

# General Terms and Conditions for Deliveries and Services of LemnaTec GmbH

## § 1 Object of contract

These General Business Terms shall apply to all products of LemnaTec GmbH, hereinafter referred to as LemnaTec, for which LemnaTec does not use any special General Business Terms.

## § 2 General information/scope

(1) These General Business Terms shall apply to allcurrent, and as a Framework Agreement, also to all future business relationships between LemnaTec and the customer, without LemnaTec having to refer the customer to the General Business Terms again in each individual case, insofar as no other General Business Terms of LemnaTec are including in the future contracts.

(2) The offers and declarations of acceptance, all services and deliveries shall be carried out exclusively based on the General Business Terms stated below in their respective most recent version. These General Business Terms are freely available in the Internet under <http://www.lemnatec.com> at all times and can be saved and printed out by the customer in any reproducible form.

(3) The Terms of Purchase of the customer are hereby explicitly objected to. Deviating, contradictory or supplementary General Business Terms of the customer shall, even if LemnaTec is aware of such terms, not become part of the contract unless LemnaTec explicitly agrees to their validity in writing upon conclusion of the contract. This requirement for a confirmation shall also apply if LemnaTec carries out the delivery to the customer without reservation in the knowledge of contradictory or deviating General Business Terms of the customer. The consent granted in writing upon conclusion of the contract shall respectively only apply to the individual case regulated therein.

(4) The General Business Terms of LemnaTec shall only apply if the customer is an entrepreneur (Section 14 BGB [German Civil Code]), a legal entity under public law or special fund under public law.

## § 3 Conclusion of contract

(1) Offers of LemnaTec are without obligation.

(2) If the order placed by the customer is to be qualified as an offer according to Section 145 BGB LemnaTec can accept this order within 4 weeks insofar as not otherwise derived from the customer's order. However, this is not yet deemed as the conclusion of a contract. LemnaTec can accept this binding offer of the customer, subject to any other agreement with the customer, up to 7 days after the receipt by LemnaTec by sending an order confirmation. The contractual text will not be stored by LemnaTec. Insofar as the customer does not state any individual specifications of the respective object of delivery in its placed order according to the respective envisaged individual type of use by taking all technically relevant factors into consideration or only states incomplete

specifications, the general product details of LemnaTec shall apply in addition.

(3) The acceptance can either be declared in writing by the order confirmation (also by fax and e-mail) of LemnaTec or by delivery of the goods to the customer. In this case the customer will also receive a written order confirmation. Insofar as no other written agreements exist the written order confirmation of LemnaTec shall contain the services owed as per contract.

(4) There are no oral collateral agreements upon conclusion of the contract. Individual agreements explicitly reached by the customer with LemnaTec in an individual case (including collateral agreements, supplements and changes to these General Business Terms) shall – if they were reached after conclusion of the contract – in any case have precedence over these General Business Terms. A written contract or – if such does not exist – LemnaTec's written confirmation to the customer is decisive for the content of such individual agreements.

(5) The right shall remain to make technical changes as well as changes in construction, form, colour and/or weight of the objects of delivery within the scope of that which is deemed reasonable for the customer.

(6) A guarantee will only be granted if it has been explicitly described as such and was declared by the management of LemnaTec in writing. The condition of the goods which are to be delivered can be derived from the respective product description of LemnaTec that is applicable at the time when the contract is concluded. Other details such as technical data, descriptions, diagrams and drawings, measurement and weight details – also if these refer to standards – are subject to regular changes. These details shall only obligate LemnaTec if they were confirmed as binding by LemnaTec in advance.

(7) LemnaTec shall reserve the property rights and copyrights to diagrams, drawings, drafts, models, samples, calculations, cost estimates and other documents or objects; they may not be made accessible to third parties. A forwarding to third parties requires the explicit and prior written consent of LemnaTec.

## § 4 Delivery

(1) Partial deliveries are permitted insofar as they are deemed reasonable for the customer.

(2) The delivery shall be carried out FCA shipping point of the delivering plant insofar as not explicitly otherwise agreed.

(3) The customer is responsible for the execution of all procedures with regard to export and import of the objects of delivery and shall bear all costs incurred for this purpose. LemnaTec shall support the customer hereby. The objects of delivery can be subject to (re-)export restrictions, e.g. those of the United States of America or of the European Union. The customer has to comply with these provisions in

case of a resale or other export. LemnaTec is entitled to terminate the contract without notice if the termination is necessary for LemnaTec in order to comply with national or international legal regulations.

(4) In the event of a termination according to Subclause 4.3 the assertion of damages or the assertion of other rights by the orderer owing to the termination shall be excluded.

(5) Delivery dates and delivery deadlines shall always only apply as approximate and are not binding for LemnaTec unless a delivery date was explicitly agreed as binding in writing upon conclusion of the contract. The delivery deadline or the delivery date shall be deemed as adhered to if the objects of delivery have left the plant of LemnaTec until its expiry or if LemnaTec reported the readiness for shipment to the customer with regard to the goods that are to be delivered until the expiry of the delivery deadline. The start of the delivery time stated by LemnaTec shall presume the clarification of all technical questions as well as the timely and proper fulfilment of the obligations of the customer. These shall in particular also include possible documents that are to be procured or created by the customer such as drawings, descriptions, permits that are to be submitted by the customer, releases and the credit of advance payments possibly agreed with LemnaTec into the account of LemnaTec. If one of these pre-requisites are missing or in case of unclear points for which the customer is responsible, the delivery time stated by LemnaTec shall be inhibited until the impediment has been remedied by the customer as long as the impediment exists and shall consequently be extended by the time of the inhibition to the expiry of the deadline.

(6) If the customer requests amendments or addendums to the contract after conclusion of the contract, e.g. with regard to the customer-specific adjustments to the objects of delivery, which render the adherence to the delivery date or the delivery deadline impossible then the delivery date shall be postponed or the delivery deadline will be extended in line with the required amendments and addendums

(7) The right to the correct and timely self-delivery shall remain reserved with the consequence that LemnaTec will be released from the delivery obligation if LemnaTec is not supplied by its supplier without this being its own fault although LemnaTec has previously concluded a corresponding supply contract with the supplier. LemnaTec will inform the customer immediately that the supplier has not made deliveries to LemnaTec. LemnaTec therefore cancels the contract and that the consideration – insofar as it was already provided by the customer – will be reimbursed immediately.

(8) The customer is obliged to accept an object of delivery, which only features insignificant deviations from the agreed condition or an insignificant impairment to the use.

(9) The costs for the shipment are to be borne

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by the customer, whereby the choice of the despatch route and the type of shipment are at the free discretion of LemnaTec. Transport insurance will only be concluded at the explicit request and for the account of the customer.

(10) The right to make construction or form changes, which are a result of technical improvements and/or of statutory requirements, shall remain reserved during the delivery deadline insofar as the object of delivery or the agreed delivery is not substantially changed and the changes are deemed reasonable for the customer.

### § 5 Call orders

Call orders are to be accepted within the stipulated periods of time or as of the agreed dates. If the goods have not been called within the stipulated periods of time and if the customer is there in default of acceptance, with the fulfilment of the obligation for the call order, according to Sections 293 et seqq. BGB then the risk of accidental loss and the accidental deterioration to the object of delivery shall pass to the customer. Incidentally, the customer has to compensate the costs incurred by the storage, in case of storage at LemnaTec at least 0.5% of the invoice amount, for each month from the expiry of the deadline. LemnaTec shall further be entitled to the rights according to Section 375 HGB [German Commercial Code].

### § 6 Price and terms of payment

(1) In the absence of a special agreement the prices shall be deemed „ex works“ Incoterms 2010 including loading in the plant, however excluding packaging, transport and transport insurance, plus the respective applicable statutory value added tax. The prices apply exclusively for a delivery and service within the Federal Republic of Germany.

(2) Insofar as not otherwise agreed, all goods that are to be delivered shall be charged based on the list prices valid at the time of the order confirmation plus value added tax. The value added tax will only not be charged in the cases, in which the pre-requisites exist for a tax exemption of export deliveries.

(3) LemnaTec can issue partial invoices for parties' deliveries. The payment deadlines will apply separately for each partial invoice.

(4) The deduction of cash discount shall require a separate written agreement.

(5) Insofar as not otherwise derived from the order confirmation / the offer, the purchase price is to be paid net (without deduction) within 30 days from the invoice date. We can, however, also render the delivery dependent on payment step-by-step (e.g. by cash on delivery or bank direct debit procedure) or an advance payment. In case the payment deadline is exceeded we are entitled to request interest on default in the amount of 8 percentage points above the base lending rate of the European Central Bank p. a. The assertion of further

damages is not excluded. Insofar as higher damages due to default can be proven, LemnaTec is entitled to assert these. The customer is, on its part, entitled to provide the proof of less damages.

(6) In case of a substantial deterioration to the customer's asset circumstances after conclusion of the contract or if LemnaTec becomes aware of a previously occurred deterioration to the asset circumstances after conclusion of the contract, which give rise to serious doubts about the creditworthiness of the customer, LemnaTec is entitled, at its own choice, to request advance payment or provision of security. LemnaTec is entitled to cancel the contract if the customer does not satisfy this request.

### § 7 Right of retention/offsetting

(1) The retention of payments owing to any claim of the customer against LemnaTec is excluded, unless the right of retention is due to undisputed claims of the customer or those which have been declared final and binding.

(2) The customer will only be entitled to withhold payments insofar as its counter-claims are undisputed, have been declared final and binding or are ready for a decision after being pending and are from the same contractual relationship with LemnaTec.

### § 8 Force majeure

The delivery date will be postponed and the delivery deadline will be extended by a reasonable extent in case of measures within the framework of industrial disputes, in particular strike and lock-out, as well as with the occurrence of other unforeseeable events, which are not the responsibility of LemnaTec, insofar as such impediments have an influence on the completion or the delivery of the objects of delivery. The circumstances described above will not be deemed the responsibility of LemnaTec either if they occur during an already existing delay. LemnaTec will inform the customer of the beginning and end of such impediments within three workdays.

### § 9 Passing of risk

(1) The risk of the accidental loss or the accidental deterioration to the objects of delivery shall pass to the customer as soon as the objects of delivery have left the house of LemnaTec or LemnaTec has reported that the goods are ready for shipment.

(2) It is deemed equivalent to the hand-over of the objects of delivery if the customer is in default with the acceptance.

(3) If the shipment of the object of contract is delayed as a result of circumstances, for which the customer is responsible, then the risk shall pass to the customer from the day of the report that the goods are ready for shipment.

(4) Insofar as LemnaTec has taken over the shipment costs, delivery or installation of objects of delivery according to a contractual

agreement, the aforementioned risk assumption clauses shall remain unaffected hereby.

(5) The aforementioned clauses shall also apply to agreed partial deliveries.

### § 10 Default and impossibility

(1) Should LemnaTec be in default with the delivery obligation due to slight negligence then the customer can request compensation in the amount of 0.5%, in total however a maximum of 5% of the price, for each started week of the default for the part of the deliveries, which cannot be put into operation owing to default. The customer is at liberty to prove higher damages due to delay. LemnaTec can prove less damages.

(2) Irrespective of a right of cancellation of the customer in the event of defects (see Subclause 13 – Warranty in case of material defects - and Subclause 14 – Warranty in case of defects of title – of these General Business Terms) the customer can, in case of impossibility for provision of the service of LemnaTec or default, only cancel the contract with the existence of a breach of obligation for which LemnaTec is responsible.

(3) In the event of default a cancellation or damages instead of the service shall moreover presume that the customer has previously set LemnaTec a reasonable deadline in writing of at least 2 weeks to provide the contractually owed service and hereby explicitly made it clear that it shall cancel the contract and/or assert damages if this deadline is not adhered to (setting of a deadline with the threat of refusal). After expiry of this deadline the customer undertakes to declare after a request by LemnaTec whether it shall continue to insist on the delivery or according to Section 281 Par. 4 BGB will assert damages or cancel the contract. If the customer does not submit such a declaration within a reasonable deadline set by LemnaTec, the customer shall no longer be entitled to refuse the delivery or to cancellation and cannot assert any damages instead of the service either, but can only accept the delivery

(4) The setting of a deadline with the threat of refusal is only dispensable if LemnaTec seriously and finally refuses the contractually owed service or special circumstances exist, which justify the immediate cancellation after weighing up the mutual interests.

(5) The customer cannot cancel before occurrence of the maturity of the service, nor in case of an only insignificant breach of obligation by LemnaTec. The cancellation is finally excluded if the customer is solely or predominantly responsible for the circumstances, which would entitle it to the cancellation or a circumstance occurs during the default of acceptance of the customer for which LemnaTec is not responsible.

(6) Subclause 16 of these General Business Terms shall apply to the claim for damages or claim for reimbursement of expenses from default or impossibility.

## § 11 Default of acceptance/delay in acceptance

(1) If the customer is in default of acceptance or if he breaches other obligations to provide assistance then LemnaTec is entitled to assert the suffered damages including possible additional expenses. In this case the risk of an accidental loss or an accidental deterioration to the object of delivery shall, moreover, pass to the customer at the time at which it is in default of acceptance.

(2) If the delivery or the supply of the object of delivery is delayed at the customer's request then it shall be charged the costs incurred by the storage, at least however 0.5% of the invoice amount for each started month, at the start of the month, which follows the report of the readiness for delivery or shipment. The customer reserves the right to prove less damages, LemnaTec to prove higher damages.

(3) In addition, LemnaTec is entitled, after expiry of a reasonable deadline, which has been reported to the customer, to cancel the contract or to dispose otherwise over the object of delivery after the expiry of a reasonable deadline notified to the customer and to supply the customer as per contract with a reasonably extended deadline.

## § 12 Report of defects

(1) The customer has to inspect the objects of delivery within 10 workdays after delivery. Defects of title or recognisable material defects, the absence of a condition of the objects of delivery, which were under certain circumstances guaranteed by LemnaTec, as well as excess, shortfall in or false delivery (defects) are – insofar as they are obvious – to be asserted by the customer immediately in writing, no later than within a further 5 workdays after the end of the deadline for inspection stated in sentence 1.

(2) Defects, which are not recognisable, in a customary inbound inspection according to Subclause 12.1 of these General Business Terms are also to be asserted by the customer immediately in writing, no later than 14 days after they have been recognised.

(3) The report of defects by the customer must contain a detailed written description of the respective defect adjusted to the individual case.

(4) Claims for material defects are excluded in case of a late report of the material defect according to Subclause 12.1 and Subclause 12.2 of these General Business Terms.

(5) In case of an unjustified report of a defect we are entitled to request reimbursement of the expenses incurred to us by the customer unless the customer proves that it does not bear any fault with regard to the unjustified report of defects.

## § 13 Warranty in case of material defects

(1) With the existence of a defect – except defects of title; these are regulated in Subclause 14 – Defects of title – of these General Business Terms – the warranty of LemnaTec in case of a timely report of defect according to Subclause 12 of these General Business Terms, at the choice of LemnaTec, is initially limited to the subsequent fulfilment by the remedy of the defect (subsequent improvement) or substitute delivery if the customer proves that the defect existed already with the passing of the risk.

(2) The customer has to give LemnaTec the necessary time and opportunity to carry out the subsequent improvement or substitute delivery after coordination with it. LemnaTec is to be granted up to three attempts at subsequent improvement with regard to the complexity of the objects of delivery. If the subsequent fulfilment by LemnaTec is carried out at another location than the place of delivery and if no service contract exists the customer will reimburse LemnaTec the transport, travel and accommodation costs incurred owing to the assignment to the actual place of use of the objects of delivery as well as other incurred costs within the framework of the subsequent fulfilment unless the transportation to another location corresponds with the use of the delivered objects as intended.

(3) Incidentally, LemnaTec is not obliged to subsequent improvement or substitute delivery if this is only possible with a disproportionate amount of costs. Costs are deemed disproportionate if they exceed 25% of the purchase price of the objects of delivery.

(4) Parts, which are possibly replaced within the framework of the warranty, shall become the property of LemnaTec.

(5) For the event that the subsequent fulfilment fails i.e. if LemnaTec allows a reasonable deadline set to LemnaTec for the subsequent fulfilment to pass unsuccessfully, has carried out subsequent improvement twice or has carried out a one-time substitute delivery and the reported defect was not remedied hereby, if LemnaTec unjustifiably refuses, unduly delays a necessary subsequent improvement or substitute delivery or if a subsequent improvement is not deemed reasonable for the customer for other reasons and if the pre-requisites of Sections 281 Par. 2 or 323 Par. 2 BGB exist or if LemnaTec rightly refuses the subsequent fulfilment owing to disproportionality the customer can assert the legal remedies of cancellation and reduction, envisaged by law, instead of the subsequent improvement or substitute delivery as well as damages or claims for reimbursement of expenses. The latter within the framework of Subclause 16 of these General Business Terms.

(6) In case of only slight breach of contract, in particular with slight defects, the customer will not be entitled to any right to cancellation.

(7) If there is merely a slight defect then the damages is to be calculated according to Sec-

tion 281 BGB, damages instead of the performance according to the difference between the purchase price and value of the faulty objects of delivery.

(8) In case of third party products the warranty of LemnaTec is limited to the assignment of the claims, which LemnaTec has against the manufacturer of the third party products. For the event that the customer cannot assert its warranty rights against the manufacturer of the third party products LemnaTec will assume warranty within the framework of these terms and conditions. Guarantees possible granted by manufacturers of third party products shall remain unaffected.

(9) If the report of defects was made unjustifiably LemnaTec is entitled to request reimbursement of the expenses incurred by LemnaTec from the customer if the customer culpably failed to recognise that a circumstance from its area of responsibilities caused the alleged defect.

(10) If the customer receives faulty product documentation LemnaTec is merely obliged to deliver faultless documentation and this also only if the defect to the product documentation opposes the proper commissioning.

(11) Liability of LemnaTec is generally excluded for the event that other parts than those produced or stipulated by LemnaTec are installed in the object of delivery at the customer's request. The customer shall bear the burden of proof for the fact that such a deviation was not the cause for a possible faultless condition of the object of delivery.

(12) LemnaTec will not be liable for installation work carried out by the customer itself. The burden of proof for the faultless installation is the responsibility of the customer

## § 14 Warranty in case of defects of title

(1) LemnaTec guarantees that the use of the objects of delivery, as per contract, by the customer in the country of the place of delivery is not opposed by any rights of third parties. In case of defects of title, i.e. if third parties assert justified claims against the customer owing to the infringement of property rights through objects of delivery delivered by LemnaTec, which are used as per contract, LemnaTec will assume warranty in case of a complaint within the deadline according to Subclause 12 of these General Business Terms by the fact that LemnaTec, at the choice of LemnaTec, procures a legally impeccable possibility for using the objects of delivery for the customer or modifies or exchanges the objects of delivery so that the property right is not infringed. LemnaTec can hereby exchange the relevant objects of delivery against equivalent objects of delivery, which comply with the contractual provisions if this is deemed reasonable for the customer. If this is not possible for LemnaTec at reasonable conditions the customer will be entitled to the statutory rights of cancellation or reduction as well as claims for damages or reimbursement of expenses. The obligation of

LemnaTec to pay damages or for the reimbursement of expenses is oriented to Subclause 16 Damages of these General Business Term of these General Business Terms.

(2) The customer will inform LemnaTec immediately in writing if third parties assert property rights (e.g. copyrights or patent rights) to the objects of delivery. The customer authorises LemnaTec to solely conduct the dispute with the third party. LemnaTec will, at its choice, and by coordination with the customer defend or satisfy the claims. As long as LemnaTec exercises this authorisation the customer may not recognise the claims of third party itself without LemnaTec's consent; LemnaTec shall defend the claims of the third party at its own costs and indemnify the customer from all costs associated with the defence of these claims insofar as these are not due to a conduct of the customer in breach of the obligation (e.g. the use of the objects of delivery in breach of the contract). Should the customer discontinue the use of the objects of delivery due to reasons for minimising the damages or other important reasons, it undertakes to inform the third party that the discontinuation of the use is not associated with a recognition of an infringement of a property right.

(3) Claims of the customer are excluded if and insofar as it is responsible for the infringement of property right. They are further excluded if the infringement of property right is only caused by special stipulations of the customer, by an application that was not foreseeable by LemnaTec or, for example, by the fact that the objects of delivery are changed by the customer or are used together with products not delivered by LemnaTec.

(4) Further claims owing to a defect of title are excluded.

#### **§ 15 Statute-of-limitations of claims owing to material defects and defects of title**

The legal statute-of-limitations for all claims for defects is 12 months from the hand-over of the objects of delivery. The legal statute-of-limitations shall apply to damages from the injury to life, the body or the health, which are caused by a defect for which LemnaTec is responsible as well as if the defect is due to a wilful or grossly negligent breach of obligation of LemnaTec, in case of malicious failure to disclose a defect or defects of title within the meaning of Section 438 Par. 1 No. 1 a) BGB as well as with guarantees (Section 444 BGB). The same shall apply to claims according to the German Product Liability Act

#### **§ 16 Damages**

(1) Insofar as not otherwise agreed in these provisions all claims of the customer for compensation for damages of all kinds, also claims for reimbursement of expenses and claims for compensation of indirect damages such as missed profits, are excluded. This shall, in particular apply to claims owing to all breaches of obligations from the contractual obligation and due to illicit act. The exclusion of liability

shall also apply if LemnaTec uses vicarious agents or assistants.

(2) Notwithstanding Subclause 16.1 of these General Business Terms LemnaTec will only be liable, no matter for what legal grounds, – and this shall also apply if LemnaTec assigned executives or vicarious agents and assistants –, if:

(a) LemnaTec is responsible for gross negligence or willful intent,

(b) LemnaTec maliciously failed to disclose a defect or assumed a guarantee for the condition of the objects of delivery,

(c) injuries were culpably caused by LemnaTec to the life, health or the body and if (d) LemnaTec breached so-called cardinal obligations, i.e.

(aa) with essential breaches of obligations, which jeopardise the achievement of the purpose of the contract, or

(bb) with the breach of obligations, the fulfilment of which makes the proper execution of the contract possible at all and on the compliance with which the customer relies or may rely as a rule (cardinal obligations).

(3) In the event of Subclause 16.2 (d) of these General Business Terms – breach of cardinal obligations – the liability of LemnaTec is, however, with only slight negligence is limited with regard to the amount to the compensation of the foreseeable, typically suffered damages.

(4) The exclusion of liability will not apply with regard to claims from the German Product Liability Act. A change in the burden of proof for the disadvantage of the customer is not associated with the aforementioned regulations.

#### **§ 17 Cancellation costs**

If the customer cancels an order placed by it without the customer being entitled to a contractual or statutory right of cancellation for this purpose LemnaTec can, if a reasonable deadline for subsequent fulfilment has been set for the customer, irrespective of the possibility to assert a higher damage, 10% of the sales price for the costs incurred by the processing of the order and for missed profits. The customer shall reserve the right to prove less damages.

#### **§ 18 Reservation of title**

(1) We reserve the property to the delivered goods until the full satisfaction of all claims to which we are entitled and which will be established still from the business relationship. If LemnaTec has accepted cheques or bills of exchange on account of payment in the interest of the customer, then all deliveries shall remain the property of LemnaTec until the full indemnification from such liabilities. This shall also apply to the event that payments were made for especially designated claims. The entry of individual claims into a current account as well as the account balancing and their recognition will have no effect on the reservation of title.

(2) The customer is entitled to the processing and finishing work of the objects of delivery

within the framework of its customary business operation. The processing and finishing work of the objects of delivery will be carried out by the customer for LemnaTec without obligations arising for LemnaTec from such processing and finishing work. In case the objects of delivery are processed, connected, mixed or combined with other goods not delivered by LemnaTec, LemnaTec shall be entitled to a co-ownership share to the new object in the ratio of the invoice value of the objects of delivery to the other processed goods at the time of the processing, connection, mixing or combination. Insofar as the customer acquires the sole ownership to the new object by law it shall hereby now already grant LemnaTec the co-ownership in the ratio to the new object described above and undertakes to keep this object in safekeeping free of charge for LemnaTec.

(3) If the customer sells the object of delivery or the object under co-ownership according to Subclause 18.2 of these General Business Terms solely or together with goods not belonging to LemnaTec then the customer hereby now already assigns the claims established from the resale in the amount of the value of the objects of delivery with all secondary rights to LemnaTec. LemnaTec hereby accepts the assignment. If the sold object is co-owned by LemnaTec the assignment of the claim shall cover the amount, which corresponds with the share value of LemnaTec to the co-ownership. LemnaTec authorises the customer subject to the revocation for the collection of the claims assigned to LemnaTec. If the customer is in default with its obligations towards LemnaTec then the customer has to name all debtors of the assigned claims to LemnaTec. The customer must further report the assignment to the debtors. In this case LemnaTec is also entitled to disclose the assignment itself towards the respective debtors and to exercise the collection authorisation of LemnaTec.

(4) If the customer does not behave as per contract if it is, in particular, in default with its payment obligations, LemnaTec is entitled to take the delivered goods back after a warning and the setting of a deadline. In this case the customer is obliged to hand the goods over. Neither the assertion of the reservation of title, nor the attachment of the software by LemnaTec shall in this case be deemed a cancellation of the contract. The customer hereby now already declares that it agrees to allow the persons commissioned by LemnaTec to pick the delivered goods up to access and drive on its site, on which the delivered goods are located, for this purpose.

(5) The customer is only entitled and authorised to resell the object of delivery in the customary, proper course of business and only under the condition that the claims assigned to LemnaTec according to Subclause 18.3 of these General Business Terms, also actually pass to LemnaTec. The customer is not entitled to other disposals over the objects of delivery. It may in particular not pledge the object of delivery either or assigned it as collateral.

(6) The customer has to inform LemnaTec immediately about enforcement measures of third parties over the goods subject to reservation of title and by handing over the documents that are necessary for the objection.

(7) All goods subject to a reservation of title are to be insured by the customer at its costs, in particular against fire and theft. All claims of the customer against the respective insurer are assigned to LemnaTec already with regard to the goods subject to a reservation of title. LemnaTec hereby accepts this assignment.

(8) LemnaTec is obliged and willing to return or release the securities granted to LemnaTec, insofar as they exceed the agreed coverage limit, to the customer if the value of the securities granted to LemnaTec in total exceed the claims of LemnaTec by more than 20%.

(9) The customer, which is not based in the domestic country, will undertake all acts presumed by law or otherwise, which are necessary in order to have the reservation of title (including its expansion and extension forms) of LemnaTec, was envisaged in these Terms of Sale and Delivery, become effective in the country, in which the delivery is made.

#### § 19 Confidentiality

(1) All business or technical information stemming from LemnaTec (including features, which can be derived from objects or software which is possibly handed over, and other knowledge or experiences) is, as long as it has not been published, as proven, or was determined by us for resale by the customer, to be kept secret towards third parties and may only be made available in the customer's own company to those persons, who necessarily have to be used for its use, and who are also obliged to secrecy; it shall remain our exclusive property. Such information may not be reproduced or used commercially without our prior written consent. At our request all information stemming from us (if applicable including produced copies or records) and objects handed over on loan are to be returned to us in full or to be destroyed

(2) The customer undertakes to protect confidential information against the access of third parties. The customer has to apply the care and attention hereby, which it applies with the treatment of own confidential information, at least the reasonable care and attention. The customer undertakes to impose the same obligations to maintain secrecy concerning the confidential information upon its employees. The customer shall inform LemnaTec immediately and in writing if it gains knowledge of an impending or actual breach of the non-disclosure agreement or has corresponding suspicion.

(3) The obligation to maintain secrecy concerning the confidential information shall cease to apply if the customer succeeds in proving that - it was aware of this confidential information already before its notification by LemnaTec; - it lawfully received this confidential information

from third parties without imposing a non-disclosure obligation, without it being clear to it that the third parties breach non-disclosure obligations imposed against these third parties; - the confidential information was general knowledge or became general knowledge without a breach of this non-disclosure obligation; - this confidential information was developed or is developed by the customer irrespective of its notification by LemnaTec

(4) LemnaTec reserves all rights to the confidential information (including copyrights, the right to apply for industrial property rights as well as patents, utility models, topography property rights, registered designs, trademarks) and the property right to the objects, which are made available and contain confidential information (papers, data carriers, etc.). The customer is, in any case, not granted any ownership, licence, imitation, usage or other rights to confidential information of LemnaTec, no matter whether property rights exist to this information or not. With objects or documents, to which property rights exist for the benefit of LemnaTec and/or which are protected as business /trade secrets the customer is only permitted the use that is explicitly allowed by LemnaTec insofar as certain types of use are not also permitted to each third party.

(5) At the request of LemnaTec the customer has to return all received confidential information to LemnaTec immediately. Confidential information is to be returned to LemnaTec free of charge without request as soon as it is no longer required. The customer is not entitled to a right of retention to these documents or objects. An exception shall merely apply to copies, which have to be archived owing to the fulfilment of mandatory statutory regulations. All confidential information existing on computers is to be deleted upon request.

(6) The customer will be liable for the loss and damage, insofar as it is responsible for this.

(7) The non-disclosure agreement shall apply beyond the end of the contract for three years.

#### § 20 Final provisions

(1) The customer is hereby informed that LemnaTec collects, stores, processes its data and, insofar as necessary for this purpose, transmits its data to third parties in the scope as necessary in order to execute the contract and based on the data protection regulations.

(2) LemnaTec is entitled to change the contents of these General Business Terms with the consent of the customer insofar as the changes are deemed reasonable for the customer by taking the interests of LemnaTec into consideration. The consent to the change in the contract shall be deemed as granted if the customer does not object to the change in writing within four weeks after receipt of the change notification. LemnaTec undertakes to inform the customer with the change notification about the consequences of an omitted objection.

(3) LemnaTec can assign its rights from this contract to one or several third parties.

(4) The law of the Federal Republic of Germany shall apply under the exclusion of the Convention of the United Nations on Contracts for the International Sale of Goods of 11.4.1980 (UN Convention on Sales).

(5) The place of performance for the obligations from this contractual relationship is the registered seat of LemnaTec in Aachen.

(6) If the customer is a merchant, legal entity under public law or special fund under public law the exclusive place of jurisdiction for all disputes from this contract is the registered seat of LemnaTec. The same shall apply if the customer does not have any general place of jurisdiction in Germany or the place or residence or customary place of abode are not known at the time when the action is filed. The plaintiff is moreover entitled to file an action at the registered seat of the defendant.

(7) Should one provision of these terms and conditions and the reached further agreements be or become invalid this shall have no effect on the validity of the terms and conditions on the whole. The contractual partners are obliged to replace the invalid provision by a regulation that shall as far as possible correspond herewith regarding the commercial success

LemnaTec GmbH  
Nerscheider Weg 170  
52076 Aachen  
Germany  
Phone: +49 2408 981850  
Email: info@lemnatec.de  
Web: www.lemnatec.com