

## Commentary to the General terms and conditions of purchase- Kräuter Mix GmbH

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With the introduction of new laws in the Federal Republic of Germany we have made allowances in consideration of the standards of the UN purchase rights to achieve the standardization of the purchase rights desired in the European Union. We therefore adapted our General purchasing conditions in the sense of a fair reconciliation of interests between buyers and suppliers to the changed legal requirements and considered the rights of the supplier substantially more extensively than in our past General terms and conditions. For the clarification of this position we wrote the following comments in coordination with our lawyers.

Our revised General purchasing conditions correspond generally to the UN purchase rights, supplemented by conditions of German law and appropriate individual specifications for the Food Sector, which cannot be catered for by the legislators in the general purchase laws.

We do not accept the conditions of the Drogen- und Chemikaliensvereins (VDC), Hamburg, since these do not correspond any longer in all respects to the changed legal basic conditions (by the way, the supplementing validity of the German rights is also referred to in these conditions).

### **To § 1.3: Validity of the general terms and conditions for registered traders**

It is defined that these conditions do not apply to consumers.

### **To § 3: Purchase made on the basis of the sample approval or analysis approval**

Since there are no precise time specifications in the legal regulations, we adhered to the period defaults of the trading conditions of the Drug and Chemical Association for commercial transactions (VDC), Hamburg. Deviating from the VDC conditions however, a contract is only binding if the appropriate samples were expressly approved of in writing by us.

### **To § 4 und § 6: Nature of the goods**

Here we defined the quite vague UN Purchase rights and conditions (*article 35 f: A commodity must be supplied, which corresponds to the requirements of the contract in every regard. Every deviation justifies a contradiction to the terms of the contract, the commodity must for suitable for the defined purpose!*). The defined purpose of the supplied commodity is for the use as food and/or pharmaceuticals; therefore we must insist on the adherence to the relevant German and European Food, and if necessary, Pharmacopoeia legislations. (thus also are the regulations contradicting chemical and biological impurities and genetic treatment of the commodity and/or the seeds not tolerable). Since we are liable, due to legal regulations and our certification according to DIN ISO 9001:2000 and IFS, for the adherence to these conditions on behalf of our customers and/or the final consumer, we must demand the adherence to these regulations from our suppliers. Deviating definitions of the quality can be agreed upon in individual contracts and thereby overrule these general conditions. This is binding for both contract parties.

### **To § 8.1 u. 2: Period allowed for the notification of defects**

In our General terms and conditions the period for notification of recognizable defects (recognizable defects are such, which can be found with normal goods receiving controls) 20 working-days starting from delivery of the commodity and for hidden defects 20 working-days starting from discovery of the defect. The defect must have however already existed on supply of the commodity. Defects which develop during storage, e.g. decreases in weight or reduction of oil rate, do not fall under this regulation!

These periods were defined in such a way by us that all necessary and usually lengthy **complex investigations**, e.g. Pesticide analysis, are able to be completed and to be evaluated. Also in this case we follow closely the VDC condition § 15, which allows a period of maximum 3 weeks for external analyses starting from delivery of the commodity.

We define in addition here the inaccurate regulation § 38f of the UN Purchase rights, which provides for an appropriate period for the notification of the defect, which are discovered due to external investigations, after a timely conclusion of the investigation. Thereby we create better security for both contracting parties.

### **To § 8.3 u. 4: Statute of limitations**

The statute of limitation fixed in our General terms and conditions is 2 years starting from date of delivery of the commodity; with demands for recourse from a third party 5 years starting from delivery! These periods correspond to the German laws! The substantially shorter periods in the VDC conditions **do not** fulfil the legal periods and are therefore irrelevant.

Abtswind, 31.01.2005

Legal department Kräuter Mix GmbH