

GOODYEAR PURCHASE ORDER STANDARD TERMS AND CONDITIONS

- (1) **Complete Agreement.** This Purchase Order and the Goodyear Global Supplier Quality Manual, all specifications, schedules, exhibits, riders, agreements or other writings which may be attached hereto or provided for herein, or pursuant to which this Purchase Order has been issued, set forth the complete and final agreement between Purchaser and Seller in respect of the subject matter hereof. No changes, additions, amendments or modifications or supplements to the provisions of this Purchase Order will be valid and binding upon Purchaser unless in writing and signed by an authorized representative of Purchaser. In the event of any inconsistency between these Terms and Conditions and the provisions on the face hereof or any other writing described in the first sentence hereof, the provision contained on the face hereof shall control. Seller's acceptance or, at the election of Purchaser, Seller's commencement of performance of this Purchase Order shall constitute acceptance by Seller of all of the terms and conditions of this Purchase Order. These Terms and Conditions will not be modified by any acknowledgement, confirmation or acceptance issued by Seller which are hereby objected to and rejected.
- (2) **Definitions.** The term "goods" shall mean and include the materials, supplies, articles, equipment, structures, work and/or services covered by this Purchase Order. The term "Purchaser" shall include any parent, subsidiary, sister or affiliated company of Purchaser. "Purchaser's Property" shall include all materials, equipment, tools, dyes, and other property of Purchaser. "Technical Information" shall include, but not be limited to, any drawings, plans, specifications, blueprints, software, equipment designs or other information furnished to Seller by Purchaser for, or in connection with, the performance of this Purchase Order.
- (3) **Warranty.** Seller expressly warrants that all goods will conform to the specifications, drawings, samples and other descriptions furnished or specified by Purchaser and will be merchantable, suitable for the purposes intended and free from defects, whether patent or latent, in material, workmanship, design and title. If any goods do not comply with the foregoing warranties, Purchaser may, at its sole option, and in each case at Seller's sole expense: (a) reject such goods; (b) require Seller to repair or correct such goods as necessary to render them in conformance with the foregoing warranties, and consistent with Purchaser's time schedule; (c) return such goods and receive a full refund of the contract price; or (d) make any corrections required to cause such goods to fulfill the foregoing warranties and charge Seller for the costs incurred by Purchaser thereby. Seller shall reimburse Purchaser for all costs, damages and losses, foreseeable or not, incurred by Purchaser in connection with a breach of the foregoing warranties (including transportation, storage, administrative, and other incidental expenses of Purchaser). The remedies set forth herein are cumulative, and shall not preclude any other remedy available to Purchaser at law or in equity.
- (4) **Shipment and Delivery.** Time is of the essence. Seller shall not ship excess quantities without Purchaser's prior approval. Purchaser shall not be obligated to accept untimely, excess or under shipments and such shipments in whole or in part may, at Purchaser's option be returned to Seller, or held for disposition at Seller's expense and risk. Seller shall not insure any shipments or declare excess valuation on express shipments for Purchaser's account. Seller will be charged with any costs incurred by Purchaser arising out of Seller's failure to conform to the foregoing instructions. No charge will be allowed for packing, boxing or cartage, unless agreed upon at the time of purchase, but damage to any goods not packed to insure protection will be charged to Seller. Each package must contain a memorandum showing shipper's name, contents of package and Purchase Order number of Purchaser. Unless otherwise specified on the face hereof, shipments shall be made F.O.B. destination; title and risk of loss of goods passes to the Purchaser upon acceptance of delivery; and Seller pays all freight and related charges and is responsible for filing loss and damage claims prior to acceptance of delivery by the Purchaser. Seller shall notify Purchaser immediately of any delay in delivery or shipment.
- (5) **Termination.** Unless Seller's failure to make timely delivery of the goods is excused in accordance with the provisions of paragraph 6 hereof, Seller's failure to make timely delivery, or Seller's breach of any of the other terms and conditions of this Purchase Order, shall constitute sufficient cause for Purchaser, at its option, to terminate this Purchase Order either in whole or in part and to charge Seller for any damages or losses Purchaser may sustain as a result of Seller's default. Any failure by Purchaser to exercise this option with respect to any installment shall not constitute a waiver with respect to subsequent installments. In the event Seller becomes insolvent or makes a transfer for the benefit of creditors or if bankruptcy or any other insolvency proceedings are instituted by or against Seller, Purchaser shall have the right to immediately terminate this Purchase Order.
- (6) **Force Majeure.** Seller, upon giving prompt written notice thereof to Purchaser, shall not be liable for delay or failure to supply goods hereunder, nor shall Purchaser be liable for failure to accept goods or otherwise perform hereunder, if such delay or failure is due to causes beyond the reasonable control of Seller or Purchaser, as the case may be, including, but not limited to, acts of God, force majeure, fire, malicious mischief, accident, transportation tie-up, riot, strike, slowdown or labor stoppage of any kind or act of any Government, foreign or domestic.
- (7) **Invoice and Payment.** All invoices for goods shipped on this Purchase Order shall be rendered by and be payable to Seller. When prepaid transportation charges are for Purchaser's account, invoice must be supported by prepaid receipted transportation bill. Invoice payment dates will be computed from the date of shipment or from the date invoices are received by Purchaser, whichever is later. Payments by Purchaser shall not be deemed evidence of acceptance by Purchaser of the goods. Unless otherwise specified, all amounts shall be invoiced and paid in the currency of the country in which the Purchaser is located.
- (8) **Cancellation.** Purchaser may terminate this Purchase Order in whole or in part, for its sole convenience. Upon termination, Seller shall immediately stop performance. Seller's sole remedy shall be the sum of the following: percentage of the work performed as of the date of termination multiplied by the order price. Seller shall not be entitled to receive damages or compensation for any work done after it received Purchaser's notice of termination.
- (9) **Non-infringement.** Seller warrants that the goods furnished hereunder, and the normal use thereof, do not infringe or otherwise violate any patent, copyright (including mask works), trademark, trade name or any other intellectual property rights of others ("Intellectual Property"). In the event that any suit or proceeding ("Action") alleging infringement or other violation of any Intellectual Property right is brought or threatened against Purchaser or any of its agents or vendees on account of any goods furnished to Purchaser hereunder (other than trademarks that Purchaser may specifically request Seller to use in connection with goods to be furnished hereunder), Seller agrees that it will, promptly upon notification of the commencement or threat of any such Action, assume the defense thereof, pay and discharge all costs and expenses in connection with such Action or threatened Action, pay and satisfy all costs, damages, royalties, or profits which may be decreed or awarded against Purchaser, its agents or vendees for or on account of any goods furnished by Seller to Purchaser, and, in any and all such Actions or threatened Actions, indemnify, save and hold Purchaser, its agents and vendees harmless from and against any and all damages, losses, demands, costs and expenses, including attorneys fees. Purchaser shall have the right, if it so elects, to participate at its expense in the defense of any such Action or threatened Action, and shall receive the complete cooperation of Seller in connection with its participation in any such defense.
- (10) **Technical Information.** Seller shall not, without the express written consent of Purchaser, in any way or manner, make known, divulge or communicate any Technical Information furnished to Seller by Purchaser for, or in connection with, the performance of this Purchase Order, or any information concerning the goods specified herein and manufactured in accordance with such Technical Information, to any third party except as provided hereunder. Seller will limit dissemination of any such Technical Information (i) within its own organization to individuals whose duties justify the need to know such information and (ii) to such suppliers of Seller, required in Seller's performance, necessarily requiring any such Technical Information, and then only provided that there is a clear understanding by such individuals or agents, as appropriate, of their obligation to maintain the confidential status of such information. Seller shall not employ any such Technical Information for its own use nor for any third party other than as designated by Purchaser in writing for any purpose whatsoever except in the performance of this Purchase Order. Technical Information shall not include information which is generally published, lawfully available to Seller from other sources, or known to Seller prior to the disclosure thereof to Seller by Purchaser. Any knowledge or information concerning Seller's products, methods or manufacturing processes which Seller may disclose to Purchaser incident to the manufacture or purchase of the goods covered by this Purchase Order shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as a part of the consideration for this Purchase Order, and Seller agrees not to assert any claim against Purchaser by reason of Purchaser's use or alleged use thereof. Seller also agrees to not disclose to Purchaser, or any of its subsidiaries or employees, any information of any type whatsoever which Seller is prohibited contractually or otherwise from disclosing thereto.
- (11) **Purchaser's Trademarks.** Where this Purchase Order specifies that goods shall bear Purchaser's trade name, trademark or other of Purchaser's identification, and Seller produces any goods bearing Purchaser's trade name, trademarks or other of Purchaser's identification in excess of the quantity indicated on the face hereof and Purchaser does not accept such excess, Seller may not use or resell without the written consent of Purchaser. Seller agrees that the use by Seller or the sale or disposition to third parties of any such excess goods bearing Purchaser's trade name, trademark or other of Purchaser's identification will result in an infringement of Purchaser's property rights and Seller agrees to pay Purchaser damages figured at three times the "vendor unit price" of any such item used, sold or disposed of in violation hereof. Seller agrees that any returned or rejected goods bearing Purchaser's trade name, trademark or other of Purchaser's identification will be destroyed or alternatively said trade name, trademark or other of Purchaser's identification will be so completely obliterated as to be unrecognizable as Purchaser's trade name, trademark or other identification before Seller makes any disposition whatever of the rejected goods other than total destruction. Seller further agrees not to advertise or hold out to others that any such rejected goods are rejected goods of Purchaser or are second line goods or any such similar terminology that would reflect that such goods were connected in any manner with Purchaser.
- (12) **Publicity.** Seller shall not refer to this Purchase Order or reference the Purchaser, its subsidiaries and affiliates, directly or indirectly, in its advertising or promotional materials without the prior express written consent of Purchaser on each occasion.
- (13) **Materials, Equipment, Designs.** Seller shall be responsible for Purchaser's Property while the same is in the possession, control or custody of Seller. Seller shall use Purchaser's Property at its own risk, shall be responsible for all loss of or damage to it, shall at its own cost maintain it in the same condition as supplied, ordinary wear and tear excepted, and shall return or otherwise dispose of Purchaser's Property in accordance with Purchaser's instructions. If the goods to be manufactured for Purchaser by Seller hereunder are to be made pursuant to Technical Information furnished by Purchaser, Seller shall return the same to Purchaser immediately upon Purchaser's request, upon completion, termination, or cancellation of this Purchase Order. Seller shall not, without the express written consent of Purchaser, use Purchaser's Property or Technical Information in the manufacture of any goods or material for any party other than Purchaser.
- (14) **Purchaser's Premises.** To the extent that this Purchase Order calls for work to be performed upon property owned or controlled by Purchaser, it is agreed that:
- Seller will keep the premises and work free and clear of all liens, and furnish Purchaser proper affidavits, releases and/or waivers certifying thereto.
 - The work will remain at Seller's risk prior to written acceptance by Purchaser and Seller will replace at its own expense all work damaged or destroyed by fire, force or violence of the elements or any other cause whatsoever.
 - Seller shall be solely responsible for the end result of the work described in this Purchase Order and as such shall maintain daily control over its workers and the means and methods used to accomplish the end result. Seller shall be solely responsible for the employment of workers and shall indemnify, defend and hold Purchaser harmless from any claim, demand, loss, cost, expense or suit, the substance of which is either: (i) the violation or claimed violation of any local, provincial, state or federal law, rule or regulation relating to the safety and employment of workers; or (ii) the failure to comply with any local, provincial, state or federal law, rule or regulation requiring employers to withhold taxes or similar charges from employees' pay; or (iii) the failure to pay unemployment or workmen's compensation benefits.
- (15) **Indemnity.** Seller shall indemnify, defend and hold Purchaser harmless against any and all liens, claims (including those of the parties, their agents and employees), liability, damage or injury of any kind or nature (including death) to all persons whether employees or otherwise and to property, loss, fines, judgments, penalties, expenses (including reasonable attorneys fees, expert fees and other legal expenses and amounts paid in settlement), whether or not related to any third party claim, which are caused by, arise out of or in connection with the goods or Seller's actual or alleged breach of its obligations or warranties hereunder, the activities of Seller pursuant to, or in connection with this Purchase Order, including any action or omission of Purchaser or those acting on Purchaser's behalf, or any defect in, or condition of the premises where the work is performed, or any materials furnished by or on behalf of Purchaser, except to the extent resulting solely from the gross negligence or willful misconduct of Purchaser and except to the extent that such is otherwise contrary to law. Seller's obligation hereunder shall not be limited to the extent of any insurance available to or provided by Seller.
- (16) **Insurance.** Seller shall carry public liability insurance including contractual coverage with respect to the indemnity provisions of the terms and conditions of this Purchase Order and automobile liability insurance. The policies shall have limits that are at least the equivalent of a combined bodily injury and property damage single limit of \$3,000,000 per occurrence. In addition, Seller shall carry statutory workers compensation coverage on its employees including employers liability insurance with limits of at least \$1,000,000 or such higher amount as required by law. Seller shall have Purchaser named as an Additional Insured on a direct and primary, non-contributory basis on the policies required herein. All of the above policies shall include a waiver of subrogation as respects Purchaser. Seller shall furnish Purchaser with certificates of insurance including a provision that Purchaser will receive 30 days written notice prior to expiration, cancellation or material change of the coverage. All deductibles on the above policies shall be no more than \$50,000 and shall be borne by Seller.
- (17) **Compliance with Legal Requirements.** Seller warrants that in its performance hereunder, it will comply with all applicable local, provincial, state, federal and foreign laws, rules and regulations, administrative and executive orders, and pertinent government procurement regulations. In addition, Seller shall, at its expense, obtain and maintain all permits and licenses as necessary, and Seller shall give notices and comply with all orders of any public authority bearing on Seller's performance under this Purchase Order. Seller and Seller's subcontractors shall comply with the Occupational Safety and Health Administration's hazard communication standard (CFR 1910.1200) and "Right to Know Laws" and any Purchaser contractor safety program then in effect. Seller must comply with all hazardous material labeling requirements. Seller shall provide and update Material Safety Data Sheets ("MSDS") for hazardous substances/materials used, furnished, delivered or brought on site by Seller or Seller's subcontractors. Seller shall comply with all local, provincial, state and federal laws and regulations concerning protection of human health, welfare or the environment and shall prevent the unlawful release of hazardous substances/materials into the environment. Seller shall investigate and remediate at Seller's costs any release or threat of release of any hazardous substances/materials into the environment, whether on or off site, and arising out of or related to any use, furnishing or delivery of hazardous substances/materials by the materials or products by Seller. Where Purchaser is located in the USA, Seller shall comply with the following provisions of the Federal Acquisition Regulation ("FAR") and the Department of Defense FAR Supplement ("DFARS"), which are incorporated herein by reference with the same force and effect as if set forth below in full text:
 FAR 52.222-26, Equal Opportunity; FAR 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and other Eligible Veterans; FAR 52.222-36, Affirmative Action for Workers with Disabilities; FAR 52.222-41, Service Contract Act of 1965, as Amended; FAR 52.219.8, Utilization of Small Business Concerns; FAR 52.222-39, Notification Of Employee Rights Concerning Payment Of Union Dues Or Fees; FAR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels; FAR 52.244-6, Subcontracts for Commercial Items and Commercial Components; DFARS 252.225-7014, Preference for Domestic Specialty Metals Alternate I; DFARS 252.244.7000, Subcontracts for Commercial Items and Commercial Components (DoD Contracts); DFARS 252.247-7023, Transportation of Supplies by Sea, DFARS 252.247-7024, Notification of Transportation of Supplies by Sea.
- Seller shall meet all supplier quality and regulatory requirements of or applicable to Purchaser as revised from time to time, and, without limiting the foregoing, shall comply with the requirements of any accredited professional society that Seller is registered with, such as an accredited ISO 9000 Registrar, along with Purchaser's requirements as outlined in the Global Supplier Quality Manual.
- Additional FAR, DFARS and other FAR Supplemental clauses may be applicable to this Purchase Order, in which case a supplement to this Purchase Order lists such additional clauses, which are also incorporated herein by reference with the same force and effect as if set forth below in full text.
- (18) **Audit Rights.** Seller shall maintain complete books and records concerning amounts charged to Purchaser for goods and concerning materials and supplies used by Seller, which books and records shall be available for audit by Purchaser. Audits shall be made upon reasonable notice to Seller and shall be conducted in a manner as to not interfere unreasonably with Seller's normal business activities. Unless such audit is required by governmental authority, and except as provided below, any audit conducted pursuant to this paragraph shall be at the expense of Purchaser. If such audit indicates that Seller overcharged Purchaser by more than 2% or if such audit shows that the materials and supplies utilized did not conform to Purchaser's specifications, then Seller shall bear the costs of such audit.
- (19) **Setoffs, Counterclaims and Withholding.** All claims for monies due to or become due from Purchaser shall be subject to deduction by Purchaser for any setoff or counterclaim arising out of this or any other of Purchaser's contracts with, or other obligations of, Seller. Purchaser may withhold payment of any amounts due Seller hereunder, or in connection with any other obligation of Purchaser to Seller, pending resolution of any claim asserted against Seller in regard to this Purchase Order or any other obligation of Seller to Purchaser and such amounts will only be paid, without interest, when, without cost to Purchaser, the cause of the withholding has been eliminated.
- (20) **Assignment, Delegation, Transfer.** Seller shall not assign or transfer any duties or claims hereunder, whether voluntarily or by operation of law, without Purchaser's prior written consent. Any such attempted assignment without Purchaser's prior written consent shall be null and void and Purchaser shall have the right to cancel Purchaser's obligations hereunder.
- (21) **Taxes.** Seller shall separately state on all invoices any taxes on the furnishing of goods hereunder which are imposed on Purchaser, and collected by Seller, by local, provincial, state and federal governments. The Department of Taxation of Ohio has issued Permit Number 98000649 to The Goodyear Tire & Rubber Company authorizing it to purchase tangible personal property and services without payment of sales tax at the time of purchase. Purchaser agrees to maintain adequate records of all purchases and pay tax on the taxable items directly to the State of Ohio. The Ohio State Direct Pay Permit does not apply where the Purchase Order covers a real property construction contract in which tangible personal property furnished under the contract is purchased by and incorporated into real property by the construction company. In that case, the construction contractor would pay applicable sales tax to his vendors.
- (22) **Additional Provisions.** All rights and remedies of Purchaser specifically set forth in this Purchase Order shall be cumulative and in addition to any other or further rights and remedies provided in law or equity. Under no circumstances shall Purchaser, its subsidiaries and affiliates be liable for any anticipated profits or for incidental, consequential, special, exemplary, or punitive damages in connection with this Purchase Order or the sale or use of the goods. Failure of Purchaser to insist upon strict performance of any term or condition of this Purchase Order shall not be deemed to be a waiver of Purchaser's rights and remedies. No waiver by Purchaser of any default by Seller of any term or condition of this Purchase Order shall be effective unless in writing and signed by an authorized representative of Purchaser, nor shall such waiver constitute a waiver of any default or of the same default on a future occasion. Seller's warranties, indemnification obligations, and all other provisions hereof, including but not limited to (3), (9), (10), (11), (12), and (15) above, that may be reasonably interpreted or construed as surviving completion, cancellation or termination of this Purchase Order will survive the completion, cancellation or termination of this Purchase Order. This Purchase Order, and performance hereunder, shall be governed by the laws of the State of Ohio without regard to its conflict of law principles and any action or proceeding arising out of, or related to, this Purchase Order or the goods may be brought only in an appropriate state or federal court in Summit County, Ohio. Provided, however that if this Purchase Order is issued by a Canadian Purchaser, then the laws of the Province of Ontario shall apply without regard to its conflict of law principles and any action may be brought only in an appropriate court in Ontario. The parties expressly exclude the applicability of the United Nations Convention on Contracts for the International Sale of Goods.