



General Terms and Conditions (GTC)

1. Scope of application

These General Terms and Conditions (GTC) set out and govern all relationships between the customer and PanGas AG with head office in Dagmersellen (in the following called supplier), in particular gas deliveries, the provision of containers and transport units, the delivery of equipment, appliances and machines and their installation, maintenance, monitoring, commissioning and remote control by the supplier. The scope of application of these GTC does not apply if the customer and the supplier have expressly agreed other terms in writing. Oral agreements have no legal effect. These GTC take precedence over any general terms and conditions of the customer.

2. Gas deliveries

Gases are delivered in officially checked steel cylinders, cylinder racks or cryogenic containers, or, alternatively, as solid substances in specialised packaging.

Delivery by suppliers means delivering to the domicile of the customer at a central, easily-accessible, ground level location for transport vehicles where the empty containers to be collected are entirely ready for pick up. Collection from the gas depot by the customer and return transportation of the empty containers to the gas depot is undertaken at the cost and risk of the customer.

Unless instructed otherwise, returned customer containers are automatically filled with the same gas as previously and delivered at the next opportunity or held ready for collection at the supplier's premises. If such customer containers are not collected within 8 days, storage fees will be charged.

Customer containers that need to be checked or repaired can be checked and repaired by the supplier prior to being filled in accordance with the applicable guidelines and provided with new markings. The costs and waiting periods are debited to the customer.

The customer must comply with all rules regarding the handling of technical gases, in particular the provisions on safety at work and accident prevention as well as the generally recognised technical rules. The supplier holds the relevant information material which is available for the customer. By signing this delivery note, the customer confirms that he has received or already owns the information material. If necessary, the customer will be made aware of any special risks and given instructions on handling the goods when the goods are delivered.

The gas contents (quantity indication) are determined based on the supplier's standard formula for the gases and containers in question. The quantity indication "m³" indicates a gaseous condition at 15°C at a pressure of 1 bar. The quantities as measured by the instruments of the filling plant are deemed to be correct. The customer is not compensated for residual gas left behind in returned containers.

The quantity indication for cryogenically liquefied gases in cryogenic containers and for dry ice in containers is quoted ex-supplier's production site or ex-supplier's Gas&More professional outlets. The customer is not compensated for any evaporation or sublimation losses.

The supplier is entitled to outsource its delivery obligations towards the customer to another company (delivery by a third party).

The customer is not allowed to resell the gases delivered by the supplier.

3. Rent of containers and transport units

Rent is payable for all containers and transport units provided to the customer by the supplier. Rent is charged in accordance with the valid fee schedule.

The customer is not allowed to pass on the containers and transport units to third parties or to have them filled by third parties. When the containers are empty, the customer must return the containers and transport units to the supplier without delay at his own cost and risk during the supplier's business hours. Containers and transport units are only considered to have been legally returned if the customer has a written receipt.

The customer must check that the number of containers and transport units listed in the invoice and account statements is correct. If the customer does not correct the reported number of containers and transport units in writing within 20 days, he will be deemed to have accepted this number as correct. The customer does not under any circumstances have the right to retain any containers or transport units.

The customer must handle the containers and transport units as prescribed by the regulations and is responsible for any inner contamination, for example caused by the back-flow of other substances. The valves on empty containers must always be closed. The bottles must always have some residual gas pressure. The customer must pay the cleaning and replacement costs if containers or transport units are lost, if contaminated containers must be cleaned, and if parts of containers were not returned and must be replaced (e.g. protective caps, etc.).

4. Delivery of equipment, appliances and machines

Delivered equipment, appliances and machines can be purchased or rented. The goods to be delivered are as specified in the supplier's written order confirmation. Product documentation such as plans, drawings, weight and mass indications, etc. is only approximately valid, unless it has been explicitly described as binding. The supplier reserves ownership and copyright to the product documentation. Third parties may only be given access to the product documentation with the supplier's written consent.

The goods including packaging are delivered for the account and at the risk of the customer. Invoiced packaging is not taken back or reimbursed.

If the delivered goods are purchased, the goods remain the property of the supplier until the customer has fulfilled all his obligations. The supplier is entitled to register its ownership reservation in the reservation of ownership register.

If the delivered goods are rented, the customer must pay the rent charged in accordance with the fee schedule for the applicable rent contract. At the end of the rental term, the customer must return the equipment to the supplier without delay at his own cost and risk during the supplier's business hours. Equipment is only considered to have been legally returned if the customer has a written receipt. The supplier is entitled to collect the rented equipment for the account and at the risk of the customer. The customer is fully liable for the rented goods entrusted to him. He must use these goods with care and for the intended purpose and may not pass them on to third parties. If these obligations are violated, the supplier may terminate the rent contract without notice.

5. Payment terms

Unless agreed otherwise, sales prices, rent and other payments for additional services by the supplier (installation, maintenance, monitoring and commissioning) are deemed to be ex works and do not include packaging or value added tax. If the supplier has to pay VAT on its services, the customer also undertakes to pay the full VAT.

Invoices are payable within 30 days of the invoice date (expiry date) without discount to the account indicated on the payment slip. The customer is not allowed to set off his own claims against any claims of the supplier. If a reminder proves unsuccessful, the supplier may assign his claim to a debt collection agency.

If the customer does not satisfy payment obligations in whole or in part, all outstanding amounts which the customer owes to the supplier under any title shall be payable with immediate effect and the supplier may request immediate payment and may discontinue the provision of products and services to the customer.

For the second reminder, the supplier shall charge compensation for inconvenience of CHF 10 and, for the third reminder, compensation for inconvenience of CHF 20. If the reminders prove unsuccessful, the invoice amounts may be assigned to a commissioned debt collection agency. In this case, an effective annual interest rate of 5% may be charged on the due invoice amount from the due date. The company commissioned with the debt collection will recover the outstanding amounts in its own name and for its own account.

If the customer is in arrears with the payment of rent, the supplier is entitled to terminate the rent contract without notice if the customer does not pay the outstanding rent within a final payment deadline of 10 days. In this case the customer is obliged to return the rented goods to the supplier without delay at his own cost and risk during the supplier's business hours. Goods are only considered to have been legally returned if the customer has a written receipt.

6. Liability

If the supplier negligently or intentionally breaches its contractual or legal obligations and the customer suffers personal injury or property damage as a result, the supplier is, subject to imperative legal provisions, only liable for half the amount of the annual payment for its services. Any further liability on the part of the supplier, in particular for financial loss suffered by the customer or by a third party, regardless of its legal basis, is expressly excluded.

If a delivery is delayed or cancelled, the customer may withdraw from the contract, provided that the supplier failed to carry out the delivery after being given a reasonable deadline extension.

7. Defective delivery, warranty

The customer must inform the supplier of a defective delivery in writing as soon as possible, but within 5 days at the latest. Damaged containers, transport units, equipment, appliances or machines must not be used and must be marked clearly. The supplier is at all times entitled to send the customer a subsequent delivery of undamaged goods. In the event of a timely and justified complaint, the customer is entitled to a replacement delivery of undamaged goods (subsequent delivery). Further warranty claims (particularly cancellation of purchase, reduction of purchase price and compensation for damages) are expressly excluded.

8. Expiry of claims

The customer's liability and warranty claims expire 24 months after delivery of the contractual goods or the provision of a service by the supplier (installation, maintenance, monitoring, commissioning).

If the supplier's operating and/or maintenance instructions are not followed, changes are made, parts are replaced or expendable materials are used that do not correspond to the original specifications and this leads to a damage or warranty claim, any liability for damages or warranty shall not apply. This also applies if the damage or defect results from improper usage, storage or operation of the devices or any actions by third parties, as well as opening the devices. Insignificant deviations from guaranteed characteristics of the goods do not trigger any warranty rights.

9. Force majeure

The parties are released from their contractual obligations by all events of force majeure and other events for which they cannot be held responsible such as operational interruptions, traffic, transport and energy supply problems, strikes, lock outs, etc. for the duration and the extent of the impact of such an event. This also applies if these circumstances affect a subsupplier or occur during an existing delay. In this case, the supplier is entitled to extend the delivery period without being behind schedule.

10. Data protection

When handling customer data, the supplier undertakes to fully comply with the Swiss data protection law.

When placing an order, the customer provides consent for suppliers or third parties to process data in connection with the customer's credit rating and payment history, as well as for the purposes of debt collection. The supplier may forward customer data to companies that have undertaken to comply with the Swiss data protection law.

11. Applicable law and place of jurisdiction

All legal relationships between the supplier and the customer are subject to Swiss law. The United Nations Treaty on the International Purchase of Goods (Vienna sales convention) does not apply.

The place of jurisdiction for all disputes between the supplier and the customer is LUCERNE. However, the supplier is also entitled to institute proceedings against the customer at a competent court at his place of residence or at any other competent court.

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