal person is dissolved, or if the company of the customer is wound up.

11. Applicable law and competent court

Only Dutch law applies to the agreements concluded with Mushroom Office. All disputes will in the first instance be settled by the competent court in 's-Hertogenbosch (The Netherlands), unless Mushroom Office gives preference to the court in the place where the customer has his registered office or domicile, or unless imperative law prescribes otherwise.