



General Conditions of Sale and Delivery - Westfalen Gassen Nederland BV

Article 1 General

1.1 All offers issued and sales and deliveries made by Westfalen, as well as all sales and deliveries made under the brand name GlobalGas shall be subject to the following conditions, unless specifically stated otherwise in the order confirmation.

1.2 Contradicting clauses and possible general terms and conditions applied by the customer shall only apply if and to the extent that they have been expressly accepted in writing by Westfalen.

1.3 By placing an order and/or taking receipt of goods by virtue of an order, the customer relinquishes all possible terms and conditions of his own.

1.4 Once a customer has made a purchase in accordance with these conditions of sale and delivery of Westfalen, he shall be deemed to have tacitly accepted the applicability of these conditions to any subsequent orders placed by him by whatever means (orally, by telegram, by fax, by email or by telex), irrespective of whether the order in question has been confirmed in writing.

1.5 Westfalen Gassen Nederland BV has established a number of guidelines and regulations to which the management and employees have conformed. With the compliance guidelines, Westfalen Gassen Nederland BV substantiates its intention to be an ethical company. These compliance guidelines can be found on our website.

1.6 If any of the provisions in these general terms and conditions is considered invalid or declared void, the remaining provisions shall remain fully in force. In that case, Westfalen and the customer shall consult each other for the purpose of reaching agreement on a replacing provision which shall as far as possible reflect the object and essence of the invalid or void provision.

Article 2 Offers

2.1 All offers issued by Westfalen shall be without obligations and shall, unless specified otherwise, be valid for a period of 30 days as from the date of issue. Acceptance of the offer by the customer or the placing of an order by the customer shall be binding for the customer. Invoices sent by Westfalen and any actual deliveries shall also be deemed to constitute a written acceptance.

2.2 Agreements and contracts shall only be binding for Westfalen if they have been legally signed and confirmed in writing by Westfalen.

Article 3 Prices

3.1 The prices applied by Westfalen do not include the statutory turnover tax. The prices quoted are ex-works Westfalen main depot, respectively any other depot designated by Westfalen.

3.2 Unless agreed otherwise, the prices shall apply in accordance with the rates payable on the day of delivery. For this purpose, Westfalen applies delivery agreements, rental agreements, right-of-use agreements, price agreements and price lists which are available from its main depot on request.

3.3 Cylinders owned by the customer shall be filled against payment of the surcharge applicable at that moment. Westfalen applies pricelists to that end. Westfalen reserves the right to at all times modify the price lists referred to in this article and in article 3.2 without prior notice as a result of cost increases.

3.4 Cost increases are understood to include the following: increases in freight charges, taxes, import and export duties or other levies, salary and social security contribution increases, exchange-rate fluctuations and increases in purchase prices and prices of raw materials, energy, etc.

Article 4 Payment

4.1 Unless agreed otherwise, payments must be made without deductions or setoff of debts within 14 days of the invoice date. If the customer fails to make payment by the agreed deadline, the customer shall be deemed to be in default by operation of law, and Westfalen shall be entitled to charge the customer interest of 1% per month or any part thereof on the entire sum payable as from the date on which the invoice becomes due, without prejudice to any other rights of Westfalen, including its right to recover from the customer any legal or extrajudicial costs relating to debt collection, in which any extrajudicial costs must be calculated in accordance with the debt collection rate applied by the Netherlands Bar Association (Nederlandse Orde van Advocaten), as well as any costs relating to a petition for bankruptcy.

4.2 In that case, without prejudice to the right of Westfalen to claim compensation for damages, Westfalen shall furthermore be entitled to immediately suspend any further deliveries to the customer or demand cash on delivery and/or immediate payment of any invoices still payable and/or to terminate the contract entered into with the customer, even if the contract in question has not yet been fully executed by Westfalen.

4.3 Westfalen shall also have these rights in the event of bankruptcy or a moratorium on the part of the customer and in the event that any attachment is levied against or at the expense of the customer or if the customer is placed under administration in accordance with any provision of law.

Article 5 Retention of title

5.1 The delivered products shall remain the property of Westfalen until the customer has fulfilled all of his payment obligations, regardless of their nature.

5.2 If the customer fails to pay in time, Westfalen shall be entitled to immediately recover any products subject to retention of title, in which all transport costs shall be charged to the customer and without prejudice to the customer's remaining obligations under the contract.

5.3 In the event of bankruptcy, attachment in whatever form or a moratorium on the part of the customer or in the event that the customer is placed under administration under whatever provision of law, the customer shall be obliged to immediately inform Westfalen thereof in writing and to inform the liquidator or receiver, the bailiff levying the attachment or the administrator about Westfalen's property.

5.4 Any products delivered under retention of title may only be used or consumed within the framework of normal business operations.

5.5 Until the customer has fulfilled his obligations as described in article 5.1, it shall not be permitted to transfer the ownership of the products to any third party or to encumber the products with a limited right.

Article 6 Delivery

6.1 Deliveries shall be ex-works Westfalen main depot or any other depot designated by Westfalen. Transport from the depot to the customer and the return of packaging shall be at the customer's expense and risk. Deliveries shall be made according to routes determined by Westfalen.

6.2 The agreed delivery date shall be considered to have been given as an approximation.

6.3 If delivery is not possible at the sites agreed by the parties as a result of circumstances for which Westfalen is not responsible, for example because the agreed location cannot be accessed by the means of transport normally used by Westfalen, or delivery cannot be reasonably expected to be made at the agreed location, Westfalen shall be entitled to deliver at another reasonable location in the vicinity of the previously agreed location.

6.4 Delayed deliveries shall never entitle the customer to fully or partially withdraw or terminate the contract. If the customer decides to take delivery of the products at a date later than originally agreed, the products shall be stored by Westfalen at the customer's expense and risk.

Article 7 Delivery of gases by road tanker or trailer

7.1 If Westfalen delivers gases by road tanker or trailer, delivery shall also be subject to the conditions of Westfalen as laid down in the delivery and/or rental agreements for tanks and/or installations.

Article 8 Complaints

8.1 The customer shall be obliged to verify that the delivered gas types, quantities and the numbers of cylinders, bundles, cryogenic mobile tanks and/or pallets specified on the delivery notes are correct. Complaints must be submitted in writing to the Westfalen main depot within one week of the invoice date, failing which the gas types, quantities and numbers shall be considered to have been acknowledged as correct.

8.2 For reasons of safety, shortcomings in respect of gas quality, for example due to faulty valves, as well as all similar complaints must immediately, yet by no later than within 14 days of delivery, be submitted to the main depot of Westfalen by the customer in writing after becoming apparent. The cylinders in question may not be used and must be clearly marked with the term "inspect" when being returned. The reason behind the complaint must be stated to Westfalen. The client/customer shall be prohibited from making changes to the delivered cylinders, seeing that this can jeopardise their safety in functioning.

8.3 Rejected deliveries made in cylinders, bundles and/or mobile cryogenic tanks must be returned to Westfalen or to a depot designated by Westfalen. When returned, these cylinders, bundles and/or mobile cryogenic tanks must be visibly or recognisably marked. The costs of returning the delivery and of investigating complaints shall be at the expense of the customer and shall be refunded if the complaint proves to be justified.

Article 9 Return deliveries

9.1 The customer shall never be entitled to or be able to claim repayment/crediting of delivered and paid products or gasses supplied in cylinders and bundles if:

- the products in question are marked with a (maximum) expiry date or stability date, such as respiration, medicinal, pharmaceutical and food gasses, even if they have not been used and their seals have not been broken.
- the products in question have been prepared on prescription, such as special gas mixtures, even if they have not been used and their seals have not been broken.
- the products in question, not being the aforesaid products, are returned 6 months after delivery with a request for repayment/crediting, even if they have not been used and their seals have not been broken.

Article 10 Customer liability

10.1 The customer shall be obliged to comply with the applicable regulations on storage and transport of gases.

10.2 If the customer collects cylinders from the (main) Westfalen depot, he shall assume full responsibility for loading and unloading the vehicle in accordance with the applicable instructions, as well as for the safety of the cargo. The customer shall in that case also be obliged to comply with the applicable regulations on accident prevention, storage and transport.

10.3 Compressed gasses may only be extracted from the cylinders and/or mobile cryogenic tanks by the customer in accordance with the applicable regulations. In the case of liquid and compressed liquefied gases, the purchase volumes must be limited according to their physical properties in order to ensure problem-free operation and the full use of the cylinder, bundle or tank contents. Residual contents in returned cylinders, bundles and/or mobile cryogenic tanks shall not be refunded.

10.4 The customer shall be liable for any loss of or damage to property of Westfalen as from the moment when the property leaves the main depot or any other depot designated by Westfalen until it is returned to that location. The foregoing provision shall not apply if and to the extent that the loss or damage is the result of normal wear and tear.

10.5 Any customer who fails to return rented products or products made available to him, or returns those products in an irreparable condition to the main depot or any other depot designated by Westfalen shall be obliged to pay Westfalen the new value of those products.

10.6 Cylinders provided by other suppliers which are handed over as a replacement in order to comply with the obligation to return cylinders shall not be accepted. If cylinders or parts of cylinders are lost or damaged, the customer shall be charged the equivalent amount.

10.7 The customer shall furthermore be liable for any personal injury and/or damage to products relating to the storage and use of products delivered or rented out by Westfalen.

Article 11 Prohibition to pass on to third parties

11.1 Unless agreed otherwise, the gases delivered by Westfalen shall be used exclusively for consumption by the customer.

Article 12 Rental conditions

12.1 Cylinders, bundles, mobile cryogenic tanks and pallets rented out to the customer by Westfalen shall be subject to the special provisions of this article in addition to the provisions of these general conditions. Deposit and right-of-use system cylinders shall be subject to the additional provisions as referred to in article 13 of these general conditions. In the event of an inconsistency or contradiction, the special provisions of article 12 and 13 shall apply.

12.2 The cylinders, bundles, mobile cryogenic tanks and pallets are the inalienable property of Westfalen or the supplier of Westfalen.

12.3 Cylinders, bundles, mobile cryogenic tanks and pallets shall only be rented out to the customer





Westfalen

Nr.: IN-WGN-019.19/10
IMS: 1.6

Gasses / Refrigerants / Propane

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for transport and use of the gases purchased from Westfalen. Partly in view of the corresponding safety risks, it shall not be permitted to pass on cylinders, bundles, mobile cryogenic tanks and pallets to third parties or to use them for any other purpose.

12.4 As soon as they are empty, cylinders, bundles and/or mobile cryogenic tanks must be returned to the main depot or to any other depot designated by Westfalen with an overpressure of at least 1 bar. Handing over cylinders, bundles, mobile cryogenic tanks and pallets of other suppliers shall not relieve the customer from his obligation to return cylinders and/or pallets rented from Westfalen to Westfalen. Rented cylinders, bundles, mobile cryogenic tanks and pallets may not be withheld. This also applies if Westfalen has not or supposedly has not fulfilled its obligations.

12.5 The cylinders, bundles, mobile cryogenic tanks and pallets shall be rented out for a maximum period of 90 days. Upon expiry of this period, if the cylinders, bundles, mobile cryogenic tanks and pallets have not been returned to the main depot or to any other depot designated by Westfalen, Westfalen shall be entitled to charge the customer an amount equal to the new value of the articles in question as a security.

12.6 The security shall be immediately due and payable without discount and/or compensation as from the invoice date. Even after the payment of the security, the cylinders, bundles, mobile cryogenic tanks and pallets shall remain the property of Westfalen or its supplier.

12.7 If the cylinders, bundles, mobile cryogenic tanks and pallets are returned to the main depot or to any other depot designated by Westfalen after payment of the security, the amount of the security shall be refunded, less possible costs and without interest.

12.8 The amount of the security shall not be refunded if the cylinders, bundles, mobile cryogenic tanks and pallets are not returned, or are returned but no longer comply with the relevant requirements and are therefore unusable. If the amount of the security has not yet been paid at that point, payment must as yet be effected.

12.9 The rent for cylinders, bundles, mobile cryogenic tanks and pallets shall be due as from the delivery date up to and including the date on which the articles are returned. The rent shall be charged together with the products or otherwise.

12.10 Westfalen shall be entitled to issue interim invoices to customers for the rental of cylinders, bundles, mobile cryogenic tanks and pallets.

Article 13 Deposit and permanent right-of-use system cylinders

13.1 Westfalen may offer customers the possibility of using a permanent right-of-use system. If this is agreed, the customer shall pay a nonrecurring right-of-use charge for each (GlobalGas) cylinder. Under this system the customer can always receive a full equivalent right-of-use cylinder against payment of the gas price if he returns an empty right-of-use cylinder that is ready for use. No claim for reimbursement of previous right-of-use payments can be made when the right-of-use cylinder is returned or subsequent new purchases are made.

13.2 In the event that the customer purchases deposit cylinders, he shall be charged a deposit plus the statutory turnover tax. Upon returning ready-for-use empty deposit cylinders, the customer shall be entitled to purchase a new deposit cylinder or, if the cylinder is returned without making a new purchase, to reimbursement of the deposit, without any interest being due, if the customer can demonstrate that he has paid the deposit or has concluded a deposit agreement with Westfalen. If a deposit applies, then this shall be clearly stated on the cylinder.

13.3 Right-of-use and deposit cylinders shall only be made available to the customer for GlobalGas respectively Westfalen gas fillings. They shall remain inalienable and the outright property of Westfalen and must be returned immediately when empty, unless agreed otherwise. The customer shall be prohibited from making free use of right-of-use or deposit cylinders (as well as from establishing security rights such as a pledge or fiduciary transfer of title). The customer shall be obliged to immediately notify Westfalen if a third party appropriates right-of-use or deposit cylinders owned by Westfalen and shall also be obliged to inform that third party of the ownership rights held by Westfalen.

Article 14 Damage and loss and prohibition to carry out repairs

14.1 The customer shall be obliged to immediately notify the main depot or any other depot designated by Westfalen of any visible external damage to, or the loss of, cylinders, bundles, mobile cryogenic tanks and pallets, thereof. The customer must clearly mark the damaged cylinders, bundles, mobile cryogenic tanks and pallets and inform Westfalen in writing about the nature and cause of the damage. Customers shall be prohibited from making changes to the rented cylinders, bundles, mobile cryogenic tanks and pallets, seeing that such changes might threaten operational safety.

Article 15 Customer and third party cylinders

15.1 To the extent that Westfalen has not been instructed otherwise in writing, cylinders that are the property of the customer or a third party shall only be filled and prepared for collection by the customer or that third party. The filling departments at Westfalen shall be entitled to inspect any cylinders belonging to the customer or a third party in accordance with the applicable regulations and to have them repaired before filling them, even if not specifically instructed to do so. The cost of the repairs shall be at the expense of the customer or third party.

Article 16 Liability and warranty on the part of Westfalen

16.1 Westfalen guarantees the reliability and quality of the delivered products and/or the goods or services made available, with the proviso that any liability on the part of Westfalen shall at all times be limited to an obligation to replace, repair or refund - to be decided at Westfalen's discretion - any faulty products that were delivered, and furthermore only if a justified corresponding complaint and report were filed in accordance with the manner described in the preceding articles. Noncompliance with any obligation on the part of the customer shall result in the expiry of any liability on the part of Westfalen.

16.2 Claims arising from Westfalen's warranty obligation shall not in any way affect the customer's obligation to pay.

16.3 Westfalen shall never be obliged to pay compensation for any loss directly or indirectly arising from delayed delivery or the soundness of the goods delivered, nor shall the customer be entitled to therefore demand termination of the agreement, unless the cause of the loss in question is the result of deliberate intent or gross negligence on the part of Westfalen.

16.4 Installations, equipment and/or materials delivered by Westfalen shall exclusively be subject to the warranty provisions established by Westfalen.

16.5 The customer, as the owner of products purchased from Westfalen, as the keeper of products

delivered to him by Westfalen under retention of title and as the user of products rented by him from Westfalen, shall be obliged to indemnify Westfalen against any third party claims for compensation of losses caused by or resulting from products sold or made available by Westfalen.

16.6 If the customer is held liable by any third party for losses of whatever nature relating to the delivery of Westfalen products, the customer shall be obliged to immediately notify Westfalen thereof.

16.7 If, despite the foregoing provisions, Westfalen is held liable for any loss, that liability shall be limited to the amount payable under Westfalen's (corporate) third-party liability insurance. If the loss is not covered by the insurance or if the insurance company fails to make payment, any liability on the part of Westfalen shall be limited to a maximum of €10,000 (ten thousand euros) for each occurrence.

Article 17 Force majeure

17.1 In the event that Westfalen is prevented from fulfilling its obligations under the agreement as a result of a circumstance of force majeure or other circumstances beyond its control, then Westfalen shall be entitled to suspend the delivery and purchase obligations to the extent that and for as long as the obstructions in question continue.

17.2 Westfalen shall be entitled to plead force majeure in any of the following circumstances: staff illness, operational disruptions, lack of raw materials, failure - for whatever reason - by third parties (including suppliers) to deliver or failure to deliver sound products, transport difficulties, riots, strikes, exclusion, measures arising as a result of mobilisation, acts of war, the introduction of quotas and/or other government measures, energy shortages and any other circumstances beyond the control of Westfalen and likely to be detrimental to Westfalen's ability to execute the agreement, in which Westfalen shall not be under any obligation to demonstrate the effect of those circumstances on not executing the agreement.

17.3 The agreement between the customer and Westfalen shall be extended by a period equal to the period during which delivery and purchase obligations are suspended.

Article 18 Measuring weights/quantities

18.1 All weight/quantity measurements performed by Westfalen shall be binding. Westfalen guarantees that all weights/quantities are measured correctly.

The unit m³ is understood to be one cubic metre of gas, measured at 1 bar and 15°C.

The conversion factors are:

1 kg liquid oxygen = 0.748 m³ oxygen gas
1 kg liquid nitrogen = 0.855 m³ nitrogen gas
1 kg liquid argon = 0.599 m³ argon gas.

Article 19 Intellectual property

19.1 Unless agreed otherwise in writing, all intellectual and industrial property rights on software, hardware and/or other items, information and/or data such as analyses, (technical) documentation, drawings and models developed in preparation of and/or the execution of the agreement and/or made available shall exclusively be vested in Westfalen.

19.2 The customer declares and guarantees Westfalen that no third party rights shall be infringed in the preparation and/or execution of the agreement. The customer indemnifies Westfalen against all thereto relating claims and shall be obliged to compensate Westfalen for any losses arising from such an infringement for which Westfalen or the party invoking such a right is held liable.

19.3 All drawings, models, (technical) documentation, computer programs and other data carriers, including specifications and any other items provided to the customer by Westfalen before or during (the preparation of) the execution of the agreement shall at all times remain the property of Westfalen and must be returned by the customer to Westfalen upon execution of the agreement.

Article 20 Confidentiality

20.1 Without prior written permission from Westfalen to the contrary, the customer shall, all in the broadest sense, be obliged to treat all directly or indirectly acquired information relating to the assignment with the strictest confidentiality.

Article 21 Penalty clause

21.1 In the event of noncompliance with the provisions of articles 19 and 20 on the part of the customer, the customer shall incur an immediately due and payable non-negotiable penalty of € 5,000 for each act of noncompliance or for each day that the noncompliance continues, without prejudice to Westfalen's right to full compensation for damages.

Article 22 Transfer of rights/obligations

22.1 Without prior written permission from Westfalen to the contrary, the customer shall be prohibited from transferring any right and/or obligation under the agreement to a third party.

22.2 Westfalen shall be entitled to arrange for third parties to fulfil its delivery and performance obligations relating to the execution of work, without such an arrangement affecting the customer's rights and obligations towards Westfalen.

Article 23 Competent court and disputes

23.1 The agreement in question, as well as all further agreements arising from it, shall exclusively be subject to Dutch law.

23.2 All disputes, of whatever nature, between the customer and Westfalen shall be settled by the competent court in Almelo, the Netherlands.



Quality Management System
ISO 9001 reg. nr. 1709

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