

ESSENTIA (BHI A/S): GENERAL CONDITIONS OF SALE AND DELIVERY

1. APPLICATION

These General Conditions of Sale and Delivery shall govern all orders accepted or contracts entered into by Essentia (BHI A/S) (hereinafter called "Essentia") and the purchaser. Any deviation from the General Conditions of Sale and Delivery shall be subject to written agreement between the parties. Any general conditions of purchase on the part of the purchaser shall not be recognized, unless approved in writing by Essentia.

2. PLACE OF DELIVERY AND TRANSPORT

The parties' agreement on transport, costs of transport and the passing of the risk appears from the order confirmation on the obverse hereof, defined as Incoterms 2010.

3. DELAY

Essentia shall not be liable for delay in delivery as a result of force majeure, for example strike, civil unrest, war, natural catastrophes, government intervention, outbreak of diseases among livestock and similar, major impediments to effecting delivery, whatever the nature hereof. Delay shall be deemed non-fundamental unless it appears from the order confirmation that any delay is deemed fundamental or unless Essentia is still unable to supply the goods agreed after a substantial delay has occurred defined as 14 days after the purchaser's written request.

Even though it does not appear from the agreement, Essentia shall be entitled to deliver its performance by installments, provided that such delivery by installments is not of major inconvenience to the purchaser.

In the event of substantial delay according to the above, the purchaser is entitled to demand re-negotiation of the contract concluded or cancellation hereof respectively. If the contract is cancelled, the purchaser shall be entitled to compensation for documented direct costs defrayed in connection with the purchaser's performance of the cancelled contract, but the purchaser is not otherwise entitled to compensation for other losses including loss of business opportunities, loss of profit, loss of time or other indirect losses. If a substantial delay occurs after Essentia has commenced delivery by installments, the purchaser shall pay for the installments delivered in accordance with the contract.

4. PAYMENT

Unless otherwise agreed, the purchase sum falls due for payment at the same time as the risk passes according to the clauses agreed upon.

Payment must be made to the bank account printed on the invoices and the purchaser is only discharged from its payment obligation when payment is made to this bank account. Information about change of payment instructions requires crediting the invoice with prior payment instructions and issue of new matching invoices with the new payment instructions. In the event of delayed payment, interest is added at the rate equivalent to the official discount rate fixed by the Danish central bank plus 6% as from the date of maturity until payment is executed.

If – in the opinion of Essentia – the purchaser's ability to pay is impaired after conclusion of the contract or once performance hereof has commenced, Essentia is entitled to demand security for payment of the purchase sum or pre-payment hereof respectively.

If payment terms are Cash Against Document or similar and the purchaser unjustifiably cancels the contract, rejects the goods or fails to take possession of the goods when required to do so, the purchaser is liable for all costs, expenses and losses involved with Essentia's resale or destruction of the goods including without limitation loss of purchase price, costs of freight, warehouse costs, demurrage, brokers fees, destruction costs etc.

5. CERTIFICATES

The purchaser's requirements for veterinary certificates must appear from the order confirmation on the obverse hereof, inclusive of special requirements as a result of any transiting of the goods. If the purchaser has made no special requirements as to veterinary certificates, only the veterinary certificates of the country of origin will be enclosed. The purchaser is responsible for ensuring that Essentia does not breach any statute, ordinance, public authority decision or other public resolution by providing the goods in the order confirmation.

6. EXPORT REFUNDS

If Essentia is entitled to export refunds from the EU in relation to the goods supplied, cf. the (sub)headings of the common customs tariffs stated in the order confirmation or otherwise, the purchaser will be responsible for ensuring that Essentia receives well in advance of any deadlines in EU or national legislation all required documentation in relation to the export of the goods to the country of destination (including without limitation all documents related to the customs clearing within 1 month of the goods crossing the border of the country of destination) to enable payment of the EU export refunds to Essentia. The purchaser guarantees that all conditions related to the import to the country of destination and subsequent use and further circulation of the goods under applicable EU or national legislation for Essentia's entitlement to export refunds are adhered to. The purchaser will at its own cost assist Essentia in relation to any investigations or request for further documentation from EU or national authorities related to the goods. The purchaser will indemnify and hold Essentia harmless from any damages, claims, sanctions (including penalties or reimbursements), costs or expense (including reasonable fees for attorneys and other professionals to settle any claim in or out of court) arising out of the purchaser's failure to fulfill its obligations in relation to the goods.

7. EXTRAORDINARY COSTS

The purchaser shall compensate Essentia for any extraordinary costs if the purchaser's circumstances prevent Essentia from effecting punctual delivery, for example demurrage costs and costs of driving to Essentia's supplier in vain, as a result of the purchaser's non-prepayment in time, etc.

8. RESERVATION OF TITLE

Essentia reserves title to the goods until the entire purchase sum and any costs relating to the delivery, dispatch and insurance of the goods have been paid by the purchaser or security for the purchase sum has been provided as agreed. Until this has happened, the purchaser shall not be entitled to resell the goods or otherwise dispose of the goods in any way violating Essentia's reservation of title.

9. DISCLAIMER – QUALITY AND PURITY

Essentia's suppliers are required to operate documented quality systems and all material from Essentia's suppliers is fully traceable at receiving point and throughout Essentia's entire process, storage and distribution. Reference samples are analyzed (not DNA) in accordance with independent internationally approved methods to ensure that they conform to quality and compositional standards. However, as specifications are based upon typical results from reference samples, and because of the nature of the raw material some variations may occur. Essentia provides no warranty that the goods are free from impurities, trace elements or cross-species contamination and it is the purchaser's responsibility to conduct tests to ensure that the goods are fit for the purchaser's intended purpose and that the purchaser's use of the goods is in accordance with existing legislation and standards.

10. COMPLAINTS

If the purchaser claims that the goods suffer from any defect, the purchaser shall without undue delay complain in writing to Essentia, stating all the specifications of the goods such as country of origin, quality etc. and describing the alleged defect. As for obvious defects in fresh goods the purchaser shall complain no later than 3 days after receipt and as for frozen goods no later than 8 days after receipt. In the event of hidden defects the complaint shall be made as soon as the purchaser has or should have detected it (by conducting tests or otherwise). The purchaser shall store the goods technically correct until Essentia or Essentia's representative on site has had the opportunity to examine the goods.

If the goods suffer from no or only non-fundamental defects, the purchaser is obliged to pay for Essentia's costs incurred in connection with handling the complaint, for example travel and accommodation costs, survey costs etc.

11. LIABILITY FOR DEFECTS

Essentia is only liable for fundamental defects in the goods and, provided that the purchaser has complained about a fundamental defect within the deadline set out in section 10 and the complaint is justified, Essentia will at its discretion refund the purchase price or make a replacement delivery within a reasonable time. In addition Essentia is liable for the purchaser's documented direct loss caused by the defective goods. The purchaser is not entitled to compensation for other losses including loss of business opportunities, loss of profit, loss of time or other indirect losses and Essentia's total liability is limited in accordance with section 13. Section 3 shall apply to delays in respect of replacement deliveries. If goods are used as a component or ingredient in the purchaser's products and a fundamental defect in the goods causes damage to such products or results in a loss for the purchaser, Essentia is subject to a timely and justifiable complaint according to section 10 and 11 liable for the purchaser's documented direct loss. The purchaser is not entitled to compensation for other losses including loss of business opportunities, loss of profit, loss of time or other indirect losses and Essentia's total loss is limited in accordance with section 13.

12. PRODUCT LIABILITY

Essentia is liable for damage or injury caused by a defective product according to the general rules of Danish law and limits its liability to the furthest extent possible in relation to product liability. Additionally, section 13 below also applies to the furthest extent possible and the purchaser is not entitled to compensation for indirect losses including loss of business opportunities, loss of profit, loss of time. The purchaser must promptly notify Essentia of any claims or suits for which it may assert indemnification from Essentia and the purchaser will permit Essentia to assume or participate in the defense of any such claims or suits. The purchaser will cooperate with Essentia in such defense when reasonably requested to do so and will not compromise or settle the claim or suit without Essentia's prior written consent, not to be unreasonably withheld or delayed.

13. LIMITATION OF LIABILITY

Except where by law its liability cannot be excluded or limited, Essentia shall not be under any liability (whether in contract, tort, breach or statutory duty or including any liability for negligence or otherwise) for any indirect or consequential loss (including any loss of business opportunities, loss of profit or loss of time) suffered by a purchaser as a result of the purchaser having entered into an agreement with Essentia, including any act or omissions by Essentia or its representatives. Essentia's aggregate liability in contract, tort, breach or statutory duty or otherwise, including any liability for negligence or otherwise, howsoever caused arising out of or in connection with the result of the customer having entered into an agreement with Essentia shall be limited to the lower of DKK 10 million and the aggregate amount Essentia received as compensation under the agreement per a rolling 12 month period prior to the incident which has resulted in liability, from time to time less any production costs relating hereto.

14. VENUE AND APPLICABLE LAW

The venue for any dispute arising out of the order confirmation on the obverse hereof and these General Conditions of Sale and Delivery shall be Danish courts.

Danish law shall apply to the settlement of any dispute with the exception of the Danish Act No. 733 of 7 December 1988 incorporating the United Nations Convention on Contracts for the International Sale.