

## tooz App: Terms of Use

(Version as at: 1. December 2020)

Any use of a tooz app, e.g. My Smart Glasses or the tooz Emulator, (the “**App**”) by you (“**You**”, the “**User**”) is subject to these terms of use “**Terms of Use**” of tooz technologies (“**tooz**”), Turnstrasse 27, 73430 Aalen, Germany, as follows:

### 1 General

- 1.1** The App is provided to You free of charge and solely for the purposes and with the scope of rights laid down in clause 3 and 4 hereof. By using this App you confirm that you are a business user. You can download the App from different sources, including the Google Play app store operated by Google Inc, and the tooz website [[www.tooztech.cn/download](http://www.tooztech.cn/download)].
- 1.2** Unless expressly agreed otherwise in writing, Your use of the App is exclusively governed by these Terms of Use. These Terms of Use do not apply to Your relation to Google Inc. Please be aware that Google Inc as the operators of the respective app store has its own terms of use, which may apply to Your relation to Google Inc, but not to Your relation to tooz.
- 1.3** An individual contract between You and tooz for the use of the App, which is subject to these Terms of Use, is formed when You use the App the first time for Your own business purposes and thereby accept these Terms of Use (“**User Contract**”). In case You are acting on behalf of your employer or any third party (the “**Represented Party**”), the User Contract is concluded between the relevant Represented Party and tooz.
- 1.4** The App displays a link [[www.tooztech.cn/terms](http://www.tooztech.cn/terms)] which You can click in order to download these Terms of Use as a PDF document.

### 2 Changes to the Terms of Use, Termination

- 2.1** tooz reserves the right to amend these Terms of Use at any time with a notice period of 4 (four) weeks.
- 2.2** If you are a registered user of our DevKit hardware, tooz will send You the amended version of the Terms of Use to the e-mail-address provided during the registration process (cf. clause 2) or make the amended version of the Terms of Use available to You by means of updating the PDF behind the link directly in the App. If You do not object to the amended version of the Terms of Use within 4 (four) weeks after receipt of the e-mail/ the update of the PDF behind the link in the app and continue the usage of the App after the expiration of this objection period, the amendments shall be deemed to have been validly agreed with effect from the expiration of the objection period. tooz will inform You on Your right to object as well as on the consequences of an objection and will highlight the relevant changes in the notification. Any objections must be submitted to the following e-mail-address: [dev@tooztech.com](mailto:dev@tooztech.com). In case of an objection, the User Contract will be continued subject to the previously valid Terms of Use. In this case, however, tooz

reserves the right to terminate the User Contract without a notice period if tooz cannot reasonably be expected to continue the contractual relationship without the proposed changes to the Terms of Use.

- 2.3** Both Parties may terminate the User Contract at any time with immediate effect. The right of both parties to terminate the User Contract for cause shall remain unaffected.

### **3 Permitted uses and scope of Services**

- 3.1** The App is provided to You for the purpose of connecting your own developed software applications (“**Toozers**”) with the smart glasses (“**tooz DevKit 20-Glasses**”) tooz has sold to You or the Represented Party as well as a selected number of other developers. In order to connect your Toozers with the tooz DevKit 20-Glasses, it is necessary that You integrate the tooz library (“**Library**”) into the Toozers.

- 3.2** The App will be provided free of charge to You and therefore there is no entitlement to the uninterrupted availability or to a specific response time or a specific behaviour or other specifications of the App. Albeit tooz uses commercially reasonable efforts to provide a convenient user experience, there is no guarantee or warranty by tooz that access to or use of App will not be interrupted or impaired e.g. by maintenance work, further developments or that other disruptions occur. There is no right to software maintenance and no right to support for the App.

- 3.3** The App is provided “AS IS” free of charge and tooz therefore makes no representations and gives no warranties that the App has particular functions or that existing functions will continue to be provided in the future. Furthermore, tooz reserves the right to change and/or to modify the structure, functionality and design of the App at any time. tooz will inform the User of any changes to the App by means of a release note in the App reasonably in advance.

### **4 Right to use**

- 4.1** All copyright and other intellectual property rights in the software, the design and content of the App and the Library are and will remain the property of tooz, its affiliates and/or its subcontractors.

- 4.2** Under the User Contract, tooz grants You a revocable, non-transferable, non-exclusive, worldwide right to use the App and the Library for developing and testing the Toozers (including any updated versions, unless they are subject to separate license terms). Your right of use include (i) the right to install the App on a mobile end device and the right to use the App in accordance with its designated purpose pursuant to clause 3 hereof as well as to (ii) integrate the Library into Your Toozers and to distribute the Library together with the Toozers for test purposes. For the avoidance of doubt this does, however, not include the right to alter, modify, change or edit the App and or the Library.

- 4.3** You must not misuse the App within the meaning of clause 5.1 and the right to use the App is further limited as follows:

- 4.3.1** Your right to reproduce the App is limited to installing the App on a mobile end device (e.g. mobile telephone or tablet) in Your immediate possession for the purposes of the App's intended use; to such reproduction as is necessary for loading, displaying, running, transmitting and storing the App; and to the creation of a backup copy of the App by a person permitted to do so in accordance with applicable law. You shall not work around any technical limitations in the software.
- 4.3.2** You are granted a right to distribute the Library, in object code form only, in Toozer you develop and you may permit distributors of your programs to copy and distribute the Library as part of those Toozers. However, you must not make modifications or extensions to the Library.
- 4.3.3** You may not reverse engineer, decompile or disassemble the software, except and only to the extent permitted by applicable law despite this limitation.
- 4.3.4** You are only permitted to communicate the official sources / download locations of the App to make it available to the public by wired or wireless means, or to make it available to third parties free of charge in order to allow the public / third parties to use a Toozer developed by you. You are also permitted to make the Library available to the public as part of a Toozer free of charge. You are however not permitted to make the App or a Library available to the public in return for payment.

## **5 Misuse and suspension of use**

- 5.1** The App may not be used for racist, discriminatory, pornographic or otherwise illegal purposes, particularly not for fraudulent activities, data espionage and phishing.
- 5.2** tooz may temporarily restrict or block Your access to the App in whole or in part, if tooz has legitimate reason to assume that (i) You are not using the App in accordance with the User Contract, particularly in compliance with these Terms of Use, (ii) You are not using the App in accordance with applicable law and/or (iii) Your usage of the App has a negative effect on the rights or legitimate interests of tooz or third parties so that immediate action is necessary to avoid damage. Any rights of termination shall remain unaffected by this clause 5.
- 5.3** tooz will restrict the blocking to the period of time necessary to avoid the damage and will notify You prior to any intended restriction or blocking of Your access to the App, if possible. In any case, tooz will notify You immediately after blocking. The access will be reactivated after the expiration of the blocking period or the final elimination of the reason for the blocking.
- 5.4** In the event of a repeated or continued misuse of the App within the meaning of this clause 5 despite of a warning notice sent by tooz, tooz reserves the right to permanently block Your access and to permanently exclude You from the use of the App. A permanently blocked access cannot be restored and you may not use the App again.

## **6 Warranty, Liability, Indemnification**

- 6.1** As the App and the Library are provided for free, we exclude any warranties and liabilities for the App and the Library.
- 6.2** The exclusions and limitations of liability in clause 6.1 do not apply in the case of loss of life, personal injury or injury to health, nor do they apply to liability under the German Product Liability Act or to breaches of guarantees given by tooz. Any limitations and exclusions of liability provided in this clause 6 shall also apply to the benefit of any directors, employees, agents, sub-suppliers, sub-contractors, and any other persons used by tooz in performing any of tooz' obligations.
- 6.3** You agree to fully indemnify, hold harmless and defend tooz against law suits based on any claim: (i) that any content, in particular Toozers, created by You infringes any patent, copyright, trademark, trade secrets, or other proprietary rights of a third party, or (ii) related to Your alleged violation of the terms of these License Terms.

## **7 Applicable Law and Venue**

The laws of the Federal Republic of Germany shall apply to these Terms of Use and the User Contract between You and tooz. The application of the United Nations Convention on Contracts for the International Sale of Goods (CSIG) as well as of the rules of the conflicts of laws is hereby expressly excluded. If You are a merchant, the exclusive jurisdiction to hear all disputes between You and tooz arising in relation to or under the User Contract between You and tooz rests with the competent courts in Aalen, Germany.

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