

General terms and conditions of purchase of  
KAESER Kompressoren GmbH, Dallingergasse 8,  
4031 Linz  
(hereinafter referred to as "KAESER" for short)

## § 1 Validity of the terms and conditions of purchase

1. The following terms and conditions of purchase shall apply to all legal relationships between KAESER and its suppliers, provided that the supplier is an entrepreneur. Deviating provisions, in particular terms and conditions of sale, delivery and payment or general terms and conditions of the supplier shall only apply if they have been confirmed in writing by KAESER.
2. With the first delivery on the basis of these terms and conditions of purchase, the supplier also accepts the terms and conditions as agreed for all further contractual relationships in the respective current version.

## § 2 Realisation of contract

2. Only written contracts, orders, delivery schedules as well as their amendments and supplements - also by fax or email - shall be valid. Any verbal agreements before or after the conclusion of the contract are legally non-binding. Orders and delivery schedules can also be made by remote data transmission (e.g. EDI) or by machine-readable data carriers. Only the content of the order shall count. The supplier shall confirm the order in writing within a maximum of 7 days from the order date. Should shorter delivery periods apply, the confirmation period shall be reduced to half of the delivery period. After expiry of this period, KAESER shall be entitled to revoke its order(s). Claims of the supplier based on effective revocation shall be excluded.
2. KAESER shall be entitled, even after conclusion of the contract, to demand changes to the delivery item if the deviations are reasonable for the supplier or KAESER undertakes to reimburse the supplier for any additional costs arising from the change to the delivery item.
3. The Supplier may only subcontract the delivery items with KAESER's consent.

## § 3 Prices, payment

1. Agreed prices are fixed prices and include all costs for packaging, transport to the specified place of receipt or use, for customs formalities and customs duty as well as the applicable value added tax. If no prices are specified in the purchase order, the prices requested by the supplier shall be notified to KAESER in advance for its approval.
2. Invoices are to be sent with all associated data, such as order number, article number, customs tariff number and VAT statement, by e-mail in PDF format to [rechnung.austria@kaeser.com](mailto:rechnung.austria@kaeser.com) or in duplicate after delivery. As long as this information is missing, invoices are not due.
3. Subject to inspection after receipt of goods and invoice, KAESER shall pay within 14 days with a 3% discount, or within 30 days net.
4. In the event of acceptance of early deliveries, the due date shall be based on the originally agreed delivery date.
5. In the event of incomplete or defective delivery, KAESER shall be entitled to withhold payment in whole or in proportion to the value until proper performance. The Supplier shall only be entitled to rights of retention and set-off against claims of KAESER in respect of such claims as are acknowledged by KAESER or have been finally adjudicated or are already ripe for adjudication.

## § 4 Delivery dates and deadlines

1. The agreed delivery dates and deadlines are binding. The receipt of goods at KAESER or at the agreed place of performance - to be determined by KAESER in case of doubt - shall count towards compliance.
2. The supplier shall be obliged to inform KAESER without delay if circumstances arise or become apparent which indicate that agreed delivery dates cannot be met.
3. If the supplier fails to meet delivery dates and deadlines for reasons within its sphere of risk, KAESER shall be entitled to withdraw from the contract and/or claim damages without setting a further grace period.
4. If the supplier fails to meet delivery dates and deadlines for reasons for which it is demonstrably not responsible, the contracting parties undertake to adjust the contract in good faith in accordance with the changed circumstances. However, KAESER shall be released from any obligation to accept the delivery ordered and shall be entitled to rescind the contract to the extent that the delivery can no longer be utilized by KAESER from an economic point of view as a result of the lapse of time.
5. Partial deliveries are only permissible if expressly agreed in writing.
6. Any retention of title by the supplier is excluded.

## § 5 Transfer of risk / packaging / insurance

1. Delivery shall be made free domicile and at the risk of the Supplier until complete delivery to the contractually agreed place of receipt or use. If KAESER undertakes the delivery, the transport shall nevertheless be at the risk of the supplier.
2. The supplier shall pack the items to be delivered exclusively in environmentally friendly packaging material in such a way that transport damage is prevented and at the same time the disposal costs for KAESER are minimized. In addition, the provisions of the packaging ordinance shall apply.
3. The supplier shall insure the delivery at its own expense against loss and damage during transport and shall provide KAESER with evidence of the insurance upon request.

## § 6 Notifications of defects

- 1.a) KAESER shall inspect the delivered products within a period of two weeks from delivery of the goods. If the function or freedom from defects of the delivered product can reasonably only be determined during its installation or during commissioning and / or acceptance of the finished product, the inspection for defects can also take place thereafter. In general, warranty claims are not lost for Kaeser simply because a notice of defect/complaint was not made immediately - § 377 para. 2 UGB is excluded in this respect.
- b) If a special quality assurance agreement has been concluded between the supplier and KAESER, the obligation to inspect shall be limited to transport damage, inspection of origin and quantity and - if reasonable - a general function check.
2. Any defects discovered must be reported within a reasonable period of time, which is usually two weeks.

3. The Supplier waives the objection of delayed inspections and/or complaints, provided that KAESER has fulfilled its obligations in accordance with the above clauses 1. to 2.

## § 7 Warranty / Guarantee

1. The supplier guarantees that all deliveries / services comply with the latest state of the art, the relevant national, European and international legal provisions and the regulations and guidelines of authorities, professional associations and trade associations. The supplier also guarantees the environmental compatibility of the delivered products and the packaging materials. If the delivered products do not comply with the assumed warranty, the Supplier shall be liable for all resulting damages, including consequential damages. KAESER shall be entitled to demand that the supplier submit certificates of quality relating to the delivery items free of charge. The supplier also warrants that it is free from any third party rights which would prevent the use of the delivery as stipulated.
- 2.a) The warranty period shall be three years after the defect has been detected by KAESER, but no longer than five years after the transfer of risk or, in the case of work performed by the supplier, from the time of acceptance. Defects asserted during this period shall be deemed to have already existed at the time of handover to KAESER.
- b) In the event of unchanged installation of the delivery items in KAESER products, the warranty period shall commence at the time of commissioning of the products by the end user. However, it shall end no later than five years after delivery of the goods to KAESER or, in the case of work performance, after acceptance of the performance by KAESER.
- c) This shall not affect any rights of recourse KAESER may have against the supplier in the event that a customer asserts warranty claims against its contractual partner for the return of the goods or a reduction in the purchase price..
3. If material defects occur in deliveries during the warranty period, the Supplier shall provide subsequent performance, at KAESER's option, by repair, replacement or substitute delivery of a defect-free item. This shall not affect KAESER's claims for damages or reimbursement of futile expenses. All costs necessary for subsequent performance, replacement delivery or repair (e.g. personnel and material costs, transport (including customs duties), increased inspection costs exceeding the usual scope for incoming goods inspection, necessary recall / costs of legal action, etc.) shall be borne by the supplier.
4. If KAESER's claim for supplementary performance is not fulfilled by the supplier within the set time limits, the supplementary performance shall be deemed to have failed and KAESER shall be entitled to remedy the defect itself or to have it remedied by third parties at the supplier's expense and risk, without the supplier's liability for material defects otherwise being affected thereby.
5. The Contractor shall bear the costs and risk of returning defective delivery items.

## § 8 Product liability

1. The supplier shall be obliged to compensate KAESER for such damages as it incurs due to a defect in the delivered item. If a claim is made against KAESER under the provisions of domestic or foreign product liability regulations on account of the defectiveness of the product which is based on defects in the goods supplied by the supplier, the supplier shall be obliged to indemnify and hold KAESER harmless from and against all claims which are attributable to a defect in the parts supplied. In addition to compensation payments to third parties, the supplier's obligation to indemnify shall also include costs of legal defense, recall costs, installation and removal costs as well as KAESER's administrative and other expenses for the settlement of claims.
2. The supplier shall take out product liability insurance at its own expense, which shall also cover - if and to the extent coverable - the risk of recall, and shall provide evidence thereof to KAESER upon request. The insurance coverage of the product liability insurance shall extend worldwide and shall comply with the respective maximum liability limits of the Austrian Product Liability Act with regard to scope and duration.
3. Outsourced processes:  
The supplier shall inspect the goods handed over to it and notify KAESER of any defects without delay. The supplier may not make any changes, modifications, etc., of any kind whatsoever to the goods handed over to it. KAESER must be notified in writing of any changes, processing etc.. In the event that goods are modified, processed, etc., the supplier shall indemnify and hold KAESER harmless against any damage or claims arising therefrom.

## § 9 Confidentiality / Provisions / Models / Tools / Data protection

1. The supplier is obliged to treat the conclusion of the contract as confidential. All commercial and technical details as well as operational procedures of which the supplier has become aware through the business relationship with KAESER shall be kept secret as business secrets until they have become generally known. The supplier shall impose this obligation of secrecy, which shall also apply beyond the termination of the contract, on its employees, subcontractors or other agents by contract in the same form.
2. The supplier shall be liable for the loss, misuse or damage of provided items for which he is responsible. If parts or materials provided are not processed in accordance with the contract, the supplier shall, without prejudice to other claims, compensate us not only for the costs of the parts provided and their procurement, but also for the value of the processed contractual product, unless he can prove that we have suffered only minor damage.
3. Parts and items provided by KAESER, in particular tools, molds, devices, models, dies, templates, samples and other means of production made available to the Supplier by KAESER, shall remain the property of KAESER. If the aforementioned items are manufactured for KAESER, they shall become the property of KAESER as soon as they are created or manufactured, with the Supplier acting as agent for possession. The supplier shall mark these items as the property of KAESER. In doing so, the supplier shall ensure that the marking is made in a suitable place, clearly visible and not easily removable. The supplier shall store such items with the due care and diligence of a prudent businessman separately from its other items and free of charge.  
The same shall apply to formulations, drawings, methods of analysis and procedures communicated. The aforementioned items, documents and procedures may only be handed over or otherwise made accessible to third parties with the prior written consent of KAESER.  
The prerequisite for consent is notification of the intended use and the recipient.
4. The Supplier shall use the tools owned by KAESER exclusively for the manufacture of the products requested by KAESER. goods and to insure them -

unless already insured by KAESER - against fire, water and theft damage at his own expense. He shall carry out any necessary maintenance and inspection work on the tools at his own expense.

5. KAESER attaches particular importance to compliance with the DSGVO (General Data Protection Regulation) and national data protection laws. This is also expected from the contractual partner. The KAESER data protection declaration/information obligation is available under the following link:  
<https://at.kaeser.com/privacy.aspx>.

The supplier is aware that its personal data will be stored by KAESER on data carriers.

6. We shall be entitled at any time to demand the surrender of individual or all parts or means of production provided. If we order the surrender, the supplier shall be obliged to carry out this order immediately and upon first request. The supplier shall be entitled to reimbursement of any associated necessary costs for transport, freight and packaging.

#### § 10 Property rights

1. The supplier guaranteed the freedom from rights of third parties and shall be liable for damages resulting from the infringement of industrial property rights and/or applications for industrial property rights of third parties when the delivery items are used in accordance with the contract.
2. In the event of claims being asserted against KAESER or its customers by third parties, the supplier shall indemnify KAESER or its customers against all claims arising from the use of such industrial property rights upon first request. The supplier's obligation to indemnify and hold KAESER harmless shall apply to all expenses incurred by KAESER or its customers as a result of or in connection with the claims asserted by the third party. This shall include, in particular, the costs of legal defense and representation as well as all costs of any necessary replacement procurement.
3. The supplier's obligation to indemnify shall not apply if the delivery items were manufactured according to recipes, drawings, models or other descriptions or information equivalent thereto provided by KAESER in ignorance of the industrial property rights of third parties. This shall not apply in the event of grossly negligent ignorance on the part of the supplier. To the extent that the supplier is not liable under Clause 3, KAESER shall indemnify it against any claims of third parties.
4. The supplier shall notify the use of published, own unpublished or licensed property rights of third parties or of property right applications in writing at the latest before conclusion of the contract negotiations. The supplier shall not have any additional claim to remuneration due to the use of its own or third party industrial property rights or applications for industrial property rights through the use of the delivered parts.
5. The limitation period for the claims against the supplier specified in § 10 shall be 5 years, calculated from the assertion of third-party claims against Kaeser.

#### § 11 Safety regulations

1. The supplier shall comply with the recognized rules of technology, the safety, accident prevention and environmental protection regulations and the technical data or limit values corresponding to the state of the art or going beyond the agreed technical data or limit values for his deliveries. In particular, DIN, EN, ISO, LMBG, VDE, EC directives (e.g. EC Machinery Directive, Pressure Vessel Ordinance, etc.) and other national and international regulations and/or EU directives relevant to its scope of supply shall also be observed.
2. The supplier shall be liable for assistants (e.g. subcontractors or upstream suppliers) used by him for the performance of the contract and their fault as for his own conduct and for his own fault (§1313a ABGB).
3. The supplier undertakes to use only materials that comply with the applicable statutory safety requirements and regulations, in particular for restricted, toxic and hazardous substances. The same applies to protective regulations in favor of the environment and regulations in connection with electricity and electromagnetic fields. The obligation includes all regulations applicable worldwide.
4. If the Supplier's products do not comply with the requirements set out in clauses 1. to 2. above, KAESER shall be entitled to withdraw from the contract. Any further claims for damages shall remain unaffected.
5. Intended changes to the delivery item, certificates, approvals, attestations, etc. must be notified to KAESER. They shall require the written consent of KAESER.

#### § 12 Quality and documentation

1. The scope of delivery shall include, without separate charge, the product-specific and/or technical documentation, the declaration of conformity as well as other documents required for the ordered item or its use (e.g. operating and maintenance instructions, storage and assembly instructions, etc.) and certificates as well as the required markings of the parts (trademarks, manufacturer's markings, order markings, article numbers, serial markings, etc.) and/or their packaging. The supplier shall also specify unit weights and dimensions of the parts to be delivered in the order confirmation.
2. The costs for declarations of conformity shall be borne by the Supplier. The declarations of conformity as well as the documents referred to in § 12 clause 1. shall be submitted in German and / or all official languages of the EC without delay upon request by KAESER.
3. Irrespective of this, the supplier shall constantly check the quality of the delivery items. The supplier shall notify KAESER of any possible improvements without delay. This shall apply in particular to safety-relevant components. The supplier shall be obliged to check the design for manufacturability and to carry out a plausibility check. The supplier shall notify KAESER without delay of any recognizable errors in the specifications and foreseeable complications.
- 4.a) If minimum and/or maximum values of parameters are specified in the order, the specified maximum values must not be exceeded in any area of the work-piece or product, and the specified minimum values must not be fallen short of in any case and at any point.
- b) This must be ensured and documented by means of suitable test and measurement procedures.
- c) KAESER may request disclosure of the results of such review in writing at any time and at no additional cost.
5. If the type and scope of the testing as well as the testing equipment and methods have not been firmly agreed between the supplier and KAESER, KAESER shall be prepared, at the Supplier's request, to discuss the testing with the supplier within the scope of its knowledge, experience and possibilities in order to determine the respective required state of the art testing technology. Irrespective of this, the type and scope of the testing shall at least

correspond to the state of the art.

6. The supplier must subject safety-relevant parts to a test which must be documented. The supplier shall keep special records of when, how and by whom the delivery items were tested for these properties. This also applies to the test results. Safety-relevant parts which are marked as such in the product-specific or technical documents or on the basis of separate agreements or whose safety relevance is obvious shall be subject to testing. The inspection documents shall be kept for 10 years and submitted to KAESER free of charge upon request. To the extent permitted by law, the supplier shall oblige its sub-suppliers to the same extent by means of a written contract.
7. Insofar as authorities responsible for production safety, production labelling, exhaust gas regulations or the like demand insight into KAESER's production process and test documents for the purpose of verifying certain requirements, the supplier agrees vis-à-vis KAESER to grant KAESER the same rights in its plant and to provide reasonable assistance in this respect.

#### § 13 Auditing

1. KAESER shall be entitled to audit the supplier itself or have it audited by an expert of its choice. This shall include an inspection of the supplier's operations and quality assurance system and a subsequent evaluation. The findings of this audit shall be used as the basis for the award of further contracts and for KAESER's internal rating of the company.
- 2.a) KAESER shall be entitled to carry out notified inspections of the Supplier's current business operations in order to monitor the quality assurance measures.
- b) If quality problems have occurred in the past, KAESER shall also be entitled to carry out unannounced inspections to monitor the quality assurance measures. KAESER shall not have this right if the last complaint about the Supplier's quality assurance measures was made more than one year ago or if no defects were found during two unannounced inspections.
- c) KAESER shall have the right to inspect the supplier's documents, provided that it can prove an appropriate legitimate interest. Such a justified interest shall be deemed to exist in particular if knowledge can be gained through this that allows the necessity and scope of a recall to be assessed.

#### § 14 General provisions

1. If the Supplier breaches material contractual obligations or if insolvency proceedings are instituted against the Supplier's assets or are dismissed for lack of assets, KAESER shall be entitled to withdraw from the KAESER shall be entitled to withdraw from the unfulfilled part of the contract.
2. This right of withdrawal also applies if the supplier manufactures or has manufactured products using child labor.
- 3.a) The invalidity of individual clauses shall not affect the validity of the remaining clauses; rather, the invalid clauses shall be replaced by such valid clauses as come closest in economic terms to the clauses to be replaced; the same shall apply to the interpretation of the contract as a whole.
4. The supplier shall have no right of set-off against claims of KAESER; the same shall apply to any right of retention.
5. All amendments to contracts concluded with KAESER must be made in writing, otherwise they shall be invalid.
6. Austrian law shall apply to all agreements with or in connection with KAESER.
7. The application of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG) is excluded.
8. The place of performance and jurisdiction shall be the registered office of KAESER. However, KAESER may, at its option, also assert claims against the supplier in court at the supplier's registered office or at the place of performance.