

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY (GTC)

1. General and scope
 1. AXIS Flight Training Systems GmbH (AXIS) is an Austrian limited liability company.
 2. AXIS only contracts with companies and these GTC and conditions apply in the B2B business relationship.
 3. For the business relationship between AXIS and a customer, the present terms and conditions apply in the version valid at the time of the offer or the conclusion of the contract.
2. Order, Prices, Taxes and Delivery
 1. The order must be made in writing by accepting the AXIS offer.
 2. The offer made by AXIS can be accepted by the customer by the stated acceptance period and is binding for AXIS within this period. As part of the offer, the customer will be informed of the scope of services, the dates and the terms and conditions. Acceptance of the offer is only possible with regard to the products and services offered. No contract is concluded for products and services that are not part of the AXIS offer.
 3. If deviations from the offer or other additions have been agreed, these will be recorded in writing.
 4. All prices quoted are based on the information available.
 5. The prices are quoted in Euro and shall be understood "ex-works AXIS, Austria". Upon request of Customer, AXIS may arrange packaging and/or transport to a place designated by Customer. In such event, all cost of packaging, insurance, freight and applicable customs duties, fees and charges (if any) shall be to the account of Customer.
 6. Prices are exclusive of, and Customer shall pay, all taxes, duties, levies, royalties, or fees, or other similar charges imposed on AXIS or on the Customer by any taxing authority (other than taxes imposed on AXIS' income) related to Customer's order and/or the services and supplies to be provided by AXIS, unless Customer provides an appropriate resale or exemption certificate.
 7. In case Customer is required by mandatory law to withhold and remit tax relating to Customer's order, the price shall be adjusted accordingly, taking into consideration any appropriate solution to minimise the impact of such withholding tax.
 8. The prices do not include any special (type) approval that might be required for use of the System in the country of destination. Such approvals shall be obtained by Customer in its own initiative and at its own cost. Upon Customer's request, AXIS is prepared to support Customer in technical aspects regarding such approval subject to separate reimbursement on a time and material basis.
 9. The prices do not include the costs of applying any specific standards, regulations or technical requirements other than those described in the Offer as being part of the Services and Supplies to be rendered by AXIS. Variations or additional requirements requested by Customer or required under mandatory laws in the country of destination, may be implemented to the extent technically reasonable feasible and subject to notification by Customer in due time and against separate reimbursement on a time and material basis.
 10. AXIS is only obliged to deliver or perform if the customer has fulfilled all of his obligations under the contractual relationship.
 11. AXIS will announce the payment modalities on the respective invoice. In the event of any delay in payment by the customer, AXIS is entitled to withhold its services and is only obliged to provide further services after full payment of the uncorrected outstanding claim (s).
 12. The customer is obliged to pay default interest of 15% p.a. in the event of any delay in payment. Furthermore to pay for all necessary costs for the appropriate debt collection and legal prosecution in accordance with the legal provisions.
 13. All products remain the property of AXIS after delivery and handover to the customer until full payment of the purchase price and all related price components.
3. Export and Import Licenses
 1. It is expressly noted and understood by the Parties that an Offer, Quotation, ROM and any resulting order and/or delivery of services and supplies is subject to the grant of the necessary export and/or import licenses by the relevant authorities. The cost for obtaining such licenses shall be borne by Customer. The Parties will use all reasonable endeavours to have such licenses issued and the Customer shall upon request of AXIS promptly provide the necessary documents. AXIS rejects any responsibility or liability if a needed license cannot be obtained. The delivery periods or performance (lead) times stated herein shall start upon the grant of all necessary licenses. Any re-export of the supplies need the prior written approval of AXIS.
 2. In case the necessary export/import licenses cannot be obtained in due course, e.g. due to sanctions, embargoes or other import/export restrictions, AXIS is prepared to offer (temporary) housing and training in Austria, the resulting cost to be borne by the Customer.
4. Intellectual Property Rights and Software Licensing
 1. All intellectual property rights, including but not limited to the right to patent, copyright, trademarks and design rights in the Hardware, Software and/or Documentation delivered or otherwise made available under or in connection with this Contract shall remain at all times vested in AXIS and/or its suppliers and licensors. Design drawings, software source code and the like are not included and will not be provided or licensed by AXIS and/or its suppliers and licensors.
 2. AXIS grants Customer a non-exclusive, non-transferable license valid during the operating life of the System to use, in object code form, the version or release of the Software originated by AXIS and delivered hereunder. Use shall mean to install, store, load, execute, and display one copy of the Software on the System supplied hereunder for the agreed purpose.
 3. Customer may not exceed the number of licenses, agents, tiers, nodes, seats, or other Use restrictions or authorizations agreed to and paid for by Customer.
 4. For Software not originated by AXIS but by its suppliers and licensors, the third party supplier's license terms and use restrictions that may accompany that Software will solely govern its use by Customer.
 5. This Software License confers no title or ownership and is not a sale of any rights in the Software. Third-party suppliers are intended beneficiaries under these Contract and independently may protect their rights in the Software in the event of any infringement. All rights not expressly granted to Customer are reserved solely to AXIS or its suppliers.
 6. The Software License is non-transferable and for use only on the System delivered by AXIS and owned, controlled, or operated by or solely on behalf of Customer and such license will terminate in the event of a change in either the system number or system type, an unauthorized relocation, or if the System ceases to be within the possession or control of Customer.
5. Warranty
 1. AXIS warrants that the System/delivered product/service will materially conform to its specifications. This warranty applies to the Hardware as well as to the Software. AXIS does, however, not warrant that the operation of the delivered product will be uninterrupted or error free.
 2. AXIS is not obligated to provide warranty services or support for any claims resulting from (i) improper site preparation, or site or environmental conditions that do not conform to AXIS' site specifications; (ii) Customer furnished equipment or Customer or third-party media, software, hardware, interfacing, supplies, or other products not supplied or approved by AXIS; (iii) natural wear and tear; (iv) improper, faulty or negligent handling by Customer or third party; (v) failure to use, maintain and operate the System in accordance with the relevant AXIS instructions and System documentation; (vi) alterations, changes or other modifications not performed or not authorized by AXIS to the System carried out by Customer or a third party; or (vii) abuse, negligence, accident, loss or damage in transit, fire or water damage, electrical disturbances, transportation by Customer, or other causes beyond AXIS' control.
 3. If after a report of non-conformity it is determined that the non-conformity was actually the result of any action by a party other than AXIS, Customer shall pay for the expenses incurred to establish conformity.
 4. Warranty period shall commence as of the date of delivery of the respective item. It shall not be extended by the repair or replacement of defective parts. The warranty period applicable for replaced or repaired parts will cease at the end of the warranty period applicable for the original part that has been replaced or repaired.
 5. The warranty coverage and remedies set forth herein are exclusive and in lieu of any and all other condition, representation, remedy and warranty whether express, implied (including of merchantability and fitness for a particular purpose), statutory or otherwise.
 6. The following deviations from the statutory warranty provisions apply:
 - a) Detectable or ascertained defects are to be reported to AXIS within 14 days of delivery or knowledge, otherwise warranty, damage claims and error claims according to § 377 paragraph 2 and 3 UGB can no longer be asserted by the customer.
 - b) The warranty period according to § 933 paragraph 1 last sentence ABGB is six months for movable and twelve months for immovable property. The claims have to be asserted in court within that period
 - c) Contrary to the presumption rule of § 924 ABGB, the customer must prove the existence of a defect at the time of delivery.
6. Liability
 1. 1. AXIS shall be liable for injury in accordance with the applicable law, if caused by AXIS, its personnel and/or its subcontractor(s) engaged in the performance of this Contract.
 2. Notwithstanding Art. 6.1. above, AXIS' entire liability arising from or relating to this Agreement, AXIS customer support activities and all sale and delivery activities under any legal theory (whether in contract, tort, indemnity or otherwise), shall be limited to an amount equal to an amount equivalent to 5% (five percent) of the Contract Price/order value per incident and is limited to a total amount of 20 % (twenty percent) of said price for all incidents, except in case of extremely gross negligence or wilful act of AXIS, its personnel, subcontractors and/or representatives or where otherwise imposed by mandatory law.
 3. In no event shall AXIS have any liability for acts of ordinary negligence or for any special, punitive, consequential, incidental and/or indirect damages of any kind, including without limitation, damages for lost profits or loss of any commercial opportunity, interests, lost data, loss of production, interruption of business, lost usage downtime cost, or for damages resulting from third party claims (eg contractual penalties) arising in any way out of this Contract, whether or not AXIS has been advised of the possibility of such damages.
 4. Claims for compensation shall expire six months from the knowledge of the damage and the originator of the damage, and in any case three years after providing the goods or services. The claims have to be asserted in court within that period.
7. Force Majeure
 1. Force Majeure shall mean all events beyond the control of AXIS including but not limited to war (whether declared or not), acts of terrorist, revolutions, serious destruction, explosion, fire, floods, severe weather, shortage of water, earthquake, epidemics, quarantine restrictions, general boycott of systems to be exported or produced by AXIS, strikes, lockouts, acts of government in either its sovereign or contractual capacity, embargoes of any kind, legal proceedings which hinder, prevent or impede the performance by AXIS hereto of any obligations herein.
 2. AXIS shall not be held liable for the consequences of any failure to perform an obligation, if such non-performance is caused by Force Majeure. Where there has been a failure caused by Force Majeure, the said failure shall not be considered as a non-compliance with any term or condition. The time of performance of the obligations, which could not be performed due to Force Majeure, shall be extended adequately.
 3. AXIS shall inform the Customer within a reasonable time of the occurrence of a Force Majeure event and shall keep him informed of the developments of such event.
 4. If an event of Force Majeure subsists for a period of three (3) months or longer, then either Partner shall have the right to terminate this Contract with immediate effect without liability towards the other Partner.
8. Applicable Law, Dispute Settlement
 1. The Contract shall be subject only to the laws of Austria, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the conflict of law rules.
 2. The place of performance shall be Lebring (Styria). Place of jurisdiction for any obligations of or disputes between the contracting parties shall be the competent court for Lebring (Styria).
 3. Should a provision of this terms and conditions be or become invalid or unenforceable, the parties replace the invalid or unenforceable provision by one or more new provisions that are in essence as similar as possible to the original one. The remaining provisions of these terms and conditions are not affected by that