

GENERAL TERMS AND CONDITIONS FOR DELIVERIES AND SERVICES

I. Validity

1. These conditions apply to all deliveries and services including assembly, commissioning, service, inspection, maintenance and repair services as well as consultancy and other auxiliary services of Westfalia Logistics Solutions Europe GmbH & Co. KG and Westfalia WST GmbH & Co. KG (both hereinafter: Westfalia) to persons, insofar as they act upon conclusion of the contract (purchase, works and service contract) or in the case of a written order confirmation in the exercise of their commercial and independent or professional activity (entrepreneurs), as well as to legal persons under public law or special funds under public law.
2. The order is deemed as full acceptance of these terms and conditions.
3. Should any part of these conditions be ineffective, the validity of the remaining conditions or of the contract will not be affected.
4. Conflicting conditions of the customer or conditions deviating from these conditions or from legal provisions are not agreed unless they are explicitly confirmed in writing. The confirmation is only valid for the respective business transaction.
5. For the processing of personal data, the provisions of the GDPR with effect from May 25th, 2018 apply.

II. Quotations

1. Quotations are non-binding. First quotations are made free of charge unless otherwise agreed.
2. Further quotations and design work will be measured according to object values unless otherwise agreed. In the case of services under exceptional circumstances, a surcharge will be levied which Westfalia asserts upon acceptance of the order, but at the latest immediately after recognition of the exceptional circumstances. Such exceptional circumstances include, for example, a disproportionately large amount of work, a disproportionately short processing period, services that include research or new developments.
3. The documents belonging to the quotation, such as illustrations, drawings, weights, and measurements, are only relevant if there are no explicit references to deviations. If, due to production or other reasons, the dimensions and weights given in the illustrations/drawings change, the purchaser shall be informed of the relevant changes in a binding quotation. If he accepts this quotation by written declaration, only the changed performance data are binding. Slight deviations from the performance specifications are deemed as according to contract, insofar as they do not impair the contractual use of the item. These deviations do not require notification. Obvious errors, printing, arithmetic, writing and calculation errors are not binding and do not entitle the purchaser to fulfillment.

Westfalia reserves ownership and copyright to cost estimates, drawings, and other documents. They may not be made accessible to third parties. Westfalia is obliged to make plans designated as confidential by the purchaser accessible to third parties only with his consent.

4. The parties to the contract shall maintain confidentiality over all internal processes of the other third party and oblige their vicarious agents and assistants accordingly if the information has been described as trustworthy or obviously is of a confidential nature. This also applies after the termination of the contract.
5. Protective devices are only supplied if agreed upon.

6. Agreements and orders become effective only by a written order confirmation. Every order change requires a written confirmation to be effective.

III. Contract conclusion

1. The delivery contract is concluded in writing. To preserve the form, however, correspondence or telegraphic or electronic transmission of the quotation or acceptance is sufficient. A separate signature or electronic signature is not required to preserve the written form.

2. For the scope of delivery, the written order confirmation in a form mentioned in clause 1 shall prevail.

3. Subsidiary agreements and amendments require written confirmation in the form mentioned in clause 1. This also applies to the change of the agreed written form. Objections to the order confirmation must be made in writing.

IV. Price and payment

1. Unless otherwise agreed, the prices for the commissioned service and scope of delivery are ex works plus value-added tax at the statutory rate, excluding packaging, freight, travel and expenses, surcharges, insurance, and other auxiliary costs. For deliveries abroad, all taxes, duties and other public charges, if not agreed otherwise, are to be borne by the purchaser.

2. If a flat rate price has been agreed, this does not include waiting times, delays and additional journeys for which the supplier is not responsible, or services that deviate from the agreed scope of delivery or additional services. These will be invoiced separately.

3. If goods or services which are to be delivered or provided later than four months after the conclusion of the contract result in higher wages or increased material prices, Westfalia shall be entitled to make a corresponding price adjustment. Technical changes to the machinery and equipment compared to the written offer, which do not affect the functionality and performance, do not lead to price changes.

4. Insofar as there are no individual contractual provisions, the payments are due immediately and without any deduction to the account of the supplier, namely

- a) 1/3 down payment after receipt of the order confirmation, 1/3 as soon as the purchaser is informed that the main parts are ready for dispatch, and 1/3 after signing of the acceptance protocol by the purchaser or by one of his authorized representatives, latest 30 days after the purchaser has been notified of the readiness for dispatch of the main parts.
- b) for installations in special construction: 50% upon order confirmation and 50% as soon as the purchaser is informed that the main parts are ready for dispatch.

Any bank charges are at the expense of the purchaser.

5. Additional costs and assembly calculations are to be reimbursed immediately after invoicing. Westfalia can settle the ancillary costs against proof in detail or demand a reasonable lump sum. The additional costs include, for example, travel expenses, reproduction costs, telecommunication fees, and other official fees.

6. If there are interruptions of deliveries and services, which are not to be held responsible by the supplier, then Westfalia is entitled, regardless of the aforementioned or agreed payment plan, to bill the actual performance status.

7. If the agreed or statutory payment terms are exceeded, interests will be charged according to the respective bank rates for overdrafts, but at least in accordance with the statutory provisions. The calculation of higher damages caused by delay remains reserved for Westfalia.

8. The purchaser can only offset undisputed or legally established claims or exercise a right of retention. Westfalia is entitled to offset obligations of its sister company.

V. Delivery time

1. The course of an agreed delivery period begins with the dispatch of the order confirmation but not before the clarification of all technical questions, the provision of documents, permits, releases to be procured by the purchaser, and before receipt of an agreed down payment. The delivery period is extended at least by the period by which the purchaser is in default with his obligations.

2. Compliance with the delivery deadline is subject to timely and correct self-supply and subject to the delivery and performance options of Westfalia. As soon as possible, Westfalia will notify any delays.

3. The delivery period is deemed to have been met if the delivery item has left the factory or the readiness for dispatch has been notified by the time the order expires. Insofar as acceptance must take place, the acceptance date shall be decisive - unless there is a justified rejection of the acceptance - or notification of readiness for acceptance. Agreed service dates are deemed to have been complied with upon completion of the services.

4. The delivery time shall be extended appropriately in case of industrial disputes, in particular strike and lockout, breakdowns, delays in the delivery of essential raw materials and building materials as well as the occurrence of unforeseen obstacles (e.g. force majeure, natural phenomena, etc.) outside the sphere of Westfalia, insofar as such obstacles can be shown to have a significant influence on the completion or delivery of the delivery item. This also applies if these circumstances occur with subcontractors. Westfalia is not responsible for the aforementioned circumstances even if they arise during an already existing delay. The beginning and end of such obstacles are to be communicated by Westfalia to the purchaser as soon as possible.

5. In the event of delayed delivery, the purchaser is only entitled to withdraw from the contract if he has previously set a reasonable grace period for Westfalia. Insofar as the delivery has taken place within the period of grace, all rights arising from the delay shall cease to apply for the purchaser. If the delivery is not made within the time limit, the purchaser has only a right of withdrawal. Claims for damages of any kind are excluded.

6. If the shipment is delayed for reasons for which the purchaser is responsible, then the costs arising from the storage, starting with the notification of readiness for shipment, will be charged to him, but at least 1% of the invoice amount for each month when stored at the factory of Westfalia. Westfalia is also entitled to dispose of the delivery item after setting and fruitless course of a reasonable acceptance period, and to supply the purchaser with a reasonably extended deadline.

VI. Transfer of risk and acceptance

1. The risk shall pass to the purchaser at the latest upon dispatch of the delivery parts, even if partial deliveries are made or Westfalia has assumed other services, for example the costs of shipment or transport and installation. At the request of the purchaser, the shipment will be insured by Westfalia against breakage, transport, fire and water damage at his own expense. The dispatch takes place on account of the purchaser.

2. If the shipment is delayed due to circumstances for which Westfalia is not responsible, the risk shall pass to the purchaser from the day of readiness for shipment. However, Westfalia is obliged to effect the insurance requested by the purchaser at his request and expense. The required costs must be reimbursed by the purchaser before the conclusion of the insurance.

3. Partial deliveries are permissible if they are reasonable for the purchaser. The provision of partial services is permissible if these are self-contained and divisible.
4. Delivered items are to be accepted, even if they have insignificant defects, without prejudice to the rights to which the customer is still entitled.
5. Insofar as an acceptance must be made, this is decisive for the transfer of risk. It must be carried out immediately on the acceptance date or after notification by Westfalia that it is ready for acceptance. The purchaser may not refuse acceptance if there is a negligible defect.
6. Material with special quality specifications must be checked and approved in the supplier plant or in the warehouse. If the acceptance or inspection is expressly or tacitly waived, the goods shall be deemed to have been delivered when they leave the factory. Later complaints will not be considered. The supplier plant carries only the material costs. Travel and other costs of the acceptance officer shall be borne by the purchaser.
7. By signing the acceptance protocol, the purchaser acknowledges the scope of delivery and the functionality of the equipment. After acceptance, the purchaser can only assert warranty claims. The signature of the acceptance protocol is legally binding for the purchaser and Westfalia. The purchaser has the obligation to ensure that only authorized persons render the signature for acceptance.

VII. Retention of title

1. Westfalia retains ownership of the purchaser until the complete payment of all its future claims arising from the business relationship. This also applies if the purchase price for certain deliveries of goods is paid. In the case of a current account, the reserved property shall be deemed as security for the balance claim of the supplier.
2. Westfalia shall be entitled, as long as there is a claim on its part, to demand from the purchaser at any time information which goods delivered under retention of title are still in the possession of the purchaser and where they are located. Westfalia is entitled to inspect the goods in its possession at any time at the place where they are located. If Westfalia asserts its claim for restitution, the purchaser hereby grants Westfalia the right to take the goods without claiming the court and, for this purpose, to enter the place where the goods are located.
3. The purchaser bears the risk for the goods delivered by Westfalia under retention of title. He is obliged to keep the goods carefully and sufficiently insured against theft, breakage, fire, water and other damages. Upon request of Westfalia, he must provide evidence for this insurance. If the purchaser does not fulfill his deadline for proof within a period set by Westfalia, Westfalia shall be entitled to take out the corresponding insurance at the expense of the purchaser itself. The purchaser hereby assigns the claim against the insurance in the event of damage to Westfalia, namely a first-rate partial amount equal to the purchase price of the goods that Westfalia owns. This also applies if the insurance does not cover the full amount of the damage so that Westfalia cannot be referred to a proportionate compensation in such a case.
4. The purchaser is entitled to sell the delivered goods in the ordinary course of business, but in turn also only under retention of title. The claims of the purchaser from the further delivery of the reserved goods are already assigned to Westfalia with all ancillary rights. At the request of Westfalia, the purchaser is obliged to disclose the assignment to the third-party purchasers and to provide Westfalia with the information required to assert its rights vis-à-vis third-party purchasers and to hand over documents. Pledges or security transfers are prohibited to the purchaser. The purchaser shall immediately notify Westfalia of a seizure or other impairment of the rights of Westfalia by third parties.
5. Acquisition of ownership by the purchaser of the reserved goods in accordance with § 950 BGB (German Civil Code) in the case of processing of the reserved goods to a new object is excluded. Any processing is carried out by the purchaser for Westfalia, without any obligation on Westfalia's part deriving therefrom. The processed goods serve as security for Westfalia only in the amount of the value

of the reserved goods. In the case of processing with another non-Westfalia product by the purchaser, Westfalia is entitled to co-ownership of the new product in proportion to the value of the reserved goods to the other processed goods.

6. To the extent that the backup value of Westfalia exceeds the claims against the purchaser by more than 10%, Westfalia shall, at the request of the purchaser, release a part of the excess securities at its own discretion. Westfalia is obliged to re-assignment if the claims against the purchaser have expired.

VIII. Liability of the supplier

1. Warranty

For material defects and legal deficiencies of the delivery, Westfalia provides the following warranty to the exclusion of further claims:

a) Material defects of new delivery items

- 1) All parts shall be repaired or re-delivered free of charge at the discretion of Westfalia, which shall prove to be defective within the limitation period for claims for defects (see VIII. 3) since delivery due to a circumstance prior to the transfer of risk. The determination of such defects shall be reported to Westfalia in writing without delay. Any replaced parts become the property of Westfalia.
- 2) In order to carry out any improvements and replacement deliveries deemed necessary by Westfalia, the purchaser shall, after agreement with Westfalia, give the required time and opportunity; otherwise, Westfalia is exempted from liability for the resulting consequences. Only in urgent cases of endangering the operational safety or preventing disproportionately large damages, the purchaser has the right to have the defect rectified himself or by a third party and to demand compensation from the supplier for the necessary expenses, whereby Westfalia must be informed immediately.
- 3) From the costs resulting from the repair or replacement delivery Westfalia shall bear the costs of the replacement part including the dispatch as well as the reasonable costs of removal and installation, as far as the complaint proves to be justified, furthermore, if this can reasonably be demanded according to the situation of the individual case, the costs of the necessary provision of its installers and auxiliary staff. If the purchaser transfers the delivery item in whole or in part from a contractually agreed installation site to a third location, the purchaser bears the additional costs resulting therefrom in particular, all further travel costs incurred by Westfalia.
- 4) Within the scope of the statutory provisions, the purchaser has the right to withdraw from the contract if Westfalia - taking into account the statutory exceptions - allows a reasonable deadline which has been set for rectification or replacement due to a material defect to elapse fruitlessly. If there is only an insignificant defect, the purchaser has only the right to reduce the purchase price. The right to reduce the contract price is otherwise excluded.
- 5) No liability is assumed in particular in the following cases:
Unsuitable or improper use, faulty installation or commissioning by the purchaser or third parties, natural wear, faulty or negligent treatment, improper maintenance, unsuitable equipment, defective construction, unsuitable ground, chemical, electrochemical or electrical influences - as far as Westfalia is not responsible.
- 6) If the customer or a third party improperly touch up, there is no liability of Westfalia for the resulting consequences. The same applies to changes made to the delivery item without the prior consent of Westfalia.
- 7) If the supplementary performance request of the purchaser proves to be unjustified, Westfalia shall be entitled to assert the causally incurred damage if the purchaser recognizes or has negligently failed to recognize that its supplementary performance request was unjustified.

b) Special regulation for material defects of used items

Deviating from the above regulations, the warranty for material defects of used delivery items is excluded. This does not apply in the case of a fraudulently concealed defect or the violation of a guarantee. Incidentally, the contractual claims of the purchaser remain unaffected even in the delivery of used items.

c) Legal deficiencies

If the use of the delivery item leads to the infringement of industrial property rights or copyrights inland, Westfalia shall at its own expense procure the right for the purchaser for further use or modify the delivery item in a way that is reasonable for the purchaser, so that such infringement of property rights no longer exists. If this is not possible on economically reasonable terms or within a reasonable period, the customer is entitled to withdraw from the contract. Under these conditions, Westfalia is also entitled to withdraw from the contract. In addition, Westfalia shall exempt the purchaser from undisputed or legally established claims of the relevant property rights holder.

The obligations of Westfalia previously mentioned regarding the liability of legal deficiencies shall be exhaustive in the event of a breach of copyright or property, subject to any non-disposable legal liability of Westfalia. They only exist if

- > the purchaser informs Westfalia immediately in writing of asserted infringements of an industrial property or copyright,
- > the purchaser supports Westfalia to a reasonable extent in the defense against the asserted claims or enables Westfalia to carry out the necessary modification measures,
- > Westfalia reserves all defensive measures including out-of-court settlements,
- > the defect of title is not based on an instruction of the purchaser and the infringement was not caused by the purchaser changing the delivery item on his own initiative or using it in a non-contractual manner.

2. Liability

For damages, which did not originate at the delivery item itself, Westfalia is liable - for whatever legal reasons - only

- > in the case of intent,
- > in the case of gross negligence of the owner / the institution or of executive employees,
- > in the case of culpable injury to life, body, health,
- > in the case of deficiencies which Westfalia has fraudulently concealed or whose absence Westfalia has guaranteed,
- > in the case of defects of the delivery item, as far as Westfalia is liable for personal injury or material damage to privately used objects according to product liability law.

In the event of culpable violation of essential contractual obligations, Westfalia shall also be liable for gross negligence of non-executive employees and for slight negligence, in the latter case limited to the contract-typical, reasonably foreseeable damage.

Further claims are excluded.

3. Limitation period

a) The period of limitation for claims and rights due to material defects or legal deficiencies is one year. For intentional and malicious behaviour as well as claims under the Product Liability Act, the statutory periods apply.

b) The period of limitation begins for all claims and rights due to a defect with the delivery, for works services with acceptance.

IX. Rescission

1. The purchaser can withdraw from the contract if Westfalia cannot provide the total performance before passing of risk. The same applies to the inability of Westfalia. The purchaser can also withdraw from the contract if the execution of a part of the delivery becomes impossible with an order of several objects and he has a legitimate interest in the rejection of partial delivery. If this is not the case, the purchaser may abate the consideration accordingly.

2. If there is a delay in performance within the meaning of section V. of these conditions, the purchaser shall grant Westfalia, who is in default, a reasonable grace period with the explicit declaration that he

will refuse acceptance of the service after this period has expired. If the grace period is not adhered to, the purchaser is entitled to resign.

3. If the impossibility occurs during the default of acceptance or through the fault of the purchaser, he remains obliged to pay.

4. Furthermore, the purchaser has the right to withdraw if due to Westfalia's negligence a reasonable period of grace for the repair or replacement of a defect in the sense of the delivery conditions, for which Westfalia is held responsible, elapses fruitlessly. The right of withdrawal of the purchaser also exists in case of impossibility or inability to repair or replacement by Westfalia.

5. As far as legally permissible, all other further claims of the purchaser are excluded.

6. If the purchaser's creditworthiness is reduced, Westfalia shall be entitled to demand immediate payment of all its claims, to revoke the purchaser's rights of sale and processing and to take back delivered goods for security, without the purchaser being entitled to a right of retention.

If Westfalia has not yet delivered, it may, at its discretion, make the delivery dependent on a down payment or advance payment of the entire purchase price, or demand compensation for non-performance or withdraw from the contract after a reasonable grace period.

7. In the case of unforeseen events within the meaning of section V. 4., if they significantly change the economic meaning without the content of the performance or the operation of Westfalia, and in the event of subsequent impossibility of execution, the purchase price/compensation for work is adjusted appropriately. If this is not economically justifiable, Westfalia has the right to withdraw from the contract in whole or in part. Claims for damages of the purchaser due to such a rescission do not exist. If Westfalia is to make use of this right of withdrawal, it must notify the purchaser immediately after having recognized the significance of the event, even if an extension of the delivery period was initially agreed with the purchaser. Statutory termination rights remain unaffected.

8. If, due to fault of Westfalia, the delivered item cannot be used by the purchaser as a result of omitted or incorrect execution of proposals and consultations prior to or after conclusion of the contract, as well as other ancillary contractual obligations, in particular instructions for operation and maintenance of the delivery item, to the exclusion of further claims of the purchaser apply the provisions of sections VIII. and IX. correspondingly.

X. Use of software

1. If the software is included in the scope of delivery, the purchaser is granted a non-exclusive right to use the supplied software including its documentation. It is left for use on the intended delivery item. Use of the software on more than one system is prohibited.

2. The purchaser may reproduce or translate the software only to the extent permitted by law (§§ 69 a ff. UrhG) (German Copyright Code). The purchaser undertakes not to remove manufacturer information - in particular, copyright notices - or to modify them without the prior express consent of the supplier.

3. All other rights to the software and the documentation including the copies remain with the supplier or the software supplier. Sublicensing is not permitted.

XI. Final provisions

1. The place of performance for the deliveries and services of the purchaser and for payments is the Borgholzhausen business premises.

2. For all legal relationships between Westfalia and the purchaser, the law of the Federal Republic of Germany, which governs the legal relationship between domestic parties, shall apply exclusively. The

application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.

3. Place of jurisdiction is the court responsible for the headquarters of Westfalia. However, Westfalia is entitled to file suit at the purchaser's headquarters.

4. For an ineffective provision, an effective provision should apply that comes as close as possible to the invalid one. With the announcement of these terms and conditions all previous terms and conditions cease to be valid.

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