1. General Terms

1.a. These General Business Terms and Conditions (“GTC”) of Axess AG ("Axess") govern all contractual relationships entered into between the customer ("Customer") and Axess, and shall govern all additional and future deliveries of any goods or services, including without limitation work performed under an Axess order. It entered into with Axess ("Axess Products") of any kind whatsoever to Customer. Any terms and conditions that differ from the GTC must be agreed to in writing by both Axess and Customer in order to preempt a particular GTC. Otherwise, these GTC shall govern all contractual relationships entered into between Axess and Customer. If Costs of materials of a single item increase more than five percent (5%) due to such delay. Axess shall adjust the cost and bill (or supplementation) shall be binding for the scope of the delivery and service. Such charges are invoiced at Axess's adherence to the proposed delivery and installation dates are so that the Customer can, if applicable, file an objection to said changes. If the Customer is a real estate agent or a third party that has a valid concession – installations with more than 220 volt) Axess is not liable for any preparation of the location as set forth in 4(c), or any force majeure event, including but not limited to, strike, lock-out, mobilization, war, civil commotion, or natural disaster. Changes, if any, in Axess’s sole and absolute discretion, reserves the right to make technical and design changes to Axess Products at any time. Customer Orders shall require a written agreement signed by both Customer and an authorized Axess representative, or in response to a formal tender from Customer. Otherwise, these GTC shall govern all contractual relationships entered into between Axess and Customer. Axess employees do not have authority to amend or restate these GTC, and Customer shall not rely on any changes to the GTC, except as agreed to in writing by Axess.

1.b. All agreements that contain differing terms than those set forth herein or supplemental agreements between Customer and Axess, shall be in writing and signed by both Customer and an authorized representative of Axess. Axess employees do not have authority to amend or restate these GTC, and Customer shall not rely on any changes to the GTC, except as agreed to in writing by Axess.

2. Proposals and Acceptance of Proposals

Proposals ("Proposals") are prepared by an Axess specialist and shall be tailored, to the best of Axess's ability, to meet the Customer's requirements as discussed in prior meetings and conversations between Customer and Axess representatives, or in response to a formal tender from Customer, as the case may be, and are exclusively to be understood as a request of Axess for the order. All Proposals are nonbinding and remain valid for four (4) weeks from presentation to Customer. The Proposal will be deemed accepted upon Customer and an authorized Axess representative signing the Proposal, (location/price). Any details contained in brochures or similar documents, such as diagrams, drawings, descriptions, measurements, weight, performance, and consumption data, are approximations and reference values only and are not binding, unless an accompanying written agreement is signed by both Customer and an authorized Axess representative. In the event of gross fault.

3. Delivery Deadlines and Dates

3.a. Delivery dates and deadlines set forth in accepted Orders are estimates only and are nonbinding on Axess. Axess will use its best efforts to deliver on the dates set forth in any Order. Once the Customer prepares the location for installation of any Axess Products (see 4(c) below) customer's hours, all services will be provided during customary business hours for deliveries and services provided, and such charges are invoiced at Axess's hourly rates. All services will be provided during customary business hours, additional costs may be incurred by Customer and invoiced by Axess. Axess reserves the right to use third parties to provide certain services.

3.d. Customer may change an Order and such changes will only be binding if such change is confirmed in writing by Axess. The existing contract shall apply at which time the Proposal becomes an order ("Order"). Any details contained in brochures or similar documents, such as diagrams, drawings, descriptions, measurements, weight, performance, and consumption data, are approximations and reference values only and are nonbinding on Axess. Axess reserves the right to make technical and design changes to Axess Products at any time. Customer Orders shall require a written agreement signed by both Customer and an authorized Axess representative, or in response to a formal tender from Customer. Otherwise, these GTC shall govern all contractual relationships entered into between Axess and Customer. Axess employees do not have authority to amend or restate these GTC, and Customer shall not rely on any changes to the GTC, except as agreed to in writing by Axess.

3.b. Axess's adherence to the proposed delivery and installation dates are conditioned upon timely receipt of agreed upon installation payments from Customer. Customer's preparation of the location as required by 4(c) below, completion of the individual steps over the course of the project according to the time schedule stipulated by Axess and the execution of agreed partial acceptance, acceptance, or in response to a formal tender from Customer. Otherwise, these GTC shall govern all contractual relationships entered into between Axess and Customer. Axess employees do not have authority to amend or restate these GTC, and Customer shall not rely on any changes to the GTC, except as agreed to in writing by Axess.

3.c. Except in the case of flat rate price agreements, Axess charges for actual deliveries and services provided, and such charges are invoiced at Axess's hourly rates. All services will be provided during customary business hours, additional costs may be incurred by Customer and invoiced by Axess. Axess reserves the right to use third parties to provide certain services.

3.d. Customer may change an Order and such changes will only be binding if such change is confirmed in writing by Axess. The existing contract shall apply at which time the Proposal becomes an order ("Order"). Any details contained in brochures or similar documents, such as diagrams, drawings, descriptions, measurements, weight, performance, and consumption data, are approximations and reference values only and are nonbinding on Axess. Axess reserves the right to make technical and design changes to Axess Products at any time. Customer Orders shall require a written agreement signed by both Customer and an authorized Axess representative, or in response to a formal tender from Customer. Otherwise, these GTC shall govern all contractual relationships entered into between Axess and Customer. Axess employees do not have authority to amend or restate these GTC, and Customer shall not rely on any changes to the GTC, except as agreed to in writing by Axess.

3.e. If costs of materials of a single item increase more than five percent (5%) due to such delay. Axess shall adjust the cost and bill (or supplementation) shall be binding for the scope of the delivery and service. Such charges are invoiced at Axess's adherence to the proposed delivery and installation dates are so that the Customer can, if applicable, file an objection to said changes. If the Customer is a real estate agent or a third party that has a valid concession – installations with more than 220 volt) Axess is not liable for any preparation of the location as set forth in 4(c), or any force majeure event, including but not limited to, strike, lock-out, mobilization, war, civil commotion, or natural disaster. Changes, if any, in Axess’s sole and absolute discretion, reserves the right to make technical and design changes to Axess Products at any time. Customer Orders shall require a written agreement signed by both Customer and an authorized Axess representative, or in response to a formal tender from Customer. Otherwise, these GTC shall govern all contractual relationships entered into between Axess and Customer. Axess employees do not have authority to amend or restate these GTC, and Customer shall not rely on any changes to the GTC, except as agreed to in writing by Axess.

3.f. Axess shall have the sole and exclusive right to make changes to all Axess Products in order to comply with changes in material and design due to technological improvements. Axess shall adjust the cost and bill for the full amount of the cost increase so long as Axess does not cause such increase.

3.g. Based on the site inspection, any fifteen percent (15%) increase or decrease in quantity of Axess products needed shall be permitted and added to the final invoice to the Customer.

3.h. If any Order is financed through a lease, the lessor of that lease shall be named on and bound by the Order; however, the Customer remains primarily liable for the Order. In the event of breach, Axess is entitled to assert all claims it may have for breach directly against the Customer. If permits are required in order to execute the Order, Customer grants Axess a power of attorney to obtain such permits necessary per its behalf. Customer must inform Axess about possible conditions that could impair the execution of the Order as soon as such conditions are known to Customer. If such information is not provided to Axess in a timely manner, Axess shall have the right to invoice Customer for any loss or any interest as a result of Axess delaying in the order of the proposal to the Customer. Email is an acceptable form of writing as referenced in these GTC. SMS, text message and electronic chats are not accepted as written notification of amendment or revision, such amendment or revision shall be deemed approved by the Customer.

4. Delivery and Commissioning

4.a. Customer bears the risk of loss: (1) as of the date that any Axess Product leaves the Axess plant in Insbruck, Austria; (2) as of the date any shipment is made within scope of assembly of any Axess Product; and (3) as of the date the transport has been provided. All costs and expenses are invoiced at Axess's adherence to the proposed delivery and installation dates are so that the Customer can, if applicable, file an objection to said changes. If the Customer is a real estate agent or a third party that has a valid concession – installations with more than 220 volt) Axess is not liable for any preparation of the location as set forth in 4(c), or any force majeure event, including but not limited to, strike, lock-out, mobilization, war, civil commotion, or natural disaster. Changes, if any, in Axess’s sole and absolute discretion, reserves the right to make technical and design changes to Axess Products at any time. Customer Orders shall require a written agreement signed by both Customer and an authorized Axess representative, or in response to a formal tender from Customer. Otherwise, these GTC shall govern all contractual relationships entered into between Axess and Customer. Axess employees do not have authority to amend or restate these GTC, and Customer shall not rely on any changes to the GTC, except as agreed to in writing by Axess.

4.b. Customer shall be deemed to have accepted the delivered Axess Products thirty (30) business days after installation by Axess. The existence of insignificant defects does not entitle Customer to refusal of the delivery of the Order or acceptance of the Axess Products. Customer shall accept the Order and Axess Products and within three (3) calendar days of receipt of the same, Customer shall create a list of any defects and provide the same to Axess in writing. The repair of any defects caused by the Customer shall be invoiced directly to Customer.

4.c. Customer is solely responsible for on-time preparation of the location for installation of the Axess Products according to Axess specifications including without limitation, prepping the foundation by installing provided assembly aids, establishing power supply according to all governmental standards and specifications, providing and arranging all necessary locations and individual devices. The assembly of devices which are necessary for the preparation of the location, at the envisaged location, is the task of the Customer.

4.d. Axess shall install the Axess Products by connecting the pre-mounted assembly units at the locations specified in the Order and the software installation and program connections as agreed to in the Order. Work for which Axess does not have a valid concession are excluded (e.g. technician concessions - installations with more than 220 volt) Axess is not liable for any installation work performed by any third-party.

4.e. If installation is delayed for any reason not caused by Axess (e.g. if preliminary preparations for which Customer or a third party are responsible have not been completed), Axess shall be released from its obligation to install any Axess Products for the duration of the delay sustained without Customer being entitled to cancel the Order, or seek damages of any kind against Axess. Axess shall invoice Customer for any additional expenses incurred due to such delay.

4.f. If Customer delays in the acceptance of any Axess Products when they are delivered, Customer shall pay all storage fees incurred by Axess. If Customer refuses acceptance of any Axess Products when they are delivered, Customer shall be entitled to cancel the Order, or seek damages of any kind against Axess. Axess shall invoice Customer for any additional expenses incurred due to such delay.

4.g. Axess shall use best efforts to deliver all brand name and type designations of standard hardware but such information is nonbinding and subject to change. Axess shall deliver the Axess Products of its choice that are available at the time of execution of the Order. Axess shall charge for the actual work for installing software programs on computers provided by Axess.

4.h. Axess shall provide “one-off” initial training of Customer’s personnel regarding operation, troubleshooting and maintenance as agreed to in the Order. Follow-up, repeat and new employee training will be invoiced to the Customer separately.

General Business Terms and Conditions International (GTC)
5. Usage Licenses for Software Programs

5.a. Axess is the owner and/or licensee and distributor of software programs and associated documents (together, "Software"). Upon Customer’s full payment of periodic license fees, Axess grants to Customer a simple, non-exclusive and non-transferable license for the internal use of the delivered Software for the specified purpose and for the duration set forth in the Order. Axess and its suppliers retain all rights (including copyrights) to the Software. Payment of the license fees by Customer gives Customer the right to use the Software for its agreed upon and intended purpose during the license period (periodically, telephone lines, Internet access, software updates, and manuals necessary for use with Axess Products and Software).

5.b. Customer shall never change, edit, copy, reproduce in any form, decode, decompile, or transfer to any other computer, the licensed Software.

5.c. This Software license for application software are non-transferable.

5.d. Copies of the Software may only be produced for backup, archival purposes or for error searches. All copies must include the property right notice of the original Software and all copies must be destroyed after fulfillment of their purpose. Customer shall ensure that the programs and documents as well as compiled versions are not accessible by the third parties.

5.e. For licensing of third-party programs included in the scope of the Order, the third-party licensing conditions and restrictions regarding use shall apply.

5.f. For individual Software created for Customer by Axess, the scope of service shall be determined by the specifications agreed to in writing, signed by both Customer and an authorized Axess representative. Non-specificed but necessary features may be created by Axess in Axess's sole and absolute discretion. Axess shall retain ownership of all source programs and any rights attached thereto.

6. Maintenance of Software

6.a. Upon completion of installation and training on Software, Axess shall provide support and maintenance of the Software pursuant to an agreement for such support and maintenance entered into by Customer and an authorized representative of Axess. Axess shall make updates available to Customer by download, CD, or other means, and Customer shall be responsible for installing "Bugfix" Software updates, etc. If Customer wants Axess to install updates, Axess shall invoice the costs of installation of updates to Customer, separate from the agreed upon support and maintenance agreement. Maintenance of Software shall be performed at the flat rate for such services set forth in the support and maintenance agreement. Axess insures that support services are performed properly by qualified personnel, with reasonable care and attention. All support and maintenance shall be performed during Axess’s regular business hours and Axess's business days. Axess shall retain ownership of all source programs and any rights attached thereto.

6.a.i. Axess may hire subcontractors to provide support services for support and maintenance services, at Customer's business premises.

6.a.ii. Axess shall use best efforts to resolve recognized bugs for which Axess is responsible within a reasonable time after discovery. Axess shall be liable and is not obligated to fix any issues that are impeded by defects caused by and not remedied by Customer.

6.a.iii. Axess may hire subcontractors to provide support services without requiring the consent of Customer.

6.b. Helpdesk

6.b.i. Axess shall provide a central e-mail address and telephone number to Customer for support questions and services during certain time periods as set forth in the service and maintenance agreement with Customer (e.g., summer season, winter season, event operation, or whole year operation).

6.b.ii. Axess shall use its best efforts to respond to Customer inquiries within a reasonable time after receipt. Axess’s business hours are listed at www.teamaxess.com.

6.b.iii. Support services shall include application advice per telephone or e-mail, and assistance with interference arising from the use of Software and Axess Products. Support services may only be used by trained personnel.

6.b.iv. The support in the execution of tasks for daily operations (e.g. creation of new tariffs, re-configuration of an access control system, etc.) is not included in this service and will be charged separately.

6.c. Software Update Service

6.c.i. Within the scope of Axess’ services, new releases for software programs will be issued. Update Services include the provision of new releases and/or upgrades agreed upon in a separate agreement (e.g. contract including software maintenance).

6.c.ii. Axess is not obliged to provide software-upgrades (new versions, releases or online-releases) unless the delivery of upgrades and the payment of upgrade fees have been agreed upon in a separate agreement (e.g. contract including software maintenance).

6.d. Server availability

6.d.i. Axess guarantees the availability of a server, its network, and interfaces used on the Internet at the rate of ninety-nine percent (99%) on an annual average. Downtime caused by scheduled maintenance work is not included in this average.

6.e. Obligations of Customer to Provide Assistance

6.e.i. For the quick and successful processing of error messages, Customer promptly forwards such messages to Axess and reference its contract number as well as full description of the error.

6.e.ii. Customer shall comply with Axess's instructions and shall make available to Axess any software and access to servers that are necessary for the purpose of error detection and analysis.

6.e.iii. Customer shall use qualified and trained personnel for use of Axess Products and Software licensed to Axess.

6.e.iv. Customer shall comply with all provisions under applicable local, national and EU data protection laws (GDPR, etc.). If a claim is asserted by Axess or a third party against any infringement of any patent, copyright, or other right, it shall be the Customer's obligation to perform any measures required by Axess to redress the situation.

6.e.v. Axess is not liable for errors caused by improper treatment by Customer, failure to Customer to perform stipulated measures such as backups, or by the third parties and data conversion, storage of data stocks and interface changes.

6.f. Insurance

6.f.i. Axess is not liable for failures to data stored on the agreed upon storage space on the Internet or other access to the server, which may include interference, interruption to service, and damages resulting therefrom, that are not remedied by Customer.

6.f.ii. Axess shall retain ownership of all source programs and any rights attached thereto.

6.f.iii. Axess is not liable for loss or deletion of data stored on the agreed upon storage space, unless such loss is caused by the willful misconduct or gross negligence of Axess.

6.f.iv. License Agreement

6.f.i. Axess shall retain ownership of all source programs and any rights attached thereto.

6.g. Term and Settlement For Software License Agreement

6.g.i. The initial term of any agreement, which includes software services, for full license and maintenance is five (5) years. After five (5) years, the term will be automatically renewed for one (1) year periods if Customer does not provide written notice of termination within three (3) months before the expiration of the current term. The maximum term of any license agreement is nine (9) years. Any license agreement beyond nine (9) years shall be renegotiated and set forth in a new written agreement.

6.g.ii. The parties shall have the right to terminate a license agreement when good cause is shown. "Good cause" shall mean:

- Bankruptcy proceedings are commenced by either Customer or the Customer;
- Judicial proceedings against the Customer are commenced that would impede its ability to pay Axess against Axess; or
- The agreed payment have not been made within thirty (30) calendar days after the due date and notice has been provided;
- A party breaches its contractual obligations and this breach is not ended within a reasonable deadline at the written request of the other party.

6.g.iii. All service and maintenance will be invoiced by Axess at the beginning of each accounting year.

6.h. Price Adjustments For Support and Maintenance Services

6.h.i. Axess may adjust the prices for support services on an annual basis by comparing actual expenses to costs that exceed ten percent (10%) of the prices set forth in the support/maintenance agreement.

6.h.ii. On an annual basis, the prices for support services will be subject to any increase or decrease in the Consumer Price Index (CPI) based on the Consumer Index of STATISTIK AUSTRIA for the preceding year (the "Index"). If the Index no longer exists, then any increase or decrease shall be carried according to the index which replaces the Index and that results in approximately the same financial effect.

6.h.iii. The cost of travel, accommodation and travel time for the person(s) hired to perform support and maintenance service will be charged to Customer as follows: Hotel category is 3 star rates; railroad class is 2; official mileage allowance for travel by car; rental of auto is economy car; airline flight is economy; overseas is premium economy.

6.h.iv. Not included in any flat rate fee(s) are services provided due to operating system changes, hardware changes, and/or changes to non-contractual reciprocal program-based software programs and interfaces, individual program adjustments or new program installations and programs resulting in changes to statutory regulations requiring changes to program logic, remedy of errors caused by improper treatment by Customer, failure to Customer to perform stipulated measures such as backups, or by third parties and data conversion, restoration of data stocks and interface changes.

6.h.v. Axess is and shall be released from all support and maintenance obligations if program changes are attempted or performed on the Software and/or Axess Products by Customer’s employees or third parties, without the prior written consent of an authorized Axess representative, or if the Software is not used properly.
7. Ticket and Accessory Delivery

7.a. All materials produced by Axess for printing, such as typesets, printing plates, stored data, cross-border data processing and plates, cutters, and other work aids used in the production process shall remain the sole and exclusive property of Axess, even if Customer has provided partial or full payment for the respective work aids. All work aids provided by another company hired by Axess shall remain the sole and exclusive owner of such property.

7.b. Axess guarantees that the delivered tickets will function correctly on its output devices and readers so long as Axess complies with all Axess specifications concerning storage and recommended useful life of the products. Axess is entitled to print its corporate name and/or its trademark on all printed products without Customer's approval. Tickets made of plastic are mostly break- and tear-proof within an ambient temperature range of -20°C to +50°C. Instructions regarding storage devices and conditions are printed on the tickets.

7.c. Customer shall absorb excess or shortfall of up to fifteen (15%) of ordered printed products. Axess reserves the right to make partial deliveries. Axess shall not be held liable for typographical and design errors when Customer has proofed copies described by Customer as “ready to print”. Customer shall not be entitled to return defective, partially defective or non-compliant with the respective specifications in the order tickets, or return tickets that are visible damaged or worn out to Axess, or demand a refund. Axess processes personal data on behalf of the Customer based on the consent of the customer. Axess further enables the Customer to opt-out of automated decision-making within the GDPR (information, inquiry, correction, deletion, restriction, data portability, opposition and automated decision-making in individual cases) within the statutory deadlines.

8. Data Protection

8.a. The Customer and Axess agree to comply with all provisions under the General Data Protection Regulation (“GDPR”). Axess processes personal data on behalf of the Customer based on the consent of the customer. Axess further enables the Customer to opt-out of automated decision-making within the GDPR (information, inquiry, correction, deletion, restriction, data portability, opposition and automated decision-making in individual cases) within the statutory deadlines.

8.b. Customer shall make written complaints regarding printing errors or delivered quantities in writing to Axess within eight (8) calendar days of receipt of the goods. The goods for which the complaint is made are to be stored in such a manner that the complaint and suffering tickets are sent to Axess in a designated third party in the original packaging upon request, at the cost and risk to Customer.

8.c. Axess is the sole owner of all copyrights and the right to reproduction of any products. Customer warrants that it is the sole owner of the reproduction rights to all printing templates, provided by Customer, or ordered printed images, lettering, fonts, etc. Since Axess is the holder and owner of all rights of the owner under ancillary copyrights to delivered printed products, or parts thereof, Customer shall only acquire the right, with the acceptance of the delivery, to distribute the delivered products (§ 16 Urheberrechtsgesetz - Copyright Law); incidentally, the rights of use (and in particular, the right of reproduction), shall remain unaffected and solely owned by Axess. Axess holds the exclusive right to use reproduction means (sets, films, etc.) and report all defects products for the products of reproduction pieces. Axess is not required or obligated to examined whether the Customer is entitled to the right to reproduce printing templates provided by Customer, or otherwise to use such templates in the specified manner, but Axess is entitled to assume Customer is entitled to all those rights that are necessary for the execution of the order. Customer shall indemnify Axess and hold Axess harmless against all claims that are asserted by third parties for infringement of the respective personality rights, or personal protection rights. Axess shall report such claims to Customer as soon as possible and will use best efforts to give third parties notice in case of the assertion of such a claim in court. If Customer does not join the proceedings as a joint litigant of Axess following notice to a third party, Axess is entitled to defend against any claim and to hold itself harmless from thereby notwithstanding the legality of the claim asserted.

8.d. Changes to Axess's technical and organizational measures that guaran-
tee consistent standards of protection for the processed personal data or that improve this standard, shall be deemed to be approved and will be provided to Customer upon written request for the same.

8.e. Axess undertakes to only process personal data within the scope of existing contracts and as otherwise agreed between Axess and the Customer. If it is obligated to disclose such data to third parties local, national or EU law, Axess shall inform Customer of these legal requirements beforehand if the relevant law does not otherwise provide. Axess shall honor warranties by subsequent improvement or replacement of such change is not possible (such as in the case of imminent danger) Axess may enter into a written contract with the subcontractor so long as the subcontractor agrees to be bound by all relevant local, national and EU data protection laws.

8.f. Axess shall take all technical and organizational measures to aid Customer in satisfying the rights of data subjects according to Chapter III GDPR (information, inquiry, correction, deletion, opposition and automated decision-making in individual cases) within the statutory deadlines.

8.g. Before any personal data is shared and before working with such data, Axess shall ensure that all Axess personnel who deal with data process-
ing have signed a confidentiality agreement that addresses processing of personal data. The confidentiality agreement shall extend beyond termination of such Axess personnel. Information shall not be shared unless required by local, national or EU law.

8.h. Axess shall take all technical and organizational measures to aid Customer in satisfying the rights of data subjects according to Chapter III GDPR (information, inquiry, correction, deletion, opposition and automated decision-making in individual cases) within the statutory deadlines.

8.i. Axess shall aid Customer by providing data in compliance with the obligations set out in Articles 32 to 36 GDPR (processing security, notification of any personal data breach to the supervisory authority, notification to the person concerned in case of a personal data breach, data-protection and privacy impact assessment).

8.j. Axess shall make all necessary information (i.e., existing certifications, technical and organizational measures, etc.) available to Customer to proof compliance with Article 28 GDPR upon written request. Axess further enables and contributes to examinations – including inspections – carried out by Customer or another auditor appointed by Customer.

8.k. Axess shall inform Customer if there is a breach of personal data or if and/or replacement of the missing part. A customer claim for refund or replacement of the data protection provisions of applicable local, national and/or EU law.

8.l. Upon termination of the agreement between Customer and Axess, Axess shall use best efforts to return all personal data to Customer in a form that is customary for data processing, or to delete this data, if there is no obligation to store the personal data according to local, national or EU law.

9. Warranty

9.a. Axess provides a warranty for defects in its products that exist upon hand-over to Customer. § 924 Sentence 2 AGBB according to which defects existed upon hand-over even if the defect occurs within six (6) months after the hand-over until proof of the contrary, is excluded. Customer must prove the existence of any defect at the time of hand-over.

9.b. The warranty claims apply to the products, or, if commissioning is part of the contract, with the declaration of operational readiness by Axess. If there is no specific declaration of operational readiness done by Axess, the warranty starts with the commissioning by Customer.

9.c. For defects in immovable objects, the warranty period is five (5) years, if no longer warranty period is mandatory by local law.

9.d. The warranty period is six (6) months for defects in movable objects. Axess shall honor warranties by subsequent improvement or replacement of the missing part. A customer claim for refund or replacement of the goods. Onsite repairs are not included in the scope of warranty, unless such service is expressly included in the contract with Customer. For replaced parts, the aforementioned warranty applies.

9.e. In its absolute sole discretion, Axess shall remedy defects that a Customer properly notifies Axess of and within the warranty period, by substitute delivery (exchange of goods) or improvement (subsequent improvement or replacement of the missing part). A customer claim for refund or price reduction shall only exist if, after Axess’s review of the defect, improvement or substitute delivery cannot be performed, are impossible, will be associated with a disproportionately high amount of work for Axess, or the improvement or
9. f. Defects to hardware: Unless otherwise agreed to in writing in the contract, Customer bears the costs and risk for the transport of hardware to Axess for inspection as well as the storage costs and risk for the transport when returning hardware to the Customer.

9. g. Defects to software programs: As soon as possible (which may depend on the release of improved software versions), Axess will fix defects to the program which results in an eventuality agreed upon warranty period that existed at hand-over to Customer. Defects in customer-specific program developments will be fixed within the scope of that program’s warranty and warranty period.

9. h. Slight deviations, in particular with regard to the surface condition, shading, construction, or software, shall not be deemed a defect within the scope of customary trade practices, and do not entitle Customer to assert warranty claims for the same.

9. i. Limitation on warranty: The devices and their associated software may only be operated for Customer according to the instructions for use, operating instructions and license provisions set forth by Axess. In case of improper use, improper storage, care, maintenance, or repair by anyone other than authorized contractual dealers of Axess, any warranty claim shall be void and Axess shall have no warranty obligation for resulting damages. Axess shall not and shall not assume any warranty for defects and interferences owing to improper use or use of non-certified materials by Customer or third parties, deficient or faulty operating conditions, or natural wear and tear.

9. j. Slight deviations, in particular with regard to the surface condition, shading, construction, or software, shall not be deemed a defect within the scope of customary trade practices, and do not entitle Customer to assert warranty claims for the same.

9. k. Interferences and defects caused by deficient and/or unstable preliminary services, in particular, energy supplies, networks, etc., are excluded from warranty claims and claims for damages. The warranty shall lapse in the case of non-authorized changes to the services set forth in the contract with Customer.

9. l. Services such as the operation of servers, computer performance, and web services will be performed with customary care and attention, reliability and availability. Axess shall not and does not warrant the services are accessible without interruption, that the connected requests can always be established, or that the accessed data shall be recognized accurately by Customer. Customer shall not be entitled to any claims whatsoever as a result of downtime or interferences over the course of interferences, maintenance, installation, or repair problems.

9. m. Deadlines to report a complaint: Customer must in accordance with §§ 377ff UGB inspect the goods upon receipt and report obvious defects including damage during transport, incompleteness, deviations from order, and deliveries in error, by stating the exact nature of the complaint in writing to Axess within three (3) calendar days from receipt of the goods. If Customer does not satisfy this obligation to inspect and report within this deadline, Customer waives the warranty right on the goods.

9. n. In the case of obvious defects, this deadline will begin on the day of commissioning, and with hidden defects, on the day on which the defect is discovered or remained undiscovered owing to negligence. Hidden defects are to be reported within the same deadline from their occurrence (three (3) calendar days), in a complete and written manner by stating the exact defect, or warranty claims of Customer shall lapse.

10. Damages

10. a. Customer waives any and all claims for damages of any kind whatsoever against Axess and/or its employees as a result of negligence, as such waiver may be permitted by law. This liability exclusion applies to damages due to a defect and also to all damages caused by faulty construction, installation work or online problems.

10. b. If damages were not caused by the willful misconduct or gross negligence of Axess, claims against Axess for consequential damages and indirect damages such as lost or missed profit, business interruptions, lost orders, interest loss, damages payments, etc. for damages as a result of willful misconduct or gross negligence are not excluded. Liability for personal injury and liability under the product liability law remain unaffected.

10. c. If the Order or other contract calls for customer-specific program developments, the first eight (8) weeks after commissioning shall be deemed a “trial period.” During the trial period, Customer shall have no right to bring any damage claims against Axess unless Axess caused such willful misconduct or gross negligence.

11. Payments

11. a. Prices and terms of payment are set forth in Customer’s specific Order confirmation and are deemed net, duly unpaid and untaxed ex works. Axess may request a bank guaranty to secure payments. Unless otherwise agreed to in writing, payments are to be made in EURO.

11. b. Unless otherwise agreed upon in writing, the following shall apply as payment dates: thirty percent (30%) of the Order value due with the placement of the Order; sixty percent (60%) of the Order value due with readiness of delivery (acknowledgment and ten percent (10%) of the Order value due thirty (30) days after delivery.

11. c. Invoices issued by Axess are due within ten (10) calendar days after the invoice date.

11. d. Default of payment: If Customer does not make an agreed upon payment within thirty (30) calendar days from the signing of the Order, other agreement, Axess is entitled to cancel the Order or other agreement immediately. In the case of such cancellation, Customer shall have no claim for damages. Axess shall be entitled to charge and collect from Customer, ten percent (10%) of the gross Order amount, in addition to any other claims and rights Axess may have against Customer.

11. e. In the event of default of payment(s), interest shall accrue on all amounts due and payable for resulting damages. Axess shall be entitled to charge and collect from Customer, ten percent (10%) of the gross Order amount, in addition to any other claims and rights Axess may have against Customer.

11. f. If Customer is in default with a payment for longer than four (4) weeks, Axess shall not be required to perform or provide any further services, delivery obligations, or warranty obligations for the duration of the delay.

11. g. Payments are deemed to be made if the amount due has been received into one of the accounts cited on Axess’s invoice forms.

12. Reservation of Title

12. a. Axess retains ownership rights in the form of a secured interest in the goods and software delivered to Customer until Customer has satisfied all payments and other contractual obligations. In the event payment is not made as set forth in the Order and/or other written agreement between the parties, Axess grants Axess the right to separate and remove the goods and software, even if firmly connected to the ground or a building and to take them into its safekeeping. Axess shall only hand over the goods and software after full payment of the outstanding claims and the costs of disassembly, storage and expected costs of reassembly are paid to and received by Axess. Axess shall be entitled to file the necessary secured interests in the country in which the goods and software are located to protect its security interest therein.

12. b. Customer shall mark all goods and software as the property of Axess until Customer satisfies all contractual obligations including payments.

12. c. Customer shall defend the good and software against third party claims and claims for damages. The warranty shall lapse in the event of non-authorized changes to the services set forth in the contract with Customer.


13. a. These GTC and all schedules, annexes and exhibits attached hereto: (a) constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof; (b) are not intended to confer upon any person, other than the parties to this agreement any rights or remedies hereunder, unless expressly provided otherwise; and (c) shall not be assigned by operation of law or otherwise except as otherwise provided hereof.

13. b. Any general business terms and conditions set forth by the Customer are not binding. Axess’s failure to reply to any deviations business terms and conditions, even if confirmed and accepted to some extent, will be interpreted to reasonably give effect to the intent of the parties hereto. The parties further agree to replace such void or enforceable
provision of these GTC with a valid and enforceable provision that will achieve, to the greatest extent possible, the economic, business and other purposes of such void or unenforceable provision.

13.d. The Customer will comply with statutory export bans and export restrictions.

13.e. The parties shall hold all operating secrets disclosed between them confidential for an unlimited period of time. In the event of a breach of the Customer or persons to be attributed to it, the Customer shall pay liquidated damages to Axess of twenty percent (20%) of the gross order amount, without any requirement to apportion fault. This provision shall survive termination of these GTC.

13.f. Customer and Axess agree, that for a period of one year after termination of any contract between the parties, they shall not (i) induce or attempt to induce employee or officer of Axess or the Customer, to leave the employ of, or terminate its affiliation with Axess or the Customer, or in any way interfere with the relationship between Axess or the Customer, or any of their respective affiliates and any such person, or (ii) induce or attempt to induce any customer, supplier, licensee or other business relation of Axess or the Customer, or any of their respective affiliates and any such person, or (iii) induce or attempt to induce any customer, supplier, licensee or other business relation of Axess or the Customer, or any of their respective affiliates and any such person, or (iv) induce or attempt to induce any customer, supplier, licensee or other business relation of Axess or the Customer, or any of their respective affiliates and any such person, or (v) induce or attempt to induce any customer, supplier, licensee or other business relation of Axess or the Customer, or any of their respective affiliates and any such person, or (vi) induce or attempt to induce any customer, supplier, licensee or other business relation of Axess or the Customer, or any of their respective affiliates and any such person.

13.g. All of the terms and conditions set forth herein shall be binding upon and shall inure to the benefits of the parties hereto and their respective heirs, legal representative, successors and assigns.

13.h. These GTC shall be governed by and construed in accordance with the laws of Austria, regardless of the laws that might otherwise govern under applicable principles of conflict of laws thereof. The application of the UN-convention on contracts for the International Sale of Goods (CISG) is explicitly excluded.

13.i. For purposes of any action or proceeding involving these GTC or any of the obligations of the parties, the parties hereby irrevocably submit to the jurisdiction of the courts of Salzburg, Austria, and agree not to raise and waive any objection to or defense based upon the jurisdiction or venue of any such court or based upon forum non conveniens. The parties agree not to bring any action or other proceeding with respect to these GTC or with respect to any obligations set forth herein in any other court unless such courts of Austria determine that they do not have jurisdiction in the matter.
Security Policy

Technical and organizational security measures
Axess undertakes, respectively in its contract with the external computer center commissioned by Axess, to take the special requirements of data protection into account. Both the internal as well as the external computer centers are located in Austria. In this context Axess always makes an effort to take all measures, which are necessary for the execution of the order for the processing of the provided data on the data processing systems according to the GDPR as well as to design the inhouse organization so that the requirements of data protection are satisfied.

It is ensured that security zones and the group of authorized persons or persons with access authorization are stipulated, access routes are protected accordingly as well as that data carriers are controlled and stored in a secured manner.

It currently particularly concerns the following necessary measures:

1. Admission control:
   Unauthorized persons are prohibited from gaining admission to data processing systems, with which data are processed or used. The computer rooms are located in an office building of a mixed region that is classified as earthquake-proof. The admission control - only employees of the IT, Facility and the management - is guaranteed by one of the following measures:
   > Authorization / chip card
   The presence in the security zone is recorded. Non-authorized personnel and persons who are not belonging to the company (service technicians, consultants, cleaning staff, etc.) may only enter the rooms when accompanied by authorized persons. The admission control is supported by the following further organizational/technical measures:
   > Alarm system
   > Building surveillance
   > Video technology

2. Entry control
   A use of the data processing systems by unauthorized persons is prevented by the following measures:
   > Password
   Each authorized person has an own password that is only known to him/her, which must be changed at regular intervals. Automatic protocols (log files) are treated with regard to all activities on the data processing and telecommunication system. The use of data processing systems with the help of equipment for data transmission by unauthorized persons is prevented by the following measures:
   > VPN (Virtual Private Network)

3. Access control
   It is guaranteed that the persons authorized to use a data processing system can exclusively access their data that are subject to access authorization and that data cannot be read, copied, changed or removed without authorization during the processing, use as well as storage. The restriction to the access possibility of the authorized person exclusively to the data subject to his access authorization is guaranteed by the following measures:
   > Automatic examination of the access authorization (in the system)

4. Intended use control
   It is guaranteed by the following measures that data collected for different purposes are processed separately:
   > Software-based (e.g. client segregation)
   > Segregation through access regulation (database principle)
   > Segregation of test and current data
   > Segregation of test and current systems (technology, programs)

5. Pseudonymization
   Insofar as possible for the respective data processing the primary identification features of the personal data will be removed in the respective data application and stored separately.

6. Transfer control:
   It is guaranteed that personal data with the electronic transmission or during their transport or their storage on data carriers cannot be read, copied, changed or removed without authorization and that it can be checked and determined, at which point a transmission of personal data by equipment for the data transmission is envisaged. The shipment of data carriers is documented and controlled by registration and accompanying documents. It is not permitted to bring and use private data carriers into the rooms. Data carriers are destroyed in the following manner:
   > Magnetic data carriers by write-over and physical destruction (external service provider)
   Insofar as the internet is used to forward personal data the following security measures will be used:
   > Firewall
   > Virtual Private Network (VPN)

7. Input control
   It is guaranteed that it can be subsequently checked and determined whether and by whom personal data are entered in, changed or removed from data processing systems. The contractor will document or record inputs for this purpose.

8. Availability control
   It is guaranteed by the following measures that personal data are protected against accidental destruction or loss:
   > Daily/weekly/monthly/annual data backup
   > Storage Area Network (SAN)
   > Disk mirroring (RAID among others)
   > Uninterruptible power supply (UPS)
   > Overvoltage filter
   > Emergency generator
   > Outsourcing of data
   > Fire prevention devices

9. Data protection management
   It is ensured that a data protection management is set up and implemented. The data protection management is broken down into the following points:
   > List of processing activities
   > Contract data processing
   > Data protection impact assessment
   > Incident response management
   > Report of breaches of data protection
   > Training
   > PDCA (Plan, Do, Check, Act): regular checks

10. Incident response management
    Measures were taken concerning how the responsible persons should react to potential scenarios. These include data security breaches, DoS (Denial of Service), DDoS (Distributed Denial of Service), gaps in the firewall, outbreaks of viruses or malware and also threats by insiders.
    The incident response management is divided into six important phases:
    > Preparation: Both the users as well as the IT employees are trained or informed that potential incidents happen and which steps have to be initiated.
    > Identification: Determination whether an event actually concerns a data protection incident.
    > Containment: To limit the damages caused by the incident and isolate the affected systems in order to avoid further damages.
    > Eradication: To find the cause or what triggered the incident off and to remove the affected systems from the productive environment.
    > Recovery: To integrate affected systems into the productive environment again, after it has been ensured that no further threats exist.
    > Gained knowledge: Completion of the incident documentation and analysis what the team or the company can learn from the incident. This way future responses can be improved under certain circumstances.

11. Privacy by Design & Privacy by Default
    It is guaranteed that suitable technical and organizational measures were taken, which ensure that by corresponding pre-settings principally only personal data are processed of which the processing is necessary for the respective determined processing purpose:
    > Personal data will only be collected if they are necessary for the processing of the contract (season tickets, etc.).
    > The setting of cookies in web-shops is only possible with the consent of the user.
    > The use of the personal data for marketing purposes is only permitted by the active consent of the user.

12. Order control
    It is guaranteed that personal data, which are processed by order, are only processed in line with the instructions of the client. Contracts exist for the following types of contract data processing:
    > Data processing by external parties
    > Data carrier destruction / disposal by external parties
    > Maintenance and remote maintenance by external parties
    > Administration / remote administration by external parties
    The processing of personal data by order - only in line with the instructions of the client - is guaranteed by the following measures:
    > Written instructions
    > Offer and confirmation of order
    > Pseudonymization

13. Sub-contract data processor
    > CN Group CZ s.r.o.
    > Agentur LOOP New Media GmbH
    > conova communications GmbH