

# Tost GmbH Flugzeuggerätebau München

## General Terms of Business

### §1 Validity of Terms

1) Our deliveries, services and offers are made solely in accordance with these Terms of Business. These Terms will also apply to all future business agreements, including those cases when they have not been expressly agreed to again. The receipt of our order confirmation and/ or the acceptance of the goods ordered will be taken as proof of acceptance of these terms. Affirmation of conflicting terms of business by the Purchaser including reference to his own company's Terms of Business or Terms of Purchase will not be regarded as an obligation on our part.

2) All agreements reached between the Vendor and the Purchaser with the purpose of executing this contract are to be detailed in writing within the said contract.

### § 2 Offers and Contracts

1) Our offers and catalogues are subject to alteration and are not binding. Declarations of acceptance and all orders are not legally binding until written acknowledgement by letter or fax on our part has been received.

2) Drawings, diagrams, measurements, weights and other data relating to the goods are only binding if they have been expressly agreed to in writing.

3) Our sales staff are not authorised to make supplementary verbal agreements or to give verbal assurances beyond those contained in the written contract.

4) If the goods ordered are a special or modified version, they are excluded from return or exchange. This does not affect the purchaser's guarantee rights according to these regulations.

### §3 Prices

1) Unless otherwise stated, the prices quoted in our offers are valid for a period of 30 days from the date on which the offer was made. Additional deliveries and services will be charged separately.

2) The prices applicable are those which are valid on the day of delivery or the day the services were provided, plus the value-added tax applicable in each case.

3) In the case of small orders under € 30.00 an administrative charge of € 6.00 will be made.

### § 4 Delivery and Productivity Time

1) Delivery dates or deadlines must be made in writing and may be either binding or without obligation.

2) Particularly in the case of large orders, we are entitled to deliver the goods in part shipments in quantities which are reasonable for the customer, provided that no disadvantage for him results from such part shipments.

3) Deadlines and dates are always to be regarded as approximate, unless a special agreement has been reached in writing in individual cases. Should the period of time determined by the approximate delivery date or deadline be exceeded, the customer shall be entitled to withdraw from the contract after setting us an appropriate period of grace of at least 30 working days for the completion of the contract.

### § 5 Risk Transfer, Own Supplies

1) The place of execution is Munich. The Purchaser shall bear the costs of shipment from the Vendor's nearest branch works, unless these costs exceed an appropriate amount in relation to the value of the goods to be delivered. Unless agreed to the contrary, the dispatch route or means are at our discretion.

2) The Vendor bears no risk relating to the acquisition of the goods. In spite of any previous agreement to the contrary, he is entitled to withdraw from the contract if he does not receive a corresponding purchase contract relating to the goods to be delivered. He will inform the Purchaser immediately and reimburse the purchaser without delay for any services in return.

### § 6 Liability

1) The Vendor assumes liability in accordance with the legal terms in the case of intent or gross negligence of the Vendor or his representative or assistant. In other cases the Vendor assumes liability only in accordance with the product liability laws, in the case of risk to life, limb or health or as a result of culpable negligence of important duties relating to the fulfilment of the contract. In this respect, the following limitations of liability shall be invalid. The compensation for the violation of important terms of the contract shall be limited to the normal predictable damage relating to the fulfilment of the contract. Even in cases of gross negligence, the Vendor's liability is limited to the normal predictable damage relating to the fulfilment of the contract except when the exceptions listed in sentence 2 of this paragraph 1 apply.

2) The regulations in the above-mentioned paragraphs 1) and 2) extend to both compensation in addition to the services and compensation instead of the services, irrespective of the legal reason, in particular as a result of faults, the negligence of duty relating to the relationship of debenture or illegal actions. They also apply for claims for compensation relating to unnecessary expenditure.

3) The Vendor shall be liable when delays occur in the provision of services in cases of intent or gross negligence on the part of the Vendor or his representative or assistant, in accordance with the terms of the law. In other cases of delay in the provision of services, the liability of the Vendor shall be limited to 60 % of the value of the shipment in the case of compensation in addition to the services and to 60 % of the value of the shipment in the case of compensation in lieu of the services. In the case of culpable negligence of important duties relating to the fulfilment of the contract, however, the liability shall also be limited to the normal predictable damage relating to the fulfilment of the contract. Further claims on the part of the Purchaser are excluded, also after expiry of a time limit set for the Vendor to provide the agreed services.

4) Should the delivery prove impossible, the Purchaser is entitled to claim compensation in accordance with the terms of the law. However, the Purchaser's right to compensation is limited in the case of compensation in addition to or instead of the services and to compensation for unnecessary expense, to 60 % of the value of that part of the shipment which cannot be used as a result of the non-delivery. Further claims of the Purchaser relating to the non-fulfilment of the supply of goods are excluded. The Purchaser's right to withdraw from the contract is not affected.

5) If, at the request of the Purchaser, the dispatch of the goods is delayed by more than two weeks later than the agreed delivery date, or, in cases when no precise delivery date was indicated that the goods are ready for delivery, the Vendor is entitled to make a lump sum storage charge in the amount of 0.5 % of the price of the goods to be delivered, up to a maximum of 5 % of the price of the goods, for each month or part month. The Purchaser is entitled to prove that the Vendor has suffered no loss or damage, or considerably less loss or damage as a result in the delay in delivery. The Vendor is entitled to prove that the damage suffered is greater than this amount.

6) In the case of delayed payment, the Vendor is entitled to charge interest as compensation for the delay up to an amount of 7 % above the base rate. The Purchaser is entitled to prove that the damage is not higher than 5 % above the base rate. The Vendor is entitled to prove that the damage suffered is greater than this amount.

### § 7 Manufacturer's Warranty (except for the purchase of consumer goods)

1) With regard to the purchase of consumer goods, the legal regulations shall apply. In all other cases, the following shall apply:

2) Claims that the goods are faulty are not justified when the goods vary insignificantly from the agreed specification, or when there is only a minor reduction in usefulness.

3) The Vendor is entitled to decide whether the faults should be repaired or the goods replaced. If the repair or replacement does not produce a satisfactory result, the Purchaser shall have the right to reduce the payment due or, if he prefers, to withdraw from the contract.

4) In the case of repair or replacement of the goods, the Purchaser is not obliged to repeat his services or to produce the goods a second time. The expenditure necessary for the repair or replacement of the goods, as the Vendor thinks fit, shall be borne by the Purchaser. If the repair or replacement is unsatisfactory, the Purchaser has the right to reduce the payment due or, if he prefers, to withdraw from the contract. This clause does not affect the Purchaser's rights in accordance with the legal regulations and his right to claim compensation instead of the agreed services in accordance with these regulations.

5) The period of limitation relating to claims and rights with regard to faulty goods and services – for whatever legal reason – begins in the case of all claims for compensation and claims for the replacement of unsatisfactory services with the delivery of the goods and lasts for one year. This period also applies to all claims for compensation against the Vendor, regardless of the statutory basis. This also applies provided the claims are not related to a fault.

6) The Purchaser may only withdraw from the contract within the legal regulations when the Vendor is in breach of his duty. In the case of faulty goods or services the legal regulations shall apply. In the case of dereliction of duty, the Purchaser shall indicate within a reasonable period of time if requested to do so by the Vendor whether as a result of this dereliction of duty he will withdraw from the contract or whether he insists on receiving the goods.

7) Statements of the Vendor relating to this contract (e.g. description of services, references to DIN standards etc.) contain in cases of doubt no guarantee of quality or standards on the part of the Vendor. In case of doubt, only specific written declarations of the Vendor regarding the guarantee of quality or standards shall apply.

8) The Purchaser is required to inform the Vendor of material or legal faults in delivered goods in written form immediately after receipt. In such cases the Purchaser shall describe the faults in as detailed a manner as possible.

### § 8 Retention of Ownership

1) We shall be provided with the following securities until all demands have been met (including all demands for payment of the balance from the current account) which are payable to us for any legal reason by the Purchaser. On demand we shall release them according to our preferences, provided that their sustained value exceeds the demands by more than 20 percent.

2) The goods remain the property of the Vendor. Processing or modification shall always be carried out for the Vendor as manufacturer, but without obligation on his part. Should the (co-) ownership of the Vendor be extinguished by consolidation, then it is hereby agreed in advance in this contract, that the (co-) ownership of the Purchaser with regard to the standard item proportionate to the value (invoice value) shall be transferred to us. The Purchaser shall store our (co-) property at no cost. Goods of which we are the (co-) owners will be described below as title goods.

3) The Purchaser is entitled to process and to sell the title goods during the course of normal business, provided that his payments are not in arrears. Pledging or chattel mortgage are not permitted. As a precautionary measure, the Purchaser hereby assigns to us in full all demands arising from the sale or some other legal reason (insurance, prohibited dealing) with regard to the title goods (including all demands for payment of the balance from the current account). Unless this right is revoked by us, we hereby authorize the Purchaser to enforce the payment demands assigned to us on his own account. This authorization to enforce payment can only be revoked if the Purchaser fails to fulfil his payment obligations in a proper manner.

4) Should a third party seek access to the title goods, in particular in the case of a pledge, the Vendor shall point out that the goods are our property and inform us immediately, in order to enable us to assert our rights of ownership. Inasmuch as the third party is not in a position to reimburse us for the legal or extra-judicial costs involved in this respect, the Purchaser shall be liable for such costs.

5) Should the Purchaser act in a manner which is contrary to the terms of the contract – in particular with respect to arrears of payment – we are entitled to take back the title goods or if appropriate to demand that the Purchaser's right to dispose of the goods be assigned to third parties. This does not affect the legal regulations relating to the dispensability of fixing of a time limit

### § 9 Payment

1) Unless otherwise agreed, our invoices become payable 30 days after the date of issue, without deduction. On agreement we grant 2 % cash discount for payment within 10 days.

2) Payment from abroad are due in advance per bank trans or credit card.

3) In the case of neglect of duty by the Purchaser, in particular in cases of delays in payment, the Vendor is entitled to withdraw from the contract and to demand the return of the delivered goods, provided that the Purchaser has been given an appropriate period of grace in which to pay but has failed to do so. This also applies in case of a temporary insolvency against the Purchaser or the company ordering the goods. This does not affect the legal regulations relating to the dispensability of fixing of a time limit.

4) The Purchaser is only entitled to reduce payments when the counter-claims have become legally enforceable or if they are not disputed. The Purchaser is only entitled to withhold payment in the case of claims arising from the same agreement.

5) If no redemption agreement has been made by the Purchaser, the Vendor is entitled to offset payments in the first instance against previous debts, and to inform the Purchaser regarding the way the payment has been utilised. If costs and interest have already been incurred, the Vendor is entitled in the first instance to offset the payment against the costs, then against the interest, and finally against the main sum outstanding.

6) Should circumstances become known to the Vendor which call into question the creditworthiness of the Purchaser, in particular should a cheque not be honoured or the Purchaser stops payment, or should we become aware of other circumstances which call into question the creditworthiness of the Purchaser, then we shall be entitled to demand payment of the total amount outstanding. In such a case the Vendor is also entitled to demand advance payments or presentation of securities.

### § 10 Applicable Law, Place of Jurisdiction, Partial Nullity

1) These Terms of Business and all legal business relations between the Vendor and the Purchaser are subject to the law of the Federal Republic of Germany.

2) Inasmuch as the Purchaser is a merchant who has been entered in the commercial register under the terms of the Commercial Code, or a legal person under public law or property under public law, the place of jurisdiction for all disputes arising directly or indirectly from the business relationship shall be Munich.

3) Should any clause in these Terms of Business or any clause within the framework of any other agreements prove to be or become ineffective, this fact shall not prejudice the effectiveness of any other terms or agreements.