



LIMITED WARRANTY POLICY

I. Limited Warranties.

A. Equipment and Parts Warranty.

Telsmith, Inc. ("Telsmith") warrants all Equipment and Parts manufactured by Telsmith to be free from defects in workmanship and materials during the Applicable Warranty Period, subject to the definitions, terms and conditions set forth below.

If within the Applicable Warranty Period, any Equipment or Parts are proved to Telsmith's satisfaction to be defective, then Telsmith shall, at its sole option, either:

- (a) repair the defective item;
- (b) replace the defective items without charge; or
- (c) refund the purchase price of the defective item upon the return of the same.

The foregoing shall be the exclusive remedy for the breach of the warranty contained in this Section IA.

B. Services Warranty.

Manufacturer further warrants that all services performed by it, including but not limited to advising services and services relating to the installation or repair of Equipment, Parts and components thereof, will be performed in a good and workmanlike manner.

Manufacturer's obligation and liability with respect to services shall be limited to the amount actually received by it on account of such services or the amount reasonably allocable thereto.

II. Warranty Disclaimer and Remedies Limitation.

THE FOREGOING WARRANTIES ARE THE EXCLUSIVE WARRANTIES PROVIDED BY TELSMITH AND ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED (EXCEPT WARRANTY OF TITLE), INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS OF PARTICULAR PURPOSE AND ANY IMPLIED WARRANTY FROM COURSE OF DEALING OR USAGE OF TRADE, EACH OF WHICH IS EXPRESSLY DISCLAIMED.

UNDER NO CIRCUMSTANCES SHALL TELSMITH BE LIABLE OR RESPONSIBLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL OR OTHER DAMAGES, EXPENSES, LOSSES OR DELAYS HOWSOEVER CAUSED, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, PERSONAL INJURY, DEATH AND PROPERTY DAMAGE, WHETHER BASED ON THEORIES OF NEGLIGENCE, BREACH OF CONTRACT, BREACH OF WARRANTY, MISREPRESENTATION, STRICT LIABILITY OR ANY OTHER LEGAL THEORY. THE PRICE CHARGED BY TELSMITH IS CONSIDERATION FOR THESE LIMITATIONS.

TELSMITH SHALL NOT BE SUBJECT TO ANY LIABILITY FOR ANY LOSSES, EXPENSES OR DAMAGES ARISING FROM ANY NEGLIGENCE BY IT OR ANY OF ITS EMPLOYEES, AGENTS OR REPRESENTATIVES IN CONNECTION WITH THE MANUFACTURE, SUPPLY OR INSTALLATION OF EQUIPMENT OR PARTS, OR THE PROVISION OF SERVICES.

IF OTHERWISE APPLICABLE, THE VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXCLUDED IN ITS ENTIRETY.

III. Definitions. The following capitalized terms used in this Policy shall have the following definitions:

A. "Applicable Warranty Period" shall mean:

1. As to New Equipment, the earliest to end of the following periods:
 - (a) the period commencing on the date of shipment to an authorized distributor and ending twenty-four (24) months after such shipment date;
 - (b) the period commencing on the date of delivery to the first end user and ending eighteen (18) months after such delivery date; or
 - (c) the period commencing on the date of Commissioning and ending on the earlier of twelve (12) months after such Commissioning or 2,000 operating hours after such Commissioning.
2. As to New Spare Parts, the earliest to end of the following periods:
 - (a) the period commencing on the date of shipment to an authorized distributor and ending eighteen (18) months after such shipment date; or
 - (b) the period commencing on the date of delivery to the first end user and ending twelve (12) months after such delivery.
3. As to Certified Rebuilt Equipment or Reconditioned Parts, the earliest to end of the following periods:
 - (a) the period commencing on the date of shipment by Telsmith to an authorized distributor or first end user and ending six (6) months after such shipment date; or
 - (b) the period commencing on the date of Commissioning and ending 1,000 operating hours after such Commissioning (if applicable).

Any period defined by the number of months after the date of shipment or delivery shall end on the same day of the month that such period began (e.g., twelve (12) months after July 1, 2013 is July 1, 2014).

- B. "Certified Rebuilt Equipment" shall mean used machinery or equipment refurbished, rebuilt or repaired by Telsmith and certified by Telsmith as meeting its standards for resale.
- C. "Commissioning" shall mean the completion of installation of an item of Equipment in compliance with the Telsmith Commission Checklist in order for such item to be ready for its intended use by the end user.
- D. "Equipment" shall mean New Equipment and Certified Rebuilt Equipment.
- E. "New Equipment" shall mean new machinery or equipment manufactured by Telsmith for either distribution to an authorized distributor or direct sale to the end user.
- F. "New Spare Parts" shall mean new parts or components manufactured by Telsmith for either distribution to an authorized distributor or direct sale to an end user.
- G. "Parts" shall mean New Spare Parts and Reconditioned Parts.
- H. "Reconditioned Parts" shall mean used parts refurbished or reconditioned by Telsmith for either distribution to an authorized distributor or direct sale to an end user.

IV. Warranty Terms and Conditions.

- A. Telsmith's warranty of Equipment will become effective upon Telsmith's receipt of the completed Telsmith Commissioning Checklist from the first end user. The checklist must be sent to Telsmith's Service Department within seven (7) days after the Commissioning of the Equipment, via facsimile, mail, or email (at service@telsmith.com). **With respect to New Equipment, failure to send the checklist within seven (7) days of Commissioning will result in a warranty period of twelve (12) months from the earlier to occur of the date of shipment to an authorized dealer or the date of delivery to a first time user.**
- B. All claims against this warranty must be made pursuant to Telsmith's "Warranty Request Form" and be received by Telsmith no later than thirty (30) days after the earlier of the occurrence of an incident giving rise to a claim or the customer becoming aware of an alleged defect. Telsmith shall have no responsibility or liability with respect to any warranty claims which are made after such thirty (30) day period, or with respect to incidents or conditions which occur after the end of the Applicable Warranty Period.
- C. For warrantable Parts replacement, Telsmith will provide ocean and/or non-expedited inland freight from Telsmith's factory to an authorized distributor, representative, or end-user, where applicable.
- D. Repair or replacement of Equipment or Parts pursuant to this warranty shall not extend or renew the original warranty period for any Equipment or Parts repaired or replaced. Any Equipment or Part repaired or replaced under this warranty (including any replacement Equipment or Part) will be warranted for the remaining Applicable Warranty Period to which the repaired or replaced Equipment or Parts were subject.
- E. If Telsmith elects to refund the purchase price of defective Equipment or Parts in lieu of repairing or replacing them, the defective Equipment or Parts must, at Telsmith's direction, be returned to Telsmith's plant, freight prepaid. Telsmith may, at its sole discretion, waive the requirement that defective Equipment or Parts be returned to its plant in connection with a warranty claim.
- F. With respect to equipment, parts, electrical components, or accessories to Telsmith products which are furnished, but not manufactured by Telsmith, Telsmith's warranty obligation shall in all respects conform and be limited to the warranty extended to Telsmith by its supplier or, if none, to the limit of the warranties expressed herein.
- G. Direct labor charges for replacement or repair of warrantable Equipment or Parts to the extent performed by an authorized distributor or end user, will be reimbursed at 75% of the published standard shop labor rate of the authorized distributor or end user. Telsmith's obligation hereunder shall be confined to such repair or replacement, and direct labor only for removing, repairing or replacing defective Equipment or Parts. Only reasonable direct labor hours without overtime or travel time will be accepted.
- H. Mileage charges incurred by an authorized distributor or end user associated with the replacement or repair of warrantable Equipment or Parts are subject to reimbursement at the lesser of either 50% of published standard mileage rate of such authorized distributor or end user, or at a maximum of 3 times the USA IRS mileage reimbursement schedule, up to a maximum of 500 miles round trip.
- I. Components that are found to be defective in workmanship or quality within the warranty period will be repaired, replaced, or reimbursed if taken from an authorized distributor's stock at the net price paid for the component.
- J. Telsmith reserves the right to make any design changes, or added improvements to its products at any time without incurring any obligation to make or install the same on units previously delivered.
- K. This limited warranty policy is limited to the sale of Equipment or Parts to the original first end user only and is not transferable. No subsequent owner or user shall have any rights or claims under this limited warranty policy. This limited warranty policy may not be modified except pursuant to a written agreement signed by Telsmith. This limited warranty policy shall be governed by and interpreted pursuant to the Uniform Commercial Code as enacted in the State of Delaware.
- L. Extended warranties may be available for purchase at the time of sale, or through a Telsmith authorized distributor prior to Commissioning. If such extended warranties are available, the terms and conditions of the Extended Warranty will be provided upon request.

M. Any controversy or dispute arising out of or relating to this Limited Warranty Policy shall be settled by arbitration in the city of Milwaukee, Wisconsin in accordance with the rules of the American Arbitration Association, and judgment upon award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

V. **Exclusions.** Telsmith is not responsible for:

- A. Equipment, Parts, or accessories which have been furnished, repaired, or altered by others so as, in Telsmith's judgment, to affect the same adversely or which shall have been subject to negligence, accident, improper care, installation, maintenance, storage, or other than normal use or service, during or after shipment.
- B. Any Telsmith product adversely affected, in Telsmith's judgment, by the use or installation on such product of any part, attachment or Equipment not manufactured, sold or authorized by Telsmith and field modifications, retrofits, or attachments installed on Equipment by others. Only Telsmith approved parts, or modifications and retrofits, may be installed on Equipment or attachments to Equipment produced or sold by Telsmith. Written authorization must be obtained from Telsmith Engineering or Service Managers prior to any non-Telsmith modifications or replacement parts being installed on Telsmith Equipment.
- C. Normal maintenance items such as replacement of grease, hydraulic oils, lubricants, and other fluids, filters, fuses, o-rings, shop supplies, basic alignments and adjustments, hammer and wear liner maintenance, screen cloth installation and tensioning, chute work, and tightening of bolts, nuts and fittings, etc.
- D. Damage as the result of improper long-term storage or failure to rotate, lubricate, or operate equipment and electric drive components during periods of inactivity of more than one (1) month.
- E. Electrical damage as the result of improper storage, physical damage, improper grounding, over-voltage, under-voltage, power surges, single phasing, lightning strikes, or excessive cycling of power to starters, variable frequency drives (VFD), or electrical components over a short period of time as limited by the supplier of the component.
- F. Failures resulting from improper maintenance of Equipment or failure to follow instructions set forth in equipment operations and maintenance manuals, service bulletins, or other written advisories or statements by Telsmith personnel.
- G. Wear liners and hammers, etc., that have been worn to 50% or more of their original thickness will not be covered under warranty. These items are subject to normal wear and have proven to be non-defective in material if they have worn to 50% or more of their original thickness.
- H. Minor fit problems on fabricated structure installations. Telsmith excludes from this warranty minor fit problems that may require reaming of holes, trimming, etc., which are considered normal functions of erection.
- I. Failures as a result of misapplication, negligence, and operating the Equipment outside of the normal range of design limits. This includes operating Equipment below the minimum or above the maximum recommended closed side setting. Upper Frame Bounce, (UFB), can be the result of such misapplication in Telsmith cone crushers. UFB is defined as the periodic separation of the upper frame from the lower frame seat during operation when the crushing pressures in the crushing chamber exceed the pressure of the relief system. ****UPPER FRAME BOUNCE VOIDS ANY AND ALL WARRANTIES.****
- J. Loss or damage by carrier. Any damage sustained while a product is in a carrier's possession is a transportation claim and should be filed immediately with the respective carrier upon receipt of goods. Damages incurred in transportation will fall to the responsibility of the party owning title of the Equipment or Parts at the time the damage occurs. Title is determined by the terms of the sales order or other contract.
- K. Repairs as the result of deterioration, parts exposure, or parts worn as a result of age, storage, weathering, or lack-of-use.
- L. Subsequent damages should the customer/end user continue to operate a machine after it has been noted that a failure or questionable operation has occurred, Telsmith will not be responsible under the warranty for the resultant damage to other components due to that continued operation.
- M. Damage as the result of inadequate structural foundations, concrete, steelwork, chassis, or cribbing that is supplied by others.
- N. Duplicate claims or the submission of additional charges to already submitted claims.
- O. Custom rebuilt equipment, used equipment, and used parts are considered "as-is", and not covered under this warranty.
- P. Special guarding as required by local safety codes. Local safety codes may require the use of special guards, safety shutdown devices, etc. Compliance with such laws is the customer / end user's responsibility and is not covered by Telsmith's warranty. Telsmith manufactures equipment to U.S. Mine Safety and Health Administration (MSHA) regulations as interpreted by Telsmith. Local MSHA inspector code interpretations, and modifications to comply with such interpretations, are the responsibility of the customer/end user.

VI. **Returns.**

- A. Telsmith requires that all Equipment and Parts being returned to Telsmith for inspection or repair to have prior authorization. Suspected defective items must be authorized by the Telsmith Warranty Administrator, via phone at 262-242-6600, or email at claims@telsmith.com. Permission is granted through the Return Material Authorization (RMA) form which must accompany the return of said Equipment or Parts. Authorized Parts must be clearly marked with their parts number, packaged in the same condition as they were at failure, packaged with their RMA number clearly marked on the outside of the package, and returned within thirty (30) days from the date the RMA was issued, and in no event more than sixty (60) days from the date of failure.

- B. All returns must be shipped freight prepaid, DDP-Telsmith, Inc., 10910 N. Industrial Dr., Mequon, WI, USA, as applicable. All transportation and clearance fees at the origin and destination are the responsibility of the returning party. Telsmith is not responsible for any penalties due to the inappropriate Customs filings, including ISF. The RMA form must be completed prior to return, and a pre-advice of the return routing must be furnished prior to making the return goods shipping arrangements.
- C. Customs ISF Enforcement can impose penalties for failure to file a proper ISF transmission on ocean shipments coming into the U.S. There are also penalties for failure to file timely and accurately. Contact the freight forwarder if needing assistance with this matter, or with clearing shipments through U.S. Customs.
- D. A customer or a Distributor who ships Equipment to Telsmith's factory for inspection and quotation for repair must agree to the terms of the repair and quotation within thirty (30) days. If not, the Equipment must be moved and shipped from the factory at the expense of the customer or distributor. Otherwise a storage fee will be charged per square foot per month or part thereof.

VII. User's Warranty Acknowledgement.

The undersigned customer ("User") acknowledges and agrees that it has purchased Equipment or Parts from Telsmith, Inc., or from an authorized Distributor of Telsmith, Inc. (as determined by the Sales Order Agreement), and agrees to the terms of this Limited Warranty Policy, and that it has no other warranty or rights with respect to Telsmith, Inc. Equipment, Parts or services other than those set forth herein.

User Name (Print): _____

User Address (Print): _____

User Representative Name & Title (Print): _____

User Signature & Date: _____

Telsmith, Inc. Representative Name & Title (Print): _____

Telsmith, Inc. Representative Signature & Date: _____

Sales Order Reference Number (Print): _____

Product Description (Print): _____