

General Conditions of Service and Maintenance

§1 Definition and Interpretation

(1.1) In these Conditions, the following words and expression shall have the following meanings except where the context otherwise requires:

„Additional Charge“ means a charge payable by the Customer for additional services outside the scope of the Services in accordance with LemnaTec prevailing rates for such services including without limitation, the supply of spare parts and goods.

„Agreement“ means the Service & Maintenance Agreement (including its Schedules) for the Services entered into by LemnaTec and the Customer, and includes these Conditions.

„Conditions“ means these General Conditions of Service & Maintenance which are incorporated into and form part of the Agreement.

„Customer“ means the person or persons, firm or company named on the cover page of the Agreement.

„Equipment“ means the equipment listed in Schedule 1.

„Fee“ means the fee payable for the Services as specified in the Agreement.

„Party“ means the Customer or LemnaTec, and

„Parties“ means both of them. „Services“ means the maintenance and other services provided in respect of the Equipment detailed in Schedule 2 and as defined in these Conditions.

„Service Time“ means the period set out in Clause 2 herein.

„Site“ means the premises where the Services are provided.

„LemnaTec“ means the LemnaTec company named on the cover page of the Agreement including its successors, agents and assigns.

“Term” means the duration of the Agreement as set out in Section III of the Agreement.

(1.2) Any reference in these Conditions to any provision of a statute and any regulations made in pursuance thereof as from time to time modified or re-enacted, whether before, on or after the date of the Agreement, so far as such modification or re-enactment applies or is capable of applying to any transaction entered into prior to completion of the Agreement (so far as liability thereunder may exist or can arise) shall be construed as a reference to that provision or regulation as amended, re-enacted or extended at the relevant time and shall include also any past statutory provision or regulation (as from time to time modified or re-enacted) which such provision or regulation has directly or indirectly replaced.

(1.3) The headings in these Conditions are for convenience only and shall be ignored in construing these Conditions and shall not affect their interpretation.

(1.4) Words (including words defined in the Agreement) importing the singular also include the plural and vice-versa where the context requires. The words „written“ and „in writing“ include any means of visible reproduction.

(1.5) LemnaTec shall provide the Services to Customer in accordance with this Agreement. In the event of any inconsistency between these Conditions and other documents forming part of the Agreement, the following order of priority shall apply:

(1.5.1) Any written agreement between the Parties where the Parties agree that any of the provisions in these Conditions should be superseded with an express reference to this Clause 1.5;

(1.5.2) LemnaTec quotation and documents (if any) incorporated by express reference to this Clause 1.5;

(1.5.3) This Agreement; and (1.5.4) These Conditions.

§2 Service Time

(2.1) The Services shall be performed within the Service Time, which shall be between 8.00 a.m. and 5.00 p.m. UTC+1, Mondays to Fridays, Public Holidays excluded unless otherwise agreed in Schedule 3. Response times for corrective maintenance services shall be as set out in Schedule 3 or as otherwise agreed between the Parties.

§3 Modification, Changes and Enhancements

(3.1) During the Term, LemnaTec shall at their discretion undertake such modifications, changes or enhancements to the Equipment and/or implement any practice, procedure or measure, which is deemed by LemnaTec to be necessary and/or to prevent or minimise damage to the Equipment.

(3.2) LemnaTec will before undertaking any such modification, change or enhancement etc. as mentioned in 3.1 above, explain to the Customer, if LemnaTec deems necessary, the need and cost (where applicable) of such modification, change or enhancement. The Customer shall pay any Additional Charge for such modification, change or enhancement according to Clause 7.2.

§4 Exclusions & Additional Services

(4.1) The Services do not include:

a) Repair of damage arising from the act, error, fault, neglect, misuse, improper operation or omission of the Customer or its servants, agents, contractors or invitees or any person whether or not that person is under the control or direction or authority of the Customer.

b) Repair of damage arising from changes, alterations, additions or modifications of the Equipment by a person other than LemnaTec or its personnel.

c) Repair of damage caused by incorrect power supply, failure of electrical power, air-conditioning, humidity control or any environmental factor.

d) Repair of damage caused by the operation of the Equipment other than in accordance with the specifications or otherwise than in accordance with the direction, instruction or recommendations of LemnaTec or its personnel.

e) Repair of damage arising from the re-installation, moving or removing of the Equipment by a person other than LemnaTec.

f) Repair of damage caused by any circumstances beyond LemnaTec reasonable control.

g) Furnishing or supplying maintenance of accessories, attachments, supplies, spare parts, consumables or items associated with the Equipment unless otherwise provided in Schedule 3.

h) Transportation charges, whether for air, sea or land transport for Services carried on within or outside Germany.

i) Work performed outside LemnaTec Service Time.

j) The cost of any Equipment or part whether spare part, consumable or otherwise supplied, unless otherwise provided in Schedule 3.

k) The upgrading of or retrofitting of improvements or major modification to the Equipment.

(4.2) LemnaTec may at the Customer's option provide any of the services referred to in clause 4.1 or any other services requested by the Customer, at the relevant Additional Charge. LemnaTec shall inform the Customer of the associated Additional Charge, and the Customer shall accept the Additional Charge in writing before the services are performed. The Additional Charge shall be payable by the Customer according to clause 7.2.

§5 Customer's Responsibilities

(5.1) The Customer shall undertake to release all Equipment which is being maintained by LemnaTec from all operational demands when so requested to do so by LemnaTec in order for LemnaTec to perform the Services. Alternatively, the Customer shall ensure that LemnaTec personnel have full and safe access to the Equipment at all reasonable times for the purpose of providing the Services. The Customer shall also ensure that such access conforms to any specifications issued by LemnaTec from time to time.

(5.2) The Customer will ensure that LemnaTec personnel or representatives are provided a safe and secure work environment at all times while they are on the Site to enable work to be