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General terms and conditions of business of Michelin Reifenwerke AG & Co. KGaA

for the spare parts business (new tyres, retreading and purchasing of carcasses)

Germany

(Status: November 2016)

I. General

Our terms and conditions of business, which are the basis for all offers and agreements, are deemed acknowledged by way of awarding contracts, utilisation of the carcass management service of any kind, use of the corresponding electronic procedure or acceptance of delivery. Supplementary, differing or conditions of the Buyer to the contrary (dealers maintaining an ongoing business association with us) do not apply, including if we do not expressly reject them. They shall only apply if and insofar as they are acknowledged by us in writing in an individual case.

II. Products

The General Terms and Conditions of Business for the spare parts business of Michelin Reifenwerke AG & Co. KGaA apply to all brands that are part of the Michelin Group of

- New tyres, in particular MICHELIN, BFGoodrich®, KLEBER, KORMORAN, RIKEN, TAURUS, ORIUM, TIGAR and
- retread tyres, in particular MICHELIN Remix and LAURENT® retread.

III. Retreading process

A distinction is made between the following types

1. **Customer's own (Nomi):** The Buyer submits a carcass suitable for retreading to implement the retreading process by way of the options stated in the respective current KB list. The product options and brands that may be chosen are based on the dimensions and profile of the submitted carcass. The current daily retreading programme can be called up via the Michelin Service Center. Once the retreading process has been performed, the Buyer receives a retread tyre on the carcass it has submitted.
2. **Carcass bank:** The Buyer can pay carcasses into a carcass bank account and call up a retread tyre there as required. The Buyer enters into a separate carcass bank account with us to open an account and in respect of the processing.
3. **Exchange:** The Buyer submits a carcass suitable for use in the retreading process and in that respect in return orders a retread tyre. The Buyer is provided with the retread tyre following a review and establishment of the eligibility of the submitted carcass. The Buyer selects the profile of the retread tyre with consideration given to the dimension and profile of the submitted carcass based on the respective, current KB list. The product options and brands that may be chosen are based on the dimensions and profile of the submitted carcass. The current daily retreading programme can be called up via the Michelin Service Center.
4. **Retreading process including carcass:** We offer the Buyer a retreat tyre, including carcass for purchase based on the respective, current KB list.
5. **Purchasing carcasses:** The dealer offers us for purchase carcasses suitable for retreading at the prices and conditions set out in our respective, current purchasing price lists. In the event that the import or utilisation of carcasses cannot be completed in the proposed manner, or the import or utilisation was performed as illegal import, the dealer and we undertake to take back the carcasses or guarantee their utilisation in another manner and where necessary in the meantime ensure that these are stored.

If we accept the order, carcasses shall be collected from the Buyer by us or by a forwarding agent or dealer commissioned by us. Loading the delivery vehicles is incumbent upon us. The transport operation shall be undertaken at our cost and risk. Ownership of the carcasses shall pass to us upon collection from our Buyer's or dealer's premises or that of their customer. If the Buyer or dealer does not own the carcasses, it shall ensure that the owner consents to the passing of ownership to Michelin by way of collection of the carcasses.

We shall review the carcasses upon receipt. Carcasses that are classified "not suitable for retreading" during the incoming inspection and are not returned to the Buyer or dealer at their request or at their cost, or carcasses that are destroyed during retreading and the destruction was attributable to the quality of the carcass, shall be directly allocated to a suitable disposal process. Selecting a legally compliant and suitable disposal procedure is incumbent upon us. The costs incurred by us as a result of the affected carcasses with regard to receiving inspections, transport and disposal, which are normally liable to costs, shall be borne by the Buyer or dealer in the form of a flat-rate charge in accordance with the respective, current price list. If the carcasses are destroyed during the plant retreading and if the destruction was not attributable to the carcass quality, the Buyer shall receive a replacement carcass at our choice. The Buyer shall be informed accordingly of the damage description by way of a carcass inspection report.

IV. Prices and delivery of the products

1. The delivery and charging or the crediting in the event of acceptance of the purchase of carcasses shall apply at the overall prices (list price and value added tax) and conditions that apply on the day of shipping or collection.
2. We reserve the right to adjust our prices. If the delivery time from the order is less than four months, and if a price increase is implemented during that time, the Buyer shall be entitled to withdraw its order. We are to be informed of the withdrawal without delay following announcement of the price increase and prior to delivery.
3. The Buyer's orders received at our Michelin Service Center shall only be reviewed and processed regarding the type and quantity of the ordered goods. Price and condition details as well as the delivery time and quantity in the order are not the subject matter of our confirmation.
4. We shall deliver the goods free of charge to the Buyer's domicile. Unloading the delivery vehicles is incumbent upon the Buyer; the unloading shall occur on a date agreed upon with the Buyer. If such a date is not agreed upon, the Buyer is to unload the vehicle without delay. If accelerated shipping, or a different type of shipping, is requested, the additional costs shall be borne by the Buyer. Remuneration shall not be granted for self-collection.
Risk passes to the Buyer at the hand-over.

If the parties agree on an obligation to collect, risk shall pass to the Buyer at the time at which the Supplier makes the delivery item available to the Buyer for collection.

If a sales shipment is agreed upon, risk shall pass to the Buyer upon the hand-over of the goods to the person entrusted with the shipping. If shipping is delayed due to circumstances that emanate from the Buyer's sphere of influence. Risk shall pass to the Buyer from the day of readiness for shipping.

Section 377 HGB applies to the obligation to inspect and provide notification of defects. The Buyer is to inspect the delivered goods upon delivery for potential defects (in particular variations from the ordered quantity or the ordered type or soiling). The driver is to be informed of obvious defects without delay to safeguard the Buyer's rights, (written note on the transport document) and we are to be informed within three workdays from delivery. If a defect cannot be identified irrespective of a proper inspection (so-called hidden defects), it is to be asserted within three workdays after it is identified. Otherwise, the supplied goods shall be deemed to be approved.

5. As a general rule delivery dates are not agreed upon, but rather merely constitute a non-binding forecast. If an obligation is assumed in an individual case to meet delivery periods, this shall be subject to the written form. Such an obligation shall only be assumed on condition of an undisrupted manufacturing process and normal transport options without disruptions. The consequences of force majeure (e.g. fire, explosion and flooding), administrative measures and other unforeseeable circumstances (e.g. strikes and lock-outs) that affect us and/or the suppliers of the materials required for our products shall release us from the obligation to deliver in good time and in addition grant us the right to discontinue further deliveries without an obligation to deliver at a later date.
6. As a general rule, sold goods may not be returned. Insofar as goods are taken back in exceptional cases, the net purchase price that applies to the Buyer on the day on which the goods are returned shall be credited. If the net price on the delivery date is below the net price on the return date, the net price valid on the delivery date shall be credited.
7. A significant deterioration in the Buyer's financial circumstances, the provision or an application for the provision of an affirmation in lieu of an oath, occurring payment difficulties or a change in the company proprietor for example in conjunction with payment difficulties shall release us from honouring delivery orders that may be ongoing, and shall entitle us to immediately discontinue deliveries unless the Buyer pays on a step-by-step basis. The same also applies, provided the matter does not involve an agreement regarding the ongoing delivery of goods, in the case of filing an application for insolvency proceedings.
8. We reserve the right not to sell products that may be used for military purposes to customers that have their registered offices in countries upon which the UNO (United Nations), the European Council or the OSCE (Organization for Security and Co-operation in Europe) have imposed a trading embargo or which may sell such products to third-parties (in particular ultimate users / dealers) who operate in such countries.
In cases in which we have a strong suspicion of the risk of the sale of such products to the stated third-parties, we reserve the right to request that the customer furnishes proof of the identity of its customers or the presentation of an invoice so that we can convince ourselves of the place of destination of the stated products. Lists of products that may be used for military purposes and the countries for which a trade embargo has been imposed can be viewed at <http://www.bafa.de/ausfuhrkontrolle/de/index.html>.

V. Payment

1. Our invoices and credit notes fall due within 15 days following the invoice date provided nothing to the contrary in that respect is stated in the invoice or credit note or in the contract. In the case of default on the part of the Buyer, all outstanding claims shall immediately fall due for payment irrespective of payment periods.

Advance payments and payments on account shall not accrue interest.

2. If payment via direct debit or via the SEP direct debiting procedure has been agreed upon, the final amount stated in the invoice shall be deducted on the due date from the Buyer's bank account in line with the issued authorisation in the direct debiting or the SEPA direct debiting procedure. The Buyer is aware that we shall inform the Buyer, at the latest 5 workdays prior to the deduction by way of a prior announcement, of the payment amount and the due date. By way of the prior announcement, the Buyer has the opportunity to ensure that ample funds are on its previously stated account.
3. The Buyer is to raise objections to the invoice or the invoice amount (e.g. regarding a lacking or incomplete delivery) within a period of 30 days following the invoice date in writing, and direct objections to Michelin Reifenwerke AG & Co. KGaA, PO Box 21 09 51, 76159 Karlsruhe, (receipt of the objection). Objections by the Buyer against the invoice shall be excluded following unconditional payment or expiry of a period without written notification.

4. The due claims shall incur interest from occurrence of the due date with reference to the due date in accordance with sub-section Section 288(2) BGB, currently at 9 percentage points above the respective base lending rate of the European Central Bank, based on the gross final amount of the due invoice. This does not affect our right to claim damages regarding default.
5. As a general rule we reserve the right to accept cheques. We shall not accept pre-dated cheques. Cheques shall only be deemed cash payment if they are submitted to us within the payment periods. Cheques shall only be credited on condition of appropriate receipt of the full amount. Incurred costs plus the corresponding value added tax shall be borne by the Buyer. We do not provide any guarantee for the appropriate presentation and lodging of protests.
6. We reserve the right to request the issue of direct debit authorisations (sub-section 2), advance payment, payment on delivery or cash payment for our deliveries.
7. We reserve the right to delivery only within a credit line defined by us. We are reserved the right to rescind the granting of credit – including within the payment periods – if reasons justify the concern that our claims or security rights are jeopardised. However, we are also entitled to request, at our discretion, the provision of adequate security. If the security is not provided following our request within the set time, our claim shall also fall immediately due for payment.
8. The Buyer may only retain payments or set off on the basis of counter-claims that have been acknowledged by us and that are eligible for the decision-making process or have become *res judicata*.
9. A claim for disbursement or the setting off of sales bonuses or other bonuses and condition elements shall arise at the earliest six weeks following expiry of the corresponding procurement period. It shall only apply, in particular, if all due claims have been settled by the Buyer.

VI. Reservation of title and security rights

1. We reserve the right to ownership of all goods we delivery up until all claims, including conditional claims and those that arise in the future, against the Buyer resulting from this business association have been honoured. The same applies as long as we act as the provider of security in dealings with third-parties in conjunction with the business association.
2. In the event of the assertion of our reservation of title, irrespective of the Buyer's payment obligation, we shall be entitled to credit the goods taken back
 - a) At market price (= resale proceeds that can be generated) or
 - b) In accordance with the above paragraph IV.6. by way of deduction of the loss in value.

In all cases we shall be entitled to set off our take back costs of 10 % of the credited amount from the credit note. The Buyer is permitted to furnish proof of actual lower loss in value and lower take back costs.

3. In the case of mixing or blending the reserved good with products not supplied by us, for the purpose of alleviating the furnishing of p – roof, our co-ownership share in the product in the possession of the Buyer shall be determined in accordance with Sections 947, 948, BGB in a manner such that the receipts of our products during the last 6 months prior to the assertion of reserved rights in terms of value shall be placed in relation to products supplied in the same period by third-parties. The Buyer is free to furnish proof of a different co-ownership share.
4. The Buyer is to adequately insure the reserved goods, in particular against fire and theft. Claims against the insurance resulting from a case of damage involving the reserved goods are assigned to us at this point in time in the sum of the replacement value. The Buyer is to inform the insurance of the assignment of claims.
5. the Buyer assigns to us at this point in time up until repayment of all its liabilities within the meaning of paragraph VI.1 in full the claims, to which it is entitled as a result of the sale of the reserved goods, against its customers including all ancillary rights. The Buyer shall refrain from taking any action that could have a detrimental effect on the agreed advance assignment, in particular the agreement on t – he non-assignable nature of its claims arising from the re-sale and making claims in a current account relationship that exists with its customers. If a current account relationship nevertheless arises, the current account claim shall be deemed assigned to us in the sum that corresponds to the claims incorporated in the current account relationship from the resale of products supplied by us. The same applies following balancing for the balance that takes the place of the current account claim.
6. In the event that the Buyer writes out an invoice for the reserved goods with other goods that are not our property or in conjunction with services, the assignment of the purchase price claims in accordance with paragraph VI.5 in the sum of the amount charged by the Buyer to its customers for the reserved goods, including value added tax, is deemed agreed upon. If the single price of our reserved goods is not stated separately in such an invoice, the assignment shall apply in the sum of the price charged by us to the Buyer at the time of delivery to its customer.

If the Buyer renders a service in conjunction with the sale of the reserved goods such as assembly, balancing or the like, and if the reserved goods and the service are not stated separately in the invoice, i.e. the invoice value is only stated as a total price, the entire claim shall be deemed assigned to us.

7. The Buyer is only entitled and authorised to sell or otherwise use the reserved goods on condition that the above-mentioned claims pass to us, and the name of our manufactured product is stated in its invoice copies, delivery notes or other documents.
8. The Buyer is authorised to collect the claims resulting from the sale irrespective of the assignment. This shall not affect our authority to collect. We may withdraw the authorisation to collect claims if the preconditions set out in VI. 10. and 11. are given.

In the event of a significant deterioration in the Buyer's financial circumstances as described in IV. 7, the Buyer's authority to resell the reserved goods and collect the claims assigned to us shall expire. In such a case the Buyer is to permit our authorised representative to take all measures at its business enterprise that appear appropriate and necessary with regard to safeguarding and asserting our rights resulting from the reservation of title.

9. If a buyer wishes to sell or assign outstanding claims, resulting in full or in part from the sale of our goods, to a third-party by way of factoring or any other form of purchase of accounts receivable (hereinafter only "Factoring"), the Buyer undertakes to inform us of this in advance and obtain our approval.

The Buyer assigns to us at this point in time in the sum of our respective balance claims to which it is entitled resulting from the factoring business against the factor.

In the event of concern that our claims or our security rights are impaired or jeopardised, we may inform the factor at any time of the security rights resulting from this sub-paragraph, and request the performance be made in our favour. If a sale or assignment of claims occurs without our approval, the Buyer is to compensate us for the resulting loss.

In the event that uncertainties apply in such a case regarding our entitlement, the Buyer undertakes, up until the matter is clarified, to instruct the factor to transfer amounts to be disbursed in the sum of our balance to a fiduciary account stated by us or to deposit them there.

The above-mentioned provisions apply both to the so-called factoring – the factor runs the counterparty risk – and artificial factoring for which the seller of claims runs the risk of default.

10. In the case of default in payment or if other reasons justify the concern that our reserved rights are jeopardised, we may assert the security rights stated in this sub-paragraph. In such a case the Buyer undertakes to furnish the information required to assert these rights, and hand-over to us the necessary documents, in particular delivery notes, invoices and warehouse stock lists etc.
11. The Buyer is to inform us without delay of seizure or any other detrimental effects on our reserved or security rights by third-parties, and provide both third-parties and us with written confirmation of these rights.
The Buyer is prohibited from pledging or transferring ownership by way of security or assigning these rights.
12. In the case of default in payment or if other reasons justify the concern that our reserved rights and security rights are jeopardised, the Buyer undertakes at our request to inform its customers of the assignment set out in above in VI.5.
13. If the value of our securities provided on our behalf (with regard to the reservation of title rights, the invoice value of the reserved goods is authoritative) permanently exceeds our claims overall by more than 20 %, we undertake at the Buyer's request to release securities at our discretion.

VII. Guarantee

The Buyer is to comply with our recommendations in respect of the storage, tyre selection, assembly, inflating, air pressure, application / use restrictions, controls and repairs and the like. The Buyer shall notify its customers of our recommendations. The Buyer is to forward these obligations to furnish information to its customers who are not end users.

The Buyer undertakes to sell MICHELIN Remix and LAURENT® retread tyres only as described as such and undertakes, in particular, not to sell new tyres. The Buyer shall explain the precise quality and technical details of these goods to its customers.

The Buyer is to train its employees in respect of handling our products. The Buyer shall ensure that repairs (e.g. regarding tyre damage or in the case of welding work on the wheel) are only performed following dismantling of the wheel-tyre unit.

Detailed information in this respect can be found in our technical documentation or on the internet at www.michelintransport.com.

We only provide a guarantee for the goods we supply in accordance with the following provisions.

A. Tyres, tubes or other products

1. In the place of a tyre or tube with a serious defect, a replacement shall be provided on an exchange basis at the price plus value added tax that is valid for the Buyer on the day of the replacement delivery. In the case of business transactions entered into with entrepreneurs, we reserve the right appropriately credit the benefit of use with consideration given to the existing residual profile depth. Products for which a replacement is provided shall become our property.

Insofar as defects can be properly rectified in our view by way of repair, we reserve the right to repair instead of provide replacement.

In the case of failed subsequent improvement or replacement, the Buyer may request a reduction in the purchase price or withdraw from the contract.

All deliveries of tyres shall be made subject to a condition subsequent such that in the case of using such a tyre for guarantee purposes, the delivery contract regarding such a tyre shall be rescinded. Upon the occurrence of this condition, i.e. as soon as the dealer withdraws a replacement tyre from its warehouse to use it for guarantee purposes, the delivery contract regarding this tyre shall be rescinded. In individual cases in which a guarantee obligation is rejected, the condition subsequent with regard to the tyre used in this individual case shall be deemed not to have occurred from the outset.

The size details, technical details (e.g. measurements) and advertising statements used by us do not constitute any kind of warranted characteristics.

2. Warranty claims are excluded, or defects that are not our responsibility shall apply, if
 - a) The tyres were repaired, retreaded or otherwise processed by parties other than us;
 - b) The damage is attributable to inappropriate treatment, inappropriate profile alterations by the Buyer or third-parties and indentations etc. or an accident;
 - c) In the case of tyres the required air-pressure or air-pressure, specified by us in the latest version of our technical documents, whereby such air-pressure is specified and was not complied with;
 - d) The tyre was subject to excessive strain in breach of the requirements such as exceeding the load permitted for each individual tyre and the respective speed allocated in that respect;
 - e) The tyre was damaged as a result of incorrect wheel placing or its performance was impaired as a result of other disruptions in the wheel housing (e.g. dynamic imbalance);
 - f) The tyre defect is attributable to non-true to gauge size, faulty or rusty wheel rims or the tyre contained a wheel rim other than the one specified according to the respective authoritative technical data;
 - g) The tyre became faulty as a result of external effects or mechanical damage or was subject to excessive heat;
 - h) The factory number or manufacturing description are no longer available;
 - i) It constitutes an insignificant reduction in value or suitability of the product.
3. Warranty claims shall fall under the statute of limitations 2 years following delivery to the Buyer.
4. Only the dealers that maintain an ongoing business association with us are entitled to assert warranty claims. Products for which a warranty claim is asserted shall be collected by us or a forwarding agent commissioned by us following consultation with the dealer and exclusively by way of enclosing a complaint form completed in full and personally signed by the consumer. Such products shall be collected at the sender's cost and risk.

B. Other services

In respect of retreading, repairs or other subsequent tyre processing performed by us, we shall provide a guarantee in the above sense insofar as it refers to the service rendered by us. A further-reaching guarantee cannot be provided because the processing in question involves the processing of used material.

VIII. Liability

Claims for damages on the part of the Buyer are excluded for whichever liability reason (e.g. due to non-performance, impossibility, default, positive breach of contract and violation of obligations in the case of contractual negotiations, unlawful acts and settlement among debtors etc.) provided no special provisions are entered into below in this paragraph.

The above exemption from liability does not apply

- In the event of liability in accordance with the German Product Liability Act and damage resulting from the loss of life, physical injury or detrimental effects on health that are attributable to an intentional or negligent breach of an obligation on our part or that of our legal representatives or vicarious agents,
- To other damage based on intentional or gross negligent violation of an obligation on our part or that of our legal representatives or vicarious agents on condition that the liability - apart from damage based on culpability - in terms of amount is limited to foreseeable and typical damage,
- To other damage based on minor or slightly negligent breach of an obligation regarding a key contractual obligation on our part or that of our legal representatives or vicarious agents on condition that the liability in terms of amount is limited to foreseeable and typical damage. Key contractual obligations are those that need to be honoured to be able to properly execute the contract at all and which the contracting party can trust will be honoured.

These liability provisions also apply to the personal liability of our legal representatives and employees and other vicarious agents.

IX. Miscellaneous

1. Karlsruhe is deemed the place of performance and place of jurisdiction for all disputes.
2. The laws of the Federal Republic of Germany shall apply exclusively. Application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
3. With effect from February 2011 we have been AEO-certified by the Karlsruhe Main Customs Office as a licensed economic operator.
4. The products, models, templates, calculations, logos (word and picture logos), texts, pictures, graphs, animation, videos, music, noises and other materials surrendered by us are subject to the copyright law and other laws on the protection of intellectual property, and are protected as a whole and in part by industrial proprietary rights and by copyright/trademark law. We or companies associated with us reserve all rights in that respect.

The guidelines on the correct use of the brands of the Michelin Group apply, which the Buyer is familiar with and which can be viewed at www.michelin.de or we would be glad to make available on request.

5. The Buyer undertakes to treat as business secrets any commercial, operational or technical information which is not in the public domain of which it becomes aware as the result of the business relationship. In the event of an obligation on our part to maintain secrecy, this shall not apply to companies associated with us within the meaning of Section 15 AktG (German Company Law).
6. Altering or rendering illegible in full or in part the references and numbers on our products, or reselling products that have in any way deteriorated since delivery or which were involved in the alterations and which do not correspond with our technical standards are prohibited. The Buyer undertakes to sell the goods as we have classified them (e.g. reworked, repaired, seconds). The Buyer shall explain to its customers the precise quality and technical details of these goods. We reserve the right to make technical alterations.
7. As a general rule, agreements by telephone or verbally are subject to written confirmation in order to be deemed legally valid. Agreements may also be entered into verbally in exceptional cases. In this case, the parties shall take all action at the request of the respective other party to subsequently honour the written form requirement. Written statements shall only place us under obligation if they have been drawn up by executive personnel authorised in that respect as our representatives and this is evident on the basis of the commercial register, or our employee is authorised to issue the statement by way of authorisation.
8. The Buyer undertakes as part of the business association with us to refrain from any action that may lead to criminal liability in breach of competition or regarding fraud, breach of trust, granting advantages, bribery, receiving a bribe or other corruption offences of persons employed by the Buyer or other third-parties. Irrespective of what is stated above, the Buyer undertakes to comply with all laws and regulations that apply to this delivery relationship, and comply with the guidelines on the correct use of the brands of the Michelin Group.

In the event of violation we shall be entitled to terminate the existing contracts without notice or withdraw, and break off all negotiations.

9. The Buyer's attention is drawn to the fact that we save and process personal data in accordance with the requirements of BDSG (German Federal Data Protection Act). Personal data, in particular of which we gain knowledge in conjunction with the business association with the Buyer, shall be used as part of the business association and to process the business association and for the appertaining services.

The Buyer's attention is also drawn to the fact that its data are transferred to third-countries for the purpose of processing the business association. Data are forwarded on the basis of the corresponding European contractual conditions and with consideration given to the pertinent data protection law provisions. The Buyer is entitled at any time to request information about the data we have stored about the Buyer at our company. Requests for information are to be directed to:

Postal address: Michelin Reifenwerke AG & Co. KGaA, PO Box 210951, D-76159 Karlsruhe

Fax: +49-(0)721-1290

E-mail: webmaster@michelin-online.de

10. In the event of discrepancies in or contradictions between the general terms and conditions of business (German and English), the original German text shall apply.