



***GENERAL TERMS AND  
CONDITIONS OF PURCHASE  
MAY 2023***

*PURCHASING OPERATIONAL DIRECTION*

## General Terms and Conditions of Purchase

### 1. Application and Interpretation

Unless and to the extent otherwise expressly agreed in a signed written Agreement between the Parties, these General Terms and Conditions of Purchase including the Country Specific Terms and Exceptions below (“**General Conditions**”) apply to all purchases of goods, services and related “**Deliverables**” (meaning any goods, documents (whether in digital or paper format), software, inventions, creations, methodology, process, data, database, or other material in whatever form, e.g., any reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, provided by Supplier to Buyer) (each individually and/or collectively referred to as “**Products**” and/or “**Services**”) by an Affiliate within the Michelin group of legal entities as identified in the applicable Agreement (the “**Buyer**”), from a supplier or seller of such Products and/or Services as identified in the Agreement (the “**Supplier**”). These General Conditions complete any Supply Agreement, Service Agreement or other agreement, contract or purchase order, and any attachment or amendment thereto, for the purchase of any Products and/or Services (collectively or individually, an “**Agreement**”) as accepted by both Buyer and Supplier (collectively, the “**Parties**”), with the term “purchase” being construed as broadly as possible to include, for example, rental, lease, license, etc. An “**Affiliate**” is any existing or future legal entity which, directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with one of the Parties. “**Control**” means when one entity either, directly or indirectly, has the power to direct the management and policies of another legal entity, whether through the ownership of a fraction of the share capital or by contract or otherwise, and shall be deemed to exist upon the ownership of 50% or more of the share capital or voting rights. Signature of an Agreement and/or commencement of performance of an Agreement by the Supplier is deemed acceptance of such Agreement, including these General Conditions. Supplier shall ensure and warrant that the Agreement is accepted only by an authorized representative of the given entity.

Supplier’s acceptance of the Agreement means that the Supplier has reviewed the General Conditions that are valid as of the date of such acceptance and agrees to comply with them. These General Conditions, and any updates thereto, shall be available online at the following address: <https://purchasing.michelin.com/en/document-area/conditionofpurchase/>

Any use of “including,” “for example,” “e.g.,” “such as” or similar text shall be construed as non-exhaustive and without limitation. Any terms or conditions stated or referenced by Supplier, whether in any quotation, offer, acceptance or acknowledgement of an order, shall not be binding unless expressly agreed to in writing by Buyer. In the event of an inconsistency between or among the terms of the documents that make up the Agreement, the more specific provision shall control over more general terms, and where there is a conflict between the terms provided in these General Conditions and other Agreement documents expressly agreed by the Parties, such other Agreement documents shall take precedence and be given effect to the exclusion of the conflicting provision contained in these General Conditions. The headings in the Agreement (including these General Conditions) are for ease of reference and convenience only and shall not affect the construction or interpretation of any provision of the Agreement. In the event Supplier identifies any conflict, discrepancy or ambiguity in any Buyer specification or requirement, Supplier shall seek clarification from Buyer.

In the event any provision of the Agreement, including these General Conditions, shall be held void, unenforceable, or prohibited by the laws, regulations and other mandatory requirements applicable in the Buyer’s and Supplier’s home countries, as well as the locations of manufacture, delivery and reasonably anticipated use of the Products and/or Services (“**Applicable Laws**”), that provision shall be deemed deleted and the remainder of the provisions enforced as written; provided, however, that if such provision is a material clause, meaning the Parties would not have concluded the Agreement without it, the Parties shall promptly negotiate in good faith a substitute, enforceable provision best reflecting their original intentions.

### 2. Delivery

Delivery of Products and/or Services shall be made in accordance with the express instructions and/or shipping terms set forth in the Agreement. If the Agreement contains no express shipping terms, delivery shall be made to the delivery location identified in Buyer’s purchase order (a) for international deliveries, per ICC Incoterms 2020, CIP, “Carriage Insurance Paid”, and (b) for domestic deliveries, risk of loss and cost of insurance and transportation shall be borne by Supplier until the point of delivery. Supplier must provide all documents and information necessary and satisfactory to Buyer for customs formalities, clearance and duty privilege at the place or port of destination, such as complete custom codes, any classification of the Product as a dual-use item, if applicable, proof of origin and related certificates, all required safety markings and documentation, as well as any instructions for the use, operation, maintenance and care of the Products and/or Services. Supplier shall provide all documentation relating to the Products and/or Services in English, as well as the local language where the Product and/or Service will be delivered and/or used. Supplier must also provide two delivery slips containing the Buyer’s purchase order no., the delivery details, the number of corresponding packages or bulk goods, and the weight and measurements. The first delivery slip shall be placed on the outside of the package in an address label, the second delivery slip shall indicate the actual dispatch date of the Products and shall be sent to Buyer’s receiving department.

Time is of the essence with respect to all Agreements. Timely delivery of conforming Products and/or Services is necessary for the business operations of Buyer and/or its Affiliates. Supplier shall inform Buyer immediately of all risks of delay and

of measures employed to minimize such risks. Supplier shall, at Supplier's sole expense, resort to all possible measures including air freight and/or any other relevant measure, for the purpose of avoiding any delay or shortage in delivery. Where Supplier fails to timely deliver conforming Products and/or Services, Buyer may, at its sole discretion and option, unilaterally terminate the Agreement, as of right, in whole or in part. In such instances, the Supplier's right to cure described in Section 15.1 shall not apply.

Unless authorized by Buyer in advance and in writing, Buyer reserves the right to reject, in whole or in part, late, early, partial, or excess deliveries. Supplier agrees to pay all additional expenses, including freight charges, storage charges, damages, and costs of whatever nature, incurred as a result of such deliveries or in cases of Supplier's non-compliance with express delivery requirements. In addition, and without limiting the foregoing, Supplier shall pay, at Buyer's option and request, service credits for late or incomplete deliveries or delivery of Defective Products and/or Services calculated on the price, inclusive of all taxes, without prejudice to additional remedies available under the Agreement or at law. This calculation will be equal to 0.4% (zero-point four percent) of the Agreement amount, per calendar day of delay, up to 10% (ten percent) of the Agreement amount. Such service credits shall also be payable in the event of delivery of Defective Products, which service credits shall be payable from the date of Buyer's notification of such Defect and shall continue until the removal and replacement of the Defective Products and/or Services with a conforming substitution.

### **3. Acceptance**

Buyer shall have a reasonable time to review and/or inspect all Products and/or Services to ascertain conformity to Buyer's requirements. Buyer may reject, in whole or in part, any Products and/or Services that do not comply with Applicable Laws or Buyer's requirements, including functional or technical specifications (such non-conformity(ies) or deficiency(ies) being a "**Defect**," rendering the Product and/or Service "**Defective**"). Notably, mere acknowledgement of delivery shall not be construed as an acceptance of Defective Products and/or Services. The signing of any document by Buyer confirming completion and/or acceptance of the Products and/or Services, and/or payment for the Products and/or Services, shall not prejudice in any way Buyer's right to claim breach of any warranty or guarantee provided by Supplier and shall not be considered as irrevocable acceptance by Buyer in case of Defective Products and/or Services.

### **4. Price**

The prices stipulated in the Agreement are fixed and not subject to review. All prices are exclusive of value added tax or any other locally applicable equivalent sales taxes, which is payable by Buyer as prescribed by Applicable Law. Unless otherwise expressly agreed, Supplier is responsible for all fees, costs, expenses and other taxes, incurred or which may arise, in the provision of the Products and/or Services. The Parties agree to cooperate in order to optimize tax liabilities as permitted by Applicable Law and/or otherwise comply with their respective tax obligations and provide documentation that may be requested by the other Party in connection with tax liabilities and obligations.

Where Buyer expressly agrees in advance to reimburse Supplier for transportation and delivery costs, Supplier shall use best efforts to optimize such costs, and Buyer will reimburse only for the actual and reasonable costs incurred subject to proper documentation submitted by Supplier. Buyer reserves the right to benchmark the transportation costs and reduce the amount of reimbursement owed to align with the commercially reasonable costs evidenced by such benchmarking.

### **5. Property Rights**

#### **5.1 Transfer of Title to the Products and/or Services**

BUYER EXPRESSLY DISCLAIMS ALL RESERVATION OF OWNERSHIP CLAUSES. Title to the Products and/or Services will transfer to Buyer free and clear of any liens, claims, encumbrances, interests or other rights (collectively "**Encumbrances**") on the earlier of (1) payment for the Products and/or Services, (2) acceptance per the agreed acceptance protocol, if applicable, or (3) at the moment the risk of loss transfers from Supplier to Buyer in accordance with the applicable delivery terms. Supplier shall furnish, upon Buyer's first request, all necessary lien waivers, affidavits or other documents required to keep Buyer's property and the Products and/or Services free from Encumbrances.

#### **5.2 Intellectual Property Rights**

"**Background Intellectual Property**" shall mean any asset, including tools, databases, know-how, designs, specifications, inventions, formulas, software, information, data, processes or methods, algorithms, typeface, documentation, files, logos, trademarks, slogans, domain names, illustrations, music, .videos or pictures, protected or not by any Intellectual Property Rights, which are created or owned by either Party and/or its third party licensors prior to or outside the scope of the Agreement without the use of any Intellectual Property Rights of the other Party.

"**Intellectual Property Rights**" shall mean all rights, title and interests whether based on copyright, patent rights, trademark, trade secret, database rights or other intellectual property rights.

"**Work Product**" shall mean any and all Deliverables (in whatever form), in which any property right exists or may be acquired or asserted, and which are developed, discovered, invented, authored, or first reduced to practice by Supplier, alone or jointly with Buyer, which Deliverables are created specifically for Buyer in the course of providing the Products

and/or Services under the Agreement; provided, however, that Work Product shall not include Background Intellectual Property of Supplier or third parties.

### **5.2.1 Background Intellectual Property**

Unless otherwise agreed in writing, each Party shall retain all rights, title and interests in and to their respective Background Intellectual Property. Any Background Intellectual Property provided by Buyer shall be used by Supplier only for Buyer's benefit and only in connection with the performance of the Agreement. Supplier shall cease any use of Buyer's Background Intellectual Property at the end of the Agreement, whether by expiration or termination, or on Buyer's request.

### **5.2.2 Ownership of Work Product**

All rights, title and interests, including Intellectual Property Rights, in and to all Work Product shall vest exclusively in Buyer as created, with no restrictions, free and clear of Encumbrances, for use and exploitation directly or indirectly by Buyer as it sees fit in its sole discretion. Buyer retains the sole right to obtain, hold and renew, in its own name or in the name of any of its Affiliates, any Intellectual Property Rights in or to Work Product. To the extent that the Agreement is issued for the creation of copyrightable Work Product, such Work Product will be considered "work made for hire" for Buyer, without any change to Supplier's continued status as an independent contractor. The concept of "work made for hire" shall mean that Supplier assigns to Buyer, on an exclusive basis and without further compensation, all economic rights of author in and to Work Product upon creation, for the maximum legal duration of the copyright protection and for the entire world, including in particular the right of representation, the right of full or partial, permanent or temporary, reproduction, as well as the right to use, distribute, assign, license, modify, adapt and translate, for both direct and indirect exploitation of Work Product, by any process and/or means and on all media known or unknown on the day of assignment. Supplier, at its sole expense, agrees to take any other steps necessary to ensure the vesting of the above rights, title and interests in Buyer or its designated assignee, including the procurement of any releases or assignments from Supplier's employees or other persons of any interest that may be claimed, whether by operation of law or otherwise, in or to any Intellectual Property Rights or other property rights in any Work Product. Supplier will not copy, reproduce, sell, transfer or provide all or part of any Work Product to any other person or entity in any form without the prior written consent of Buyer. Supplier agrees to cooperate with and assist Buyer, at Buyer's expense, in order to export or transfer any portion of the Work Product to any other country, to the extent permitted by Applicable Laws. Supplier shall take any steps necessary to protect the confidentiality of all Work Product. The price for the transfer of Intellectual Property Rights is included in the price for Products and/or Services under the Agreement.

### **5.2.3 Rights of Use in Supplier's Background Intellectual Property**

To the extent the Products and/or Services contain or rely on Supplier's Background Intellectual Property, Supplier shall ensure, the cost of which is included in the price of Products and/or Services, that Buyer receives a non-exclusive, non-assignable, worldwide license, with the right to sublicense, to access and use Supplier's Background Intellectual Property for the purpose of the use, operation or maintenance of the Products and/or Services by or on behalf of Buyer and/or its Affiliates, and for the maximum duration of legal protection applicable thereto. Supplier further agrees to provide any updates to Background Intellectual Property, which updates impact the use and/or functioning of the Product and/or Services for the duration of their expected use. Buyer shall have the right to copy, translate, adapt, update, and/or modify materials including or based on such Background Intellectual Property (including any updates) as reasonably required for Buyer's and/or Buyer's Affiliates' use or deployment of the Products and/or Services ; provided however, Buyer agrees (i) unless otherwise authorized by Applicable Law, not to decompile, disassemble or otherwise reverse engineer Supplier's standard software or discover the source code of such software, and (ii) not to market or distribute Supplier's Background Intellectual Property, as a mere standalone, to third parties (except Buyer's Affiliates).

## **5.3 Third-Party Property Rights**

Supplier further agrees that no third-party rights, be it ownership, Intellectual Property Rights or other proprietary rights, will be incorporated in Products and/or Services without prior notice to and acceptance in writing by Buyer. Supplier shall indemnify and defend Buyer from and against all losses, damages and expenses incurred as a result of any claim that the Products and/or Services, or any component thereof, is or are alleged to infringe, misappropriate, or contribute to the infringement or misappropriation of any third-party property rights. Further Supplier shall replace any infringing Products and/or Services with substitute, non-infringing Products and/or Services that comply with the Agreement or procure the necessary license for Buyer to receive the full benefits of the Products and/or Services.

## **5.4 Domain Names**

Supplier shall not purchase, create, or use any domain or subdomain name containing the name, brands or registered or unregistered trademarks of Buyer or any of its Affiliates, or any similar name that may create a likelihood of confusion. All such domain names are to be validated and owned exclusively by Buyer or an Affiliate thereof.

## **5.5 Buyer's Property in Supplier's Custody**

Buyer is and shall remain the sole owner of all tooling, equipment, samples, documents, materials or other property provided or made accessible to Supplier by or on behalf of Buyer and/or specifically paid for by Buyer in connection with

Supplier's provision of Products and/or Services ("**Buyer's Property**"). Prior to use, Supplier shall examine Buyer's Property, noting any damage or defect in the same, and confirming the presence of and familiarity with any warnings and safety requirements. Supplier shall maintain an accurate accounting which plainly identifies all of Buyer's Property in Supplier's custody or control, and the accounting shall be provided to Buyer at its request. All such Buyer's Property shall be identified through appropriate label or otherwise; protected from loss, damage, or Encumbrances while in the custody of Supplier; shall be used solely for the benefit of Buyer in the provision of the Products and/or Services and in compliance with all warnings, instructions of use and Applicable Laws; shall not be copied, reproduced, or provided to third parties without Buyer's prior written consent; and shall be returned upon first request of Buyer in the same general condition as originally received by Supplier, less reasonable wear and tear. The location of return shall, unless otherwise specified by Buyer, be the same location where the Buyer's Property was first provided or made available. Supplier shall be responsible for any expenses incurred in relation to the use and maintenance of Buyer's Property, including any loss or damage thereto, while such Buyer's Property is in Supplier's custody or control.

## **6. Quality**

Supplier, at its sole expense, shall apply all necessary procedures to ensure that the Products and/or Services meet all quality standards, including full compliance with Applicable Laws, functional and/or technical specifications, or other requirements provided by Buyer. In the event Supplier suspects any potential Defect(s) in any of the Products and/or Services, Supplier shall immediately notify Buyer in writing and commence appropriate actions to rectify such potential Defects at Supplier's sole expense, including, if necessary, the replacement of any Defective Products and/or Services. In the event Buyer has a quality complaint about a Product and/or Service, such complaint shall be made in writing to Supplier, and Buyer may, at its option, commence a study to analyse such potential Defect. Supplier shall, when requested by Buyer, participate and cooperate in such study, and provide all relevant information and access requested. Buyer's decision to conduct such a study, however, will not relieve Supplier of liability for such Defect.

## **7. Invoicing and Payment**

Invoices shall be submitted in accordance with the requirements provided by Buyer, including, where applicable, those requirements set forth in the Invoicing Guide for Suppliers, available for review at <https://documents.purchasing.michelin.com>. Undisputed invoices shall be paid according to the terms and methods of payment stated in the Agreement, and failing such clause, ninety (90) days end of month, meaning on or before the 90<sup>th</sup> day following the last day of the month in which the invoice was issued, except in case of mandatory Applicable Laws providing otherwise. In such case, the maximum payment term authorised by such mandatory Applicable Laws shall apply. For the avoidance of doubt, any late payment may give rise to interest and/or fees owed by Buyer and such interest rate and/or fee shall be the minimum amount defined by Applicable Laws.

If Products and/or Services are provided pursuant to multiple purchase orders from Buyer, Supplier shall issue separate invoices to match each purchase order. Every invoice shall state, at a minimum, the title (e.g. Invoice or Credit Note) prominently displayed; Supplier's legal name, address, and VAT or other tax identification number; Buyer's legal name and address (as indicated in Buyer's order); and Buyer's purchase order number or identification of Buyer's representative who issued the request; invoice number and invoice date; invoiced amount without and with tax; currency; description and quantity of the Products and/or Services, along with justification for charges; delivery address; and RIB / IBAN. Every invoice must be sent to the billing address provided by Buyer, at the time of, or promptly after, delivery of the Products and/or Services. Buyer reserves the right to reject and refuse payment of any invoice submitted more than twelve (12) months after the date of delivery of the Products and/or Services. Buyer shall not be liable for the late payment of invoices that contain incomplete, incorrect or disputed information. Upon request, Supplier agrees to submit invoices via PDF or other electronic means approved and/or notified by Buyer.

Invoices for Products and/or Services, which have not been accepted by Buyer, are subject to rejection by Buyer, in whole or in part. Where Buyer disputes all or part of an invoice, Buyer shall notify Supplier (by email or otherwise). If Buyer's claim is agreed, Supplier shall promptly issue the corresponding credit note. If not agreed, the Parties may proceed to the dispute resolution process as provided in the Agreement. If the Buyer's claim is confirmed, in whole or in part, in the dispute resolution process, Supplier shall, at Buyer's option, issue a full or partial credit note and/or issue a new invoice payable according to the agreed payment terms as from date of new invoice. If Buyer's claim is not confirmed in the dispute resolution process, Buyer shall pay the initial invoice together with any applicable interest for late payment accrued since the original payment was due. For the avoidance of doubt, Supplier shall not suspend the supply of Products and/or Services pending the resolution of the dispute.

Buyer may, in its sole discretion, appoint an Affiliate or other paying agent for the purpose of making payment on its behalf, and in such case, any payment made or received by or on behalf of Buyer in relation with the Agreement, including but not limited to an invoice or credit note, is irrefutably deemed to be made or received, as applicable, in the sole and exclusive name and behalf of Buyer.

Supplier authorizes Buyer with respect to all debts due and payable to Buyer, whether arising under the Agreement or otherwise, to offset and withhold any amounts owed to Buyer from any compensation which is or will be due from Buyer to Supplier.

In the case of certain Orders, Buyer advises that, due to technical constraints in its order processing system, the quantity and price of Products may be inverted, but this inversion shall have no impact on the total payment owed and payable for the Products.

## 8. Representations and Warranties

### 8.1 General Representations and Warranties

Supplier agrees and warrants that:

- a) It is a company duly incorporated and validly existing under the laws of the country where it is incorporated and that it has the requisite power and authority to enter into and fully perform the Agreement;
- b) The Agreement does not conflict with, contravene or constitute a breach of any contractual, financial, business, or legal obligation of any nature to which the Supplier, its Affiliates and/or its employees are subject; and as long as the Agreement is in effect, the Supplier, its Affiliates and/or its employees have not and will not undertake any obligations that constitute a breach or otherwise materially and adversely affect the Supplier's performance of the Agreement;
- c) It shall comply at all times with all Applicable Laws.
  - o Without limiting the foregoing representations, Supplier expressly warrants that the Products and their packaging comply with all requirements of the Regulation of the European Parliament and of the Council concerning the Registration, Evaluation Authorization, and Restriction of Chemicals (EC) n°1907/2006 ("REACH"), and if and when applicable, of the European Regulation (EC) n°1272/2008, concerning the Classification, Labeling and Packaging of substances and mixtures ("CLP"). Any substance contained in the Products and their packaging shall be registered for the use(s) as identified by Buyer. Supplier shall provide relevant information in accordance with REACH or CLP for any chemical substance contained in the Products, including but not limited to information provided in the relevant Safety Data Sheet and any similar material document. In addition, Supplier shall timely inform Buyer in writing of any restriction set forth by REACH or otherwise undertaken by the relevant authorities in the implementation of REACH, including but not limited to any restriction on use or authorization, impacting or likely to impact the use, sale or other disposal of any substance contained in the Products and their packaging. Where the Products are articles according to REACH and put in the EU market, Supplier undertakes to inform Buyer in writing of any presence in the Products and their packaging of Substances of Very High Concern ("SVHC") as soon as these SVHC are included in the "Candidate List" within the meaning of REACH (List of SVHC Candidates for Authorization), above 0.1% by weight for each single component of the Product and provides to Buyer the duly completed SVHC certificate and other documentation demonstrating compliance with this and other comparable Applicable Laws, as required by such Applicable Laws or as requested by Buyer. As the Candidate List is subject to regular revisions, Supplier must ensure that it is followed up and that Buyer is immediately informed;
- d) It shall comply with the Michelin Purchasing Principles, which are material to the Agreement and highlight specific ethical and legal commitments to which Buyer and Supplier shall adhere in their shared commitment to sustainable purchasing. The Michelin Purchasing Principles are available at: <https://purchasing.michelin.com/en/purchasing-principles/>
- e) If and where applicable, Supplier commits to have Authorized Economic Operator certification, C-TPAT or the national equivalent;
- f) It has obtained and will maintain, at its sole expense, all permissions, licenses and consents required to comply with its commitments under the Agreement;
- g) It will assign personnel who possess the requisite degrees of qualification, experience, training and skills required to fulfill the tasks assigned to them and who are familiar with the requirements of the Agreement;
- h) It has received all relevant information from Buyer, has had the opportunity to ask all necessary questions within the context of the Agreement, and has received appropriate answers to its full satisfaction;
- i) It shall assist and advise the Buyer during the definition of its needs and shall propose any action or technical solution enabling an improvement of the quality of the Products and/or Services and/or a decrease of costs. Further, Supplier shall inform the Buyer during the performance of the Agreement, of any known events, any news, or Applicable Laws that may affect the economy, price, quality, performance, or use of the Products and/or Services;
- j) It shall respect the safety, health and hygiene rules defined for Buyer's site in which premises any activities related to the provision of Products and/or Services are undertaken, which rules and requirements shall be provided to the Supplier in any manner agreed by the Parties; and
- k) It will promptly provide written notice to Buyer, such notice not to exceed fifteen (15) days from the first date that Supplier becomes aware, of any fraud or any other similar act involving actual or alleged dishonesty or illegal acts in any way related to the Products and/or Services, whether involving Supplier, its employees, owners, agents and subcontractors, or any other third party, which obligation shall continue for three (3) years following completion of supplying the Products and/or Services.



## 8.2 Product and Services Warranty

Supplier warrants that all Products and/or Services: (i) will conform to the functional and/or technical specifications, drawings, samples, or other Buyer requirements; (ii) will be of merchantable quality, of good material and workmanship, free from Defects or contaminants, new and unused except for normal testing, and fit for their normal purposes and all specified purposes for which the Products and/or Services are sold; (iii) will be free and clear of Encumbrances; and (iv) will be adequately protected by Supplier during manufacture and all times when risk of damage, destruction or loss is in Supplier.

In addition to any other remedies Buyer may have, Supplier, at its sole expense, shall immediately, at Buyer's option, correct, replace, or refund in full, all Products and/or Services or components thereof, which are Defective, under specified quantities, or otherwise not in accordance with the Agreement. If Supplier does not correct such Defective Products and/or Services in a reasonable time, Buyer may correct or procure another supplier to correct such Defects and charge all related costs and expenses incurred by Buyer to Supplier. Alternatively, Buyer may, at its option, elect to accept the Defective Products and/or Services with an adjustment to the purchase price. Supplier shall bear the cost of storage, delivery, inspection, removal, return and replacement of rejected Products and/or Services; and rejected Products and/or Services, unless Buyer elects to retain all or part thereof, shall be the property of Supplier and shall be at Supplier's sole risk.

The representations and warranties in Sections 8.1 and 8.2 are for the benefit of Buyer and its successors and assigns. All representations and warranties shall survive the termination or expiration of the Agreement, shall extend up to the maximum term permitted by the Applicable Law and, with respect to the Product and Services Warranty provided in Section 8.2, not less than two (2) years. Any repair or replacement of Defective Products and/or Services shall be subject to a renewed warranty period. For avoidance of doubt, this Section 8.2 is supplemental to any statutory warranty or guarantee under the Applicable Law.

## 9. Confidentiality

**"Confidential Information"** shall mean, with respect to information disclosed or made accessible to a Party (the **"Recipient"**) by the other Party or its Affiliates (the **"Discloser"**): (i) all information and data of any kind, including technical, scientific, economic, financial, commercial or legal, and in particular, any trade secret, idea, plan, study, experimental protocol, report, drawing, graphic representation, specifications, know-how, prototype, material, formula, process, method of synthesis, method of formulation, analytical method, manufacturing process, parameters, material, molecule, non-commercial sample, functionalities of product, software, computer program, algorithm, disclosed in whatever form or medium and by whatever means, (ii) any information which Recipient may discover, observe or otherwise become aware of during meetings between the Parties and/or visits to the facilities of Discloser, (iii) any information concerning the Agreement or its objectives, and (iv) all information or data derived, resulting from or incorporating Confidential Information of the Discloser, provided, however, that any Products and/or Services developed or created specifically for the Buyer shall become the Confidential Information of the Buyer upon creation.

Confidential Information shall, at all times, remain the exclusive property of the Discloser and, apart from information that is necessary for the performance of the Products and/or Services, may be subject to recall at any time in the Discloser's sole discretion. Recipient agrees that all Confidential Information shall be used exclusively for performance of the Agreement. Subject and in addition to any additional or different provisions contained in the Agreement and/or a separate Confidentiality or Non-Disclosure Agreement between the Parties, Recipient also agrees not to disclose, and to prohibit its employees or representatives from disclosing, any Confidential Information to any third-party without the prior, express, written permission of Discloser. Recipient shall: (i) restrict the access, possession, knowledge, and use of the Confidential Information to its employees, Affiliate's employees, subcontractors or agents who are directly involved in the performance of the Agreement and only to the extent that such Confidential Information is needed to accomplish their Agreement-related mission; (ii) ensure that any individual to whom Confidential Information is disclosed is bound by obligations of confidentiality and secrecy at least as stringent as those contained herein; and (iii) be fully responsible for any unauthorized disclosure of Confidential Information by any individual to whom Confidential Information is disclosed as if such disclosure or breach were the Recipient's own.

These confidentiality obligations are material to the Agreement and shall survive the termination or expiration of the Agreement for a period of five (5) years. Further upon termination or expiration of the Agreement, all Confidential Information shall be returned or destroyed, at the option of the Discloser.

The obligations of this Section 9 shall not apply, if and to the extent it is demonstrated by Recipient, through documentary evidence, that the Confidential Information (i) was publicly available at the time of disclosure or becomes publicly available after disclosure through no act or omission of Recipient; (ii) was already legally in the possession of Recipient prior to receipt of the Confidential Information of Discloser, and it was not obtained by Recipient in violation of any obligation of confidentiality; (iii) is disclosed to Recipient by a third-party who has not violated any obligation of confidentiality; (iv) is independently developed by or for Recipient, without access to the Confidential Information and not as Work Product under the Agreement; or (v) is required to be disclosed by law, court order or other lawful government action, but only to the extent so ordered or compelled by law, and provided Recipient shall immediately notify Discloser and shall endeavor to limit the scope and preserve the confidentiality of such disclosure to the extent possible. Confidential Information shall not be deemed to fall within any of the foregoing exceptions merely because it is embraced by general information within any

such exception(s). Likewise, any combination of Confidential Information shall not be deemed to fall within any of the foregoing exceptions merely because individual information is separately within any of such exception(s).

Notwithstanding the foregoing, Recipient shall be permitted to disclose Confidential Information to any legal, tax or financial counsel to the extent such Confidential Information is required by law or requested for the accomplishment of such counsel's mission for the Recipient, and provided such counsel is legally or contractually required to maintain the confidentiality of the same.

#### **10. Publicity**

Supplier shall not use Buyer's and/or its Affiliates' names, trademarks, service marks, or other proprietary marks in any form and/or for any purpose whatsoever without the prior written consent of Buyer. For avoidance of doubt, this includes any reference, quote or notification to third parties that Supplier is a Buyer supplier in Supplier's corporate documents, website or by any means, digital or hardcopy, or any reference to any project awarded, whether for commercial or non-commercial purposes, without Buyer's prior written authorization. If the Supplier or any of its respective Affiliates has an obligation to make or issue any announcement required by any stock exchange, governmental authority or Applicable Laws in connection with the Agreement, Supplier shall not issue any such announcement until Buyer has agreed in writing to the wording and intended distribution of the announcement.

#### **11. Indemnification and Liability**

Supplier shall indemnify, defend and hold harmless Buyer, its Affiliates, contractors, directors, agents, employees, successors and assigns from and against any and all losses, expenses (including all reasonable attorneys' fees and legal expenses), liabilities, claims (including third-party claims), and damages Buyer may incur or suffer arising out of or in relation to (i) the expected and foreseeable use of the Products and/or Services provided by Supplier, (ii) the breach by Supplier of its obligations, representations or warranties under the Agreement; and (iii) the negligence or misconduct of Supplier, Supplier's personnel, its Affiliates and/or subcontractors. In the event Buyer incurs legal expenses to successfully enforce Supplier's obligations under the Agreement, Buyer shall be entitled to recover all such expenses from Supplier, including, for avoidance of doubt, all reasonable attorneys' fees and costs of proceedings.

Buyer's remedies specified in this Section 11 or otherwise in the Agreement shall be cumulative, and any remedies specified herein do not exclude any other remedies available at law or equity.

#### **12. Information Security**

Supplier shall be responsible for maintaining the security of its networks, data centers, systems and any means used to provide the Products and/or Services in accordance with all Applicable Laws and putting in place any measures reasonably necessary to prevent security issues, including a data security breach or other unauthorized access, the transmission of malicious code, or business interruption.

#### **13. Insurance**

Supplier shall purchase and maintain, at its own expense and with an internationally recognized insurance carrier acceptable by Buyer, the following insurance coverage:

- a) During the period of the Agreement and for a period of five (5) years thereafter, a Product Liability insurance program (including Professional Liability/Errors and Omissions coverage) valid and effective worldwide and covering claims in any and all countries, with Buyer named as an additional insured;
- b) During the period of the Agreement and for a period of two (2) years thereafter, a Commercial General Liability policy(ies) which shall include: Fire Legal Liability, Contractual Liability, Personal Injury Coverage, Environmental/Pollution (coverage can be provided by a separate policy), Information Technology/Internet/Cyber Crime (coverage can be provided by a separate policy);
- c) During the period of the Agreement and for a period continuing for so long as the Supplier has possession or control of Buyer's property, an "all risks" Property insurance policy covering loss or destruction of or damage to any property belonging to Buyer in the possession or under the effective care, custody or control of Supplier or any agent, employee, or Affiliate of Supplier, in the amount of full replacement value thereof.

Supplier shall be solely responsible for any self-insured retention or deductible owed under any insurance policy. All policies required shall be primary to and shall receive no contribution from any insurance afforded by or available to Buyer. Supplier's insurance policies shall also provide a waiver of subrogation in favor of Buyer, and Supplier's coverage as required above shall not be reduced without prior notice to and approval of Buyer. Upon each policy renewal date or upon request of Buyer, Supplier shall provide Buyer with proof of such insurance coverage.

#### **14. Force Majeure**



A "**Force Majeure**" event is considered any event that is unpredictable, unavoidable, beyond the control of and exterior to the will of the Parties, and which prevents the fulfillment, in whole or in part, of a Party's contractual obligations. Force Majeure events may, to the extent the preceding definition is satisfied, include: (i) civil or foreign war, (ii) riots, (iii) strike, (iv) work stoppage, (v) fire, (vi) tremendous water damages, (vii) governmental decisions, (viii) enactment or implementation of regulations or legislation, court order, or any other restriction that has not been foreseeable, (ix) trade war, (x) explosion, (xi) natural disasters, and (xii) epidemic or pandemic diseases. For avoidance of doubt, the foregoing is a non-exhaustive list of potential Force Majeure events under the above definition.

If a Force Majeure event prevents a Party (the "**Affected Party**") from complying with any of its obligations under the Agreement, the Affected Party shall be excused from performance and any liability for non-performance of those obligations, for so long and to the extent the Force Majeure event remains unavoidable to and outside the control of the Affected Party and the effects of the Force Majeure event cannot be mitigated by commercially reasonable measures.

The Affected Party shall inform the other Party in writing (by email with confirmation of receipt or any other appropriate means), within a commercially reasonable period of time following the occurrence or commencement of the Force Majeure event, of the specific circumstances which prevent the Affected Party from performing under the Agreement, along with the steps that are being taken to mitigate the impact of the Force Majeure event, and if possible, the expected duration of the suspension of the performance of its contractual obligations. The occurrence of a Force Majeure event does not discharge or otherwise release the Supplier of its obligation to implement its disaster recovery and Business Continuity Management Plans.

If the Force Majeure event lasts for more than thirty (30) days from the date of the notice and prevents the Supplier from performing its obligations under the Agreement during that period, Buyer is entitled, but not obliged, to terminate, as of right, the Agreement, in whole or in part (in which case the Parties shall negotiate the conditions for the continuation of the Agreement), with either immediate effect or subject to Reversibility Services and/or to a period of notice (choice being made at Buyer's sole discretion and option) without incurring any liability.

## **15. Termination**

**15.1 Termination for Cause.** Without prejudice to any other rights and remedies a Party may have at law or under the Agreement, and subject to the performance of Reversibility Services (at Buyer's sole discretion and option), either Party (the "**Non-defaulting Party**") may terminate, as of right, the Agreement, in whole or in part, by giving written notice to the other Party (the "**Defaulting Party**") if the Defaulting Party commits a breach of the Agreement and fails to remedy any breach capable of remedy within thirty (30) calendar days after receipt of written notice from the Non-defaulting Party. Notwithstanding the foregoing, Buyer also may terminate the Agreement immediately if Supplier commits a breach which cannot be remedied or engages in any conduct that negatively impacts Buyer's image, brand, goodwill, and/or reputation or breaches a required principle under the Michelin Purchasing Principles.

**15.2 Termination for Change of Control.** Supplier shall notify Buyer of any Change of Control as soon as possible and no later than thirty (30) days prior to such change of Control becoming effective, and Buyer may within ninety (90) days of receipt of such notice, terminate, as of right, all or part of the Agreement. For the purposes of this termination provision, "**Change of Control**" shall mean the acquisition by a third party of direct or indirect Control of the Supplier, whether by merger, acquisition, or other means of common Control.

In addition to the foregoing, Change of Control of Supplier without notice constitutes a material breach of the Agreement, and Buyer may, without incurring any liability or financial obligation, terminate the Agreement, as of right, subject to Section 15.5 by giving notice in writing to the Supplier within thirty (30) days of (i) the Change of Control becoming effective or (ii) the date Buyer becomes aware of such Change of Control, whichever is later.

**15.3 Termination for Insolvency.** Subject to Applicable Laws, either Party may, without incurring any liability or financial obligation, terminate, as of right, the Agreement by giving written notice to the other Party if the other Party, at any time, (i) becomes insolvent, files a petition for bankruptcy, insolvency or similar proceeding, or is declared bankrupt or insolvent or (ii) ceases operations or substantially all of its assets are sold.

**15.4 Termination for Convenience.** To the extent allowed by Applicable Laws, and in addition to the foregoing, Buyer may terminate, as of right, the Agreement, or any part thereof, for any reason or no reason, by providing thirty (30) days prior written notice to Supplier.

**15.5 Reversibility Services.** Upon expiration or termination, in whole or in part, of the Agreement, Supplier shall, at Buyer's sole discretion and option, complete any orders or work in progress, started prior to the date of the Agreement's expiration or any termination notice. Such orders, work in progress and delivery of the Products and/or Services shall remain subject to the terms of the Agreement. Further, Supplier agrees, at Buyer's request, to cooperate fully in the transfer of Work Products and resources, including Buyer Confidential Information or access rights owed to Buyer as part of the Reversibility Services, including the transfer to a subsequent service provider or to Buyer.

**15.6 Payment for Costs Incurred to Perform the Contract.** In case of termination for reasons other than Supplier's breach of the Agreement, Buyer shall be responsible to pay Supplier the costs incurred to perform the Agreement, to the extent completed prior to receiving the notice of termination and provided any work in progress is in accordance with the

requirements of the Agreement. These costs shall include the reasonable cost of materials purchased by Supplier for such work in progress, but only to the extent such materials cannot be repurposed for other customers or internally by Supplier.

#### **16. Applicable Law and Dispute Resolution**

The purchase and sale of Products and/or Services, as well as any disputes concerning the interpretation, validity, performance or non-performance, or problems arising under or out of the Agreement shall be construed under and governed by the Applicable Laws in the location of the headquarters of the ordering Buyer without reference to its or any other jurisdiction's conflict of laws principles. The Parties expressly exclude application of the United Nations Convention on the International Sale of Goods. Any disputes concerning the interpretation, validity, performance or non-performance, or problems arising under or out of the Agreement, shall be resolved pursuant to the specific Dispute Resolution provision of the Agreement. If none is included, all such disputes which are not resolved by the Parties within sixty (60) days of written notification of a dispute by one Party to the other Party, may be submitted to the court of competent jurisdiction in the location of Buyer's headquarters, to which exclusive jurisdiction the Parties consent.

#### **17. Independent Contractor**

Supplier is and shall be an independent contractor in all respects and nothing in the Agreement is intended or shall be deemed to create any partnership or joint venture, or any relationship of principal and agent or employer and employee between Buyer and Supplier (including any personnel employed by either Party or its contractors). Neither Party has the authority or power to bind, to Agreement in the name of, or to create a liability for the other Party.

#### **18. Assignment and Subcontracting**

Supplier shall not assign, subcontract or transfer any obligation or right under the Agreement without the prior written consent of Buyer, and any such assignment, subcontract, or transfer without Buyer's consent shall be null and void. Supplier shall in all events remain fully liable to Buyer for the full and complete performance of the Agreement. Should Buyer consent, Supplier shall ensure that any subcontractor shall be bound by and comply with the terms of the Agreement and that Buyer may, at its option, have direct recourse against any subcontractor (in addition to the Supplier).

Should Supplier fail to perform its obligations under the Agreement, Buyer is entitled to Agreement directly with Supplier's subcontractors and any charges paid to such subcontractors by Buyer shall be withdrawn from the price to be paid to Supplier or reimbursed to Buyer by Supplier, at Buyer's sole discretion and option.

#### **19. Right to Inspection and Audit**

Upon request and reasonable notification by Buyer, Supplier shall provide Buyer (or its designated third-party auditor) access to all documents, books, and records, regardless of format, pertaining to the performance of the Agreement (collectively, "**Documents**"), as well as access to Supplier's facilities and, if necessary, provide assistance to the Buyer for the safe and convenient inspection and/or audit of the Products and/or Services, including any quality processes and procedures applicable to the Products and/or Services. Buyer shall be permitted, where applicable, to conduct tests on the Products/Services for the purpose of ascertaining the requirements, characteristics, and functionalities of the Products/Services as applied to Buyer's products and processes and conformance to the requirements of the Agreement. Supplier shall provide such access to Buyer or its designated representative during normal business hours, and the requested information shall be provided at Buyer's or Supplier's place of business, per Buyer's request. During any audit, Buyer or its designated representative shall have the right to audit, examine and make copies of the necessary Documents, or extracts thereof. Documents related to the Products and/or Services and Supplier's performance under the Agreement shall be retained by Supplier for at least the duration of the Agreement plus the period of document retention required by Applicable Laws, or as otherwise requested by Buyer. After such inspections, reviews, or tests, Supplier shall, following requests by Buyer's authorized representatives, make necessary modifications to the process and formulation and/or Products/Services and/or implement a corrective action plan that will bring Supplier into timely compliance with its requirements under the Agreement, which corrective action plan may be subject to further inspection or audit to confirm completion. For avoidance of doubt, Buyer's exercise of inspection, testing and audit rights under this Section 19 shall not release Supplier of any responsibility or requirement under the Agreement.

#### **20. Business Continuity**

Supplier shall establish and maintain a plan by which Supplier ensures continuous supply of the Products and/or Services to Buyer in case of occurrences that may have an adverse effect on Supplier's regular business operations or capabilities, including events of Force Majeure (the "**Business Continuity Management Plan**"). Upon Buyer's request, Supplier shall provide a copy of its Business Continuity Management Plan and/or undertake a risk assessment and/or production impact analysis in relation to its operations and provide Buyer the written results of such assessment, along with any

recommendations thereof. If requested, Supplier shall also provide the conclusions, recommendations or reports provided by Supplier's insurance carrier(s) regarding security or disaster prevention measures.

## **21. Entire Agreement and Modification**

The Agreement supersedes any prior agreements, understandings, representations, statements, commitments and communications between the Parties with respect to the subject matter of the Agreement, and expressly excludes any subsequent documents, including Supplier terms and conditions, which are not expressly agreed by the Parties.

## **22. Non-Waiver**

Either Party's failure or delay to enforce a right or claim under the Agreement shall not be construed as a waiver or release of such claim, or similar claims which may arise in the future, or in any way prejudice any right of that Party under the Agreement. Any waiver by either Party of any of its rights under the Agreement must be in writing and only applies to the transaction or series of transactions expressly referred to in such waiver.

## **23. Notice**

All notices to be made in writing under the Agreement shall be given by registered mail or express courier service (with a return receipt evidencing delivery) to the Buyer's or Supplier's representative named at the address specified in the Agreement or as otherwise notified by an authorized representative of the applicable party.

## **24. Electronic Signature**

Where the Parties have agreed to sign the Agreement by electronic signature, where and to the extent recognized by Applicable Law, an electronic signature made through the means of Electronic Transmission as defined hereinafter shall be as legally binding as a physical signature. "**Electronic Transmission**" shall mean any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, provided that the transmission is secure and all actions are tracked and recorded by a reliable system, such record being able to be retained, retrieved and reproduced by the recipient and the sender.

## **25. Survival**

Any provision of the Agreement which by its nature shall survive expiry or termination of the Agreement shall remain in full force after such expiry or termination.

### **Country Specific Terms and Exceptions**

#### **AMERICAS**

##### **Brazil and Mexico**

Regarding the definitions contained in the above General Conditions, in case and to the extent the subject of the Agreement is the provision of Services (as opposed to Products), all references to "Supplier" in the Agreement, including the above General Conditions or these Country Specific Terms, shall be deemed to be a reference to "Service Provider" instead.

For Products and/or Services provided in Brazil, Supplier commits to the following additional specific requirements:

#### **Section 26; Additional Supplier Labor Obligations**

- (a) Supplier undertakes to make all payments, on time, of salaries, social, labor and social security charges of the professionals involved by the Supplier in the execution of the Agreement, as well as to provide personal insurance for the same professionals, not responding the Buyer for such charges, even on a subsidiary basis, and the Supplier shall keep the Buyer harmless from any and all charges arising from the execution of the object of the Agreement.
- (b) Supplier shall observe and be responsible for all requirements arising from the Regulatory Standards for Occupational Safety and Medicine, not only of its employees, agents or representatives, but also of all labor force of any nature, which it may hire and/or use, and its agents must use all mandatory and necessary safety equipment for the prevention of accidents, thus being solely and exclusively responsible for the management of these personnel in the execution of the services

In Brazil, this pertains especially to mandatory or necessary safety equipment or measures related to the Occupational Health Medical Control Program (Programa de Controle Médico de Saúde Ocupacional - PCMSO),

- (c) Supplier shall make its employees wear uniforms, in which there is a clear identification of the Supplier's name, and carry all personal protective equipment (PPE) suitable for the execution of the Agreement, such PPE to be provided by Supplier.
- (d) With reference to its employees and outsourced workers, the Supplier declares that all employees were and are duly registered at the time of their admissions, and their situation is in good order, under the terms of labor and social security legislation.

In Brazil, Supplier declares further that such registration and good standing is in accordance with legislation before the FGTS, the INSS and the PIS, and Supplier declares that all dismissed employees normally receive all the rights provided for in the legislation in force.

- (e) Under the Agreement, and, for all legal purposes, no employment relationship will be established between the Buyer and the personnel used, employed, subcontracted or third parties, related to the Supplier, and vice versa, the Parties being responsible for labor responsibilities, insurance, social security and tax, including those resulting from changes in the legislation in force, in relation to its employees and/or subcontractors involved in the performance of the Agreement.
- (f) The Supplier shall indemnify, defend and exempt the Buyer from any and all claims, actions, damages, obligations, costs, including attorney's fees and other expenses, which it causes and which arise from the events listed in this Clause, and the Buyer may the withholding of any payments due to the Supplier, if compelled to disburse any amounts in this regard, given that the Supplier undertakes to replace the Buyer as the defendant in any labor lawsuits brought against the Buyer due to the services object of the Agreement or, if such replacement is not possible, the Supplier undertakes to reimburse the Buyer for the amounts related to court costs, legal fees and any convictions.
- (g) Where Supplier will be providing Services on a Michelin site, Buyer shall be notified and additional requirements for Compliance with Labor, Tax, Social Security and other obligations agreed by Supplier prior to the commencement of such Services.

In addition, for Brazil, a Supplier providing on-site Services shall comply with all FGTS Obligations.

- (h) In addition, for Brazil, Supplier agrees that Buyer is exempt from any liability for the Supplier's failure to comply with the conditions, clauses and obligations set out in the Collective Bargaining Agreement of the professional category of its employees.

### **United States and Canada**

For Products and/or Services delivered or performed in the United States, the following additional clauses and/or exceptions shall apply:

#### **Section 13. Insurance**

This Section 13 is intended to supplement the terms and provisions contained in Section 13 of the General Conditions. In the event of any conflict or inconsistency, the specific terms and provisions of this Section 13 shall take precedence and be given their full force and effect to the exclusion of the conflicting or inconsistent provisions contained in the General Conditions.

Supplier shall purchase and maintain, at its own expense, insurance with minimum limits as expressly set forth below and with insurers that maintain an A.M. Best's credit rating of no less than A- and a financial size category of no less than VII.

- (a) For US only: Worker's Compensation** coverage for statutory benefits as required by law, and employer's liability insurance with limits of \$1,000,000 for bodily injury by accident, \$1,000,000 for bodily injury by disease and \$1,000,000 in the aggregate; Workers' Compensation coverage must extend to every employee, including leased employees, owners/officers and/or individuals operating as a sole proprietorship or partnership. Supplier shall at all times elect to be covered by Workers' Compensation and shall not "opt out" of coverage.

**For Canada only:** A. Workers' Compensation policy with statutory limits. Supplier agrees to have all its personnel covered at its expense under the applicable Workers' Compensation legislation and to ensure all subcontractors comply with

the foregoing. Upon request, Supplier will provide Buyer with a current clearance letter, indicating that Supplier is in good standing with Workers' Compensation and has met Workers' Compensation's criteria for clearance.

- (b) **Commercial General Liability** insurance with limits of \$1,000,000 per occurrence / \$2,000,000 aggregate, as well as a Products/Completed Operations Aggregate of \$2,000,000.
- (c) **Business Automobile Liability** insurance including coverage for all owned, hired, and non-owned automobiles with limits of \$1,000,000 per accident.
- (d) **Umbrella Liability** shall be "follow form" coverage over the above policies, with limits of \$5,000,000 per occurrence / \$5,000,000 aggregate.

**Additional Insured and Primary/Non-Contributory:** With the exception of Worker's Compensation coverage, the Buyer's name as named on the Purchase Order, followed by "and its subsidiaries, affiliates, officers, directors, agents, and employees" shall be named additional insureds on a primary and non-contributory basis with respect to all Supplier's liability policies required in sections (b) through (d) above. Additional insured coverage shall extend to ongoing operations and completed operations.

**Waiver of Subrogation:** All Supplier's insurance policies listed above shall include a waiver of subrogation in favor of, the Buyer's name as named on the Purchase Order and its subsidiaries, affiliates, officers, directors, agents, and employees".

- (e) **For US only: Employee Dishonesty Coverage** or Fidelity Bond of at least \$500,000 per employee. Coverage shall include 3<sup>rd</sup> party property and be maintained by Supplier continuously in effect during the Agreement and for a period of one (1) year thereafter.

**For Canada only:** Unless expressly provided otherwise, prior to execution of the Agreement, Supplier shall provide to Buyer a primary commercial blanket bond covering employee dishonesty at least in the amount of \$1,000,000.00 which shall be signed by a bonding company authorized to carry on business in the applicable province, with bonding companies and upon terms satisfactory to Buyer. All costs of purchasing and administration for bonds shall be paid by the Supplier and are included in the price.

- (f) **Network Security and Privacy Liability** Insurance, extending such coverage to the services contemplated by this Agreement, with limits of at least \$2,000,000. If written on a claims-made basis shall include full prior acts coverage (or a retroactive date no later than the date of commencement of the Work), with deductibles or self-insured retentions acceptable to Buyer and maintained by Supplier continuously in effect during the Agreement and for a period of three (3) years thereafter.
- (g) **Professional Liability Insurance:** If Supplier's scope of services involves providing engineering or design services, Supplier shall maintain Professional Liability Insurance with a limit of \$3,000,000, which insurance may be on a claims-made insurance form. This insurance shall be maintained by Supplier and continuously in effect during the Agreement Term and until all possible claims and suits arising out of the Work and the Project are barred by the applicable statutes of limitations and repose. Insurance maintained by Supplier shall be primary and non-contributory.
- (h) **Pollution (Environmental) Liability Insurance:** If Supplier's scope of services involves removal or disposal of waste or hazardous materials from a Buyer site or location, as determined by Buyer, Supplier shall maintain pollution (environmental) liability coverage with a limit of not less than: \$2,000,000 per incident, \$2,000,000 policy aggregate for hazardous waste disposal services, and \$2,000,000 per incident, \$2,000,000 for all other disposal facilities. Such coverage shall include clean-up costs, defense costs, mold and micro-organisms, and products and completed operations. Claims-made coverage is permitted, provided the policy retroactive date is continuously maintained prior to the commencement date of the Agreement, and coverage is continuously maintained during all periods in which Supplier accepts or treats waste generated from Buyer's sites, locations or projects and for a period of *one (1)* year thereafter.
- (i) **Property Insurance:** If Supplier's scope of services involves caring for, or having custody or control of property owned by, leased by or licensed to Buyer, Supplier shall provide All Risk Property Coverage (including the perils of wind including named windstorm, earthquake, and flood). The amount of coverage shall be purchased on a full replacement cost basis (no coinsurance shall apply). The coverage shall provide for repair, replacement or payment of loss to the Buyer as named on the Purchase Order "as their interests may appear", and contain a waiver of subrogation in favor of "Michelin North America, Inc. as their interests may appear, its subsidiaries and affiliates, and their respective directors, officers, employees and agents".

**(j) Cargo Insurance:** If Supplier's scope of services involves providing transportation services, Supplier shall maintain cargo insurance with a limit of \$250,000 per Truck Trailer, Rail Road Car, or Container. If Cargo Insurance is required, then Supplier is also required to provide a form MCS-90 Certificate of Public Liability under their current Business Auto Insurance Policy.

**Deductibles / Retentions:** Supplier shall be solely responsible to pay any amount that lies within the deductible(s) or self-insured retention(s) of Supplier's policies.

**Certificates of Insurance:** Supplier shall not commence the Work until proper evidence of insurance of the types and amounts specified in this section has been provided to Buyer. Such insurance must remain in effect throughout the term of the Agreement, or for a length of time as otherwise specified above, whichever is greater. Proper evidence of insurance must also be provided to Buyer prior to expiration of coverage to evidence each renewal of such coverage.

**Cancellation/Non-Renewal:** Such policies shall be endorsed to require that the coverage afforded shall not be canceled or non-renewed (except for nonpayment of premiums) or reduced without at least thirty (30) Days' prior written notice to Buyer; provided, however, that such endorsement shall provide that the insurer may not cancel the coverage for non-payment of premium without giving Buyer ten (10) Days' notice that Supplier has failed to make timely payment thereof.

**No Limitation:** None of the requirements as to types, limits and acceptability of insurance coverage to be maintained by Supplier are intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Supplier under this Agreement or at law, including, without limitation, Supplier's indemnification obligations and liability in excess of the limits of the coverages required herein. Neither receipt of certificates, endorsements or policies showing less or different coverage than requested, nor any other forbearance or omission by Buyer, shall be deemed a waiver of, or estoppel to assert, any right or obligation regarding the insurance requirements herein.

**If Supplier breaches its obligations** under this Agreement, Agreement or remains obligated to defend and indemnify Buyer and liable for any claims in excess of Supplier's policy limits. Buyer may request written confirmation of Supplier's compliance with this Agreement. If Contractor fails or refuses to provide proof of its compliance within 15 days of Buyer's written request, Buyer may withhold any payment due under this Agreement until Agreement or provides acceptable proof of compliance.

**Certificate Holder to appear on Evidence of Insurance:**

Supplier agrees to provide certificate of insurance identifying the Buyer's name and Buyer's local address as the Certificate Holder.

**For US only: Section 16. Applicable Law and Dispute Resolution**

This Section 16 is intended to supplement and clarify the terms and provisions contained in Section 16 of the General Conditions and shall take precedence and be given their full force and effect to the exclusion of the conflicting or inconsistent provisions contained in the General Conditions.

Agreements in which Michelin North America, Inc. is the designated Buyer shall be construed under the laws of the State of South Carolina, without reference to its or any other state's conflict of laws principles. Any disputes concerning the interpretation, validity, performance or non-performance, or problems arising under or out of the Agreement shall be resolved pursuant to the laws of the State of South Carolina and any specific Dispute Resolution provision of the Agreement. If no Dispute Resolution provisions are included, all disputes which are not resolved by the Parties within sixty (60) days of written notification of a dispute by one Party to the other Party, may be submitted to the court of competent jurisdiction in the State of South Carolina, to which exclusive jurisdiction all Parties consent.

**For US only: Section 26. Access to Buyer's Facility or Site**

In addition to the requirements contained in the Michelin Purchasing Principles, the following provision shall apply to Supplier, its employees, subcontractors, agents or representatives, when visiting a Buyer Site in the United States:

In the event Supplier visits Buyer's facility or site in connection with the Supplier's performance of the Agreement and/or provision of Products and/or Services, Supplier is responsible for complying, and ensuring that its employees, subcontractors, and agents comply with all safety and security requirements of such facility or site, which requirements are available on request. Supplier understands that Buyer may amend its safety and security requirements from time to time, and Supplier agrees to comply and ensure its employees comply with the amended safety and security requirements. Upon Buyer's request, Supplier shall also be responsible for establishing a plan for the prevention of accidents and safety

of its employees, subcontractors, and agents visiting Buyer's facility or site in connection with performance of the Agreement and/or provision of the Products and/or Services.

In addition, Buyer may require Supplier, its employees, subcontractors or agents that are visiting Buyer's facility or site in connection with the performance of the Agreement and/or provision of the Products and/or Services (a) to execute, be bound by and comply with a Waiver of Employment and Nondisclosure Agreement ("NDA Agreement") substantially in the form of the NDA Agreement identified in the Agreement, as such form may be updated from time to time, and (b) to agree to be bound by and comply with all of Buyer's Environmental, Health and Safety, Drug Testing, and Background Checks, which are set forth in the Agreement and may be amended from time to time. Buyer reserves the right to deny any of Supplier's employees, subcontractors, or agents access or entry to Buyer's facility or site; the right to ask any employee, subcontractor or agent of Supplier to leave Buyer's facility or site; and/or the right to require Supplier to remove any employee, subcontractor, or agent from Buyer's facility or site if Buyer, in its sole discretion, deems denial of access or removal to be appropriate and necessary. Any denial of access or request for removal shall not be deemed a breach of the Agreement by Buyer in any way. Supplier shall replace any of its employees, subcontractors, or agents deemed unsatisfactory by Buyer.

#### **For US only: Section 27. Commercial Subcontracting Plan**

If the total value of the Services exceeds, or is projected to exceed, \$250,000.00, Supplier shall at all times during the term of the Agreement or applicable Scope of Work maintain a Commercial Subcontracting Plan for the Utilization of Small Businesses, Small Disadvantaged Businesses, Women-Owned Businesses, Historically Black Colleges and Universities and Minority Institutions as dictated by the federal acquisition regulations (FAR) 52.219-9. Upon request, Supplier shall provide Buyer with a copy of said Commercial Subcontracting Plan.

Supplier agrees at all times during the term of this Agreement to support the intent of government regulations concerning Small Businesses, Small Disadvantaged Businesses and Women-Owned Businesses (as defined in FAR 52.219) by supplying Buyer, if requested, with information responsive thereto.

#### **ASIA**

##### **Indonesia**

If either Party is incorporated or domiciled in Indonesia, the following additional clauses and/or exceptions shall apply:

#### **Section 15. Termination**

In addition to Section 15 of the General Conditions, which shall apply as written above, the Parties hereby expressly waive Article 1266 of the Indonesian Civil Code to the extent necessary to affect termination of this Agreement as provided herein without judicial involvement, in particular, without limitation, without the need for any judicial approval for such termination.

#### **Section 26. Governing Language**

These General Conditions have been prepared in both English and Bahasa Indonesia. In the event of a conflict or discrepancy between the English language version and the Bahasa Indonesia language version, the English language version shall prevail for all purposes and supersede all discrepancies in language. Further, Supplier agrees and undertakes not to, in any manner or forum, challenge the validity of, or raise or file any objection to, this Agreement on the basis of any failure to comply with Law No. 24 of 2009 regarding National Flag, Language, Emblem and Anthem or its implementing regulations or other similar laws and regulations applicable in Indonesia.

#### **India, Sri Lanka**

For Products and/or Services delivered or performed in India or Sri Lanka, the following additional clauses and/or exceptions shall apply:

#### **26. COMPLIANCE WITH TAX LAWS**

26.1 Supplier acknowledges and agrees that its agreed compliance with applicable tax law with respect to all the transactions covered under the Agreement shall include, without limitation, payment of accurate taxes to appropriate government, timely filing of returns, reconciliation of mis-match reports generated from government websites, if any, etc.



26.2 Unless expressly stated otherwise in the Agreement, prices or other sums payable or consideration to be provided under this Agreement are exclusive of applicable Goods and Service taxes ("GST").

26.3 Notwithstanding anything contrary stated herein in the Agreement, Michelin India Private Limited ("MIPL") and Michelin India Technologies Center Private Limited shall not be under any obligation to make any payment hereunder until the receipt of a tax invoice as prescribed by applicable tax laws.

26.4 In view of the 'Anti-Profitteering Provisions' under the GST law, Supplier undertakes and confirms to perform a financial analysis of the impact of GST on its business and pass on all benefits, to MIPL, arising to the Supplier on account of additional credits getting accrued to Supplier upon implementation of GST Laws and on account of any reduction in the GST rates of its inputs and the products supplied by it to MIPL. The said benefit needs to be passed by the Supplier in the form of reduction of prices. In case, Supplier is found in default for not passing on the benefits of additional credits to MIPL by reduction of prices, MIPL can claim the said amount from the Supplier at any point of time, without any limitation of time, along with interest at the rate of 18% per annum. Supplier shall immediately pay to MIPL without any protest and/or delay, if MIPL demands any such amount from the Supplier under this clause.

26.5 In case the Supplier fails to comply with any of the provisions of applicable tax law including but not limited to compliance relating to any action or omission on the part of Supplier by which MIPL gets entitled to benefit of input credit (by whatever name called) under the said applicable tax law but because of the default of Supplier, MIPL incurs any direct or indirect cost, expense, loss, levy, penalty, interest, additional burden of tax etc. then the same shall be recovered from the Supplier by way of recovery and/or deduction from any amount payable to the Supplier by MIPL. MIPL can claim the said amount from the Supplier at any point of time without any limitation of time, whenever MIPL incurs and/or suffers or assumes that it would incur/suffer the said extra cost, expense, loss, levy, penalty, interest, extra burden of tax etc. Supplier shall immediately pay to MIPL without any protest and/or delay, if MIPL demands any amount from the Supplier under this clause.

### Thailand

In addition to the requirements set forth in the Michelin Purchasing Principles, for Services provided at Buyer's site, Supplier's employees, subcontractors, agents or representatives agree to execute an EP Contract or Agreement provided by Buyer.

### EUROPE

#### France, Hungary, Spain

For Agreements involving the purchase of Products and/or Services by a Buyer entity located in France, Hungary and Spain, the following additional clause shall apply:

#### **Section 26. Hardship**

In the event of circumstances that are unpredictable and beyond the control of the affected Party, which significantly and disproportionately change the balance between the Parties, or render the fundamental purpose of the Agreement unnecessary ("**Material Adverse Change**"), the Parties shall renegotiate in good faith to try to find an amicable settlement through the dispute resolution process set out in Section 16 of the General Conditions, in order to regain the contractual balance originally contemplated in the Agreement. In the event of a Material Adverse Change, the Parties shall continue to perform their obligations under the Agreement, unless and until an agreement is reached, and Supplier expressly undertakes the risk of such potential Hardship.

Where Buyer is located in France or Hungary, the Parties expressly reject the application of Article 1195 of the French Civil code (including the potential for a judge to redefine the terms and conditions applicable between the Parties) or any comparable, but not mandatory, local Applicable Law which contradicts this Section 26.

### Poland

For Products and/or Services delivered or performed in Poland, the following additional clauses and/or exceptions shall apply:

#### **Section 1. The Documentary form.**

In addition to Section 1 of the General Conditions, the Parties agree that except where otherwise required by Applicable Law, when the Agreement is in the documentary form, all other declarations, information, agreements and actions taken by the Parties shall be valid only when also having the documentary form and shall be conducted by electronic means.

#### **Section 5. Property Rights**

Notwithstanding any contrary provision or interpretation of Section 5 of the General Conditions, the assignment or granting of a license in the territory of Poland, and/or when the Michelin Poland Ltd is the designated Buyer, must be the subject of a written agreement signed by the Parties.

## **Section 7. Payment and Invoicing**

In addition to the requirements of Section 7 of the General Conditions, prior to receiving the Purchase Order from Buyer or executing the Agreement, the Supplier shall:

- a) provide its bank account details in accordance with the provisions of the Act of 6 March 2018 The Entrepreneurs' Law (published Journal of Laws of 2018, item 646, as amended);
- b) declare whether the obligatory/voluntary application of the split payment mechanism in accordance with the provisions of the Act of 11 March 2004 on Tax on Goods and Services (published – Journal of Laws of 2004, No.54 , item 535, as amended) is applicable to the purchase;
- c) report whether the enterprise has the status of a micro, small, medium-sized or large entrepreneur within the meaning of Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1, as amended) and the Act of 8 March 2013. on preventing excessive payment delays in commercial transactions (published Journal of Laws 2013, item 403, as amended).

Throughout the Term of the Agreement, the Supplier is obliged to notify Buyer of any change in the status of the Supplier's enterprise in accordance with the criteria described above (points a-c) and/or resulting from laws in force applicable to the Supplier's business. If these criteria are not notified, the implementation of the Agreement and payments will take place on the basis of the conditions previously communicated to Buyer, and all consequences related thereto shall be borne by the Supplier.

Michelin Polska Limited Liability Company, which is seated in Olszyn, has the status of a large entrepreneur within the meaning of Article 4(6) of the Act of 8 March 2013 on combating excessive payment delays in commercial transactions (published Journal of Laws 2013, item 403,as amended).

## **Section 15. Termination**

In addition to the rights defined in Section 15 of the General Conditions, Buyer may withdraw from the Agreement, if:

- a) Products and/or Services provided by the Supplier are not delivered and/or performed in accordance with the Agreement: (i) in regard to all Products and/or Services which had not been delivered/provided in accordance with the terms and conditions of the Agreement at the time of such withdrawal notice, or (ii) in regard to all Products and/or Services to which this Agreement applies before its termination if Products delivered or Services provided have been ineffectively replaced or repaired twice;
- b) during an audit under Section 19, Products and/or Services are not to conform with the terms and the conditions of the Agreement; and/or
- c) in the event that a delay in the performance of the Agreement exceeds 14 days, after prior notification by Buyer and a request to take action in an additional period of at least 14 days, after the expiry of this period.

Buyer may withdraw from the Agreement within 60 days, respectively, from the date of observing the reason of the withdrawal (a), the inspection date (b) or expiration of the additional period expressed in the notification or omission to take action by the Supplier in accordance to the notification. Buyer may withdraw from the Agreement by a written notice delivered to the Supplier's representative named at the address specified in the Agreement.