

## Terms and Conditions (T&C)

The present Terms and Conditions (hereinafter referred to as "T&C") are an integral part of the contract concluded between the customer and Tibram Ltd.. In addition, Tibram Ltd. may set additional conditions for certain supplies or services.

Any deviating conditions of the customer in the particular case as well as the general conditions or purchase conditions of the customer are considered as excluded. Different agreements expressly agreed between the customer and Tibram Ltd. must be in writing or in text form on the basis of a special agreement between the customer and Tibram Ltd..

### **SERVICES OF Tibram Ltd.**

The scope of supply or the scope of services of Tibram Ltd. can be taken from its order confirmation, from individual and binding service descriptions and from the contract with the customer. Brochures, catalogues and indications on the website are in principle not binding.

Subject to different regulations in the written agreement with the customer, the packaging of the supply is not included in the price and will be invoiced additionally. The packaging will not be taken back by Tibram Ltd. except in cases where it has been agreed that the packaging is to be returned to Tibram Ltd. at the customer's expense.

Transport or shipping costs and insurance of the supply are not included in the price. Any special wishes of the customer concerning transport or shipment must be communicated to Tibram Ltd. in time. Complaints regarding transport or dispatch must be communicated by the customer to the last carrier immediately upon receipt of the supply. Insurance against damages of any kind is the customer's responsibility.

For the execution of the contract, Tibram Ltd. can at any time and independently have recourse to responsible subcontractors.

### **ADAPTATION OF SUPPLIES, SERVICES AND DESIGN / TECHNICAL MODIFICATIONS**

Tibram Ltd. is entitled to adapt its supplies and services, in particular to make design and technical changes, insofar as this is considered useful for technical reasons or due to market developments and insofar as this does not hinder the legitimate interests of the customer.

### **DUTIES OF THE CUSTOMER**

Unless otherwise agreed in the contract, the supply or services of Tibram Ltd. comply with Swiss services and standards. The customer must make Tibram Ltd. aware in writing, before the conclusion of the contract, of foreign regulations and standards or specific foreign regulations and standards on the

import and export of the supply or on the execution of the services.

If material is made available to the customer for the execution of Tibram Ltd. this material must be kept in a suitable place and protected from harmful influences, in particular from heat and humidity. This material remains the property of Tibram Ltd.. In the event of damage or loss, the customer must bear the costs of replacing the material.

Tibram Ltd. depends on the customer's cooperation and support to provide its services. If the customer does not fulfil his obligations of collaboration, Tibram Ltd. is released from its other obligations. Furthermore, Tibram Ltd. can, after warning, charge the customer for the costs incurred.

### **DELIVERY TIME**

The delivery period according to the order confirmation or the contract shall apply. This period is only binding if it has been guaranteed in writing as "binding" by Tibram Ltd..

The binding delivery time guaranteed by Tibram Ltd. will be met to the best of its ability. Compliance with the deadline is dependent on the fulfilment of the contract, in particular on the fulfilment of the customer's duty to cooperate. In particular, the deadline is extended if the customer does not fulfil his duties of cooperation or does not do so on time or if he makes changes in the scope of supply or service or in case of force majeure or fortuitous events which Tibram Ltd. cannot avoid despite all due diligence, regardless of whether these occur in its sphere of influence, in that of the customer or of a third party.

With the exception of the following rights and subject to unlawful intent or gross negligence on the part of Tibram Ltd., the customer waives all rights and claims due to delays in delivery or delays in the execution of the services.

The customer is in principle not entitled to withdraw from the contract due to a delay in delivery. However, if the delay is longer than 10 days and arguably due to Tibram Ltd.'s fault, the customer will be entitled to claim compensation to the extent of the damage actually incurred, up to a maximum of 5% of the price of the delayed delivery or the delayed performance of the service. However, if the damage that actually occurred as a result of the delay exceeds the maximum compensation, the customer must set a reasonable additional period of time in writing to Tibram Ltd.. If this deadline is not respected by Tibram Ltd. in a faulty manner, the customer is entitled to refuse receipt of the delayed part of the delivery or the service not yet provided. If a partial receipt cannot reasonably be demanded of the customer for economic reasons, he is entitled, against return of deliveries already made, to terminate the contract and request reimbursement of

payments already made, as long as it is to be assumed that a return of contractual services is at all possible.

#### **TRANSFER OF BENEFITS AND RISKS**

If items under contract are handed over or sent to the customer at their production site, the products and risks associated with the contracted object pass to the customer as soon as they are handed over to the customer or the carrier. The transport is carried out at the customer's expense and at the customer's peril.

If the delivery of the item to the customer or carrier is delayed at the customer's request or for reasons beyond the influence of Tibram Ltd., the benefits and risks are passed on to the customer at the time of the originally agreed discount. From then on, contract items will be stored at the customer's expense and at the customer's peril.

#### **INSPECTION OF THE DELIVERY, APPROVAL**

Tibram Ltd. controls deliveries on reasonable commercial terms before they are delivered to the customer or carrier. Further controls must be the subject of a special agreement.

The customer must check the deliveries as soon as he receives them and notify Tibram Ltd. immediately in writing, with detailed indication of any defects found. Should he infringe on this duty, the delivery shall be deemed to have been accepted by the customer.

If the customer has criticized a defect without any defect attributable to Tibram Ltd. being found, he must compensate Tibram Ltd. for the costs incurred by the claim.

#### **WARRANTY, LIABILITY FOR DEFECTS**

If defects are found in the deliveries or services, the customer shall be entitled **exclusively to the rights and claims expressly mentioned in this chapter (warranty, liability for defects)**...

Tibram Ltd. shall remedy defects detected during the inspection and accused of having occurred during the inspection as soon as possible in accordance with the section "Inspection of the delivery, approval". Insofar as this is necessary and reasonable for the customer, he shall be obliged to cooperate in this. The customer must be notified of the completion of the repair. The customer must re-examine the part of the delivery that is the subject of the complaint. The rules according to the section "Inspection of the delivery, approval" apply accordingly.

The warranty period is 12 months from the handover of the delivery to the customer or the carrier. If the handover, transport or shipment is delayed at the request of the customer or for reasons for which Tibram Ltd. is not responsible, the delivery period shall begin at the originally agreed handover date. For repaired or replaced parts, the warranty period, which in this case is 6 months, begins with the

handover, transport or dispatch of the repaired or replaced parts.

The customer's warranty claim expires immediately if the customer or third parties not authorized by Tibram Ltd. make changes or repairs, if the customer does not immediately take all reasonable measures to reduce the damage or if the customer neglects his obligations to cooperate in the elimination of the damage. Improper handling, maintenance and use, defects due to normal wear and tear, excessive strain, unsuitable equipment or other reasons for which Tibram Ltd. is not responsible, such as *force majeure* or accidental events, also exclude the warranty. Furthermore, all consumables are excluded from the warranty. Nor does Tibram Ltd. provide any warranty for third party services requested by the customer or for defects caused by faulty or unsuitable material supplied or prescribed by the customer.

If a defect occurs in one or more parts of the delivery during the warranty period, which can be proven to be due to faulty material supplied by Tibram Ltd., to a design fault or to faulty workmanship, or if one or more warranted characteristics are not or only partially fulfilled and the customer notifies Tibram Ltd. of this defect without delay, giving precise details of the defect, Tibram Ltd. undertakes at its discretion to fix this defect as quickly as possible or to replace the faulty part. Replaced parts shall automatically become the property of Tibram Ltd., unless Tibram Ltd. expressly waives this right. Tibram Ltd. shall bear the reasonable costs of repairing or replacing defective parts including the usual transport costs.

Only those characteristics which are expressly mentioned as such in the order confirmation or in the contract shall be considered guaranteed characteristics.

If the repair is unsuccessful or only partially successful, the customer shall be entitled to a reasonable reduction in price. If the defective deliveries or services are not carried out correctly for the purposes communicated in advance or only to a significantly reduced extent, the customer is entitled to refuse acceptance of the defective part of the delivery or service. If partial acceptance cannot reasonably be expected from the customer in economic terms, the customer shall be entitled, against return of the deliveries made, to withdraw from the contract accordingly and to demand reimbursement of payments already made insofar as this is possible for the contractual services already provided.

#### **DISCLAIMER**

Breaches of contract of any kind, and any claims of the customer resulting therefrom for any legal reason whatsoever, are exhaustively regulated in these T&C. All claims of the customer under or in connection with the contract are limited in total to the total price paid by the customer. Any claims for compensation, reduction, termination or cancellation of the contract which are not expressly mentioned are excluded, subject to other binding legal liability pro-

visions. Tibram Ltd. and its subcontractors shall therefore not be liable either for direct or indirect, mediate or immediate losses. This exclusion extends in particular to any liability of Tibram Ltd. and its subcontractors for technical or economic success, inadequate advice, loss of profits, claims of third parties and consequential damages due to loss of production, loss of data or violation of ancillary obligations of any kind.

### **PRICE BASE**

All agreed prices are in Swiss francs and, subject to written contractual agreements, are exclusive of value added tax and other public charges. The agreed prices do not include delivery costs, packaging or other ancillary production costs such as insurance premiums, authorisation costs of any kind or certification costs. These costs, as well as taxes, fees and customs duties of any kind as well as administrative expenses in connection with this contract or its execution shall be borne by the customer, even if these costs are levied on Tibram Ltd. or one of its subcontractors. These costs shall be reimbursed to Tibram Ltd. or its subcontractors against presentation of the corresponding supporting documents and receipts.

Necessary electrical installations or structural modifications are also not included in the price. This also applies to training courses and any special adaptations. Insofar as the customer requires such services, these will be invoiced separately.

Tibram Ltd. shall be entitled to adjust the price if the delivery takes place at a later date than agreed upon in the contract due to non-performance or delayed performance of the customer's cooperation, or if the performance, consistency or scope of the delivery or service has changed as a result of circumstances for which the customer is responsible or due to changed legal provisions.

If a maintenance contract has been concluded, the approaches shall be valid in accordance with this contract. Distances and travel times are charged according to official Google Maps indications. Signed reports shall be deemed acknowledged.

Any objections to the invoice must be made in writing by the customer within the period in which payment should have been made. Unless objections are raised within this period, the invoice shall be deemed to have been approved by the customer.

### **TERMS OF PAYMENT**

Payments shall be made by the customer in accordance with the terms of payment set out in the contract, without deduction of discounts, fees, charges or other costs. If no special terms of payment have been agreed upon in the contract, the following terms of payment shall apply for orders of CHF 10,000 or more:

- 50 % of the (net) order value shall be due 10 days after receipt of the order confirmation (the order will only be triggered after receipt of payment);

- the balance (net) shall be due 30 days after order execution (delivery).

Individual dates and deadlines are fixed in the order confirmation and must be adhered to even if delivery or services or acceptance are delayed for reasons outside the sphere of influence of Tibram Ltd. or if the customer asserts non-essential contractual defects. After expiry of the payment deadline, the customer is automatically in arrears without any need for a reminder.

If the advance payment or the contractually agreed securities are not provided, Tibram Ltd. is entitled, at its choice, to continue to demand performance or to withdraw from the contract and in both cases to claim damages.

If Tibram Ltd., due to a circumstance occurring during the term of the contract, has justified reasons to fear that it will not receive payments from the customer in full or on time, Tibram Ltd. is entitled to suspend performance as long as the customer does not provide guarantees for the proper performance of the contract. If such guarantees are not provided within a reasonable period of time, Tibram Ltd. is entitled to withdraw from the contract and to claim damages.

If the customer is in arrears with payment, Tibram Ltd. may demand default interest of 5%. Tibram Ltd. expressly reserves the right to assert further claims on account of the delay in payment. For reminders, Tibram Ltd. may charge a fee of CHF 20.00 per reminder.

Tibram Ltd. may offset its claim against counterclaims of the customer. However, the customer is not entitled to offset any counterclaims against claims of Tibram Ltd.. The customer undertakes to waive any rights of retention vis-à-vis Tibram Ltd..

### **RETENTION OF TITLE**

The delivered goods shall remain the property of Tibram Ltd. until all claims of Tibram Ltd. have been paid in full. Proprietary rights do not pass to the customer for the same period of time. The customer agrees that the retention of title can be registered in the relevant property register at his own expense. For this purpose, the customer shall contribute to the necessary actions. The customer shall be obliged to maintain the supplies received during the period of retention of title at his own expense and shall be obliged to insure the supplies against intervention by third parties within the scope of usual practice. The customer shall not be entitled to take pledges or to transfer security on the goods. In addition, he must take all necessary measures to ensure that Tibram Ltd.'s right of ownership is neither hindered nor cancelled.

### **RIGHTS OF USE**

Tibram Ltd. reserves all rights to the drawings and technical documents handed over to the customer.

The customer shall make these documents available to third parties only after prior written approval by Tibram Ltd. and shall only use them for the purposes agreed upon with Tibram Ltd..

The customer acknowledges that the deliveries may be subject to Swiss or foreign export controls and that in the event of non-authorisation by the competent authority, these deliveries may not be sold, leased or transferred in any other way or used for any purpose other than that agreed. The customer undertakes to comply with such laws and regulations.

The customer undertakes to use any software supplied only on its own installation and for its own use (non-exclusive, non-time-limited and non-transferable right of use) and not to make these programs, including the documentation, available to third parties, either in whole or in part, or to make them accessible in any other way. With the exception of this right of use, Tibram Ltd. or the authors of these programs retain all rights to the programs, even if the customer makes changes to them. Additional or different special regulations on the use of the software remain reserved and are also part of the contract. They shall take precedence over these T&C. No changes to the programs or copies of the programs and related documents may be made without the express written consent of Tibram Ltd..

#### **CUSTOMER DATA**

The data collected by Tibram Ltd. (including the

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customer's personal data) is used for the purpose of fulfilling the contract. In addition, Tibram Ltd. is entitled to use the data on paper or by e-mail for information purposes and for the maintenance of the mutual business relationship.

Furthermore, the customer agrees that Tibram Ltd. may pass on the customer's data to third parties in Switzerland and abroad to the extent that this is necessary for the above-mentioned purposes or to fulfil a legal duty to provide information.

#### **PLACE OF PERFORMANCE, PLACE OF JURISDICTION, APPLICABLE LAW**

The place of performance shall be Tibram Ltd.'s registered office.

The exclusive place of jurisdiction for both contracting parties shall be the registered office of Tibram Ltd..

The agreements and contracts shall be governed by Swiss substantive law. The "Vienna Purchase Law" (United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980) shall not apply.

Should individual provisions or parts of a provision of these T&C be invalid or unenforceable, the remaining provisions shall remain valid. In such a case, the invalid or unenforceable provisions shall be replaced by enforceable provisions whose economic impact is legally as close as possible to that of the invalid provisions.