



GENERAL TERMS AND CONDITIONS OF PURCHASE

of

all companies of the Castolin Eutectic Group

1. Scope of Application of these Purchase Terms

The following General Terms and Conditions of Purchase ("**Purchase Terms**") shall exclusively govern the entire legal relationship of the respective purchasing company of the Castolin Eutectic Group (hereinafter referred to as "**Castolin**") on the one side and Supplier on the other side. Supplier accepts these Purchase Terms as binding upon acceptance of Castolin's purchase order or, at the latest, upon (i) delivery of the goods ordered ("**Goods**") and/or (ii) provision of the services to be rendered ("**Services**"). The applicability of Supplier's conflicting, deviating or supplementary terms and conditions shall be excluded, even if Castolin does not expressly object to them or if Supplier indicates that it is only willing to deliver in accordance with its own terms and conditions. These Purchase Terms shall also apply to all future transactions with Supplier.

2. Conclusion of Contract

- 2.1 Castolin's purchase orders are only binding if (i) made in writing or (ii) placed by electronic data interchange ("**EDI**") in accordance with the standards agreed between the parties for electronic data interfaces. Verbal purchase orders or orders placed by telephone are not binding and require a written confirmation in order to become binding. Amendments to and changes of the purchase orders or any supplements thereto shall only be binding if made in writing or by EDI.
- 2.2 An order confirmation that deviates from the purchase order constitutes a counter-proposal and shall be binding only if accepted by Castolin in writing. Under no circumstances shall silence on the part of Castolin be deemed as acceptance of an order confirmation that deviates from the original purchase order.
- 2.3 If and to the extent the parties agree on framework agreements that do not specify binding quantities of Goods to be delivered by Supplier at a specific date, the respective individual purchase contract will be concluded when Castolin has placed its call-off order with Supplier. No further order confirmation from Supplier is required in this case.

3. Performance Date, Shipping Documents, Force Majeure

- 3.1 The date of which (i) the Goods are to be delivered and/or (ii) the Services are to be provided ("**Performance Date**") as specified in Castolin's purchase order is binding.
- 3.2 The agreed Performance Date is met

- (a) if the Goods have arrived at the agreed delivery address at the agreed time and in the agreed quantity;
 - (b) if the Services have been rendered as contractually agreed and Castolin's acceptance of the Services has taken place; or
 - (c) if the parties have waived the acceptance criterion as specified in Section 9.2 and the Services have been rendered as contractually agreed by the agreed Performance Date.
- 3.3 Supplier must inform immediately Castolin without undue delay in writing about all circumstances, including their cause and anticipated duration, which could affect Supplier's compliance with the Performance Date.
- 3.4 If the Supplier exceeds the agreed upon Performance Date, the Supplier shall be in default of delivery. Castolin reserves the right to terminate the contract and/or claim damages, provided that a reasonable grace period set by Castolin has expired with no success. A grace period, however, is not required if the parties have agreed on a binding Performance Date or if Supplier informs Castolin that it will not be able or willing to deliver within the grace period or in any other cases where Castolin cannot reasonably be expected to wait until the expiry of a grace period.
- 3.5 As the case may be, Castolin may send the Supplier a non-binding rolling forecast of the expected orders in the following months and the expected delivery quantities of Goods ("**Forecast**"). In other cases, Castolin may on a regular basis place binding orders with the Supplier for the delivery of certain quantities of Goods ("**Revolving Orders**"). Therefore, the Supplier shall maintain sufficient production and delivery capacities to fulfil the orders to be expected on basis of the Forecast and/or the Revolving Orders with respect to four (4) weeks supply of Goods if they are finished products and eight (8) weeks of supply of Goods if they are raw materials.
- ~~3.6~~ In the event of delay or disruption of the delivery of the Goods and/or the provision of the Services due to unforeseeable events such as acts of God, war, labor disputes, natural disasters, epidemics, pandemics, riot, quarantine restrictions, administrative or official orders, freight embargoes, irregular industrial action or due to other unavoidable and severe events beyond Supplier's control and sphere of influence and for which it is not responsible, Supplier shall give Castolin prompt written notice of the force majeure event and its possible impact on Supplier's compliance with the Performance Date. If it is foreseeable that (i) the Performance Date cannot be met, (ii) other essential contractual obligations of the Supplier will not be performable or (iii) the force majeure event will cause a considerable reduction of Castolin's requirements of the Goods and/or Services, Castolin shall be entitled, at its sole discretion, to terminate the affected contract with immediate effect in full or in part.
- 3.7 If not agreed otherwise, deliveries shall be made DAP place of destination (Incoterms 2020) specified in Castolin's purchase order. If no place of destination is specified in the purchase order, delivery shall be made DAP Castolin's address (Incoterm 2020) on the purchase order. The risk of accidental loss or deterioration of the Goods shall be borne by Supplier until their arrival at the agreed destination. The destination shall be the place of performance.

- 3.8 Supplier shall attach to each delivery of Goods a bill of delivery in duplicate containing the following information: date of order, order number, other identifiers as required in the order, quantity of Goods. Supplier shall send a duplicate of this bill of delivery to Castolin under separate cover by e-mail or fax. Any additional costs incurred by Castolin due to Supplier's non-compliance with the shipping instructions shall be charged to the Supplier.
- 3.9 Partial deliveries of Goods shall not be permitted unless Castolin has given its express consent.
- 3.10 Unless otherwise specifically agreed, Supplier shall be obliged to provide for shipping and packaging as set out in the CCWE Delivery Conditions which are made available to Supplier from time to time.
- 3.11 On Castolin's request Supplier must take back free of charge any transport packaging as well as any retail and outer packaging at any time or, in the event of recurrent deliveries, at the time of the subsequent delivery.

4. Termination for Insolvency

Castolin shall be entitled, at its sole discretion, to terminate any unfulfilled contract with immediate effect in full or in part if debt settlement proceedings (in particular insolvency) are instituted against the assets of the Supplier or an application is filed in this respect and, despite specific request, the Supplier cannot prove the obvious unfoundedness of such application within a reasonable time period. Castolin's further statutory rights shall remain unaffected.

5. Terms of Payment

- 5.1 The price indicated in the purchase order for the delivery of the Goods and/or the provision of Services is fixed. Prices charged for Goods listed on the order are not subject to increase, including specifically any increase based upon changes in raw material or component pricing, labor or overhead, unless specifically agreed in writing by a Castolin's authorized purchasing representative. If not agreed otherwise, the price shall be fixed and apply DAP place of destination as set out in Section 3.7 (Incoterms 2020) and it in particular includes free shipping to the delivery address, packaging, freight, insurance and other ancillary costs, however, it does not include customs duties and VAT.
- 5.2 Payment of the invoiced amounts shall be made at Castolin's discretion within fourteen (14) days with a discount of two percent (2 %) or within sixty (60) days net, unless provided otherwise. These time limits shall commence on the day on which Castolin receives the invoice, but in no event before Supplier has completed the order.
- 5.3 Supplier's invoices shall be sent to Castolin in duplicate, separately from the delivery and shall indicate the order number. They must contain the exact wording of the purchase order as well as the number, date and other identifiers of the purchase order.
- 5.4 Supplier shall not have a right of set-off or retention.

6. Passing of Title

Supplier's retention of title will only be accepted by Castolin if and to the extent Supplier retains title until it receives the purchase price to the delivered Goods. Any extended or expanded retention of title by Supplier shall be excluded.

7. Competitiveness

Supplier warrants that the Goods and/or Services and their provision respectively remain competitive in terms of cost, quality, delivery time, technology and customer support, with substantially similar goods and services available to Castolin from third party suppliers. If Castolin can procure similar goods and services from a third party supplier under better conditions, be it for example in terms of a lower price and/or better quality, Castolin may, in its sole discretion, give Supplier the chance to meet these better conditions. If Supplier fails to meet these conditions, Castolin shall be entitled, at its sole discretion, to terminate any unfulfilled contract for good cause with immediate effect in full or in part.

8. Goods: Quality, Rights in case of Defects

8.1 The quality of the Goods and Supplier's responsibility for their quality shall be governed by the respective individual agreements of the parties. Supplier shall deliver the Goods free from defects in quality and title. Besides, the Goods shall be in accordance with the latest state of the art, shall comply with all applicable safety regulations. In addition, the Goods shall be delivered with all certifications, declarations and permits, which are agreed between the parties, customary or required by statutory law. Further, the Goods shall be delivered with requisite clear written manuals, guidance notes, warnings and instructions as may be necessary to ensure the proper and safe handling, use and storage of the Goods by Castolin or its customers, including any necessary instructions and advice as to accident procedures and environmental containment measures.

8.2 Supplier shall be obliged to implement measures of quality control with the understanding that Castolin shall not be obliged to inspect the Goods received with respect to the quality. However, Castolin shall notify Supplier within a reasonable time of any short deliveries or other defects which are discovered during any visual inspection or at a later time.

8.3 If Supplier is in breach of its obligations according to Section 8.1, Castolin shall be entitled, at its sole discretion, to demand the repair of the non-conforming Good or the delivery of a replacement Good (together "**Subsequent Performance**"). Castolin shall set a reasonable grace period for Subsequent Performance. Subsequent Performance by Supplier also encompasses all expenses required for the purpose of Subsequent Performance, in particular transport, workmen's travel, work, sorting and material costs. Supplier shall also bear the costs for removal of the defective Goods and installation of the repaired Goods of the replacement.

8.4 Should Subsequent Performance fail or should Supplier be unable to remedy the defect within the grace period, Castolin shall be entitled, at its discretion, to (i) terminate the contract against reimbursement of the purchase price; (ii) demand a

price reduction and/or (iii) claim damages or reimbursement of expenses. The damages claim shall in particular encompass all direct, indirect, consequential damages, as well as losses, costs and/or expenses incurred by Castolin or a third party as a result of the defect. Any further statutory rights of Castolin due to defects of the Goods shall be remain unaffected.

- 8.5 In addition, Castolin shall be entitled at Supplier's expense to remedy the defect of the Goods itself or to exchange the defective Goods for a replacement procured otherwise if, for particular reasons of urgency (e.g. if Castolin might suffer damages that are particularly high compared to the costs remedying the defects), Castolin is not in the position (i) to notify Supplier of the defect and the imminent damages and (ii) to grant it a time limit for Subsequent Performance without occurrence of the damage.
- 8.6 The statute of limitation period shall be thirty-six (36) months as of delivery of the Goods, unless statutory law provides for a longer limitation period. If Castolin has notified Supplier of the defect in due time, the statute of limitations for claims based on defects is suspended until Supplier has finally rejected responsibility for the defect or has declared that the defect has been remedied. If Supplier accepts its obligation for Subsequent Performance, the Subsequent Performance shall trigger the commencement of a new statute of limitation period. In the event the defect is remedied the new statute of limitations shall only apply to the remedied defect. If replacement Goods are delivered, the statute of limitations shall apply to the entire replacement.
- 8.7 Acceptance of delivery and the payment shall not be deemed to constitute an acknowledgement of correct delivery.

9. Services: Specifications, Acceptance, Rights in case of Services not rendered as contractually agreed

- 9.1 The specifications of the Services and Supplier's responsibility for their provision, shall be governed by the respective individual agreements of the parties. Supplier shall render the Services in accordance with the latest state of the art, professionally and expertly in accordance with the industry standard and it shall comply with all applicable safety regulations.
- 9.2 Unless agreed otherwise in writing, any Services to be rendered by Supplier shall be subject to Castolin's acceptance. Upon completion, Supplier shall inform Castolin that the Services is completed and available to Castolin for acceptance. Castolin shall accept the Services within ten (10) business days after they were made available, if the Services do not have any defects that preclude acceptance. If the Services are not accepted within ten (10) business days after they were made available, Supplier is entitled to request acceptance by Castolin in writing, setting a deadline of at least fourteen (14) days. Upon expiry of this renewed deadline, the Services shall be deemed accepted.
- 9.3 If Supplier is in breach of its obligations according to Section 9.1 and if due to the nature of the Services a re-performance of the Services, including but not limited to repetition or rectification (together "**Re-Performance**") is possible, Castolin shall be entitled, at its sole discretion, to demand a Re-Performance of the Services to bring

them in the agreed manner. Re-Performance of the Services by Supplier also encompasses all expenses required for the purpose of Re-Performance, in particular transport, workmen's travel, work, sorting and material costs. Supplier shall also bear the costs for removal and installation of any items incurred in connection with the Re-Performance.

- 9.4 Should Re-Performance of the Services as described in Section 9.3 fail, should Supplier be unable to remedy the defect within the grace period, or if due to the nature of the Services Re-Performance should not be possible, Castolin shall be entitled to all rights and remedies specified in Sections 8.4 and 8.5, which shall apply *mutatis mutandis*. The limitation period as specified in Section 8.6 shall also apply *mutatis mutandis*.

10. Supplier's Declaration

Supplier undertakes to provide Castolin with a long term supplier's declaration, which is applicable for the respective Goods and their origin. Upon request of Castolin, Supplier has to confirm the respective information in the format of the declaration provided by Castolin.

11. Indemnification, Product Liability, Product Recall

- 11.1 If the Goods delivered by Supplier and/or the Services rendered by Supplier are defective or non-conforming or if Supplier is in breach of any of its other contractual obligations, it shall be obliged to indemnify, hold harmless, and defend Castolin, its directors, officers, employees, agents, subsidiaries, affiliates, and customers upon first demand against all claims, demands, damages, liabilities, losses and expenses (including reasonable attorneys' fees), including, without limitation, government regulatory action and investigations arising from Supplier's breach or non-compliance, unless caused by Castolin's negligence. Supplier shall reimburse all of Castolin's necessary expenses in connection with these claims.
- 11.2 Supplier is obliged to obtain insurance, in a reasonable amount, against the risks of product liability for the Goods delivered and/or Services performed by it. Upon written request, Supplier shall provide Castolin with proof of the insurance coverage within two weeks from receipt thereof. Should Supplier fail to provide proof of such insurance, Castolin shall be entitled to take out such insurance at Supplier's expense.
- 11.3 If Castolin is obliged to conduct a recall due to Goods and/or Services being defective, Supplier shall bear all necessary expenses in connection with this recall to the extent such expenses stem from the Goods and/or Services being defective.

12. Confidentiality of Documents and Information

- 12.1 Castolin shall retain all ownership rights and copyrights to its illustrations, drawings, plans, calculations, materials, samples, models, drafts, prototypes, tools, equipment and other devices, items or documents (jointly "**Items**"). Without Castolin's express written consent, the Items shall not be made available to third parties nor reproduced or used for purposes other than those determined. Unless provided otherwise, the Items of Castolin may be used exclusively for executing the purchase orders of Castolin. After execution of the purchase order the Items must be returned to Castolin.

on request without undue delay. Supplier shall treat the Items of Castolin with care and shall store them separately.

- 12.2 Also after completion of the purchase order, the parties undertake to treat all non-public commercial and technical know-how and information of the respective other party that they become aware of due to the business relationship ("**Information**") confidential and shall refrain from making the Information available to third parties. This shall apply in particular to any Information that is incorporated in an Item according to Section 12.1 and is related thereto.
- 12.3 The prohibition to pass on Items according to Section 12.1 and Information according to Section 12.2 to third parties does not apply if and to the extent the party receiving the Information and Items solely passes them on to those of its employees who need to know the Information and Items to fulfill the purchase order ("**Authorized Persons**"). The exception from the obligations stipulated in Sections 12.1 and 12.2 shall only apply, however, if, within the scope of the legal possibilities and beyond the termination of their legal relationship with the receiving party, these employees are obliged to comply with Sections 12.1 and 12.2.
- 12.4 The obligation under Section 12.2 shall not apply to any Information that
- (a) has already been common knowledge at the time of disclosure or becomes common knowledge afterwards without any breach of the obligations set out in Section 12.2;
 - (b) the party obliged to maintain confidentiality legally receives or has legally received from a third party if the third party or the person from whom the third party received the Information is not obliged to maintain confidentiality;
 - (c) upon disclosure of the respective Information to the party that is obliged to maintain confidentiality is already known to that party independent from the other party and without using the Information received so far; this exception from the confidentiality obligation shall only apply if the obliged party objects to its confidentiality obligation without undue delay after receipt of the Information.
- 12.5 Section 12.4 shall apply *mutatis mutandis* to the obligation according to Section 12.1 if and to the extent the Items represent Information that is not already subject to the confidentiality obligation according to Section 12.4.
- 12.6 With respect to safeguarding the confidentiality of the Information, either party undertakes to employ the same degree of diligence and care it would employ in its own matters; in any event, it must at least employ the diligence and care as is usual in the ordinary course of business.
- 12.7 On request of Castolin, Supplier must insure all Items mentioned in Section 12.1 against fire and theft at its own expense for as long it has them in possession.
- 12.8 Supplier undertakes to oblige any sub-suppliers used by it to comply with the provisions set forth in Sections 12.1 to 12.7.

13. Intellectual Property Rights

- 13.1 Supplier shall ensure that (i) the Goods and/or Services, (ii) the delivery of the Goods and/or performance of Services by Supplier and (iii) the use of the Goods and/or Services by Castolin in accordance with the contract do not violate any industrial property rights of third parties.
- 13.2 Supplier shall be obliged to indemnify, hold harmless, and defend Castolin, its directors, officers, employees, agents, subsidiaries, affiliates, and customers upon first demand against all claims, demands, damages, liabilities which are asserted by third parties due to the breach of such industrial property rights and to reimburse all necessary expenses in connection with these claims.
- 13.3 Any other warranty claims of Castolin shall remain unaffected.

14. Compliance with Laws, Code of Conduct

- 14.1 Supplier is obliged to maintain an effective integrity and compliance program. In particular, such program must be designed to prevent and amend any violations of ethical standards and must ensure compliance with all applicable federal, state, and local laws, orders, conventions, standards and regulations of all jurisdictions, including all countries of origin or delivery, ("**Laws**") relating to the Goods and/or Services, their manufacture, use, sale, importation, exportation, labeling, or otherwise, including without limitation, any Laws relating to equal employment opportunity, veterans' rights and jobs listing provisions, child labor, wages and work hours, affirmative action, and all laws and regulations relating to occupational safety and health, the principles of fair trade and sustainability as well as the Castolin Code of Conduct. Supplier shall obligate its upstream suppliers to comply with the aforementioned regulations to the same extent and shall monitor such compliance. The Castolin Code of Conduct is available for download on the Internet at www.castolin.com.
- 14.2 Supplier warrants that (i) the Goods and/or Services shall comply with and conform to the requirements of all Laws; (ii) its production location shall at all times comply with and conform to the requirements of the Laws applicable to the manufacturing of the Goods and (iii) the contract shall be deemed to incorporate by reference all the clauses required by the provisions of said Laws, orders and regulations binding upon Supplier.
- 14.3 All materials used in manufacture shall satisfy current legal, governmental and/or safety constraints on restricted, toxic and hazardous materials, as well as environmental, electrical and electromagnetic considerations applicable to the country of manufacture and sale.
- 14.4 Supplier shall have a process to assure that governmental and safety constraints on restricted, toxic and hazardous substance are complied with relative to the Goods and/or Services.
- 14.5 All on-site work of Supplier shall be conducted in a manner which is protective of the environment. All applicable environmental Laws must be complied with. All waste materials must be properly disposed of. Any potential environmental impact must be fully disclosed to Castolin in writing prior to the commencement of work and all methods that can provide proper protection and prevent violations or accidents must

be incorporated in Supplier's work. Supplier must submit all records relating to all environmental impacts and compliance with all applicable Laws or as requested by Castolin.

- 14.6 In the event of non-compliance with this Section 14, Supplier shall be liable for any ensuing damage incurred by Castolin. Such damage may derive from civil, criminal or administrative law (e.g. additional claims for foreign tariffs, additional customs duties, fines and similar). Furthermore, Castolin may refuse fulfillment of its obligations under the respective contract to the extent that the fulfillment of any such obligation is prohibited under Law. In this case, Supplier shall have no damage claims or claims for the reimbursement of expenses vis-à-vis Castolin, and no right of rescission. In addition, in the event of non-compliance with this Section 14, Castolin shall be entitled, at its sole discretion, to terminate any unfulfilled contract with immediate effect in full or in part.

15. Data Privacy

- 15.1 Supplier shall implement reasonable security measures to comply with all applicable laws relating to data protection, privacy and security, including but not limited to the General Data Protection Regulation ("**GDPR**"), when processing personal data.
- 15.2 In the event of non-compliance with Section 15.1, Supplier shall be liable for any ensuing damage incurred by Castolin. Such damage may derive from civil, criminal or administrative law (e.g. additional administrative fines and similar).

16. Change of Product and Production Location

Supplier shall inform Castolin in writing with reasonable prior notice, but in no event shorter than six (6) months, about any intended change of its products and/or production location. Supplier shall not change the products and/or production location of the Goods without prior written consent of Castolin, which shall not unreasonably be withheld.

17. Audit Rights

- 17.1 Castolin shall be entitled to inspect Supplier's production location at any time during regular business hours upon prior notice of ten (10) business days and to review the production location, the quality management system and/or the quality documentation. In case of repeated defects of the Goods, Castolin shall be entitled to exercise the aforementioned audit rights immediately without observing a notice period.
- 17.2 Either party shall bear the costs it incurs in connection with such audit.

18. Final Provisions

- 18.1 The transfer of a purchase order to third parties, including the assignment of the rights and obligations arising hereunder, require Castolin's prior written consent. Castolin shall be entitled to transfer or assign any right and obligation arising from the purchase order to any other company of the Castolin Eutectic Group.

- 18.2 The invalidity of single provisions of these Purchase Terms shall not affect the validity of the remaining provisions or the contract. The invalid or void provision shall automatically be replaced by such valid provision that reflect the economic purpose intended by the parties as closely as possible.
- 18.3 Amendments and supplements to the contract and/or these Purchase Terms and any side agreements must be made in writing in order to be effective. The same shall apply to the amendment of this written form requirement.
- 18.4 The laws of the jurisdiction in which the respective purchasing company of the Castolin Eutectic Group has its registered seat shall apply with the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 18.5 Exclusive venue for any and all disputes arising from or in connection with the contractual relationship of the parties shall be at the registered seat of the respective purchasing company of the Castolin Eutectic Group. Castolin shall be entitled, however, to sue Supplier at any other court having statutory jurisdiction.