



# TERMS AND CONDITIONS OF SALE

MAGELLAN AVIATION SERVICES LIMITED | UNIT B2, SHANNON FREE ZONE, SHANNON, CO., CLARE, IRELAND

MAGELLAN AIRCRAFT SERVICES LLLP | 2345(B) TOWNSHIP ROAD, CHARLOTTE, NC 28273 USA

MAGELLAN EXPENDABLES | 1901 GREEN ROAD, SUITE F, DEERFIELD BEACH, FL 33064 USA

MAGELLAN AVIATION SINGAPORE LTD. PTE. | 57A DUXTON ROAD, #02-00, SINGAPORE 089521

**The following terms and conditions govern the sale of merchandise by Magellan Aircraft Services LLLP, Magellan Aviation Services Limited, Magellan Aviation Singapore Ltd. Pte. and their subsidiaries and affiliated companies (including B&B Marketing Enterprises LLLP, d/b/a Magellan Expendables) ("Magellan") from third parties (each a "Buyer").**

**GOVERNING PROVISIONS:** These Terms and Conditions of Sale govern all sales of goods and services by Magellan after written acceptance of a purchase order from a Buyer. Acceptance of Buyer's purchase order is made only on the express understanding and condition that, insofar as these Terms and Conditions conflict with any of Buyer's terms and conditions, Buyer's conflicting terms shall be invalid unless otherwise accepted in writing by an authorized representative of Magellan, regardless of any terms Buyer seeks to impose or incorporate, or which would otherwise be implied by trade, custom, practice, or course of dealing.

**ORDERS:** All quotations shall remain subject to availability until Buyer's purchase order becomes an "Order" upon Magellan's written acceptance thereof. Modifications or changes to an Order are allowed only upon Magellan's written approval, and Magellan reserves the right to revise its price and delivery schedules to effect such change(s). In addition, Magellan has the right to charge the Buyer for expenses incurred by Magellan for work or services already performed and rendered unnecessary by such change(s).

**PAYMENT:** Unless credit terms have been established Magellan shall receive payment from Buyer prior to Delivery in US Dollars via check or Visa or MasterCard. Finance charges will be applied to all overdue balances at 12% per annum (or maximum legal rate if lower), plus any reasonable costs incurred by Magellan as a direct result of recovering and collecting the overdue amount. Interest shall accrue on a daily basis from first day the account is overdue until the date of actual payment in full, whether before or after judgment. Buyer shall pay all amounts when due in full without any deduction or withholding (except as required by law) without set-off or counterclaim. When the financial condition of the Buyer or its account so warrants Magellan may at any time, without notice, change or suspend credit terms, stop shipment, or cancel unfilled orders, and such holds shall not constitute Magellan's breach of its obligations hereunder.

**TAXES:** Prices quoted for Merchandise do not include any applicable taxes, duties, levies, import or export charges or similar (including but not limited to sales and/or use taxes, value added tax, or any other governmental charge on sales or consumption payable in connection with the sale, Delivery, or subsequent use of the Merchandise ("Sales Tax"), all of which shall be paid by the Buyer who shall promptly reimburse Magellan for any such charges Magellan may be required to pay on Buyer's behalf. Notwithstanding the above, Buyer may be invoiced for applicable Sales Taxes unless Buyer furnishes a valid resale or tax exemption certificate prior to Delivery.

**DELIVERY:** Magellan agrees to deliver the Merchandise FCA (Incoterms 2010) point of shipment ("Delivery"). Purchase orders must clearly state method of shipment and destination, and all freight, express and delivery charges shall be paid as a separate item by the Buyer. The carrier shall act solely as Buyer's agent, all delivery charges shall be paid by Buyer, and any claims for damages or delays in transit must be filed by Buyer against carrier. Shipments shall be deemed to have been accepted by Buyer upon Delivery, unless rejected by Buyer with the Inspection Period (defined below under "Limited Warranty and Return Policy"). Magellan's failure to ship or deliver as estimated shall not entitle Buyer to cancel a shipment, or to damages of any kind.

Magellan will use reasonable efforts to obtain any required export licenses required by law but does not guarantee they will be granted. Buyer is responsible for correctly stating the end use (and actual end user) of all Merchandise and is obliged to provide Magellan with all documents or information (e.g. company profile, end-use certificate) which the authorities demand for the purpose of export licenses. If these documents or information cannot be provided even after a reasonable period of time has been set and finally expired; Magellan is entitled to rescind the contract. Buyer shall be responsible for obtaining any import licenses that might be required.



If shipping instructions are not received by Magellan before the earliest permitted delivery date for the Merchandise, Magellan, at its option, may (in addition to any other available remedy) (i) invoice Buyer and hold the Merchandise for Buyer's account (plus reasonable storage and insurance costs); or (ii) cancel the order and hold Buyer responsible for the costs and expenses of such delay.

**FORCE MAJEURE:** Magellan shall not be liable for any delay in performance or inability to perform as a result of causes beyond its control, or beyond the control of its suppliers, manufacturers, processors, or finishers including war (whether declared or undeclared, and whether domestic or foreign), riots, crimes, fires, strikes, lockouts, labor difficulties, earthquakes, typhoons, embargoes, floods, hurricanes, delays by carriers, orders, rules or regulations of any foreign and/or domestic governmental authorities, trade associations or any other agency having control over import or export, voluntary quotas, restrictions, controls, unavailability or shortage or delay of any transportation. Any such cause(s) shall give Magellan the right, without liability to the Buyer of any kind to terminate this contract with respect to all or any portion of the products or services affected thereby.

**ASSIGNMENTS AND SUBCONTRACTING:** Magellan expressly reserves the right to assign or subcontract all or any portion of an order unless otherwise agreed. No rights of Buyer or arising out of any contract with Magellan may be assigned without Magellan's prior express written consent.

**TITLE AND RISK:** The risk of loss of the Merchandise shall pass to the Buyer upon Delivery. Title shall not pass to the Buyer until Magellan has received payment in full (in cash or cleared funds) for (i) the Merchandise; (ii) any applicable Sales Tax; and (iii) all other amounts which are or which become due to Magellan. In the event that notwithstanding the express understanding of the parties hereto, title is deemed to pass upon installation of the Merchandise, Magellan reserves, and the Buyer grants to Magellan, a security interest in any Merchandise in order to secure the Buyer's obligations of payment. In the event of default by the Buyer in any of its obligations to Magellan, Magellan will have the right to repossess such Merchandise. Buyer agrees to assist Magellan to file such security interests in appropriate jurisdictions, and to execute any further documents as Magellan may request in order to evidence such security interest.

**LIMITATION OF LIABILITY:** Unless otherwise expressed in writing Magellan's sole warranty obligation is that the title to the Merchandise sold herein is owned by Magellan free of any liens or claims. MAGELLAN'S LIABILITY ON ANY CLAIM OF ANY KIND, INCLUDING NEGLIGENCE, FOR ANY LOSS (INCLUDING DEATH) OR DAMAGE ARISING OUT OF OR CONNECTED WITH, OR RESULTING FROM THE SALE, DELIVERY OR USE OF ANY MERCHANDISE FURNISHED HEREUNDER SHALL IN NO EVENT EXCEED THE PRICE ALLOCABLE TO THE MERCHANDISE WHICH GIVES RISE TO THE CLAIM. IN NO EVENT SHALL MAGELLAN BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOST REVENUE OR PROFIT OR COST OF REPLACEMENT GOODS. ALL WARRANTIES, REPRESENTATIONS, CONDITIONS AND OTHER TERMS IMPLIED BY STATUTE OR COMMON LAW ARE EXCLUDED, TO THE FULLEST EXTENT PERMITTED BY LAW. Nothing in these Terms and Conditions shall limit or exclude a party's liability for (i) death or personal injury caused by its gross negligence or willful misconduct; (ii) fraud or fraudulent misrepresentation; or (iii) any matter in respect of which it would be unlawful for either party to restrict or exclude. Subject to the above, Magellan shall not be liable to the Buyer, whether in contract or tort (including negligence) or breach of statutory duty, for any loss of profit or indirect or consequential loss arising under or in connection with the sale of Merchandise and Magellan's total liability to Buyer in respect of all losses shall not exceed 100% of the purchase price paid for the Merchandise that give rise to such claim.

**BUYER OBLIGATIONS AND INDEMNIFICATION:** Buyer warrants and undertakes that from the time of Delivery, Buyer, at its expense, shall carry and maintain policies of insurance in respect of the Merchandise against all risks and liabilities (including but not limited to product liability). Buyer accepts and agrees that it shall be its responsibility (at its expense) to apply for and obtain all necessary or appropriate licenses, protection orders, legally required consents, permits and rights to use or have the benefit in the Merchandise, and shall indemnify Magellan against all demands, claims and liability, whether criminal or civil, in contract, tort or otherwise, for any and all losses, damages, legal costs and other expenses of any nature whatsoever, asserted by any third party against Magellan and relating to the manufacture, distribution, sale, supply or use of the Merchandise, by or on behalf of the Buyer by any third party, including, without limitation, (i) claims based on product liability laws, or (ii) claims arising out of or in connection with any death or personal injury suffered by any person, except as resulting from Magellan's gross negligence or willful misconduct.



**LIMITED WARRANTY AND RETURN POLICY:** All sales are final, however defective, or nonconforming Merchandise may be returned provided Buyer notifies Magellan within 30 days of Delivery (the "Inspection Period") and returns such Merchandise to Magellan within 45 days of Delivery. (Notwithstanding the foregoing, Magellan reserves the right, in Magellan's sole discretion, to allow cancellation of any Order on a case by case basis, subject to a 15% restocking fee.)

Magellan shall re-inspect all returned Merchandise upon receipt before allowing or rejecting any return. Shipping charges for all returns shall be prepaid by the Buyer and reimbursed if Magellan deems the Merchandise to be defective or nonconforming. In no event will Magellan be responsible for packing, inspection, labor, or other charges incurred by the Buyer in regard to Merchandise returned.

Merchandise returned must have the original tags attached or else Buyer will be liable for the costs involved in re-tagging the merchandise, regardless of whether or not the Merchandise is found to be defective or nonconforming.

No warranty applies to Merchandise which is (a) damaged by carrier during shipment to Buyer; (b) improperly installed or repaired by Buyer; (c) altered without Magellan's prior written approval; (d) abused, misused or damaged by accident, negligence or acts of God, or (e) used in a manner contrary to manufacturer's recommendations.

**EXPORT RESTRICTIONS:** Buyer agrees not to export or re-export any Merchandise received from Magellan except in full compliance with all United States laws and regulations including Export Administration Regulations and the International Traffic in Arms Regulations, including to embargoed countries, or individuals or companies listed in the U.S. Commerce Department's Denied Persons List, the U.S. Treasury Department's list of Specially Designated Nations or the U.S. Department of State's list of individuals debarred from receiving Munitions List items. In addition to all applicable U.S. export control laws and regulations, Buyer is responsible for complying with any local laws in Buyer's country which may impact Buyer's right to import, export, or use the Merchandise. Magellan may elect not to supply Merchandise to Buyer in the event that Magellan reasonably believes that the supply of Merchandise may breach or lead to a breach of applicable export regulations.

**MAGELLAN'S RIGHTS:** In addition to the rights and remedies of Magellan as set forth herein, Magellan shall have such other rights and remedies as may be available to it under the Uniform Commercial Code – Sales TCA §47-2-010 et seq. and other Applicable Law, all such rights and remedies to be cumulative.

**WAIVER:** No waiver of any default shall be deemed a waiver of any subsequent default. Any replacement (as hereinafter provided) or adjustment of a delivery shall cure any defaults with respect to delivery and any default so cured shall be deemed not to have occurred.

**COSTS:** Buyer agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by Magellan in any action to enforce its rights hereunder.

**QUALITY:** Magellan's quality system is certified to ISO 9001:2015 and AS9120B, and FAA AC 00-56B. All Merchandise shall be sold with applicable trace history certification unique to that particular Merchandise ("Trace") and the Buyer will be deemed to have accepted that all Merchandise has been delivered with all corresponding Trace shall not raise any claims for incomplete or incorrect Trace after the expiration of the Inspection Period.

**APPLICABLE LAW AND JURISDICTION:**

**For Buyers based in the United States:**

These Terms and Conditions shall be governed by the United States Uniform Commercial Code – Sales, TCA §47-2-101 et seq. as enacted by the State of New York and other laws of New York. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. In the event of any dispute between Magellan and Buyer arising out of or related to this agreement or any order or contract between Buyer and Magellan, such dispute shall be adjudicated between the parties, at Magellan's discretion, solely in a court of competent jurisdiction in the State of New York and the parties hereby consent to the jurisdiction of New York courts and further consent that any process, summons or notice or any other application to such Courts may be served by personal service by certified US mail, postage prepaid, return receipt requested, or courier (e.g., DHL, Federal Express). Buyer hereby waives trial by jury.



**For Buyers based everywhere else in the world (other than the United States):**

These Terms and Conditions shall be governed by the laws of England and Wales. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. In the event of any dispute between Magellan and Buyer arising out of or related to this agreement or any order or contract between Buyer and Magellan, such dispute shall be adjudicated between the parties, at Magellan's discretion, in a court of competent jurisdiction in the State of New York or the courts of London, England, and the parties hereby consent to the jurisdiction of such courts and further consent that any process, summons or notice or any other application to such Courts may be served by personal service by certified US mail, postage prepaid, return receipt requested, or courier (e.g., DHL, Federal Express). Buyer hereby waives trial by jury.

**ENTIRE CONTRACT:** The express terms and conditions contained on the face and on the reverse side hereof and those set forth on any continuation sheet contain the entire understanding of the parties with respect to the same of the Merchandise. Buyer agrees to be bound by these terms and conditions of sale, notwithstanding Buyer's terms and conditions whether or not supplied to Magellan at any time.