



CONTAINER MANAGEMENT & SALES
General Terms and Conditions

1. **GENERAL CONDITIONS** – The following General Terms and Conditions shall apply to all deliveries, services, offers or any other declarations relating to legal transactions of TOPtainer. Any conflicting or deviating terms and conditions of the customer shall not become part of the agreement, unless this is expressly agreed upon and confirmed in writing by TOPtainer and Buyer. TOPtainer's failure to insist on performance of any of the terms of this contract or TOPtainer's waiver of any breach shall not act as a waiver or any other term or condition of any subsequent breach.
2. **DELIVERY** – All containers subject to this contract (the "Containers") are sold in their current condition and at their current location (i.e. "AS IS, WHERE IS"), for use in international trade. Title to each purchased Container shall pass to Buyer upon Buyer's pick up of the Container. Risk of loss of a Container shall pass to Buyer upon the earlier of Buyer's payment or Buyer's pickup of the Container. TOPtainer shall have no liability for late delivery or non-delivery of any Container. If any cause, in whole or in part, prevents or hinders TOPtainer's performance of the sale of any Container to Buyer, TOPtainer may cancel, without any liability on its part to Buyer, all or any portion or portions of such sale.
3. **DISCLAIMER OF WARRANTIES** – BUYER IS AWARE THAT ALL CONTAINERS ARE USED AND ARE SOLD "AS IS". SELLER DISCLAIMS, AND BUYER WAIVES AND RELEASES SELLER FROM ANY AND ALL REPRESENTATIONS AND WARRANTIES, EITHER EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION: (A) THE DESIGN, CONDITION, AVAILABILITY, OPERATION, MERCHANTABILITY OF THE CONTAINERS OR FITNESS OF THE CONTAINERS FOR ANY PARTICULAR USE OR PURPOSE OF BUYER OR ANY OTHER USE OR PURPOSE; AND (B) THE CONFORMITY OF THE CONTAINERS TO THE SPECIFICATIONS REQUIRED BY ANY COUNTRY OR SUBDIVISION WITHIN WHICH THE CONTAINERS MAY BE USED. BUYER ACKNOWLEDGES AND AGREES THAT SELLER SHALL HAVE NO LIABILITY TO BUYER FOR ANY CLAIM, LOSS OR DAMAGE CAUSED OR ALLEGED TO HAVE BEEN CAUSED DIRECTLY, INDIRECTLY, INCIDENTALY OR CONSEQUENTIALY BY THE CONTAINERS, OR BY ANY INADEQUACY THEREOF OR DEFICIENCY OR DEFECT THEREIN, OR BY ANY INCIDENT WHATSOEVER IN CONNECTION THEREWITH WHETHER ARISING IN STRICT LIABILITY OR OTHERWISE.
4. **TAXES / DOMESTICATIONS** – Buyer agrees to assume exclusive liability for and to pay, indemnify and hold TOPtainer harmless from all sales or use of taxes, transfer, title and registration fees, Value-added Taxes (VAT), domestication, personal property taxes or other taxes, tolls, levies, imposts, duties or governmental charges imposed in connection with the sale, delivery, import and/or domestication of the Containers, or any services rendered by TOPtainer in connection with this contract, including any penalties, fines or interest thereon. If Buyer chooses to import Containers in order to convert them to domestic use, Buyer shall do so entirely at Buyer's cost and by declaration to the appropriate customs and/or tax authorities.
5. **CONSEQUENTIAL DAMAGES** – UNDER NO CIRCUMSTANCE SHALL TOPTAINER BE LIABLE FOR ANY LOST PROFITS OR FOR SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, EVEN IF TOPTAINER RECEIVES NOTICE OF THE POSSIBILITY OF THOSE DAMAGES.
6. **ASSIGNMENT** – Buyer may not assign its rights or obligations hereunder without TOPtainer's prior written consent, which TOPtainer may withhold in its sole discretion.
7. **MARKINGS AND ID PLATES** – If Customer chooses to remove existing ownership marking and identification plates (including container prefix and identifying numbers) from the Containers it is at the cost of the customer. TOPtainer is not responsible for removing these items or any cost associated with having these items removed.
8. **WAIVER AND REMEDIES** – TOPtainer's failure to insist on Buyer's performance of any obligation, or TOPtainer's waiver of any breach, shall not act as a waiver of any right or any subsequent breach. TOPtainer's remedies hereunder shall be cumulative and in addition to any other or further remedies provided by law.
9. **JURISDICTION AND LAW** – This contract and the terms thereof shall be governed by and construed in accordance with the laws of the state of Florida, U.S.A. TOPtainer and Buyer each hereby agree that (I) any claim or controversy, directly or indirectly arising out of or relating to this contract, may be litigated in the courts of the state of Florida, U.S.A. and (II) consent to be subject to the jurisdiction or such courts.