



General Terms of Buisness and Delivery of
LAMTEC GmbH & Co. KG

for Products

as of Januar 1, 2020

General Terms of Business and Delivery of LAMTEC

I Validity of the General Terms of Business

1. Our General Terms of Business apply for all business transactions made with us. They also apply for all future business relations even if they have not been agreed again expressly. These terms of business also apply when we make the delivery to the purchaser without reserve in the knowledge of contradictory terms or terms which deviate from our terms of sale. These conditions also apply in the event of an order placed orally, by phone or by telegraph. These terms also apply for orders placed by fax or electronic media, especially e-mail or Internet.
2. Vocal agreements must be put in writing. This also applies for additional agreements. Spoken additional agreements are invalid.
3. Our deliveries, services and offers are made exclusively based on these terms of business. These terms are considered acknowledged at the latest with the acceptance of the goods or services.
4. We will not acknowledge General Terms of Business of the purchaser which are contrary to or deviate from our General Terms of Business unless we have agreed or confirmed these expressly and in writing in the individual case.

II Offer by Written Orders

Our offers are non-binding according to quantity, delivery time and price.

1. Orders can only be accepted non-binding and only become binding with regard to quantity, delivery dates and prices when they are confirmed in writing. Our execution of the order or the invoicing of our service is also valid confirmation.
2. Obvious errors in our offers or order confirmations as well as printing and calculation errors carry no entitlement or obligation for us or our contract partners. The contract is only valid to the extent that it would be valid without mistakes or errors.
3. Our sales staff is not authorised to make additional spoken agreements or to make spoken promises which go beyond the contents of the written contract.

III Prices / Price Information

1. We charge the list prices valid on the day of delivery for our services. These prices as well as all our price information are net prices. The end price consists of the net price plus the legally chargeable VAT. The prices specified in our order confirmation plus the respective legal VAT are decisive.
2. The offers and prices are all in Euros, non-binding and apply ex-factory, excluding packaging and plus transport costs as well as the legal VAT.
3. If we provide the assembly or erection and unless otherwise agreed the purchaser shall pay all the necessary incidental costs such as travel costs, costs for transport of tools and personal luggage as well as allowances in addition to the agreed remuneration.

IV Terms of Payment / Default / Offset / Cancellation

1. According to §§ 366, 367 Civil Code we determine which demands are fulfilled by the purchaser's payment.
2. Payments shall be made without any deductions to our specified account. We reserve the right to demand advance payments prior to delivery.
3. A payment shall only be considered made when we are in possession of the full amount. In the case of acceptance of cheques/bills of exchange the payment is only considered made when the cheque/bill of exchange has been cashed.
4. We are not obliged to accept cheques or bills of exchange. If we accept cheques or bills of exchange, in exceptional cases, the usual bank charges shall be paid by the purchaser when the demand becomes due. Cheques or bills of exchange will only be accepted on fulfilment without warranty for protest and only after agreement and on condition of their discountability; exchange tax, discount and encashment fees shall be paid by the purchaser; they are due immediately for payment.
5. If the purchaser gets into default with his payments or does not properly fulfil his payment obligations, ceases his payments or a cheque bounces or a bill of exchange raises a protest or any other circumstances become known to us which cast a doubt on the creditworthiness and liquidity of the purchaser (for example, execution proceedings, declining assets), we are entitled to demand advance payments or securities for future deliveries. Moreover, we are entitled to cancel the contract.
6. In case of default we are also entitled to charge interest to the amount of 1 % per month. We reserve the right to claim higher default damages on provision of proof. Reminder fees of EUR 3.50 shall be paid. The right to claim further default damages remains unaffected. Moreover, we are entitled to cancel the contract. We are entitled to take immediate possession of the delivered objects or to demand damages due to non-fulfilment. In the event of cancellation the previously incurred default damage must be reimbursed.
7. The purchaser is only entitled to exercise his rights of retention and set off when his claims are legally confirmed, uncontested or acknowledged by us. Moreover, he is only authorised to exercise his right of retention to the extent that his claim concerns the same contract relations. We are entitled to set off all demands we have to the purchaser against all demands which the purchaser has against Lamtec Meß- und Regeltechnik für Feuerungen GmbH & Co. KG or Lamtec Leipzig GmbH & Co. KG.
8. If the purchaser cancels the contract or cancels a placed order, he is obliged to pay 5 % of the net order total. We reserve the right to claim higher damages on proof.

V Delivery and Service Time

1. Unless a contrary individual agreement has been made, the specified delivery dates are only approximate dates. However, we shall do our best to deliver the goods on the specified date. However, no binding delivery date can be promised. The delivery date shall be reasonably extended in the event of unforeseeable hindrances which we were unable to avoid despite all reasonable care under the circumstances – regardless of whether at our factory, at sub-suppliers or suppliers – especially in the case of interruptions in production, government intervention, industrial disputes, delay in the delivery of important raw materials or cases of force majeure as well as mobilisation and war. This also applies in the case of strikes and lockouts. Other circumstances for which we shall not be held responsible are energy supply difficulties and delay in the procurement of raw materials and purchased materials. We must notify the purchaser of such hindrances without delay. If contract amendments are made which can influence the delivery date, the delivery date shall be extended unless special agreements have been made to the appropriate reasonable extent.
2. If we have demanded an advance payment, the delivery time begins with the day of receipt of the advance payment providing all the other applicable contract conditions are fulfilled.
3. The keeping of deadlines assumes the prompt receipt of all the documents, necessary permits and releases, especially plans from the purchaser as well as fulfilment of the agreed terms of payment and other obligations by the purchaser. The deadlines are extended accordingly if these conditions are not satisfied on time. This does not apply if we are responsible for the delays.
4. The delivery deadline shall be considered kept on our part,
 - in case of delivery without erection or assembly, when the ready to operate shipment has been brought to dispatch or collected within the agreed delivery or service time. If the delivery is delayed for reasons for which the purchaser is responsible, the deadline is considered kept on reporting readiness for dispatch within the agreed time;
 - for delivery with erection or assembly, providing this took place within the agreed time.
5. If the agreed delivery date is exceeded by more than three months, the purchaser can set us a reasonable extension. If we have still not delivered by the end of this extension, the purchaser is entitled to cancel the contract by written declaration. Other rights of the purchaser, especially damages, are excluded unless we are guilty of wilful intent or gross negligence. The purchaser must bring proof of such.
6. The rights determined by sect. 5 can only be enforced by the purchaser if he notifies us immediately.
7. The purchaser is entitled to a reasonable default compensation if we fail to meet promised dates and deadlines or get into default. The purchaser must always calculate the default damage correctly. However, it may not exceed a maximum of 5 % of the net invoice value of the delivery and service affected by the default. Further claims are excluded unless the default is the result of wilful intent or gross negligence.
8. The specification of a delivery date in an order confirmation is not a binding promise.
9. We are entitled to make partial deliveries at any time. We are also entitled to other partial services, especially partial payments unless our contract partner can prove that this is unreasonable for him.

General Terms of Business and Delivery of LAMTEC

VI Assembly

For deliveries with erection our service and assembly conditions valid at the time of signing the contract which were handed over to the Purchaser separately and which are also part of this delivery contract apply additionally.

VII Retention of Title

1. Until fulfilment of all demands (including all balance demands from current account) which we may legally have against the purchaser now or in the future, he will grant us the following securities which we will release on demand if we choose insofar as their value exceeds the demand sustainably by more than 20 %.
2. The goods remain our property, processing, installation or conversion are always performed for us as the manufacturer but without obligation for him. If our (joint) title expires by connection it is already agreed that the (joint) title of the purchaser to the united object will be transferred to us in ratio of its value (invoice value). The purchaser preserves our (joint) title free of charge. The purchaser keeps the new object for the supplier with the care of an orderly merchant. Goods to which we have a (joint) title are referred to hereinafter as reserve goods.
3. In the event of seizure of the reserve goods by third parties (e.g. attachments, confiscation or other disposals) the purchaser will refer to our title and notify us immediately.
4. The setting of individual demands in a current invoice as well as drawing of balance and its acknowledgement does not affect the reserve of title. Payment is considered only on receipt of the full value by us. If there is cause for an exchange liability by us in connection with the payment of the purchasing price by the purchaser, the reserve of title and the demand from delivery of goods based on this do not expire before fulfilment of the exchange by the purchaser as debtor. The seizure or transfer of security is not allowed to the purchaser beforehand. The purchaser is obliged to protect our rights in the case of resale of reserve goods on credit.
5. If the purchaser acts in violation of the contract, especially in the case of default of payment, we are entitled to repossess after dunning and the purchaser is obliged to surrender for settlement. Any excess remaining from the settlement shall be reimbursed to the purchaser.
6. The enforcement of the reserve of title and the seizure of the object of delivery by us do not constitute a withdrawal from the contract unless we notify the purchaser expressly as such.
7. The purchaser will cede the demands ensuing from the resale or another legal reason (insurance, illegal action) with regard to the goods delivered under reserve of title (including all balance demands from current account) with all incidental rights to us now for security and in full. We accept the cession and empower the purchaser revocably to collect the demands ceded to us for his account and in his own name. The collection authorisation can only be revoked by us when the purchaser does not properly fulfil his payment obligations. We are also entitled to revoke the purchaser's collection authorisation for good reason, especially payment default, discontinuation of payment, application for starting bankruptcy proceedings, exchange protest or other similar reasons. In addition, after previous threatening to disclose the security cession or settlement of the ceded demand. We may disclose the security cession, settle the ceded demand and disclose the security cession by the purchaser to the customer or disclose to the customer himself.
8. The above sect. 7 applies accordingly for the sale of an object which represents a new object due to processing, conversion or connection with other objects not belonging to us. However, the cession only applies to the amount which corresponds to the value of the processed, converted or connected reserve goods invoiced by us. The part of the demand ceded to us must be fulfilled by the purchaser with priority. With regard to the collection authorisation and the conditions for its revocation, sect. 7 applies accordingly. If the reserve goods are connected with immovables or movables by the purchaser cedes his demand which is due to him as remuneration for the connection with all incidental rights for security to the amount of the relation of the reserve connected with our security right to the other unconnected goods to us at the time of the connection.
9. The purchaser must disclose our existing reserve of title to the goods to his customers. He is obliged to inform us at all times about the whereabouts of the goods delivered under reserve of title and the demands resulting from resale or to submit invoices. In case of seizure of the goods delivered under reserve of title by third parties the purchaser is obliged to refer to our title and to notify us immediately. The purchaser shall pay the costs incurred by us in the pursuance of our rights as the owner of reserve goods.
10. In case of behaviour of the purchaser in violation of the contract we are entitled to repossess the goods delivered under reserve of title or to demand transfer of the purchaser's rights of surrender against third parties. The repossession and seizure of the goods delivered under reserve of title by us does not constitute a withdrawal from the contract.
11. The purchaser shall bear any costs of intervention.

VIII Copyrights

1. We reserve the title and copyright to quotes, offers, drawings, samples and other documents. We would like to point out that some of our manufacturing processes are protected by patents. The documents may only be made accessible to third parties with our prior consent and must be returned to us immediately if the contract is not awarded to us. This also applies accordingly for the purchaser's documents with the exception that these may be made accessible to third parties to whom we have subcontracted deliveries or (partial) services.
2. The purchaser may not refuse to accept deliveries on account of alleged copyright defects.
3. We also reserve the rights to the developed software. The purchaser is granted the non-exclusive right to use with the agreed features in unchanged form on the agreed equipment. The purchaser may only make a single backup copy without an express agreement.
4. One instruction manual per device in the language of the purchaser or in English is included in the delivery to the end customer and is included in the price. In case of delivery to OEM customers we are not obliged to provide one set of documentation per device. Nor are we obliged to supply foreign language documentation to OEM customers.

IX Transfer of Risk and Acceptance

1. Unless specified otherwise in the order confirmation delivery "ex-factory" is agreed even when partial deliveries are made. The risk is transferred to the purchaser as soon as the dispatch has been handed over to the person contracted to carry out the transport or has left our warehouse for the purpose of dispatch. If the goods are ready for dispatch and the dispatch or acceptance is delayed for reasons for which we are not responsible, the risk is transferred to the purchaser with the written notification of readiness for dispatch.
2. If the object of delivery is delivered to a different place to that in sect. the dispatch is only not insured by us against theft, breakage, transport, fire and water damage and other insurable risks when no other instructions are issued by the purchaser. The purchaser shall bear the costs of such an insurance.
3. The risk is also transferred to the purchaser in the case of freight-free delivery as follows:
 - in case of delivery without erection or assembly when it has been brought to dispatch or collected. We shall insure deliveries against normal transport risks on the purchaser's account unless agreed otherwise;
 - in case of delivery with erection and assembly on the day of introduction into their own operation or, where agreed, after perfect trial operation;
 - if the dispatch, delivery, start, execution of erection or assembly, introduction into own operation or trial operation is delayed for reasons for which the purchaser is responsible or the purchaser gets into default with acceptance for other reasons.
4. Deliveries, including partial deliveries, must be accepted by the purchaser even when they exhibit insignificant defects notwithstanding the rights described in section VII.
5. Packing is charged at cost price and will not be taken back. Special packing shall remain our property and will be charged at hire rates based on cost price. It must be returned to us immediately freight-free.
6. If we exceptionally take over freight costs, export duties, customs duties etc. at fixed rates, the purchaser shall bear the costs. The same applies for all fees introduced after conclusion of contract by which the prices are influenced directly or indirectly in any way. Parcels shall always be sent free and the prepaid parcel fees charged to the same amount.

General Terms of Business and Delivery of LAMTEC

X Erection and Assembly

The following conditions apply for erection and assembly unless agreed otherwise in writing:

- The purchaser shall provide at his own expense and in good time:
 - all earth, construction, scaffolding, static and other ancillary work outside the scope of the supplier including the necessary skilled and unskilled labour, constructions materials and tools,
 - the static objects and materials necessary for assembly and commissioning as well as scaffolds, lifting equipment and other devices, fuels and lubricants,
 - energy and water to the point of use including connections, heating and lighting,
 - suitable dry and lockable rooms of sufficient size adjacent to the site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for the erection personnel, including sanitary facilities as are appropriate in the specific circumstances. Furthermore, the purchaser shall take all the measures he would take for the protection of his own property to protect our property and our erection personnel at the site,
 - Protective clothing and protective devices needed due to particular conditions on the assembly site.
- Before the erection work starts, the purchaser shall make available of his own accord any information required concerning the location of concealed electric power, gas and water lines or of similar installations as well as the necessary structural data.
- Prior to assembly work or erection, the orders and objects necessary for the work to start must be available on the site of erection or assembly and all preparatory work must have advanced to such a degree that the erection or assembly can be started as agreed and carried out without interruption. Access roads and the erection or assembly site itself must be level and clear.

The purchaser shall attest to the hours worked by the assembly personnel to us daily and notify us immediately when erection, assembly or commissioning has been completed.
- If, after completion, we demand acceptance of the delivery, the purchaser shall comply therewith within a period of two weeks. In default thereof, acceptance is deemed to have taken place. Acceptance is also deemed to have been effected if the delivery is put to use after completion of an agreed test phase if any.
- The supplier shall not be liable for the work of his erection or assembly service personnel and other executing staff if the work is not in connection with the delivery and the erection or assembly or if the same are done by the purchaser himself.
- If the supplier has taken over the erection and assembly on separate charge, the following provisions also apply:
- The purchaser shall pay us the rates agreed at contract award for working hours and surcharges for extra work, night work, Sunday and holiday work, for work under special hardship and for planning and supervision.
- The following costs shall also be paid separately:
- Travel costs, costs for the transport of tools and personal luggage,
- The allowance for work time and for rest days and holidays.

XI Warranty

- The purchaser is obliged to examine the goods delivered by us immediately upon receipt and to notify us without delay, within two weeks at the latest, in writing if a defect is discovered. The date of dispatch of the notification is decisive here. The purchaser is only entitled to reduce the purchasing price or to withdraw from the contract after failure of later fulfilment.
- Any liability on our part for defects which occur after conclusion of contract but before transfer of risk is excluded.
- If the defect is due to the purchaser's failure to inspect the delivered goods properly in accordance with our hints and instructions or the purchaser makes modifications to the product, the warranty will be voided.
- Defect rights do not exist in case of insignificant deviation from the agreed properties, in case of only insignificant impairment of the usefulness, natural wear or damages which occur after the transfer of risk due to improper or careless handling, excessive stress, unsuitable operating media, faulty construction work, unsuitable construction ground or special ambient influences for which the contract does not provide and in the case of irreproducible software errors. If the purchaser or third parties make unauthorised modifications or carry out unauthorised repairs
- The warranty claims of the purchaser against us are only due to him and cannot be ceded. Goods for which the purchaser has lodged a proper complaint according to the above conditions must be kept at our disposal and must be sent back to us or a location specified by us on demand.
- Otherwise the statute of limitations for the warranty claims by the purchaser against us is one year after the transfer of risk to the purchaser. This does not apply insofar as the law according to §§ 438 par. 1 No. 2 (building and objects for buildings), 479 par. 1 (right of cancellation), 634 a par. 1 No. 2 (building defects) Civil Code prescribes longer periods and in cases of injury to life, body or health, wilful or grossly negligent violation of the supplier's obligations and deceitful concealment of a defect. The legal rulings on obstruction of expiry, obstruction and recommencement of time periods remain unaffected.

- Claims of the purchaser due to expenses necessary for the purposes of later fulfilment, especially transport, road, work and material costs are excluded insofar as the expenses increase because the object of delivery was brought to a different place than agreed unless this was in keeping with its intended use. Otherwise, the liability is limited to an amount of EUR 5,000.00 but double the net amount of the delivery at the most.
- Recourse rights of the purchaser against us according to § 478 of the Civil Code (Recourse of the Entrepreneur) only exist insofar as the purchaser has not made any additional agreement with his customers about the legal defect rights. For the scope of the purchaser's recourse claim against the supplier according to § 478 par. 2 of the Civil Code sect. 8 applies accordingly. Otherwise, the liability is limited to an amount of EUR 10,000.00 but double the net invoice value of the delivery at the most.
- Otherwise Art. XIV Sect. 3 applies for damage claims. Further claims or other claims than those governed by this article by the purchaser against us and our executing staff due to a material defect are excluded.

XII Industrial Property Rights and Copyright, Defects in Title

- Unless otherwise agreed, we are obliged to provide the delivery free from third parties' industrial property rights and copyrights (hereinafter referred to as protective rights) only in the country of the place of destination. If a third party asserts a justified claim against the purchaser based on an infringement of a protection right with respect to a delivery made by the supplier and then used in conformity with the contract, we will be liable to the purchaser within the time period stipulated in Art. XI Sect. 7 as follows:
 - The supplier shall choose whether to acquire, at his own expense, the rights to use the delivery concerned in such a way that the protect right is not infringed or to change it. If we cannot offer reasonable conditions for this, the purchaser may cancel the contract or reduce the remuneration pursuant to the applicable statutory provisions.
 - The supplier's liability to pay damages shall be governed by Article XI Sect. 10 in connection with XIV Sect. 3.
 - Our above obligations shall only apply if the purchaser notifies us if any such claim asserted by the third party immediately in writing, does not concede the existence of an infringement and leaves any protective measures and settlement negotiations to our discretion. If the purchaser stops using the delivery in order to reduce the damage or for any other reason, he shall be obliged to point out that the third party that no acknowledgement of the alleged infringement may be inferred from the fact that the use has been discontinued.
- Claims of the purchaser shall also be excluded if he himself is responsible for the infringement of a protection right.
- Claims of the purchaser shall also be excluded if the infringement of the protection right is caused by special specifications made by the purchaser to a type of use which was not foreseeable for us or to the delivery being modified by the purchaser or being used together with products not provided by us.
- In addition, with respect to claims by the purchaser pursuant to Sect. Art. XI Sect. 4 shall apply in the event of an infringement of a protection right.
- In the event of other defects in title the provisions of Art. XI Sect. 4 apply accordingly.
- We shall only be limitedly liable for damages due to defects of title as follows:

Rights of third parties are unknown to us. We or a third party to be appointed by us represent the purchaser in every proceedings brought against him. The purchaser is obliged to inform us immediately of such proceedings in writing and to grant us or the third party proxy, information and support for handling the legal dispute.

- Further claims or other claims than those governed by this article by the purchaser against the supplier and his executing staff due to a defect of title are excluded.

XIII Impossibility of Performance, Adaptation of Contract

- To the extent that the delivery is impossible, the purchaser shall be entitled to claim damages unless we are not responsible for the impossibility. The purchaser's claim for damages shall, however, be limited to an amount of 10 % of the value of the part of the delivery which, owing to the impossibility, cannot be put to the intended use. This limitation shall not apply in the case of mandatory liability based on wilful intent, gross negligence or injury to life, body or health. This does not imply a change in the burden of proof to the detriment of the purchaser. The right of the purchaser to cancel the contract shall remain unaffected. Art. XIII. sect. 2 remains unaffected.
- Where unforeseeable events within the meaning of Art. V sect. substantially affect the economic importance or the contents of the delivery or considerably affect our business, the contract shall be adapted taking into account the principles of reasonableness and good faith. Where doing so is economically unreasonable, we shall have the right to cancel the contract. If we intend to exercise this right of cancellation we must notify the purchaser thereof without undue delay after having realised the repercussions of the event, this shall also apply even where an extension of the delivery period had previously been agreed with the purchaser.

General Terms of Business and Delivery of LAMTEC

XIV Liability, Claims for Damages

1. We bear unlimited liability for damages due to promised properties.
2. The liability for initial incapability is limited to five times the remuneration paid by the purchaser and to such damage the occurrence of which is to be expected as typical within the scope of this contract. More remote damages will not be compensated.
3. Claims for damage and expenses compensation by the purchaser, for any legal reason whatsoever, especially due to violation of obligations from debting relations and illegal actions are excluded. This does not apply in case of a mandatory liability, for example in accordance with the product liability act, in cases of wilful intent, gross negligence, injury to life, body or health and due to violation of essential obligations. However, the damage claims for the violation of essential contract obligations is limited to the contract-typical, foreseeable damages except in cases of liability due to wilful intent or gross negligence or injury to life, body or health. These rules do not imply a change in the burden of proof to the detriment of the purchaser.
4. We are also only unlimitedly liable for wilful intent and gross negligence of our legal representatives and executive staff. For damages caused by other agents we are only liable to the extent of the liability for initial incapacity according to the above paragraph.
5. For minor negligence we are only liable in case of violation of an obligation which is particularly important for achieving the purpose of the contract (cardinal obligation). In case of violation of a cardinal obligation the limitation of liability for initial incapacity according to sect. 3 of this liability ruling is to be applied accordingly. Any other claims for compensation on the part of the purchaser are excluded in all cases of late delivery even after expiry of a set extension. This does not apply if we are guilty of wilful intent or gross negligence.
6. Other claims by the purchaser, especially for damage compensation, which did not occur on the object of delivery are excluded. We are not liable for other damage compensation claims especially due to impossibility of the service, default, violation of obligation, illegal action by us or one of our employees.
7. If the purchaser is entitled to claim damages according to this article, these become invalid by prescription 1 year after transfer of risk to the purchaser. This also applies for damage claims under the product liability act.
8. Otherwise the liability is limited to EUR 100,000.00 for personal injury and EUR 20,000.00 for other damage. XI sect. 9 remains unaffected.

XV Other Provisions

1. Unless expressly agreed otherwise in writing, the information provided by the purchaser in connection with an order is not considered to be confidential.
2. The Civil Code (BGB) and the Commercial Code (HGB) of the Federal Republic of Germany apply for these terms of business and for all legal relations between us and the purchaser. The contract relations are also subject to the law of the Federal Republic of Germany.
3. The United Nations agreement on contracts for international sales of goods (CSIG) is not applicable.
4. Insofar as the purchaser is a full merchant in the sense of the Commercial Code, a legal person under the public law or a public special asset, the place of fulfilment and jurisdiction for all disputes ensuing indirectly or directly from the contract relations is the headquarters of our company. This also applies for legal action in the document and exchange process. Otherwise we can choose the purchaser's place of abode or business headquarters instead as the place of jurisdiction.
5. If one of more of the above provisions should be or become ineffective, the other provisions will remain unaffected. The ineffective provision shall be replaced by an effective provision which comes as close as possible to the economic or legal purpose originally pursued.
6. If the purchaser's headquarters are outside the Federal Republic of Germany, we or the purchaser can also appoint a court of arbitration including three arbitrators according to the arbitration directive of the International Chamber of Commerce in Paris which makes a final decision based on this arbitration directive. The chairman must have a different nationality to the parties and must have legal qualifications which would allow him to preside as a judge at national court. The arbitration decision must be put in writing with specification of the contract provisions and legal standards on which the decision is based.