

# General Terms and Conditions of Purchase



## 1 General

**1.a** The following General Terms and Conditions of Purchase ("GTC") of Axess AG (subsequently referred to as "Axess") apply to all contractual relations between the supplier and Axess irrespective of the way in which they were concluded. They also apply to further orders and general agreements. Provisions agreed within individual contracts as part of a contractual relationship shall take precedence over these GTC. Any differing terms and conditions of the supplier only apply if they have been accepted in writing by an Axess representative body. Otherwise, if written confirmation is not provided, Axess is not obliged to these terms even if stated in the supplier's contract note/order confirmation. The implicit acceptance of the supplier's terms and conditions of business is expressly excluded.

**1.b** Orders are only made in writing. Verbal agreements require the written form signed by the company's representative for their validity.

**1.c** Axess reserves the right to make amendments to the GTC. The supplier will be informed of any changes in written form. If no objection has been made within one month, this will be deemed to constitute agreement.

**1.d** The Supplier undertakes to comply with the principles set out in the Purchaser's Code of Conduct (available at [www.teamaxess.com](http://www.teamaxess.com)). It shall also impose this obligation on any sub-suppliers and subcontractors. Furthermore, the supplier undertakes to provide the purchaser with data for determining resource efficiency or for preparing a life cycle assessment (e.g., CO<sub>2</sub> emissions, total water consumption, etc.), provided that this data is required to be collected by law or is available to the supplier without significant additional effort.

## 2 Prices and payment terms

**2.a** All agreed prices are fixed and are not subject to any changes. The supplier's price includes all relevant taxes, charges and deductions applicable to the goods or services.

**2.b** Invoices can only be processed if they include the Axess order number and Axess item number. Axess is entitled to return the supplier's invoice if they do not fulfil the minimum requirements or if they are incorrect in any other way. Any resulting payment delays will be borne by the supplier.

**2.c** Unless agreed otherwise in writing, payments will be settled within 30 days of correct receipt of the delivery and invoice with a 3 % deduction or within 60 days, net.

**2.d** Axess is, within reason, entitled to make changes to the delivery in terms of design and finish without this resulting in a change of the price.

## 3 Delivery, delivery time and transfer of ownership

**3.a** Only the delivery date stated in the Axess order letter/confirmation note is binding. Compliance with the delivery date or deadline is determined by receipt of the goods at the given place of delivery.

**3.b** General agreements include the quantities for a certain period as planned by Axess which are released with specific orders. Technical changes may be made to the delivery under the obligation to accept the delivery of pre-produced goods. Unless agreed otherwise, the maximum permitted pre-production corresponds to a standard release order batch.

**3.c** The supplier must send a written order confirmation within five working days of the order being placed. If the supplier does not provide notice informing of changes or a refusal within this period, the order will be deemed as accepted and binding.

**3.d** If the supplier is delayed for reasons for which he is responsible, Axess is entitled to a flat rate contractual penalty of 3 % per week commenced after the delivery date. Furthermore, the supplier is also obliged to provide compensation for any damages caused for Axess as a direct or indirect result of incorrect or delayed delivery, violation of official safety precautions or for any other reasons attributable to the supplier.

**3.e** The supplier must collect any boxes or other transport containers at his own expense in the event of freight-free return. All delivery costs are to be assumed by the supplier unless agreed otherwise.

**3.f** The following terms apply to the transfer of ownership:

- > The transport of goods within the EU will be DAP (Incoterms 2010) at the given destination whereby the transfer of ownership occurs at the Axess loading point.
- > The transport of goods within the country of origin will be DAP at the given destination whereby the transfer of ownership occurs at the Axess loading point.
- > Axess is also entitled to organize the transport itself. In such a case, the transfer of ownership occurs at the supplier's EXW works. EXW only applies if the transport is organized by Axess or if it has agreed in writing for transport to be organized by the supplier whereby the supplier must provide transport organization which is most cost effective for Axess (incl. insurance). In all cases, the supplier is obliged to inform Axess of the country of origin including the goods movement number of the goods delivered in accordance with the order and sufficient details to fulfil the conditions of any applicable agreements concerning trade and customs benefits.

## 4 Guarantee and warranty

**4.a** The supplier guarantees that all services/work corresponds to the latest technology, the relevant legal provisions and the requirements and guidelines

of the authorities and, in any case, the latest DIN and EU norms and any other norms which are standard in the industry. Any deviations from this provision are only permitted with the agreement of Axess. The guarantee obligation is not restricted through this agreement.

**4.b** All parts and equipment delivered by the supplier must bear CE marking in accordance with EU guidelines. Each delivery must include the relevant conformity declarations with brief descriptions, assembly instructions and installation regulations.

**4.c** If the supplier has concerns regarding the planned manner of execution, he must communicate this in writing immediately. Outside suppliers are regarded as the supplier's vicarious agents.

**4.d** Alone the acceptance of deliveries or services, the temporary use of these or payments made does not result in the acceptance or waiver of rights which Axess is entitled to. Acknowledgement of receipt of deliveries does not represent a declaration on the final acceptance of the delivered goods.

**4.e** The warranty period for all goods and services is 2 years. The warranty obligation begins with a delivery with installation or with assembly with acceptance and, with all other deliveries, with receipt at the delivery address. In the case of hidden defects, the warranty obligation begins with the discovery of these.

**4.f** The supplier is liable for ensuring that all services provided or objects delivered are free of any material, fabrication or functional faults as well as defect of title and that they fully meet the contractually agreed terms.

**4.g** Axess is entitled to all legal warranty claims in particular concerning redhibition, impairment, replacement delivery and damages as well as the choice of auxiliary. The supplier must reimburse Axess for all costs relating to judicial and extrajudicial reports and for disputes with the client.

**4.h** If the supplier does not fulfil his warranty obligation within an appropriate period as given by Axess or if there is an urgent case, Axess is entitled to take the necessary measures itself or arrange for this to be done by a third party at the supplier's cost and risk and notwithstanding his warranty obligations.

**4.i** In the case of supplied parts which cannot be used during an inspection of the fault and/or fault repair, the warranty period will be extended for the duration of any operational interruption.

## 5 Product liability, trade mark rights

**5.a** Any evident faults in the delivery or transport or packaging damages will be communicated to the supplier in writing as soon as these have been identified in the normal course of business. However, Axess is not obliged to provide immediate notice of defects in accordance with § 377 Austrian Commercial Code (UGB). The supplier waives the right to object to a delayed notification of defects. If parts of the delivery do not meet the requirements, the entire delivery may be returned.

**5.b** The supplier must take out a suitable insurance (product liability insurance and product recall insurance) and present evidence of this if requested.

**5.c** The supplier agrees to indemnify and hold harmless Axess in the event of any patent, copyright, and trade mark disputes and guarantee unlimited use of the delivered goods. This also applies to product liability claims of third parties.

**5.d** With regard to its supplied products, the supplier is obliged to immediately name, if requested by Axess, the manufacturer, importer or outside supplier and provide any evidence such as manufacturing documents for the defense against any product liability claims of third parties.

**5.e** Axess reserves the right to request evidence of the supplier's quality assurance system and documentation of quality assessments including the request for an audit. Axess must be reimbursed for the costs of any audit if this reveals an inadequate quality assurance system or insufficient documentation of assessments.

**5.f** If a product liability claim is asserted for an Axess product due to a violation of official regulations or national or international product liability regulations which leads back to a defect in goods supplied by the supplier, Axess is entitled to demand compensation for this damage from the supplier. This also applies to the costs of precautionary exchange or recall operations and judicial and extrajudicial proceedings and expert reports.

**5.g** The supplier and Axess agree that all reciprocal obligations in accordance with the General Data Protection Regulation (GDPR) will be fulfilled.

## 6 Reservation of title, provision of materials and tools

**6.a** All parts which Axess provides for the supplier remain the property of Axess. Such provision of parts must be stored free of charge.

**6.b** Likewise, any tools and equipment which is provided for the supplier or his employees will remain the property of Axess. The supplier is obliged to only use tools and equipment for the manufacture of Axess products. If third parties seize these parts or take ownership of them, Axess must be informed immediately.

**6.c** If the supplier damages tools or equipment during use or does not return these once the contract has ended, the supplier is obliged to replace the equal value of the goods or pay for the loss.

**6.d** Reservation of title in favor of the supplier is excluded. Axess is entitled to use the deliveries and services as it pleases including further resale.

**6.e** The right of retention concerning parts supplied by Axess, under whichever title, is excluded.

# General Terms and Conditions of Purchase



## 7 Declaration concerning origin of the goods

**7.a** If the supplier's place of business and/or manufacturing site is within the European Union, the supplier must issue a supplier declaration in the respective current version (individual / long term declaration), based on the valid regulations on the preferential origin of goods in accordance with Article 61-66 of the Implementing Regulation (EU) No. 2015/2447.

**7.b** The supplier is obliged to ensure that the wording of the provided supplier declaration corresponds exactly to the legal requirements of the respective valid version of the Implementing Regulation (EU) No. 2015/2447. The supplier declaration must contain an exact description of the supplied goods to ensure clear identification of the goods. This should include at least the Axess item number and goods description.

**7.c** The supplier must inform Axess immediately if the details provided in a long-term supplier declaration are no longer valid for the future.

**7.d** Likewise, the supplier must also inform Axess immediately if it becomes clear that past issued declarations on the preferential and non-preferential origin of goods (supplier declaration/long term supplier declaration/movement certification/declaration on the invoice) were issued incorrectly.

**7.e** If the supplier's place of business and/or manufacturing site is in a country which has an EU free trade agreement, he must issue proof of preference (movement certificate/declaration of origin on the invoice) for each delivery. Adherence must be ensured to the terms of the free trade agreement.

## 8 General customs obligations

**8.a** For all declarable sales which cross customs boundaries, delivery notes or invoices must include all details and payments relevant to customs in accordance with the respective applicable Incoterm 2010 (e.g., place of delivery, freight and insurance costs).

**8.b** Costs which do not relate directly to the goods being supplied must be listed separately on the invoice (e.g., costs for setup and training in the case of machine and equipment deliveries). In the case of deliveries which are not based on an actual purchase (e.g., free deliveries, leasing, rental etc.), a proforma invoice/customs invoice must be issued with the goods which states the customs value of the goods. In the case of free deliveries, the proforma invoice/customs invoice accompanying the goods must include the reason for this (e.g., sample consignment, development pattern etc.).

**8.c** The supplier is responsible for the proper exportation of the goods from his customs area including the fulfilment of all legal obligations which he is subject to as exporter (exporter/exporter of record).

**8.d** Axess is responsible for the proper import of the goods into the destination country including the fulfilment of all legal obligations which it is subject to as importer (importer/importer of record).

**8.e** If the supplier enters obligations relating to customs legislation in association with the import of goods in the destination country without having been authorized to do so in writing by Axess, he must assume any charges and costs connected with the import incurred for Axess due to a possible loss of customs procedure (e.g. customs procedures with economic impact, customs warehouse etc.).

**8.f** The supplier is obliged to include all documents and certificates etc. with the goods which are necessary for Axess to import these (declarations/evidence of trade or non-preferential origin, declarations of conformity etc.) and to provide these if requested by Axess. If the supplier is supplying goods from a customs area with which the country of destination of the goods has a free trade agreement/most favored nation agreement, the supplier must issue evidence of origin/preference declarations as stipulated by the respective FTA for these goods for Axess in so far as its goods fulfil the corresponding added value criteria (Local Content).

**8.g** Benefits from customs procedures with economic impact implemented by the supplier must be passed on to Axess in the sales price of the goods.

**8.h** The supplier undertakes to comply with all export control regulations and foreign trade laws of the Republic of Austria, the European Union, and the United States of America, as well as all other applicable national and

international export control regulations and foreign trade laws. The supplier is obliged to inform Axess immediately and without being asked about existing approval requirements, restrictions, and license exceptions in accordance with the aforementioned regulations and laws. In particular, the supplier must inform Axess if the goods are dual-use products in accordance with the EU Dual-Use Regulation. The supplier undertakes to provide Axess with all necessary documents (e.g., export list numbers, ECCN numbers) that Axess may require for export and obtaining an export license. In the event of changes to the products or licensing requirements, the supplier is obliged to inform Axess immediately.

## 9 Force majeure

**9.a** Interruption of operation of any kind (e.g., strike, lock out), unrest, official measures and other uncontrollable circumstances which occur without the fault of Axess, release Axess - notwithstanding any further rights - from the obligation to accept the ordered goods without the supplier claiming compensation for this/or making any other claims.

**9.b** Both contract parties are, within reasonable limits, obliged to provide the required information and adjust obligations in good faith to the changed circumstances.

## 10 Confidentiality

**10.a** The contract partners are obliged to treat all information associated with the contract and any enquiries as strictly confidential. The protected data includes, in particular, technical data, buying quantities, prices as well as information concerning products and product developments and all Axess company data. The secrecy obligation also applies once business relations have ended.

**10.b** The supplier is also obliged to treat all included images, illustrations, calculations, samples and models and other documents as strictly confidential and to not use these for himself, disclose these to third parties or make these accessible if they are not already generally accessible without the agreement of Axess.

**10.c** The supplier must ensure any sub-suppliers are informed of the confidentiality obligation. The supplier is liable for any violation of obligations as well as for any violations of his employees or subcontractors.

**10.d** The supplier agrees to his company data and the content of orders completed with him being passed on to any other Axess company.

## 11 Final provisions

**11.a** Any subsidiary agreements, supplements and changes require the written form for these to be valid. This also applies to a change in this requirement of form. Verbal subsidiary agreements are not made and are, upon completion of the agreement, understood as waived.

**11.b** Place of fulfilment for deliveries and services is the place of use and, for payments, the place of business of Axess.

**11.c** If bankruptcy proceedings have been applied for or commenced against the assets of the supplier or if the supplier ceases payments, Axess is entitled to withdraw from the contract.

**11.d** Solely the law of the Republic of Austria applies to the above terms without reference provisions relating to foreign law. The application of the regulations of the United Nations Convention on Contracts for the International Sale of Goods (UN sales law) is excluded in all cases.

**11.e** The relevant court in the state capital of Salzburg (Austria) is solely responsible for any disputes arising from or in association with this contract.

**11.f** If individual provisions of this contract with the supplier including these general terms of purchase become wholly or partially invalid this will not affect the validity of the remaining provisions. The invalid provision will be replaced by one with equal economic effect.

**11.g** The rights and obligations from this agreement are transferred to the respective legal successor / the contract parties are obliged to the legal transfer of rights and obligations from this agreement to the legal successor. Such a transfer does not result in the supplier having the right to terminate.