

Terms and Conditions of Sale and Delivery of Kolbenschmidt Pistons Brazil

1. Scope

1.1 The terms and conditions of sale and delivery of Kolbenschmidt Pistons Brazil (hereinafter referred to as "**KSP-BR**") apply exclusively. Contrary or deviating terms and conditions of the **Buyer** from these terms and conditions of sale and delivery shall not be recognized, unless **KSP-BR** has expressly agreed in writing to the validity of deviating conditions. These terms and conditions of sale and delivery shall also apply if **KSP-BR** carries out the delivery to the **Buyer** without reservation in knowledge of the **Buyer's** terms and conditions that are contrary to or deviate from its own terms and conditions of sale and delivery.

1.2 The terms and conditions of sale and delivery also apply to all future transactions with the **Buyer**. By placing an order by the **Buyer**, but at the latest by accepting the goods, the **Buyer** accepts these Terms and Conditions of Sale and Delivery.

2. Offer and order confirmation.

2.1 Offers from **KSP-BR** are always non-binding. An order placed by the **Buyer** that is legally qualified as an offer is only considered accepted if it is confirmed in writing by **KSP-BR** within four weeks. At the latest, the contract is concluded with the dispatch of the ordered goods, in the case of partial delivery with the dispatch of the first delivery.

2.2 Changes and other agreements are only binding if they are confirmed in writing by **KSP-BR**.

2.3 If the **Buyer** requests individual cost estimates, these are subject to remuneration. If the validity of the concluded contract is eliminated for any legal reason, the obligation to pay for the cost estimate remains.

2.4 The documents, drawings, weights and measurements, samples, etc. contained in the offers are only approximate and do not represent characteristics. **KSP-BR** is entitled to deviate from the descriptions in the offer, provided that these deviations are not of a fundamental or material nature and the purpose of the contract is not significantly restricted.

2.5 As far as goods are manufactured according to **Buyers'** drawings, the drawings prepared by the **Buyer** and approved by **KSP-BR** are authoritative. Deviations from the approved drawings are to be agreed in a distinct way and any additional costs for this are to be reimbursed to **KSP-BR**.

3. Trademark rights

3.1 **KSP-BR** reserves the title and copyright to all illustrations, drawings, calculations, and other documents; they may not be used, for purposes other than those specified by **KSP-BR**, nor may they be made available to third parties without the prior written consent of **KSP-BR**. This applies specifically for written documents that are described as "confidential", "secret," or similar.

3.2 If deliveries are made according to drawings or other information provided by the **Buyer** and property rights of third parties are violated as a result, the **Buyer** indemnifies **KSP-BR** from all claims in internal relationship.

3.3 **KSP-BR** shall be liable for claims arising from the infringement of intellectual property rights and IP applications (property rights) arising from the use of the goods in accordance with the contract, at least one of which from the IP family has been published either by the European Patent Office or in one of the countries of the Federal Republic of Germany, France, Great Britain, Austria, China, Japan or the USA.

4. Recommendations, information, and information

Recommendations, information, and information are non-binding, as long as they do not relate to the goods themselves. Claims for compensation, regardless of the legal grounds, are excluded unless they are based on intentional or grossly negligent action on the part of **KSP-BR**.

5. Prices

5.1 All prices are net prices and are valid "ex works" (Incoterms 2010, "EXW") excluding packaging. The statutory value added tax in the applicable amount will be added.

5.2 Any additional expenses incurred because of change requests may be charged to the **buyer** by **KSP-BR**.

5.3 If, after the conclusion of the contract, events occur that increase **KSP-BR's** cost price for purchasing, manufacturing, and/or shipping the goods, **KSP-BR** shall be entitled to a corresponding price increase.

6. Payment Terms

6.1 Invoices must be paid within 14 days from the date of issuance of the invoice without deduction. Discounts are only valid if expressly agreed in writing.

6.2 **KSP-BR** is entitled to offset a payment against the oldest, untitled debt, even if the **Buyer** has earmarked it to the contrary. If costs or interest have already been incurred, **KSP-BR** is entitled to offset payments first against the costs, then against the interest and finally against the main service.

6.3 The **Buyer** is only entitled to the right to set off if and to the extent that his counterclaims have been legally established, undisputed or acknowledged by **KSP-BR** in writing. The **Buyer's** right of retention is limited to claims arising from the contractual relationship.

6.4 **KSP-BR** is entitled to demand default interest in the amount of the applicable statutory default interest rate. The right to prove. A higher default damage is expressly reserved.

7. Delivery / Delivery time / Delay

7.1 Delivery times and delivery dates are only considered binding if they are expressly accepted in writing by **KSP-BR**.

KSP-BR is not bound by the delivery date or the delivery period if the **Buyer** does not comply with his obligations (payment of advance payments, provision of necessary documents, etc.) on time. The defense of non-performance of the contract is reserved.

7.2 Delivery periods begin at the earliest on the day on which the contract has been concluded in writing and all technical questions have been clarified.

7.3 Orders are considered firm and immutable from the receipt of the EDI and for the subsequent 04 weeks. Orders for weeks 5 to 8 from the receipt of the EDI may vary by up to 15%. Orders for week 9 to 12 from the receipt of the EDI may vary by up to 50%. Failure by the **Buyer** to comply with the above percentages exempts **KSP-BR** from any responsibility or obligation regarding the fulfillment of the delivery date or delivery deadline. In this case, the parties will agree on a new delivery date or deadline.

7.4 **KSP-BR** may establish a minimum batch of orders based on productivity levels and minimum batches from sub-suppliers for proper delivery. Orders received with a volume below the minimum amount will be evaluated by **KSP-BR** and may be denied.

7.5 Unless otherwise agreed, the delivery date or deadline shall be deemed to have been complied with if **KSP-BR** has made the goods available at the agreed location.

7.6 Due to delivery delays that are not based on intent or gross negligence on the part of **KSP-BR**, the **buyer** cannot assert any claims. This applies specifically for delivery delays due to force majeure, labor disputes, riots, official measures, failure to deliver deliveries by suppliers and other unforeseeable, unavoidable, and serious events. In these cases, the agreed delivery date or delivery period will be postponed according to the duration of the delivery obstacle. Compensation for lost profits and damages from business interruption will only be due if intentional negligence on the part of **KSP-BR** is proven.

7.7 If the **Buyer** is in default of acceptance or violates other obligations and/or contractual obligations, **KSP-BR** is entitled to demand compensation for the damage incurred in this respect, including any additional expenses. In addition, **KSP-BR** is entitled to set the **Buyer** up for a reasonable period of acceptance and to withdraw from the contract after the fruitless expiry of this period and to demand damages instead of performance of the obligation.

7.8 Partial deliveries are permissible to a reasonable extent. In this regard, the **Buyer** shall not be entitled to claims due to partial delivery or delay in delivery of the remaining quantity.

8. Ownership

8.1 **KSP-BR** reserves title for all delivered goods until receipt of all payments from the delivery relationship, including future liabilities. In the event of breach of contract, in particular in the event of default of payment, **KSP-BR** is entitled to reclaim the goods.

8.2 The **Buyer** is obliged to treat the delivered goods with care and to insure them at his own expense against any form of destruction at replacement value during the period of retention of ownership. **KSP-BR** remains entitled to insure the goods himself at the expense of the **Buyer**.

8.3 In the event of seizures or other interventions by third parties, the **Buyer** must immediately notify **KSP-BR** in writing so that **KSP-BR** can file a third-party objection action or other legal remedies. If the third party does not reimburse the judicial and extrajudicial costs incurred as a result, the **Buyer** shall be liable for this.

8.4 The **Buyer** is entitled to resell the goods in the ordinary course of business; however, he already assigns to **KSP-BR** all claims in the amount of the final invoice amount (including statutory value added tax) of the claim that arise from the resale against his customers or third parties, regardless of whether the goods were resold without or after processing. The **Buyer** remains entitled to collect this claim even after delivery. **KSP-BR's** authority to collect the claim himself remains unaffected. However, **KSP-BR** undertakes not to collect the claim as long as the **Buyer** meets his payment obligations from the proceeds received, it is not in default of payment and, in particular, an application for the opening of insolvency proceedings has not been filed or payment has not been suspended.

8.5 If the delivered goods are inseparably mixed or combined with other items not belonging to **KSP-BR**, **KSP-BR** acquires co-ownership of the new or combined item in proportion to the value of the delivered goods (final invoice amount, including statutory value added tax) at the time of the mixing or combination. The **Buyer** holds the sole or co-ownership created in this way for **KSP-BR**.

8.6 If the value of the collateral provided exceeds **KSP-BR's** claims by more than 20% in total, **KSP-BR** is obliged, at the request of the **Buyer**, to release the excess collateral at **KSP-BR's** discretion.

8.7 If and to the extent that registration and/or the fulfillment of other requirements is a prerequisite for the validity of the retention of title, the **Buyer** is obliged to take all necessary actions and make all necessary notifications at his own expense without delay. If and to the extent that the relevant legal system does not permit an agreement on retention of title, the **Buyer** will provide **KSP-BR** with appropriate other securities when making use of trade credit.

9. Shipping, Transfer of Risk

9.1 Shipping is at the **Buyer's** risk. The risk always passes to the **Buyer** at the latest with the dispatch of the goods, even if it is **KSP-BR**. **KSP-BR** assumes further services.

9.2 If the shipment is delayed due to circumstances for which **KSP-BR** is not responsible, the risk shall pass to the **Buyer** from the date of notification of readiness for shipment. At the written request of the **Buyer**, the shipment will be insured by **KSP-BR** against breakage, transport, fire, and water damage at the expense of the **Buyer**.

9.3 Transport and all other packaging in accordance with the Packaging Ordinance will not be taken back, except for pallets. The **Buyer** is obliged to arrange for the disposal of the packaging at his own expense.

10. Tooling

10.1 If the **Buyer** makes production equipment (e.g., tools, molds) available to **KSP-BR**, these must be sent to **KSP-BR** free of charge. For their loss, deterioration or incomplete return delivery and resulting damages, **KSP-BR** assumes liability only for gross negligence or intent. This does not apply to the extent that liability is mandatory by law.

10.2 If production equipment is manufactured or procured by **KSP-BR** on behalf of the **Buyer**, **KSP-BR** invoices proportionate costs separately for this. The production equipment remains the property of **KSP-BR**. **KSP-BR** is not obliged to hand over to the **Buyer**. The above also applies to follow-on tools. The following provision in Section 10.3 remains unaffected by this.

10.3 In the case of amortization of the costs of production equipment via the price of the parts, the **Buyer** assumes the uncovered costs, including the costs of other type-specific equipment, in the event of non-amortization of a tool. Costs for models are always at the expense of the **Buyer** in full.

10.4 Drawings and documents handed over by **KSP-BR** to the **Buyer** as well as suggestions from **KSP-BR** for the design and production of the goods may not be passed on to third parties and may be reclaimed by **KSP-BR** at any time.

11. Liability for material defects / liability

11.1 **KSP-BR** shall not be liable for damage caused by violations of operating, maintenance, and installation instructions, unsuitable, improper, or improper use, incorrect or negligent handling, natural wear and tears, incorrect storage or modifications to the goods made by the **Buyer** or third parties. The goods may only be installed by the **Buyer** or third parties by specialist personnel instructed.

11.2 **KSP-BR** has the right to choose between repair and new delivery.

11.3 The expenses necessary for the purpose of subsequent performance shall not be borne by **KSP-BR** if the expenses are increased because the goods have been taken to a place other than the original place of delivery after delivery.

11.4 **KSP-BR** shall not be liable for expenses incurred by the **Buyer** in connection with the removal of defective goods and the installation of newly delivered or repaired goods.

11.5 Claims arising from liability for material defects shall become time-barred one year after delivery of the goods, unless the claims for liability for material defects are based on a gross negligent or intentional breach of duty by **KSP-BR** or his vicarious agent or injury to life, limb, or health.

11.6 The **Buyer** is obliged to comply with his duty to inspect in accordance with Section 377 of the German Commercial Code (HGB) even in the event of resale of the goods.

11.7 The **Buyer's** right of recourse against **KSP-BR** on account of such claims based on liability for material defects, which are asserted against the **Buyer** by the **Buyer's** customers, is excluded if the **Buyer** has not complied with his obligation to inspect and complain or if the goods have been altered by processing.

11.8 **KSP-BR's** liability for damages in accordance with the statutory provisions is unrestricted if a breach of duty attributable to **KSP-BR** is based on intent or gross negligence. As far as the breach of duty attributable to **KSP-BR** is based on simple negligence and a material contractual obligation is culpably breached, liability for damages is limited to the foreseeable damage that typically occurs in comparable cases. In all other respects, liability is excluded.

11.9 Liability under the provisions of the Product Liability Act or comparable, inalienable rights of foreign legal systems remain unaffected. Liability for injury to life, body and health also remain unaffected.

11.10 Insofar as liability is established under Clause 11.9, the liability of **KSP-BR** in foreign jurisdictions in relation to the **Buyer** shall be limited to the extent permitted by the respective foreign law.

11.11 Insofar as **KSP-BR's** liability for damages is excluded or limited, this also applies regarding the personal liability for damages of **KSP-BR's** employees, representatives, and vicarious agents.

12. Prohibition of assignment

All claims from the **Buyer** against **KSP-BR** are not assignable.

13. Product Liability / Notification Obligations

13.1 The **Buyer** may only use the goods for their intended purpose and must ensure that these goods are only resold to people familiar with the product hazards and risks.

13.2 The **Buyer** is obliged to comply with his duty to warn when using the goods as a raw material and partial product of his own products when placing the product on the market, also with regard to the goods delivered by **KSP-BR**. In the internal relationship, the **buyer** indemnifies **KSP-BR** from the assertion of claims in the event of a breach of this obligation upon first request.

14. Secrecy

The **Buyer** must treat all commercial and technical information received from **KSP-BR** as business and trade secrets to third parties unless it is known. Such information may only be passed on to third parties who are bound by a corresponding non-disclosure agreement for the purpose of the contract.

15. Other

15.1 The place of performance is the place of the respective **KSP-BR's** work.

15.2 The place of jurisdiction for all disputes arising from the contract is Nova Odessa, São Paulo. However, **KSP-BR** is also entitled to sue the **Buyer** in its general place of jurisdiction.

15.3 The execution of contracts based on these Terms and Conditions of Sale and Delivery shall be governed exclusively by Brazilian law to the exclusion of conflict of laws and the UN Convention on Contracts for the International Sale of Goods.

15.4 The parties are obliged to comply with all applicable legal provisions in the context of the performance of the contractual relationship (Compliance with Laws).

15.5 Separate agreements between the parties that deviate from or supplement these terms and conditions of sale and delivery shall prevail.

15.6 If one or more of the above provisions should be invalid in whole or in part, the validity of the remaining provisions shall remain unaffected. The invalid provision must then be replaced by a legally permissible provision with which the meaning and purpose of these terms and conditions of sale and delivery are achieved in as equal a manner as possible.