

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

1. Without prejudice to the application of any special terms and conditions included in a separate written agreement, these general terms and conditions apply to all agreements between the public limited liability company ("*naamloze vennootschap*", abbreviated into "*NV*") under Belgian law Diversi-Foods, with registered office at Industrieweg 29, B-9420 Erpe-Mere, Belgium, with VAT number 0443.920.993 and registered with the Ghent register of legal entities (Dendermonde division) under the number 0443.920.993 (hereinafter referred to as "Diversi Foods") and its customer, as well as to all quotes, offers and order confirmations of Diversi Foods. In the event of a conflict between these general terms and conditions and any separate written agreement or another document from Diversi Foods, the provisions of the separate written agreement or the other document from Diversi Foods shall prevail.
2. By executing an agreement (by signing an order form, making a payment or any other action), the customer accepts that these general terms and conditions form an integral and inseparable part of such, unless the customer demonstrates that it was actually unable to be aware of these terms and conditions before concluding the agreement. These general terms and conditions take precedence over any general terms and conditions of the customer, the applicability of which is expressly rejected by Diversi Foods.
3. Unless the parties agree otherwise, the goods will be delivered to the address of the customer's registered office. The customer undertakes to receive the goods and to make the required space available for such. The costs of delivery are borne by the customer, unless Diversi Foods and the customer agree otherwise in writing. All possible taxes, import duties and other levies that apply from delivery are for the expense of the customer. In the event that the customer wishes to invoke the applicable provisions of a global or European trade agreement (such as TTIP or CETA), the customer must indicate this to Diversi Foods in due time before entering into an agreement, and provide the necessary documents. Failing this, Diversi Foods cannot be held liable for all possible consequences that arise from the possible late communication or delivery by the customer of documents in this regard.
4. The delivery times stated by Diversi Foods are purely indicative and do not bind Diversi Foods. However, in the event of a disproportionate delay in delivery, the customer has the right to terminate the purchase in writing and without judicial intervention, provided that Diversi Foods has still not delivered within a period of two (2) weeks after Diversi Foods was given written notice of default by the customer. The customer explicitly waives any other possible means of redress, in particular the awarding of any form of damage compensation.
5. The risk applicable to the goods sold transfers to the customer upon delivery. Nevertheless, the goods remain the property of Diversi Foods until fully paid for, even if they are (re)sold by the customer. As long as full payment has not been made, the customer may not pledge or lend the goods, or use them as collateral in the broadest sense of the word, or otherwise restrict or impede (the exercise of) ownership of Diversi Foods. In the event of seizure of (a part of) the goods sold, the customer must immediately inform Diversi Foods thereof and do everything necessary to effect the lifting of the seizure.
6. The customer will immediately receive the sold goods upon delivery and examine whether the quality and/or quantity of the delivered goods corresponds to what was agreed. Any visible defects concerning the delivered goods must be reported to Diversi Foods in writing without delay, i.e. within 24 hours after delivery. Complaints due to visible defects are only valid and will only be investigated on condition that the goods sold have not yet been put into use by the customer. Such complaints do not suspend the payment obligation of the customer.
7. Any hidden defects concerning the delivered goods must be reported in writing by the customer to Diversi Foods immediately and no later than one (1) week after delivery. After the expiry of this period, the customer's right to register a complaint concerning hidden defects lapses. Such complaints do not suspend the payment obligation of the customer. No complaint for defects, whether visible and hidden, will be taken into account if the goods have been stored, handled, processed, treated or used improperly or contrary to the instructions for use.
8. Insofar as Diversi Foods depends on the cooperation, services and delivery of third parties in carrying out its obligations (whereby appointees of Diversi Foods are not considered to be third parties), it is not liable for any damage resulting from their actions, including serious or intentional error on their part.
9. The invoices are payable at the registered office of Diversi Foods and must be paid within two (2) weeks after the invoice date, unless stated otherwise on the invoice or the parties have agreed otherwise. In the absence of effective payment on that day, interest accrues by operation of law ("*ipso iure*") and without notice of default, of 8% per year until the date of effective payment. In the absence of timely payment, the customer is also by operation of law ("*ipso iure*") and without notice of default liable for damages of 10% of the total amount. Any complaint regarding an invoice must be received in writing by Diversi Foods within three (3) calendar days after receipt of the invoice, under penalty of inadmissibility.
10. If doubts arise at any time as to the creditworthiness of the customer, Diversi Foods is entitled to demand payment in advance for deliveries still to be made, or to request (other) guarantees, even if the goods have already been sent in whole or in part. If the customer refuses to comply, Diversi Foods is entitled to dissolve the agreement immediately, unilaterally, without judicial intervention and without compensation. In this case, the customer is obliged to bear all costs already incurred in connection with the start-up (such as, for example, certificates, laboratory tests ...), which Diversi Foods will invoice to the customer.
11. Diversi Foods has the right to terminate the agreement with the customer at any time, with immediate effect, without judicial intervention, without prior notice of default and without payment of any damage compensation, if the customer, despite a written notice of default with a grace period of at least two (2) weeks, remains in default regarding the (timely and proper) fulfilment of one or more obligations arising from the agreement. In the event of termination, Diversi Foods is furthermore entitled to claim compensation for all costs, interest and damage that Diversi Foods has suffered, and all debt claims of Diversi Foods against the customer become immediately due and payable.
12. In the event that deferment of payment is permitted by Diversi Foods or a payment arrangement has been agreed with the customer, this arrangement shall lapse in the event of bankruptcy, manifest insolvency or a situation of collective concurrence between the customer's creditors that lasts longer than 30 calendar days.
13. The customer may never invoke any right of setoff.
14. If at the request of the customer the invoice is issued in the name of a third party, the customer/co-contracting party remains responsible for its payment and is jointly and severally bound for the debt.
15. All agreements are deemed to be concluded in Erpe-Mere, Belgium.
16. The possible nullity or invalidity of one of the clauses or parts of the clauses mentioned here does not affect the validity of the other (parts of) clauses.
17. These general terms and conditions and all agreements with Diversi Foods are exclusively governed by and construed in accordance with Belgian law, to the exclusion of all provisions of the Vienna Convention (CISG), and in the event of disputes regarding the interpretation or implementation of these general terms and conditions or an agreement with Diversi Foods, only the courts of the judicial district of Ghent (Dendermonde division) are competent.