

Cellforce Group GmbH General Terms and Conditions of Purchase for Plant and Machinery Status 12/2022

1. Scope of application

- 1.1 The legal relationship between Cellforce Group GmbH or the company affiliated with it as defined in Section 15 German Stock Corporation Act (AktG) (hereinafter "Cellforce") that commissions the services on the basis of these GTC and the Contractor are based on these General Terms and Conditions of Purchase and any other written agreements, including amendments and additions. As well as the written form, the text form and transactions by means of an electronic system provided by Cellforce shall suffice. There are no collateral agreements.
- 1.2 The Contract shall be based in the following order of precedence on the Contract concluded with the Contractor, the particular orders/call-offs including the respective reference documents and these General Terms and Conditions of Purchase.
- 1.3 Contractor's General Terms and Conditions shall not apply, even if they have not been expressly rejected in specific cases.

2. Performance standard

- 2.1 The Supplier must build the Plant in such a way that it complies with the Specifications, the additional requirements referred to in the Offer Negotiation Record and its appendices, the latest technical standards, the relevant legal requirements (in particular the relevant operating and licensing rules) and current safety and inspection/testing regulations at the time of formal acceptance and that the costs of operating, servicing and maintaining its are also in accordance with the latest technical standards. The Supplier must supply a complete plant which includes all of the elements necessary to ensure its trouble-free operation, the achievement of the agreed performance standards and compliance with any agreed feature guarantees /the provision of the agreed functionality, even if individual elements necessary for these purposes are not explicitly listed, and must procure the licences (e.g. software licences) required for the use as prescribed of the Plant.
- 2.2 The Supplier is furthermore responsible in particular for the transport of the item to be supplied, the payment of customs duties, packing materials (including taking these back/disposing of them), installation and setting-up of the Plant, as well as for trial operation, insurance, site setup and securing and all other subsidiary supplies/services necessary for the construction of the Plant.
- 2.3 The Supplier must obtain the necessary Plant-specific certifications and licences. If the certification or licence is not granted or only granted after a delay, it must indemnify the Customer against all resulting losses, unless the Supplier is not responsible for the refusal to grant or the delay. If the Supplier is responsible for a delay, Section 11 applies. If a refusal to grant the certification or licence becomes final, the Customer is entitled to withdraw from the contract and claim damages as permitted by law. This is without prejudice to any other rights or claims of the Customer. Operator-specific approvals must be obtained by the Customer. The Supplier must at its own expense support the Customer in obtaining operator-specific approvals.

3. Advertising, reference lists

The Supplier is only permitted to use the business relationship for advertising purposes with the customer's prior written consent.

4. Items to be supplied by the Customer, use of supply sources

- 4.1 If the Customer supplies specific items and/or materials, the Supplier must check them individually for suitability. It must notify the Customer immediately in writing of any concerns. Responsibility for creating the required interfaces to integrate such supplies into the Plant remains with the Supplier.
- 4.2 Items supplied by the Customer will remain its property. Any processing or transformation of the same by the Supplier is carried out on behalf of the Customer. If such supplies are combined with other items not belonging to the Customer in such a way that they become integral elements of a single new item, the owners of the original elements will acquire joint title to the combined item in proportion to the value of their contributions at the time of the combination. If one element must be regarded as the chief element, the owner of that element will acquire sole title. If the Supplier acquires sole title to a combined item, it hereby grants the Customer joint title to the new item in proportion to the value of the relevant contributions at the time of combination. The latter hereby accepts this transfer. The above provisions relating to combinations apply even if the elements concerned are inseparably mixed with each other. The Supplier must hold and protect the

Customer's solely or jointly owned item for the latter free of charge and with the diligence to be expected of a prudent businessman* (*ordentlicher Kaufmann as defined in detail by German law) If the Supplier obtains specific items from a third party pursuant to an outline contract concluded by the Customer with that third party, this will not affect the Supplier's responsibility for supplying goods/services, including the items obtained from the third party concerned. The Supplier must inform the Customer immediately in writing of any concerns about the suitability of such items.

- 4.3 The Supplier must provide all of the machinery, equipment, scaffolding, lifting equipment etc. required for the execution of the order at its own risk and expense. Should the Customer provide such an item in an individual case, the Supplier must bear the cost of maintaining it and insuring it appropriately.
- 4.4 The Customer accepts no liability for the loss of or damage to items brought onto the plant/construction site by the Supplier.

5. Technical records and documentation

- 5.1 Any records/documents made available to the Supplier by the Customer, in particular plans, samples, drawings, models, calculations and similar items (hereinafter "documentation") will remain the property of the Customer; they may not be used for any other than their contractual purposes, duplicated or made accessible to any third party. The Supplier must proactively check such documentation for completeness, correctness and suitability. It must notify the Customer immediately in writing of any concerns. They must be proactively returned to the Customer or irretrievably deleted, together with any copies made, when they are no longer required for the execution of the order, but at the latest on the expiry of the warranty period.
- 5.2 Approval by the Customer of technical documentation from the Supplier does not affect the Customer's warranty rights or liability claims. This also applies to proposals and recommendations made by the Customer, unless the Supplier gave immediate written notice of concerns about them.
- 5.3 No later than when the Plant is handed over ready for operation pursuant to Section 16.5, the Supplier must make available all of the documentation produced for its construction, in particular all technical documentation in accordance with the Customer's stipulations including the number of copies agreed upon in the Specifications, in German, of the maintenance schedule and all other documentation relating to its operation, servicing or maintenance. This documentation must be updated immediately when any later modifications are made to the Plant. The supply of a complete set of documentation corresponding to the current status of the Plant is a precondition for formal acceptance pursuant to Section 17. This is without prejudice to any more far-reaching statutory requirements, in particular pursuant to the German Product Safety Act and any directives issued pursuant to its provisions.
- 5.4 The costs of the documentation are included in the overall price.

6. Use of free and open source software

- 6.1 Definition of free and open source software
 - 6.1.1 "Free and open source software" or "FOSS": Software which is licensed and released on terms that meet the requirements of the "Open Source Definition" (<https://opensource.org/osd>) of the "Open Source Initiative" and is therefore licensed and distributed free of charge by its copyright holders also in source code form to be used in any way by anyone, and/or
 - 6.1.2 is licensed on terms which have been recognized on the websites of the "Open Source Initiative" and/or the "Free Software Foundation" as free software licenses or open source software licenses, and/or
 - 6.1.3 is offered as public domain software.
- 6.2 Preconditions for the use of FOSS
 - 6.2.1 FOSS may only be used in products, technologies and services (including hardware with integrated software) which are distributed, licensed, transferred or otherwise made available to Cellforce or which have been developed for Cellforce (hereinafter "Contractual Products") if all the license requirements for the FOSS in use are met and all the following terms are complied with:
 - 6.2.1.1 The Contractor must not make use of FOSS in the Contractual Products in any way that would cause a copyleft effect on pre-existing proprietary software or software newly developed as part of the Contract. This does not apply to modifications made in existing FOSS components (e.g. bug fixes and

modifications to specific hardware) and individual cases that Cellforce agreed upon.

- 6.2.2 The Contractor must not use any FOSS with license terms which require that the user must be able to install or execute modified software on hardware with integrated software (so-called embedded system, in particular motor vehicles), unless the Contractor has the confirmed information by Cellforce that the software provided by the Contractor will not be used on such an embedded system with technical security mechanisms (e.g. signature procedure).

The requirements set out in this section 6.2 also apply, without further notice or request by Cellforce, to every update of the software used in the Contractual Products, regardless of the form in which the software (such as source code, binary, software as a service, container) is provided.

6.3 Confirmation

Irrespective of any other rights of Cellforce, the Contractor guarantees to Cellforce that it will comply with the stipulations in section 6.2 and all requirements arising from the relevant licenses for all FOSS used by the Contractor for Contractual Products, that the Contractual Products do not contain any further FOSS and that there is no other copyright infringement.

6.4 Legal consequences and compensation

In the event that the Contractor fails to comply, or fails to comply in good time, with (i) the license terms for the FOSS included in or any other copyright provisions concerning the Contractual Products, and (ii) the preconditions and confirmations given in sections 6.2 and 6.3, the Contractor undertakes the following:

- 6.4.1 If FOSS is used in Contractual Products in a way which does not comply with licenses the Contractor shall exchange such software promptly at its own cost for other software components which can be used without infringing license terms or applicable copyright law.
- 6.4.2 The Contractor must reimburse Cellforce for all costs, expenses and damages incurred and resulting from non-compliance or delayed compliance.

A lack of one of the confirmed issues in section 6.3 will be deemed a material breach of contractual obligations and the Contractual Product will be deemed defective as a result.

7. General performance

- 7.1 The Supplier must supply its goods/services in close consultation with the Customer and any third parties employed by the Customer, in particular ones supplying items required to be provided by the Customer. Regardless of the above, the goods/services are to be supplied under the responsible management of the Supplier. The Supplier retains sole authority to issue technical, human-resources-related and disciplinary instructions to its employees concerned with the supply of the contract item.
- 7.2 Before the commencement of erection/assembly/installation work, the Supplier must take over the construction or erection site together with all of the foundations, connections, layout markings etc. which are important to it and check that they are in order. If there are any complaints later about items supplied by it, the Supplier can only cite deficiencies in the construction/erection site or any other preliminary work which it could have detected when it checked for them or later, if it informed the Customer of them in writing immediately when they became detectable.
- 7.3 The Supplier must update the Customer constantly, at least once a week, on the progress of the work. The Customer is entitled to monitor the progress of the contract work during normal business hours and to inspect materials, documentation and workresults which are connected either directly or indirectly with that work. The Supplier must ensure that the Customer is granted the same rights by any subcontractors of the Supplier.
- 7.4 Should any modifications or improvements come to appear useful or necessary during the execution of the contract, the Supplier must inform the Customer in writing immediately and obtain a decision from the latter as to whether the requirements of the contract should be amended. If in the course of the project's execution the Supplier, on account of technical innovation, identifies opportunities to save on the cost of constructing the Plant and the Customer agrees to implement them, the saving is to be split equally between the contracting parties if it can be proven that the potential saving is attributable exclusively to the Supplier. Otherwise, the saving is to benefit the Customer alone.

8. Modifications to contract goods/services

- 8.1 The Customer is entitled at any time to request reasonable modifications to contract goods/services including extensions of the Plant or the omission of individual Plant parts. The Supplier must immediately state how modifications to contract goods/services will affect the remuneration taking into account the agreed terms and

conditions for modifications to contract goods/services pursuant to the Offer Negotiation Record and the timetable.

- 8.2 If the Customer and the Supplier are unable to reach agreement on the amount of any additional or reduced costs and/or with regard to a postponement of the formal acceptance date and/or any other contractually agreed deadlines, the Customer is entitled before deciding that an amendment should be implemented to require the Supplier to submit a written calculation of the costs of the additional work and additional or reduced expenditure involved and to permit the inspection of any production plans which have to be modified. The Customer must inform the Supplier of its decision.
- 8.3 If there is a technical agreement between the parties regarding the modification, the Supplier must implement this at the Customer's behest, even if the confirmation from the Customer's procurement department pursuant to the Offer Negotiation Record has not yet been provided.

9. Project leadership

- 9.1 Contact persons are to be nominated in the Offer Negotiation Record to act for the Customer and the Supplier throughout the term of the contract's execution. These contact persons are responsible for coordinating cooperation between the parties and for ensuring that decisions necessary within their sphere of influence are made.
- 9.2 Any change of contact persons must be announced in writing in advance. The Supplier must ensure that the new contact person appointed by it is sufficiently familiarized with the project in advance. The Supplier shall be responsible for the consequences in this respect, in particular all costs for replacing and familiarising the new contact person. The Customer is entitled to object to the replacement of the contact person for good cause, particularly if the proposed replacement is not sufficiently qualified or does not offer the guarantee for trusting cooperation. The Customer is entitled to request the replacement of the contact person for the same reasons.
- 9.3 Where this is required in accordance with the content and object of the Supplier's service, the latter shall appoint a construction manager who meets the legal requirements. Section 9.2 applies accordingly.

10. Deployment of staff, subcontractors, minimum wage, terrorism screening

- 10.1 The Supplier is only permitted to employ staff to supply the contract goods and services who possess the necessary personal and technical qualifications. The Supplier is not permitted to employ either agency workers within the meaning of the German Temporary Employment Act (AÜG) or staff who are without a valid work permit and/or a valid social security card. The Supplier must permit the Customer or an authorised representative of the latter to monitor this.
- 10.2 The Supplier is not entitled to employ subcontractors to supply contract services or elements thereof without the Customer's prior approval. This approval must be confirmed in writing by two authorised representatives of the Customer if it has not already been given in the Offer Negotiation Record. If the Customer gives approval, the Supplier nevertheless remains the contract partner responsible for the fulfilment of the contract.
- 10.3 If it employs subcontractors, the Supplier must in all cases comply with the relevant legislation and regulations. The Supplier must in particular ensure that subcontractors employed by it do not employ agency workers within the meaning of the German Temporary Employment Act (AÜG) or staff from third countries without a valid work permit and/or a valid social security card either. It must indemnify the Customer against third-party claims in connection with the use of subcontractors. The Supplier is liable for acts and omissions by its subcontractors in the same way as it is liable for its own acts and omissions.
- 10.4 Undertakings must be obtained from subcontractors to comply with the terms of this contract, in particular those relating to industrial property rights in Section 25 and to the handling of information in Sections 27 and 28.
- 10.5 The Supplier shall undertake to pay its employees at least the statutorily prescribed or contractually agreed minimum wage. Further, the Supplier shall undertake only to employ such subcontractors that likewise contractually undertake to pay at least the statutorily prescribed or contractually agreed minimum wage to their employees. The Supplier shall place the subcontractors instructed by it under obligation in accordance with this Section.
- 10.6 In the event of an infringement of the provisions of the Minimum Wage Act (MiLoG), the Supplier shall undertake to comprehensively indemnify and hold harmless the Customer from and against any and all obligations associated with such an infringement and also to compensate the Customer for any damages resulting from a culpable infringement. The same obligation shall apply to the Supplier if a subcontractor instructed by him should infringe the provisions of the Minimum Wage Act (MiLoG). If a claim should be made against the Customer by an employee of the Supplier for payment of the statutory minimum wage, the Supplier shall undertake to provide to the Customer all information necessary for the defence against the claim and any action for payment. This shall also apply following termination of the contractual relationship between the Customer and the Supplier. The Supplier shall guarantee to place subcontractors instructed by it under obligation in accordance with

this Section and to pass the necessary information to the Customer without delay if an employee of the subcontractor lodges claims against the Customer.

10.7. The Supplier is required to screen all persons that are deployed on the Customer's factory premises to perform owed service before the start of contractual performance. Therefore, the last name, first name, date and place of birth are to be verified against sanctions lists pursuant to Council Regulations (EEC) No. 2580/2001, No. 881/2002 and No. 753/2011 as well as any amendment which has been or will be issued by the European Commission. The check has to be repeated periodically, but at a minimum once per year. The Customer has the right to request proof from the Supplier that the appropriate verifications have been performed.

10.8. Should the Supplier fail to comply with one or more of the undertakings detailed above in this Section 10, the Customer is entitled, whilst reserving the right to exercise any further rights, to set it a reasonable deadline to satisfy the obligations concerned. Should such a deadline pass without result, the Customer is entitled to terminate the contract without notice and to claim damages in place of performance. The Supplier must also indemnify the Customer against any claims by social security agencies or other third parties.

11. Deadlines and default

11.1. Should it become apparent that it will be impossible to keep to the timetable agreed between the parties, either wholly or partly, the Supplier must inform the Customer in writing immediately, stating the reasons and the likely duration of the delay and making specific suggestions as to how the situation can be remedied. Communication of a probable delay in delivery will in no case affect the agreed delivery dates.

11.2. The Supplier must bear all losses suffered by the Customer as a result of any failure to notify or late notification, unless the Supplier is not responsible for the omission or delay. This is without prejudice to liability from the standpoint of default.

11.3. If the Supplier fails to keep to the time periods and deadlines to which a contractual penalty is attached in the Offer Negotiation Record (individual deadlines), the Customer is entitled to charge a contractual penalty equal to 0.1 % of the total net order value per working day or part thereof, subject to an overall total for all individual deadlines together equal to 5 % of the total net order value, unless the Supplier is not responsible for the failure to comply. A working day for this purpose is any day from Monday to Friday – excluding statutory public holidays which apply at the Customer's plant specified in the Offer Negotiation Record – plus any other days on which production is carried out at that plant and structural work is not taking place. If the Supplier has already failed to meet an individual deadline, a further contractual penalty may only be claimed with respect to an additional individual deadline if the Supplier is guilty of an additional or new failure to comply with it. A presumption of culpability will apply in each case. Once the maximum penalty of 5% of the total net order value has been reached, the Customer is entitled to terminate the contract and claim damages for non-performance. This termination is governed by the provisions of Section 26.

11.4. The above is without prejudice to the Customer's right to claim actual damages exceeding the above amounts, although any contractual penalty payable will in such cases be counted towards the Customer's damages.

11.5. A contractual penalty may also be applied against the final payment.

11.6. Otherwise, the statutory rules on default apply.

12. Force majeure

Force majeure, lawful labour disputes, civil disturbances, action by official bodies and other unforeseeable, unavoidable and serious external events shall release the Contracting Parties for the duration of the problem and, to the extent affected by such occurrences, from their duties to perform. The Contracting Parties shall within the framework of what is reasonable, be required to provide the required information without undue delay and adjust their obligations to suit the changed conditions in good faith.

13. Price, place of use

The agreed price shall include delivery to the place of use and includes everything which the contractor needs to do to fulfill its obligation to supply goods and services at the agreed place of use, in particular the services listed in Item 2 together with all other incidental costs.

The place of use is the factory stated in the record of contract negotiations, unless otherwise stated in the specifications.

Before submitting the quotation the contractor had the opportunity to visit the place of use and/or inspect the ordering party's planning documents and thus to obtain information on the structural conditions and the options for delivery and thus to take account of the structural conditions and the options for delivery in its quotation.

Where unit prices are agreed, these shall be fixed prices and shall also remain valid when changes in quantities occur.

14. Terms of payment

14.1. If a fixed price is agreed upon and nothing to the contrary has been agreed between the parties, the following terms of payment apply:

30 % on receipt of order confirmation, in return for an advance payment guarantee as per Section 23.1,

50 % following handover ready for operation as per Section 16.5,

20 % following successful formal acceptance recorded in writing as per Section 17, but if formal acceptance is delayed for reasons for which the Customer is solely responsible the payment is due at the latest 3 months after the agreed formal acceptance date and this has been communicated in writing hat.

In the event of defects, Subsection 17.2 applies.

14.2. Where charging is agreed to be at a unit price based on quantity, invoices are to be issued in instalments at the agreed milestones as the agreed goods/services are delivered. The Supplier must invoice for its deliveries in an auditable form. Its invoices must be clearly formulated, correspond with the order of items and use the designations employed in the relevant elements of the contract. The quantity calculations, drawings and other documentation required to determine the nature and amount of the items supplied must be attached. Any amendments or additions to the contract must be clearly marked as such on the invoice. They must be separately invoiced if this is requested.

14.3. Subject to the requirements above being satisfied, the Customer must pay within 30 days following receipt of an invoice. Payment is also subject to the provision of a guarantee certificate in cases where the contract requires a guarantee.

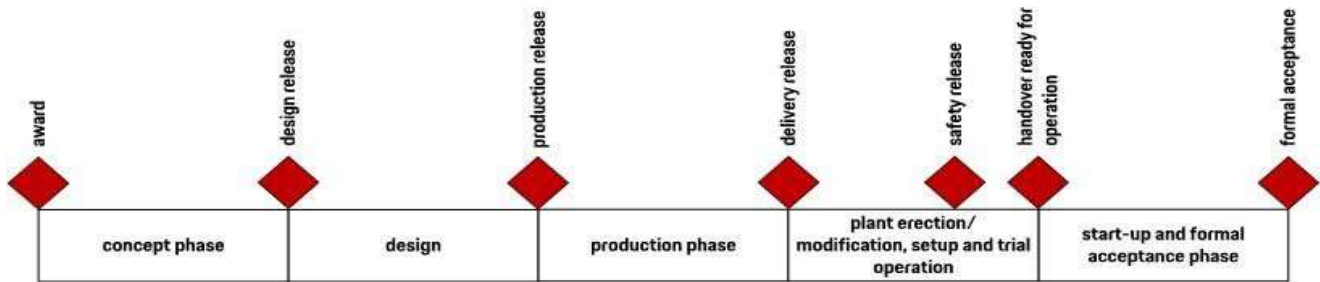
14.4. The payment will be made by bank transfer.

14.5. Without the prior written approval of the Customer the Supplier is not entitled to assign its claims against the Customer or to have them collected by a third party. If extended reservation of title applies, this consent will be deemed to have been granted. Should the Supplier assign a claim against the Customer to a third party without the latter's consent, contrary to Sentence 1 above, this assignment will nevertheless be effective. However, the Customer will be entitled to choose to discharge its debt by paying either to the Supplier or to the third party.

15. Quality assurance and control

Quality assurance is subject to the provisions contained in the Specifications and the applicable documents. In addition to any checks required by the Specifications, the Customer reserves the right to monitor the quality assurance measures to be implemented by the Supplier or its vicarious agents by means of additional random sampling either itself or through the agency of a third party. The Customer must bear the labour and material costs of such additional checks.

The following diagram illustrates the sequence of plant planning and erection



- 16.2. Design, production and delivery release
The precondition for the start of design, production and erection of the Plant / modification of the Plant is in each case the release in writing in accordance with the Specifications by the Customer. The Supplier must request this from the Customer in writing in good time. The release does not alter in any way the Customer's sole responsibility for the correctness and suitability of the service provision chosen by it.
- 16.3. Plant erection/modification, set-up
Plant erection/modification and set-up at the point of use are performed by the Supplier following delivery release by the Customer.
- 16.4. Trial operation
- 16.4.1. During trial operation the Supplier must check the functions and properties of the Plant and in so doing eliminate detected defects and faults. Trial operation is conducted on the Supplier's responsibility. It is conducted under in-house production conditions on the Customer's premises. Trial operation is basically conducted with the involvement at times of the Customer's production personnel.
- 16.4.2. Involving the Customer's operating personnel is conditional on prior safety release and training of the operating personnel. This presupposes that the Supplier demonstrates that the requirements of § 6 of the German Occupational Health and Safety Regulation (Betriebssicherheitsverordnung) are observed and the Plant can be safely operated by the Customer's operating personnel. Essentially, all the occupational health and safety measures connected with normal operation should as far as possible already have been taken. For all the residual hazards the Supplier must, on the basis of a hazard assessment, draw up and implement a safety concept which contains aside from the already effective safety devices and equipment further measures and/or temporary devices and equipment.
- 16.4.3. The Supplier is responsible during trial operation for maintenance and troubleshooting. The Customer's maintenance personnel must during this period be trained by the Supplier and included in the troubleshooting process.
- 16.4.4. Any loss/damage caused during trial operation by the Customer's staff failing to comply with the Supplier's operating instructions must be borne by the Customer unless the latter is not responsible for the failure to comply.
- 16.4.5. The overall duration of trial operation is specified in the Offer Negotiation Record or the appendices and/or documents listed therein.
- 16.4.6. Should a malfunction arise during trial operation which forces trial operation to be interrupted or significantly restricted, the trial operation period is to be extended by the duration of the malfunction unless the Customer is responsible for it.
- 16.4.7. Neither the passing of risk, formal acceptance nor the start of the warranty period are linked to the commencement of trial operation or to any events whatsoever during trial operation.
- 16.4.8. During trial operation all modifications to the Plant and the way it is operated must be documented by the Supplier.
- 16.5. Handover ready for operation
- 16.5.1. Handover ready for operation is conducted in accordance with the timetable agreed between the parties.
- 16.5.2. Handover ready for operation is followed by the beginning of the start-up phase of the Plant under production conditions, verification of the agreed functions and properties under production conditions and verification of agreed availabilities.
- 16.5.3. Defects that occur during the start-up phase must in accordance with Section 16.5.2 be rectified by the Supplier.
- 16.5.4. Neither the passing of risk, formal acceptance nor the start of the warranty period are linked to the handover ready for operation or to any events whatsoever during the start-up phase as per Section 16.5.2
- 17. Formal acceptance**
- 17.1. Formal acceptance is conditional on the Supplier producing evidence to show that the Plant is compliant with the contract. Details are to be found in the Offer Negotiation Record or the order and the relevant appendices.
- 17.2. If only insignificant defects are detected which do not affect the functioning of the Plant, formal acceptance may take place subject to those defects being rectified immediately. In such a case, the Customer is entitled to withhold a reasonable sum until the defects are rectified; reasonable for this purpose is generally twice the amount that the rectification will cost. The same applies to cases covered by Section 640 Subsection 2 German Civil Code (BGB). The amount of the warranty holdback or warranty guarantee as per Section 23.4 is to be counted towards any sum withheld as described here.
- 17.3. The Supplier must notify the Customer in writing when the Plant is ready for formal acceptance. The parties will then agree a formal acceptance date. Formal acceptance is to be confirmed in writing in a formal acceptance record. Payments do not constitute formal acceptance.
- 17.4. Should the Customer fail to formally accept the Plant on grounds for which it is solely responsible, the Plant will be deemed formally accepted 3 months after the formal acceptance date specified in the Offer Negotiation Record or consensually adapted at a later stage and it becomes ready for such acceptance and this readiness is communicated in writing.
- 17.5. The Supplier must bear additional costs incurred by the Customer for necessary repetitions of formal acceptance, unless it is not responsible for them.
- 18. Passing of risk**
The risk of accidental destruction or accidental deterioration of the plant passes on formal acceptance to the Customer.
- 19. Transfer of title**
At the latest on the payment of the full price, title to the Plant, all materials/elements belonging to it and the relevant technical records and documentation will pass to the Customer without restriction. If the Customer makes advance or part payments for which no security has been or is provided, this will result in the Supplier simultaneously transferring shares of (joint) title to the Plant and/or materials not yet integrated into it corresponding to the ratio of the payments made to the total price.
- 20. Warranty**
- 20.1. Unless the law provides for a longer warranty period, the Supplier guarantees for a period of 36 months, starting on formal acceptance, compliance with the requirements of Section 2, the suitability and freedom from defects of the materials and elements supplied and the absence of any other defects in the Plant. The Supplier further guarantees that the Plant is suitable for its designated contractual purpose and that it has been designed in such a way as to minimise maintenance work and ensure a high run-time/downtime ratio. The warranty against legal defects is as stated in Section 25.
- 20.2. In the event of a defect, the Customer's warranty rights are as follows: It can initially request rectification/supplementary performance, with the choice of rectification/supplementary performance resting with the Customer. If the Supplier fails to meet its obligation to rectify within a reasonable deadline set by the Customer, or if the law permits the setting of such a deadline to be dispensed with, the Customer is entitled to rectify the defect at the Supplier's expense, either itself or through the agency of a third party, to reduce the price or to withdraw from the contract. The Customer is further entitled to claim damages and/or reimbursement for wasted expenditure unless the Supplier is not responsible for the defect.
- 20.3. In an urgent case the Customer is permitted with the consent of the Supplier, which may not be unreasonably withheld, to carry out the rectification itself or through the agency of a third party. This is without prejudice to its right to take action itself as described in Section 20.2.
- 20.4. Claims based on defects may be enforced for a further 6 months after the expiry of the warranty period or any guarantee period, if the defect concerned was notified to the Supplier before the expiry of the relevant period. This is without prejudice to the

- statutory rules regarding the suspension and recommencement of the running of the statutory limitation period.
- 20.5. The current warranty period and the term of any guarantee provided will be extended by the duration of the downtime for items supplied which it was impossible to operate during the investigation and/or rectification of a defect. This is without prejudice to any more far-reaching statutory provisions. In the case of repaired or replaced elements, the warranty period will start to run again from the beginning on the completion of rectification or on formal acceptance if such acceptance was agreed upon. Any formal acceptance must be requested in writing.
- 20.6. The Supplier is also responsible for actions by its legal representatives, employees and vicarious agents. The same applies accordingly to its subcontractors and its own suppliers.
- 20.7. Otherwise, in the absence of any provision to the contrary in these terms and conditions of purchase, the relevant statutory rules apply.
- 21. Liability for damages and costs**
The Supplier's liability for damages and costs is as provided by law.
- 22. Insurance**
Within 14 days following the conclusion of the contract, the Supplier must provide evidence of appropriate public liability insurance corresponding to the contents of the contract, the risk attached to it and its commercial significance and keep this in force at the same level, even after the termination of the contract, as long as claims for damages or costs or any other claims pursuant to this contract or under the law remain possible.
- 23. Guarantees and warranty holdbacks**
- 23.1. If it is agreed that the Customer is to make advance payments, the Supplier must as security for the advance payments to be made including interest in each case on the conclusion of the contract provide the Customer free of charge with an absolute, irrevocable advance payment guarantee which is not subject to any time limit and is in accordance with the sample attached to the Offer Negotiation Record in the amount of the advance payments concerned including VAT from a credit institution or insurance company licensed to operate its business within the EU or the EEA.
- 23.2. This advance payment guarantee is to be returned to the Supplier simultaneously in stages as the Customer acquires title to the Plant or parts thereof or otherwise acquires value as a result of goods/services supplied by the Supplier.
- 23.3. As security for the fulfilment of the contract, including all contract or pre-contract damages claims, for the payment of any contractual penalty and for the reimbursement of overpayments including interest in each case, the Supplier must on the conclusion of the contract provide the Customer free of charge with an absolute, irrevocable contract performance guarantee not subject to any time limit from a credit institution or insurance company licensed to operate its business within the EU or the EEA to an amount equal to 10% of the total order value including VAT. This contract performance guarantee must correspond to the sample attached to the Offer Negotiation Record. It will not cover the repayment of advance payments. If quantity adjustments, contract amendments and/or additional goods/services increase the total value of the order by at least 10%, the Customer is entitled to demand a corresponding increase in the amount of the guarantee.
- 23.4. The Customer must return the contract performance guarantee to the Supplier when the formal acceptance of the Plant takes legal effect. In order to secure warranty claims made against the Supplier after formal acceptance, a warranty holdback equal to 5% of the total order value (gross, i.e. incl. VAT) will be deducted from the final payment. The Supplier is entitled to redeem this warranty holdback by providing free of charge an absolute, irrevocable guarantee to the same amount which is not subject to any time limit, corresponds with the sample attached to the Offer Negotiation Record and is supplied by a credit institution or insurance company licensed to operate its business within the EU or the EEA.
On the expiry of the warranty period or any agreed guarantee periods, the Customer must return any unused security for claims based on defects. However, to the extent that any claims made by it have at that time not yet been satisfied, it is entitled to withhold a corresponding portion of the security. This does not apply to claims based on defects which are already statute-barred.
- 23.5. For all guarantees pursuant to Section 23, the provider of the guarantee must confirm that disputes arising out of it are exclusively subject to German law and that the legal venue is the point of use or the Customer's registered place of business, at the Customer's discretion.
- 24. Replacement parts**
- 24.1. As part of the documentation, the Supplier must provide the Customer with a replacement parts catalogue conforming to the Customer's stipulations covering all replacement and wearing parts and supply all of the order information required for trouble-free procurement from the respective manufacturers (manufacturer's name, manufacturer's article number, etc.).
- 24.2. The Supplier hereby undertakes to supply the Customer with the replacement and wearing parts which it produces itself under the terms and conditions laid down in the Offer Negotiation Record for 10 years following formal acceptance. If replacement or wearing parts can be replaced by ones offering comparable or better functionality, the Supplier may satisfy this undertaking by supplying such parts or by naming the suppliers from which they can be obtained.
- 24.3. The Supplier will be relieved of this supply obligation if it supplies the Customer without any additional charge with 3 copies of all the documentation required for the production of replacements (including the relevant know-how), in particular drawings and calculations, and as per Sections 25.4 and 25.5 grants the Customer usage rights for the documentation and for the industrial property rights required for the production and use of the replacement parts.
- 24.4. The Supplier must inform the Customer immediately if circumstances arise which jeopardise its proper supply with replacement or wearing parts.
- 24.5. The warranty and liability for replacement and wearing parts supplied by the Supplier is as provided in Sections 20 and 21 of this contract. The warranty period and any guarantee periods will begin to run when the replacement parts concerned are delivered.
- 24.6. The Customer is also entitled to obtain replacement and wearing parts from third parties.
- 25. Industrial property rights, legal defects warranty**
- 25.1. Pursuant to Section 20.1, the Supplier guarantees that the goods and services it supplies will not infringe any third-party rights if used as intended. This includes in particular third-party rights relating to ways of utilising the Plant which are such as to hinder the trouble-free worldwide distribution of items manufactured using the Plant. It shall indemnify the Customer against third-party claims unless the rights of the third party were unknown to it or not discernible either when applying the diligence of a prudent businessman.
Any other rights of the Customer are hereby reserved. This will not apply if the Supplier supplies goods/services on the basis of drawings, models or any other information supplied by the Customer and is not and could not have been aware that these would infringe third-party rights.
The Supplier must inform the Customer immediately in writing of any third-party rights which could affect the distribution of items manufactured using the Plant or hinder the latter's trouble-free use. The Customer is entitled to decide whether such third-party rights are to be taken into account.
- 25.2. Should a third party make a claim based on a contravention of a right whilst the Plant is being used as intended, the Supplier undertakes to ensure immediately that the dispute with the third party is resolved in such a way that the latter no longer seeks to enforce any rights to hinder the use of the Plant or the distribution of items manufactured using it and to enable the trouble-free use of the Plant by the Customer. The Customer is also entitled at its discretion to require that the Supplier, while respecting business concerns, either modifies the Plant in such a way that it no longer infringes the third-party rights while remaining compliant with the Specifications or acquires the relevant usage rights for the contract item from the third party at its own expense.
- 25.3. If neither of the above remedies is possible or successful, if they do not succeed within a reasonable deadline set by the Customer or if they are withheld without justification, the Customer is entitled to exercise its contractual and statutory rights to cancel the contract, reduce the price and claim damages. The Customer is further entitled to carry out the necessary modifications or acquire the necessary rights at the Supplier's expense and risk or to have this done by third parties so as to ensure that the Plant does not infringe any third-party rights.
- 25.4. To the extent that the goods and services supplied by the Supplier and the records/documentation and similar or parts thereof (including replacement parts) are protected by copyrights, patents, utility models, design registrations or any other rights (hereinafter "existing industrial property rights"), the Supplier hereby grants the Customer free of charge a non-exclusive, irrevocable right not subject to any temporal or geographical limitations and transferable on any sale of the Plant to exercise the rights concerned with respect to the specific Plant. On request by the Customer, the Supplier must supply information about such rights immediately in writing. If it is necessary to employ a process protected by patent in order to make the designated use of the contract item, Sentence 1 applies accordingly. In the case of copyrights, this conferral of rights covers all known types of use, in particular the rights to duplicate, to distribute, to display, to modify and to process. If notice is given to terminate the contract, Section 26.7 applies.
- 25.5. If work results capable of protection (in this case by means of "new industrial property rights") are produced in connection with the supply of the required goods/services, these belong to the contracting party whose employees produced the results. With respect to any new industrial property rights belonging to the Supplier, the Customer will acquire free of charge a non-exclusive usage right not subject to any temporal or geographical restrictions;
- 25.6. If employees of both contracting parties are involved in the production of a work result

capable of protection, the contracting parties must apply jointly to acquire the relevant patent / register the design. Licences with respect to such share patents etc. may only be granted jointly, and the contracting parties must in each individual case reach agreement as to how to handle such shared rights.

26. Termination and withdrawal

- 26.1. The Customer is entitled to terminate contractually the entire contract or parts thereof at any time up to the completion of the Plant.
- 26.2. This is without prejudice to the right to terminate for good cause. Good cause which would entitle the Customer to terminate would include the following in particular:
 - 26.2.1. if a release as per Section 16.1 is rightfully refused even after the second attempt by the Customer.
 - 26.2.2. if after the conclusion of the contract there is a substantial deterioration in the Supplier's financial circumstances or a fall or threatened fall in the value of an item provided as security which is such as to jeopardise the satisfaction of its liabilities to the Customer – even if a security provided is sold – and the Customer after an appropriate period has elapsed at the Supplier's discretion provides neither the complete work nor an appropriate security.
- 26.3. If there is good cause to terminate and the Supplier is responsible for this, only those goods/services which are proven to have already been completed in themselves in accordance with the contract need to be paid for, and this only to the extent that is reasonably possible for the Customer to make use of them.
- 26.4. If there is no good cause for termination, the Customer must reimburse the costs arising directly out of the order which are proven to have been incurred up to the termination date, including costs arising out of liabilities which it is impossible for the Supplier to free itself from, up to a maximum equal to the order value. The Supplier is not entitled to enforce any more far-reaching rights to performance or damages on the grounds of such termination.
- 26.5. This is without prejudice to the Customer's right to terminate or cancel only any other legal/statutory grounds.
- 26.6. This is also without prejudice to the Customer's entitlements to damages.
- 26.7. The Supplier hereby grants the Customer the usage rights specified in Sections 25.4 and 25.5 with respect to work results produced up to the termination of the contract.

27. Confidentiality

- 27.1. The Contracting Parties shall treat all Confidential Information within the meaning of section 27 from the other Contracting Party as confidential, protect it from access to and notice by third parties, in particular by means of appropriate technical and organizational measures, and shall not communicate or make accessible such information or any part thereof, either directly or indirectly, to third parties, and to use it exclusively in accordance with and for the purpose of the performance of the Contract and to make it accessible only to those employees who need the Confidential Information for the purpose of the performance of the Contract and who are themselves subject to a confidentiality obligation. Companies affiliated with Cellforce as defined in Section 15 German Stock Corporation Act (AktG) shall not be considered to be third parties in relation to Cellforce.

"Confidential Information" shall mean any written, verbal, electronic, visual or any other tangible or non-tangible notices, documents, disclosures, materials or other information from the disclosing Contracting Party, including but not limited to data, know-how, source codes, technical and non-technical information, materials, prototypes, samples, specifications, prices and other business-related information, and any reproductions thereof, which are disclosed or otherwise made accessible to the other Contracting Party in connection with the Contract, regardless of whether these are explicitly identified as being "confidential" or "proprietary" or which must be regarded as such by reason of the disclosing Contracting Party's intention for them to be kept confidential owing to the nature of the information or for some other reason. Information shall not be deemed Confidential Information to the extent the receiving Contracting Party can prove that such information:

 - was known to the receiving Contracting Party, was generally known, or freely accessible to the public at the time it was disclosed or made accessible to the receiving Contracting Party;
 - became generally known or freely accessible to the public after the time of disclosure or made accessible without any direct or indirect breach of a confidentiality obligation toward the disclosing Contracting Party;
 - was disclosed or made accessible to the receiving Contracting Party by an authorized third party outside the scope of a confidentiality obligation toward the disclosing Contracting Party after the time of disclosure or making accessible;
 - was created or developed by the receiving Contracting Party without using or referring to the Confidential Information of the disclosing Contracting Party;
 - was expressly marked or described in writing by the disclosing Contracting Party as not confidential; or
 - the receiving Contracting Party was obliged to disclose the information by virtue of judicial order or regulatory action.

The obligations under this section shall apply for the duration of the Contract or its performance and for a period of five years thereafter.

Sub-suppliers and subcontractors involved in the project are not third parties within the meaning of this provision, provided that they are subject to a confidentiality obligation that corresponds with the provisions of this section 27.1 whereby disclosure of Confidential Information shall be limited to such Confidential Information that they need in order to perform their services for the receiving Contracting Party.

- 27.2. The Contractor may only refer to the business relationship in advertising with the prior written consent of Cellforce.

28. Information security

The Contractor undertakes to immediately and appropriately secure all of Cellforce's information and data, in particular Confidential Information within the meaning of section 27.1 (hereinafter "Cellforce Data") against unauthorised access, modification, destruction or loss, unauthorised transmission or any other unauthorised processing or other misuse in accordance with the current state-of-the-art. The full range of currently recognized state-of-the-art precautions and measures must be taken when backing up Cellforce Data in order to archive and restore data files in compliance with the law and in a manner so that they cannot be lost at all times. On request of Cellforce, the Contractor is obliged to have a TISAX assessment (www.tisax.de) carried out with the TISAX assessment scope specified by Cellforce within a reasonable period of time and to make the results available to Cellforce.

29. Data Protection, Attribution of data

- 29.1 In case the Contractor has access to personal data while performing the contract, the Contractor shall observe all applicable laws and regulations on data protection and privacy. In particular, the Contractor shall only process personal data as required by the contractual obligations (specification of purpose), shall make sure that the Contractor's employees only have access to personal data to the extent strictly required, and shall commit the Contractor's employees to data secrecy in writing as well as instruct the Contractor's employees on applicable laws and regulations on data protection and privacy and submit proof to Cellforce upon request. In case of commissioned data processing by the Contractor on Cellforce's behalf, the Contractor shall – before the Contractor receives access to the personal data from Cellforce – execute the required data protection agreement that Cellforce provides in the respective context (particularly an agreement on commissioned data processing). The Contractor warrants that the processing of personal data that are allocated to Cellforce or Cellforce's customers is only conducted in the territory of the Federal Republic of Germany, a Member State of the European Union or a Member State of the Agreement on the European Economic Area. Derogations from this provision shall be agreed upon by Cellforce and the Contractor in writing.
- 29.2 The contractual services must be provided in compliance with the requirements for data protection by design and by default (Article 25 General Data Protection Regulation (DSGVO)), to the extent that these requirements are applicable to the contractual services. In this case, the Contractor will provide Cellforce with documentation of implementation of these requirements upon request and ensure that the principles relating to processing of personal data (Article 5 General Data Protection Regulation (DSGVO)) can be fulfilled during the intended use of the contractual services.
- 29.3 The Contractor acknowledges that all data created at Cellforce, the Contractor, the end customer or another third party from or in connection with use of the subject matter of the agreement shall be attributed to Cellforce, if the end customer or another third party is not entitled to it under prevailing law. The Contractor shall not claim ownership of or any other rights to this data and shall not use the data in particular for big data purposes, such as for collecting data, creating databases or conducting data analyses. The right of the Contractor to use the data for fulfilling this agreement, where it is required for that purpose, shall remain unaffected.

30. Compliance and sustainability

- 30.1 The Contractor shall take all necessary and appropriate measures to combat corruption and avoid any other violation of the law, in particular violations of the provisions against antitrust law, competition law, environmental protection law, customs and foreign trade law and of employees' rights. The Contractor shall take the appropriate organizational (including, but not limited to, appropriate legal or contractual) measures to prevent his legal representatives, employees, sub-contractors, consultants or other third parties acting on his behalf from becoming liable to prosecution for committing or failing to act in light of, for example, bribery, corruptibility, granting of undue benefits, acceptance of undue benefits, money laundering, fraud or embezzlement.
- 30.2 In the event of an infringement of these obligations relating to the performance of this contract, or if sufficient reason exists to suspect such an infringement in relation to this contract, the Contractor must inform Cellforce without undue delay and inform Cellforce which measures he is taking to remedy such infringement and prevent future violations. If the Contractor fails to inform Cellforce without undue delay or to take appropriate remedial measures within 60 days of learning of the situation, Cellforce shall be entitled

- to end the entire business relationship by extraordinary termination immediately.
- 30.3 The Contractor shall indemnify, defend, and hold Cellforce, its directors, officers, agents and employees harmless from any and all claims, causes of action, losses, damages, liabilities, costs and expenses, including attorneys' fees, to the extent arising from any breach of the obligations under this section; provided, however, that the Contractor shall not be obligated to indemnify, defend, or hold harmless Cellforce to the extent arising from negligent or intentionally wrongful acts of Cellforce or anyone for whom Cellforce is responsible.
- 30.4 If Cellforce or a public authority requires access to the production process and/or the service provision process and the Contractor's documents and processes related to an order in order to verify compliance with specific requirements, the Contractor shall allow such an evaluation and/or audit in his division and provide all reasonable support.
- 30.5 The "Requirements of the Volkswagen Group Regarding Sustainability in its Relationships with Business Partners (VW Code of Conduct for Business Partners)" available at "<http://www.vwgroupsupply.com/>" also apply addition.

31. Language of contract

The contract language is German. The same applies to all other documentation, e.g. advance payment and warranty guarantees. If the contracting parties use another language as well, the German version will in the event of any conflict take precedence.

32. General provisions

- 32.1. Should any provision of this contract or the other agreements concluded be or become invalid or unenforceable, this shall not affect the validity of the remainder of the contract. The contracting parties must in such a case negotiate in good faith to replace the invalid term with a valid or enforceable one which comes as close as possible to achieving the same economic purpose. The same applies accordingly to any omission from the contract.
- 32.2. The laws of the Federal Republic of Germany apply exclusively. The application of the United Nations Convention on the International Sale of Goods of 11.4.1980 is excluded.
- 32.3. The place of performance is the point of use specified in the Offer Negotiation Record, unless otherwise agreed.
- 32.4. The exclusive legal venue is the Customer's registered place of business, although the Customer reserves the right to file claims before a court having jurisdiction over the Supplier's place of business.