

# GENERAL TERMS AND CONDITIONS OF PURCHASE OF GABRIEL-GLAS GMBH

Version September 2024

## 1. AREA OF APPLICATION

- 1.1. These General Terms and Conditions of Purchase ("*GTCP*") apply to all offers and purchases made by Gabriel-Glas GmbH, FN 343370 g, with its registered office in Hallein and business address at Schwarzastraße 9, 5400 Hallein, Salzburg ("*Gabriel-Glas*") from suppliers.
- 1.2. Supplementary or deviating terms and conditions of the supplier are not valid. In order to be legally effective, such terms and conditions require express written and signed confirmation by Gabriel-Glas in each individual case, and even then only apply to the specific business case. If Gabriel-Glas performs actions to fulfill the contract, these are not deemed to be consent to the supplier's contractual conditions that deviate from these GPC.
- 1.3. These GTCP shall also apply to verbal or written follow-up orders without this having to be pointed out separately.
- 1.4. Silence on transmitted documents, e.g. supplier confirmations, delivery bills, invoices, etc., does not under any circumstances constitute acceptance by Gabriel-Glas of the supplier's terms and conditions of business or sale to the contrary.
- 1.5. Gabriel-Glas reserves the right to amend these GTCPs at any time; the current version of the GTCPs at the time the order is placed by Gabriel-Glas shall apply.

## 2. OFFERS AND ORDERS

- 2.1. Offers or cost estimates submitted to Gabriel-Glas by suppliers are binding and free of charge unless expressly agreed otherwise. Offers are binding for the supplier for six weeks from receipt of this offer, unless a longer binding period has been agreed.
- 2.2. The statutory regulations apply to offers submitted by Gabriel-Glas.
- 2.3. Only written orders placed by Gabriel-Glas with suppliers are effective. These must be confirmed in writing by the supplier without delay. In any case, the delivery/execution of the order/provision of the service is deemed to be full acceptance of these GTCP by the supplier.

## 3. PRICES AND TERMS OF PAYMENT

- 3.1. Unless expressly agreed otherwise, the Supplier's prices shall be understood as gross prices, including all taxes and duties as well as ancillary costs including transportation costs. Agreed prices or prices on which

the contract is based shall apply as fixed prices for a period of at least 12 months. Price escalation clauses deviating from this must be negotiated individually.

3.2. Gabriel-Glas is entitled to offset any claims it may have against the supplier. Conflicting clauses do not apply.

3.3. In the absence of express agreements to the contrary, the payment period shall be 30 days from full receipt of the delivery or invoice, whichever is later.

#### **4. DELIVERY AND DELAY**

4.1. Deliveries shall be made without delay. The supplier bears the costs and risk of transportation. The risk of loss or damage is only transferred to Gabriel-Glas upon handover.

4.2. In the absence of any other agreement, the mode of transportation and carrier are selected by Gabriel-Glas.

4.3. In case of doubt, specified delivery dates are fixed dates within the meaning of § 919 ABGB (Austrian Civil Code) and entitle Gabriel-Glas to withdraw from the order in whole or in part at any time without setting a grace period in the event of a delay in delivery,

4.4. In the event of delay, the defaulting supplier must pay the additional costs incurred by Gabriel-Glas as well as a penalty of 0.5% of the value of the goods per day of delayed delivery, without proof of damage or fault. This does not affect the assertion of claims for culpably caused damages more than the contractual penalty.

#### **5. CANCELLATION RIGHT**

Gabriel-Glas is entitled to withdraw from the respective contract until delivery against reimbursement of the actual and proven costs incurred.

#### **6. WARRANTY AND DAMAGE COMPENSATION**

6.1. Payments by Gabriel-Glas do not imply unconditional acceptance of the goods.

6.2. Exclusions or limitations of liability on the part of the supplier, in particular from the title of warranty or compensation for damages, are not accepted without exception. In addition, deviations from the statutory provisions concerning compensation for damages or warranty, such as changes to the distribution of the burden of proof or shortening of deadlines, require the express written or e-mail consent of Gabriel-Glas in every individual case in order to be effective.

6.3. The warranty period is 24 months from complete delivery. The period begins anew for replaced deliveries or rectifications. Failure to achieve promised/confirmed characteristics/services shall also be deemed a defect.

- 6.4. In the event of defects, Gabriel-Glas is free to choose between replacement, repair or price reduction if there is no entitlement to conversion and this right is exercised.
- 6.5. If we insist on repair or replacement, we shall be entitled to withhold the entire payment until complete fulfillment of the service/delivery owed, provided this is reasonable.
- 6.6. The application of § 377 UGB (Austrian Commercial Code; notification of defects) is waived by mutual agreement.
- 6.7. In the event of justified complaints, Gabriel-Glas is entitled to withhold the entire outstanding payment.
- 6.8. The supplier is liable to Gabriel-Glas for all disadvantages and damages resulting from the defective delivery/service, in particular for consequential damages and loss of profit. Claims for compensation are not limited in amount.
- 6.9. An exclusion of a recourse claim in accordance with § 12 PHG (Austrian Product Liability Act) is not accepted.

## **7. INTELLECTUAL PROPERTY**

- 7.1. Names, trademarks and logos of Gabriel-Glas or an affiliated company are protected by copyright, trademark and other industrial property rights and may not be used by the supplier in the course of business without the prior written consent of the rights holder.
- 7.2. In particular, the use of property rights held by Gabriel-Glas in the supplier's communication media - such as in press releases, brochures, references or advertisements - is only permitted with the prior written consent of Gabriel-Glas.
- 7.3. Models, samples or other specification documents remain the property of Gabriel-Glas; use for third parties is expressly prohibited.

## **8. SECURITY**

- 8.1. The supplier undertakes to treat business and trade secrets of Gabriel-Glas as strictly confidential and to obligate its employees accordingly; this also applies for the period after the end of the respective contractual relationship.
- 8.2. The supplier must store confidential documents from Gabriel-Glas, in particular all technical documents, separately and keep them under lock and key. The supplier may only use confidential information and business and trade secrets to perform its contractual obligations and shall return or destroy all confidential information, including copies, after termination of this contract (including electronically stored confidential information), unless this conflicts with a statutory retention obligation.
- 8.3. In particular, the supplier is not entitled to use the confidential information or business and trade secrets, either in their entirety or in their components, contrary to this agreement, to exploit them commercially itself or in cooperation with third parties or to disclose them. Disclosure means the communication of information

as such or parts thereof to employees, contractual partners or other third parties (not bound to professional secrecy) without this communication being necessary or without also obliging them to maintain secrecy and to ensure the confidentiality of the secret information.

## **9. APPLICABLE LAW, PLACE OF JURISDICTION**

- 9.1. These GTCP as well as all disputes arising out of or in connection with them shall be subject to Austrian law, excluding its conflict of law rules and the UN Convention on Contracts for the International Sale of Goods.
- 9.2. The District Court of Hallein, Austria, or the Regional Court of Salzburg, Austria, shall have exclusive jurisdiction for disputes arising from the contract concluded with the supplier or the GTCP on which the contract is based. The place of fulfillment is agreed to be the registered office of Gabriel-Glas in 5400 Hallein, Austria.

## **10. FINAL PROVISIONS**

- 10.1. Should a clause of these GTCP be invalid, this shall not affect the validity of the remaining clauses. In this case, the parties are obliged to immediately agree on a new effective clause that comes as close as possible to the economic purpose of the invalid clause.
- 10.2. Any transfer of rights from the contract concluded with Gabriel-Glas on the basis of these GTCP to third parties requires the prior written consent of Gabriel-Glas.