

# Terms and Conditions of Sale and Delivery of Kolbenschmidt Pistons Germany GmbH

Status: April 2026



## 1. Scope of Application

- 1.1 The Terms and Conditions of Sale and Delivery of Kolbenschmidt Pistons Germany GmbH (hereinafter referred to as the "Seller") shall apply exclusively. Any terms and conditions of the Buyer that conflict with or deviate from these Terms and Conditions of Sale and Delivery shall not be recognized, unless the Seller has expressly agreed in writing to the validity of such deviating terms and conditions. These Terms and Conditions of Sale and Delivery shall also apply if the Seller carries out the delivery to the Buyer without reservation, even though the Seller is aware of terms and conditions of the Buyer that conflict with or deviate from its own Terms and Conditions of Sale and Delivery.
- 1.2 These Terms and Conditions of Sale and Delivery also apply to all future transactions with the Buyer. By placing an order, or at the latest upon acceptance of the goods, the Buyer acknowledges these Terms and Conditions of Sale and Delivery.
- 1.3 These Terms and Conditions of Sale and Delivery apply only to business customers.

## 2. Offer and Order Confirmation

- 2.1 Offers made by the Seller are always non-binding. An order placed by the Buyer, which is legally classified as an offer, is only deemed accepted if it is confirmed in writing by the Seller within four weeks. At the latest, the contract is concluded upon dispatch of the ordered goods; in the case of partial delivery, upon dispatch of the first delivery.
- 2.2 Changes and other agreements are only binding if they are confirmed in writing by the Seller.
- 2.3 If the buyer requests individual cost estimates, these are subject to a fee. If the contract is rendered void for any legal reason, the obligation to pay for the cost estimate remains in effect.
- 2.4 The documents, drawings, weight and dimension specifications, samples, etc., contained in the offers are only approximate and do not constitute quality characteristics. The seller is entitled to deviate from the descriptions in the offer, provided that such deviations are not of a fundamental or material nature and the contractual purpose is not significantly restricted.
- 2.5 Insofar as goods are manufactured according to the Buyer's drawings, the drawings prepared by the Buyer and approved by the Seller shall be authoritative. Deviations from approved drawings must be specifically agreed upon, and any additional costs incurred thereby shall be reimbursed to the Seller.

## 3. Intellectual Property Rights

- 3.1 The Seller reserves the ownership and copyright to all illustrations, drawings, calculations, and other documents; they may not be used for purposes other than those specified by the Seller or made accessible to third parties without the Seller's prior written consent. This applies in particular to written documents designated as "confidential," "secret," or similar.
- 3.2 If deliveries are made in accordance with drawings or other specifications provided by the Buyer and this results in an infringement of third-party intellectual property rights, the Buyer shall indemnify the Seller against all claims in their internal relationship.
- 3.3 The Seller shall be liable for claims arising from the infringement of intellectual property rights and intellectual property applications (intellectual property rights) in connection with the contractual use of the goods, provided that at least one of the intellectual property rights in the family has been published either by the European Patent Office or in one of the following countries: the Federal Republic of Germany, France, the United Kingdom, Austria, China, Japan, or the United States.

## 4. Recommendations, Information, and Advice

Recommendations, information, and advice are non-binding unless they relate to the goods themselves. Claims for damages, regardless of the legal basis, are excluded unless they are based on intentional or grossly negligent conduct on the part of the Seller.

## 5. Prices

- 5.1 All prices are net prices and apply "ex works" (Incoterms® 2020, "EXW"), excluding packaging. The applicable statutory value-added tax will be added.
- 5.2 The seller may invoice the buyer for any additional expenses incurred as a result of requests for changes.
- 5.3 If, after the conclusion of the contract, events occur that increase the seller's costs for the purchase, manufacture, and/or shipment of the goods, the seller is entitled to a corresponding price increase.

## 6. Terms of Payment

- 6.1 Invoices are due for payment without deduction within 14 days of the invoice date. A discount applies only if expressly agreed in writing.
- 6.2 The Seller is entitled, even if the Buyer has designated the payment for a specific purpose, to first apply any payment to the oldest outstanding debt for which no title has been established. If costs or interest have already accrued, the Seller is entitled to apply payments first to the costs, then to the interest, and finally to the principal amount.
- 6.3 The buyer is entitled to set-off only if and to the extent that his counterclaims have been legally established, are undisputed, or have been acknowledged in writing by the seller. The buyer's right of retention is limited to claims arising from the contractual relationship.
- 6.4 The seller is entitled to charge default interest at the applicable statutory rate. The right to prove higher damages resulting from default is expressly reserved.

## 7. Delivery, Delivery Time, Default

- 7.1 Delivery periods and delivery dates are only considered bindingly agreed upon if they are expressly confirmed in writing by the seller. The Seller is not bound by the delivery date or delivery period if the Buyer fails to fulfill its obligations (payment of installments, provision of necessary documents, etc.) in a timely manner. The Seller reserves the right to raise the defense of non-performance of the contract.
- 7.2 Delivery periods shall commence no earlier than the date on which the contract was concluded in writing and all technical issues have been resolved.
- 7.3 If the Buyer requests changes, the Seller shall be released from the obligation to meet the delivery date or delivery period. In such cases, the parties shall agree on a new delivery date or delivery period.
- 7.4 Unless otherwise agreed, the delivery date or delivery period shall be deemed met when the Seller has made the goods available at the agreed location.
- 7.5 The Buyer may not assert any claims due to delivery delays that are not attributable to the Seller's intent or gross negligence. This applies in particular to delivery delays due to force majeure, labor disputes, civil unrest, governmental measures, failure of suppliers to deliver, and other unforeseeable, unavoidable, and serious events. In such cases, the agreed delivery date or delivery period shall be postponed by the duration of the obstacle to delivery. Compensation for lost profits and damages resulting from business interruption is limited to cases of intent.
- 7.6 If the Buyer is in default of acceptance or fails to fulfill other obligations to cooperate, the Seller is entitled to demand compensation for the resulting damages, including any additional expenses. The Seller is further entitled to set a reasonable deadline for acceptance and, upon its fruitless expiration, to withdraw from the contract and claim damages in lieu of performance.
- 7.7 Partial deliveries are permitted to a reasonable extent. Accordingly, claims by the buyer arising from a partial delivery or a delayed delivery of the remaining quantity are excluded.

## 8. Retention of Title

- 8.1 The Seller retains title to all delivered goods until receipt of all payments arising from the delivery relationship, including any future liabilities. In the event of conduct in breach of contract, particularly in the event of default in payment, the Seller is entitled to reclaim the goods.
- 8.2 The buyer is obligated to handle the delivered goods with care and, for the duration of the retention of title, to insure them at their own expense against any form of loss at replacement value. The seller remains entitled to insure the goods themselves at the buyer's expense.
- 8.3 In the event of seizures or other interventions by third parties, the Buyer must immediately notify the Seller in writing so that the Seller may file a third-party objection or pursue other legal remedies. If the third party does not reimburse the resulting judicial and extrajudicial costs, the Buyer shall be liable for such costs.
- 8.4 The buyer is entitled to resell the goods in the ordinary course of business; however, the buyer hereby assigns to the seller all claims in the amount of the final invoice amount (including statutory value-added tax) arising from the resale against its 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. The Seller's authority to collect the claim itself remains unaffected. However, the Seller undertakes not to collect the claim as long as the Buyer meets its payment obligations from the proceeds received, does not fall into default of payment, and, in particular, no petition for the opening of insolvency proceedings has been filed or suspension of payments has occurred.
- 8.5 If the delivered goods are inseparably mixed or combined with other items not belonging to the Seller, the Seller shall acquire 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) relative to the other item(s) at the time of mixing or combination. The Buyer shall hold the sole or co-ownership thus created in trust for the Seller.
- 8.6 If the value of the security provided exceeds the Seller's claims in total by more than 20%, the Seller shall be obligated, at the Buyer's request, to release the excess security at the Seller'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 obligated to take all necessary actions for this purpose without delay at its own expense and to

make all required notifications. If and to the extent that the applicable legal system does not permit the agreement of a retention of title, the Buyer shall provide the Seller with other appropriate security upon taking out a trade credit.

## 9. Shipping, Transfer of Risk

- 9.1 Shipping is at the buyer's risk. The risk shall pass to the buyer no later than upon dispatch of the goods, even if the seller assumes further obligations.
- 9.2 If shipment is delayed due to circumstances beyond the Seller's control, the risk shall pass to the Buyer on the date the Seller notifies the Buyer that the goods are ready for shipment. At the Buyer's written request, the Seller shall insure the shipment against breakage, transport damage, fire, and water damage at the Buyer's expense.
- 9.3 Transport packaging and all other packaging in accordance with the Packaging Ordinance will not be taken back; pallets are excluded. The buyer is obligated to arrange for the disposal of the packaging at their own expense.

## 10. Production Equipment

- 10.1 If the buyer provides the seller with production equipment (e.g., tools, molds), such equipment must be sent to the seller free of charge. The Seller shall only be liable for their loss, deterioration, or incomplete return and any resulting damages in cases of gross negligence or intent. This does not apply to the extent that liability is mandatory under law.
- 10.2 If production equipment is manufactured or procured by the Seller on behalf of the Buyer, the Seller shall invoice the proportionate costs separately. The production tools remain the property of the Seller. The Seller is not obligated to surrender them to the Buyer. The foregoing also applies to follow-up tools. The following provision in Section 10.3 remains unaffected by this.
- 10.3 If the costs of production equipment are amortized through the unit price, the buyer shall bear the uncovered costs—including the costs of other type-specific equipment—in the event that a tool is not fully amortized. The costs for models shall always be borne in full by the buyer.
- 10.4 Drawings and documents provided by the Seller to the Buyer, as well as the Seller's proposals for the design and manufacture of the goods, may not be disclosed to third parties and may be reclaimed by the Seller at any time.

## 11. Liability for Material Defects, Liability

- 11.1 The Seller shall not be liable for damages resulting from violations of operating, maintenance, and installation instructions; unsuitable, improper, or incorrect use; faulty or negligent handling; natural wear and tear; improper 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 trained technical personnel.
- 11.2 The seller has the right to choose between repair and replacement.
- 11.3 The expenses necessary for the purpose of subsequent performance shall not be borne by the seller to the extent that such expenses are increased by the fact that the goods have been moved to a location other than the original place of delivery after delivery.
- 11.4 The Seller shall not be liable for any 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 such claims are based on a grossly negligent or intentional breach of duty by the Seller or its vicarious agent, or on injury to life, limb, or health.
- 11.6 The buyer is obligated to fulfill its duty to inspect pursuant to § 377 HGB even in the event of resale of the goods.
- 11.7 The buyer's right of recourse against the seller for claims arising from liability for material defects asserted against the buyer by its customers is excluded if the buyer has not fulfilled its duty to inspect and give notice of defects or if the goods have been altered through processing.
- 11.8 The Seller's liability for damages under statutory provisions is unlimited if a breach of duty attributable to the Seller is based on intent or gross negligence. To the extent that the breach of duty attributable to the Seller is based on simple negligence and a material contractual obligation has been culpably breached, liability for damages is limited to the foreseeable damage that typically occurs in comparable cases. Otherwise, liability is excluded.
- 11.9 Liability under the provisions of the Product Liability Act or comparable, mandatory rights under foreign legal systems remains unaffected. Liability for injury to life, limb, or health also remains unaffected.
- 11.10 To the extent that liability is established under the circumstances described in Section 11.9, the Seller's liability under foreign legal systems in relation to the Buyer is limited to the extent permitted by the respective foreign law.
- 11.11 To the extent that the Seller's liability for damages is excluded or limited, this also applies with respect to the personal liability for damages of the Seller's employees, representatives, and vicarious agents.

## 12. Prohibition on Assignment

All claims of the Buyer against the Seller are non-assignable.

## 13. Product Liability, Duty to Inform

- 13.1 The Buyer may use the goods only for their intended purpose and must ensure that these goods are resold only to persons familiar with the product hazards and risks.
- 13.2 When using the goods as raw materials or components of its own products, the buyer is obligated to fulfill its duty to warn, including with respect to the goods delivered by the seller, upon placing the end product on the market. Internally, the buyer shall indemnify the seller against any claims arising from a breach of this obligation upon first request.

## 14. Confidentiality

The Buyer must treat all business and technical information received from the Seller as trade and business secrets vis-à-vis third parties, unless such information is already in the public domain. Such information may be disclosed to third parties—who are bound by an appropriate confidentiality agreement—solely for the purpose specified in the contract.

## 15. Miscellaneous

- 15.1 The place of performance is the location of the respective Seller's plant.
- 15.2 The exclusive jurisdiction for all disputes arising from the contract is Heilbronn. However, the Seller is also entitled to sue the Buyer at the Buyer's 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 German law, excluding conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods.
- 15.4 The parties are obligated to comply with all applicable legal provisions in the course 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 take precedence.
- 15.6 If one or more of the foregoing provisions should be invalid in whole or in part, the validity of the remaining provisions shall remain unaffected. The invalid provision shall then be replaced by a provision permitted by law that achieves the intent and purpose of these Terms and Conditions of Sale and Delivery as closely as possible.