

## TERMS AND CONDITIONS OF CELLCENTRIC FUEL CELL CANADA, INC.

CELLCENTRIC FUEL CELL CANADA, INC. ("cellcentric"), a Canadian corporation, agrees to purchase the services and items described in any Purchase Order ("PO") issued by CELLCENTRIC to the vendor ("Supplier") identified in such PO under the following terms and conditions (these terms and conditions together with the applicable PO are together this "Agreement"). These terms and conditions shall also be applicable to any other agreement between cellcentric and a vendor that incorporates these terms and conditions by reference. In the event that these terms and conditions are incorporated by reference into an agreement, such agreement shall be deemed to be a PO for the purposes of this Agreement and the vendor a Supplier. The effective date of this Agreement is the earlier of the date Supplier first commences work or the date Supplier accepts the applicable PO in writing to CELLCENTRIC ("Effective Date").

### 1. DEFINITIONS

- 1.1. Each defined term has the same meaning in this Agreement whether it is used in its plural, singular, or possessive form. Words importing the use of any gender shall include all genders. Words importing persons shall include firms, trusts, partnerships and corporations and *vice versa*.
- 1.2. "Acceptance Period" means a commercially reasonable time following Supplier's delivery of an Item or notice from Supplier that an Item is complete.
- 1.3. "Confidential Information" means: (a) information relating to the research, development, products, trade secrets, technology, technology architecture, business models, plans or processes, marketing plans, customers, finances, or personnel data related to the actual or planned business affairs of CELLCENTRIC; (b) any additional information described as "Confidential Information" in any other document; and (c) personal information as contemplated in section 7.4.
- 1.4. "Correction Period" means a commercially reasonable time following Supplier's receipt of the description of a Nonconformity.
- 1.5. "Cure" means to correct a Nonconformity by promptly delivering a replacement Item that meets its respective Specifications.
- 1.6. "Due Date" means a date when an Item must be delivered as communicated by CELLCENTRIC to Supplier in writing or, if no such date is communicated by CELLCENTRIC, a commercially reasonable time following Supplier's receipt of the PO from CELLCENTRIC not to exceed thirty (30) days past the Effective Date of this Agreement.
- 1.7. "Fees" means the amount of fees payable to Supplier under the terms of this Agreement for each Item.
- 1.8. "Item" means any tangible thing or service that Supplier provides under this Agreement.
- 1.9. "Nonconformity" means the manner in which an Item fails to conform to its respective Specifications.
- 1.10. "Codes" means the Sustainability and Environmental Protection, and Anti-Corruption and Compliance of the Daimler AG.
- 1.11. "Specifications" means any criteria communicated in writing by CELLCENTRIC to Supplier or, if no such criteria are communicated, Supplier's specifications, samples, and descriptions and, in any event, all Items shall be free from defect and of a merchantable quality.

### 2. SUPPLIER'S OBLIGATIONS, ACCEPTANCE, AND RELATIONSHIP

2.1. Supplier's Obligations and Acceptance. Supplier will deliver the Items set forth in the PO. Acceptance of this Agreement is expressly conditioned upon the applicability of these terms and conditions. This Agreement shall be deemed accepted as of the Effective Date.

2.2 Daimler AG Sustainability and Environmental Protection Code/Daimler AG Anti-Corruption and Compliance Code/CELLCENTRIC Workplace Violence, Sexual Harassment & Bullying Guideline

The Supplier shall at all times adhere to Daimler AG's (the indirect parent company of CELLCENTRIC) Sustainability and Environmental Protection Code, and Anti-Corruption and Compliance Code, as amended from time to time (collectively the "Codes"). Supplier shall also adhere to the CELLCENTRIC Workplace Violence, Sexual Harassment & Bullying Guideline:

- (a) Exhibit A: Sustainability and Environmental Protection (available upon request):
- (b) Anti-Corruption and Compliance:

Within the framework of its commercial dealings with CELLCENTRIC, the Supplier is obligated to desist from all practices which may lead to penal liability due to fraud or embezzlement, insolvency crimes, crimes in violation of competition, guaranteeing advantages, acceptance of a benefit, bribery, acceptance of bribes or other corruption crimes on the part of persons employed by the Supplier or other third parties: and

- (c) Exhibit B: CELLCENTRIC Workplace Violence, Sexual Harassment & Bullying Guideline.

Supplier has a duty to ensure that any employees used on site at CELLCENTRIC and/or that any employees given access to any IT- systems in connection with fulfilling the requirements of this Agreement must receive an admission and/or access authorization from CELLCENTRIC. Individuals to whom CELLCENTRIC or any CELLCENTRIC affiliate has declared a house ban, an admission ban, and/or an access ban cannot be used by the Supplier in the fulfillment of this Agreement.

In the event of violation of the above, CELLCENTRIC has the right to immediately withdraw from or terminate this Agreement and

all legal transactions existing with the Supplier and the right to cancel all negotiations. The above notwithstanding, the Supplier is obligated to adhere to all laws and regulations applicable to both itself and the commercial relationship with CELLCENTRIC.

2.3. Non-Exclusivity. The use of Supplier by CELLCENTRIC under this Agreement is non-exclusive and CELLCENTRIC may at its sole discretion obtain Items from any party that are the same or similar to the Item.

2.4. Supplier's Relationship. Supplier is an independent contractor. Supplier is not an employee, agent, representative, partner, joint-venturer or employee of CELLCENTRIC.

2.5 Ownership of Work Product. All articles, materials, goods, information, works of authorship, trademarks, artwork, drawings, text, specifications, calculations, reports, ideas, inventions, discoveries, processes, improvements, software and other documentation and materials created, developed, conceived or first reduced to practice by Supplier, alone or with others, related to services rendered for CELLCENTRIC under this Agreement or derived from information or materials Supplier has received from CELLCENTRIC ("Work Product") shall be the property of CELLCENTRIC with CELLCENTRIC owning the copyright and all other proprietary rights to the Work Product. Supplier agrees to execute, without further consideration, assignments or other documents that may be necessary to establish CELLCENTRIC's ownership of the Work Product.

### 3. TERM, DUES DATES, AND TERMINATION

3.1. Term. The "Term" of this Agreement commences on the Effective Date and, unless terminated sooner under the terms of the Agreement, ends when the last Item meeting the requirements of this Agreement has been delivered to CELLCENTRIC.

3.2. Due Dates for Items. Time is of the essence of this Agreement, and if delivery of Items is not completed by the Due Date, CELLCENTRIC reserves the right without liability in addition to its other rights and remedies to terminate this Agreement in whole or in part and to purchase substitute Items elsewhere and charge Supplier with any loss incurred. Supplier must deliver all Items by the Due Date.

3.3. Termination for Breach. If one party provides notice to the other of any alleged material breach, the alleged breaching party must cure the breach within thirty (30) days of the effective date of that notice under this Agreement. A party may terminate this Agreement, in whole or in part, if the other party's material breach remains uncured thirty (30) days after such notice of breach. If Supplier becomes insolvent, suspends operations or if a petition is filed or proceeding commenced by or against Supplier under any provincial, state or federal law relating to insolvency, bankruptcy, or receiverships, CELLCENTRIC may immediately terminate this Agreement by providing notice to Supplier. CELLCENTRIC may terminate this Agreement immediately upon notice, if Supplier or any of its employees or agents breach the confidentiality or indemnification provisions of this Agreement.

If either party terminates this Agreement for material breach, then: (i) CELLCENTRIC will pay Supplier the Fees under this Agreement for any Item that CELLCENTRIC accepts; and (ii) CELLCENTRIC will pay Supplier a prorated amount of the Fees under this Agreement for any partially completed Item that CELLCENTRIC accepts.

3.4. Termination for Convenience. CELLCENTRIC may terminate this Agreement, in whole or in part, for convenience by giving sixty (60) days notice to Supplier. If CELLCENTRIC terminates for convenience: (i) CELLCENTRIC will pay Supplier the Fees under this Agreement for any Item that CELLCENTRIC accepts; (ii) For any partially completed Item, CELLCENTRIC will pay Supplier a prorated amount of the Fees that would be due under this Agreement if Item had been accepted; and (iii) CELLCENTRIC shall be responsible for payment of reasonable cancellation charges based upon Supplier's reasonable costs incurred as a result of termination but in no event to include anticipated profits for Items that will not be delivered as a result of termination.

3.5. Termination for Violation of Codes. CELLCENTRIC may terminate this Agreement immediately by notice in writing to the Supplier for any violation of the Codes.

### 4. FEES, PAYMENTS, TAXES AND SHIPPING COSTS, AND FEE WARRANTY

4.1. Fees. CELLCENTRIC will pay Fees to Supplier for each Item only upon CELLCENTRIC's acceptance of the Item, except as described in Sections 3.4. The amount of Fees for each Item is as set forth for each Item in the PO.

4.2. Payments. Amounts due under the terms of this Agreement are payable thirty (30) days upon receipt of an accurate invoice from Supplier or at such other time which may be expressly stipulated in the PO. If any accurate invoice becomes materially past due, Supplier may suspend the delivery of Items, unless there is a good faith dispute between the parties over the amount of the invoice, except that in no event may Supplier withhold delivery of any completed Item, or interfere with or restrain, electronically or otherwise, CELLCENTRIC's ability to use any previously delivered Item under the terms of this Agreement.

4.3. Effect on Payment – Delays and Changes. If a Due Date is missed for an Item, CELLCENTRIC is not obligated to pay for that Item until it is delivered and accepted under the terms of this Agreement. If the parties agree to change the scope of the Item to be provided under as set out in the PO, and that scope change involves any additional associated fees, the parties must amend this Agreement in accordance with Section 9.7 of this Agreement. Otherwise, no fees beyond the Fees specified in the PO are payable under this Agreement.

4.4. Taxes and Shipping Costs. Supplier will report as income to the appropriate government agencies all compensation received pursuant to this Agreement and will pay all applicable taxes. Supplier warrants that, the Fees appearing in the PO include all packaging, crating, delivery and shipping charges, and Supplier is responsible for and will pay or reimburse CELLCENTRIC for all such packaging, crating, delivery and shipping charges. In addition to the Fees, CELLCENTRIC will pay all applicable sales or use

taxes required by statute (specifically, any provincial sales taxes or the federal goods and service tax or any provincial equivalent). Supplier warrants that, the Fees appearing in the PO include any applicable custom, duties or other taxes whether federal, provincial, state or local and Supplier is responsible for and will pay or reimburse CELLCENTRIC for any such custom, duties or other taxes. Except for withholding taxes which CELLCENTRIC is required to deduct from the Fees by statute, CELLCENTRIC will not make deductions from its Fees to Supplier for taxes, insurance, bonds or any other subscription of any kind.

4.5. Fee Warranty. Supplier warrants that the Fees are not less favorable than those currently charged by Supplier or its affiliates to any other customer for the same or similar Items in similar quantities and specifications.

## 5. ACCEPTANCE AND CORRECTION OF NONCONFORMITIES

5.1. Acceptance. CELLCENTRIC must accept an Item, if it substantially conforms to its Specifications as required by this Agreement. If CELLCENTRIC accepts an Item, CELLCENTRIC will either send notice to Supplier of its acceptance within the Acceptance Period or make payment within the period stated in Section 4.2 of this Agreement. If CELLCENTRIC does not accept an Item, it will describe any Nonconformity in writing to Supplier within the Acceptance Period or terminate this Agreement under Section 3.3 or 3.4. CELLCENTRIC's acceptance of an Item does not operate as a waiver of CELLCENTRIC's right to describe Nonconformities in writing to Supplier and require Supplier to fix the Nonconformities under the warranty in Section 6.5.

5.2. Correction of Nonconformities. At Supplier's expense, Supplier must Cure any Nonconformity within the Correction Period. If Supplier fails to Cure any Nonconformity within the Correction Period, CELLCENTRIC may give notice to Supplier that CELLCENTRIC reasonably believes that Supplier will not or cannot Cure, and demand assurances by a specific date of Supplier's ability and willingness to Cure by a specific date. If Supplier fails to provide assurances reasonably satisfactory to CELLCENTRIC by the specified date, CELLCENTRIC may exercise its termination rights under Section 3.3 of this Agreement.

## 6. INSURANCE, INDEMNIFICATION, COMPLIANCE AND WARRANTIES

6.1. Insurance. During the Term, Supplier will procure and maintain comprehensive general liability (including contractual liability), automobile, and property damage insurance each with a minimum limit of \$5 million dollars per occurrence. The policies must name CELLCENTRIC as an additional insured and contain endorsements stating that the policies are primary and not excess over or contributory with any other valid, applicable, or collectible insurance in force for CELLCENTRIC. CELLCENTRIC may require Supplier to furnish evidence of this required insurance without relieving Supplier of any liability or obligation under this Section. During the Term, Supplier will also procure and maintain statutory workers' compensation coverage.

6.2. Indemnification. Supplier will defend, indemnify, and hold CELLCENTRIC and its parent and each of their respective affiliates and directors, officers, employees, agents and each of their respective successors and assigns, harmless against all claims, liabilities, losses, damages, costs and expenses of any nature (including but not limited to reasonable attorneys' fees and costs of suit) arising out of or resulting from the injury or death of any person or damage or loss of any property allegedly or actually resulting from or arising out of any act or omission of Supplier or its employees, agents, or subcontractors.

6.3. Required Compliance. Supplier will comply with all applicable laws and regulations applicable to the performance of this Agreement including without limitation applicable employment legislation. Supplier will defend, indemnify and hold CELLCENTRIC and its parent and each of their respective affiliates and directors, officers, employees, agents and each of their respective successors and assigns, harmless from and against all claims, liabilities, losses, damages, costs and expenses of any nature (including but not limited to reasonable attorneys' fees and costs of suit) resulting from or arising out of any failure of Supplier or Supplier's employees, agents and subcontractors to comply with any applicable law or regulation.

6.4. Warranty. Supplier warrants to CELLCENTRIC that all Items furnished will be free from defects in material and workmanship and will conform to the Specifications, for a period designated in Supplier's standard warranty for such Items or for a period of one (1) year, from the date of delivery to CELLCENTRIC, whichever is greater.

No variation in the type or quantity of any Items are authorized and CELLCENTRIC may reject a delivery that varies in the type or quantity authorized for shipment. All Items are subject to inspection and acceptance or rejection upon delivery at the CELLCENTRIC facility. CELLCENTRIC shall have the right to reject and return any Items, or lots of Items, to Supplier for repair or replacement and prompt redelivery at no cost to CELLCENTRIC if CELLCENTRIC's inspection reveals that any items have a Nonconformity or are otherwise defective.

6.5. Remedy for Breach of Warranty. For any breach of the warranties specified in any section of this Agreement, Supplier must: (i) promptly repair or replace the nonconforming Item upon receipt of CELLCENTRIC's description of the applicable Nonconformities; or (ii) if Supplier cannot repair or replace the nonconforming Item within a commercially reasonable period of time, then, at CELLCENTRIC's request, promptly refund the prorated portion of Fees paid under this Agreement for such Item. This remedy is non-exclusive, and CELLCENTRIC is not precluded from exercising any other remedy available to it at law or in equity.

## 7. CONFIDENTIAL INFORMATION AND DATA

7.1. Confidentiality. In delivering Items under this Agreement, Supplier may have access to the Confidential Information. Supplier agrees not to use any Confidential Information other than as required in order for Supplier to perform its obligations to CELLCENTRIC under this Agreement. Without limiting the scope of this duty, Supplier agrees not to use any Confidential

Information for its own benefit or for the benefit of anyone other than CELLCENTRIC, and Supplier agrees not to design or manufacture any products, which incorporate any Confidential Information. Supplier agrees not to use or disclose any Confidential Information and to take all reasonable precautions to prevent its unauthorized use or disclosure, both during and after the Term. Supplier may disclose Confidential Information if required by any judicial or governmental request, requirement or order, so long as Supplier takes reasonable steps to give CELLCENTRIC sufficient prior notice in order to allow CELLCENTRIC to contest such request, requirement or order.

7.2. Ownership of Confidential Information. All CELLCENTRIC Confidential Information remains the property of CELLCENTRIC. CELLCENTRIC owns all right, title and interest, including any and all copyrights, patents, trade secrets, trademarks, trade dress and any and all moral rights in the Confidential Information and in any derivative or improvement of any Confidential Information. No license or other rights in the Confidential Information is granted under this Agreement. Further, upon CELLCENTRIC' written request, Supplier agrees to return to CELLCENTRIC, or destroy and give notice of destruction of if requested, all copies of any CELLCENTRIC Confidential Information in any form.

7.3. Data Rights. CELLCENTRIC owns any data that it makes available to Supplier under this Agreement, including any and all data that CELLCENTRIC entered directly or indirectly into any Supplier owned or controlled hardware or other system (or system of a third party hosting entity under Supplier's control) (collectively "Data"). At any time at CELLCENTRIC's request, Supplier must promptly deliver to CELLCENTRIC all copies of Data, either in the form that the Data is stored in Supplier's systems (or systems of a third party hosting entity under Supplier's control), or in some other form that CELLCENTRIC reasonably requests. If CELLCENTRIC requests a form of delivery of the Data other than as described above, CELLCENTRIC will pay Supplier a reasonable fee for the costs and effort associated in putting the Data into the requested format.

Supplier agrees that it will not, and will not permit its employees, agents, and subcontractors to, use the trademarks, service marks, logos, names, or any other proprietary designations of CELLCENTRIC, whether registered or unregistered, without CELLCENTRIC's written consent.

7.4. Personal Information – Confidentiality and Safeguarding. To the extent Supplier collects, receives, transmits, stores or otherwise possesses any personal information on behalf of CELLCENTRIC, Supplier will (i) do so solely on behalf of CELLCENTRIC in order to enable Supplier to supply the goods and/or services to be supplied under the PO; (ii) comply with all requirements for handling personal information that may be established from time to time by CELLCENTRIC and made available to Supplier; (iii) employ adequate administrative, physical and technological safeguards to protect the personal information against loss, theft, or unauthorized access, disclosure, copying, use or modification; (iv) permit CELLCENTRIC, on prior notice, to have reasonable access to Supplier's facilities and records to verify compliance herewith; and (v) at any time upon CELLCENTRIC's request, immediately return or destroy all such personal information except to the extent otherwise required by law. For purposes of this section, personal information means any information provided by CELLCENTRIC and/or its affiliates or collected by Supplier for CELLCENTRIC and/or its affiliates: (i) that is about an individual who is identifiable, or who would be identifiable when used in combination with other information provided by CELLCENTRIC or processed by Supplier on behalf of CELLCENTRIC; or (ii) from which identification or contact information of an individual person can be derived.

**7.5. ALL INFORMATION PROVIDED BY CELLCENTRIC TO SUPPLIER IS PROVIDED "AS IS" AND WITHOUT ANY WARRANTY, EXPRESS, IMPLIED, OR OTHERWISE, REGARDING ITS ACCURACY OR COMPLETENESS.**

## **8. ENVIRONMENTAL RESPONSIBILITY**

8.1 General Service/Products Clause. The Vendor shall promptly provide general information regarding the company's environmental management system upon request by CELLCENTRIC, and all information regarding the environmental impact of any products supplied or used under the contract to allow CELLCENTRIC to make an informed choice on the use of the product.

8.2. Hazardous Products Clause. Where applicable, the Vendor shall inform itself and comply with the governmental regulatory scheme known as "The Workplace Hazardous Material Information System" (WHMIS) and all federal and provincial statutes and regulations associated therewith. The Vendor shall advise CELLCENTRIC of any and all hazardous products, processes and/or chemicals to be delivered/brought on-site to CELLCENTRIC. Up to date Material Safety Data Sheets for these products shall accompany their shipment and shall be available at all times to CELLCENTRIC for review. In the event that the Vendor fails to comply with these provisions, CELLCENTRIC reserves the right at its option, to terminate the Purchase Order and to return all work, chemicals, or products to the Vendor and all costs in relation thereto shall be for the Vendor's account.

8.3. General Environmental Clause. In fulfilment of its obligations under the terms of this Agreement, the Vendor and its subcontractors will comply with applicable government regulations (federal, provincial and municipal), and where applicable support the environmental commitments of CELLCENTRIC's Environmental Policy, as amended from time to time, all in an effort to protect the environment. (CELLCENTRIC's current Environmental Policy will be delivered by CELLCENTRIC to Service Provider in conjunction with executing this Agreement but may be changed from time to time on reasonable advance written notice by CELLCENTRIC to Vendor.)

Where applicable, the Vendor and its subcontractors will have appropriate training to conduct activities associated with this Agreement and may involve transportation of dangerous goods, ozone depleting substance/halocarbons, WHMIS, spill response or any other relevant training required by federal, provincial, or municipal law.

In the event of any spill or discharge of any substance that is infectious, toxic or harmful to the environment ("Contamination"), caused by the Vendor or its subcontractors while carrying out activities at CELLCENTRIC's premises or for CELLCENTRIC under

this Agreement, the Vendor must immediately advise CELLCENTRIC and commence as soon as possible any necessary cleanup, decontamination, removal, disposal and/or remedial action, and must comply with, where applicable, any requirements or directives pursuant to environmental laws issued with respect to said Contamination, entirely at its own expense and to CELLCENTRIC's satisfaction. In addition, the Vendor will assume the costs of any emergency procedure required and any environmental audit or monitoring report requested by CELLCENTRIC before and/or after the decontamination.

The Service Provider indemnifies CELLCENTRIC and holds it harmless for any costs, losses, claims, demands, legal actions, damages, penalties or liabilities that CELLCENTRIC might sustain or incur because of Contamination by Service Provider or any of its subcontractors.

CELLCENTRIC may begin, immediately on written notice to Vendor, to carry out the decontamination, cleanup and/or remediation work itself, at the Vendor's expense.

The two (2) parties agree that acceptable environmental protection practices by the Vendor and its subcontractors are a condition of this contract. Failure Vendor to fulfill its environmental obligations under this Agreement shall constitute a material default under this Agreement.

## 9. GENERAL TERMS

9.1. Assignment. Supplier may not assign or delegate this Agreement or its rights or obligations under this Agreement, including by operation of law, without CELLCENTRIC's written consent. In addition, a direct or indirect change of control of Supplier shall constitute an assignment for purposes of this Section 9.1.

9.2. Equitable Relief and Attorneys' Fees. Any breach of the confidentiality provisions of this Agreement by Supplier will result in irreparable harm to CELLCENTRIC. Supplier therefore agrees that CELLCENTRIC has the right to an injunction or other equitable relief to enforce this Agreement and any of its provisions, without prejudice to any other rights and remedies that CELLCENTRIC may have. If any legal action is necessary to enforce this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and expenses in addition to any other allowable relief.

9.3. Choice of Law. This Agreement is governed by and must be construed in accordance with the law of the Province of British Columbia as if fully performed therein and without reference to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement or any goods ordered or issued under this Agreement.

**9.4. CONSENT TO JURISDICTION AND VENUE. IN THE EVENT THAT SUPPLIER SHOULD EVER ASSERT A LITIGIOUS CLAIM OR COUNTERCLAIM AGAINST CELLCENTRIC FOR ANY REASON RELATED TO THIS AGREEMENT OR ANY RELATED DOCUMENT, CELLCENTRIC AND SUPPLIER UNCONDITIONALLY AGREE TO ASSERT SUCH A CLAIM IN COURT IN TORONTO, ONTARIO, WITH SUPPLIER HEREBY CONSENTING TO THE JURISDICTION AND VENUE TO THE COURTS OF SUCH COURT AND JURISDICTION FOR SUCH PURPOSES.**

9.5. Integration Clause. This Agreement constitutes the entire Agreement and supersedes any prior agreement, correspondence or other communications between Supplier and CELLCENTRIC concerning the subject matter of this Agreement. Except in accordance with Section

9.7 below, these terms and conditions (and this Agreement) may not be modified by any documents or terms sent by Supplier to Buyer including without limitation any invoice.

9.6. No Waiver. A party may waive any of its rights under this Agreement by an appropriate writing that specifically refers to the contractual right being waived, but a failure by a party to enforce a right, including without limitation, a right arising as a result of a breach of this Agreement, or to insist upon performance of an obligation arising from this Agreement may not be construed as a waiver of any of that party's rights, does not affect the validity of this Agreement or any part of it, and does not prejudice that party's rights regarding any subsequent action.

9.7. Amendments and Procedures. Any PO may only be amended in a writing signed by an authorized representative of each party with authority to sign amendments to the PO. The procedure for changing PO terms regarding Items is to: (i) describe the changes in a writing signed by the Supplier's authorized representative; and (ii) include in the writing the date of the change and a description of the type(s) of Items, the date or place of delivery of the Items, and any increase or decrease in the cost or time for performance. Nothing in this clause shall excuse the Supplier from proceeding with performance of this Agreement as changed. CELLCENTRIC shall have an absolute right to reject any change notice and to exercise its rejection and termination rights, as provided in this Agreement.

In addition, CELLCENTRIC may amend these terms and conditions from time to time (and, as a result of such amendment, this Agreement) by fifteen or more day's prior written notice to Supplier.

9.8. Severability. Whenever possible, each part of this Agreement must be interpreted as enforceable under applicable law. If part of this Agreement is unenforceable under applicable law, it is unenforceable only to the extent required by applicable law, and the remainder of this Agreement is otherwise fully enforceable.

9.9. Force Majeure. To the extent that a party is not able to perform an obligation under this Agreement due to fire, flood, a strike or other labour interruption, war, riot, an act of God, an act of government, insurrection, civil disturbance, or other cause beyond that party's reasonable control, that party may not be liable for failing to perform that obligation, except that this Section may not excuse any party from the obligation to pay money that is owed.

9.10. Setoff. All claims for money, fees, or payments due or to become due from CELLCENTRIC shall be subject to deduction or setoff by CELLCENTRIC by reason of any claim, counterclaim, Supplier breach arising out of this Agreement or any other transaction with Supplier.

9.11. Additional Rights. The rights and remedies of cellcentric and Supplier set forth herein shall be in addition to any other rights and remedies provided at law or in equity. Pending resolution of any dispute to the extent this Agreement is not terminated, Supplier shall continue performance hereunder, as directed by CELLCENTRIC.

9.12. Choice of Language. The parties confirm that it is their express wish that this Agreement, as well as any other documents relating to this Agreement, including notices, schedules and authorizations, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté expresse que cette convention, de même que tous les documents s'y rattachant, y compris tous avis, annexes et autorisations s'y rattachant, soient rédigés en langue anglaise seulement.

9.13. Notice. In order to be effective, a notice given pursuant to this Agreement must be:

a) in writing, and sent by (i) certified mail, return receipt requested, (ii) facsimile or email, with a confirmation copy or (iii) by courier service, and, (b) if given to CELLCENTRIC, sent to: cellcentric FUEL CELL CANADA, INC., 303-5250 Riverbend Dr, Burnaby, BC, V3N 0G2.

c) if given to Supplier, sent to the address noted on the PO.

A party may change the location at which it is to receive notices by notifying the other party of the change in locations. A notice takes effect upon the earlier of the date the notified party received the notice or the date five (5) days after the notice is sent.

9.14. Survival of Terms. All warranties and indemnifications shall survive termination or completion of this Agreement. Additionally, the provisions of Sections 1, 2.4, 3.3, 3.4, 3.5, 4.4, 4.5, 5.2, 6, 7, and 9 shall survive termination of this Agreement

