

**TRUMPF General Conditions for Sale of Spare Parts, Toolings, and Technical Service Support**

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**I. Definitions**

“**TRUMPF**” means the TRUMPF Group subsidiary company selling products to the Customer as identified in TRUMPF’s Quotation and Invoice. “**Customer**” any legally registered entity buying products from TRUMPF. “**Contract**” means a contract for sale by TRUMPF to the Customer of the Spare parts and/or Services incorporating the Terms and Conditions. “**Price**” means the price as per TRUMPF Quotation being valid for 30 days from the date of quotation unless otherwise indicated in writing.

**II. Formation of Contract**

These Terms and Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. A purchase order by a Customer constitutes an offer by the Customer to purchase Services and Spare Parts in accordance with the Quotation and these Conditions. An order shall only be deemed to be accepted when TRUMPF issues a written order confirmation (this may be sent by email) at which point, and on which date the Contract shall come into existence (**Commencement Date**). The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance, or warranty made or given by or on behalf of TRUMPF which is not set out in the Contract.

**III. Payment terms**

Payment for Spare Parts and/or Services and/or Technical support shall be made **within 30 days** from the invoice date unless other credit terms have been expressly agreed by TRUMPF. Customer shall follow the payment terms based on Quotation and/or Sales Invoice or Billing Statement. Time of payment is of the essence. TRUMPF reserved the right to charge overdue penalties of **1.5% per annum (“p.a.”)** on sums overdue.

**IV. Prices for Technical Service Support**

TRUMPF shall charge the Customer based on the service report signed by both parties. Working Hours stated in the service report act as the base for actual cost calculation and invoicing. For any disagreement or dispute on the service report, the Customer shall inform TRUMPF **within seven (7) working days** from receipt of invoice.

**V. Force Majeure**

TRUMPF shall not be liable to the Customer or be deemed to be in breach of this Terms and Conditions by reason of any delay in performing (including delay in delivery) or any failure to perform any of TRUMPF’s obligations in relation to the delivery of Spare Parts, Toolings, and/or Services and/or Technical Support caused by a Force Majeure which means Act of God, fire, war, epidemics, pandemics, labor disputes, or other events outside the reasonable control of TRUMPF. If any unforeseen events of the aforesaid kind occur that seriously alter the commercial significance or substance of the goods and services or have a serious impact on business operations, TRUMPF shall be entitled to terminate the relevant Contract. In any such instance, the Customer shall only be entitled to the return of any payments already made in relation to the relevant Contract and shall have no claims over and above the foregoing.

**VI. Service for Trumpf-sourced spare parts**

Machine maintenance or repairs are contingent on the use of original and TRUMPF-sourced parts and materials only. TRUMPF engineers/technicians will only install and exchange original TRUMPF parts and materials, or TRUMPF Philippines Inc. sourced parts and materials.

**VII. Warranty for services**

Service Technicians/Engineers of TRUMPF Philippines Inc. will perform services in a professional and workman-like manner using the skill and care ordinarily used by professionals performing this type of services in the location of the customer’s facility under similar conditions. In the event of TRUMPF’s non-conformance with this warranty, TRUMPF shall re-perform the services. The preceding states the sole liability of TRUMPF and the sole and exclusive remedy of the Customer.

**VIII. Warranty for spare parts**

TRUMPF provides a warranty for a period of **twelve (12) months** from the date per incoterms (unless otherwise advised) for Spare Parts. The Spare Parts shall be free from material defects. However, this warranty does not apply in the following circumstances:

- a) Fair wear and tear;
- b) Willful damage, abnormal storage or working conditions, accident, negligence by the Customer or by any third party;
- c) If the Customer fails to operate or use the Spare Parts in accordance with the user instructions;
- d) Any alteration or repair made by the Customer or by a third party without TRUMPF’s authorization

**IX. Xchange Program Parts**

Defective Spare Parts which are subject to the TRUMPF Xchange program can be sent back to TRUMPF for a residual credit. The residual credit is applied to the Customer’s Account after the replacement order is placed and the defective unit has been returned to TRUMPF. The amount of the residual credit is dependent on the type and age of Xchange Program Part.

All parts included in the Xchange program will be indicated to the Customer in writing (this may be sent by email) and on the Quotation.

**X. Default of Payment of Spare parts**

In the event any payments are not received punctually, the Customer shall be deemed to be in default of payment even if no reminder has been issued (“**Event of Default**”). Whatever the means of payment used, payment shall not be deemed to have been affected before TRUMPF’s account has been fully and irrevocably credited. The Customer shall have no right to withhold payments or to offset them with counterclaims unless the counterclaims are undisputed or have been established as final and absolute.

In the event of late payment, the Customer shall be charged interest on all overdue balances at the rate of **1.5% p.a., calculated daily** from the date such payment became due until such payment has been made. In the Event of Default, TRUMPF may terminate the relevant Contract and in such event, do all or any of the following (“**Default Actions**”):

- a) Suspend any delivery of Spare Parts, technical service support to the Customer; and/or
- b) Repossess the Spare Parts, if already delivered and deal with it as it deems fit in its sole discretion; and/or
- c) Settlement of outstanding debts in cash will imposed before proceeding with delivery of any spare part and/or providing service and technical support to the Customer.

The Customer shall bear the costs and expenses of TRUMPF in regard to the Default Actions, including any administrative and legal expenses as well as costs and expenses to uninstall and remove the Spare Parts from the machine in the premises where the machine is situated, and to return these to TRUMPF or any other destination which TRUMPF may decide.

**XI. Acceptance of Spare Parts**

Unless the Customer notifies TRUMPF on the contrary on the day of delivery and such notification is confirmed in writing within **seven (7) working days**, the spare parts shall be deemed to have been accepted by the Customer as being good condition and in accordance with the Contract. The Customer shall not be entitled to withhold payment of all or any of the payment or to offset them with counterclaims unless the counterclaims are undisputed or have been established as final and absolute.

**XII. Spare Parts Return for Credit**

TRUMPF will accept returns of Spare Parts for credit if the Spare Parts are unused, in original packaging and in saleable condition. It is the Customer’s responsibility to request for written approval for return from TRUMPF within **seven (7) working days**. All Spare Parts returned are subject to TRUMPF’s acceptance and TRUMPF reserves the right to decline if believed that the Spare Part has been used, not being in the original packaging or not in a saleable condition. No hazardous material or consumables can be returned to TRUMPF.

**XIII. Subordinate agreements**

These Terms and Conditions together with the Quotation, Sales Invoices, and the Billing Statement shall form the entire agreement and understanding between the Customer and TRUMPF and supersede any previous agreement or understanding relating to the subject matter herein. No other agreements or amendments to these Terms and Conditions shall be legally valid unless made in writing and cannot be suspended or nullified by any verbal agreement.



**XIV. Liability**

TRUMPF shall not be liable in contract or in tort for any loss or damage suffered to the Customer. Consumer rights are limited to those set out in these Terms and Conditions and under statute. The Customer shall fully indemnify TRUMPF against any loss, damage to any property, injury or death of any persons caused by negligent act or omission or willful misconduct of the Customer, its employees, agents, sub-contractors or by any breach of its contractual obligations arising out of these Terms and conditions.

To the extent permitted by law, TRUMPF and the Customer agree that TRUMPF will not be liable for any of the following:

- a) Incidental, indirect, special or consequential damages,
- b) Loss of business opportunity,
- c) Loss of revenue and income,
- d) Loss due to any business interruption,
- e) Loss of profit or anticipated profit,
- f) Loss of business, or
- g) Any loss arising out of or in connection with the purchase, or use or performance of the spare parts on the Machine or services, even if TRUMPF has been advised of their possibility in any communication manner.

To the extent permitted by law, any typographical, clerical or other error or omission in quotations, price lists, acceptance of offers, invoices, credit notes, or other documents or information issued or communicated by TRUMPF shall be subject to correction without any liability by TRUMPF.

Further, to the extent permitted by law, implied condition stated in the Terms and Conditions and warranties cannot be excluded, TRUMPF's liability for breach of such conditions and warranties shall be limited, at TRUMPF's option, to:

- a) The replacement of the Spare Part or the supply of equivalent Spare Part, the payment of cost of replacing the Spare Parts or acquiring equivalent Spare Parts, and/or
- b) In the case of Technical Service support, the supply of additional Services, or the payment of the cost of having Services additionally.

**XV. Spare Parts order cancellation**

Spare parts order cancellations must be requested in writing by the Customer and are only possible if the Spare Parts have not yet been shipped or delivered.

**XVI. Arbitration Clause and governing law**

These Terms and Conditions shall be governed by and constructed in accordance with the law of Philippines. Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof shall be settled by arbitration in accordance with the Philippine Dispute Resolution Center Inc. (PDRCI) Arbitration Rules as at present in force. The appointing authority shall be the PDRCI. The number of arbitrators shall be three (3), to be appointed pursuant to the PDRCI Arbitration Rules as at present in force. The place of arbitration shall be at the PDRCI in Taguig City, Metro Manila. The language to be used in the arbitral proceedings shall be English. The arbitral award shall be final and not appealable.

**XVII. Miscellaneous**

The invalidity, illegality, or unenforceability for any reason of any part of these Conditions of Sale shall not prejudice or affect the validity, legality or enforceability of the remaining part.

No failure or delay on the part of TRUMPF to exercise any rights, nor any delay in exercising any rights, under these Terms and Conditions at any time shall constitute a waiver of these Terms and Conditions nor shall any single or partial exercise of any right under these Conditions of Sale preclude any other or further exercise of any other right.