

Tredit Tire Terms of Sale

1. Applicability. These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of products ("**Goods**") by Tredit Tire & Wheel Company, Inc. ("**Seller**") to the buyer named on the quotation, order confirmation, or purchase order ("**Buyer**"). The terms of any quotation ("**Quotation**") and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

2. Delivery of Goods. The Goods will be delivered within a reasonable time after the receipt of Buyer's purchase order, subject to availability of the Goods. Seller shall not be liable for any delays, loss, or damage in transit. Unless otherwise agreed in writing by the parties, Seller shall deliver the Goods to Seller's location (the "**Delivery Point**") using Seller's standard methods for packaging and shipping such Goods. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

3. Title and Risk of Loss. Title and risk of loss passes to Buyer upon delivery of the Goods at the Delivery Point. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title, and interest of Buyer in, to, and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Indiana Commercial Code.

4. Buyer's Acts or Omissions. If Seller's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants, or employees, Seller shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

5. Inspection and Rejection of Nonconforming Goods. Buyer shall inspect the Goods within 30 days of delivery ("**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. "**Nonconforming Goods**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents. If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller as directed by Seller. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point. Buyer acknowledges and agrees that the remedies set forth in this Section are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under this Section and Section 8, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

6. Price. All prices listed in any Quotation are quotations only and are subject to change in Seller's sole discretion. Buyer shall purchase the Goods from Seller at the prices (the "**Prices**") in force at the time that Seller accepts Buyer's order and delivers the Goods. All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personal or real property, or other assets.

7. Payment Terms. Buyer shall pay all invoiced amounts due to Seller as set forth in the Quotation or any invoice from Seller to Buyer. For payments that are more than 30 days late, Seller may, in its sole discretion, charge Buyer interest on such payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees and expert witness fees. In addition to all other remedies available under these Terms or at law (which Seller does

not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods, and stop Goods in transit, if Buyer fails to pay any amounts when due hereunder and such failure continues for 10 days following written notice thereof, or if Buyer becomes insolvent, files a bankruptcy petition, or enters a receivership. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

8. Limited Warranty: Exclusive Remedy. Seller's limited warranty (the "**Limited Warranty**"), available on Seller's website at [\[INSERT HYPERLINK\]](#), is the sole and exclusive warranty on the Goods. **EXCEPT FOR THE LIMITED WARRANTY, SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS OR SERVICES, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.** Products manufactured by a third party ("**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the Limited Warranty. For the avoidance of doubt, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.** Seller shall not be liable for a breach of the Limited Warranty unless Buyer gives written notice of any claimed defect in the Goods to Seller within 30 days of the time when Buyer discovers or ought to have discovered the defect and within the Warranty Period (as defined in the Limited Warranty). With respect to any defective Goods, Seller shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit or refund the price of such Goods at the pro rata contract rate. **THE REMEDIES SET FORTH IN THIS SECTION SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY.** Buyer represents and warrants that it is not relying on any representation or warranty from Seller other than the Limited Warranty, and that no third party (such as a dealer or sales representative) has any authority to make any representation or warranty on behalf of Seller.

9. Limitation of Liability. **IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER.**

10. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

11. Force Majeure. Seller shall not be deemed to have defaulted under or breached this Agreement for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond Seller's reasonable control, including, without limitation, the following force majeure events: (a) acts of God; (b) flood, fire, earthquake, epidemic, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order, law, or actions; (e) embargoes, blockades, tariffs, or trade issues in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, supply chain disruption, or other industrial disturbances; and (h) shortage of adequate power or transportation. Seller shall resume the performance of its obligations as soon as reasonably practicable or if not reasonably practicable, terminate this Agreement.

12. Governing Law and Jurisdiction. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Indiana without giving effect to any choice or conflict of law provision or rule. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the commercial courts of the State of Indiana in each case located in the cities of Elkhart or South Bend (or, if no such commercial courts exist, in the state court located in those cities with

jurisdiction over the subject matter of the suit), and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Seller may, in its sole discretion, file suit where Buyer is located.

13. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

14. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.