

General Purchase Conditions Production Material and Spare Parts for Fuel Cell Systems

(Version 03/21)

1. Governing Conditions

1.1 These General Purchase Conditions apply to the supply of parts, spare parts, components, aggregates, and /or systems, including software contained therein or related software (hereinafter collectively "parts" or "goods"), for the use for fuel cell systems.

1.2 The legal relations between cellcentric GmbH & Co. KG, Kirchheim unter Teck, and between one of its affiliated companies (§ 15 of the German Stock Corporation Act (AktG)) (hereinafter jointly referred to as 'cellcentric') and the Supplier (cellcentric and Supplier hereinafter collectively referred to as the 'Parties') shall, unless agreed otherwise, be governed by these General Purchase Conditions and the cellcentric Special Terms (cST) which are an integral part of these General Purchase Conditions (hereinafter collectively referred to as 'Purchase Conditions').

1.3 Amendments, additions and collateral agreements to these Purchase Conditions must be in writing.

1.4 General terms and conditions of the Supplier or proposals for modifications of the Supplier regarding these Purchase Conditions or regarding the supply contracts shall not be applicable, even if they were not explicitly rejected by cellcentric in any individual case.

2 Supply Contracts

2.1 Supply contracts and delivery call-ups, as well as any amendments and additions thereto, must be made in writing but may also be made by means of an electronic system provided by cellcentric. Supply contracts are also concluded when the Supplier commences supplying the goods or services which are the subject of cellcentric's offer to enter into a contract, of the order or of the delivery call-up.

2.2 If the Supplier does not accept the offer within three weeks of receipt, cellcentric shall be entitled to revoke the order.

2.3 cellcentric may demand that modifications be made to the goods supplied with regard to design and production at any time. The Supplier is obliged to make such modifications without delay. The Supplier may only object to the change request in so far as implementing the modifications would be

unreasonable. Should an amendment to the supply contract be required to account for a modification, in particular with regard to increased or lower costs, the Parties will agree an appropriate amendment by mutual consent. If these modifications result in increased or lower costs, the order must be issued by the cellcentric Purchasing Department.

2.4 During the term of the agreement, the Parties shall conduct regular value analysis studies in an effort to identify potential savings. If potential savings are identified, the Parties shall adjust the series production price accordingly.

2.5 The supply contracts are concluded on the understanding that the Supplier will remain competitive in terms of price, quality, ability to innovate and security of supply.

3 Payment, Invoice and Delivery Note

3.1 Payment is to be made by bank transfer or by check.

3.2 In the case of early delivery, payment will be made according to the agreed delivery date.

3.3 In the event of defective deliveries, cellcentric shall be entitled to withhold payment pro rata to the value of the defective delivery until the order has been properly fulfilled.

3.4 Without the prior written consent of cellcentric, which shall not be unreasonably withheld, the Supplier shall not be entitled to assign its receivables against cellcentric to third parties or to allow such receivables to be collected by third parties. Consent is presumed in the event of assignments to companies in which cellcentric directly or indirectly holds an interest of more than 50 percent. If the Supplier assigns its receivables against cellcentric to a third party without cellcentric's consent contrary to sentence 1, the assignment shall remain effective. cellcentric may however choose whether to make payment to the Supplier or to the third party; either alternative shall have the effect of discharging the debt.

3.5 The invoice must comply with the statutory requirements. In particular it must show the VAT registration number or tax reference number, the date of delivery of the goods or services, and the quantity and nature of the goods invoiced, and is to be sent in a single copy to the plant to which the

delivery was made. The Supplier number, delivery note number, number and date of the order (or of the purchasing agreement and delivery call-up), additional purchaser information (costing code), and unloading point must also be specified in the invoice. A separate invoice must be issued for each delivery note. Standard delivery notes (DIN 4991) are to be used for all deliveries.

3.6 Invoices of Supplier shall only become due if the requirements of clause 3.5 are fulfilled.

4 Notification of Defects

cellcentric shall notify the Supplier of defects without undue delay as soon as they are discovered within the ordinary course of business. In so far the Supplier waives its right to object to the notification of defects on the grounds of delay.

5 Confidentiality, Use of Results

5.1 The Parties undertake to treat as business secrets all commercial and technical details that become known to them in the course of the business relationship and that are not already in the public domain. Sub-suppliers of the Parties shall be required to give an equivalent undertaking. Further, information may be disclosed to affiliated companies (§15 of the German Stock Corporation Act (AktG)) of the Parties, provided these affiliated companies are subject to equivalent confidentiality obligations.

5.2 If cellcentric remunerates the Supplier for development work in the form of a one-time payment, allocation to piece price or by other means, the General Terms and Conditions for Development Work non-exclusive (Version 10/2018) of cellcentric, which can be downloaded via the cellcentric Supplier Portal at: <https://www.cellcentric.net/en/suppliers/>, shall apply with regard to the development work. If separate contracts are concluded for the development work, such contracts shall prevail.

5.3 The Parties may use the business relationship for advertising purposes only with prior written consent. Supplier shall not use the name, the trademarks or the products of cellcentric in Supplier's advertising or otherwise without cellcentric's prior written consent.

6 Delivery Dates and Periods

Agreed delivery dates and delivery periods are binding. Receipt of the goods at the appropriate cellcentric plant shall be authoritative for

compliance with the delivery date or delivery period. Unless 'delivery paid' has been agreed, the Supplier shall make the goods available in time taking into consideration the time usually necessary for loading and shipment.

7 Irregularities, Delays

7.1 Advance or partial or excess deliveries are subject to cellcentric's prior consent. Where no such consent has been given, cellcentric may refuse acceptance of such deliveries or, at Supplier's expense, return such deliveries. Irrespective of the existence of such prior consent of cellcentric, the Supplier shall compensate cellcentric for any loss or damage resulting from any advance or partial or excess deliveries. Any additional transportation costs caused by such deliveries shall be at the expense of Supplier.

7.2 Supplier shall notify cellcentric immediately of any incident which may lead to an irregular delivery, in particular to a delay or to a partial delivery. Supplier shall transmit to cellcentric all relevant information and the measures the Supplier is taking to avoid the irregular delivery or to mitigate its impact.

7.3 The Supplier is obliged to compensate cellcentric for loss caused by delay provided that the legal preconditions are met. In case of a potential or actual delay, cellcentric may claim the fastest way of transportation from Supplier, whereas Supplier shall bear any increased transportation costs compared to the normal transportation costs.

8 Force Majeure

Force majeure, industrial disputes, unrest, government action, and other unforeseeable, unavoidable and serious events shall release the Parties from their contractual obligations for the duration of the disruption and to the extent of the effect of such events. This shall also apply if such events occur at a time when the Party concerned is already in default. The Parties shall use their best efforts to provide the necessary information without delay to the other Party, to take all necessary steps to remove the cause of the disruption and/or to minimize the consequences of the disruption. Further, the Parties shall co-operate in finding alternative ways and means of fulfilling the obligations and, if appropriate, to adjust their obligations for the period of the disruption to the changed circumstances in accordance with the principles of good faith. The original contractual

obligations are to be fulfilled again whenever such disruption is removed.

9 Quality and Documentation

9.1 The Supplier warrants that its deliveries are suitable for the purpose intended and faultless with regard to materials and workmanship. The Supplier shall comply with the state of the art of science and technology, the safety regulations and the agreed technical data, Specifications and Quality Requirements for the goods it supplies. Supplier warrants that the goods shall comply with all national and international laws and regulations applicable for the respective goods in the sales markets. Changes to the goods to be delivered require the prior written consent of cellcentric. With regard to the Production Process and Product Approval (PPA), reference is made to the most current version of the VDA Volume 2 'Sicherung der Qualität von Lieferungen – Produktionsprozess – und Produktfreigabe PPF' (Quality Assurance for Supplies – Production process and product approval PPA). Notwithstanding the foregoing, the Supplier shall continuously monitor the quality and shall ensure the conformity of the goods delivered. The Parties shall inform each other of any possibility for improving quality.

9.2 In the absence of any agreement between the Supplier and cellcentric regarding the nature and extent of testing, and the equipment and methods to be used, cellcentric is prepared, at the Supplier's request, to discuss the testing with the Supplier and to use its knowledge, experience and capabilities to determine the level of testing technology that needs to be applied.

9.3 The Supplier must also state in its quality records for all parts when, how and by whom checks were carried out to ensure the defect-free manufacture of the supplies. These records must be kept also for 15 years following the end of series production and presented to cellcentric upon request. The Supplier is entitled to reduce the retention period for documentation if it is able to exclude the possibility of risk to life and health in the use of its parts. The Supplier shall obtain the same undertaking from any sub-suppliers, so far as is possible by law. As guidance, subject to any deviating agreement, reference is made to the VDA Volume 1 'Dokumentation und Archivierung – Leitfaden zur Dokumentation und Archivierung von Qualitätsforderungen und Qualitätsaufzeichnungen' (Documentation and Archiving - Code of practice for the documentation

and archiving of quality requirements and quality records) in the most current version.

9.4 If any authorities responsible for vehicle safety, emissions standards, or similar ask to inspect the production process and the audit documents of cellcentric in order to verify certain requirements, the Supplier shall, at cellcentric's request, grant these authorities the same rights in its plant and to provide them with the support that may reasonably be expected.

9.5 The procedure for permanently disposing of goods failing to pass the quality inspection at Supplier's site will be separately notified to Supplier by cellcentric. Supplier shall comply with such procedures.

10 Warranty claims

10.1 If defective goods are delivered, cellcentric is entitled, in accordance with the following clauses, to claim the following:

a) Before the start of production (processing or installation) cellcentric shall first give the Supplier the opportunity to separate out defective goods as well as to rework or replace them unless this would be unreasonable for cellcentric. In such a case, for example because of cellcentric's need to ensure uninterrupted production, or to minimize its loss, cellcentric may carry out the rework itself or have it carried out by a third party. Any resultant costs shall be borne by the Supplier. cellcentric shall inform the Supplier of the rework to the extent that is reasonable.

b) In the event that the defect is not discovered until after production has started, cellcentric is entitled to claim subsequent performance and compensation for expenses necessarily incurred in connection with subsequent performance, in particular transport and trip costs, labor costs (e.g. inspection, sorting, dismantling, and installation costs) and costs for material.

The costs and expenses referred to in this clause 10.1 must also be reimbursed if they are incurred even though the defective parts did not have to be replaced (e.g. installation of new or properly functioning software).

10.2 In so far as parts to be replaced are not inspected or are not returned to the Supplier for technical analysis or reworking, cellcentric shall scrap them. If the Supplier demands that they are returned to it before they are scrapped, cellcentric

shall – where possible – return the parts, at the cost of the Supplier.

10.3 In case of delivery of parts for the usage in motor vehicles, the warranty expires at the end of 33 months after the first vehicle registration or the installation of the replacement part, at the latest however, 36 months after delivery to cellcentric. In case of delivery of other parts, the warranty expires at the end of 36 months after delivery to cellcentric. Section 438 (3) German Civil Code (BGB) remains unaffected.

10.4 Notwithstanding clause 10.3, the warranty for parts supplied by the Supplier and fitted in products sold in the USA, Puerto Rico or Canada shall expire at the end of 48 months from initial registration, in accordance with the longer warranty periods vis-à-vis the end customer. For spare parts sold in the USA, Puerto Rico or Canada, the above limitation period shall apply mutatis mutandis from the time at which the spare part was fitted. The claims shall however become time-barred no later than 54 months after the delivery to cellcentric.

10.5 In case the laws and regulations of countries in which the products or spare parts are distributed provide for any longer warranty period than specified in clause 10.3 and/or clause 10.4, such longer warranty period shall replace the period specified in clause 10.3 and/or 10.4.

10.6 Any other statutory or contractual rights of cellcentric shall remain unaffected by the provisions of this clause 10.

11 Liability

11.1 In the event that claims are brought against cellcentric on the basis of product liability (in particular concerning claims outside court or before court with regard to a product defect), the Supplier shall indemnify cellcentric from such claims and any resulting expenses and damages (including legal fees and expenses) to the extent that the Supplier caused the product defect.

11.2 The Supplier shall be liable for compensation for any expenses and damages (including legal fees and expenses) resulting from actions which cellcentric undertakes to avoid any damage (for instance recall actions, service measures or other actions), in so far as such action results from the defectiveness of the goods supplied by the Supplier or other breach of duty by the Supplier.

11.3 The Supplier shall reasonably support cellcentric upon request with regard to the investigation and defense of third-party claims.

11.4 cellcentric shall inform the Supplier to a reasonable extent about the facts in cases of liability and shall give the Supplier the opportunity to investigate the issue. This shall not apply insofar as the information or the participation of the Supplier is not possible due to particular time restrictions.

11.5 Any other statutory or contractual rights of cellcentric (particularly those arising under the German Product Liability Act, tort, and agency without authority) shall remain unaffected by the provisions of this clause 11.

11.6 In addition to compensation for its own damages, cellcentric GmbH & Co. KG may claim compensation for damages of its affiliated companies (§ 15 of the German Stock Corporation Act (AktG)) in the form of payment to cellcentric GmbH & Co. KG itself as if the damages had been its own damages.

12 Third Party Rights, Industrial Property Rights

12.1 The Supplier shall ensure that the delivered goods as well as the production process do not infringe any third-party rights (in particular patent rights, utility patent rights, copyrights, design rights, trademark rights or any other rights with regard to intellectual property).

12.2 The Supplier shall be liable for any expenses and damages resulting from the infringement of third-party rights (including legal fees and expenses). Further, the Supplier shall indemnify cellcentric from any claims resulting from the use of any such rights.

12.3 Notwithstanding the above, the Supplier shall only be liable for claims relating to the infringement of registered industrial property rights or relating to the application for such rights ('Industrial Property Rights'), resulting from use of the goods according to the terms of the contract, if at least one such right from the same IPR family has been published either in the Supplier's home country, by the World Intellectual Property Organization (WIPO), by the European Patent Office (EPO) or in the Federal Republic of Germany, France, United Kingdom, Austria, USA, Japan or China.

12.4 Supplier's liability and the obligation to indemnify cellcentric according to this clause 12 shall not apply if the Supplier has manufactured the goods according to detailed drawings or detailed

models and at the same time the Supplier does not know or, in connection with the parts developed by Supplier, was not expected to know that Industrial Property Rights were infringed.

12.5 The Parties undertake to inform one another immediately of all risks of violation or alleged violations of which they become aware, and to provide each other with all reasonable support, without charge, to avert any possible claims (e.g. inspection, analysis, evaluation of documents).

12.6 At the request of cellcentric, the Supplier shall inform cellcentric about the use of any published or unpublished Industrial Property Rights which are owned by Supplier or licensed to Supplier relating to the goods to be delivered.

13 Use of Production Devices and Confidential Information made available by cellcentric

Models, matrices, templates, patterns, specifications, drawings, sketches, tools, and other manufacturing devices as well as confidential information and design data provided to the Supplier by cellcentric or paid for by cellcentric in full, may be used for supplies to third parties only with the prior written consent of cellcentric. The Supplier will use the aforementioned manufacturing devices and confidential information only with regard to the deliveries to cellcentric and not for any other purposes.

14 Termination of the Contract

14.1 Each Party may terminate the contract without notice for cause. Cause shall exist in particular if insolvency proceedings or judicial or extra-judicial composition proceedings are initiated in respect of the other Party's assets, an application for the opening of such proceedings is filed, even if such an application is rejected for insufficiency of assets, if the reasons for the institution of insolvency proceedings or of a similar process against the other Party's assets exist, or if debt enforcement proceedings have been initiated against all the assets of the other Party or a substantial part of these assets. Cause shall also exist to the benefit of cellcentric, in particular, if the financial circumstances of the Supplier deteriorate in a substantial way and the stability of the supply is thereby endangered.

14.2 In the event of termination of the supply agreement, cellcentric is entitled to pass on all information arising from the terminated business

relationship which is required by third parties to manufacture the items referred to in this supply agreement in order to cover cellcentric's needs, so far as the information concerned is not protected by Industrial Property Rights. Any arrangements agreed in respect of the handling of development results shall remain unaffected and shall be effective even after this supply agreement has ended.

15 Insurance

15.1 The Supplier is obliged to take out appropriate insurance in respect of its obligations. Upon request, it must provide cellcentric with evidence of the insurance cover.

15.2 cellcentric may in special cases require the Supplier to take out a certain type of insurance and/or a certain amount of insurance. In such cases, the Parties shall separately agree on the costs.

16 General Provisions, Compliance

16.1 Within the framework of its commercial dealings with cellcentric, the Supplier is obliged 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, bribery, acceptance of bribes or other corruption crimes on the part of persons employed by the Supplier or other third parties. In the event of violation of the above, cellcentric has the right to immediately withdraw from or terminate all legal transactions existing with the Supplier and the right to cancel all negotiations.

The above notwithstanding, the Supplier is obliged to adhere to all laws and regulations applicable to both itself and the commercial relationship with cellcentric.

16.2 If one Party suspends payments or if insolvency or extra-judicial composition proceedings are instituted against it, the other Party shall be entitled to rescind the part of the contract that has not been performed.

16.3 Any rights of retention of the Supplier shall be excluded unless its counterclaims have been legally determined without the right of appeal, are not disputed or have been acknowledged by cellcentric. Further, the Supplier shall only be entitled to a right of retention, insofar as its counterclaim results from the same legal relation.

16.4 Should any provision of these conditions or of any additional stipulations agreed upon be or

become invalid, this shall not affect the validity of the remainder of these conditions. The Parties are obliged to replace the invalid provision with one which comes as close as possible to the invalid provision in terms of its economic effect.

16.5 The law of the Federal Republic of Germany shall apply exclusively, excluding the application of conflict of laws provisions and excluding the application of the United Nations Convention on Contracts for the International Sale of Goods dated April 11, 1980.

16.6 Place of performance for the delivery shall be the cellcentric plant to which the goods are supplied. In other respects, the place of performance shall be Stuttgart, Germany.

16.7 The exclusive place of jurisdiction for all disputes arising from or in connection with this contractual relationship is Stuttgart (Mitte), Germany. Each Party may however also be sued at its general place of jurisdiction