

# **Website Terms of Use**

#### 1. OVERVIEW

This Web site (the "Site") is designed to provide general information about Topcon America Corporation, its affiliates and subsidiaries (collectively, "Topcon") and their products and services.

Nothing contained on this Site is intended to offer or does offer:

- medical advice for the treatment or diagnosis of vision and/or eye disease, or any related illness, or to be a substitute for professional medical advice, diagnosis or treatment; or
- advice or recommendations for land use, engineering or surveying, or to be a substitute for the professional advice of engineers, registered surveyors and others involved in the fields in which Topcon offers products for sale.

In addition, nothing presented here is intended to provide instructions on the use of Topcon's products. Specific information and instruction for Topcon's products are found in the product manuals supplied with the products.

This Site and its contents are intended to comply with the laws and regulations of the United States. While you can access this Site from outside the United States, our server is located within the United States, and the Site is intended to be used by residents located in the United States. All visitors agree to follow United States laws and regulations.

### 2. ACCEPTANCE OF TERMS

Topcon provides this information to you, subject to the following terms, conditions and notices contained or referenced herein (the "Terms of Use"), which govern use of this Site. By using this Site, you signify your agreement to these Terms of Use. If you do not agree to all of these Terms of Use, please do not use this Site. We reserve the right, at our discretion to update or revise the Terms of Use, so please check back periodically for changes. Your continued use of this Site following the posting of any changes to these Terms of Use constitutes acceptance of those changes.

### 3. TOPCON'S PRIVACY POLICY

Information you provide through this Site is subject to Topcon's Privacy Statement. For information about Topcon's Privacy Statement, <u>click here</u>. Topcon shall be free to use this information for statistical evaluations and to ensure uninterrupted proper operation of this Site. In addition, if you give any feedback to Topcon, it shall be deemed that the content is not confidential. Topcon shall be free to use any ideas, concepts, know-how or techniques contained in your feedback for any purpose and to reproduce and disclose the information to third parties without limitation without notice or compensation to any person or entity.

# 4. TRACKING SYSTEMS

We may use tracking systems, log files, and cookies to obtain and collect information about you. We use cookies to personalize our Web site. Cookies also enable us to recognize you

when you return to our Web site, and provide additional functionality to you.

By using this Site you agree to this tracking and agree to let third parties (contracted by us) to place cookies on your computer hard drive.

If you have any questions regarding our use of your information, please see Topcon's online Privacy Statement.

#### **5. GOVERNMENT REGULATIONS**

Topcon is a wholly owned subsidiary of Topcon Corporation, the world's leading manufacturers of positioning and ophthalmic diagnostic products. This Site contains information about products which may or may not be available in any particular country, may be available under different trademarks in different countries, and where applicable, may be approved or cleared by a government regulatory body for sale or use with different indications and restrictions in different countries.

Topcon's internal policies seek to comply with all applicable regulatory laws and regulations in countries where its products are distributed. As part of this dedication, Topcon offers the following statement regarding product standards and compliance.

Further, the documents and related graphics published on this Site could include technical inaccuracies on typographical errors. Changes are periodically added to the information herein. Topcon may make improvements and/or changes in the product(s) and/or program(s) described herein at any time.

Nothing contained on this Site should be construed as a promotion or solicitation for any product or for the use of any product in a particular way, which is not authorized by any applicable law or regulation. Specific questions about the availability and use of products described on this Site should be directed to your local Topcon distributor or representative.

#### 6. LINKS TO THIRD-PARTY SITES

This Site may contain links to other web sites ("Linked Sites"). The Linked Sites are not under the control of Topcon and Topcon is not responsible for the contents of any Linked Site, including without limitation, any link contained on a Linked Site, or any changes or updates to a Linked Site. Topcon is providing Linked Sites to you only as a convenience, and the inclusion of such Linked Sites is not an endorsement by Topcon in favor of any Linked Site, or the services or products on such Linked Site.

Without the written permission of Topcon, you may not frame any of the content of this Site, or incorporate into another web site or other service the intellectual property of Topcon.

#### 7. NO UNLAWFUL OR PROHIBITED USE

As a condition of your use of this Site, you warrant that you will not use this Site for any purpose that is unlawful or prohibited by the Terms of Use. You may not use this Site in any manner that could damage, disable, overburden, or impair the Site or any user of this Site, or interfere with any other party's use of this Site. You also agree that you will not upload or transmit any communications or content of any type that infringes or violates any rights of any party.

### 8. COPYRIGHTS

All copyright rights in the text, images, photographs, graphics, user interface, and other content provided on this Site, and the selection, coordination, and arrangement of such content, are owned by Topcon or its third-party licensors, to the fullest extent provided under the United States Copyright Act and all international copyright laws. Under applicable copyright laws, you are prohibited from copying, reproducing, modifying, distributing, displaying, performing or

transmitting any of the contents of this Site for any purposes. Nothing stated or implied on this Site confers on you any license or right under any copyright of Topcon or any third party.

Topcon's Site and the information contained in reference herein are for informational purposes only. Any reproduction, retransmission or copying of any materials or design elements of this Site is strictly prohibited, without the prior written consent of Topcon. Requests for permission to reproduce any information contained on this Site should be addressed to Topcon America Corporation, 37 West Century Road, Paramus, New Jersey, Attn: Legal Department.

Notwithstanding the above, Topcon authorizes you to make one (1) electronic or paper copy of the information posted on any page on this Site, provided that the copy is used solely for non-commercial, personal purposes, and further provided that any such copy remains protected by all copyright, trademarks, service marks, and other proprietary notices and legends contained on the Site. Systematic retrieval of data or other content from this site to create or compile, directly or indirectly, a collection, compilation, database or directory without written permission of Topcon is prohibited.

# 9. NO LICENSE OR RIGHT FOR YOU TO USE INTELLECTUAL PROPERTY PATENTS COPYRIGHTS OR TRADEMARKS

Nothing in this Site shall be construed as conferring by implication, estoppel or otherwise, any license or right to use in any form or manner any intellectual property, including, but not limited to, any patent, copyright or trademark of Topcon. Please be advised that Topcon protects its intellectual property rights to the fullest extent of the law.

Topcon will endeavor to remove in a timely manner any posted submission which infringes the copyright of any person under the laws of the United States upon receipt of written notice in conformance with 17 U.S.C. § 512(c)(3). United States law provides significant penalties for submitting such a statement falsely.

### 10. TRADE AND SERVICE MARK RIGHTS

All rights in the product names, company names, trade names, logos, product packaging and designs of all Topcon or third-party products or services, whether or not appearing in large print or with the trademark symbol, belong exclusively to Topcon or their respective owners, and are protected from reproduction, imitation, dilution or confusing or misleading uses under national and international trademark and copyright laws. The use or misuse of these trademarks or any materials, except as permitted herein, is expressly prohibited and nothing stated or implied on this Site confers on you any license or right under any patent or trademark of Topcon or any third party.

### 11. DISCLAIMER OF WARRANTIES - LIMITATIONS OF LIABILITY

TOPCON WILL USE REASONABLE EFFORTS TO INCLUDE ACCURATE, COMPLETE AND UP-TO-DATE INFORMATION ON THIS SITE, BUT TOPCON MAKES NO WARRANTIES OR REPRESENTATIONS WITH REGARD TO THE SITE, INCLUDING, BUT NOT LIMITED TO, THE ACCURACY, COMPLETENESS OR FREQUENCY THAT IT IS UPDATED, OR ADEQUACY OF, OR THE SUITABILITY, FUNCTIONALITY, AVAILABLITY OR OPERATION OF THIS SITE OR THE INFORMATION OR MATERIALS IT CONTAINS. ALL SUCH INFORMATION IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND.

BY USING THIS SITE, YOU ASSUME THE RISK THAT THE INFORMATION AND MATERIALS ON THIS SITE MAY BE INCOMPLETE, INACCURATE, OUT OF DATE OR, MAY NOT MEET YOUR SPECIFIC NEEDS OR REQURIEMENTS.

TOPCON SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED,

INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

ALL INFORMATION AND RELATED MATERIALS ON THIS SITE ARE SUBJECT TO CHANGE WITHOUT NOTICE.

ALL USERS AGREE THAT ACCESS TO THIS SITE AND USE OF SUCH INFORMATION IS AT THEIR OWN RISK, AND THAT NEITHER TOPCON NOR ANY PARTY CREATING, SERVING OR DELIVERING THIS SITE SHALL BE LIABLE FOR ANY DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITAITON, ANY SPECIAL, EXEMPLARY, DIRECT OR INDIRECT, INCIDENTAL, OR CONSEQUENTIAL OR PUNITIVE DAMAGES (EVEN IF TOPCON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE) ARISING OUT OF ACCESS TO, OR USE OF THE INFORMATION CONTAINED ON THIS WEB SITE OR ANY ERRORS OR OMISSIONS, MISPRINTS, OUT-OF-DATE INFORMATION, TECHNICAL OR PRICING INACCURACIES, TYPOGRAPHICAL OR OTHER ERRORS APPEARING ON THIS SITE. THIS LIMITATION INCLUDES DAMAGES TO, OR FOR ANY VIRUS THAT MAY INFECT YOUR COMPUTER EQUIPMENT.

THESE LIMITATIONS APPLY WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF TOPCON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, TOPCON'S LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW.

#### 12. INDEMNIFICATION

Upon request by Topcon, you agree to defend, indemnify and hold harmless Topcon and its subsidiaries, affiliates, officers, agents, co-branders or other partners and employees from all liabilities, claims and expenses, including reasonable attorneys' fees, made by any third party due to or arising out of content you submit, post to or transmit through this Site, your use of the Site, your violation of the Terms of Use or your violation of any rights of another.

# 13. CHOICE OF LAW AND FORUM

These Terms of Use shall be governed by and construed in accordance with the laws of the State of New Jersey, excluding its conflict of law rules. You and Topcon expressly agree to submit to the exclusive jurisdiction and venue of the courts in Bergen County, New Jersey, in all disputes arising out of or relating to the use of this Site.

#### 14. EXPORT

As a condition of your use of this Site, you warrant that you will not use this Secure Site or any software or information contained in it for any purpose that is illegal under U.S. or other applicable export control or sanctions laws or regulations, including, but not limited to the U.S. Export Administration Regulations. In particular, you warrant that you will not:

- a) export, reexport, transfer or release the software or information to countries that are embargoed or sanctioned under U.S. or other applicable laws or regulations.
- b) export, reexport, transfer or release the software or information to persons to whom such access is prohibited under U.S. or other applicable laws or regulations;
- c) use any software or information contained in this Secure Site in any end-uses prohibited

under U.S. or other applicable laws or regulations, including, but not limited to, the research on or design, development, construction, production, stockpiling, testing, operation, use, or maintenance of missiles, unmanned air vehicles nuclear explosive devices or nuclear propulsion projects, chemical or biological weapons or the related parts, components or subsystems of any of the foregoing.

You further warrant that you are not a person appearing on the U.S. Department of Commerce Denied Persons List, Entities List, Unverified List, or the U.S. Department of Treasury's Specially Designated List or any of the lists provided at <a href="https://www.bis.doc.gov/complianceandenforcement/liststocheck.htm">www.bis.doc.gov/complianceandenforcement/liststocheck.htm</a>.

#### 15. SEVERABILITY AND INTEGATION

Unless otherwise specified herein, this Terms of Use statement constitutes the entire agreement between you and Topcon and govern your use of this Site, superseding any prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and Topcon. If any portion of this Terms of Use statement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intention of the parties, and the remaining portions shall remain in full force and effect.

#### 16. NO WAIVER

The failure of Topcon to enforce any provisions of these Terms of Use or respond to a breach by you or other parties shall not in any way waive its right to enforce subsequently any terms or conditions of this statement or to act with respect to similar breaches.

#### 17. MISCELLANEOUS

You agree that no joint venture, partnership, employment, or agency relationship will exist between you and Topcon as a result of this Terms of Use statement or your use of this Site. Nothing contained in this Terms of Use statement is in derogation of Topcon's right to comply with governmental, court and law enforcement requests or requirements relating to your use of this Site or information provided to or gathered by Topcon with respect to such use. A printed version of this Terms of Use statement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this Terms of Use statement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

#### **18. TERMINATION**

Topcon reserves the right, in its sole discretion, to terminate your access to all or part of this Site, with or without notice. Topcon also reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Site (or any part thereof) with or without notice for any reason or no reason whatsoever. Topcon shall not be liable to you or any third party for any modification, suspension or discontinuance of this Site.

Copyright © 2009, Topcon America Corporation, All Rights Reserved