



## I. Scope

1. VOL-Stahl's deliveries and services are provided exclusively on the basis of these General Terms and Conditions of Sale and Delivery (hereinafter also referred to as "**GTC**"). These GTC shall apply to all contracts for the sale and/or delivery of VOL-Stahl's products (hereinafter also referred to as "**Goods**"), regardless of whether VOL-Stahl has produced the Goods itself or purchased them from suppliers (sec. 433, sec. 651 of the Bürgerliches Gesetzbuch [German Civil Code] (hereinafter referred to as "**BGB**")).
2. These GTC shall apply exclusively. Any deviating, conflicting, or supplementary general terms and conditions of Purchaser are hereby rejected; such terms shall only be regarded as an integral part of the contract insofar as VOL-Stahl has agreed to their validity in writing. This approval requirement shall apply in any event, even if VOL-Stahl carries out delivery to Purchaser without reservation while being aware of Purchaser's general terms and conditions. The precedence of any individual agreements remains unaffected. The contents of any such agreements must be set forth in a written contract or in a written confirmation by VOL-Stahl.
3. These GTC shall only apply if Purchaser is an entrepreneur. They shall also apply in their respective version as a framework agreement for future contracts for the sale and/or delivery of Goods with the same Purchaser without VOL-Stahl having to refer to these again in each individual case. VOL-Stahl will therefore inform Purchaser immediately concerning any changes to these GTC.
3. Purchaser is bound to its orders for 3 weeks. This three-week period shall commence on the date of receipt of the order letter by VOL-Stahl. Offers of Purchaser submitted in electronic form shall only be deemed to be accepted by VOL-Stahl if explicitly declared in writing. Silence with regard to such an offer shall not be deemed to be acceptance. The same shall also apply to commercial letters of confirmation submitted in electronic form.
4. Legally relevant declarations of VOL-Stahl require written form.
5. Any typographical, clerical or other error in any sales literature, price list, quotation document or documentation issued by VOL-Stahl shall be subject to correction. VOL-Stahl shall only be liable for damages resulting from such errors according to Section IX. No.5 of these GTC. Insofar as the correction results in a change of the promised Goods or service or a deviation from it, this shall only apply, if the change or deviation is reasonable for Purchaser taking into account the interests of VOL-Stahl.

## III. Deliveries and Services

## II. Conclusion of Contract

1. VOL-Stahl's offers are subject to change and are non-binding. This shall also apply if VOL-Stahl has provided Purchaser with catalogs, technical documentation, other product descriptions or documents, including in electronic form.
2. The written confirmation of an order shall be decisive for the obligations of the Parties and the content of the contract. If VOL-Stahl has set a deadline for acceptance of an offer, a contract is only concluded in case of timely acceptance. If the Purchaser does not timely accept the offer or the acceptance does not correspond with the offer, the contract shall only be deemed concluded upon receipt of a corresponding written order confirmation by VOL-Stahl.
1. The documentation accompanying the offer such as illustrations and drawings, weight and dimension specifications are only approximate values with margins of tolerance and shall not be construed as guarantees of quality.
2. The agreed condition/quality of the Goods is set forth in the contract. The quality is not guaranteed. Deviations shall require written form.
3. Purchaser shall inform VOL-Stahl in writing about any operating or environmental conditions (e.g., environmental requirements or site requirements) that deviate from the sales documents. If Purchaser does not inform us about any such deviations, the aforementioned standard conditions shall apply. If after conclusion of the contract, it is determined that the documents submitted by Purchaser for the preparation of the offer, technical data or specifications are incomplete or incorrect and does that result in a change of the scope of service of VOL-Stahl, Purchaser is obliged to bear any additional costs possibly resulting. Ambiguities in the information and specifications given by Purchaser shall be on Purchaser's account.

4. Data on costs, drawings and technical documents or other technical information shall not be used without VOL-Stahl's approval. This does not include installation, commissioning, use and maintenance of the Goods. These documents or information shall not be copied, reproduced and handed over to a third party or made known to a third party. VOL-Stahl reserves ownership and copyrights to all such documents.
5. VOL-Stahl is entitled to carry out constructive alterations as part of the ongoing development of the Goods and its purchase policy decisions, provided the alteration or deviation is reasonable for Purchaser taking into account the interests of VOL-Stahl.
- d. If the payment term is exceeded, interest is calculated at the currently valid statutory default interest rate. VOL-Stahl reserves the right to make further claims for damages caused by the delay.
3. Retention and set-off due to disputed claims or counterclaims not legally established on part of Purchaser shall be excluded.
4. VOL-Stahl is entitled to assign the claims for delivered Goods to a third party.
5. VOL-Stahl is entitled to withdraw from the contract following expiry of a reasonable period set by VOL-Stahl in writing if Purchaser does not make agreed advance payments in time or seriously and finally refuses to accept the Goods ordered. In case of a withdrawal, VOL-Stahl is also entitled to request compensation including loss of profit of at least 20% of the purchase price unless Purchaser proves lesser damage. Assertion of claims of concrete higher damages by VOL-Stahl shall remain unaffected.

#### **IV. Prices and Payment**

1. Unless otherwise agreed, the prices for the Goods shall be ex works, not including value-added tax, including loading in the factory, however, excluding packaging. VOL-Stahl is entitled to increase the contractually agreed price up to the level of the sales price of VOL-Stahl applicable at the time of delivery, if Goods are to be delivered four months or later after conclusion of the contract, Goods are to be delivered in the course of a continuing obligation or there is a corresponding change in production costs, costs in raw materials or market prices between conclusion of the contract and the delivery date. This does not apply if there are six weeks or less between the conclusion of the contract and the contractual delivery date. Upon demand, any such price increase will be documented by VOL-Stahl to Purchaser. In such an event, Purchaser is only entitled to withdraw from the contract if the price increase is 15% or more of the net purchase price.
2. Maturity
  - a. If no special agreements have been made, the price is to be paid on presentation of the invoice in cash without any deductions. Purchaser is only entitled to deduct a discount upon express written agreement on the discount between the Parties.
  - b. Payments are to be made within 14 days of receipt of the invoice in each case. If there is an agreement that the Goods are to be released for shipping by Purchaser within a certain period of time after having notified Purchaser that the Goods are ready for shipping (retrieval), VOL-Stahl is entitled to invoice for the Goods from the point at which the Goods are ready for shipping; in this case the purchase price is due 30 days after the invoice date.
  - c. The costs of discounting and collection, especially of bills of exchange and cheques, are to be borne by Purchaser.
6. Default of payment
  - a. In case of default of payment for a claim, VOL-Stahl is entitled to require immediate payment of all other claims.
  - b. In case of default of payment indicating a deterioration in the financial position of Purchaser, VOL-Stahl is also entitled to withdraw from the contract without being required to set a corresponding deadline.
7. Payment of VAT
 

Payment of VAT is based on the respective applicable law on VAT. In case of cross-border delivery, VOL-Stahl will make use of existing possibilities of tax exemption. In case of cross-border delivery within the EU, Purchaser shall immediately provide the relevant VAT identification number to VOL-Stahl. Purchaser shall also provide evidence to the extent necessary for the attainment of tax exemption in accordance with German or foreign VAT law. German or foreign VAT to be paid by VOL-Stahl will be invoiced in addition to the net price and is to be paid by Purchaser. If VAT accrues as a result of payments which are made before delivery (performance), the VAT will be invoiced separately. VAT falls due at the same time as the net price and must be paid at this point.
8. Securities
 

VOL-Stahl is entitled to securities of common type and scope for its claims, even if they are conditional or temporary.

## V. Delivery Time

1. The delivery period shall commence with the dispatch of the order confirmation, however not before receipt of all of the documents to be provided by Purchaser and clarification of all technical details, and not before receipt of the agreed advance payment.
2. The delivery period shall be deemed to have been met if, by expiry of this period, the Goods are available for collection at the delivery plant or notice of readiness for dispatch has been given. Compliance with the delivery period is contingent upon the Purchaser fulfilling all contractual obligations and cooperation obligations.
3. The delivery period shall be reasonably extended in case of measures taken within the scope of industrial action, in particular strikes and lockouts as well as the occurrence of unforeseeable obstacles, (e.g. operational disruption, intervention by authorities, delay in the delivery of essential raw materials, seizure, energy supply difficulties and natural catastrophes) which demonstrably have a significant influence on the completion or delivery of the Goods, provided VOL-Stahl is not responsible for the disturbance. This also applies if such circumstances occur at VOL-Stahl's supplier and the supplier is also not responsible for such circumstances. Start and end of such obstacles will be reported to Purchaser by VOL-Stahl in important cases as soon as possible. Purchaser is not entitled to withdraw from the contract any earlier than six weeks after receipt of VOL-Stahl's notification.
4. Should dispatch be delayed upon request of Purchaser, VOL-Stahl is entitled to charge Purchaser – commencing one month after notification of readiness for dispatch – the costs incurred for the storage for each month started, in case of storage at VOL-Stahl's plant at least 0.5% of the invoice amount. VOL-Stahl expressly reserves the right to claim for higher storage costs. Purchaser is permitted to prove lower costs for the storage of the Goods.

## VI. Delivery, Transfer of Risk

1. Delivery is ex works, affected either by collection or dispatch. If Purchaser or a representative of Purchaser did not collect the Goods at the scheduled date, which shall be communicated by VOL-Stahl at least one week before the scheduled date, VOL-Stahl is authorized to ship the Goods to Purchaser at its expense and risk or store the Goods at Purchaser's costs and risk at its reasonable discretion, take all measures deemed appropriate to maintain the Goods and invoice the Goods as if being delivered. The same applies if Goods that are reported as ready for dispatch are not retrieved within 4 days. Statutory provisions on default of acceptance remain

unaffected.

2. In case of collection and shipping, the risk transfers to Purchaser as soon as the Goods have been transferred from VOL-Stahl to Purchaser or its representative or the transport company or the carrier.
3. If shipping is delayed as a result of circumstances for which Purchaser is responsible, the risk shall pass to Purchaser on the day of notification of readiness for dispatch. The risk shall also pass to Purchaser with dispatch of the notification of readiness for dispatch, if partial deliveries are made or if VOL-Stahl has to render other services (e.g. shipping, transportation, setup, assembly or training). Dispatch is generally done at the expense of Purchaser. Purchaser also bears the risk if Purchaser is delayed in accepting the Goods.
4. If Goods delivered contain defects, Purchaser must accept these Goods without prejudice to the rights under Sections VIII. and IX. of these GTC provided the defects are not significant.
5. In the event of damage in transit, Purchaser must immediately arrange for the damage to be assessed (fact finding) by the responsible agencies.

## VII. Retention of Title

1. VOL-Stahl retains title to the Goods until full receipt from Purchaser of all payments due from the business relationship (hereinafter also referred to as "**Conditional Goods**"). In case of payment agreed as cheque-draft-procedures, retention of title also covers the cashing of the draft accepted by VOL-Stahl by Purchaser and shall not expire due to crediting of the cheque received by VOL-Stahl. The retention of title remains in place until all claims have been included in a current invoice, the account balance has been drawn and acknowledged and the account is settled by Purchaser.
2. Purchaser is not entitled to pledge the Conditional Goods or transfer ownership thereof as security. Purchaser shall notify VOL-Stahl immediately of any attachments, seizures or other dispositions made by third parties. The costs of cancellation of such measures shall be borne by Purchaser.
3. Purchaser shall treat the Conditional Goods with care. VOL-Stahl has the right to insure the Conditional Goods against theft, machine breakage, water, fire and other damages unless Purchaser can prove that it has obtained insurance itself.
4. Purchaser is entitled to resell the Conditional Goods under retention of title in the ordinary course of business or leave the Conditional Goods to a third party for use (against payment). Purchaser hereby

now already assigns to VOL-Stahl all claims against its customers or third parties resulting from the resale or the transfer for use in the amount of the invoice value of the first sale of the Conditional Goods plus 20%, irrespective of whether the Conditional Goods are passed over before or after processing and without the need of an express declaration of assignment for each individual sale. Purchaser shall remain authorized to collect receivables even after this assignment. VOL-Stahl's authority to collect these payment claims itself shall not be affected thereby. However, VOL-Stahl will only assert the payment claims itself if Purchaser does not properly fulfill its payment obligations or if an application for the initiation of insolvency proceedings has been filed against Purchaser. Following any delay in payment by Purchaser, VOL-Stahl is entitled to request payment of the amounts payable to VOL-Stahl into a trust account designated by VOL-Stahl. VOL-Stahl may also request Purchaser's debtors to make payments to VOL-Stahl and – to this end – may request Purchaser to inform VOL-Stahl of the debtors of the assigned claims and to disclose said assignment to these debtors.

5. In case of processing, combination, intermingling or mixing of the Conditional Goods with other goods not belonging to VOL-Stahl by Purchaser, VOL-Stahl shall acquire co-ownership of the new product in relation of the value of the Conditional Goods to the value of the other goods used at the time of processing. What applies to the Conditional Goods also applies to the new goods created by processing. The newly created goods are deemed Conditional Goods within the meaning of these GTC.
6. If Purchaser acts contrary to the contract, in particular if Purchaser is in default of payment, VOL-Stahl is entitled, after prior warning, to take back the Conditional Goods and Purchaser shall be obligated to return the Goods without the taking back constituting withdrawal from the contract. In this case the delivery period is suspended. VOL-Stahl reserves the right – after removal of the obstacle or providing security – to deliver Goods to Purchaser applying the initially agreed delivery period.
7. Upon Purchaser's request, VOL-Stahl shall be obligated to release any securities to which VOL-Stahl is entitled, insofar as their marketable value exceeds the value of the secured claims by more than 20%.

## **VIII. Liability for Material Defects, Expiration of Warranty**

### **1. Material Defects**

The Goods shall be deemed to be in conformity with the contract if – at the time of transfer of the risk – the Goods do not deviate or only slightly deviate from

the agreed specifications; conformity with the contract and absence of defects are determined exclusively in accordance with the express agreements on quality and quantity of the Goods ordered. A warranty for a specific intended purpose or fitness for a specific use shall be given only if explicitly agreed; otherwise, the risk for fitness for a specific purpose or a specific use shall be the sole responsibility of Purchaser. VOL-Stahl shall not be liable for deterioration or loss or improper treatment of the Goods after the transfer of risk.

Unless not otherwise explicitly agreed upon in writing, the content of any agreed specification and any agreed purpose shall not constitute a guarantee; any assumption of a guarantee shall require a written agreement of such.

### **2. Obligation to Inspect**

Purchaser shall inspect the Goods immediately upon receipt. Claims based on defects are available only if written notice of defects capable of detection by due inspection has been given without undue delay; Purchaser shall notify VOL-Stahl of any hidden defects without undue delay after they have been discovered. After carrying out an agreed acceptance, claims for defects that could have been detected during this acceptance inspection are excluded.

In case of complaint Purchaser shall, without undue delay, give VOL-Stahl the opportunity to inspect the rejected Goods; upon request, the rejected goods or a sample of the same shall be made available to VOL-Stahl at VOL-Stahl's cost. If complaints are unjustified, VOL-Stahl reserves the right to charge the Purchaser for the freight and handling costs as well as the inspection expenses.

### **3. Supplementary Performance**

In case of defect, VOL-Stahl will at its choice render supplementary performance either by replacement delivery or remedying the defect taking into account Purchaser's interest.

### **4. Warranty Period**

In case of defective delivery, the warranty period shall end one year after delivery. If collection or shipping is delayed without VOL-Stahl being at fault, warranty shall expire at the latest 12 months after transfer of the risk.

The statutory limitation periods for goods that in accordance with their normal use were used for a building structure and which caused defectiveness of such a structure remain unaffected.

## 5. Right of Recourse

Purchaser's right of recourse against VOL-Stahl pursuant to sec. 478 BGB shall be limited to the statutory scope of third-party claims for defects against Purchaser and shall be conditional upon the Purchaser meeting his obligation to notify defects to us pursuant to sec. 377 of the Handelsgesetzbuch (German Commercial Code).

## 6. Remediation of Defect/Replacement Delivery

If a defect is remedied or a delivered item replaced by VOL-Stahl, the warranty period does not start running anew; the original warranty period remains definitive. However, the warranty period shall extend by the duration of the business interruption caused by remedying the defect or the replacement delivery.

## 7. Contractual Ancillary Obligations

If through the fault of VOL-Stahl, the delivered item cannot be used by Purchaser as a result of VOL-Stahl's omitted or incorrect advice before or after the conclusion of the contract or as a result of breach of other contractual ancillary obligations, particularly instructions for use and maintenance of the Goods, Sections VIII. and IX. of these GTC shall apply.

## 8. Limitation of Liability

VOL-Stahl shall not be liable, if a carefully chosen auxiliary person breaches a significant contractual obligation through slight negligence.

Explicitly excluded shall be the warranty for material defects caused by

- violent impact, use of force, vandalism and theft
- parts not delivered and components not installed by VOL-Stahl
- repairs by staff not authorized and trained by VOL-Stahl
- non-intended use
- use of oils and equipment of unsuitable specifications
- technology specified by Purchaser and its procedures and processes
- construction and manufacturing documents specified by Purchaser
- material specifications specified by Purchaser
- excess temperature and its after-effects
- incorrectly or defectively constructed plant components
- supplied and used delivery items as well as wear parts

- operating errors
- use under unsuitable surrounding conditions
- use of mobile units such as vehicles and boats
- non-compliance with statutory regulations for operation of this plant.

VOL-Stahl shall not be held liable for damages attributable to natural wear-and-tear. Moreover, warranty is excluded for visual defects, provided these visual defects do not constitute an impairment of delivery and performance.

Warranty shall expire if the Goods delivered by VOL-Stahl have been tampered with and a clear allocation is not possible.

## IX. Right of Withdrawal or to Reduction and Miscellaneous Liability

### 1. Impediments to performance

Purchaser is entitled to withdraw from the contract if it becomes impossible for VOL-Stahl to render complete performance before the transfer of the risk. If Purchaser is clearly only temporarily impeded from rendering performance, Purchaser only has a right to withdraw if VOL-Stahl does not render performance within a reasonable deadline after the impediment to performance ceases.

### 2. Partial Delivery

Purchaser may also withdraw from the whole contract, if in case of an order of delivery items of the same kind, fulfillment of part of the delivery becomes impossible in terms of quantity and Purchaser has a justifiable interest in refusing partial delivery. If this is not the case, Purchaser has the right to reduce the consideration payable accordingly. When determining the reduction in value, Section 441 of the BGB is to be taken into account, whereby Purchaser's interest in its use is decisive for the reduction in value.

If the impossibility occurs during Purchaser's default of acceptance or due to Purchaser being at fault, Purchaser shall remain obliged to render counter-performance.

### 3. Failure of Supplementary Performance

Purchaser also has a right to withdraw from the contract

- if VOL-Stahl allowed a reasonable deadline for supplementary performance of a defect within the meaning of these GTC to elapse fruitlessly. However, the deadline set for supplementary performance shall reasonably take into account order and delivery deadlines or neces-

- sary spare parts for carrying out the repairs, or
- if supplementary performance finally failed, whereby at least two attempts of remedying the defect shall be granted to VOL-Stahl.

In the aforementioned cases, Purchaser may at its choice opt for a reduction of the purchase price instead of withdrawing from the contract.

4. If after supplementary performance Goods are still defective, however the defects are not substantial, which is to be rebuttably presumed, provided the Goods are still suitable for appropriate use, Purchaser's right to withdraw is excluded. In this case Purchaser only has a right to reduction. When determining the reduction in value, sec. 441 para. 3 of the BGB shall apply, whereby Purchaser's interest in its use is decisive for the reduction in value.
5. Exclusion of Liability
  - a. Unless otherwise stated in these GTC including the following provisions, VOL-Stahl is liable according to relevant statutory regulations in case of a breach of contractual and non-contractual duties.
  - b. VOL-Stahl shall be liable for damages – regardless of the legal grounds – in the event of intent and gross negligence. In case of ordinary negligence, VOL-Stahl shall only be liable
    - (1) for damages arising from loss of life, physical injury or detriment to health,
    - (2) for damages due to a material breach of contract (involving an obligation whose fulfillment is absolutely necessary for the contract to be properly executed and on the fulfillment of which Purchaser regularly relies and may rely); in such a case, however, VOL-Stahl's liability shall be limited to the reimbursement of the foreseeable, typically occurring damages.
  - c. Taking abovementioned limitations into account, any liability of VOL-Stahl shall in principle be limited to the amount of the order value.
  - d. Limitations of liability arising from Sections IX. 5. b. and c. shall not apply if VOL-Stahl has maliciously concealed a defect or assumed a guarantee concerning the condition of the Goods. The same shall apply to Purchaser's claims pursuant to the Product Liability Law.

## **X. Proof of Export**

If a Purchaser, who is based outside the Federal Republic of Germany (customer outside of the territory), or its

agent collects Goods and transports or ships these Goods to a place outside of Germany, Purchaser shall provide export evidence required for tax purposes to VOL-Stahl. If this evidence is not provided, Purchaser shall pay VAT given on the invoice applicable for deliveries within the Federal Republic of Germany.

## **XI. Miscellaneous**

1. In addition to these GTC, the law of the Federal Republic of Germany shall apply. The application of the UN Convention on the International Sale of Goods (CISG) is explicitly excluded.
2. Unless a different place of fulfillment is stipulated in the individual contract, place of fulfillment for the performances of both Parties shall exclusively be the seat of VOL-Stahl in Dresden.
3. Exclusive place of jurisdiction for all disputes arising from the contractual relationship is Dresden. In deviation therefrom, VOL-Stahl shall also have the right to sue at the court having jurisdiction for the Purchaser.
4. Purchaser hereby declares its revocable consent that personal data provided is handled and processed in relation to the order and in compliance with statutory regulations.
5. If any provision of these GTC is or becomes invalid, all other provisions shall remain unaffected thereby. In such an event, the Parties shall come to an amicable agreement to create provisions that effectively achieve a result approximating the economic intent of the ineffective provision as closely as possible.