



# TOPCAST AVIATION SUPPLIES CO., LTD.

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## Topcast Standard Sales Terms & Conditions (“T&Cs”)

### 1. Contract

- (1) Unless separate terms have been agreed in writing, these T&Cs shall apply to any contract between the customer (“**Customer**”) and Topcast to the exclusion of any other term or condition that the Customer seeks to impose or incorporate or which is implied by trade, custom, practice or previous course of dealing.
- (2) Any quotation provided by Topcast shall not constitute an offer. The Customer’s order (“**Customer’s Order**”) shall constitute an offer to purchase the goods stated in such order (“**Goods**”) on the terms of these T&Cs, and deemed to be accepted only if Topcast issues written acceptance in writing, whereupon a contract shall be formed on these T&Cs (“**Contract**”).

### 2. Prices

- (1) The price of the Goods is as set out in Topcast’s published price list as at the date of the Customer’s Order or (if unavailable) based on Topcast’s quotation pursuant to which the Customer’s Order is placed. Any quotation provided by Topcast shall remain valid for 30 days from the date thereof, unless otherwise specified in the quotation.
- (2) Unless otherwise agreed and stated in Topcast’s invoice (“**Topcast’s Invoice**”), the price shall be exclusive of costs of packaging, insurance, transport and taxes which shall be invoiced to the Customer.
- (3) The price of the Goods set out in the Contract does not bind Topcast to supply further or other goods at the same price. All prices are subject to change without prior notice. For updated price information, please contact your Topcast Sales Representative.

### 3. Payment terms / Credit

- (1) Terms of payment are either Cash With Order, C.O.D. or Letter of Credit at Topcast’s discretion as set out in Topcast’s Invoice. Topcast may be able to offer credit terms when merited on a case-by-case basis and upon conditions at Topcast’s discretion. To apply for credit, please contact your Topcast Sales Representative and submit a credit application before placing any order.

- (2) Time for payment shall be of the essence. A surcharge of one (1) percent per month of the outstanding price will be imposed for any late payment from the due date until payment. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- (3) Payment must be received in the currency stated in Topcast's Invoice. Payment may be made by TT to the following bank account or by cheque delivered to the Topcast's head office address:

Bank account (for TT payment):

Bank name: The Hong Kong & Shanghai Banking Corporation Ltd.

Bank address: 1 Queen's Road Central, Hong Kong

Swift Code: HSBCHKHCHKH

Account name: Topcast Aviation Supplies Co., Ltd.

Account no.: 588-329953-838 (USD)

Topcast's head office address (for payment by cheque):

Topcast Aviation Supplies Co., Ltd.

26/F Metropole Square

2 On Yiu Street

Shatin, Hong Kong

Attn: Account Receivable

#### **4. Delivery**

- (1) Delivery of the Goods shall be to the location(s) and in such quantities (including any tolerance range) specified in the Customer's Order. If the Customer is to collect the Goods from Topcast's designated premises, it shall do so within 3 business days of being informed by Topcast that such Goods are ready for collection. Delivery shall be completed upon unloading by Topcast or loading by the Customer (as the case may be) of the Goods at the designated location.
- (2) Risk in the Goods passes to the Customer upon delivery of the Goods to the carrier. However, title to the Goods shall not pass to the Customer until Topcast receives the full price due and payable for such Goods. Until title passes to the Customer, the Customer shall ensure that the Goods remain readily identifiable as Topcast's property and maintain such Goods in good and satisfactory condition.
- (3) Topcast shall use reasonable efforts to comply with the delivery schedule given to the Customer. However, the delivery schedules are approximate (time of delivery *not* being of the essence) and subject to shipping dates provided by the supplier or manufacturer (as the case may be) and the Customer's adequate instructions. Topcast shall not be liable for any losses, penalties or damages, including loss of profits, loss of use, incidental or consequential damages or any other direct or indirect losses,

which may result directly or indirectly from any delay or non-delivery as a result of the supplier's or manufacturer's delay, refusal or inability to deliver the Goods.

## 5. Damaged shipments / Shortages / Non-shipment

- (1) The Customer must open shipments and inspect the Goods for defective, damaged, non-conforming or missing items immediately upon delivery. Such items must be reported to the Customer's Topcast Sales Representative within 10 days of delivery, supported by relevant photos and removal reports ("**Report**"). If no Report is received by Topcast within this period, the Customer shall be deemed to have accepted the Goods. It is also the Customer's sole responsibility to notify and file a claim with the carrier and the Customer's insurer (if any) in accordance with their respective Cargo Claims Reporting Procedures ("**Customer's Claim**").
- (2) Upon review and satisfaction of the validity of claims made in a Report:
  - (a) In respect of missing items, Topcast shall arrange delivery thereof. Alternatively, Topcast and the Customer may mutually agree to a refund of an amount by way of credit that the Customer may utilize for further purchases. The amount so refunded shall be the lower of the invoiced price or Topcast's current published price of such items.
  - (b) In respect of damaged, non-conforming or defective items due to Topcast's, supplier's or manufacturer's fault, Topcast shall issue a Return Merchandise Authorization ("**RMA**") for the damaged or defective items to the Customer. The Customer shall return the items to Topcast's designated location in return for replacement thereof. The Customer shall not be entitled to return any item that is not subject to an effective RMA. Alternatively, Topcast and the Customer may mutually agree to acceptance of such items by the Customer, with adjustment to the price thereof as appropriate.
  - (c) In respect of items that were damaged or lost during transit or otherwise due to the carrier's and/or third party(ies)' fault, and provided that the Customer has properly made the Customer's Claim, Topcast may at its discretion agree to arrange for replacement thereof in accordance with sub-clause (b) above. In such case, Topcast shall be subrogated to the Customer's Claim and other claims against such third parties.
- (3) Any request for return of Goods shall be determined at Topcast's sole discretion in other situations. "Special Sale" or discontinued merchandise may not be returned under any circumstances. In addition, requests for return of non-stock items specially or specifically procured by Topcast for the Customer's Order ("**Special Order**") may be subject to their manufacturer's agreement, handling charges and/or restocking fees.
- (4) Items returned by the Customer in all cases are conditional upon an effective RMA having been issued and subject to the following conditions:
  - (a) The item must contain a part number originally purchased from Topcast.

- (b) The following information must be included with the shipment: (i) the date of purchase, (ii) Topcast's Invoice number, (iii) the reason(s) for return, and (iv) the RMA number.
- (c) The items must be in the same condition as received by the Customer and in original packing / container.
- (d) Topcast, as the consignee, is not responsible for damaged or lost freight on returned items. In accordance with ICC's Incoterm 2000 regulations, the Customer as the shipper must submit any claim against the carrier or insurance company.

## **6. Warranties and Limitations**

- (1) Topcast does not provide any warranty (express or implied) in respect of Goods (a) in Factory New or New Condition, (b) Overhauled or Serviceable Condition, or (c) subject to Special Orders. Please contact your Topcast Sales Representative for copies of the terms of the warranties in respect of such Goods provided by their manufacturers.
- (2) In respect of Goods in New Surplus Condition, Topcast will provide a limited 3-month warranty counting from date of completion of delivery. Please contact your Topcast Sales Representative for copy of the terms of the warranty.
- (3) Delivery of Goods to Topcast pursuant to a warranty claim shall be in accordance with paragraph 5(4) above and accompanied by the following additional information:
  - (a) The installation and removal date of the item, if applicable.
  - (b) Aircraft make, model and serial number, if applicable.
  - (c) Engine make, model and serial number, if applicable.
  - (d) Total time and cycle item was in service.
  - (e) Discrepancy with product, part number and serial number.
- (4) The Customer's sole remedy for any damaged, defective, non-conforming or missing Goods shall be limited to replacement and/or refund thereof pursuant to Clause 5 or the warranties pursuant to this Clause 6.
- (5) Subject to sub-clause (4) above, Topcast's total liability in connection with the Contract shall in respect of all and/or any claims or liability of whatsoever nature whether in contract, tort, misrepresentation or otherwise, whatsoever and howsoever arising, be limited to the price paid by the Customer under the Contract.

- (6) Under no circumstances shall Topcast be liable for any indirect losses, penalties or damages, including loss of profits, loss of use, wasted expenditure, loss of goodwill, third party claims or liabilities (including demands, fines, penalties, investigations or damages), incidental or consequential damages or any other indirect losses howsoever arising.

## **7. Core Returns**

- (1) Cores must be returned to Topcast at its designated location within 2 weeks upon the Customer's receipt of the Goods or in accordance with the terms stipulated in our quotation (as the case may be).
- (2) Topcast reserves the right to change the exchange transaction to outright transaction if any core is not received by Topcast by the core return due date. Topcast may also reject any returned core at its discretion. In such cases, Topcast shall be entitled to charge for the core, which the Customer shall settle within 30 days of the invoice therefor.

## **8. Termination**

Topcast may at its discretion either suspend its performance of or terminate the Contract with immediate effect by giving written notice if:

- (1) the Customer fails to pay any amount due under the Contract or any other contract with Topcast;
- (2) the Customer commits a material breach of its obligations under the Contract or any other contract with Topcast; or
- (3) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to (or threatens to cease to) carry on business or a substantial part thereof.

## **9. Other**

- (1) The Contract and these T&Cs are governed by and shall be construed in all respects in accordance with, the laws of Hong Kong. Any dispute arising therefrom (including interpretation of these T&Cs or validity of the Contract) shall be submitted to the non-exclusive jurisdiction of the court of Hong Kong or the court of jurisdiction in which the Customer is incorporated or carries on business.
- (2) If any of the provisions of the Contract becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

- (3) No variation to or waiver of any provision of the Contract shall be effective unless made in writing and signed by the authorized representatives of the parties. No waiver by either party of any breach of the Contract shall be considered to be a waiver of any subsequent breach of the same or any other breach of the Contract or any other contract between Topcast and the Customer.
- (4) The Contract shall be binding on and shall enure for the benefit of the parties and their respective successors and permitted assigns.
- (5) A person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Ordinance (Chapter 623) to enforce any provision of the Contract.
- (6) Topcast may at any time, without notice to the Customer, set off any liability of the Customer to it against any liability it has to the Customer, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract (without limiting or affecting any other rights or remedies available to Topcast under the Contract or otherwise).

**In order to let us serve you better, please contact your Topcast Sales Representative for any product or price information at telephone no. 852-2305-4111 or fax no. 852-2305-4388 or e-mail: [customer.support@topcast.com](mailto:customer.support@topcast.com)**