

## TRANSLATION OF THE FRENCH GENERAL PURCHASING CONDITIONS

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### **General conditions applied to purchases, agreements with sub-contractors and services**

#### **I SCOPE OF VALIDITY**

The following conditions apply to purchase orders placed with suppliers on behalf of Egelhof company and to all purchase orders on behalf of Egelhof concerning goods, works or services (named "deliveries" in the following), with the exception of previously written agreed and contrary agreements on behalf of Egelhof. General or specific conditions on behalf of the supplier, his sub-contractors or his own suppliers are excluded unless in cases where these are more favourable.

In case of an acceptance of purchase orders from Egelhof, start of their execution or given simple accordance of purchase orders with supplier's quotation, specific purchase order conditions as well as these conditions are to be deemed accepted by the supplier without any further formalities.

In cases where supplier declines to accept these conditions, he will have to inform Egelhof correspondingly by registered letter including mail receipt within a period of 8 days from date of the order. If he fails to do so, he is considered to have finally accepted these conditions. In case that he declines to accept these conditions, the purchase order becomes void.

#### **II PURCHASE ORDERS**

Orders require acceptance of these conditions by the supplier, see clause 1 above.

Only orders with correct signatures are considered binding by Egelhof.

Any oral purchase order or orders given by phone only apply in cases where they have been confirmed in written by Egelhof. Every order must be confirmed by the supplier within a period of 8 days from date of order, otherwise Egelhof may cancel their order.

Egelhof reserve the right to cancel any order that has already been confirmed and they may cancel it without observation of any period up to the delivery delay no matter for which reason as soon as they consider a cancellation justified. Even in case of such a cancellation, the supplier is not entitled to any compensation.

No payment - not even an instalment - can be made before receipt of a written order confirmation on behalf of the supplier.

Any reservations on behalf of the supplier must be mentioned clearly and in written on the order confirmation. In cases where they regard these conditions, they are considered as a refusal including the consequences resulting due to such a refusal. If a modification of individual order conditions is required, the written consent of Egelhof becomes necessary.

If it should become necessary for Egelhof to change their order during fulfilment of contract up to the start of production, they will have to inform the supplier.

Within the scope of reasonableness, Egelhof may require changes with regard to design and execution related to the object to be delivered. While doing so, consequences in particular in respect of additional, lower costs and delivery delays must be considered adequately.

### **III COMMERCIAL PROPERTY**

Drawings, diagrams, descriptions, samples, tools or tools produced by the supplier according to Egelhof's instructions etc. - named "documents" in the following - that have been handed over to the supplier by Egelhof, remain exclusive Egelhof property. The supplier is not allowed to use them otherwise than for the fulfilment of Egelhof's orders nor to forward them to third parties without prior and written consent from Egelhof.

Egelhof reserve all proprietary rights with regard to deliveries produced in such a way.

The supplier is obliged to pay attention to the fact that his employees, managers, sub-contractors and all of his staff in general will observe these obligations and guarantees that these persons are going to comply with this arrangement.

Upon Egelhof's first request, however in any case directly after execution of the purchase order, the supplier will return all documents at his own expenses to Egelhof.

The supplier will be held responsible for each damage and for loss, theft and (complete or partial) destruction of the documents entrusted to him. He will hence have them adequately insured.

#### **IV OBJECT OF PURCHASE ORDER**

The delivered goods must in any respect be in accordance with the order, technical description, specification and any other document and samples approved by Egelhof.

On the basis of his specialization, the supplier grants for an advisory service.

He enables technical staff named by Egelhof to control current manufacture in his premises or that of his suppliers. In case of a failure or non-conformity in respect of the order, they will not allow a delivery of goods.

The fact that Egelhof carry out controls, accept the goods or technical documentation does not result in a change nor reduction of contractual or legal responsibility on behalf of the supplier.

The supplier is held solely liable for the fact that deliveries are in accordance with specific order conditions as well as for their perfect execution.

Not even the slightest change of the order object may be executed without prior or written consent of Egelhof.

It may by no means be assumed that an acceptance of goods has taken place during or after completion of manufacture in the supplier's facilities.

#### **V DELIVERY MODES**

Deliveries are to be understood free buyer's (Egelhof's) premises, exclusively between 7.00 a.m. and 12.00 p.m. and between 1.00 p.m. and 5 p.m., excluding Friday afternoon or to any other agreed place of destination.

Egelhof cannot be required to pay for any storage costs.

#### **VI DELIVERY DELAYS**

Delivery delay mentioned in the order is binding. It applies from date of receipt of the order and always applies to documents and shipments that are delivered to the agreed place of delivery. The supplier will have to take carriage and delivery delays into account.

Delivery date is the latest permitted date of performance which must not be exceeded. A non-observance of this date is to be automatically considered as a reminder and entitles to a reduction of the total order's price by 0.5 % per day in default, regardless of other consequences resulting from a delay in delivery like costs, damages and interests, lost profit, penalties for default etc. which Egelhof have to sustain or are claimed by a customer - all of which the supplier will be held responsible for.

These financial results are shown in debit notes and are - if applicable - balanced with supplier's invoices.

In cases where no reservations in respect of the delivery are made, this cannot be considered as a relinquishment of the application of this arrangement.

In case of a delay in delivery, Egelhof reserve the right - even in cases where part deliveries have been promised within the agreed period - to cancel the rest of the order with registered letter including mail receipt without having to pay for any damages incurring due to such a cancellation.

If not otherwise agreed, part deliveries are not allowed. Therefore a delivery is considered performed as soon as the complete order quantity has been delivered.

In cases of an act of God, delivery delays are postponed on condition that the act of God has been properly documented by the supplier and accepted by Egelhof.

The supplier will inform Egelhof with registered letter including mail receipt within a period of 7 days from beginning of the act of God on its presumed period and consequences.

Egelhof reserve the right to accept the postponement of delivery delays or to cancel their full order or part of it. A non-payment of controversial invoices may not justify any delay in delivery nor a refusal to deliver the goods.

## **VII COSTS AND RISKS OF DELIVERY**

Deliveries are to be understood free buyer's (Egelhof's) premises or to any other agreed place of destination in accordance with Incoterms CCI dated January 2000.

The supplier bears the risks for carriage and delivery of goods. Agreements with regard to carriage's payment do not have an effect on this supplier obligation.

As far as the delivery is concerned, the supplier signs any insurance, declaration of value or claim for damages.

Egelhof are not obliged to carry out a receiving inspection nor an acceptance of goods.

The supplier must carry out all of the necessary controls on the products manufactured and/or delivered by him, independently of an eventual Egelhof receiving inspection and is held liable for the delivered goods' quality. Controls carried out by Egelhof do not release the supplier from his responsibility.

## **VIII VISIBLE DEFECTS - NON-CONFORMITIES**

8.1 As for claims on behalf of Egelhof concerning visible defects, incorrect quantities or a non-conformity of delivered goods with order or delivery note, neither formalities nor a certain period of information is required.

Moreover claims do not depend on a measure to be taken by Egelhof as against the forwarder.

8.2 Independently of the moment of their discovery, Egelhof advise the supplier about such defects by letter or fax.

Goods being object of this claim are made available to the supplier and are returned to him on his request at his own expenses and risks.

All of the negative consequences due to such visible defects or missing conformity are to be borne by the supplier. This applies in particular to analyses, controls and examinations, damages, costs charged by the customer, lost profit, costs, loss etc. and in general for all injuries to persons and damages to property, direct or indirect immaterial damages suffered by Egelhof or which have been charged by their own customers. Egelhof's right to claim a replacement of controversial goods or to cancel the agreement is not restricted.

The supplier is committed to take out an insurance policy as per paragraph 10 which covers visible defects and non-conformities.

Payment eventually effected before discovery of a defect cannot be considered as an acceptance on behalf of Egelhof that the goods are free from defects and have been properly delivered.

## **IX WARRANTY AND LIABILITY**

### **9.1 Quality engagement on behalf of the supplier**

Deliveries made by the supplier must be in accordance with safety regulations and agreed technical features. Changes with regard to the object to be delivered are subject to prior written consent on behalf of Egelhof.

In cases where Egelhof require samples, series production can only be started after samples' approval. The supplier must check quality of the goods to be delivered on a continuous basis, must provide equipment guaranteeing for this kind of quality standard and must equip his quality assurance system in such a way that it meets the requirements as per DIN ISO 9000-9004.

Moreover the supplier must inform Egelhof on possible quality improvements. In case that nature and scope of tests, test equipment and methods have not been clearly defined between Egelhof and the supplier, Egelhof are willing - if requested by the supplier - to provide their knowledge in order to define required tests.

In as far as the supplier has received documents for the production from Egelhof, he is obliged to take them into account with regard to nature, condition and execution of the object to be delivered.

### **9.2 Legal liability**

The supplier is held fully liable for latent defects on goods as per the articles 1641 and 1645 of the CC (code civil).

He expressly waives the stipulations as per article 1648 of the CC.

Egelhof reserve the right to either return the goods with defects at the supplier's expenses and risks against reimbursement of the purchase price or to require a price reduction as per article 1644 of the CC. This applies independently of all claims for damages and interests, costs, lost profit, expenses etc. incurred by the supplier and refers to all bodily injuries and damages to property and to all direct or indirect immaterial damages.

In case of a resale of goods to a third party, the supplier is committed to be fully liable for any claim for compensation on behalf of this third party according to the previously mentioned agreements.

The supplier is committed to take out the insurance policies defined in the following paragraph 10 in order to cover legal liability.

### **9.3 Contractual liability**

Except a more favourable condition on behalf of the supplier or a special agreement, overall warranty period for development, design, functioning etc. with regard to delivered goods amounts to 24 months from delivery to end user.

During this period, contractual liability fully applies to defects, parts and staff costs, travelling expenses, etc. and in general to all costs, damages, etc. claimed related to liability.

With the exception of incidents that cannot be attributed to the supplier, no limiting or excluding liability stipulation is allowed.

On first request from Egelhof, the supplier is obliged to fulfil all obligations resulting from this liability. Egelhof reserve the right:

- to either claim for replacement or rework on deliveries
- or to claim for the issue of a credit note.

The supplier thus takes responsibility for all consequences of defects - no matter whether these are visible defects, non-conformities or whether contractual liability is concerned.

In case that rework is required by Egelhof or in case of a replacement, the supplier takes all necessary steps in order to reduce the period of non-availability of goods to a minimum. Each delivery of replaced goods and each rework is covered by a new liability being identical to that mentioned in this paragraph. Contractual liability is covered by insurance policies according to paragraph 10.

## **X INSURANCE**

The supplier is obliged to pay for financial consequences due to bodily injuries, damages to property and direct or indirect damages incurred by Egelhof on behalf of their customers or third parties due to delivery of goods and advice.

Independently of the defect's cause (paragraph 8 and 9), he is obliged to have this liability covered by insurance companies known to be solvent.

Even in cases where the supplier entitles a third party to carry out whole or part of the order, he remains solely and completely liable for obligations in respect of the current agreement made with Egelhof and their customer.

The supplier is obliged to obtain the consent from the insurance companies covering all of the risks named in the current general conditions to waive their rights of recourse which they may claim by executing their rights on behalf of the supplier as against Egelhof, their managers, staff, etc.

## **XI RETENTION OF TITLE**

The delivery of goods implies the passage of title, independently of the date of actual payment and irrespectively of every retention of title clause.

## **XII RIGHT OF CANCELLATION**

Every order can be cancelled fully or in part with legal effect without making legal steps necessary provided that the following conditions are given:

12.1 In cases where the supplier does not fulfil all or part of the current conditions, a cancellation will come into effect within 8 days after futile formal notice sent in form of a registered letter including mail receipt requiring to fulfil its obligation immediately.

## 12.2 In cases

- where unforeseeable circumstances aggravating a fulfilment of the terms of the contract will occur for Egelhof, like act of God, incidences, strike, interruption of operation, etc.
- where considerable changes of the demand on behalf of Egelhof or their customers occur, like a decline in sales, change of schedule on behalf of their customer, etc.

a cancellation is made by registered letter including mail receipt addressed to the supplier. The cancellation is made either immediately or after prior information according to the circumstances fixed by Egelhof. Egelhof reserve the right to cancel the delivery of ordered goods or to fail to pay cancelled goods, excluding those cases where Egelhof opt for a delivery delay's extension adapted to relative circumstances.

Only production costs including raw materials and staff costs which have incurred during the start of performance of an order and can be proved, will be borne by Egelhof. The supplier expressly waives any compensation and all general costs, etc.

## **XIII PRICING**

The price due is the one being agreed on the date when orders are placed. Any further change which has not been expressly accepted is not allowed.

## **XIV INVOICES - PAYMENT MODES**

### 14.1 Invoices

As far as invoices are concerned, the supplier is obliged to scrupulously observe the regulations stated in article 31 of the decree dated 1<sup>st</sup> December 1986 and to send the invoice as soon as delivery has been made. He is obliged to mention statutory regulations, in particular those regarding rebates, price reductions and reimbursements as well as payment conditions and trade discounts.

## 14.2 Payment modes

In cases where other agreements are made, payment on behalf of Egelhof is effected within 14 days from receipt of invoice or goods - in case that goods are delivered late - after deduction of a 3 % discount or within 60 days under the same conditions net via bank transfer or cheque.

In cases where goods that have been delivered too early are accepted, due date depends on the agreed delivery delay.

## XV COMPETENCE OF THE COURT

Competence of the court is Strasbourg, even in case of several defendants or a warranty claim.

French laws will become applicable.

### **NOTE:**

For all disputes only the text of the original French version becomes applicable.

Fellbach, 3rd September 2002