



General Conditions of Spare Parts Sale and/or Services

TRUMPF Vietnam

TRUMPF Vietnam General Conditions of Spare Parts Sale and/or Services ("General Conditions")

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I. Definitions

"**TRUMPF Vietnam**" means TRUMPF Vietnam Company Limited, an incorporation duly established and operating under Vietnamese laws with enterprise code of 0314404243 and registered address at No. 8, Nguyen Hue Boulevard, Ben Nghe Ward, District 1, Ho Chi Minh, Vietnam.

"**Customer**" means any legally registered entity buying Spare parts and/or Services from TRUMPF Vietnam.

"**Contract**" means a contract for sale by TRUMPF Vietnam to the Customer of the Spare parts and/or Services incorporating these General Terms and Conditions.

"**Price**" means the price as per TRUMPF Vietnam Quotation being valid for 30 days from the date of quotation unless otherwise indicated in writing. "**Quotation**" means a quotation issued by TRUMPF Vietnam.

"**Purchase Order**" means an offer by the Customer to purchase Services and/or Spare Parts in accordance with the Quotation and these Terms and Conditions.

"**Spare Part(s)**" means the spare parts referred to in the Quotation.

"**Service(s)**" means the technical services referred to in the Quotation.

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/or Spare Parts in accordance with the Quotation and these Terms and Conditions. An order shall only be deemed to be accepted when TRUMPF Vietnam issues a written order confirmation (this may be sent by email). 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 Vietnam which is not set out in the Contract.

III. Payment terms

Payment for Spare Parts and/or Services shall be made **within 30 days** from the invoice date unless other credit terms have been expressly agreed by TRUMPF Vietnam. Customer shall bear all shipping, delivery, handling charges to deliver the Spare Parts from TRUMPF Vietnam's designated warehouse to Customer's delivery place. The Price is exclusive of value added tax (**VAT**) and all levies/taxes (if any). For the avoidance of doubt, unless the Customer is eligible for VAT exemption or VAT rate 0%, the Parties acknowledge that Spare Parts and/or Services is subject to Vietnamese VAT, the regular rate applicable is 10%. TRUMPF Vietnam will include the applicable VAT rate accordingly on the value-added invoice to establish the final amount payable by the Customer. Time of payment is of the essence. TRUMPF Vietnam reserved the right to charge overdue interest of **5% per annum ("p.a")** on sums overdue.

All sums payable by the Customer to TRUMPF Vietnam herein shall be paid in full and (a) free of any restriction or condition, (b) free and clear of and without any deduction or withholding on account of any tax and (c) without deduction or withholding on account of any other amount, whether by way of set-off or otherwise. Any bank charges arising out of and in relation to any payment herein shall be borne in full by the Customer.

IV. Prices for Services

TRUMPF Vietnam 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 Vietnam **within seven (7) working** days from receipt of service report issued by TRUMPF Vietnam.

V. Force Majeure

TRUMPF Vietnam 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 Vietnam's obligations in relation to the delivery of Spare Parts and/or Services caused by a Force Majeure which means Act of God, fire, war, epidemics, pandemics, labor disputes, or any other events outside the reasonable control and prediction of TRUMPF Vietnam. 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 Vietnam 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. Warranty for Services

Service Technicians/Engineers of TRUMPF Vietnam 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 Vietnam's non-conformance with this warranty, TRUMPF Vietnam shall re-perform the services. The preceding states the sole liability of TRUMPF Vietnam and the sole and exclusive remedy of the Customer.

VII. Warranty for Spare Parts

Subject as expressly provided in Clause VI or Clause VII of these Terms and Conditions, all other warranties conditions or terms, including those implied by laws, are excluded to the fullest extent permitted by laws.

TRUMPF Vietnam provides a warranty for a period of **twelve (12)** months from the date of delivery (unless otherwise advised by Trumpf Vietnam) 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 or a third party 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 Vietnam's authorization

In the event of the Customer's non-conformance with this warranty, the remedies set out in Clause XIII shall apply.

Any Spare Parts provided to replace the defective Spare Parts shall be subject to a warranty, with the warranty period being the unexpired warranty period of the original Spare Parts.

VIII. X-change Program Parts

If any Spare Parts are subject to the TRUMPF Vietnam X-change program, this will be indicated in the Quotation.

Defective Spare Parts which are subject to the TRUMPF Vietnam X-change program can be sent back to TRUMPF Vietnam for a residual credit if the Customer has returned the defective Spare Part, ordered an equivalent Spare Part as replacement for the defective Spare Part, and has fully paid for the replacement Spare Part.

The X-change program will not apply, and TRUMPF reserves the right to not provide any credit 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 or a third party 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 Vietnam's authorization.

IX. 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 Vietnam'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 **5% p.a., calculated daily** from the date such payment became due until such payment has been made. In the Event of Default, TRUMPF Vietnam may terminate the relevant Contract and in such event, do all or any of the following ("**Default Actions**"):

- a) Suspend any further delivery of Spare Parts, technical service

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- support to the Customer; and/or
- b) Possession of Spare Parts shall not be transferred to Customer even if already delivered, and TRUMPF Vietnam shall repossess the Spare Parts, deal with it as it deems fit in its sole discretion;
- d) Settlement of outstanding debts in cash will be imposed before proceeding with delivery of any further spare part(s) or goods and/or providing service and technical support to the Customer; and/or
- e) bring a claim against the Customer for all loss and damages in connection with the Event of Default, including all legal costs and expenses on an indemnity basis and/or
- f) other actions applicable by laws.

X. Acceptance of Spare Parts

Unless the Customer notifies TRUMPF Vietnam on the contrary on the day of delivery and such notification is confirmed in writing within **seven (7) working days from the date of delivery**, 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.

XI. Spare Parts Return for Credit

TRUMPF Vietnam 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 Vietnam within **seven (7) working days from the date of delivery**. All Spare Parts returned are subject to TRUMPF Vietnam's acceptance and TRUMPF Vietnam reserves the right to decline if TRUMPF Vietnam believes that the Spare Part has been used, is not in the original packaging or is not in a saleable condition. No hazardous material or consumables can be returned to TRUMPF Vietnam.

XII. Subordinate agreements

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.

XIII. Liability

TRUMPF Vietnam 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 mandatory laws. 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.

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

- a) Loss of business opportunity;
- b) Loss of revenue and income;
- c) Loss due to any business interruption;
- d) Loss of profit or anticipated profit;
- e) Loss of business;
- f) Incidental, indirect, special or consequential damages; 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 Vietnam 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 Vietnam.

Further, to the extent permitted by law, TRUMPF Vietnam's liability for breach of such conditions and warranties shall be limited, at TRUMPF Vietnam's option, to:

- i) 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
- ii) In the case of provision of Service(s), the supply of additional Services, or the payment of the cost of having Services additionally.

In any cases, total responsibility of TRUMPF Vietnam to all types of damage or loss in relation to or arising from the contractual agreement or the provided Spare Parts and/or Services shall not exceed the value of the Spare Parts and/or Services in claims calculated basing on the Price set forth in the Contract and any other valid agreements.

XIV. Spare Parts order cancellation

Spare Part(s) order cancellations must be requested in writing by the

- c) Setting off any sums already paid by the Customer to TRUMPF Vietnam whether under the Contract or any other agreement or arrangement between the Customer and TRUMPF Vietnam, against sums owing by the Customer to TRUMPF Vietnam under the Contract;

Customer and are only possible if the Spare Parts have not yet been shipped or delivered.

XV. Arbitration Clause and governing law

All disputes arising out of or in connection with each Contract including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Vietnam International Arbitration Centre ("VIAC") in accordance with the Arbitration Rules of the Vietnam International Arbitration Centre ("VIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause.

The seat of arbitration shall be Ho Chi Minh City, Vietnam. The Tribunal shall consist of one arbitrator which shall be appointed by the President of the VIAC. The language of the arbitration shall be English.

Each Contract shall be governed by and construed in accordance with the laws of Vietnam. The United Nations Convention on Contracts for the International Sale of Goods does not apply to the Contract.

XVI. Miscellaneous

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

No failure or delay on the part of TRUMPF Vietnam 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 Terms and Conditions preclude any other or further exercise of any other right.

This General Conditions are made into 02 originals of equal authenticity, bilingual in English and Vietnamese. Each Party shall keep 01 (one) original. In case of any discrepancies between English and Vietnamese, Vietnamese version shall prevail.