

Tire Mold Conditions of Purchase

1.0 SCOPE:

Subject matter of this agreement (hereinafter the “**Agreement**”) is the setting of a general legal frame for the delivery of molds, mold parts, container and/or mold drawings according to the Specifications as defined below (hereinafter the “**Equipment**”) by Contractor to Continental Aktiengesellschaft or its affiliates (in the USA: Continental Tire the Americas, LLC), as stated in the purchase order, hereinafter “**Purchaser**”. This Agreement shall be valid in addition to the Supply and Service Frame Agreement relating to molds entered by and between the Contractor and Continental Reifen Deutschland GmbH (or any other company relating to Continental group, as the case may be) which includes the business conditions including, but not limited to the prices (hereinafter the “**Frame Mold Agreement**” or “**SSFA**”). However, nothing in this Agreement shall be construed or interpreted as a commitment or obligation of Purchaser to enter into any individual agreement (e.g. to place a purchase order) or any new or additional contract with the Contractor. Purchaser shall have the right but not be obliged to purchase Equipment from the Contractor pursuant to an individual order. The Contractor does not have the right to be the single source for the sale and delivery of Equipment to the Purchaser.

The provisions contained in the higher order document of the documents following always supersede any lower document. In case of discrepancies, the higher order document shall prevail. However, the respective purchasing legal entity will be named in the respective purchase order only.

- Frame Mold Agreement, if agreed
- these General Terms and Conditions (this Agreement)
- individual purchase order of Purchaser including any SAP-generated order (hereinafter “**Order**”)
- Purchaser’s technical specifications, including, but not limited to (i) the Technical Mold Description as available to the Contractor and referred to in the Order, (ii) the bill of material including the respective drawings and (iii) the Mold Manual, as updated from time to time, and available to the Contractor via [https://www.conti-online.com/www/moldmanagement_com_en/themes/moldmanual_index_en.html]
(for Username and password, please contact Mold Service directly under email: **mmt_mold_services_cv@conti.de**)
(hereinafter the “**Specification(s)**”)

This Agreement including the above mentioned documents constitute the entire understanding and agreement between the Parties concerning the subject matter hereof and supersede and cancel all prior written or oral understandings, agreements or representations in respect of the subject matter hereof, and may be amended only by a written instrument executed by authorized officers or representatives of Purchaser and Contractor.

Any General Terms and Conditions of Contractor shall not apply. The Contractor’s General Terms and Conditions are excluded even if Purchaser does not expressly object to them.

The headings of the various parts are used here only for the sake of clarity and do not have any legal significance.

For the avoidance of doubt, the Frame Mold Agreement and these General Terms and Conditions (this Agreement) shall apply to all orders from Continental and/or its Related Companies even if not referred to explicitly in the respective Order.

2.0 **PRICE:**

The total fixed price (net) for the Equipment (hereinafter the “**Total Fixed Price**”) is set forth in the Frame Mold Agreement, if available, which shall be integral part of this Agreement, or as individually agreed between the Parties.

The Total Fixed Price is for delivery according to the Incoterm (ICC INCOTERMS 2010) mentioned in the Order to the delivery address of Purchaser's plant mentioned in the Order. However, even in case of Incoterms including Contractor`s obligation to have the Equipment shipped to Purchaser, Contractor shall engage the transportation company selected by Purchaser, unless otherwise agreed. Transportation is included in the Total Fixed Price.

The cost for the appropriate and proper packaging meeting the requirements of transportation, taking into account the turnover rate and the climatic conditions, is covered by the Contractor. However, packing must be carried out in accordance with the Mold Manual”, as already provided to the Contractor.

Only applicable for supplies to or from the USA (hereinafter in short: “**In the USA**”:

Contractor will promptly support any requests or requirements that Purchaser requires which includes but is not limited to ISF filing, METS origin information, destination information, time schedules and all attributes of the item(s) shipped, customs commodity codes, full product descriptions, and value of all Equipment. Contractor ensures the issuance and procurement of all documents necessary under relevant local laws to provide for the exportation out of the foreign country. Contractor understands and agrees that it shall fulfill all the export requirements and relevant local laws for the export of the Equipment.

3.0 **DELIVERY DATE:**

The delivery date (in case of delivery of consignments date of last consignment) according to the agreed Incoterm will be mentioned in the respective Order (hereinafter referred to as “**Delivery Date**”). Until delivery, the Contractor will provide a weekly mold manufacturing progress report to Purchaser.

4.0 **DELAY OF DELIVERY:**

4.1 Obligation To Notify. If the Contractor becomes aware that it will not be able to keep the Delivery Date agreed upon, the Contractor shall promptly inform the Purchaser in writing about the expected delay and the reasons for the delay.

4.2 Penalty For Delay. For each week or part-week delay in meeting the Delivery Date, the Contractor undertakes to pay the Purchaser a penalty equal to:

- for the first week or part-week delay 1%
- for the second week or part-week delay another 2% (total 3%)
- for the third week or part-week delay another 3% (total 6%)
- for the fourth week or part-week delay another 4% (total 10%)

of the Total Fixed Price, provided that the maximum aggregate penalty shall not exceed 10% of the Total Fixed Price. However, the Contractor shall not be liable for any delay for which the Purchaser is solely responsible. For enforcement of the contract penalty it is not necessary that the Purchaser expressly reserves the right thereto when accepting deliveries or services from the Contractor.

In the USA: in this clause 4.2 the word “(contract) penalty” shall be replaced by “liquidated damages”.

4.3 Time is of the Essence. Contractor agrees that time is of the essence in the performance of its obligations under this Agreement.

5.0 **PAYMENT:**

5.1 Payment of the Total Fixed Price will be due upon Acceptance of the Equipment and Purchaser`s receipt of a respective invoice from Contractor. Payments will be effected within 30 days after the date when Purchaser received both the Equipment and the respective invoice from Contractor.

5.2 All shown prices are net prices, no VAT included. All invoices shall identify the respective VAT amounts, if applicable.

5.3 Tax.

(a) Deduction of Withholding Tax. All payments due to (*in the USA:* Non-US) Contractor under this Agreement shall (*in the USA:* may) be made after deduction of the applicable withholding tax, if any, referred to in and levied in accordance with the Agreement for the Avoidance of Double Taxation between Purchaser`s country and Contractor`s country from time to time on such payments by the Government of Purchaser`s country or any other governmental agency in Purchaser`s country. Upon Contractor`s request, Purchaser will supply to Contractor copies and translations thereof to the English language of receipts of payment of any withholding taxes for which such deduction is made.

In the USA to be added:

The US Tax Code imposes an obligation on Continental to withhold tax in the amount of 30% of the gross amount of certain payments to a payee that is a foreign person unless Continental can reliably associate the payment with documentation upon which it can rely to treat the payment as made to a beneficial owner that is a i) US person or ii) Foreign person entitled to a reduced rate of withholding. The Code requires, and Continental routinely relies on, IRS Forms as documentation upon which Continental may determine the appropriate amount of tax (if any) to be withheld on payments subject to US Withholding.

(b) No Other Deductions. Except for the deduction referred to in sub-section (a) above, all payments due under this Agreement shall be made free of all taxes, fees and other charges of all kinds whatsoever, levied in Purchaser`s country on such payments including but not limited to any value added tax, sales or turnover tax on the payments, all of which are to be borne by Purchaser.

The following shall not be applicable In the USA:

If any such taxes, fees and other charges of all kinds imposed in Purchaser`s country are due from Contractor in connection with the payments under this Agreement, the amount of the respective payment shall be increased so as is necessary to ensure that after the payment of such tax or taxes, Contractor actually receives the full amount of the Total Fixed Price as if no such tax or charges applied, except for the deduction referred to in sub-section (a). The same applies if value

added tax or similar taxes under a reverse charge mechanism are due from Contractor on the payments under this Agreement.

- (c) Local compliance rules. In case local tax law in Purchaser's country requires that Contractor has to do a tax registration in Purchaser's country in order to make use of the applicable withholding tax rates referred to in and levied in accordance with the Agreement for the Avoidance of Double Taxation between Purchaser's country and Contractor's country, but Contractor cannot prove tax registration in Purchaser's country to Purchaser then Purchaser will deduct the percentage of withholding tax according to sub-section (a) above which is required by local tax law in Purchaser's country. The same applies if Contractor does not send to Purchaser, before payment of withholding tax referred to in sub-section (a) above is due to be withheld by Purchaser, a tax residence certificate of Contractor stating its residence in Contractor's country if Purchaser has requested from Contractor.

It is the sole responsibility of the Contractor to comply with all tax laws in Purchaser's country applicable to Contractor. Purchaser will neither be liable for any violation of any tax laws in Purchaser's country done by Contractor nor will Purchaser give any tax advice to Contractor. It is recommended that Contractor asks its tax adviser how to comply with the tax laws in Purchaser's country.

Only In the USA additional (d) to (f):

- (d) VAT taxes. Contractor agrees that it will notify Purchaser if the Equipment will be subject to VAT prior to shipment to the US. If VAT does apply Contractor will work with Purchaser in a good faith effort to assist Purchaser to minimize the tax liability. If no VAT is identified in the Purchase Order (PO) then Purchaser will assume the VAT rate is zero or exempted from VAT and Contractor will be unable to invoice Purchaser later for VAT.
- (e) Tax Indemnification by Contractor. Contractor shall indemnify, defend and hold Purchaser and its affiliates harmless (i) from any and all taxes, fees and other governmental charges owed by or imposed on the Contractor in connection with the transactions contemplated by this Agreement and (ii) from any and all claims or liabilities arising out of or related to the Contractor's breach of this Section 5.3.
- (f) Sales and Use Taxes. Where sales and use taxes may be applicable Purchaser shall have the opportunity to provide an exemption certificate to reduce or eliminate such tax.

6.0 APPLICABLE LAW, ARBITRATION:

This Agreement shall be governed by the laws of the Federal Republic of Germany, (excluding the UN Convention on Contracts for International Sale of Goods), with the laws governing contracts for work products ("Werkvertragsrecht"), without giving effect to the conflict or law rules thereunder.

All disputes, controversy or claim arising out of or in connection with this Agreement, or the execution, breach, termination or invalidity thereof, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. Arbitration shall be located in Hannover, Germany. The arbitration shall be conducted in the English language.

In the USA, section 6 shall be replaced by this section:

This Agreement shall be governed by the laws of North Carolina, (excluding the UN Convention on Contracts for International Sale of Goods), and without regard to any conflict of laws provisions.

All disputes, controversy or claim arising out of or in connection with this Agreement, or the execution, breach, termination or invalidity thereof, shall be finally settled under the Rules of Arbitration of Judicial Arbitration and Mediation Services, Inc. ("JAMS") by one or more arbitrators appointed in accordance with the said Rules. Arbitration shall be located in Mecklenburg County, North Carolina. The arbitration shall be conducted in the English language.

7.0 SPECIAL REGULATIONS AND GUIDELINES:

- 7.1 The Contractor maintains a quality management system at least certified according to the ISO 9001 standard and an environment management system certified according to ISO 14001 or a comparable environment management system. The Contractor is according to such standards committed to improve his quality and environment management systems constantly. The Contractor will take into account the latest international developments and in particular comply with the requirements of the automotive industry as defined in the ISO TS 16949 standard as revised from time to time.
- 7.2 Unless otherwise required by Purchaser in any Specification, the CE mark has to be fixed on the Equipment in a conspicuous position and the conformity declaration and the analysis of possible hazards are to be furnished (see current version of European Machinery Directive ("**Machinery Directive**") including amendments and subsequent versions).
- 7.3 Unless otherwise required by Purchaser in any Specification, for Equipment which is intended to be incorporated into other machinery already owned by Purchaser or assembled with other machinery already owned by Purchaser the declaration by the Contractor in accordance with appendix II B Machinery Directive is to be attached by Contractor.
- 7.4 Contractor will comply with the mandatory law applying in the country where the Equipment will be used.
- 7.5 The Contractor shall further ensure compliance with pertinent legal building and plant regulations applying at the location where the Equipment is to be installed.
- 7.6 In addition the following shall apply:
- If the Contractor intends to supply from or assign any sub-contractors for essential parts, the Contractor needs the prior written approval of the Purchaser. The Contractor remains responsible towards the Purchaser for the whole project and the performance according to this Agreement.
 - Obligation to inform: Until the Acceptance, the Contractor shall inform the Purchaser immediately about new technical developments and laws which might have an influence on this Agreement.
- 7.7 Contractor confirms to comply with the "Business Partner Code of Conduct" of the Purchaser.

8.0 MODIFICATIONS:

Any and all changes in, deletions from, or additions to the scope of delivery (Equipment) as agreed herein and any changes, deletions or additions to this Agreement require the prior written consent of Purchaser. No additional claims for payment can be raised in the event of non-compliance with this provision.

Exceptions are minor changes not entailing any deviations from the Purchaser's technical specifications, complying with the regulations and guidelines pursuant to Sec. 7, not incurring additional costs and not resulting in any extension of the delivery period.

The Purchaser will not accept any unapproved changes made by the Contractor.

The Contractor also undertakes to allow the Purchaser to inspect the Equipment at all stages of completion at previously agreed times. Full responsibility for manufacture and delivery of the Equipment will remain with the Contractor.

9.0 WARRANTY, LIABILITY:

In addition to the warranty as set out in the SSFA, if signed, the following provisions apply:

- 9.1 The Contractor represents and warrants that the Equipment will be free from defects in materials and workmanship, will conform to and satisfy applicable drawings, specifications, samples and other descriptions furnished, specified or approved by Purchaser (including, but not limited to the Specification) and will be of merchantable quality, suitable for the intended purpose (such characteristics hereinafter referred to as "**Requirements**"). Furthermore, Contractor represents and warrants that the Equipment will be supplied and services will be rendered in accordance with the latest recognized technical guidelines and standards and the statutory and official requirements concerning accident prevention and industrial safety as well as with all legal requirements regarding safety, environmental protection and other relevant provisions.

Further, Contractor warrants that neither the delivery of the Equipment nor the performance of services in accordance with this Agreement is subject to any rights of any third party and that the delivery of the Equipment and their utilization according to this Agreement, as well as the performance of the services, do not infringe patents or other protective rights of third parties in Germany, in the USA or in any other country.

- 9.2 Within the warranty period (9.3), defects (lack of conformity of the Equipment with the Requirements) claimed by Purchaser must be remedied by the Contractor immediately with the Contractor bearing all costs incurred in the process (e.g. costs for disassembly and reassembly, freight). In such event, and subject to Purchaser's rights in case of urgency as set out below, the Contractor shall – within a period of not more than 6 (six) weeks upon Purchaser's notification of a defect (unless a shorter period is requested by Purchaser) – bring the Equipment into conformity with the Requirements by repair or replacement of the Equipment free of charge for Purchaser and provide proof of conformity with the Requirements in a new test run according to the Specification with results acceptable to Purchaser, and to compensate Purchaser for all damages caused by the non-conformity of the Equipment and/or performance of services. In the event of a failure to provide proof of conformity with the Requirements within the deadline as set by Purchaser, the Purchaser is entitled to all warranty and liability rights (including, but not limited to, a reduction of the Total Fixed Price, rescission from the Agreement, compensation of damages).

Further, in case the Contractor does not rectify the defect within the time period as set by Purchaser, or in case of urgency, the Purchaser is entitled to rectify the defect himself or to have the defect rectified by a third party, and in both cases Contractor will indemnify and hold Purchaser harmless from and against all necessary costs and damages. However, Contractor's further liability vis-à-vis the Purchaser shall remain unaffected.

- 9.3 The warranty period for any lack of conformity is 24 (twenty-four) months and starts on the successful Acceptance, even for two- and multi-shift operations. If the Acceptance is delayed due to the sole responsibility of Purchaser, the warranty period shall end 36 (thirty-six) months after the Delivery Date.
- 9.4 The warranty period is suspended in the event of ongoing negotiations between the Purchaser and the Contractor. Such suspension begins with the commencement of negotiations and ends with the completion of negotiations. The warranty period recommences at the earliest three months after the end of the suspension period. Claims for defects known to, but undisclosed by the Contractor, can be made after the warranty period has elapsed.
- 9.5 The warranty period for any lack of conformity for repaired or replaced parts begins anew upon completion of the repairs and acceptance of the new parts by Purchaser. For all parts that cannot be used as foreseen in this Agreement due to an interruption in operations necessitated by the aforementioned subsequent repair work or by delivery of replacement parts, the warranty period shall be extended for a period of time equal to the duration of such interruption.

10.0 PERFORMANCE GUARANTEE:

In addition to the warranty as set out in Sec.9 above, Contractor guarantees that the Equipment performs as indicated in the Requirements (including the Specification). Contractor especially guarantees that the capacity, availability and capability of the Equipment will be as specified in the Requirements for the guaranteed period of 3 (three) years as of successful Acceptance. In case the Equipment does not perform as guaranteed, Purchaser shall have all legal remedies as listed in Sec.9.2 as well as further legal remedies according to the applicable law.

11.0 ACCEPTANCE:

- 11.1 Acceptance. Within 15 days upon delivery of the Equipment in Purchaser's plant, Purchaser will check the Equipment according to the mold release procedure which defines some parameters which can be checked without operation of the Equipment and – if the Equipment complies with such parameters – grant acceptance ("**Acceptance**").
- 11.2 Waiver of plea of late notification. Contractor hereby waives the plea of late notification of defect (*not applicable In the USA: Section 377 HGB/ German Commercial Code*) and unconditional acceptance. The Purchaser is not obliged to inspect the Equipment according to all Specifications or the requirement to make a complaint in respect of a defect immediately upon receipt of the Equipment. Complaints in respect of a defect may also be subsequently asserted by the Purchaser.
- 11.3 Unsuccessful Acceptance. In the event that Contractor fails to provide proof of performance in compliance with the terms of this Agreement, the Contractor has failed to perform its obligations under this Agreement and the Purchaser shall have all legal

remedies, including but not limited to a reduction of the Total Fixed Price, a rescission of the agreement and compensation of damages.

- 11.4 Third-Party approval as part of the Acceptance proceedings. In the event that operation of the Equipment is conditional on the approval of a public authority or another institution, this approval is an integral condition of the Acceptance. The Purchaser will only bear the costs for the request.

In the event that approval is not granted or is deferred, the Contractor undertakes to reimburse the Purchaser for any damages, unless Contractor proves that either the Purchaser or the approving authority was exclusively responsible for denial or deferment of approval.

- 11.5 Essentiality of Acceptance. Contractor agrees and understands that Acceptance is mandatory under this Agreement and that all contractual obligations with regards to this Agreement remain until Purchaser in its sole discretion provides Contractor with written notice that Acceptance has been fulfilled.

12.0 FOR DELIVERIES ACROSS THE BORDER WITHIN THE EU:

This section 12 is not applicable In the USA:

For purchases of goods from any country of the European Union the value-added tax identification numbers of both Contractor and Purchaser are required on Contractor's invoice and credit notes.

VAT-numbers are an integral part of the invoice and absolutely necessary; VAT-numbers shall be mentioned on order confirmations and any correspondence. Invoices without such numbers cannot be processed.

13.0 CONFIRMATION OF ORDER:

A copy of the order documents as provided by Purchaser, duly signed by the Contractor, is to be returned to the Purchaser and, for the avoidance of doubt, no other documents of Contractor will be accepted by Purchaser.

14.0 NO DISPOSAL OF PACKAGING:

The Contractor is not allowed to take away the packaging of the Equipment. If the Contractor fails to comply with this obligation, the Purchaser is entitled to charge the necessary replacement costs to Contractor.

15.0 INSURANCE:

The Contractor is obliged to own and maintain, on its own cost, a public-liability insurance as well as a product-liability insurance with a minimum limit of indemnity for bodily injury and property damage of five (5) million Euros per occurrence and ten (10) million Euros per year with a worldwide scope of coverage including USA/Canada and coverage for claims under the applicable foreign jurisdiction. Upon request of Purchaser, the Contractor will provide a certificate of the insurance annually.

16.0 MISCELLANEOUS:

16.1 Confidentiality. Contractor acknowledges that the existence of the business relationship of the parties, its content as well as further confidential information received from Purchaser are strictly confidential and undertakes not to disclose any confidential information to third parties without express written consent of the Purchaser and not to use such confidential information for any purpose other than performing its obligations hereunder.

Confidential information includes, but shall not be limited to components of the Equipment which comply with special requirements of the Purchaser or were developed, drawn or designed in accordance with technical concepts provided by the Purchaser, and which may neither be shown to third parties nor copied for the Contractor's own purposes without the prior express written consent of the Purchaser.

The submission of any information to Contractor by Purchaser does not contain the granting of any rights (including, but not limited to, rights of use) in favour of the Contractor and Purchaser does not give any representations or warranties with regard to the correctness and/or completeness of such information. In particular, Purchaser reserves any rights with regard to the information, including, but not limited to, its right to register and/or apply for any intellectual and/or industrial property right with regard to inventions of Purchaser.

16.2 Compliance with Anti-terrorism Regulations. Contractor is aware of UN Resolutions No. 1267/1999, 1333/2000, 1373/2001, 1390/2002 and 1455/2003 and of EU Council Regulation (EC) No. 2580/2001 and Council Regulation (EC) No. 881/2002, in each case as amended from time to time, regarding restrictive measures against certain persons suspected of terrorist activities (the "**Anti-terrorism Regulations**"). Contractor affirms that it is not connected to, or involved in any direct or indirect activities of any kind whatsoever with, any natural person, company, group and/or entity listed in any Anti-terrorism Regulations. Contractor undertakes, and to cause all its sub-contractors, to comply with all Anti-terrorism Regulations.

Without limiting the generality of the foregoing, Contractor undertakes neither to use as sub-contractor any natural person, company, group and/or entities listed in any Anti-terrorism Regulation nor to use any sub-contractor if the Contractor knows or could have known that such sub-contractor might use any such natural person, company, group and/or entity as its sub-contractor.

16.3 Amendments. All amendments to this agreement including this provision shall be effective only if made in writing and signed by authorized representatives of both Parties.

16.4 No Assignments. Contractor shall not be entitled to transfer or assign any rights arising from this Agreement to third parties.

16.5 Change of Control. In the event that there is at any time any change of control in the legal or beneficial ownership of Contractor, Contractor will notify Continental thereof as soon as possible, but, in any event, not later than thirty (30) days after such change has been effected. In the event of any such change of ownership, Purchaser shall have the right to terminate this agreement with immediate effect.

16.6 Deterioration of Financial Condition. In the event that the financial condition of Contractor substantially deteriorates, Purchaser is entitled to terminate this Agreement by written notice with immediate effect.

16.7 Severability. The invalidity or unenforceability of any provision herein contained shall not affect the validity of the remaining provisions. In case of such invalidity or unenforceability the Parties shall substitute such invalid or unenforceable provision by a new valid and

enforceable provision which shall most closely achieve the economical purpose of the invalid or unenforceable provision.

16.8 Purchaser's Intellectual Property. The Purchaser is not transferring, conveying, licensing or assigning to Contractor any right or interest in the Purchaser's patents, specifications, copyrights and/or other intellectual property.

16.9 Survival. All provisions of this Agreement which by their nature are intended to survive the termination of this Agreement shall survive.

The following section 16.10 is only applicable In the USA:

16.10 Attorney Fees. If Purchaser is the prevailing party in connection with the enforcement of this Agreement, then Purchaser will be entitled to reimbursement of its attorney's fees and related costs from the Contractor.

16.11 Indemnification. Contractor shall indemnify, defend and hold Purchaser and its affiliates harmless from any and all claims, liabilities, losses, damages, costs, expenses and fees (including reasonable attorneys fees) arising from or related to any of the following: (i) any breach by the Contractor of this Agreement or any purchase order, (ii) any negligent, reckless or intentionally wrongful act of Contractor, its affiliates or sub-contractors and/or any of their employees, representatives, contractors or agents, (iii) any actual or claimed infringement, violation and/or misappropriation of patents, copyrights or other intellectual property rights in connection with the Equipment or any services. The obligations set forth in this Section shall survive the termination or cancellation of this Agreement.