

**GENERAL TERMS AND CONDITIONS OF PURCHASE**  
**OF CASTROL GERMANY GMBH**  
**FOR DELIVERIES AND SERVICES**

Version: January 2024

**1. Scope of application**

- 1.1 These General Terms and Conditions of Purchase (hereinafter referred to as "**GTCP**") are part of all purchase orders, assignments and contracts, including all framework contracts such as, for example, bulk purchase contracts (*Mengenkontrakt*) or value contracts (*Wertkontrakt*), (hereinafter collectively and individually referred to as "**PO**"), which Castrol Germany GmbH, entered in the commercial register of the Local Court (*Amtsgericht*) of Hamburg under HRB 165892, or Castrol Industrie und Service GmbH, entered in the commercial register of the Local Court of Mönchengladbach under HRB 6301 (each of the entities above hereinafter individually referred to as "**CASTROL**") furnishes or concludes from Germany in connection with the delivery of products and goods (hereinafter collectively referred to as "**Goods**") and/or the provision of other services (*Leistungen*), provided that these GTCP are incorporated into the relevant PO.
- 1.2 The GTCP shall also apply to any request for proposal or quotation by CASTROL (hereinafter collectively referred to as "**Proposals**") from as well as to any future business with the contractor (hereinafter referred to as the "**Contractor**") concerning the purchase of Goods and/or other services, namely in the version in force at the time of the respective transaction.
- 1.3 Conflicting, additional or otherwise deviating terms and conditions put forward by the Contractor are hereby rejected. They will apply only if and to the extent CASTROL has declared expressly and in writing that it agrees to them.

These GTCP shall apply even if CASTROL, with knowledge of terms and conditions of the Contractor which conflict with or otherwise deviate (e.g. through additional provisions) from the GTCP, accepts the delivery and/or other service without reservation.

**2. Elements of a PO and their Order of Precedence**

The PO shall be constituted by the following elements and these shall be read and construed as mutually complementary, but in the event that there is any conflict between them they shall apply in the following order of priority:

- 2.1 the purchase order, assignment or contract document itself (including its annexes except for such annexes listed separately under clauses 2.2–2.4 below);
- 2.2 the minutes of negotiations (if existent and referenced in the purchase order, assignment or contract document);
- 2.3 these GTCP;
- 2.4 any special and general technical conditions and regulations relating to the object of the PO (e.g. DIN standards).

**3. Requests and POs, Proposals by the Contractor, Conclusion of Contract, Form Requirements, Further Correspondence**

- 3.1 If CASTROL requests a Proposal from the Contractor, then such request shall be binding for the Contractor's Proposal. The Contractor shall explicitly indicate any deviations of its Proposal from CASTROL's request. The request is non-binding on, and may be altered by, CASTROL. Proposals, drafts, samples and models from the Contractor are provided to CASTROL free of charge and do not constitute any obligation on the part of CASTROL. Unless otherwise agreed, no remuneration or compensation is payable for site visits or the preparation of Proposals, projects etc.
- 3.2 It is incumbent upon the Contractor to inform itself of the prevailing conditions on the site prior to the submission of its Proposal and prior to the beginning of work. For deliveries and other services, the net price, exclusive of value added tax, shall be quoted.
- 3.3 Any PO furnished or agreed upon verbally or by telephone as well as any subsequent amendment or change of a PO, including these GTCP or other elements of the PO, agreed upon verbally or by telephone has to be confirmed by the parties at least in text form for the purposes of proof and proper documentation. Any other form requirements provided for by the PO, including these GTCP, or by law remain unaffected.
- 3.4 If the Contractor has any concern regarding the specifications for the delivery of Goods or other services as provided for in CASTROL's request or the PO, then the Contractor shall prior to the conclusion of the contract notify CASTROL of its concern at least in text form and wait for CASTROL's decision whether such specifications shall remain unchanged in spite of such concern. This shall in particular (without

limitation) apply to any concern regarding (i) the suitability of Goods and/or other services, thus specified, for the use to which the Goods shall be put according to the request or PO, or for their customary use, and/or (ii) the conformity of the specifications with requirements provided for by law, administrative bodies or employers' liability insurance associations (*Berufsgenossenschaften*) or generally recognised engineering rules and standards. If the Contractor does not notify CASTROL of such concerns in time or does not wait for CASTROL's decision, then the Contractor may not plead vis-à-vis CASTROL that the specifications provided by CASTROL were incorrect.

- 3.5 The Contractor shall quote the number and date of CASTROL's request for Proposal or, as the case may be, of CASTROL's purchase order in all correspondence with CASTROL including (but not limited to) invoices, certificates of delivery and/or performance (hereinafter collectively referred to as "**Certificates of Performance**"), e.g. delivery notes, and dispatch notes.

#### **4. Remuneration, Prices**

- 4.1 The agreed prices are fixed for the term of the PO, and are understood to be subject to the applicable value-added tax.
- 4.2 If the remuneration agreed is not a one-off fixed price (but e.g. to be determined on the basis of material quantity (*Aufmaß*), agreed hourly or daily rates or other unit prices (*Einheitssätzen*)), then the Contractor shall prepare and provide to CASTROL detailed written Certificates of Performance in a format to be agreed in advance with CASTROL and setting out the price calculation in a transparent and verifiable manner. Unless agreed otherwise, a Certificate of Performance regarding services provided on the basis of a time-based pay, e.g. hourly or daily rates, has to evidence the performance by way of a properly structured breakdown of the dates of performance, of the type of work performed and of the time spent for such work on each date as well as of the aggregate time spent. Unless specified otherwise in the PO, Certificates of Performance and corresponding invoices shall be submitted monthly.
- 4.3 The prices cover all costs and expenditures for the delivery to the agreed destination (e.g. address, plant, building, filling station, other place of delivery/of provision of services) including costs and expenditures for transportation and import duties ("DDP" – Delivered Duty Paid – pursuant to the ICC Incoterms 2010); the Contractor shall submit to CASTROL an invoice with German VAT. In case the Contractor does not have a VAT registration in Germany "DAP agreed destination" (Incoterms 2010) shall be deemed to be agreed. In such case CASTROL shall release the Goods for free circulation and pay the relevant import VAT. The Contractor shall submit to CASTROL an invoice without VAT and refer to the delivery condition DAP.
- 4.4 Additional goods and/or services beyond the scope of the PO will be paid only if they have been commissioned by CASTROL beforehand. Their unit prices (*Einheitssätze*) must correspond to the pricing in the PO.

#### **5. International Trade Regulations**

- 5.1 The Contractor shall ensure that, in performing its obligations under the PO, it and – subject to the provisions in clause 13 below – its sub-contractors comply with all applicable laws, rules and regulations relating to export control, trade embargoes and other trade restrictions and controls, including but not limited to Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (Dual-use Regulation) and the United States International Traffic in Arms Regulations (hereinafter collectively referred to as "**Trade Restrictions**"). Failure by the Contractor and its sub-contractors to comply with applicable Trade Restrictions shall constitute a breach of a material contractual obligation on the part of the Contractor. The Contractor shall compensate CASTROL for any and all loss or damage it incurs as a result of the Contractor's failure to comply with Trade Restrictions and shall indemnify CASTROL in full against any and all third-party claims.
- 5.2 Unless expressly agreed otherwise in the PO, the Contractor shall be solely responsible for applying for and obtaining appropriate governmental authorisations for the export and import of any equipment, software, technology goods or services to or for the benefit of CASTROL. Upon justified request, CASTROL shall provide the Contractor, at no cost to CASTROL, with reasonable assistance in determining the applicable Trade Restrictions and in applying for necessary authorisations and completing required formalities. CASTROL assumes no responsibility or liability for the Contractor's failure to properly determine applicable Trade Restrictions, obtain necessary authorisations or complete required formalities.
- 5.3 The Contractor represents and warrants that it, its affiliates, and its directors, officers, key employees or agents are not subject to restriction based on national, regional or multilateral trade or financial sanctions under applicable trade control laws and regulations.
- 5.4 The provisions of this clause 5 shall survive the expiry or termination of a PO (on whatever grounds).

#### **6. Provision, Review, Inspection and Alteration of the Delivery and/or Other Service**

- 6.1 In the provision of the goods and/or other services, the Contractor may employ only such skilled personnel (*Fachkräfte*) as possess the necessary qualifications and appropriate professional experience (hereinafter referred to as "**Competencies**"). These Competencies shall be demonstrated on CASTROL's request in the form of educational attainment, certificates or documentation of professional experience.

- 6.2 CASTROL reserves the right to verify the existence of the Competencies by means of appropriate inspections at the Contractor's or CASTROL's premises.
- 6.3 In cases where there is reason to doubt the existence of the Competencies in employees and/or sub-contractors deployed at CASTROL's premises by the Contractor, CASTROL reserves the right to request that the Contractor remove the employees and/or sub-contractors in question from the work and replace them with qualified employees and/or sub-contractors at the Contractor's expense.
- 6.4 Should the Contractor, during the provision of the contractual delivery and/or other service, realise that changes or improvements of the content and/or scope of the delivery and/or other service appear necessary or expedient, then the Contractor shall notify CASTROL of this in writing without undue delay, stating the possible changes in costs, and must obtain a decision as to whether the PO should be continued in an altered or improved form. CASTROL shall be obliged to take a decision on this without undue delay.
- 6.5 CASTROL has the right to review and inspect, or to have a third party review and inspect the delivery and/or other service which the Contractor is to provide, or any portions thereof. The Contractor shall advise CASTROL, within an appropriate period, where and when such a review and inspection of the delivery and/or other service can take place. The exercise of such review and inspection right by CASTROL shall not create or grant rights of/to the Contractor; such review and inspection shall in particular (without limitation) not be deemed to constitute an acceptance of the delivery and/or service by CASTROL.
- 6.6 The Contractor shall put CASTROL, or, as the case may be, the third party retained by CASTROL for the review, in the position to undertake the review and inspection without limitations, and must make the appropriate facilities and assistance available to CASTROL or, as the case may be, the third party retained by CASTROL.
- 6.7 CASTROL shall be entitled to request changes in the deliveries and/or services agreed upon with the Contractor. Should such a change have an impact on contractual provisions, for example with regard to payment and/or completion deadlines, the Contractor will notify CASTROL of this without undue delay. The parties will thereupon agree at least in text form any adjustment to the PO required by the change, taking account of increased or reduced costs arising from this change.

## **7. Occupational and Product Safety, Compliance with Laws and Administrative Provisions**

- 7.1 The Contractor shall be responsible for compliance (including by all sub-contractors it deploys) with all relevant occupational safety and accident prevention regulations (*Arbeitsschutz- und Unfallverhütungsvorschriften*), and any of CASTROL's internal safety rules, which the Contractor shall familiarise itself with independently. In the event of serious breaches, CASTROL shall be entitled to terminate the PO without notice.
- 7.2 The Contractor warrants that all Goods delivered or manufactured as well as all other services provided by it
- a) meet all relevant legal and administrative regulations, generally recognised engineering rules and standards, occupational safety and accident prevention regulations and regulations on technical work equipment;
  - b) are supplied with all necessary safety devices, identification labelling and user instructions; and
  - c) are so constituted that users or third parties are protected from all types of risks associated with the intended use, and in particular that any associated risks of accidents and occupational illnesses are eliminated.

## **8. Delivery Deadlines, Delayed Delivery**

- 8.1 The deadlines (dates or periods) for the delivery of Goods and/or provision of other services, including intermediate deadlines, specified in the PO or otherwise agreed are binding.
- 8.2 If the Contractor realises that it will not be possible to comply with a deadline specified in the PO or otherwise agreed for any reason, it shall inform CASTROL of this in writing without undue delay, stating the reasons for the delay and the anticipated duration of the delay.
- 8.3 The rights of CASTROL resulting from a failure of the Contractor to meet a deadline specified in the PO or otherwise agreed shall be determined in accordance with German statutory law, unless otherwise provided for by these GTCP.
- 8.4 The unconditional settlement of an invoice by CASTROL shall neither exclude nor restrict CASTROL's rights due to a failure to comply with agreed deadlines or due to any other delay in the delivery and/or service; this shall in particular (without limitation) apply to damages claims due to the Contractor being in default.
- 8.5 The Contractor can only claim that necessary documents or other advance deliverables have not been provided by CASTROL if the Contractor has sent a written reminder regarding the provision of the documents or other advance deliverables specifying an adequate grace period and this grace period has expired without result, for reasons not attributable to the Contractor.

8.6 If the Contractor delivers the Goods earlier than agreed, CASTROL reserves the right to return the Goods at the Contractor's expense. If delivery is made early but the Goods are not returned, they shall be stored at CASTROL until the agreed delivery date at the Contractor's risk and expense. CASTROL reserves the right to make payments at the initially agreed due date even though delivery occurs early.

## **9. Delivery, Packaging, Place of Performance, Certificates of Delivery and Performance (e.g. Delivery Notes)**

9.1 The Goods are to be packaged in such way that damage in transit is avoided and environmental protection aspects are taken into consideration. Where reusable, invoiced packaging is used, it shall be credited at its full invoice value upon return. The credit note must always be submitted in a single copy, indicating the invoice on which the packaging had been charged. Otherwise, all packaging material shall remain with CASTROL for disposal.

9.2 When delivering goods and/or providing other services involving hazardous substances pursuant to clause 14.1 or products pursuant to clause 14.2, then the packaging provided or used has to identify the following:

Trade name/name of substance, name and complete address including telephone number of the Contractor, pictogram or symbol for the hazard, hazard and safety instructions (risk and safety warnings/statements; or hazard and precaution warnings/statements).

9.3 Where it has been agreed that certificates on the testing of the Goods to be delivered are to be provided, these certificates form a fundamental part of the delivery and are to be included with the delivery.

9.4 CASTROL shall not be liable for deliveries of Goods which CASTROL is unable to accept due to the fact that the above provisions were not complied with. Where accepted, they are stored at the Contractor's risk and expense. CASTROL is entitled to inspect the contents and condition of such shipments.

9.5 The Contractor shall bear any costs arising from misdirection of deliveries if it is responsible for transportation or is otherwise responsible for the misdirection of the delivery.

9.6 The Contractor may only make partial deliveries of Goods and/or services if CASTROL has agreed to this at least in text form. In the case of a delivery of Goods, the Contractor must state on the delivery note that it is a partial delivery and must specify the quantity remaining for delivery.

9.7 CASTROL will only pay for additional/excess deliveries if they are used; otherwise the additional/excess Goods will be stored by CASTROL at the Contractor's risk and expense for a maximum of 8 weeks, after which CASTROL shall be entitled to dispose of such Goods.

9.8 The place of performance for a delivery or other service shall be the destination (e.g. address, plant, building, filling station, other place of delivery/of provision of services) specified in the PO or otherwise agreed by CASTROL.

9.9 The Contractor shall provide adequate and verifiable Certificates of Performance for all deliveries made and services provided to CASTROL. Each PO shall have a separate Certificate of Performance. In respect of deliveries of Goods, the Contractor shall provide a uniquely numbered delivery note. Each Certificate of Performance must show the date and number of the PO to which it relates. It has to correspond to the respective purchase order, both in terms of content and structure; it is in particular required that each item in the Certificate of Performance can be clearly attributed to the corresponding purchase order item (clear reference of the delivery or service description to the individual purchase order item). The Certificate of Performance must not contain any items other than those contained in the PO. The Certificate of Performance must exactly describe the type and scope (e.g. amount, duration) of the delivery and/or other service as well as the date and the place of each delivery and/or provision of service. In respect of deliveries and services that are not made/provided at a fixed package price, the Certificate of Performance must also meet the requirements set out in clause 4.2 above.

9.10 A Certificate of Performance which is not issued properly in accordance with the provisions of these GTCP is deemed to have not been issued at all. CASTROL may withhold payment regarding the goods and services intended to be evidenced by such improper Certificate of Performance until proper Certificates of Performance for such goods and services have been issued. Further requirements for the payment claim becoming due and enforceable (*durchsetzbar*) remain unaffected.

## **10. Transfer of Risk and Title, Acceptance**

10.1 The risk of accidental loss of, or damage to, the Goods remains with the Contractor until receipt of the Goods conforming with the PO at the location specified in the PO or otherwise agreed.

In case of deliveries requiring installation or assembly by the Contractor, risk of accidental loss or damage shall pass to CASTROL upon acceptance in writing by CASTROL.

10.2 Title in the Goods (and where other services are provided, in the materials) shall pass to CASTROL on delivery. The delivery of the Goods or materials shall not be subject to any retention of title by the Contractor. If CASTROL effects the payment for the Goods and/or other service prior to their delivery, then title in the Goods and/or materials shall pass to CASTROL upon such payment being made.

10.3 If acceptance of the delivery and/or other service is required by law or by the PO, the Contractor shall apply for such acceptance to CASTROL in writing. A written certificate of acceptance (*Abnahmeprotokoll*) shall be created and signed by the parties. A signed Certificate of Performance is no substitute for acceptance. Should partial service be agreed upon, a separate acceptance will be made for each part of the service.

## **11. Invoicing, Due Dates**

11.1 The original of the invoices are to be sent to the invoice address specified in the PO and – unless otherwise agreed – only following delivery of the Goods and/or performance of services. Each PO shall have a separate invoice. Unless otherwise expressly agreed, original invoices must not be attached to the goods delivery.

11.2 Invoices must show the number and date of the PO for which they are issued. They have to correspond to the respective order, both in terms of content and structure, it is in particular required that each invoice item can be clearly attributed to the corresponding purchase order item (clear reference of each invoice item to the purchase order item). Invoices must not contain any items other than those contained in the PO.

11.3 Furthermore, all invoices must comply with any applicable legal requirements. In particular, invoices must separately show value-added tax at the statutory rate and contain any information and comply with any other requirements that arise under the applicable laws as amended (at present, sections 14 and 14a of the German Value Added Tax Act (*Umsatzsteuergesetz*, "UStG") in particular), EU directives as well as administrative directives regarding the claiming of input tax relief.

11.4 Invoices for partial deliveries and/or partial performance must be designated as partial invoices. Final invoices must be designated as such; the same applies to partial final invoices.

11.5 An invoice which is not issued properly in accordance with the provisions of these GTCP is deemed to have not been issued at all. CASTROL may withhold payment regarding the goods and services billed with such improper invoice until a proper invoice for such goods and services has been issued. Further requirements for the payment claim becoming due and enforceable (*durchsetzbar*) remain unaffected.

11.6 Unless stated otherwise in the PO, payment of the Contractor's invoice will become due within

a) 21 days following receipt of the invoice (with a cash discount of 3%), or

b) within 30 days after receipt of the invoice (net),

provided (i) the invoice satisfies the requirements of clauses 11.1 through 11.4 above, and (ii) the Goods have been received as stipulated at their destination or the other service has been performed as stipulated.

11.7 If early deliveries are accepted, the due date for payment is based on the agreed delivery deadline.

11.8 If the invoiced Goods arrive at a date later than that of the invoice, the goods receipt date is considered to be the invoice date.

## **12. Business Policy Principles of CASTROL (Code of Conduct)**

12.1. The Contractor hereby acknowledges the principles of the business policy principles set out in the Code of Conduct of the bp Group, of which CASTROL is a part, and undertakes to adhere to, and act consistently with, these principles. The Code of Conduct may be viewed on CASTROL's website at [www.castrol.de](http://www.castrol.de) under "Human rights and environmental protection".

12.2. The Contractor hereby confirms that it has carefully read the bp Group's "Business and Human Rights Policy", and "Labour Rights and Modern Slavery Principles", which are available at [www.castrol.de](http://www.castrol.de). In connection with the delivery of the Goods and/or the provision of other services for CASTROL and consistent with these principles, the Contractor shall conduct its business in a manner that respects the rights and dignity of all people and internationally recognised human rights, including without limitation:

(a) not employing, engaging or otherwise using forced labour, trafficked labour or exploitive child labour, or procuring goods manufactured or produced using such labour; nor engaging in or condoning abusive or inhumane treatment of workers;

(b) providing workers with written terms and conditions of employment in a language they understand;

(c) not requiring workers to pay duties or fees under any pretext in return for employment or making deductions from workers' pay as security for continued employment;

(d) not withholding travel or identity documents or otherwise unreasonably obstructing the free movement of workers (directly or indirectly);

(e) ensuring access to effective grievance mechanisms and equal opportunities, avoiding retaliatory measures and discrimination and respecting freedom of association of workers, in each case within the relevant national legal framework; and

- (f) avoiding, mitigating or remedying adverse impacts on the human rights of workers or associations arising from the Contractor's activities as far as possible.

Requirements of the German Supply Chain Due Diligence Act (*Lieferkettensorgfaltspflichtengesetz*, "LkSG")

- 12.3. In connection with the provision of the Goods and/or the services to CASTROL, the Contractor shall respect the protected legal positions under section 2 (1) and comply with the prohibitions under section 2 (2) and (3) of the LkSG and promote compliance with these along its supply chain ("**LkSG Requirements**").
- 12.4. The Contractor agrees and undertakes to comply with the obligations under clauses 12.1, 12.2 and 12.3, and in particular the requirements under the LkSG
  - (a) to maintain an internal control system that provides sufficient assurance that violations of these clauses are avoided and, where violations do occur, that they are promptly detected and eliminated;
  - (b) if the violation cannot be eliminated within the foreseeable future, to notify CASTROL in writing without undue delay and specify the circumstances and should CASTROL so request, work with CASTROL to develop an action plan for eliminating or mitigating the violation within a defined timeframe;
  - (c) to provide CASTROL with such information as it may reasonably request from time to time to enable CASTROL to monitor compliance with clauses 12.1, 12.2 and 12.3 and the LkSG Requirements in particular.
- 12.5. If CASTROL has factual indications suggesting that clauses 12.1, 12.2 or 12.3 and the LkSG Requirements in particular have been violated at one of the Contractor's suppliers, the Contractor shall assist CASTROL with arranging appropriate preventive measures, including preparing and implementing an action plan to prevent, eliminate or minimise such violations by the Contractor's supplier.
- 12.6. Subject to prior arrangement, CASTROL shall be authorised to conduct audits itself or have them conducted by authorised agents at the Contractor's business premises during normal business hours and provided this does not interfere with operations. Such audits serve to monitor compliance with CASTROL's expectations in respect of clauses 12.1, 12.2 and 12.3 and the LkSG Requirements in particular.
- 12.7. In the event that CASTROL identifies a human rights violation or breach of environmental obligations or the imminent occurrence thereof at the Contractor or its supplier, CASTROL shall have the right to temporarily suspend the business relationship with the Contractor and to withhold payments or other performance owed during efforts to mitigate the risks. The foregoing right shall apply to any and all arrangements made and agreements entered into with the Contractor.

Bribery, Corruption and Money Laundering

- 12.8. The Contractor acknowledges that CASTROL has a zero tolerance policy towards bribery, corruption and money laundering. The Contractor confirms and agrees that – in relation to the PO – it will comply with all anti-bribery and corruption and anti-money laundering laws and regulations applicable to both the Contractor and CASTROL. In this context the Contractor warrants that neither the Contractor itself nor any of its owners, managing directors, senior employees, employees or other persons engaged by it, such as vicarious agents, commercial agents or other intermediaries, make, offer or promise any payments including bribes (also referred to as "Facilitation Payments") or grant any financial or other inappropriate inducements of any kind in connection with the conclusion and the implementation of the PO, which are or may be viewed as illegal practice or bribery (collectively referred to as "**Inducements**") whether directly or indirectly to third parties such as, for instance, private persons, commercial organisations, public officials or persons entrusted with special public service functions for the purposes of section 11 nos. 2 and 4 of the German Criminal Code (*Strafgesetzbuch*) ("**Public Persons**"), political parties, representatives of a political party or candidates for public office (collectively referred to as the "**Beneficiaries**") in order to procure public or private actions or decisions in connection with PO, or accept or allow such payments, bribes or inducements to be promised to them by Beneficiaries (hereinafter collectively referred to as "**Anti-Corruption Obligations**"). Facilitation Payments mean payments or other benefits provided to a Public Person which are not provided for by law and which are made for purposes of causing the Public Person to expedite or carry out an official act for which an entitlement exists, in principle, in accordance with applicable law.
- 12.9. The Contractor is obliged (a) to notify CASTROL in detail and in writing of any breach of the Anti-Corruption Obligations within the context of the PO without undue delay; (b) to ensure that the Anti-Corruption Obligations are complied with and to monitor compliance; and (c) in the event that the Anti-Corruption Obligations are breached, to permit CASTROL to have all books and records that are connected with this PO and the Anti-Corruption Obligations audited for a possible breach of the Anti-Corruption Obligations by a person subject to professional confidentiality obligations and engaged by the Contractor (e.g. auditors) and to permit them to have copies of such books and records made. If the audit reveals that the Contractor has breached the Anti-Corruption Obligations, CASTROL shall have a claim for reimbursement of any audit costs incurred by it.

## Breach of Clause 12

- 12.10. In the event that CASTROL has legitimate reasons to suspect that the Contractor has breached the obligations under this clause 12, CASTROL shall be entitled to rescind the PO or terminate any contract for the performance of a continuing obligation constituted by the PO with immediate effect or to withhold payments or any other performance owed, without prejudice to other rights. The foregoing right shall extend to the entire business relationship between CASTROL and the Contractor and apply to any and all other arrangements made and agreements entered into with the Contractor.

## **13. Use of Contractor and Sub-Contractor Personnel**

- 13.1 Sub-contractors and/or temporary workers under the German Temporary Employment Act (*Arbeitnehmerüberlassungsgesetz*) may only be used with the prior written consent of CASTROL. The Contractor must subject the sub-contractors to all obligations to which itself is bound in relation to CASTROL and shall ensure that they comply with these obligations.
- 13.2 The Contractor shall oblige the sub-contractor, in a sub-contractor agreement, to provide the Contractor on demand all required certificates of latest date from the relevant tax authorities, social insurance institutions and professional association, as well as – if necessary – work permits, to be presented to CASTROL. Moreover, the Contractor shall ensure that the employees of the sub-contractor, in case of their deployment into the operations and business locations of CASTROL, identify themselves to CASTROL's works security department (plant security, gate security guards, etc.) as sub-contractors of the Contractor.
- 13.3 The Contractor shall ensure and prove to CASTROL upon request that
- a) the Contractor's and its sub-contractor's personnel at CASTROL's premises are legally employed in accordance with German tax and social security regulations;
  - b) the Contractor duly complies with its obligations for employer payments in relation to tax authorities and social insurance institutions;
  - c) personnel's possible claims of minimum wages based on law or in accordance with the collectively agreed scale are met;
  - d) all statutory conditions relating to the ban on illegal employment of workers and the avoidance of illegal work are followed based on, by way of example but not limited to, the German Temporary Employment Act (*Arbeitnehmerüberlassungsgesetz*), the German Posted Workers Act (*Arbeitnehmerentsendegesetz*) (e.g. submission of work permits where necessary).
- 13.4 If the Contractor breaches its obligations under clause 13.1, 13.2 or 13.3, then CASTROL shall, without prejudice to any other rights it may have, be entitled to rescind the PO or terminate any contract for the performance of a continuing obligation constituted by the PO with immediate effect and/or to claim damages in lieu of performance.

## **14. Substances and Preparations with Hazardous Properties**

- 14.1 If the Contractor's deliveries or other services involve the use of a substance, mixture or product within the meaning of Regulation (EC) No 1272/2008 (CLP Regulation) or a hazardous substance under section 19 (2) no. 1 to 5 of the German Chemicals Act (*Chemikaliengesetz*, "ChemG") (hereinafter collectively referred to as "**Hazardous Substances**"), the following must be observed by the Contractor:
- a) Current safety data sheets in German (with a revision date not older than 1 year) for all Hazardous Substances shall be made available to CASTROL, in duplicate, at all times, for the first time at conclusion of the contract. The safety data sheets must include the classification of the Hazardous Substances in accordance with the CLP Regulation. In the event of any changes, CASTROL shall be sent, unrequested, an updated safety data sheet in duplicate.
  - b) CASTROL or the co-ordinator identified by CASTROL under section 15 of the German Hazardous Substances Act (*Gefahrstoffverordnung*, "GefStoffV") shall be provided, unrequested, prior to the beginning of work, with the operational instructions pursuant to section 14 GefStoffV regarding the Hazardous Substances to be used by the Contractor, and the required risk assessments according to the German Occupational Safety and Health Act (*Arbeitsschutzgesetz*, "ArbSchG") and the German Hazardous Substances Act.
- 14.2 If the Contractor supplies a substance, preparation or product within the meaning of Article 3 of Regulation (EC) No 1907/2006 ("REACH Regulation") (hereinafter collectively referred to as "**Products**"), the following must be observed:
- a) The Contractor warrants that the Products are fully compliant with the requirements of the REACH Regulation. The Contractor warrants, in particular, that the Products have been registered within the applicable periods.

b) Without prejudice to further obligations of the Contractor under these GTCP, in particular clause 9, a current safety data sheet as described in clause 14.1 a) shall be attached to the packaging at delivery, and made available to CASTROL.

14.3 Otherwise, when making deliveries and/or providing other services involving the use of Hazardous Substances and/or Products, the Contractor shall bear full responsibility for compliance with the applicable laws and regulations (in particular the REACH Regulation, the German Chemicals Act, the German Hazardous Substances Act, the German Prohibited Chemicals Ordinance (*Chemikalien-Verbotsverordnung*), the German Technical Rules for Hazardous Substances (*Technische Regeln für Gefahrstoffe*, "TRGS") and rules and regulations of the employers' liability insurance associations (*Berufsgenossenschaften*)).

## **15. Compliance with the REACH Regulation**

15.1 The Contractor represents and warrants that it has registered all substances contained in the Goods which require registration (to support CASTROL's specified applications) in accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals ("REACH") (hereinafter "REACH Registration"). For the purposes of this clause, registration of substances in the Goods supplied as intermediates shall not be deemed to be a full registration unless otherwise agreed with CASTROL.

15.2 The Contractor represents and warrants that all supplies of the Goods during the term will be compliant with REACH and Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on Classification, Labelling and Packaging of substances and mixtures ("CLP").

15.3 The Contractor will ensure that, once registered, all substances contained in the Goods which require REACH Registration continue to have full registrations in accordance with the provisions of REACH.

15.4 The Contractor will keep CASTROL regularly informed of any changes in the REACH Registration details of any of the substances contained in the Goods.

15.5 If reasonably requested by CASTROL for the purpose of legal compliance obligations (and subject to CASTROL maintaining the information as confidential in line with clause 21 (Confidentiality) and to the extent that onward disclosure is not required to meet its legal compliance obligations), the Contractor shall provide full details of the REACH Registration of any of the substances contained in the Goods.

15.6 The Contractor will ensure that the safety data sheet provided to CASTROL accurately reflects the REACH Registration and complies with the safety data sheet content requirements of REACH.

## **16. Quantity and Quality Check, Notification of Defects**

16.1 Goods acceptance is always subject to a quantity and quality check.

16.2 In respect of bilateral commercial transactions regarding the purchase of goods or the delivery of movables to be manufactured or produced, the statutory provisions regarding the obligation to inspect delivered goods for defects, and to notify discovered defects (sections 377, 381 of the German Commercial Code (*Handelsgesetzbuch*, "HGB")) shall apply with the following proviso:

a) CASTROL's inspection obligation shall in principle be limited to such defects which become evident through a visual examination of the delivered goods at an incoming goods inspection and through a quality check by way of a random sample test. Whether further inspections are required as part of the ordinary course of business depends on the circumstances of the individual case.

b) The notification of defects which become evident during the incoming goods inspection or the quality check by way of a random sample test or any further inspection that may be required shall be deemed to have been made without undue delay and in good time if it is sent within two (2) weeks after delivery.

c) The obligation to give notice of latent defects discovered at a later point in time remains unaffected. The notification in this case shall be deemed to have been made without undue delay and in good time if it is sent within two (2) weeks from the time of discovery.

16.3 As regards deviations in weight, the weight determined by CASTROL at the incoming goods inspection shall be decisive, unless the Contractor can prove that the weight determined by CASTROL is incorrect. The same shall apply to deviations in quantity.

## **17. Claims for Defects, Warranties**

17.1 The Contractor warrants that all deliveries and/or other services will be performed in accordance with the PO and are free from any defects in title and defects in quality.

17.2 The further warranties of the Contractor pursuant to clause 7.2 remain unaffected and apply in addition hereto.

17.3 The Contractor's liability for defects shall also extend to any parts of the Goods and/or other services manufactured or delivered by its sub-contractors.



- 17.4 In case of defects in the Goods and/or other services provided, CASTROL shall be entitled to assert all contractual and statutory claims and other rights without restrictions.
- 17.5 The place of performance for claims to cure performance is the factual and intended location of the defective item.
- 17.6 The Contractor is obliged to bear all necessary costs for curing performance.
- 17.7 CASTROL is entitled to withhold payment of an adequate proportion of the remuneration until proper cure of the defect.
- 17.8 If the Contractor fails to cure performance in due time or if the conditions of section 637 BGB are met, CASTROL may remedy the defect or obtain a replacement item itself or have a third party do so at the Contractor's expense. The foregoing shall also apply where urgent action is required due to imminent danger and the Contractor is not readily available or able to cure performance in due time. CASTROL reserves the right to assert any other rights it may have, such as claims for the compensation of more extensive loss or damage.
- 17.9 In case CASTROL rescinds the PO because of a defect, CASTROL is entitled to continue to use the Goods and/or the other services of the Contractor free of charge until the procurement of a suitable replacement. In case of such rescission, the Contractor shall bear the costs of taking back the delivered Goods or other items to be returned, including the costs of dismantling/removal as well as return freight, and shall take responsibility for their disposal. The provisions of this clause 17.9 shall apply *mutatis mutandis*, if CASTROL claims damages in lieu of performance because of a defect.
- 17.10 Subject to the following provisions, CASTROL's claims based on defects in quality shall become time barred in accordance with statutory law:
- a) The limitation period for claims for defects in quality shall be extended by the period of time between the notification of defects and cure. If the Contractor refuses to cure performance, the date on which the Contractor's notice to that effect is received by CASTROL shall be controlling.
- b) Where a replacement is delivered/manufactured, the limitation period shall begin upon receipt of the replacement Goods at the place of performance for the claim to cure or, if acceptance is required, upon acceptance of the newly manufactured Goods.
- 17.11 The unconditional settlement of an invoice by CASTROL shall neither exclude nor restrict CASTROL's rights regarding a defect or other substandard delivery or performance; this shall in particular apply to any damages claims which CASTROL may have.
- 18. General Provisions on the Contractor's Liability**
- 18.1 If and to the extent not provided for otherwise in these GTCP or the PO, the contractual liability of the Contractor shall be governed by the relevant provisions of statutory law.
- 18.2 If and to the extent the Contractor is liable to CASTROL for damages on the merits of the case, the Contractor must also compensate the expenditures and costs which CASTROL incurs for the purposes of mitigating, avoiding and/or remedying any damage incurred and, in the case of any defect in the delivered Goods or other services, for clarifying and remedying the defect; this shall also apply to any internal expenditure or cost of CASTROL, e.g. personnel expenditure or travel cost, relating thereto.
- 19. Termination, Rescission and Insolvency**
- 19.1 CASTROL is entitled to terminate contracts to produce a work (*Werkverträge*) (section 631 BGB) and contracts dealing with the supply of movable things to be produced or manufactured (*Werklieferungsverträge*) to the extent they are not fungible things (section 651 sentence 3 BGB) at any time in accordance with section 648 sentence 1 BGB. In derogation of the statutory provisions on the consequences of termination, if CASTROL terminates such contract on grounds for which the Contractor is responsible, then the remuneration will only be paid to the Contractor for the individual services which it has carried out up to the receipt of notice of termination and which can be used by CASTROL. CASTROL's right to claim damages remains unaffected; in particular, the Contractor must reimburse CASTROL for any additional costs that may arise.
- 19.2 CASTROL may cancel a PO for deliveries at any time up until the handover of the delivery. In this case, the provisions of section 648 BGB and clause 19.1 above apply *mutatis mutandis* to the remuneration claims of the Contractor; CASTROL shall acquire title in the partial deliveries already received and the delivery items already manufactured or procured by the Contractor for which CASTROL has requested delivery.
- 19.3 If a provisional insolvency administrator is appointed or insolvency proceedings regarding the assets of the Contractor are opened, then CASTROL is entitled to rescind the PO in full or in part or, in case the PO constitutes a contract for the performance of a continuing obligation, to terminate such contract with immediate effect. In such case the legal consequences specified in clauses 19.1 and 19.2 apply *mutatis mutandis*.

## **20. Insurance**

The Contractor shall maintain liability insurance cover at standard insurance conditions and with minimum cover in an amount of EUR 1.5 million per claim of CASTROL against the Contractor and must maintain such insurance cover for the duration of the contractual relationship, including guarantee periods and limitation periods (e.g. for defect claims), all at the Contractor's own expense. The Contractor must submit proof of the insurance cover to CASTROL upon CASTROL's request.

## **21. Confidentiality**

In addition to any other confidentiality agreements in force between the parties, the following shall apply:

- 21.1 The Contractor is obliged to treat all information that it receives as part of preparations for or implementation of the PO as confidential. This obligation continues to apply beyond the end of the business relationship; it expires 20 years from the end of the business relationship. This obligation does not apply to information that is or becomes part of the public domain or that the Contractor becomes aware of without violating any internal or external confidentiality obligations (e.g. information received from a third party without being subject to confidentiality or gained from the Contractor's own independent efforts).
- 21.2 All documents provided by CASTROL (e.g. plans, drafts, specifications, technical drawings) remain the property of CASTROL. They may not be made accessible to third parties and must be returned to CASTROL in full without special request once the PO has been completed. The specialist workers and sub-contractors commissioned by the Contractor are not considered to be third parties if they have agreed to be bound to the same confidentiality obligations in relation to the Contractor.
- 21.3 The Contractor shall be liable to CASTROL for all loss or damage incurred by CASTROL due to any breach of these confidentiality obligations by the Contractor or its vicarious agents, unless the Contractor is not responsible for such breach.

## **22. Licences, IP Rights**

- 22.1 CASTROL shall be granted a licence to use all diagrams, drawings, calculations, analysis methods, formulations and other works that the Contractor creates or develops in connection with the execution or performance of the PO.
- 22.2 The Contractor warrants that all goods and/or services provided are unencumbered by third party intellectual property (IP) rights (including patents, trademarks, copyright and other related rights). In particular, the Contractor warrants that the provision and use of the delivered goods and other services do not infringe any third party IP rights.
- 22.3 The Contractor shall indemnify CASTROL against third party claims based on any infringements of IP rights and shall bear all costs incurred by CASTROL in this context, if the Contractor has breached its obligations to CASTROL under clauses 22.1 and/or 22.2. This obligation to indemnify CASTROL shall not apply, if and to the extent the Contractor can show that it is not responsible for such breach.
- 22.4 CASTROL may at its option and without prejudice to any other rights it may have, either seek approval for use of the relevant delivered goods and services from the rights holder at the Contractor's expense or rescind the PO or, in case the PO constitutes a contract for the performance of a continuing obligation, to terminate such contract with immediate effect.

## **23. Publications, Advertisement**

The Contractor is not entitled itself or in conjunction with third parties to use any information, article, photograph, illustration or any other material of whatever kind relating to the PO in publications or for advertising purposes without CASTROL's prior written consent. This requirement shall also apply to the use of CASTROL's IP rights (such as patents, trademarks, copyrights and other related rights). Such consent requirement shall apply to each individual use.

## **24. Limitation of the Rights of Set-Off and Retention**

The Contractor may only exercise rights of set-off or retention against CASTROL with counterclaims that are uncontested or have been declared final and binding by a court of law.

## **25. Prohibition of Assignment and Transfer**

Neither party may assign the rights and obligations under the PO or any part thereof to any third party without the prior written consent of the other party. Excepted herefrom are transfers by CASTROL to an entity affiliated with it within the meaning of sections 15 *et seq.* of the German Stock Corporation Act (*Aktiengesetz*, "AktG").

## **26. Transformations and Changes of Control at the Contractor**

The Contractor shall notify CASTROL in writing of any transformation measures affecting the Contractor – in particular pursuant to the German Transformation Act (*Umwandlungsgesetz*) and comparable legal provisions in other jurisdictions, e.g. mergers, divisions (*Spaltungen*) and changes of legal form – as well as transactions by virtue of which a third party is able to exercise a controlling influence (within the meaning of section 17 AktG) on the Contractor. In such case, CASTROL reserves the right to rescind any PO that

has not yet been performed in full or to terminate any contract for the performance of a continuing obligation constituted by the PO with immediate effect if CASTROL, taking into account all circumstances of the specific case and weighing the interests of both parties, cannot reasonably be expected to uphold the PO or the contract for the performance of a continuing obligation constituted by the PO until the agreed end or until the expiry of a notice period. This shall in particular apply in the event that a direct competitor of CASTROL acquires a controlling influence over the Contractor.

## **27. Digital Security**

The Contractor shall protect the data of CASTROL at all times and deploy state-of-the-art data and information security systems and processes for this purpose. This includes implementing suitable technical and organisational measures, deploying appropriate security systems, including control and monitoring mechanisms, and ensuring that its employees handle data in accordance with the statutory and contractual requirements. The Contractor shall notify CASTROL without undue delay of any actual, threatened and/or suspected unauthorised or unlawful access to data of CASTROL, processing, deletion, loss, damage or disclosure thereof; and any accidental loss of CASTROL's data (hereinafter collectively referred to as a "Security Incident"). If a Security Incident referred to in this clause 27 occurs, the Contractor shall at its expense provide all necessary assistance as requested by CASTROL, including in the form of notifications that may be required under applicable law.

## **28. Data Protection**

28.1 CASTROL hereby advises that it will process any personal data that CASTROL receives from the Contractor according to the EU General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (*Bundesdatenschutzgesetz*, "BDSG"). The processing (including transfer to third parties) will take place only if and to the extent it is necessary for the creation, performance or termination of a contract, for compliance with a legal obligation or permission, or if the Contractor has given consent to the processing.

28.2 If CASTROL engages the Contractor for the processing of personal data on behalf of CASTROL or if personal data is transferred to it for other purposes, the Contractor hereby undertakes to comply with all applicable legal provisions, in particular data protection laws, and if required by such provisions to enter into an additional agreement with CASTROL in that regard (e.g. an agreement pursuant to Article 28 GDPR for data processing by the Contractor as controller on CASTROL's behalf or an arrangement pursuant to Article 26 GDPR between the Contractor and CASTROL to act as joint controllers).

## **29. Unlawful Restriction of Competition**

If the Contractor intentionally or negligently participates in agreements, decisions or concerted practices which have as their object or effect the prevention, restriction or distortion of competition (e.g. price-fixing, market-sharing) or intentionally or negligently breaches other provisions of antitrust law and if this (also) affects the PO, then the Contractor shall pay to CASTROL liquidated damages in an amount equal to 15% of the net amount owed by CASTROL to the Contractor under the PO, unless the Contractor can prove that the loss or damage incurred by CASTROL is lower (in which case such lower amount shall be paid to CASTROL) or that CASTROL has not incurred any loss or damage at all. Other contractual or statutory claims of CASTROL, in particular claims for remedial or injunctive relief as well as claims for the compensation of any more extensive loss or damage shall remain unaffected. The Contractor shall also in respect of breaches of antitrust law be responsible for acts of persons commissioned by or acting on behalf of the Contractor.

## **30. Place of Jurisdiction**

If the Contractor is a merchant within the meaning of the HGB, a legal person under public law or a special fund under public law, the CASTROL location where the PO was issued shall be the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. However, CASTROL reserves the right to assert its claims at any other permissible place of jurisdiction.

## **31. Severability**

If any provision of these GTCP is invalid, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced with a valid provision that most closely reflects the economic purpose intended.

## **32. Language of Contract/Governing Law**

German law shall govern, subject to the exclusion of its conflict of laws rules and the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980. German is the language of the contract. If the parties use another language in addition, the German version shall be controlling.