

## 1. Definitions

**1.1. "CASTEL ENGINEERING"**: The limited liability company "CASTEL ENGINEERING BV", with its registered office at 7700 Moeskroen, Royennestraat 84 (Belgium), VAT BE-0878.035.783, RPR/RPM Henegouwen, division Doornik;

**1.2. Customer**: Any legal person who places a purchase order with CASTEL ENGINEERING, as well as anyone who places a purchase order on behalf and for the account of that legal person, such as a HVAC-R Professional or a wholesaler selling the Products solely to HVAC-R Professionals;

**1.2. "HVAC-R Professional"**: A professional specialised in Heating, Ventilation, Air-Conditioning or Refrigeration (HVAC-R) who is supposed to have sufficient professional know-how (i) for the selection of the Products taking into account the end-users' intended use, (ii) regarding the installation, periodic inspection, maintenance and choice of the Products, as well as (iii) for the choice of installation location and product orientation;

**1.3. "Products"**: All products which are part of the product range of CASTEL ENGINEERING;

**1.4. "Terms"**: These general terms and conditions;

**1.5. "Website"**: <https://www.castel-engineering.com>.

## 2. Scope of the Terms

**2.1.** All commercial relationships between CASTEL ENGINEERING and the Customer are governed by (in descending hierarchical order): (i) where appropriate, the written and signed agreement between CASTEL ENGINEERING and the Customer; (ii) the written purchase order confirmation issued by CASTEL ENGINEERING; (iii) the purchase order placed by the Customer; (iv) these Terms and (v) Belgian law.

**2.2.** By placing a purchase order or entering into an agreement with CASTEL ENGINEERING, the Customer acknowledges to have read these Terms and thereby accepts them. The Terms always take precedence over those of the Customer, even if these stipulate to be the only valid conditions.

**2.3.** The (repeated) non-enforcement of any right by CASTEL ENGINEERING can only be regarded as tolerance with regard to a specific condition, and shall not waive the right of CASTEL ENGINEERING to invoke this at a later time.

**2.4.** The invalidity of one or more clauses of the Terms (even partly), shall not affect the validity of the other clauses and/or the remainder of that clause. In such event, parties undertake to replace it by an equivalent clause and in case of no agreement, the competent court may mitigate the invalid clause to what is (legally) permitted.

**2.5.** CASTEL ENGINEERING is entitled to update these Terms by posting a new version on the Website whereby CASTEL ENGINEERING will indicate the revision date at the top of the first page of these Terms. To make sure that the Customer is aware of any changes, it is strongly recommended to regularly consult the Website and the page displaying the Terms.

## 3. Product range & quotation

**3.1.** Catalogues, brochures and statements on the Website are entirely non-binding and may only be regarded by the Customer as an invitation to place a purchase order, unless explicitly specified otherwise. Description, properties and functionalities of the Products are purely indicative for CASTEL ENGINEERING.

**3.2.** A quotation is only valid:

- For a specific purchase order, and shall not automatically apply to subsequent (similar) purchase orders;
- For the duration as stipulated;

- On the condition that the Customer has provided CASTEL ENGINEERING with all information necessary or useful for the execution of the purchase order.

## 4. Order

**4.1.** When placing a purchase order the Customer must at least provide CASTEL ENGINEERING with the following information:

- Model number;
- Requested colour of the Product;
- Part code;
- Quantity per product/model number;
- Party responsible for transport (i.e. CASTEL ENGINEERING or the Customer);
- Place of delivery;
- Contact details of the Customer;
- Preferred date of the delivery of the Products;
- All relevant other information required by CASTEL ENGINEERING to carry out the purchase order.

## 5. Conclusion of the agreement

**5.1.** An agreement shall only become effective upon receipt of a written purchase order confirmation by a person authorized to commit CASTEL ENGINEERING, or upon the moment CASTEL ENGINEERING starts to carry out the purchase order (whichever moment comes first).

**5.2.** At all times, CASTEL ENGINEERING reserves the right to request additional information regarding the Customer, his activities or creditworthiness and – if such information is not forthcoming – to refuse or suspend the execution of the purchase order.

**5.3.** Any modifications to the agreement shall only be valid upon written agreement between CASTEL ENGINEERING and the Customer.

## 6. Cancellation

**6.1.** Following conclusion of the agreement the Customer cannot cancel the purchase order (wholly or partially), unless specifically agreed otherwise.

**6.2.** CASTEL ENGINEERING shall be entitled to cancel the purchase order itself, when:

- (i) It is based on incorrect information from the Customer, or if CASTEL ENGINEERING suspects that the Customer is purchasing the Products for reasons that cannot be objectively considered to be reasonable and acceptable;
- (ii) Prior to or during the execution of the purchase order, CASTEL ENGINEERING is no longer able to carry out the purchase order for objective reasons (such as but not limited to the unavailability of raw materials). In such event, CASTEL ENGINEERING will notify the Customer thereof within a reasonable period. Only when no alternative can be found between Parties, already paid amounts will be refunded within 14 calendar days following said notification.

## 7. Price

**7.1.** Unless agreed otherwise in writing, all prices are expressed in Euro and inclusive of any charges for CASTEL ENGINEERING's standard packaging, but exclusive of VAT and any charges for non-standard packaging, handling or processing, delivery, freight, insurance, administration and inspection of the Products before shipping and other additional costs. Additional charges shall, when not included in the price, be listed explicitly.

**7.2.** Insofar as the prices are based on the level of payroll costs, cost of components/ingredients, social security contributions and government taxes, transport costs and insurance premiums, costs of (raw) materials, exchange rates and/or other costs applicable at the time, and in the event of an increase of one or more of these price factors, CASTEL ENGINEERING shall be entitled to increase its

prices accordingly and in accordance with the legally permitted standards.

## 8. Advance payment

**8.1.** At all times, CASTEL ENGINEERING reserves the right to request the Customer for (i) an advance payment (ii) payment in full or (iii) payment by installments before commencing with the execution of the purchase order.

**8.2.** Late payment of the advance payment, the full price or one/more installments, if so agreed, will in any event lead to suspension of the delivery date. If the Customer continues this refusal to pay, even after receiving a notice, CASTEL ENGINEERING reserves the right to cancel the entire/part of the purchase order, in which case the Customer shall be held to pay a compensation, whereby at least all costs already incurred by CASTEL ENGINEERING with regard to that purchase order (with a minimum of € 250) shall be taken into account.

## 9. Time of delivery

**9.1.** The expected time of delivery is always approximate and non-binding. Exceeding the scheduled delivery time can thus not give rise to a fine, damages, substitution or termination of the agreement at the expense of CASTEL ENGINEERING, nor can it legitimize non-payment or late payment of the amounts due by the Customer.

**9.2.** Notwithstanding Article 9.1 the scheduled delivery times shall automatically expire in case:

- CASTEL ENGINEERING has not received all the necessary information, specifications and instructions from the Customer in due time;
- Of amendments of the purchase order;
- The Customer has overdue debts;
- Of Article 8.2 and Article 19.

## 10. Delivery

**10.1.** The Products shall always be delivered in CASTEL ENGINEERING's standard packaging.

**10.2.** Depending on the Customer's request, CASTEL ENGINEERING or the Customer itself can be responsible for the transportation of the Products:

- When transport is carried out by the Customer or a third party on which the Customer appeals, the Products shall be delivered Ex Works (Incoterms© 2020) the registered office of CASTEL ENGINEERING;
- When requested by the Customer in the purchase order, CASTEL ENGINEERING shall deliver the Products to the address as provided by the Customer. Such delivery shall take place in accordance with the Incoterm© 2020 as mentioned in the order confirmation. In such case, the manner of transport and the carrier will be reasonably determined by CASTEL ENGINEERING.

**10.3.** If the Customer refuses the purchase order upon delivery or is negligent in providing assistance to facilitate the delivery at the indicated delivery address, CASTEL ENGINEERING is entitled – at the expense and the risk of the Customer – to take all reasonable measures in this respect (such as but not limited to storage of the Products). In any event, any additional costs associated with the receipt of the Products shall always be borne by the Customer.

**10.4.** The Customer acknowledges that in the event the Products shall be delivered Incoterm© 2020 CIF and the beneficiary is not specified by the Customer, CASTEL ENGINEERING will be regarded as the beneficiary.

**10.5.** At all times, CASTEL ENGINEERING reserves the right to do partial deliveries and to invoice per partial delivery.

## 11. Non-conformity & visible defects

**11.1.** Upon delivery of the Products, the Customer must immediately conduct an

initial verification of the packaging or the number of carriers (such as pallets) of the Products. Following such verification, the Customer must immediately notify any non-conformity (such as damages) – at the risk of forfeiture – by indicating this on the delivery note (in case of Article 10.2 1<sup>st</sup> bullet point) or on the CMR letter or any other consignment note as provided by the carrier (in case of Article 10.2 2<sup>nd</sup> bullet point).

The following aspects (non-limitative): quantity of the Products, volume, specifications, conformity of the delivery must be verified by the Customer within 5 calendar days upon delivery of the Products or within 14 calendar days in case of sea freight. Following such verification, the Customer must immediately notify any non-conformity and/or visible defect – at the risk of forfeiture – by indicating this in writing by email.

**11.2.** If no complaints are submitted in accordance with Article 11.1, the Customer will be deemed to have approved and accepted the delivery.

## 12. Hidden defects

**12.1.** Unless specifically agreed otherwise in writing, the Products shall be covered for hidden defects during a warranty period of 12 months, which takes effect as of the moment of delivery of the Products. If the Customer notifies CASTEL ENGINEERING in writing of a hidden defect within a period of 6 months upon the delivery of the Products, the hidden defect shall rebuttable be presumed to already have existed on the moment of delivery of the Products. If a hidden defect becomes apparent after a period of 6 months, the Customer has to prove that the hidden defect already existed upon the moment of delivery of the Products.

**12.2.** The Customer must inform CASTEL ENGINEERING of any hidden defect by mail no later than 48 hours after the hidden defect has/should have been detected, at the risk of forfeiture.

**12.3.** Under penalty of disallowance of the complaint, the Customer must:

- Be able to prove that, as long as the Products are not installed by itself or its Customer, it has stored the Products carefully and correctly, in their original packaging, sheltered from climatic conditions and in accordance with the technical data sheet (which is available upon simple written request by the Customer, both before and after detection of the hidden defect);
- After detection of the hidden defect, not disassemble, repair or perform other work on the Products, or has them performed by a third party, without the prior written approval of CASTEL ENGINEERING. Nonetheless, the Customer shall, with due and proper care, take minimal measures which are necessary to minimise extra costs/damages that could occur due to the hidden defect, in which case the Customer must notify CASTEL ENGINEERING without delay of the performed necessary measures.

**12.4.** CASTEL ENGINEERING cannot be held liable for defects caused by (i) normal wear and tear, (ii) incorrect/improper use, application, handling, processing, treatment, installation or maintenance of the Products, (iii) external influences, (iv) improper transport or warehousing and (v) force majeure and/or hardship;

**12.5.** Physical return of the defective Products requires prior approval by CASTEL ENGINEERING. In absence of its approval, all returned shipments will be refused and the costs arising thereof shall be passed on to the Customer.

**12.6.** Generally, CASTEL ENGINEERING is not obliged to provide any warranty or assume any liability if the Customer fails to comply properly or in time with Article 12.

**13. Complaints**

**13.1.** The warranty that CASTEL ENGINEERING offers to the Customer as a result of a valid complaint (cf. Article 11 & 12) is limited, at its own discretion and insight, to replacement of the defective Product.

**13.2.** By filing a complaint, the Customer shall not be entitled to postpone its payments to CASTEL ENGINEERING. The Customer is obliged to reimburse the costs incurred as a result of unfounded complaints.

**14. Retention of title**

**14.1.** CASTEL ENGINEERING retains the ownership of all Products delivered to the Customer for as long as the Customer has not fully paid the price, costs, interests and all other accessories relating to the purchase order. Consequently, the Customer shall not be entitled to sell, convert, process, transfer and/or encumber the Products nor dispose them, as long as the price is not fully paid.

**14.2.** In the event the Customer, however, resells one or more Products, of which CASTEL ENGINEERING is still the owner in accordance with article 14.1, the Customer transfers all sums due arising from this resale, to CASTEL ENGINEERING. The Customer undertakes to inform CASTEL ENGINEERING immediately via registered mail of any seizure laid by a third party on Products, which have not been fully paid.

**15. Electronic invoicing**

By placing a purchase order, the Customer expressly agrees to the use of electronic billing by CASTEL ENGINEERING, unless agreed otherwise in writing.

**16. Payment**

**16.1.** The Customer must pay all invoices of CASTEL ENGINEERING in full by bank transfer within the payment term as stated on the invoice and without discount on the invoice date, unless agreed otherwise in writing.

**16.2.** All bank charges for all payments, by any method whatsoever, shall be borne by the Customer.

**16.3.** Invoices may only be legitimately disputed by the Customer in writing by registered letter within 3 weeks following the invoice date, stating (i) the invoice date, (ii) the invoice number and (iii) a detailed motivation.

**16.4.** Such dispute does not discharge the Customer from its obligation to pay. The amount of the invoice that is not disputed must be paid without any conditions.

**16.5.** Partly payments by the Customer are first allocated to the collection costs, next to the damages, the interest due and, finally, to the principal sum, with preference given to allocation to the oldest outstanding principal sum.

**17. Consequences of late or non-payment**

**17.1.** In the event the Customer fails to make full payment on the due date:

- The Customer shall be liable to pay, by operation of law, and without prior notice of default, a late payment interest of 1 % per month, whereby a month that has already started counts as fully completed, while the amount due will be increased with all collection costs paid by CASTEL ENGINEERING in connection with the collection of the debt, plus 10% of the invoice amount, with a minimum of € 250 (excl. VAT) by way of lump sum damages, without prejudice to CASTEL ENGINEERING's right to claim higher compensation.

- CASTEL ENGINEERING shall be entitled to suspend and/or cancel any further delivery to the Customer, and all other invoices shall immediately become due and payable, even if they have not yet fallen due, and all deferred payment conditions will cease to apply.

The same applies in the event of an imminent bankruptcy, judicial or amicable dissolution, suspension of payment, safeguard proceeding as well as any other fact showing that the Customer is insolvent.

**18. Liability**

**18.1.** With the exception of the indemnification by CASTEL ENGINEERING pursuant to Article 11 & 12, the liability of CASTEL ENGINEERING shall be limited to the lower of the following amounts (i) the invoice value of the Products delivered by CASTEL ENGINEERING or (ii) the amount of the payment of the insurance policies entered into by CASTEL ENGINEERING and in any case be limited to the liability mandatory under Belgian law.

**18.2.** CASTEL ENGINEERING shall in any event never be liable for (including but not limited to):

- Indirect and/or consequential damage (including but not limited to loss of income and damage to the property of the Customer and/or a third party caused by the Products);
- Additional damage caused by continued use by the Customer, the HVAC-R Professional and/or end user after a defect has been detected;
- Damage caused by improper use or any use by the Customer, the HVAC-R Professional and/or the end user for a different purpose than the purpose for which they have been developed or are intended;
- Damage caused by infringement of packaging or labelling obligations in the country where the Products shall be sold and/or installed in case the Customer has not informed CASTEL ENGINEERING thereof in advance. Without Customer's prior information, CASTEL ENGINEERING's standard labelling is considered accepted and compliant.
- Damage caused by force majeure or hardship (cf. Article 19).
- Insignificant differences in the colour between batches of Products that have been produced in different production runs.

**18.3.** Prior to the initial purchase, the Customer will inform CASTEL ENGINEERING of any regulation involving specific labelling or packaging of the Products. If CASTEL ENGINEERING has not received this information, the standard labelling/packaging is considered to be accepted by the Customer and compliant with regulations.

**18.4.** In the specific case CASTEL ENGINEERING agrees in writing to provide private label Products or to act as a subcontractor for the Customer, the latter is fully responsible for possessing the required licenses, including for trademarks and copyright and for providing all required packaging and labelling information for the private labelled Products to be compliant with all national, federal, state, provincial, and local laws and regulations applicable to the Products in the country where the Products shall be sold and/or installed. This also includes all customs and import regulations relating to packaging and labelling. CASTEL ENGINEERING shall thus never be liable for any breach of this article by the Customer.

**18.5.** In case the Customer shall be the installer of the Products, the Customer-installer acknowledges, without any prior check needed by CASTEL ENGINEERING, to be a HVAC-R Professional and agrees to be solely responsible for (i) determining the suitability of the Products for their intended use, (ii) determining the appropriate maintenance and manner of processing of the Products in order to ensure safety and quality, (iii) determining the chemical, physical and health effects related to the

Products, (iv) gathering the necessary information regarding guidelines or governmental advice in order to be able to decide if additional data regarding climatic and environment conditions and/or additional/specific tests are needed prior to the installation, (v) verifying if the supporting structure on which the Products will be installed is sufficiently suitable for the intended use of the Products in respect with the known climatic conditions when installing and using the Products and (vi) using appropriate tools and fixing materials for the installation and maintenance of the Products, (vii) the choice of the installation location and product orientation and (viii) having knowledge of all norms, procedures and regulations which must be complied with taking into account the location of the installation of the Products. The HVAC-R Professional warrants, without any prior check needed by CASTEL ENGINEERING, not to sell the Products to consumers. CASTEL ENGINEERING shall thus never be liable for any breach of this article by the Customer-installer.

**18.6.** In case the Customer cannot be qualified as an installer of the Products, the Customer warrants, without any prior check needed by CASTEL ENGINEERING, to sell the Products solely to HVAC-R Professionals. The Customer hereby guarantees to inform the HVAC-R Professional of its responsibilities (as stated in Article 18.5). CASTEL ENGINEERING can in no event be held liable for any form of damage that arises from non-compliance by the Customer of said notification duty. Furthermore, the Customer shall safeguard CASTEL ENGINEERING for any damage that might arise in this respect.

**18.7.** CASTEL ENGINEERING warrants that all Products shall comply with Belgian legislation and all other Belgian regulations and/or requirements applicable to the Products and the use thereof on the date of delivery. CASTEL ENGINEERING shall never bear any liability in case the Products are not in compliance with legislation and all other regulations and/or requirements applicable to the Products in the country where the Products shall be sold and/or installed, as it is the responsibility of the Customer, as importer, to verify this Product's compliance.

**18.8.** In any case, CASTEL ENGINEERING may solely be held liable by its direct Customer and not by any third party.

**19. Force majeure/hardship**

**19.1.** Neither party is liable for any breach of its obligations that is caused by force majeure or hardship. Cases of force majeure or hardship are conventionally considered as: all circumstances that were reasonably unforeseeable and unavoidable at the time of conclusion of the agreement and that create CASTEL ENGINEERING and/or the Customer the inability to carry out the agreement or that would make its implementation, financially or otherwise, harder or more difficult than normally anticipated (such as but not limited to war, natural disasters, fire, confiscation, delays on the part of third parties or bankruptcy of third parties on whom CASTEL ENGINEERING and/or the Customer appeals, shortages of personnel, strikes, organisational circumstances, hacking and threats/acts of terrorism, governmental regulations/measures, epidemics and pandemics).

**19.2.** The aforementioned situations entitle the party confronted with force majeure or hardship to apply for the revision and/or suspension of the agreement by simple written notification to other Party, without the confronted party becoming liable for any damages whatsoever. If a situation of force majeure and/or hardship lasts longer than 2 months, both parties have the right to terminate the agreement.

**20. Confidentiality**

**20.1.** The Customer undertakes not to disclose and/or distribute any confidential information belonging to CASTEL ENGINEERING or relating to CASTEL ENGINEERING (e.g. pricelists) to third parties, and shall only use the confidential information for the fulfillment of the agreement between CASTEL ENGINEERING and the Customer. In addition, the Customer undertakes to treat the confidential information with the greatest discretion, caution and confidentiality and acknowledges that the confidential information shall, at all times, remain the exclusive property of CASTEL ENGINEERING, unless CASTEL ENGINEERING has given its prior express written consent.

**20.2.** If the Customer or any of its personnel – for which the Customer makes itself strong – commits a breach of this confidentiality clause, the Customer shall pay CASTEL ENGINEERING a lump sum of 5000,00 Euros, to be increased by 500,00 Euros for each day that the breach continues, without prejudice to CASTEL ENGINEERING's right to prove and claim higher damages and without prejudice to any other right CASTEL ENGINEERING may derive from (i) the law or (ii) these Terms.

**21. Privacy**

The processing by CASTEL ENGINEERING of personal data concerning the (potential) Customer and/or its personnel/staff shall take place in accordance with the provisions of the privacy policy of CASTEL ENGINEERING, which can be consulted on the Website. In such event, CASTEL ENGINEERING acts as controller. This privacy statement includes information about the personal data collected by CASTEL ENGINEERING, as well as the manner in which CASTEL ENGINEERING uses and processes this personal data. By ordering Products or by entering into an agreement with CASTEL ENGINEERING the Customer acknowledges to have read the privacy policy and accept it.

**22. Intellectual rights**

Within the limitations set forth in Article 18.7, CASTEL ENGINEERING guarantees that it possesses the required Belgian licenses to offer its Products. Nevertheless, it is the sole responsibility of the Customer (as importer) to, prior to its initial purchase, check if the Products it intends to buy do not infringe any intellectual property right of any third party arising out of the use or sale by the Customer (or its customers) of any of the Products in the country where the Products shall be sold and/or installed. CASTEL ENGINEERING is and remains the sole owner of the Products and all other intellectual property rights relating thereto.

**23. Compensation**

In accordance with the Belgian law of 15/12/2004, parties agree that all currently existing as well as any future debts between parties shall always automatic and ipso jure be set off against each other and be compensated. This means that in the permanent relationship between parties, the largest debt balance remains due following the automatic compensation, which will in any case have legal effect against the curator and the remaining creditors, who cannot oppose this.

**24. Applicable law & jurisdiction**

**24.1.** Belgian law shall apply.

**24.2.** Disputes are subject to the exclusive jurisdiction of the courts of the district where CASTEL ENGINEERING has its registered office.

**25. Language**

The original language of the Terms is English. In case of any inconsistencies between the Terms and any translation thereof, the English version will always prevail.