# TERMS & CONDITIONS FOR THE SALE OF GOODS

# UNITED KINGDOM

These terms and conditions apply to the sale of any goods by Bridgestone Europe NV/SA ("Bridgestone") or any company that is directly or indirectly controlled by Bridgestone (the "Bridgestone Group") to a company based in the United Kingdom. They shall not apply to the sale of any goods to consumers.

**1. DEFINITIONS AND INTERPRETATION**

1.1 In these Conditions the following words have the following meanings:

**"Business Day"** means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business

**"Business Hours"** means between 9.00am and 5.30pm Monday to Friday (excluding public and bank holidays);

**"Company"** means Bridgestone or the member of Bridgestone Group specified in the Contract;

**"Conditions"** means the terms and conditions set out in this document as amended from time to time;

**"Contract"** means the contract, howsoever formed, between the Company and the Customer for the supply of the Goods from the Company to the Customer incorporating these Conditions;

**"Customer"** means the person(s), firm or company who purchases the Goods from the Company;

**"Goods"** means the goods set out in the Order to be supplied to the Customer by the Company (including any part or parts of them);

**"Order"** means the Customer's order for the supply of Goods as set out in the Customer's purchase order form or such other form as may be agreed between the parties from time to time;

**"Point of Delivery"** means the time at which the relevant Goods arrive at the Customer's premises for unloading.

**2. BASIS OF CONTRACT**

2.1 The Contract will be subject to these Conditions to the exclusion of all other terms and conditions.

2.2 Each Order shall be deemed to be an offer by the Customer to purchase Goods from the Company subject to these Conditions. The Order shall be deemed to be accepted upon the earlier of the Company accepting the order or commencing supply of the Goods in accordance with the relevant Order and these Conditions, at which point and on which date the Contract shall come into existence (the **"Commencement Date"**).

2.3 Any quotation for the Goods given by the Company shall not constitute an offer. Any quotation or estimate made by the Company is given subject to these Conditions. Without prejudice to the Company's right not to accept an Order, quotations will be valid for twenty-one (21) days from date of issue.

2.4 The Customer can only cancel an Order (or any part of an Order) which the Company has already accepted, with the Company's prior agreement in writing and provided that the Customer indemnifies the Company in full for any losses or costs it suffers or incurs as a result of such cancellation. The Company is not bound to agree any such cancellation and may complete such Order even if the Customer purports to cancel it.

**3. DELIVERY AND ACCEPTANCE OF GOODS**

3.1 Unless otherwise agreed in writing by the Company delivery of the Goods shall take place at the Customer's place of business in the UK during Business Hours.

3.2 Any date or dates specified by the Company for delivery of the Goods are intended to be an estimate only and time for delivery shall not be of the essence. If no dates are so specified, delivery will be within a reasonable time.

3.3 If the Company fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Company shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

3.4 The Company shall be entitled at its discretion to make delivery of the Goods by instalments and to invoice the Customer for each instalment individually. Where the Goods are to be delivered in instalments, each instalment shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions shall not entitle the Customer to treat the Contract as a whole as repudiated or to refuse to accept subsequent instalments.

3.5 If the Customer fails to accept delivery of the Goods upon the delivery date agreed with the Company, then, except where such failure or delay is caused by a Force Majeure Event or the Company's failure to comply with its obligations under the Contract:

(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the first Business Day after the day on which the Company attempted to deliver the Goods; and

(b) the Company shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

3.6 The Customer shall notify the Company within 14 days of the agreed delivery date of any failure by the Company to deliver some or all of the Goods providing evidence reasonably required to support such claim. The Company will only be liable for non-delivery of Goods (even if caused by the Company's negligence) if the Customer gives written notice within the 14 day notice period to the Company.

**4. PASSING OF RISK AND LEGAL TITLE**

4.1 The risk in the Goods shall pass to the Customer at the Point of Delivery.

4.2 Title to the Goods shall not pass to the Customer until the earlier of:

(a) the Company receives:

(i) payment in full, in cash or cleared funds, for the Goods; and

(ii) all other money due and payable from the Customer to the Company under any other contract; or

(b) the Customer resells those Goods, in which case title to those Goods shall pass to the Customer at the time specified in Condition 4.4.

4.3 Until title to the Goods has passed to the Customer the Customer shall:

(a) hold the Goods on a fiduciary basis as the Company's bailee;

(b) store the Goods at its premises in a proper manner in conditions which adequately protect and preserve the Goods and shall insure them, without any charge to the Company, and not tamper with any identification upon the Goods or their packaging and shall ensure that they are stored and kept in such a way as to ensure they are clearly identifiable as belonging to the Company and the Company shall be entitled to examine any such Goods in storage at any time during Business Hours upon giving the Customer reasonable notice of its intention to do so;

(c) notify the Company immediately if it becomes subject to any of the events listed in Condition 13.1(c).

4.4 The Customer may sell the Goods in the normal course of the Customer's business (but not otherwise) before the Company receives payment for the Goods. However, if the Customer sells the Goods before the Company receives payment for the Goods:

(a) it does so as principal and not as the Company's agent; and

(b) title to the Goods shall pass from the Company to the Customer immediately before the time at which resale to the Customer's customer occurs.

4.5 If any of the events specified in Condition 13.1(c) occur or if any sum due to the Company from the Customer under any other Contract is not paid when due and payable, the Company may at any time, on demand and without prior notice, require the Customer to deliver the Goods up to the Company and the Company may repossess and resell the Goods.

4.6 For the purposes of exercising its right to repossess the Goods under Condition 4.5, the Company, its employees, agents and sub-contractors will be entitled to free and unrestricted access to any premises owned, occupied or controlled by the Customer and/or any other location where any of the Goods are situated at any time without prior notice.

4.7 The Company's rights and remedies set out in this Condition 4 are in addition to and shall not in any way prejudice, limit or restrict any of the Company's other rights or remedies under the Contract or in law or equity.

**5. CONTRACT PRICE**

5.1 The price for Goods shall be the price set out in the Company's published price list as at the Point of Delivery, unless otherwise agreed. Unless stated otherwise in an Order, the price for Goods includes carriage of such Goods to the Customer's premises.

5.2 The Company may by giving notice to the Customer at any time before delivery increase the price of the Goods to reflect any increase in the cost of the goods that is due to:

(a) any factor beyond the Company's control (including foreign exchange fluctuations and increases in labour, materials and other manufacturing costs);

(b) any request by the Customer to change the delivery date or the quantities or types of Goods ordered;

(c) the United Kingdom's departure from the European Union; or

(d) any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate or accurate information or instructions.

**6. PAYMENT TERMS**

6.1 Payment of the price for the Goods is due thirty (30) days net monthly, after the earlier of delivery of Goods or the date of invoice, unless otherwise agreed in writing. Payment shall be made by direct debit to the bank account nominated by the Company. Time for payment shall be of the essence of the Contract.

6.2 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**"VAT"**). Where any taxable supply for VAT purposes is made under the Contract by the Company to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.

6.3 The Customer shall make all payments due under the Contract without any deduction whether by way of set-off, withholding, counterclaim, discount, abatement or otherwise (except as required by law).

6.4 If payments received from the Customer are not stated to refer to a particular invoice, the Company may appropriate such payment to any outstanding invoice addressed to the Customer from the Company.

6.5 Any credit facility granted to the Customer may be withdrawn at the discretion of the Company.

6.6 If any sum due from the Customer to the Company under the Contract or any other contract is not paid on or before the due date for payment then all sums then owing by the Customer to the Company shall become due and payable immediately and, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

(a) cancel or suspend its performance of the Contract or any order including suspending deliveries of the Goods until arrangements as to payments or credit have been established which are satisfactory to the Company;

(b) set off any payment made by the Customer to the Company under any other Contract or agreement as the Company may think fit;

(c) require the Customer to pay for the Goods prior to their despatch or collection from the Company's place of business; and/or

(d) charge the Customer:

(i) interest calculated on a daily basis on all overdue amounts (both before and after judgement) until actual payment at the rate of eight per cent (8%) per annum above the base lending rate of Barclays Bank Plc (prevailing from time to time) until payment is made in full; and

(ii) the costs of obtaining judgement on payment (to include all reasonable professional costs including legal fees and other costs of issuing proceedings or otherwise pursuing a debt recovery procedure).

7. **RIGHT OF SET-OFF**

The Company may at any time without notice to the Customer set-off any liability of the Company to the Customer against any liability of the Customer to the Company (howsoever arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency) and may for such purpose convert or exchange any sums owing to it into any other currency or currencies in which the obligations of the Customer are payable under the Contract. The Company's rights under this Condition 7 will be without prejudice to any other rights or remedies available to the Company under these Conditions or otherwise.

**8. WARRANTY OF QUALITY OF GOODS**

8.1 Subject to Conditions 8.2 and 8.3 below, the Company warrants to the Customer that the Goods are free from defects in material and workmanship.

8.2 The warranty in 8.1 above shall not apply to defects in any Goods to the extent they arise as a result of the Company's or any third party's improper use, operation, maintenance or storage of the Goods.

8.3 The Company shall not be liable for any breaches of the warranty in Condition 8.1 if:

(a) insufficient information is provided by the Customer in relation to the defect;

(b) the Customer notifies the Company of such defect more than five (5) years after the date on which the Goods were manufactured by the Company;

(c) the end-user or final purchaser purchased the Goods more than two (2) years after the Commencement Date;

(d) the Customer fails to notify the Company in writing of the alleged defect within thirty (30) days of discovery of the defect (or within thirty (30) days of the date of delivery where the defect is or would be apparent from reasonable inspection of the Goods) and in any event within two (2) years of the date of delivery of the Goods to the Customer; or

(e) the Customer fails to afford the Company a reasonable opportunity to inspect the relevant Goods and, if so requested by the Company and where it is reasonable to do so, fails to promptly return to the Company or such other person nominated by the Company a sample of the Goods (such carriage to be paid by the Company), for inspection, examination and testing or otherwise fails to permit the Company to have access to the Goods at the Customer's premises or other location where they may be for such purposes.

8.4 Subject to Conditions 8.2 and 8.3, if the Goods do not comply with the warranty in Condition 8.1, the Company shall at its own discretion and within a reasonable time offer one of the following exclusive remedies:

(a) repair or make good such defect or failure in such Goods free of charge to the Customer (including all costs of labour, transportation and materials required for that purpose;

(b) replace such Goods with Goods which are in all respects in accordance with the Contract; or

(c) provide the Customer with an appropriate refund of the price originally paid for the Goods, having regard to the use that the end user / final purchaser of the Goods has had of the Goods since they purchased them,

provided that the liability of the Company under this Condition 8 shall in no event exceed the purchase price of such Goods and performance of any one of the above options shall entirely discharge the Company's liability under this Condition 8.

8.5 If the Company elects to replace the Goods pursuant to Condition 8.3, the Company shall deliver the replacement Goods at the Company's own expense to the address to which the defective Goods were delivered and title to the defective Goods which are being replaced shall (if it has vested in the Customer) re-vest in the Company. The Customer shall make any arrangements as may be necessary to deliver up to the Company the defective Goods which are being replaced.

8.6 Subject to Condition 9.2, save as set out in this Condition 8 all warranties, conditions and other terms, implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract. Except as provided in this Condition 8, the Customer shall not otherwise be entitled to reject the Goods and the Company shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in Condition 8.1.

**9. EXCLUSION AND LIMITATION OF LIABILITY**

9.1 Subject to Condition 9.2 below, the Company shall under no circumstances whatsoever be liable to the Customer whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any loss of profit or any indirect or consequential loss which arises out of or in connection with the Contract or otherwise.

9.2 Nothing in these Conditions excludes or limits the liability of the Company for:

(a) death or personal injury caused by the Company's negligence, or the negligence of its employees, agents or sub-contractors (as applicable);

(b) fraud or fraudulent misrepresentation;

(c) breach of a warranty that the Company is entitled to sell the Goods; or

(d) any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.

9.3 Subject to Conditions 9.1 and 9.2, the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to 150% of the price of the Goods in respect of which the Customer suffered or incurred such loss or damage.

**10. PRODUCT RECALL**

10.1 The Company may at its discretion recall any Goods delivered to the Customer and/or issue any notification to the Customer about the manner of use or operation of the Goods where the Company believes there is a defect in the Goods which exposes or may expose consumers to any risk of death, injury or damage to property (a "**Product Recall**"). The Customer shall co-operate fully with the Company in relation to any Product Recall including taking all reasonable steps to recover the Goods from its customers that have purchased the Goods. The Company shall, at its discretion refund, credit or replace the Goods affected by a Product Recall.

10.2 Unless required by law, the Customer may not undertake any recall or withdrawal of the Goods or other goods sold produced by the Company, whether or not such recall or withdrawal is pursuant to a request or order from a court or other order or directive from a governmental or regulatory authority, without the prior written permission of the Company and only then in strict compliance with the Company's instructions about the process of implementing the recall or withdrawal.

**11. BRANDING, MARKING, REMOULDING OR RETREADING FROM ORIGINAL**

11.1 Subject to Condition 11.2 below, the Customer shall not without the previous written authority of the Company alter or tamper with in any way whatsoever the Goods and shall not sell, offer for sale, advertise or supply Goods which have been so altered or tampered with.

11.2 The Customer shall not sell, offer for sale, advertise or supply as 'new' part worn, re-grooved, re-tread and/ re-mould tyres or Goods that have been modified in any way as new products manufactured by the Company.

**12. FORCE MAJEURE**

12.1 Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, war, riot, civil commotion, fire, flood, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting the carriers inability, or delay, in obtaining supplies of adequate or suitable materials ("**Force Majeure Event**").

12.2 The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business and its obligations under the Contract due to a Force Majeure Event or due to circumstances arising as a result of the United Kingdom's exit from the European Union (either a "**Delay Event**"), provided that if the Delay Event continues for a continuous period in excess of three (3) months, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.

**13. TERMINATION**

13.1 The Company may terminate the Contract by written notice with immediate effect if:

(a) the Customer fails to pay any undisputed amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified by the Company to make such payment;

(b) the Customer commits a material breach of any other term of the Contract, which breach is irremediable or (if such breach is capable of remedy) fails to remedy such breach within a period of 30 days after being notified in writing to do so;

(c) the Customer takes any step or action in connection with entering into administration, personal liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of solvent restructuring), having a receiving appointed to any of its assets or ceasing to carry on business or any similar or analogous step or action in another jurisdiction;

(d) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; and

(e) the Customer's financial position deteriorates to such an extent that in the Company's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

13.2 Without limiting its other rights or remedies, the Company may suspend provision of the Goods under a Contract if the Customer becomes subject to any of the events listed in Condition 13.1, or if the Company reasonably believes that the Customer is about to become subject to any of them.

13.3 Termination of this contract shall be without prejudice to the rights and remedies accrued by either party up to termination. On termination of a Contract for any reason, all sums owing pursuant to the Contract shall become due immediately.

13.4 Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.

**14. INTELLECTUAL PROPERTY**

14.1 Save as otherwise set out in these Conditions, nothing in this Contract shall be deemed to have given the Customer a licence or any other right to use any of the Company's trademarks or other intellectual property rights.

14.2 The Customer may use the Company's trademarks and other intellectual property for the purposes of promoting the Goods subject to receiving the prior written approval of the Company.

**15. GENERAL**

15.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Condition, and shall be delivered personally, sent by pre-paid first class post or by commercial courier. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred above; if sent by pre-paid first class post, at 9.00 am on the second Business Day after posting; or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

15.2 If any provision of these Conditions is ruled to be invalid for any reason, that invalidity will not affect the rest of the Conditions which will remain valid and enforceable in all respects.

15.3 The Contract sets out the entire agreement and understanding between the Customer and the Company in connection with the sale of the Goods and shall supersede and replace all previous agreements, promises, assurances, warranties, representations and understandings between the Customer

and the Company, whether written or oral, relating to its subject matter. The Customer acknowledges that it has not relied on, and shall have no remedy in respect of, any statement, promise, representation, assurance or warranty made or given by or on behalf of the Company which is not set out in the Contract.

15.4 Both the Company and the Customer shall each keep confidential and shall not, without the prior written consent of the other, disclose to any third party or otherwise make public the terms or existence of the Contract (including, without limitation the price of the Goods) or any other confidential or sensitive information of the other party. Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

15.5 No variation of these Conditions or the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

15.6 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.7 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under a Contract without prior written consent of the Company. The Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract and no third party shall have the benefit of or the right to enforce any term of the Contract.

15.8 The Contract and these Conditions shall be governed by the laws of England and Wales and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.