

## 1 Definitions and Interpretation

- 1.1 The following terms shall have the meanings assigned to them hereunder:
- 1.1.1 **"Agreement"** means these standard terms and conditions together with any schedules, annexures and attachments hereto;
- 1.1.2 **"Contract"** means a Contract concluded between You (the Customer) and Us (Tyre Aid) for the provision by Us to You of a Tyre Replacement Plan;
- 1.1.3 **"Contract Price"** means the contract price of your Plan as reflected on the Dealer's invoice to the Financial Institution;
- 1.1.4 **"Dealer"** means the dealer through whom you purchased the Plan;
- 1.1.5 **"Designated Supplier"** means the tyre supplier(s) designated by us to attend to the supply/sale and replacement/fitment of your vehicle's tyres, details of which are available on our website, and are subject to change from time to time;
- 1.1.6 **"F&I"** means the Dealer's finance and insurance agent/ manager, who facilitated the conclusion of your Contract;
- 1.1.7 **"Financial Institution"** means the bank, funder, financier, credit provider, financial services provider or similar financial institution, as the case may be, financing the purchase of your vehicle;
- 1.1.8 **"Parties"** means You and Us and **"Party"** shall bear a corresponding meaning;
- 1.1.9 **"Pay-out Value"** means the pay-out value applicable to a particular Tyre Replacement Plan, as reflected and selected on the face of this Agreement;
- 1.1.10 **"Personal Information"** shall have the meaning set out in the Protection of Personal Information Act, 4 of 2013 (as amended) or such other legislation as may become applicable to the protection of personal information in South Africa;
- 1.1.11 **"Plan"** means the tyre replacement plan selected on the face of this Agreement for the guaranteed replacement of your vehicle's tyres up to the Pay-out Value (within the time limits set out in this Agreement) offered by Tyre Aid as a value-added product on your motor vehicle purchase and/or finance;
- 1.1.12 **"Signature Date"** means the date upon which you sign this Agreement; and
- 1.1.13 **"website"** means [www.tyread.co.za](http://www.tyread.co.za).
- 1.2 The clause headings contained in this Agreement are for reference purposes only and shall not be used in the interpretation of this Agreement. Words importing any one gender includes the other gender, the singular includes the plural and vice versa, and natural persons includes juristic entities and vice versa.
- 1.3 The terms and conditions appearing in the schedules and annexures hereto are hereby incorporated into the Agreement and expressions defined in this Agreement will bear the same meanings in such schedules or annexures, which do not contain their own definitions. In the event of any conflict between the standard terms and conditions of this Agreement and those appearing in any schedules and

annexures hereto, these standard terms and conditions shall prevail.

- 1.4 These terms and conditions are subject to change from time to time, as published on our website, to which you agree to be bound.

## 2 Plan purchase

- 2.1 You agree to purchase the Plan selected by you on the face of this Agreement.
- 2.2 Pursuant to your purchase of the Plan, you shall be entitled to payment to our designated supplier of up to the pay-out value ascribed to your chosen Plan. You may claim after a waiting period of 3 (three) months up to 4 (four) years from the Signature Date. The Pay-out Value may only be utilised in respect of the purchase and fitment of tyres at one of our Designated Suppliers.
- 2.3 Should you wish to claim for the replacement of your vehicle's tyres, you are required to obtain pre-authorisation by following the claims procedure set out on our website. Claims shall be processed within 3 (three) business days, and you will receive notification of the approval of your claim.
- 2.4 You will select which tyres (according to their tyre code, for example 265/60R18) are to be fitted to your vehicle. **We do not warrant that the tyres are fit for your intended use and/or purpose.**
- Initial: \_\_\_\_\_
- 2.5 You can claim 1 (one), 2 (two), 3 (three) or 4 (four) tyres after 3 (three) months and within 4 (four) years of the Signature Date, for any reason. The replacement of the 4 (four) tyres are guaranteed up to the maximum Pay-out Value, subject further only to the aforesaid time limits, and the right to claim by you is not subject to damage or loss to your vehicle's tyres as in the case of insurance. We are not insurance.
- 2.6 Should you replace all 4 (four) tyres on your vehicle at the same time, we have negotiated with the Designated Supplier to provide you with wheel balancing, fitment, and alignment at no additional cost to you.
- 2.7 You will have the option to transfer your Plan (limited to the remaining period of the initial Plan) to your new or replacement vehicle, subject to payment of Tyre Aid's standard rate, as reflected on our website. If you elect to exercise this option, contact us directly, or via our website.

## 3 Contract

- 3.1 You agree that the Dealer's F&I shall act as our agent in the conclusion of the Contract, and not as principal. **To this end, We shall neither be bound by, nor responsible or liable for, any misrepresentations to You of any kind whatsoever (whether fraudulent, intentional, negligent, or innocent) by the Dealer, its agents, employees or salespersons, or the F&I.**

Initial: \_\_\_\_\_

- 3.2 You further agree that, in relation to a claim for tyre replacement from a Designated Supplier, we shall

- act as your payment agent and not as principal in respect of the transaction you conclude with the Designated Supplier.
- 3.3 The Contract Price of the Plan purchased by you shall be added to the Dealer's invoice as a value-added product, to be submitted to the Financial Institution for payment. You shall pay the Financial Institution for the duration of your vehicle finance period. Your monthly payment obligation is towards the Financial Institution as part of the monthly vehicle finance instalments under the instalment sale agreement concluded with the Financial Institution.
- 3.4 Should you wish to cancel the Contract within the 5 (five) day cooling off period provided for in the Consumer Protection Act, 68 of 2008, the Plan will be cancelled, the deal will be reversed, and we shall repay the Dealer who will, in turn, refund the Financial Institution.
- 3.5 Should you wish to cancel the Contract with us after the cooling off period, you will forfeit your right to claim the 4 (four) new tyres and will remain liable to the Financial Institution for the monthly instalment on the Plan as part of your monthly vehicle finance instalment as per the terms and conditions of the instalment sale agreement concluded with the Financial Institution.
- 4 Designated Supplier**
- 4.1 When you claim, after approval of your claim, you will be directed for purchase and fitment of your tyres to one of our Designated Suppliers close to your vicinity.
- 4.2 You agree that we only facilitate payment to the Designated Suppliers in respect of your tyre purchase and fitment, and that the fitment of the tyres purchased from the Designated Supplier will be a contractual relationship directly between you and the Designated Supplier, and that we will have no rights and/or obligations in respect thereof save for making payment up to the Pay-out Value of your Plan to the Designated Supplier.
- 4.3 If you are unable to attend one of our Designated Suppliers' premises, you must inform us accordingly. In such event, our Designated Supplier will locate a tyre supplier close to your residence and/or work and will make the necessary arrangements for you to attend to the tyre replacement at such other tyre supplier.
- 4.4 When you attend a Designated Supplier for the purchase and fitment of new tyres, the Designated Supplier will invoice us directly, and we will pay the Designated Supplier for the tyres fitted to your vehicle up to the Pay-out Value of your Plan. Should you choose the fitment of tyres that cost more than the Pay-out Value of your Plan, you will be liable to pay the balance to the Designated Supplier or other tyre supplier, as the case may be.
- 5 Emergency Tyre Replacement**
- 5.1 Should you encounter an emergency and need to attend to the emergency replacement of your vehicle's tyres, you may attend the nearest tyre replacement centre and pay for the emergency replacement tyre(s), have same fitted and claim a refund from us provided that such refund claim must be submitted together with proof of invoice, proof of payment and a report by the tyre replacement centre certifying that the replacement constituted an emergency replacement and the cause thereof. Tyre repairs are not included and are not part of your Plan. We only replace tyres.
- 5.2
- 6 Indemnity**
- 6.1 You acknowledge and agree that we are not a financial services provider and only facilitate payment in respect of the purchase of new tyres on your behalf. You further acknowledge and agree that we do not provide or supply the tyres.
- 6.2 It is your responsibility to ensure that the tyres have been installed/ fitted properly and in a safe, fit, proper, and workmanlike manner.
- 6.3 **You hereby indemnify us against all loss, damage, injury, costs, and expenses which you may sustain or incur as a result of using the tyres supplied under and/or in terms of your Plan.**
- Initial: \_\_\_\_\_
- 6.4 **You hereby indemnify us in respect of any loss, damage, injury, costs, and expenses which may arise pursuant to the fitment of the tyres supplied under an/or in terms of your Plan.**
- Initial: \_\_\_\_\_
- 7 Breach**
- Should a Party ("the Defaulting Party") commit a breach of any of the provisions of this Agreement and fail to remedy such breach within fourteen (14) days of delivery of a written notice requiring it to do so, or should a Party commit any act of insolvency or be placed in liquidation (whether provisional or final) or under business rescue, then the other Party ("the Aggrieved Party") shall be entitled to: -
- 7.1 suspend or terminate the Agreement;
- 7.2 claim immediate specific performance from the Defaulting Party; or
- 7.3 cancel the Agreement;
- in any event without prejudice to the Aggrieved Party's right to claim damages.
- 8 Force Majeure**
- Neither Party shall be liable for non-performance under this Agreement to the extent to which the non-performance is caused by events or conditions beyond the control of the affected Party (strike, war, warlike operations, rebellion, sabotage, riot, civil commotion, lockout, interference by trade unions, suspension of labour, pandemics, flood, storm or fire), provided that the affected Party makes all reasonable efforts to perform.
- 9 Dispute Resolution and Arbitration**
- 9.1 Any dispute which arises relating to or arising out of this Agreement, including the validity,

implementation, execution, interpretation, rectification, termination, or cancellation of this Agreement, shall be referred for resolution in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator appointed in terms of such Rules.

## 10 Data Protection

- 10.1 To provide you with the Plan or to comply with the obligations imposed in terms of this Agreement, we may need to collect, use, store or process your Personal Information. You hereby authorise such collection, use, storage and processing, subject to compliance with the further provisions of this clause 10.
- 10.2 We shall only collect, use, store or process Personal Information:
- 10.2.1 In compliance with the applicable South African legislation;
- 10.2.2 As is necessary for the purposes of this Agreement; and
- 10.2.3 In accordance with your lawful and reasonable instructions.
- 10.3 We shall comply with the security and data protection obligations equivalent to those imposed on us in terms of the applicable South African data protection legislation and shall take, implement and maintain all such technical and organizational security procedures and measures necessary or appropriate to preserve the security and confidentiality of the Personal Information against unauthorized or unlawful disclosure, access or processing, accidental loss, destruction or damage.

## 11 Delivery of Notices

- 11.1 For all purposes, including but not by way of limitation, the giving of any notice, the making of any communication and the serving of any process, the Parties each chooses as its place for delivery of notices ("domicilium") at their respective physical addresses appearing on face of this Agreement.
- 11.2 Either Party shall be entitled from time to time to vary its domicilium and shall be obliged to give notice to the other within ten (10) days of the said change. Any notice which either Party may give to the other shall be posted by prepaid registered post or hand delivered to the other Party's domicilium and shall be presumed, unless the contrary is proved by the Party to whom it is addressed, to have been received by that Party on the 10th (tenth) day after the date of posting or on the day of delivery as the case may be.
- 11.3 This clause 11 shall not operate to invalidate the giving or receipt of any written notice which is received by the Party to whom it is addressed. It is specifically agreed and recorded that communications and/or correspondences in connection with the provision of the Plan shall be transmitted by way of email to the Parties'

respective email addresses set out on the face of this Agreement.

## 12 General

- 12.1 No variation, amendment or consensual cancellation of this Agreement or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by a duly authorized representative from both Parties.
- 12.2 The Parties acknowledge having read and understood this Agreement and are not entering into this Agreement based on any representations not expressly set forth herein. Neither Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the Agreement between the Parties or not.
- 12.3 The Customer shall not be entitled to cede or assign any rights and/or obligation which it may have in terms of this Agreement to any third party unless consented to in writing by Tyre Aid prior to such cession and/or assignment.
- 12.4 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall be valid and enforceable unless reduced to writing nor shall it operate as an estoppel against either Party hereto in respect of its right under this Agreement, nor shall it operate so as to preclude either of the Parties thereafter from exercising its rights strictly in accordance with this Agreement.
- 12.5 If any provision of this Agreement conflicts with any statute, ruling or order of any governmental or regulatory body from time to time, then such provision of this Agreement shall be controlled by the statute ruling order.
- 12.6 This Agreement will be governed by and construed in accordance with the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with South African law by a South African court having jurisdiction.
- 12.7 Should any of the terms and conditions of this Agreement be held to be invalid, unlawful or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable.
- 12.8 In the event of any expiration, termination or cancellation of this Agreement, provisions hereof which are intended to continue and survive shall so continue and survive.
- 12.9 These terms and conditions, together with the schedules and annexures hereto, constitute the whole of the Agreement and replace any prior agreements between the Parties relating to the subject matter hereof.