

# General Conditions of Purchase of the Axima Gebäudetechnik GmbH

## 1. Validity

Exclusively the following conditions are binding for our orders; unless explicitly otherwise stipulated in the respective order. They apply as well, if differently worded conditions of the supplier are uncontradicted. Differently worded conditions of the supplier or any other modifications of the order become part of the contract only, if explicitly accepted by us in written form. These general conditions of purchase apply accordingly to service provision even if explicitly only goods are mentioned therein.

## 2. Orders

Orders, conclusions and delivery schedules, as well as modifications and amendments to that effect, must be in written form. Oral agreements before or at contract conclusion require our written confirmation in order to come into force. Attached to our order, the supplier receives a pre-printed confirmation of order, which is to be immediately returned to us without modifications of its contents and completed with the signature of the firm (association) according to the commercial register. Even if we do not receive it completed with the signature of the firm (association) according to the commercial register within 10 working days after the date the order was placed, we assume that the order has been accepted in accordance with our conditions of purchase. The rejection of our offer is only legally effective, if it takes place in written form by certified mail within 10 working days after the day the order was placed.

## 3. Delivery

Agreed deadlines and time limits are binding. The receipt of goods is relevant for the observance of the scheduled delivery date or delivery period. Deliveries include freight paid to destination and discharge, in accordance with DDP, INCOTERMS 2000, and at supplier's risk and expense unless differently agreed in the order. Direct deliveries to our customers are to be made on our behalf. Partial deliveries are only permitted with our written approval. Deliveries and services requiring assembly or commissioning provided by the supplier at the place of installation, require our formal written acceptance.

## 4. Delivery period

In case of exceeding the agreed delivery dates due to circumstances justified by the supplier, we are entitled to choose to either withdraw from the contract or to insist on its performance notwithstanding existing statutory regulations after letting an adequate grace period pass. In both cases, we are entitled to demand compensation from the supplier for losses or damages of all kind due to the non-performance or the delay. In case a contractual penalty is stipulated, any loss or damage exceeding the respective contractual penalty is to be made up by the supplier additionally.

## 5. Shipping instructions, quality

Delivery is to be performed exactly according to the shipping instructions disclosed to the supplier. In case of failure to comply with these regulations, we are entitled to refuse acceptance of the goods and return them at supplier's risk and expense. Any deviations from these regulations entitle us to charge all additional costs thereby incurred to the supplier's account. Our complete order number is to be indicated in letters, dispatch notes, invoices, accompanying documents, way bills etc. Delivery to our warehouse or our building sites is to be made by the use of a delivery note in duplicate; whereas, one copy is to be left to the recipient of the goods, and the second copy confirmed by the recipient is to be returned to our office address enclosed to the invoice. Exclusively persons who are given our authorization are entitled to accept the delivery/service. In case of doubt, the supplier is to reconfirm his/her entitlement to take delivery of the goods by getting back to us (to the person in charge mentioned on the first page of the order form), especially in case of deliveries to building sites. Moreover, the supplier is to confirm the correct delivery. In all cases, delivery is only considered complete, when the documentations, descriptions, certificates etc. of the delivered goods mentioned in our order or customary in trade have been handed over to us and the required delivery has been taken. Unless any special quality requirements are mentioned in our order, the delivered goods are to be of standard quality and to conform to effective safety regulations (laws, orders, standards, etc.) taking the state and rules of technology into account, especially the technical Ö-NORMEN and the harmonized European standards respectively. All relevant EU Directives for the product are to be complied with. The respective declaration of conformity including respective documentation (in case of non-EU-suppliers) is part of the delivery.

## 6. Packing

Delivery items are to be packed appropriately and possibly taking special instructions we have given into account. All damage caused by inappropriate packing or non-compliance with these instructions is to be borne by the supplier.

## 7. Taking delivery

Processing or mounting/installing the delivered goods is not to be considered as taking delivery or accepting deviations from the order. A delivery is not considered taken, unless it has been taken by us or our customer. Consequently, the notification of uncorrected defects may also be given during or after mounting/installing and processing respectively. Furthermore, it is not subject to any time limit related to the delivery period. Signing the delivery notes exclusively confirms the acceptance of the goods; however, it does not give any implication about their condition or functional capability respectively.

## 8. Drawings, production documents, provision

Materials, parts/components, containers, special packing, drawings, samples, designs, molds and other remedies remain our material and intellectual disposable property. They are to be used exclusively in accordance with regulations. It is understood that we are co-proprietor of the goods produced using our materials and parts/components, which are in this respect kept for us by the supplier, proportionately of value of the provision to the total value of the products.

## 9. Prices

Unless differently indicated in the order, the prices include packing, freight paid to destination and discharge (DDP, INCOTERMS 2000) and are fixed prices. Specified weight or size may be exceeded by 5% at most per individual item, in case of orders placed according to weight and size. The supplier is not entitled to claim weight or size exceeding these specifications without our prior consent. However, the supplier is eligible to take back any excess weight or size; whereas, we are not to bear any additional costs for such return.

## 10. Invoice

We are a building company in accordance with VAT Act § 19 paragraph 1a and our UID number is as follows: ATU 14661702. Invoices are to be sent in duplicate and are to specify to exact order data. The confirmed original delivery note is to be enclosed to the invoice. In case the invoice does not satisfy any of the abovementioned requirements, in particular as defined in the VAT Act, it is returned by us without exception given that the amount is neither considered invoiced nor due.

## 11. Terms of payment

The payment period according to the order starts either upon receipt of a proper invoice including all required documents, as well as completed invoice verification, or upon receipt of the goods (including documentation and ancillary services), or on the agreed delivery date whichever event takes place first; however, in any case not until delivery/service completion; or when it comes to complaints, only after their complete settlement. We are entitled to withhold a retention of up to 10%, which is to be paid only after function check, proper commissioning and acceptance by the builder. The following payment terms apply at our option unless any special agreements are made: a discount of 4% when paid within 20 days, a discount of 3% when paid within 30 days; otherwise the full amount is to be paid within 120 days. The abovementioned payment terms are also considered complied with, if our bank receives the order to transfer the amounts on the 5th or 20th day of the following calendar month or on the following working day; whereas, the receipt of the payment order at our bank is decisive concerning the timeliness of its placing. In case at least 80% of the payment is effected in due time, there is no lost cash discount for a possible delay of payment of the remaining amount. An assignment of invoiced amounts is only permitted with our prior written approval. In case of an assignment of claims to third parties, 1% of the remaining amount is deducted as a service charge.

## 12. Warranty, liability

The warranty period is 37 months starting from the day, on which the delivery of the goods has been completely taken by us. As for submitting the notice of defects as well as the assertion and enforcement of our other legal or contractual claims within the warranty period, we are not bound to any statutory or otherwise stipulated time limits neither concerning apparent nor hidden defects. The immediate duty of inspection, notification and rejection of non-conformity/warranty in accordance with commercial code §§ 377 and the following is explicitly excluded. Even after the expiration of the warranty period, we are entitled to submit the notice of defects within a period of 3 months starting from the detection of the defects in case they cannot be detected within the warranty period, even at commercially reasonable and common expense. In this case, the supplier is also obligated to warranty these defects. Our confirmation on the delivery note and/or our receipt of delivery about the receipt of goods are subject to reservation at all times; in other words, the delivery of the goods is to be considered taken, only if no subsets and/or defects are detected at the later expert evaluation. Notwithstanding any other legal possibilities, we are entitled to choose to either request repudiation of contract, compensation delivery free of charge, correction of all defects free of charge or an adequate discount or to have the detected defects corrected by the supplier. In case a grace period is required due to legal regulations, a period of 14 days at most is considered adequate. In urgent cases, we are entitled to perform required corrective maintenance works or compensation deliveries ourselves as it seems convenient to us without setting a grace period and at the expense of the supplier or to transfer them to third parties. Warranty of the supplier persists regarding deliveries requiring a correction of detected defects by either us or by third parties. In case we detect a defect resulting from a non-compliance with the specifications and/or standard quality required and stated by us in the order only in the course of processing the delivered goods, we are entitled to a claim for damages consisting of the replacement of all frustrated expenses resulting from the use of the defective material in addition to a compensation for any other losses. The supplier is liable for all losses and damages related to the delivered goods; in particular, for warranty claims or claims for damages against us by third parties and is obligated to make full amends to us. There are to be no security rights of third parties of any kind related to the goods at the time we accept delivery.

## 13. Employees regulations

At the execution of an order, the supplier is responsible for the compliance with and control of all legal and normative regulations concerning the employment of jobholders and of other agents, especially regarding safety and health protection, in particular the construction work coordination act, the protection of employees act, the safety regulation for construction workers, aliens employment act etc. Moreover, the supplier is responsible to the authorities (e.g. labor inspectorate, industrial authority, etc.) and is obligated to make full amends to us for all damages and losses in this regard.

## 14. Right of return

Unused products are to be taken back and credited by the supplier. Possible handling charges are not to exceed 10% of the net order value.

## 15. Place of delivery

The location where the goods are to be delivered according to orders is considered the place of delivery. If terms of delivery are indicated in the order, they are to be interpreted in accordance with INCOTERMS 2000.

## 16. Right of withdrawal

We are entitled to withdraw from the contract without paying any incurred costs, when bankruptcy proceedings are instituted against the supplier's assets or opening of bankruptcy is refused for lack of cost-covering assets, not only before order acceptance, but also between its acceptance and performance.

## 17. Maintenance of secrecy

All documents we make available to the supplier, in particular samples, drawings, designs, data and such, as well as all other information we provide, are neither to be handed over or made available to third parties, nor to be used by the supplier in any matter beyond this legal transaction, unless they are explicitly intended for the public. The supplier is to transfer the obligation to maintain secrecy to all persons, who have access to our designated documents.

## 18. Copy and patent rights

The supplier is obligated to make full amends to us for all disputes related to patent rights, trademark rights, protection of registered designs rights or copyrights arising as a result of delivery and/or service.

## 19. Miscellaneous

In case individual regulations stipulated in the contract or these regulations are ineffective or become ineffective, the effectiveness of the remaining regulations is not affected. The ineffective regulation is to be replaced by an effective regulation coming as close as possible to the aimed goal and purpose.

## 20. Place of jurisdiction, applicable law

The Austrian law is effective for the contractual relationship between the supplier and us excluding all regulations referring to a different legal system. Exclusive place of jurisdiction is Vienna.