

ITW GLOBAL TIRE REPAIR TERMS AND CONDITIONS OF SALE

1. **Acceptance.** The following terms and conditions of sale are applicable to all sales of Products or Services, and all quotations, order acknowledgements, and invoices from all Automotive divisions and subsidiaries of ITW Global Tire Repair, an Illinois Tool Works Inc. business (“ITWGTR”) and to all Purchase Orders from ITWGTR’s customers (“Purchasers”) with respect to any of the aforementioned business units, and are the only terms and conditions applicable to the sale of ITWGTR’s Products or Services, except those relating solely to quantities, shipping instructions, or descriptions of the products set forth in Purchaser’s Purchase Orders (collectively, “Purchase Order Terms”). Purchase Orders, if accepted by ITWGTR, are accepted subject to the terms and conditions set forth herein. **ITWGTR HEREBY REJECTS ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS PROPOSED BY PURCHASER, WHETHER OR NOT CONTAINED IN ANY OF PURCHASER’S BUSINESS FORMS OR ON PURCHASER’S WEBSITE, AND SUCH ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS SHALL BE VOID AND OF NO EFFECT.** In addition, no site usage agreement or any other click through agreement on a website will have any applicability or binding effect whether or not ITWGTR clicks on an “ok,” “I accept,” or similar acknowledgment. Commencement of any work by ITWGTR or Purchaser’s acceptance of Products or Services (“Products or Services”) called for in said Purchase Order shall constitute its acceptance of the following terms and conditions of sale (these “Terms and Conditions”). Any changes to these terms and conditions must be in writing clearly identifying the change and signed by ITWGTR. In the event of a conflict, the following order of precedence will apply: (a) terms agreed to in writing and executed by an authorized officer of ITWGTR; (b) any ITWGTR quotation, acknowledgment or invoice and all documents incorporated by specific reference herein or therein; (c) these Terms and Conditions.

2. **Quotations.** Quotations are only valid in writing and for 30 days from the date of the quotation. All quotations are subject to change or withdrawal without prior notice to Purchaser. ITWGTR may refuse orders and has no obligation to supply Products or Services unless ITWGTR issues an order acknowledgement or upon the shipment of Products or commencement of Services by ITWGTR.

3. **Prices and Payment Terms.** Prices are in U.S. Dollars and are subject to change without notice. If a raw material, component, or service provider raises its prices, or imposes a surcharge on ITWGTR, ITWGTR reserves the right to increase prices and/or surcharge Purchaser and Purchaser agrees to accept such price increase or surcharge until the term of such price increase or surcharge or until the termination of the contract to which these terms and conditions apply is reached. All purchase orders (“Orders”) are accepted subject to ITWGTR’s price in effect at time of order. Prices do not include any sales, use, value-added or other taxes, import duties, license fees or like charges (“Fees”) related to the sale, importation or use of Products or Services, and Purchaser is responsible for those Fees. If ITWGTR is subsequently required to pay any Fees, Purchaser shall fully defend and indemnify ITWGTR therefor. Unless otherwise expressly agreed to by ITWGTR in writing, terms of payment are 30 days net from the date of ITWGTR’s invoice. In the event of Purchaser’s failure to pay ITWGTR’s invoice(s) or of any late invoice payments by Purchaser, ITWGTR reserves the right to take any or all of the following actions: (a) any actions allowable under law; (b) withhold shipment of goods; (c) demand the return of previously shipped goods; (d) institute new payment terms; and/or (e) cancel any purchase orders. In addition, Purchaser agrees to pay interest on overdue invoices at the rate of 1.5% per month, but not higher than the highest rate permitted by law. Purchaser’s inspection rights herein will not affect the payment terms. Under no circumstances will Purchaser have a right of set-off. If Purchaser fails to make any payment as required, Purchaser agrees to indemnify ITWGTR for all associated costs incurred by ITWGTR, including reasonable attorney fees and court costs.

4. **Credit Approval.** All shipments are subject to credit approval by ITWGTR. ITWGTR may invoice Purchaser and recover for each shipment as a separate transaction. If, in ITWGTR’s sole judgment, Purchaser’s financial condition is or becomes unsatisfactory, then ITWGTR may, without prejudice to any of its other remedies: (a) defer or decline to make any shipments except upon receipt of satisfactory security or cash payments in advance; and/or (b) terminate any or all of Purchaser’s purchase orders.

5. **Cancellation or Modification.** Once ITWGTR has accepted a purchase order or begun taking actions with respect to a purchase order, Purchaser cannot cancel or modify that purchase order except with ITWGTR’s consent.

In such event, Purchaser will be liable for cancellation or modification charges and all costs incurred for the order or in connection with the cancellation or modification. No cancellations will be permitted for any sales items.

6. **Inspection/Non-Conforming Shipments.** ITWGTR grants Purchaser the right to inspect Products for a period of fifteen (15) business days immediately following delivery (“Inspection Period”). Purchaser must notify ITWGTR of any Products that do not conform to the terms applicable to their sale within the inspection period, and afford ITWGTR a reasonable opportunity to inspect such Products and cure any nonconformity. If Purchaser fails to provide ITWGTR with notice of nonconformity within the Inspection Period, Purchaser shall be deemed to have accepted the Products. Purchaser will have no right to return any Product without ITWGTR’s prior written authorization. Any return authorized by ITWGTR must be made in accordance with ITWGTR’s return policies then in effect and must be accompanied by a Returned Goods Authorization (“RGA”) from ITWGTR. Purchaser will be responsible for all costs and expenses associated with any returns of Products and will bear the risk of loss or damage of such Products, unless ITWGTR agrees otherwise in writing or determines that the Products do not conform to the applicable terms of sale. ITWGTR, in its sole discretion may reject any return of Product not approved by ITWGTR in accordance with this paragraph or otherwise not returned in accordance with ITWGTR’s then current-return policies

7. **Delivery.** ITWGTR anticipates use of common carriers for shipment of Products. Unless otherwise agreed upon by the parties in writing, all Products will be shipped FOB ITWGTR’s facility (Incoterms 2010). Shipping dates are approximate and are based upon prompt receipt of all necessary information from Purchaser. ITWGTR may ship items in a single or multiple shipments. Title to the Products and risk of loss shall pass to Purchaser upon shipment in accordance with the applicable shipping term. Purchaser assumes all risk and liability for loss and use or misuse by third parties who acquire or use the Products illicitly after delivery. Purchaser must notify ITWGTR and the delivering carrier within 5 days business days from date of receipt of Products, of any damage or shortage, and afford ITWGTR a reasonable opportunity to inspect the Products. Any loss occasioned by damage or shrinkage in transit will be for Purchaser’s account, and claims for such loss must be made solely against the carrier.

8. **Damage.** Purchaser shall notify ITWGTR and the delivering carrier within fifteen (15) business days from date of receipt of Products, of any damage or shortage, and afford ITWGTR a reasonable opportunity to inspect the Products. Any loss occasioned by damage or shrinkage in transit will be for Purchaser’s account and claims for such loss shall be made solely against the carrier.

9. **Warranty.** ITWGTR WARRANTS ONLY THAT THE PRODUCTS OR SERVICES SOLD HEREUNDER (A) WILL CONFORM TO MUTUALLY AGREED UPON WRITTEN SPECIFICATIONS OR OTHER DESCRIPTIONS, IF ANY, (B) WILL BE CONVEYED FREE AND CLEAR OF ANY LIEN, SECURITY INTEREST OR ENCUMBRANCE CREATED BY ITWGTR OR ANY PARTY CLAIMING BY, THROUGH OR UNDER ITWGTR, AND (C) WILL BE FREE FROM SUBSTANTIAL DEFECTS IN MATERIAL AND WORKMANSHIP UNDER NORMAL USE GIVEN PROPER INSTALLATION AND MAINTENANCE FOR A PERIOD OF FOUR YEARS FROM THE DATE THE END-USER RECEIVES THE PRODUCTS (THE “WARRANTY PERIOD”); PROVIDED HOWEVER, THAT IN NO EVENT, SHALL THIS WARRANTY PERIOD EXCEED FOUR YEARS AND THREE MONTHS FROM THE DATE OF DELIVERY TO THE SHIPPING CARRIER.

10. **REMEDIES.** IN THE EVENT OF A BREACH OF THE WARRANTIES SET FORTH ABOVE (THE “WARRANTIES”), ITWGTR WILL, AT ITWGTR’S OPTION AND AS ITWGTR’S SOLE LIABILITY AND PURCHASER’S SOLE REMEDY EITHER REPLACE OR REPAIR ANY DEFECTIVE PRODUCTS, REFUND THE PURCHASE PRICE UPON RETURN OF THE PRODUCTS OR GRANT A REASONABLE ALLOWANCE ON ACCOUNT OF SUCH DEFECTS, PROVIDED THAT (I) DURING THE WARRANTY PERIOD ITWGTR IS PROMPTLY NOTIFIED IN WRITING UPON DISCOVERY OF SUCH FAILURE OR DEFECT WITH A DETAILED EXPLANATION OF ANY ALLEGED DEFICIENCIES; (II) ITWGTR IS GIVEN A REASONABLE CHANCE TO INVESTIGATE ALL CLAIMS; AND (III) ITWGTR’S EXAMINATION OF SUCH PRODUCT CONFIRMS THE ALLEGED DEFICIENCIES AND THAT THE DEFICIENCIES WERE NOT CAUSED BY ACCIDENT, MISUSE, NEGLIGENCE, NORMAL WEAR AND TEAR, IMPROPER INSTALLATION, UNAUTHORIZED ALTERATION OR REPAIR OR IMPROPER TESTING. NO PRODUCTS SHALL BE

RETURNED TO ITWGTR UNTIL AFTER INSPECTION AND APPROVAL BY ITWGTR AND RECEIPT BY PURCHASER OF A RGA.

11. **Limitation of Liability and Remedies.** ITWGTR WILL NOT BE LIABLE, AND PURCHASER WAIVES ALL CLAIMS AGAINST ITWGTR, FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, DOWN TIME, LOST PROFITS OR COMMERCIAL LOSSES, WHETHER OR NOT BASED UPON ITWGTR'S NEGLIGENCE OR BREACH OF WARRANTY OR STRICT LIABILITY IN TORT OR ANY OTHER CAUSE OF ACTION. IN NO EVENT WILL ITWGTR'S LIABILITY IN CONNECTION WITH THE AGREEMENT OR SALE OF ITWGTR'S PRODUCTS EXCEED THE PURCHASE PRICE OF THE SPECIFIC PRODUCTS AS TO WHICH THE CLAIM IS MADE.

12. **Product Use.** Purchaser is solely responsible for determining if a Product is fit for a particular purpose and suitable for Purchaser's method of application. Accordingly, and due to the nature and manner of use of ITWGTR's Products, ITWGTR is not responsible for the results or consequences of use, misuse or application of its Products. All physical properties, statements and recommendations are either based on the tests or experience that ITWGTR believes to be reliable, but they are not guaranteed.

13. **Taxes.** Purchaser shall pay to ITWGTR, in addition to the purchase price, the amount of all fees, duties, licenses, tariffs, and all sales, use, privilege, occupation, excise, or other taxes, federal, state, local or foreign, which ITWGTR is required to pay or collect in connection with the Products or Services sold to Purchaser. Failure by the ITWGTR to collect any such fees or taxes shall not affect Purchaser's obligations hereunder and Purchaser shall fully defend, indemnify and hold harmless ITWGTR with respect to such tax obligations.

14. **Ownership of Intellectual Property and Use of Trademarks and Trade Names.** All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights, trademarks, patents and applications therefore, and other information or Intellectual Property disclosed or otherwise provided to Purchaser by ITWGTR and all rights therein (collectively, "Intellectual Property") will remain the property of ITWGTR and will be kept confidential by Purchaser in accordance with these Terms and Conditions. Purchaser shall have no claim to, nor ownership interest in, any Intellectual Property and such information, in whatever form and any copies thereof, shall be promptly returned to ITWGTR upon written request from ITWGTR. Purchaser acknowledges that no license or rights of any sort are granted to Purchaser hereunder in respect of any Intellectual Property, other than the limited right to use the ITWGTR's Products purchased from ITWGTR. Unless specifically provided for and itemized for payment as agreed to by ITWGTR, the sale of Products or Services by ITWGTR to Purchaser does not include any design, development or related services associated with the Intellectual Property of the ITWGTR. Purchaser shall not use, directly or indirectly, in whole or in part, ITWGTR's name, or any other trademark or trade name that is now or may hereafter be owned by ITWGTR (collectively the "Trademarks"), as part of Purchaser's corporate or business name, or in any way in connection with Purchaser's business, except in a manner and to the extent authorized herein or otherwise approved by ITWGTR in writing. Purchaser hereby acknowledges ITWGTR's ownership of the Trademarks and the goodwill associated therewith. Purchaser shall not infringe upon, harm or contest the validity of any Trademarks. Purchaser shall not use the Trademarks in combination with any other trademarks or names. Purchaser agrees that it will not register or attempt to register any Trademark or any colorable imitation thereof (including any non-English language variation thereof), or use such Trademarks for any products or for any purposes. Purchaser shall not at any time during or after termination of the Agreement use in its business any other trademark that is similar to or in any way resembles the Trademarks so as to be likely to cause deception or confusion with the Trademarks. Purchaser shall provide reasonable cooperation to ITWGTR with respect to any efforts of ITWGTR to protect, defend or enforce its rights to the Trademarks. Should Purchaser cease being an authorized customer of ITWGTR for any reason, Purchaser shall immediately discontinue any formerly permitted use of ITWGTR's name or the Trademarks.

15. **Confidential Information.** All information furnished or made available by ITWGTR to Purchaser in connection with the subject matter of these Terms and Conditions or of Purchaser's Purchase Order shall be held in confidence by the Purchaser. Purchaser agrees not to use such information or disclose such information to others (directly or indirectly) without ITWGTR's prior written consent. The obligations in this paragraph will not apply to any information which (a) at the time of disclosure was or thereafter becomes, generally available to the public by

publication or otherwise through no breach by the Purchaser of any obligation herein, (b) the Purchaser can show by written records was in the Purchaser's possession prior to disclosure by ITWGTR, or (c) is legally made available to the Purchaser by or through a third party having no direct or indirect confidentiality obligation to ITWGTR with respect to such information.

16. **Infringement and Indemnification.** a) Except as set forth below, ITWGTR agrees to defend and indemnify the Purchaser against any claims, costs, damages, liability and expenses resulting from actual patent, trademark, or copyright infringement, misappropriation of confidential information, or violation of any other Intellectual Property right, domestic or foreign, that may arise from the sale of ITWGTR's proprietary Product to the Purchaser as such pertains to the subject matter of these Terms and Conditions (provided that the Product (i) is not modified in any way by the Purchaser or any other party or combined with any other part or product not supplied by ITWGTR, (ii) is not a resourced part provided by Purchaser to ITWGTR or designed or specified by the Purchaser, and (iii) is used in the manner intended by ITWGTR). If a suit or claim results in any injunction or any other order that would prevent ITWGTR from supplying any part or Product falling under these Terms and Conditions, or if the result of such a suit or claim would, in the reasonable opinion of ITWGTR, otherwise cause ITWGTR to be unable to supply such parts or Products, ITWGTR shall have the right, at its option, if it so chooses, to do one or more of the following: (i) secure an appropriate license to permit ITWGTR to continue supplying said parts or Products to Purchaser; (ii) modify the appropriate part or Product so that it becomes non-infringing; (iii) replace the appropriate part or Product with a non-infringing but practically equivalent part or Product; or (iv) if the ITWGTR cannot reasonably accomplish the actions specified in subparagraphs (i) – (iii), then in ITWGTR's sole discretion, ITWGTR may discontinue selling the part or Product without any further liability to Purchaser. (b) Purchaser agrees to defend, indemnify and hold ITWGTR harmless against any claims, costs, damages, liability and expenses resulting from actual or alleged patent, trademark, or copyright infringement, misappropriation of confidential information, or violation of any other Intellectual Property right, domestic or foreign, that may arise from the making, using or selling of any part or Product or using any process that is designed or specified by the Purchaser. (c) If any claim is made by a third party on the basis of which indemnification may be sought under this paragraph, the party entitled to indemnification (the "Indemnified Party") shall give written notice of such claim to the party liable for such indemnification (the "Indemnifying Party") promptly after the Indemnified Party has actual notice of such claim. The Indemnifying Party shall have the right to defend and/or settle such claim at its expense, provided that it does so diligently and in good faith. The Indemnified Party shall cooperate with such defense and/or settlement and shall have the right to participate in (but not to control) such defense and/or settlement at its expense. No settlement shall be entered into unless the Indemnified Party shall be released from all liability for such claim.

17. **Audit.** Unless agreed to in writing by an officer of ITWGTR, neither Purchaser nor any Purchaser representative, may examine or audit ITWGTR's cost accounts, books or records of any kind or any matter, or any other data that ITWGTR, in its sole discretion, considers confidential or proprietary.

18. **ITWGTR Employees.** ITWGTR sales and service employees do not have the training or authority to make legal representations or enter into any agreements or execute any Purchaser documents affecting legal responsibilities or waiving legal rights, including those regarding the transfer of intellectual property rights or related to privacy laws. Any such representations, agreements or documents will not be binding on ITWGTR or such ITWGTR employees.

19. **Compliance.** Purchaser agrees to comply with all federal, state, local and foreign rules, regulations, ordinances and laws applicable to Purchaser's obligations hereunder and Purchaser's use of the Products and Services, including import/export laws, labor laws and anti-corruption laws.

20. **Relationship of the Parties.** Nothing in the Agreement or the course of dealing of the parties may be construed to constitute the parties hereto as partners, joint venturers or as agents for one another or as authorizing either party to obligate the other in any manner.

21. **Force Majeure.** ITWGTR will not be responsible for failure to perform in a timely manner under the Agreement when its failure results from events beyond its reasonable control (an event of "Force Majeure"),

including acts of God, epidemics, acts of war whether declared or undeclared, blockades, labor disputes (whether of ITWGTR's employees or the employees of others), raw material shortages and material increases in costs of raw materials. In the event of Force Majeure, the time for performance will extend for such time as reasonably necessary to enable ITWGTR to perform.

22. **Assignment; Binding Effect.** No assignment of any rights or interest or delegation of any obligation of Purchaser under the Agreement or Purchaser's purchase order may be made without ITWGTR's prior written consent. Any attempted assignment will be void. ITWGTR may assign the Agreement or otherwise transfer its rights and/or obligations under the Agreement. The Agreement will inure to the benefit of and be binding upon the parties and their respective permitted successors and assigns.

23. **Waiver.** In the event of any default by Purchaser, ITWGTR may decline to ship Products or provide Services. If ITWGTR elects to continue shipping or otherwise fails to insist upon strict compliance with the Agreement, ITWGTR's actions will not constitute a waiver of Purchaser's default or any other existing or future default, or affect ITWGTR's legal remedies.

24. **Bankruptcy.** If either party becomes insolvent, is unable to pay its debts when due, files for or is the subject of involuntary bankruptcy, has a receiver appointed or has its assets assigned, the other party may cancel any unfulfilled obligations hereunder.

25. **Limitation of Actions/Choice of Law/Litigation Costs.** Any dispute arising out of or related to the Agreement will be governed by and construed according to the laws of the state of Illinois and litigated exclusively in a state or federal court located in Cook County, Illinois. The parties hereto expressly release and waive any and all rights to a jury trial and consent to have any dispute heard solely by a court of competent jurisdiction. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to the Agreement. If either party commences litigation or mutually agreed upon alternative dispute resolution concerning any provision of the Agreement, the prevailing party is entitled, in addition to the relief granted, to a reasonable sum for their attorney's fees in such litigation or mutually agreed upon alternative dispute resolution, provided that if each party prevails in part, such fees will be allocated in the manner as the court or arbitrator determines to be equitable in view of the relative merits and amounts of the parties' claims.

26. **Survival.** Any provisions in the Agreement which, by their nature, extend beyond the termination or expiration of any sale of Products or Services, will remain in effect until fulfilled.

27. **Severability.** If any provision herein is held to be unlawful or unenforceable, the remaining provisions herein will remain in effect.

28. **Integration and Modification.** The Agreement constitutes the entire agreement between ITWGTR and Purchaser with respect to the Products and Services covered by the Agreement, and supersedes any prior agreements, understandings, representations and quotations with respect thereto. No modification hereof will be of any effect unless in writing and signed by the party to be bound thereby.

(November 2018)