

## **Special Purchase Conditions for Production Equipment (version 04/2023)**

- for exclusive use with business owners acting as part of their business-related or independent professional activities in concluding this agreement -

### **1. Governing conditions**

1.1 These purchase conditions apply to the development, manufacturing, delivery and commissioning (jointly referred to as the “services”) of production equipment, its components, parts, units, systems, and replacement parts, including any software contained therein or associated with such equipment (jointly also referred to as “equipment”).

1.2 Legal relations between cellcentric GmbH & Co. KG, Kirchheim unter Teck-Nabern and any of its affiliated companies (Sec. 15 AktG – German Stock Corporation Act) – jointly referred to as “cellcentric” – and the contractor (cellcentric and the contractor are also referred to jointly as the “contractual partners”) shall be governed, if not otherwise agreed, by :

these “Special Purchase Conditions for Production Equipment” of which the “General cellcentric Special Terms” and the “Special Terms for Production Equipment” are considered an integral part (jointly also referred to as the “Purchase Conditions”),

the “General Terms and Conditions for Development Work non-exclusive”,

the “Special Purchase Conditions for Works and Services” and

the “General Purchase Conditions” in this order.

All of the conditions are available in the cellcentric Supplier Portal at <https://cellcentric.net/en/supplier/>.

1.3 Amendments, supplements, and ancillary agreements to these Purchase Conditions shall require the written form.

This also applies to amendments to or revocations of this clause.

1.4 General terms and conditions of the contractor or changes suggested by the contractor to these Purchase Conditions, the underlying commission or other components of the contract shall not apply, not even if cellcentric does not object to them expressly in an individual case.

### **2. Order, Acceptance**

2.1 The ordering of equipment (e.g. through a “purchase order”) and any amendments (such as “order amendments”) or revocations shall require the written form/ however, they can also be submitted via an electronic system provided by cellcentric. The order shall be issued as a contract for work, if not otherwise agreed. The regulations in the following for a corresponding “contract for work” shall also apply even if the agreement has a different legal character. A contract for work for production equipment shall come about when the order is confirmed by the contractor (such as via order acceptance), or otherwise when the contractor begins performing the ordered services that are the object of cellcentric's offer to conclude the contract for work.

2.2 If the contractor does not accept the offer to conclude a contract for work within three weeks of receiving it, then cellcentric is entitled to revoke the offer.

### **3. Services of the contractor**

3.1 The contractor hereby undertakes to develop, manufacture, deliver and install the system in accordance with the contract, in particular promptly, completely, and free from defects.

3.2 cellcentric can request changes, extensions, and reductions to the commissioned service at any time (also jointly referred to as “changes”), in particular to the design and execution of the equipment. The contractor is obligated to make such changes in accordance to Sec.

3.3 to 3.5 in a reasonable extent. If the contractor becomes aware of additional expenses that were unforeseeable at the time the contract was concluded, he must inform cellcentric of this promptly in writing and describe the additional expenses upon request in detail, with justifications, and in an auditable manner. Sec. 3.3 to 3.5 still apply in this case.

3.3 Changed or additional services shall be assigned by the responsible cellcentric project manager before the contractor begins to perform them. In this case, the contractor is obligated to promptly submit the responsible cellcentric purchaser a detailed, justified, and auditable supplementary offer, promptly and without additional compensation, and to note any impacts on the schedule, in particular any delays. Supplementary offers must be assigned a serial number and must indicate the order number for the main contract.

3.4 The contractor comprehensibly calculates the supplementary offer based on the original commissioning and calculations. The contractor comprehensibly compares the original and supplementary calculations in an auditable manner. For this purpose, the contractor must verify the supplementary offer total by comparing the contractual service/contractual compensation and supplementary service / supplementary calculation, specifically describing the added or removed services and associated additional or reduced costs in a clear manner. If discounts were agreed to in the original commissioning, then these shall also apply for the supplementary offer in the same manner.

3.5 The contractual partners shall attempt to come to an agreement regarding the supplementary requirement before starting to carry out the supplementary services. If they are not successful in doing so, the contractor shall not obtain any right to deny services in whole or in part, or halt work in whole or in part.

3.6 The amended or additional services may only be invoiced, regardless of other requirements for compensation, if cellcentric has commissioned the changed or additional services by its own order or order amendment according to Sec. 2.1.

3.7 Until the time of acceptance, cellcentric can request that the contractor analyzes and lists any potential areas of savings without additional compensation, as long as it would not be unreasonable for the contractor to do so. If potential savings result from this analysis or from any other source, then the contractual partners shall adjust the compensation accordingly.

3.8 One of the bases for the commissioning is that the contractor must remain competitive until acceptance of the equipment and for replacement parts and – if the commission is issued – for equipment maintenance even after the acceptance of the equipment, at least with respect to the contractor's price, quality, capability for innovation, and equipment safety.

#### **4. Replacement and wear parts**

4.1 The required documentation is set forth in the cellcentric Special Terms for Production Equipment. A replacement parts catalog according to cellcentric's specifications is considered a significant part of the documentation. It must include all replacement and wear parts, with all order data necessary for proper ordering from the respective manufacturer (manufacturer, manufacturer item number, etc.).

4.2 The contractor shall ensure that all replacement and wear parts necessary for maintenance, repair and required conversion and retrofitting (or parts with comparable or higher function) remain available for purchase by cellcentric during the service life of the machine. This obligation shall apply for at least 15 years from the time of final acceptance.

4.3 If the proper supply of replacement or wear parts is endangered, the contractor must inform cellcentric of this promptly.

4.4 Any guarantee or liability for replacement and wear parts delivered by the contractor shall be subject to the regulations of these Purchase Conditions, whereby the warranty term and any guarantee term shall begin upon delivery of the replacement parts to cellcentric.

4.5. cellcentric is entitled to purchase replacement and wear parts from third parties as well.

## 5. Invoicing

The contractor's invoice must conform to applicable laws and regulations, and in particular must bear a VAT identification number or tax number, date of service and clear designation of the equipment. A single copy must be sent to cellcentric. Furthermore, the supplier number, number of the delivery slip, number and date of the ordering (e.g. "purchase order"), additional data regarding the ordering party (account assignment), country of origin for the equipment and unloading location must be listed in the invoice. The invoice may only refer to one delivery slip. Standard delivery slips (DIN 4991) must be used for all deliveries. The contractor's invoices shall be due only when the above requirements are fulfilled.

## 6. Subcontractor

6.1 The contractor is only entitled to pass the performance of services in whole (or in part) to subcontractors with the prior written consent of cellcentric.

6.2 cellcentric's consent to subcontracting work to a subcontractor may be conditional and is revocable. cellcentric shall be entitled to revoke such consent with immediate effect, in particular, if – within the scope of audit regarding social insurance law – it should transpire by hearing or decision of the "Deutsche Rentenversicherung" (German Pension

Insurance) that a dependent employment relationship with the subcontractor has been determined or is to be assumed.

6.3 The contractor shall oblige the subcontractors used in accordance with his own obligations vis-a-vis cellcentric, in particular, with regard to confidentiality and data protection.

6.4 The contractor is obliged to ensure on a contractual basis vis-a-vis his subcontractors and to prove upon cellcentric's request that subcontracting to sole proprietors and partnerships under civil law ("GbR") as further subcontractors (sub-subcontractors) is excluded, as far as the service provision is (or shall be) carried out completely or partly by a principal (owner of a sole proprietorship or partner of a GbR).

6.5 The contractor shall ensure that the prohibition of use in clause 6.4 is complied with in the entire chain of all further subcontractors.

6.6 The contractor warrants that each of its subcontractors and other subcontractors in the entire chain comply with the statutory minimum wage requirements with respect to its employees.

6.7 The contractor shall disclose to cellcentric at any time upon request in the entire chain which subcontractors are (and were) used for the complete (or partial) fulfillment of the contractual performance obligations incumbent upon him vis-a-vis cellcentric.

6.8 The contractor shall be liable to cellcentric for the fault of the subcontractors and vicarious agents used by him.

6.9 If the contractor violates any of the aforementioned obligations or warranties in sections 6.1 - 6.7, the contractor shall be liable to cellcentric for all resulting damages. Furthermore, the parties agree that a violation of the contents of this clause 6 constitutes a compelling reason entitling

cellcentric to terminate the existing contract with the contractor without notice.

## **7. Confidentiality, use of results**

7.1 The contractual partners hereby undertake to treat all non-public commercial and technical information disclosed to them through their business relationship as trade secrets. Disclosure of information to affiliated companies (Sec. 15 AktG - Joint Stock Corporation Act) or contractual partners is permitted only if they are likewise obligated to non-disclosure, and if they have a legitimate interest in the information.

7.2 The contractor may not carry out reverse engineering with respect to any models, samples, specifications, drawings, sketches, tools or other items provided by cellcentric. Any software provided by cellcentric may not be disassembled, decompiled or translated into another type of code.

7.3 The contractual partners may only publicly disclose their business relationship (for instance for advertising purposes) with the prior written consent of the other respective contractual partner. Without prior written consent from cellcentric, the contractor may not advertise using the name, brands or products of cellcentric or its affiliated companies.

## **8. Delivery deadlines and terms**

8.1 With the order confirmation, the contractor shall provide cellcentric with an agreed schedule in accordance with the stipulations of the performance specification. The contractor shall inform cellcentric promptly and in writing if the deadlines or terms contained therein cannot be met or are exceeded.

Agreed deadlines and terms are binding. Unless otherwise agreed in writing, acceptance at the intended setup location in cellcentric's plant shall be decisive when

determining compliance with the delivery term or deadline.

8.3 cellcentric is entitled to unilaterally delay or extend agreed terms and deadlines to a later date in legitimate cases. The contractor shall not be entitled to any claims as a result.

## **9. Disruptions of service, delay of delivery, contractual penalty**

9.1 Early deliveries, partial deliveries or deliveries of a different number of items shall require prior written approval from cellcentric. If such approval is not granted, cellcentric can deny acceptance of these services or return them at the cost of the contractor. Regardless of whether cellcentric grants its prior approval, the contractor shall reimburse cellcentric for any expenses and damages resulting from the early services, partial services, or delivery of a different number. If these services result in higher transportation costs, the contractor shall bear such costs.

9.2 The contractor must inform cellcentric promptly regarding circumstances that could result in a disruption of service, in particular in a late or only partial service. The contractor shall provide cellcentric with the relevant information, as well as the measures the contractor intends to take to avoid or lessen the impact of the disruption in service.

9.3. In case of impending or actual default, cellcentric can demand that the contractor accelerates its provision of services and choose the fastest type of transportation, whereby the contractor shall bear any costs above the normal transportation costs.

9.4 If the contractor is culpable for exceeding the agreed delivery deadline, the deadline to complete its services, or if the contractor falls into default with its services in some other manner, cellcentric can demand a contractual penalty. The penalty amount shall be 0.1% of the gross order total for each business day exceeding the deadline, and a maximum of 5% of the

gross order total. cellcentric can assert the contractual penalty even if they only reserve the right to do so at the final payment. Agreed contractual penalties shall not be due if original deadlines change or a new schedule is agreed to. In this case, the contractual penalty agreement shall continue to apply for the changed deadlines and completion periods.

9.5 Further claims for damages or termination by cellcentric shall remain unaffected by the contractual penalty regulation. In particular, the contractor is obligated to reimburse cellcentric for default damages according to statutory law.

## **10. Force majeure**

Force majeure, labor disputes, unrest, official measures and other unforeseeable, unavoidable and serious events shall release the contractual partners from their performance obligations for the duration of the disruption and to the extent of their effect. This is the case even if these events occur at a time when the contractual partner in question is in default. The contractual partners are obligated to promptly provide the other respective contractual partners with necessary information as far as reasonable, and to do everything possible to eliminate the disruption and/or reduce its impacts. The contractual partners shall, furthermore, look for alternative methods and means to facilitate the continued fulfillment of performance obligations and, if necessary, shall adjust their obligations for the length of the disruption to the changed circumstances in good faith. Once the disruption no longer exists, the original performance obligations must be fulfilled once again.

## **11. Quality assurance, safety measures, accident prevention, hazardous substances, certification**

11.1 The contractor shall comply with international and national laws and official

regulations, the agreed technical data, specifications, and quality requirements, as well as the state of science and technology for its services.

11.2 In particular, the contractor shall ensure compliance with all occupational safety regulations, the accident prevention regulations applicable for the contractor as well as the relevant, generally recognized safety technology and occupational medical regulations.

11.3 The design of the equipment must conform to basic safety and health requirements of the Machinery Directive 2006/42/EC, harmonized standards, accident prevention and occupational protection regulations and the generally recognized safety and occupational medical regulations. Any hazardous materials and lubricants produced during assembly, maintenance or disassembly must be disposed of properly and in accordance with the law, in particular the Water Resources Act (WHG).

11.4 The equipment to be delivered must conform to CE regulations. The CE-certificate shall be provided at the time of handover. In the absence of the CE-certificate, cellcentric can deny acceptance. The contractor hereby declares their irrevocable understanding that cellcentric may provide drawings given to cellcentric by the contractor during the collaboration to third parties, for instance in the form of calls for tenders, whether in paper or electronic form.

11.5 The contractor hereby expressly assures that it has the status of a specialist company in accordance with statutory regulations, in particular the Water Resources Act (WHG), insofar as this is necessary to carry out the commissioned work. The contractor hereby undertakes to submit relevant verifications upon request. The contractor furthermore undertakes to ensure that it will remain a specialist company during the entire term of its work and shall inform cellcentric if this status is

withdrawn or expires. The contractor shall be liable for all damages that cellcentric incurs due to the lack or subsequent loss of status as a specialist company, unless the contractor can verify that the pecuniary losses would have been incurred even if cellcentric had been notified promptly.

11.6 The right to assert contractual or statutory claims shall remain unaffected by the above provisions of article 11.

## **12. Warranty**

12.1 The contractor shall assume warranty for the fact that services are performed free from defects.

12.2 Defect claims shall expire at the earliest 36 months after the time of final acceptance. If German law provides for longer limitation periods for defect liability claims, then these periods shall apply. If statutory regulations in countries where the equipment is delivered or intended for use provide for longer limitation periods for defect liability claims than set forth in German law, then the German statutory provisions shall be replaced by the longer limitation period.

12.3 The limitation period for defect claims shall begin upon acceptance of the contractual service by cellcentric according to Article 5 Special Purchase Conditions for services. For acceptance to be granted, in particular, the equipment must achieve the agreed level of quality and cycle time, and the contractor must rectify any defect protocols and other complaints of defects and must also deliver all documentation and provide verification of the machine's capability in accordance with the contract as well as internal availability. If it is not possible to verify the contractually agreed-upon quantities due to a lack of workpieces, then cellcentric is entitled to delay acceptance accordingly. Afterwards, cellcentric can only deny acceptance in conjunction with the contractual quantities if doubts about whether they can function free from defects are justified.

12.4 In addition to reimbursement of the damages it has suffered, cellcentric GmbH & Co. KG can demand reimbursement of damages suffered by its affiliated companies as though they were damages suffered by cellcentric GmbH & Co. KG.

12.5 Other statutory or contractual rights of cellcentric shall remain unaffected by the regulations of this Article 12.

## **13. Liability**

13.1 If claims are made against cellcentric by third parties either in court or outside of court due to a product error, the contractor is obligated to release cellcentric from such claims and the resulting expenses and damages (including costs of legal defense), if the claims are based on a breach of duty by the contractor, for instance because the contractor caused the product fault.

13.2 The contractor shall be liable for expenses and damages (including costs of legal defense) resulting from measures taken by cellcentric to avoid damages (such as recall campaigns, customer service measures or other measures), if these measures were the result of defects in the equipment delivered by the contractor or another breach of duty by the contractor.

13.3 The contractor shall support cellcentric appropriately in clarifying and defending against third party claims upon request.

13.4 cellcentric shall inform the contractor accordingly in case of any liability cases, and give the contractor an opportunity to investigate the matter. This shall not apply if it is not possible to inform or involve the contractor due to the particular urgency of the matter.

13.5 Other statutory or contractual rights (in particular resulting from the Product Liability Act, illegal actions, *negotiorum gestio* – agency without authority) of cellcentric shall remain unaffected by the regulations of this Article 13.

13.6 In addition to reimbursement of the damages it has suffered, cellcentric GmbH

& Co. KG can demand reimbursement of damages suffered by its affiliated companies as though they were damages suffered by cellcentric GmbH & Co. KG.

#### **14. Third party rights, protected rights**

14.1 The contractor shall ensure that the equipment and the manufacturing process do not violate any third party rights (in particular patent rights, utility model rights, copyrights, rights to registered designs, trademark rights, or other intellectual property rights). Upon request, the contractor must disclose the measures it is taking in this respect.

14.2 The contractor shall be liable for expenses and damages resulting from breaches of third-party rights (including the costs of legal defense) and shall indemnify and hold cellcentric harmless from all claims resulting from the use of such rights.

14.3 The contractor shall, however, only be liable for claims resulting during contractual use of the equipment from breaches of registered property rights and applications for property rights (protected rights) if at least one of the family of protected rights is published either in the home country of the contractor, by the World Intellectual Property Organization (WIPO), by the European Patent Office (EPA), or in one of the countries of Germany, France, Great Britain, the USA, South Korea, Japan, or China.

14.4 The contractor's liability and indemnification obligations under this Article 14 shall not exist, if the contractor has manufactured the equipment according to detailed drawings or models provided by cellcentric, and does not know, or would not be expected to know, in conjunction with the products it has developed, that this would result in a violation of protected rights.

14.5 The contractual partners hereby undertake to inform one another promptly of any risks of violations or alleged violations and to mutually support one

another in defending against potential claims free of charge in every reasonable manner (such as investigation, analysis, document evaluation).

14.6 Upon request by cellcentric, the contractor shall inform cellcentric of the use of its own and its licensed property rights and applications for property rights to the equipment, whether published or unpublished.

#### **15. Use of free and open-source software ("FOSS")**

15.1 The contractor is not permitted to include so-called free software" or open source software", i.e. software that can regularly be obtained free-of-charge and open source ("FOSS"), in software developments for the purpose of fulfilling the contract.

15.2 This also applies if their license and usage conditions expressly permit the use of this FOSS for software development in original, modified, derived or other form.

15.3 The use of FOSS may be permitted in individual cases if the contractor (i) requests the use of FOSS in writing to cellcentric, (ii) submits the associated license and usage terms, (iii) communicates the reasons (advantages/benefits) for the use of FOSS and (iv) cellcentric consents in writing to the use of such FOSS for the performance of the contract.

15.4 Any use of FOSS without cellcentric's prior written consent shall be deemed a material breach of contract. If a contractual service of the contractor contains FOSS not released by cellcentric, this contractual service is considered defective. In this case, the contractor shall release the contractor and any third parties affected by the violation from claims, damages, losses and costs resulting from the violation, and defend them against any claims.

## **16. Use of production materials and confidential information of cellcentric, data attribution**

16.1 Models, matrices, dies, samples, specifications, drawings, sketches, tools, and other production materials, as well as confidential information and design data that cellcentric provides to the contractor or that is paid for in full by cellcentric may only be used with prior written approval from cellcentric to perform services for third parties. The contractor shall only use the aforementioned production materials and confidential information in relation to services for cellcentric, and not for other purposes.

16.2 The contractor hereby recognizes that all data (in particular operating data) collected by cellcentric, the contractor or another third party from or in conjunction with use of the equipment is to be attributed to cellcentric as long as the contractor or another third party is not entitled to it under applicable law. The contractual partner shall not assert any rights of ownership or other rights to this data, and shall in particular not use the data for "big data" purposes like data collection, analysis, or to create databases.

## **17. Contract termination**

17.1 Either contractual partner can terminate the contractual relationship for a compelling reason without notice period. Compelling reason exists, in particular, in cases indicated in Articles 7.3.1, 7.3.2, 7.3.3 Special Purchase Conditions for Works and Services Purchase Conditions, as well as if insolvency proceedings are opened against the assets of the other contractual partner, if settlement proceedings are opened in court or outside of court, if a motion is made for such proceedings, even if said motion is rejected due to lack of funds, as well as if there are grounds to open insolvency proceedings or comparable proceedings against the

assets of the other contractual partner, or if compulsory enforcement proceedings have been initiated against the entire assets of the other contractual partner or a significant part of said assets. Compelling reason in favor of cellcentric exists, furthermore, in particular if the financial situation of the contractor becomes significantly worse, and if this endangers the contractual performance of services.

17.2 If the contract for work is ended, cellcentric is entitled to request all information from the ended business relationship that is required by cellcentric or third parties to operate the equipment from the contractor, and to provide such information to third parties. The regulations on handling development results and the rights of use to which cellcentric is entitled shall remain unaffected and shall remain effective even after the end of the contract for work.

## **18. Insurance**

18.1 The contractor is obligated to ensure that it carries appropriate insurance protection with respect to its obligations. Upon request, it must provide verification of insurance protection to cellcentric.

18.2 In special cases, cellcentric can request that the contractor concludes a certain type of insurance and/or an insurance policy in a certain amount. In these cases, the contractual partners shall agree separately on the costs.

## **19. General provisions, compliance**

19.1 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.

19.2 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.

19.3 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.

19.4 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.

19.5 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.

19.6 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