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## GENERAL TERMS AND CONDITIONS OF TRADE (09/20)

To the fullest extent legally permissible all dealings between the customer (including all related and/or associated companies and/or other entities, all successors and/or assigns and in its own capacity and as trustee of each and every trust of which it is trustee) [jointly “the Customer”] and Goodyear & Dunlop Tyres (Aust) Pty Ltd ACN 004 098 346 (and/or any successors and/or assigns) whether trading as “Beaurepaires” and/or otherwise [“GDT”] and/or Total Tyres Australia Pty Ltd ACN 086 070 671 ABN 68 086 070 671 (and/or any successors and/or assigns) whether trading as “Total Tyres” and/or otherwise [“Total Tyres”], jointly and severally [the “Supplier”] relating to any goods and/or services [the “goods” and/or the “services”] are subject to the following terms and conditions [“these Terms”] unless otherwise expressly agreed in writing:

1. **Payment:** a) Payment shall be made by cash, cheque, bank cheque, credit card or EFTPOS, without deduction and within the credit period stipulated in each invoice or statement. b) Payment must be made within 30 days from the end of month during which the relevant invoice is dated by the Supplier, unless otherwise stated. c) The Customer agrees to pay the liquidated processing costs on credit card payment as applicable to each card merchant as varied from time to time and advised to them by the Supplier. The Supplier will use reasonable efforts to notify the Customer of such charges in advance, and the Supplier will set out its current charges to a Customer upon request.
2. **Interest:** Interest shall be charged on overdue accounts at the current *Penalty Interest Rates Act 1983* (Vic.) interest rate plus 2%.
3. **Property:** a) The Customer agrees that these Terms constitute a “security agreement” for the purposes of the *Personal Property Securities Act 2009* (Cth) [“PPSA”], that the Supplier has and/or will have a “security interest” in all goods whether present or after acquired for the purposes of the PPSA and that PPSA Sections 95, 118, 121(4), 125, 129(2), 129(3), 130, 132(3)(d), 132(4), 137 & 157 shall not apply to any such security interest. b) Property in goods shall not pass until payment in full of all monies owed by the Customer. c) The Supplier reserves the right to take possession and dispose of goods as it sees fit at any time until full payment. The Customer grants permission to the Supplier to enter any property where any goods are stored. d) Immediately on delivery the Customer accepts liability for the safe custody of goods. e) On sale or disposition of any goods prior to full payment the Customer agrees to deposit all proceeds in a separate bank account and to not mix proceeds with any other monies and shall forthwith account to the Supplier notwithstanding that the Supplier may have granted any credit facility and/or time to pay. f) Until payment in full the Customer agrees: (i) to store all goods unpaid for in a manner which shows the Supplier as owner; (ii) to only sell goods in the usual course of its business on the basis that all proceeds are held in trust for the Supplier; and (iii) that sale on terms, for less than cost and/or to a related entity of the Customer shall not be “in the usual course”. g) Without derogating from any rights of the Supplier as a creditor or under these Terms if goods are used in any installation, assembly, construction, fabrication, manufacturing and/or other process [“the Process”] which results in an entitlement of the Customer to receive money from any other person the Customer agrees to hold such part of any monies received by the Customer (or the corresponding book debt owed to the Customer in respect of those monies) as is equivalent to the value of any goods used in the Process as invoiced to the Customer by the Supplier UPON TRUST for the Supplier until payment in full for those goods and all monies owed to the Supplier. h) Nothing in this clause is intended to create a charge and this clause shall be read down to the extent necessary to avoid creating any charge.
4. **Warranty:** a) the Supplier’s warranty policy on any goods and/or services supplied is published on the Supplier’s website at [www.goodyear dunloptyres.com.au](http://www.goodyear dunloptyres.com.au) or [www.totaltyres.com.au](http://www.totaltyres.com.au); b) Notwithstanding

clause 6, the Supplier's warranty is hereby incorporated into these Terms; **c)** the Supplier may vary its warranty terms and conditions from time to time; and **d)** the Supplier will notify the Customer of any change of warranty terms and conditions and any supply from the date of notice shall be subject to the updated warranty terms and conditions.

5. **Consumer Guarantees & ACL:** The Australian Consumer Law in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) ["**ACL**"] provides consumers with certain consumer guarantees and rights in relation to certain transactions concerning goods and/or services (see [www.consumerlaw.gov.au](http://www.consumerlaw.gov.au)). Any rights the Customer may have under the ACL shall apply notwithstanding any inconsistent provisions in these Terms which shall be read down to the extent necessary to comply with the ACL and which shall otherwise apply to the fullest extent legally permissible.
6. **Limitation of Liability:** To the extent permitted by the ACL: **a)** the Supplier may at its election either repair or replace any goods; **b)** the Customer agrees to limit any claim to the replacement/repair of the goods (or cost thereof) and/or re-supply of services (or cost thereof); **c)** in any event, the Supplier's liability to the Customer under a Supply Agreement is limited to the value of the goods and/or services, charged by the Supplier to the Customer under that Supply Agreement; and **d)** the Supplier shall not be liable for any consequential loss and/or any special and/or punitive damages in connection with the purchase of any goods and/or services.
7. **Cancellations and Returns:** **a)** the Customer agrees not to cancel any order or return any goods without the Supplier's prior approval. **b)** to be returned goods must be in brand new and unused condition with undamaged packaging, and no more than 3 weeks may have passed since delivery. **c)** the Supplier is not obliged to accept return of goods but may take back goods in saleable condition on such terms as the Supplier considers to be reasonable. **d)** all accepted returns may incur a restocking fee of up to 10% of the original invoice value. This restocking fee will only be applicable if it reflects a loss that is suffered directly by the Supplier as a result of the Customer's return.
8. **Quotations and Orders:** The Customer agrees that: **a)** quotations must be in writing; **b)** the Supplier shall not be bound by any quotation if an order is not placed within 14 days from the date of quotation; and **c)** the Supplier may prior to receipt of any order amend any quotation and notify the Customer accordingly without ramification.
9. **Supply and Delivery:** **a)** the Supplier may supply or refuse to supply goods and/or services at its discretion (acting reasonably) **b)** the Supplier may supply by instalments and/or withhold or cancel supply where: (i) the Supplier has insufficient goods to fulfil orders; (ii) goods are not available to supply; (iii) the Supplier is unable to perform services at the time requested due to insufficient personnel or materials; (iv) the Customer is in breach of these Terms, its payment terms or has exceeded any credit limit; (v) the Supplier has any safety concerns; or (vi) the Supplier has grounds for suspecting it will not be paid for the supply. **c)** The Customer agrees that: (i) any delivery of goods by the Supplier shall be at the cost of the Customer; (ii) risk and liability for any goods passes to the Customer upon delivery; (iii) the Supplier may leave any goods at the Customer's business premises or nominated delivery address if the site is unattended where reasonable to do so or by prior arrangement; (iv) the Supplier may arrange delivery via its agents; (v) a certificate purporting to be signed by a representative of the Supplier confirming delivery shall be conclusive evidence of delivery as shall any signed delivery docket; (vi) the Supplier shall not be liable for delay, failure or inability to deliver any goods; and (vii) the Supplier may nominate whether GDT or Total Tyres supplies the goods and/or services and these terms apply to that supply. **d)** The Customer agrees: (i) to pay for so much of any forward order as the Supplier invoices from time to time; (ii) that no delay or failure to fulfil any part of any order shall entitle the Customer to cancel or vary any order or delay or reduce any payment; and (iii) to pay the Supplier for any demurrage or other costs and expenses in handling and/or holding any goods once the goods are ready for delivery and/or collection and the Supplier has notified the Customer of their availability.
10. **Specifications and Purchase Price:** **a)** The Customer acknowledges that goods and services provided by the Supplier are standard form and their specifications may be varied from time to time, including due to

changes to the goods made by their manufacturer. **b)** the Supplier may vary the prices that it charges for the goods or services by providing reasonable notice in writing to the Customer. **c)** In the absence of a binding quotation all sales are made at the price nominated by the Supplier at the time of supply. **d)** All government imposts, levies and duties (including any GST or equivalent) shall be to the Customer's account. **e)** Prices exclude all government imposts, levies and duties (including any GST or equivalent). **f)** the Supplier may set off any amount it is owed by the Customer against any amount that it owes to the Customer

11. **Separate Agreement:** The parties agree that: **a) this Agreement may constitute a separate agreement/s between the Customer and GDT or the Customer and Total Tyres;** **b)** nothing set out in these terms creates an obligation for the Customer to place orders for goods and/or services from the Supplier; **c)** each order placed by the Customer is an invitation to treat, and is subject to the Supplier's acceptance in its discretion (acting reasonably); **d)** each supply and delivery of goods and/or services shall be a separate agreement between the parties [**"Supply Agreement"**]; **e)** these terms shall be incorporated into each Supply Agreement; and **f)** the security agreement referred to in clause 3 of these Terms shall apply to each Supply Agreement.
12. **Exclusions:** To the extent permitted by the ACL: **a)** no dealing between the Supplier and the Customer shall be or be deemed to be a sale by sample; **b)** the Customer shall rely on its own knowledge and expertise in selecting any goods and/or services for any purpose and any advice and/or assistance given by or for the Supplier shall be at the Customer's risk and shall not be or be deemed to be given as expert or adviser nor to have been relied on by the Customer or anyone claiming through the Customer; **c)** all goods are sold subject to all applicable trading terms, warranties and representations of the manufacturer; **d)** the Supplier shall not be responsible nor liable for paying and/or obtaining any necessary statutory, government and/or utility fees, expenses, orders, approvals, permits and/or licences; **e)** the Supplier shall not be liable for any goods and/or services: (i) utilised, stored, handled and/or maintained incorrectly or inappropriately; and/or (ii) manufactured and/or supplied by any other party; and **f)** the Customer agrees to: (i) check all goods for compliance with all applicable laws, standards and/or guidelines before use, on-sale and/or application; (ii) comply with all applicable laws, standards and/or guidelines and with all recommendations and/or directions made and/or given by the Supplier and/or by any manufacturer; and (iii) act in accordance with good practice at all times.
13. **Default:** **a)** On default or breach (which remains un-remedied for 7 days) of any part of these Terms by the Customer the full balance of all unpaid monies shall be deemed by this clause to be immediately due and payable (save to the extent that the Supplier expressly directs otherwise in writing) and the Supplier may *inter alia* terminate any agreement with the Customer (including this agreement), withhold or cancel any rebates, discounts or allowances, retain all monies paid, cease further deliveries and/or provision of services, recover all lost profits and/or at its discretion take immediate possession of any goods not paid for without prejudice to any other rights and without being liable in any way to any party. **b)** The Customer agrees to indemnify the Supplier for all fees and expenses payable to lawyers, mercantile agents and/or other parties acting on behalf of the Supplier in respect of anything instituted or being considered against the Customer whether for debt, possession of any goods or otherwise (including all legal costs on an indemnity basis). **c)** the Supplier may apply any payment in reduction of fees, interest and/or any principal debt in such order of priority as the Supplier in its discretion deems appropriate.
14. **Termination:** Either the Supplier or the Customer may terminate this agreement with 30 days' notice without prejudice to any other rights and without being liable in any way to any party. Rights and obligations of the parties under clauses 1, 2, 3, 4, 5, 6, 7, 9, 12, 13 and 15 shall continue to apply after any termination of this agreement.
15. **Indemnity:** The Customer fully indemnifies and hold harmless the Supplier against any claim or loss arising from or related in any way to any dealing between the Supplier and the Customer and/or arising under these Terms, save for any loss or damage arising directly from the Supplier's negligence or wilful misconduct.

16. **Other Terms and Conditions:** No terms and conditions sought to be imposed by the Customer upon the Supplier shall apply.
17. **Jurisdiction:** The Customer agrees that these Terms and any claim or dispute between the Supplier and the Customer shall be governed by the law applicable in the State nominated by the Supplier and the Customer agrees to submit to the jurisdiction of the appropriate Court nominated by the Supplier in the capital city of that State. If no State is nominated, then Victoria shall be deemed to be the nominated State.
18. **Credit Limit:** Any credit facility or credit limit is an indication only of the intention of the Supplier at the time. The Supplier may reduce or withdraw credit at any time at its discretion and without any liability to the Customer or any other party. The Supplier may increase any credit limit to accommodate any supply or charges requested by or agreed to be the Customer. The Customer acknowledges that it is liable and will pay for any goods and/or services supplied at its request notwithstanding the credit limited is exceeded.
19. **Privacy and Credit Reporting Policy:** The Privacy and Credit Reporting Policy of the Supplier is available at [www.goodyearunloptyres.com.au](http://www.goodyearunloptyres.com.au) or [www.totaltyres.com.au](http://www.totaltyres.com.au) (**Policy**). This Policy includes a notification that sets out specific information related to the collection, use and disclosure of credit-related information. Please contact us if you would like to receive this Policy in an alternative form (e.g. hard copy).
20. **Waiver:** An election by the Supplier not to exercise any rights on any breach of these Terms shall not constitute a waiver of any rights relating to any other breach.
21. **Variations:** The Customer: **a)** acknowledges that the Supplier may vary or replace these Terms affecting all future dealings between the Customer and the Supplier as necessary to comply with any change in law; **b)** shall be deemed to have notice of any variation to or replacement of these Terms immediately upon the Supplier notifying the Customer at the Customer's last known address; and **c)** shall be deemed to have accepted these Terms as varied or replaced immediately upon placing any further order with the Supplier.
22. **Force Majeure:** The Supplier shall not be in default or in breach of any contract with the Customer due to any matter that is outside of its reasonable control, including any strike, lock-out, epidemic or pandemic.
23. **Insolvency:** The Customer shall be in default of these Terms if it commits an act of insolvency, appoints an insolvency practitioner and/or calls a formal meeting of creditors.
24. **Severability:** Any part of these Terms shall be capable of severance without affecting any other part of these Terms.
25. **Anti-Bribery and Corruption:** Each party warrants that it and its related bodies corporate shall comply with all applicable anti-bribery and anti-corruption laws including (without limiting) the US Foreign Corrupt Practices Act. Without limiting the foregoing neither party shall make any improper or unlawful payment, gift, bribe, or advantage to any government or quasi government official in order to influence any administrative decision or to gain any improper advantage.