



## **TRUMPF, INC. TERMS AND CONDITIONS OF SALE FOR EQUIPMENT AND AUTOMATION**

This Agreement governs the sale of commercial off-the-shelf and commercial items products from Seller's product lines (hereinafter referred to as "Goods" or "Equipment"). Seller makes all quotations and accepts orders for such Goods/Equipment only on the terms and conditions stated herein ("Terms of Sale"):

**1. ORDER ACCEPTANCE:** All orders are subject to acceptance only at Seller's facility in Farmington, Connecticut. These Terms of Sale shall be deemed accepted by Buyer upon Seller's receipt of Purchase Order from Buyer. No condition stated by Buyer shall be binding upon Seller if in conflict with, inconsistent with or in addition to the Terms of Sale, unless expressly accepted in a writing signed by Seller. In the event of conflict or differences in the terms or conditions of Buyer's Purchase Order and the Terms of Sale herein, the Terms of Sale shall govern.

**2. PRICES:** All prices are: (a) Seller's current prices and are subject to change without notice at any time prior to acceptance of Buyer's order; (b) subject to all federal, state and local taxes upon the production, sale or shipment of the Goods sold hereunder, now or hereafter becoming effective, and if not included in the invoice, such amount may be invoiced later, and Buyer shall pay all such taxes.

### **3. SHIPMENTS:**

**(A) Domestic:** All orders are FOB (UCC) Seller's plant in Farmington, Connecticut (or such warehousing facilities as Seller may establish).

**(B) International:** All prices are in US Dollars and are, at Seller's election, FCA (Incoterms 2010) Farmington, CT or DAT (Incoterms 2010) Port of Entry.

**(C)** All freight charges, insurance premiums, duties and taxes are the responsibility of the Buyer.

**4. PAYMENT:** 20% deposit with purchase order, 40% prior to shipment, 40% Net 10 Days from Installation Completion. Title to the Goods shall pass to the Buyer only upon receipt of final and full payment of the Goods by Supplier, from Buyer. ALL PAYMENT TERMS ARE SUBJECT TO SELLER'S CREDIT APPROVAL.

**5. DELIVERY:** The scheduled shipment date is an estimate and is subject to filling prior orders and delays caused by strikes, accidents, shortages, acts of civil authority or other causes beyond Seller's control. Buyer's acceptance of delivery time from the shipper shall constitute a waiver of any claim for delay.

### **6. INSTALLATION AND PRODUCT ACCEPTANCE:**

**(A) Preparation of Installation Site:** Upon acceptance by Seller of any Purchase Order hereunder, Seller shall provide Buyer with a Pre-Installation Manual setting out requirements for site preparation at the installation site. Buyer is responsible for preparing the installation site as set out in the Pre-Installation Manual, for providing all utilities within

rated parameters as stated in the Pre-Installation Manual, and for inspecting, rigging and placement of the Goods at the installation site.

**(B) Inspection Upon Delivery:** Upon arrival of the Goods at the installation site, the Goods shall be inspected for shortages and damage in transit by authorized personnel of both Seller and Buyer. Buyer shall notify Seller in writing of any such claims within ten (10) days after Buyer discovers or should reasonably have discovered facts upon which the claim is based, but in no event more than thirty (30) days after Installation Completion under subsection C below. Failure of the Buyer to give written notice of a claim within the time-period or in the form specified above shall be deemed to be a waiver of such claim. If any repairs are made by unauthorized personnel, Seller reserves the right to withhold warranty support and to charge Buyer per then current time and material rates for services provided if Seller determines that the root cause of a defect requiring service was caused by a third party vendor supplied product or service.

**(C) Acceptance Testing and Acceptance:** Notwithstanding prior inspection or testing, payment, or passage of title, all Goods shall be subject to final acceptance testing ("Final Acceptance Testing") after installation at the installation site to validate performance against Seller's quoted Technical Specifications. Final Acceptance Testing will be performed by Seller's operator and consist of (i) Seller's standard acceptance-test procedure which checks all aspects of Goods performance against Seller's quoted Technical Specification and (ii) any additional tests that are mutually agreed upon and specified in the purchase order or statement of work referencing these Terms and Conditions. Upon successful completion of the Final Acceptance Testing, the Goods shall be accepted, and Buyer shall sign and deliver to Seller the Seller's acceptance certificate ("Installation Completion"). Notwithstanding the foregoing, the Goods including any software shall be deemed accepted and the written acceptance form certifying Installation Completion shall be deemed executed by Buyer upon the earlier of either of the following two conditions; (x) in the event the Goods are placed into production by Buyer at the Installation Site; or (y) no later than 3 months after the date of delivery as determined by the terms of shipment.

**7. EQUIPMENT WARRANTY:** Except as otherwise provided in this Section 7, any Goods sold hereunder which (1) at the Installation Site, (2) have been properly installed and maintained by authorized persons, and (3) have been operated within the limits of rated and normal usage, are warranted to conform to Seller's quoted Technical Specifications and to be free of defects in material and workmanship, as determined by Seller's inspection, for a period of one year, or any purchased extended period, coming into effect upon Installation Completion. The terms of this warranty do not apply to any Goods which have a life, under normal usages, that is inherently less than one year. Product demonstrations, test parts, time studies, production estimates and other such particulars furnished to Buyer are only Seller's estimate and do not create a warranty. Within the warranty period, Seller will repair or replace without cost to Buyer any product or parts covered by the warranty which Seller finds to be defective in material or workmanship, provided that the Buyer gives the Seller prompt notice. This shall be the sole and exclusive remedy of the Buyer under this warranty.

To facilitate efficient warranty services delivery, Seller may in its sole discretion deliver to the Installation Site a variety of spare parts such as are reasonably believed to be of potential use in completing the Services (such spare parts, together with those parts removed for replacement during Warranty Services, being collectively "Seller's Property.") Buyer will cooperate with Seller in maintaining Seller's Property in a secure location segregated from Buyer's Equipment and Inventory during Services and in

providing access during normal business hours for delivery and pick up. Seller is solely responsible for the packaging and cost of shipment of Seller's Property to and from Buyer's Installation Site. Should Buyer elect to retain any of the unused Spare Parts after close of Warranty Services mission, Buyer will be billed for such Parts at a discount of 5% off Seller's List Price as of the date of retention.

Services under this warranty are provided during normal business hours and using standard freight delivery. Services and delivery may be otherwise provided dependent upon availability and will be invoiced at TRUMPF Service rates in accordance with TRUMPF Service policies and practices, which are incorporated by reference herein.

Seller shall not be liable under any warranty or other obligation if the alleged defect in the Goods does not exist or the defect or defective performance is caused in whole or in part by Buyer's or any third party's misuse, neglect, modifications or additions, the use of non-TRUMPF spare parts or consumables, unauthorized attempts to repair, or by accident or other hazard outside Seller's control. Use of a non-TRUMPF spare part shall void the warranty if the TRUMPF spare part is available under the warranty free of charge. The warranty described herein is granted only to the original purchaser of the Goods and original purchaser's specified end-user and is non-transferrable.

**DISCLAIMER OF OTHER WARRANTIES: THE WARRANTY DESCRIBED IN THIS PARAGRAPH 7 IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE EXCLUDED.**

**8. EQUIPMENT DATA SERVICES:** Seller's Equipment is self-monitoring and collects and stores in its control unit Equipment Data recording certain performance metrics of the Equipment. On Equipment configured for Seller's Cloud Connect services, Equipment Data is collected in real time via Seller's secure service portal. Buyers of Equipment utilizing Cloud Connect active equipment monitoring shall receive enhanced Cloud Connect notification and technician scheduling throughout the Equipment warranty period and during any period in which the Buyer maintains a Seller Service Agreement providing for notification and reporting services. Seller reserves the right to add and remove services from Cloud Connect offerings at Seller's sole discretion.

"Equipment Data" means any data, metadata, logs or other information generated by the operation of Seller Equipment or embedded Software, but does not include personally identifiable information nor any information entered into the Software or the Equipment by Buyer's employees, agents, or end-users, except to the extent portions of such information appears in anonymized or aggregated form or in automated logs or similar records through the normal operation of the Software. Equipment end user can isolate inputs of personal and proprietary data from monitoring by following the technical table procedures set forth in the Software and Operators Manuals.

**(A) Opt-Out Rights.** Cloud Connect active equipment monitoring service is activated during installation. The Equipment end user can opt out of active machine monitoring by following the procedures set forth in the Software and Operators Manuals. End users who exercise this opt out option shall not receive Cloud Connect enhanced services, may experience limitations on machine functions or systems integrations that rely on information processed through Cloud Connect or automated data communications, or may be subject to surcharges increasing costs for contracted services.

**(B) Data Security.** Seller shall use the same care in protecting the integrity and security of Equipment Data as it uses to preserve the integrity and security of Seller's other proprietary information, but in no event less than reasonable care. Seller uses Equipment Data for delivery of Goods and Services under warranty and service agreements, and anonymized data points derived from Equipment Data in product research and development.

**(C) Ownership of Equipment Data.** Seller owns all rights, titles and interest in Equipment Data, and all data derived therefrom and reserves to itself all lawful uses thereof. Seller hereby grants Buyer a perpetual, non-exclusive, royalty-free license to use, reproduce and store the Equipment Data solely for the purpose of, and to the extent required in, operating the Goods, transferable only in conjunction with and as part of the transfer of ownership of the Goods to a new end user.

**(D) CLOUD CONNECT SERVICES AS IS WARRANTY.** SELLER'S CLOUD CONNECT SERVICES ARE PROVIDED 'AS IS' WITH NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION 1) ANY WARRANTY CONCERNING THE AVAILABILITY, ACCURACY OR CONTENT OF THE INFORMATION, OR 2) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## **9. WORKPLACE SAFETY, INDEMNIFICATIONS.**

**(A) Product Liability:** With respect to all Goods or materials provided under this Agreement that are Seller's standard product or made to Seller's design or specifications, Seller shall, subject to the limitations of liability governing this Agreement, defend and indemnify Buyer against all third party claims and liability required to be paid by Buyer to the extent arising out of defective materials, workmanship or design by Seller.

**(B) Infringement/Malware:** Seller shall engage in commercially reasonable efforts to monitor the Goods supplied hereunder for infringement of third party intellectual property and the presence of viruses or other malicious code. TRUMPF represents that (i) the Goods are not known to infringe, violate or misappropriate any intellectual property right(s) of third parties; (ii) that TRUMPF has all of the rights, permits, licenses and authority known to be necessary to perform its obligations hereunder; and (iii) the Goods, including any software and the media it is delivered on, have been scanned for and been found to be free from viruses and other malicious code. Seller shall, subject to the limitations of liability governing this Agreement, defend and indemnify Buyer against all third party claims and liability required to be paid by Buyer to the extent arising out of Seller's negligence or malfeasance in monitoring the Goods as provided herein or in making the foregoing representations.

**(C) Workplace Practices:** It is the responsibility of Buyer to know, understand and comply with the work and safety laws and regulations in effect and governing Buyer's use of the Goods provided hereunder. Buyer agrees that after installation of the Goods provided hereunder, the Goods and all persons other than Seller personnel operating or maintaining such Goods will be deemed under Buyer's exclusive control. To the extent governing law requires inspections, reviews, records keeping and/or after-purchase modifications to the Goods, it is the responsibility of the Buyer to arrange for and comply with such requirements and any associated costs are the sole responsibility of the Buyer. Subject to the limitation of liability governing this Agreement, Buyer shall indemnify Seller against all third-party claims and liability required to be paid by Seller to the extent arising out of (a) any modifications, including but not limited to repairs, made

in the Goods by or on behalf of Buyer by persons or parties other than Seller, and/or (b) the Buyer's negligent use of the Goods, including but not limited to use in production with any of the Product safety functions disabled, obstructed or circumvented.

**(D) Notice; Consent to Settlement:** It is a condition of indemnification or defense under this Section 9 that in the event that any third party asserts a claim or liability with respect to any matter for which a Party is entitled to indemnification hereunder, the indemnified Party gives prompt written notice to the indemnifying Party of such claim or liability. No settlement of an indemnified claim shall require an admission of liability or impose an affirmative obligation on a Party hereto, including an obligation to indemnify, without the written consent of the Party so affected. Consent shall not be unreasonably withheld.

**(E) Insurance:** Each Party shall maintain comprehensive liability insurance coverage in an amount not less than one million dollars per occurrence with coverage of the other Party as an additional insured. Upon request, a Party shall provide the other Party with a certificate of insurance evidencing this coverage.

**(F) Excluded Limitations:** The above indemnifications shall not be limited by the availability of insurance coverage to the indemnifying party, or by any protection afforded the indemnifying party under the Workers' Compensation Acts, Disability Acts or other employee benefits acts.

**10. LIMITATION OF LIABILITY. NEITHER PARTY'S LIABILITY ON ANY INDEMNIFICATION OR ANY CLAIM OF ANY KIND, UNDER ANY THEORY, AT LAW OR IN EQUITY, INCLUDING NEGLIGENCE OR STRICT LIABILITY, FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THE PERFORMANCE OR BREACH OF THE TERMS HEREOF, OR FROM THE DESIGN, MANUFACTURE, SALE, DELIVERY, RESALE, INSTALLATION, TECHNICAL DIRECTION OF INSTALLATION, INSPECTION, MODIFICATION, REPAIR, OPERATION OR USE OF ANY SERVICE, GOOD OR PART THEREOF SHALL IN ANY CASE EXCEED THE PRICE ALLOCABLE TO THE SERVICE, GOOD OR PART THEREOF WHICH GIVES RISE TO THE CLAIM. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR ANY INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH A BREACH OF THE CONTRACT SALE OR ANY OTHER DUTY OF THAT PARTY WITH RESPECT TO THE GOODS OR SERVICES OR THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOST PROFITS, LOST SALES OR INJURY TO PERSONS OR PROPERTY EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES.**

**11. FORCE MAJEURE:** Except with respect to payment obligations under this Agreement, neither Party shall be liable for or will be considered to be in breach of or default under this contract on account of any delay or failure to perform as a result of any causes or conditions that are beyond the Party's reasonable control and that the Party is unable to overcome through the exercise of commercially reasonable diligence, including but not limited to pandemics, fire, explosion, flood, storm or other acts of God, disruptions in transportation networks, failures of carriers or utilities, war, embargo, strike, riot, or the intervention of any government authority. If any force majeure event occurs, the affected Party shall give prompt written notice to the other party and use commercially reasonable efforts to minimize the impact of the event.

**12. LIMITATION OF ACTIONS:** No action for breach of any term of this contract of sale or any other duty of Seller with respect to these Goods may be commenced more than one (1) year after Installation Completion.

**13. CHANGES, CANCELLATION:** Any changes to the scope of the Goods and Services under this Agreement must be agreed in a writing executed by both Parties. Orders may not be canceled except by written notice received by Seller prior to shipment. A restocking charge of ten percent of the selling price will be applied for the cancellation of standard items. Charges for the cancellation of special items will be based on non-recoverable expenses accruing to the order sustained by Seller plus ten percent of the selling price. Either Party may cancel an existing order without penalty or decline future orders under the Agreement in the event of (a) a change of control of, or (b) a bankruptcy of the other Party.

**14. INTELLECTUAL PROPERTY RIGHTS.** The Goods sold hereunder are of Seller's proprietary design offered in configurations and only with such modification as is customarily available to all buyers in the marketplace without significantly altering the Good's function or processes. The Goods do not incorporate or embody Buyer's intellectual property, or any technology developed by Buyer or specifically for Buyer. Buyer acquires no greater interest in the Goods, or the intellectual property embodied in the Goods than those rights of use, maintenance and resale as customarily accompany the purchase of off-the-shelf tangible goods. All Seller intellectual property including but not limited to patents, trademarks, trade names, trade secrets, and all modifications and derivatives thereof, are and shall remain the sole and exclusive property of Seller.

**15. DESIGN CHANGES:** Acceptance of Purchase Order by Seller determines product version for delivery. The designs and specification of all Goods sold may be subject to subsequent change by Seller without notice and, in the event of any such changes, Seller will have no obligation whatsoever to make similar changes in Goods previously ordered.

**16. RESERVATION OF SECURITY INTEREST; RISK OF LOSS:** Seller hereby reserves, and Buyer hereby grants a security interest in the Goods (and the proceeds thereof) as security for the payment of the unpaid balance of the purchase price and Buyer's performance of its other obligations hereunder. Buyer will execute and deliver to Seller such Uniform Commercial Code financing statements as Seller shall request to perfect such security interest. The security interest hereunder shall terminate upon Buyers payment in full of the purchase price of Goods and Services, and the respective taxes.

The risk of loss passes to Buyer upon delivery of the Goods to the carrier. Insurance against loss or damage to the Goods during shipment is the responsibility of Buyer. Until the entire purchase price for the Goods is paid in full, Buyer will keep the Goods insured against loss or damage by fire and other risks and hazards included with so-called "extended coverage" insurance, in an amount at least equal to such purchase price. Losses under such insurance shall be made payable to Seller and any payments under such insurance shall be paid to Seller and applied to the unpaid balance of the purchase price. Upon request, Buyer will furnish Seller with copies of the policies of such insurance and each renewal thereof.

**17. NONPAYMENT OF PURCHASE PRICE: STORAGE AND COLLECTION COSTS:** If Buyer shall not pay the full purchase price within 30 days from the date of Installation

Completion of the Goods; Buyer will pay Seller thereafter an additional one and one-half percent (1-1/2%) per month on the unpaid balance of the purchase price until paid in full. Such charge shall be added to and become an additional part of the purchase price for the Goods. Buyer also will pay all storage costs for the Goods after the scheduled delivery date as well as all costs of collection incurred by Seller in collecting the purchase price for the Goods and enforcing its security interest in the Goods, including, without limitation, reasonable attorneys' fees and expenses incurred by Seller.

**18. GOVERNING LAW:** The validity, interpretation and performance of this contract for sale shall be governed by the laws of the State of Connecticut. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed by the Parties with respect to this Agreement and the transactions contemplated hereby.

**19. ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties pertaining to the subject matter hereof.