

## General Business Terms and Conditions for Intires.com GmbH & Co. KG

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### A. Intires.com Operations; Applicability of this T&C

#### 1.

The company Intires.com GmbH & Co. KG, represented by the managing director Knut Elberding, Campusallee 4, 51379 Leverkusen, Germany, registered in the Commercial Register of the local court of Cologne under HRA 32341 (hereafter: **Intires.com**) enables customers to use the online platform operated under the domain [www.intires.com](http://www.intires.com) (hereafter: **Platform**) per the regulations of these Terms and Conditions (hereafter: the **T&C**). The Platform is directed toward worldwide commercial selling and buying tires of all kinds (hereafter: the **Articles**), whereby Intires.com acts as a commercial intermediary for the Articles.

Intires.com offers registered users the opportunity on the Platform either

- to sell to Intires.com as intermediary tires in their capacity as manufacturer/wholesaler (hereafter: **Suppliers**), or
- to purchase Articles from Intires.com as wholesaler or retailer (hereafter: **Buyers**).

#### 2.

The offer to use the Platform and enter into purchase agreements for Articles is directed solely toward businesses/entrepreneurs.

Business/Entrepreneur is any natural person (over 18), legal entity or incorporated private company/business partnership which in entering into a legal transactions is exercising its commercial or independent professional activity, as well as free-lancers, public authorities, public-law corporations or associations.

Consumers may not register to use Intires.com. Consumers are defined as natural persons who enter into legal transactions for purposes primarily not attributable to commercial or independent professional activity.

**3.**

This T&C contains all of the conditions effective between Intires.com and the registered users and sets out the rights and obligations of registered users in using the Platform and in the event they enter into purchase agreements for Articles with Intires.com. Any regulations which deviate from this T&C will only be valid if they have been confirmed in writing by Intires.com. By sending the registration application set out under B.2 of this T&C the registered user acknowledges the applicability of this T&C.

**4.**

Intires.com reserves the right to amend this T&C any time at its discretion. The amended T&C will be sent to registered users by e-mail at the latest four weeks prior to it going into effect. If the registered user does not object to application of the new T&C within 4 weeks after receiving the e-mail, the amended T&C is deemed to be accepted. Intires.com will expressly notify the registered user of this 4-week objection period in the e-mail.

**5.**

Intires.com reserves all rights of copyright and other intellectual-property rights to the Intires.com Platform, including its layout, software and contents.

**B. General Regulations for Use of Intires.com**

**1.**

The Intires.com Platform itself is accessible to anyone using the Internet. Use of the site to list Articles for sale (hereafter: a **Sales Ad**) or placing of orders on the Platform however will require registration with Intires.com which will carry a fee. In the application required for registration, the business information (incl. name of company, address, telephone number, e-mail address) as well as the role the user wishes to have on the Platform as either Supplier or Buyer must be listed. Contracts are in German or English.

The user is responsible for providing truthful and complete information at all times, in particular in the application made to Intires.com. Should there be changes in an accepted user's business information at any time throughout the contract for use of Intires.com, the user shall notify Intires.com of the changes immediately.

**2.**

Prior to sending the application a user may make changes to the information entered by means of the back-button. By sending the application the user is deemed to have made a binding offer to Intires.com to enter into a (fee-based) service agreement for use of the Platform which will be governed by this T&C. Intires.com will immediately confirm receipt of the user's application by e-mail. Acceptance of the application by Intires.com will only be declared after Intires.com has carried out a validation check of the information. Users cannot demand acceptance of an application or assert a right of use of the Platform.

**3.**

If the application is accepted by Intires.com, a (fee-based) service agreement is concluded between Intires.com and the registered user which is governed by this T&C. The **fee** to be paid by the registered user is due in advance on a quarterly basis and is to be paid either by direct transfer or by credit card within 14 days after receipt of invoice. Fee amounts are shown in Intires.com's **Price List**.

**4.**

Once Intires.com has accepted an application, the registered user will receive, together with his registration confirmation, an individualized log-in data for the Platform. This data may only be used by the respective registered user. The registered user is obligated to keep log-in data and password confidential and protect them from unauthorized use by a third party. Registered users shall not disclose access data, the log-in name or their chosen password to third parties.

**5.**

If a registered user becomes aware that its profile is being used without authorization by a third party, the registered user shall inform Intires.com immediately. Intires.com in this case will block access by the registered user.

**6.**

At the request of a user, a user may be granted a temporary access at no cost to the online-platform for test purposes. Such test access will not enable the user to sell or buy Articles, but rather will solely be for the purpose of trying out the Platform's functionality. A user may not assert a right to test access.

**C. Purchase Agreements through the Platform**

**I. For Buyers**

**1.**

Buyers on the Platform may view Sales Ads, place Articles in the virtual Shopping Cart and place a binding offer to Intires.com as intermediary for purchase of items in the Shopping Cart. Placing of an offer to Intires.com is by clicking on the button "Buy/Binding Order". Prior to placing the order, all information can at any time be corrected by use of the usual keys and mouse functions.

Prior to placing an offer, the Buyer must check carefully whether the Articles entered meet all applicable laws (incl. requirements of regulatory authorities) and are suited for the use for which the Buyer intends or expects of them. Neither the Suppliers nor Intires.com will be responsible for checking these. A Buyer will have no recourse of compensation toward the Supplier or Intires.com in the event the Articles do not meet or fulfill such regulations or

requirements, unless the Supplier has expressly warranted that the respective Article meets such regulations/requirements.

**2.**

Intires.com will immediately confirm receipt of the Buyer's order by e-mail. The confirmation of receipt does not represent an acceptance of the Buyer's offer. An acceptance will be sent by e-mail to the Buyer usually within two to five working days, whereby Intires.com reserves the express right to refuse the Buyer's offer (e.g. in the event of non-availability).

**3.**

Once Intires.com has accepted an offer, a purchase agreement is concluded between Intires.com as intermediary and the Buyer for supply and transfer of title to the Articles listed in the offer at the price shown on the Platform and under the payment conditions indicated. No direct contractual relationship between the Supplier and the Buyer comes about via the Platform.

**4.**

Intires.com does not maintain an inventory/warehouse of its own. Supply and shipping of contractually purchased Articles (including delivery note and all other required documentation) will be undertaken directly by the Supplier to the Buyer, using proper packaging meeting all standards for safe and secure shipping. Unless otherwise agreed, delivery is CIF (Port of Shipment) per ICC Incoterms 2010. The Buyer agrees to accept goods delivered to it at the port of destination without delay. In the event of delays for which the Buyer is at fault, the Buyer bears the costs of detention & demurrage.

**5.**

In cases of force majeure, Intires.com as intermediary is freed from the obligation to deliver for the period of and to the extent the force majeure is in effect. Force majeure is deemed to be any event which is outside the influence of Intires.com and/or the Supplier and which prevents Intires.com and/or the Supplier either in whole or in part from fulfilling its delivery obligations, including fire damage, flood, strikes or other lawful lock-outs as well as interruptions in business or public-authority actions which are not the fault of Intires.com and/or the Supplier. Intires.com will inform the Buyer immediately in the event of a force majeure as well as when it has ceased, and will make its best effort to remove the force majeure and/or to mitigate its effects. In the event of force majeure, Intires.com and the Buyer will consult with one another on their further course of action and will determine together how to proceed once the force majeure has ended.

**6.**

After entering into a purchase contract with Intires.com, the Buyer will receive from Intires.com an invoice for the agreed purchase price in Euros, incl. any delivery fees, customs and handling costs etc. based on the agreed delivery conditions. Payment conditions are set out in the Intires.com order confirmation. The payment conditions will vary according to the type of Sales Ad and the Supplier. The Buyer is responsible for ensuring that the full purchase price in Euros, with no deduction for fees, enters onto the listed bank

account within the period set out by the order confirmation. The Buyer is deemed to be in default immediately if payment has not been received within the payment period, even if no reminder has been sent. Intires.com reserves the right to assert default interest beginning on the first day of default as well as further damages due to default.

**7.**

The Buyer agrees to inspect the Articles immediately upon delivery for defects. If the Buyer finds that the Article does not conform to contract, the Buyer shall inform Intires.com immediately by e-mail, with details of the non-conformity (defect notice). The Buyer forfeits the right to invoke non-conformity if the Articles are not inspected immediately or the defect notice is not sent without delay. A defect notice is deemed to have been sent without delay if it is received by Intires.com within 10 calendar days after the delivery.

**8.**

All claims of Buyer based on non-conformity of delivered Articles will expire 24 months after delivery, unless the applicable statute of limitations sets out a longer period.

**9.**

Except that there has been intentional breach of contract or fraud on the part of Intires.com, or breach of a guarantee or violation of mandatory laws (such as those on product liability), Intires.com assumes no liability for loss of profit or sales earnings or any other indirect or consequential damages incurred by Buyer due to Articles not conforming to contract or due to delays in delivery.

The liability of Intires.com for asset or property damages due to delivered Articles not conforming to contract is limited to twice the amount of the sales price (net, not including any additional delivery costs). This liability limitation does not apply to cases of personal injury.

## **II. For Suppliers**

**1.**

Suppliers may use a screen on the Platform to enter Sales Ads for both "ex stock" Articles and Articles "to be produced". "Ex stock" Sales Ads shall only refer to Articles which are physically present in an inventory warehouse/storage of the Supplier; the Supplier should provide Intires.com with an update regarding its inventory once a day, however at least once a week. Articles which are stored with third parties cannot be part of an "ex stock" Sales Ad.

**2.**

A Sales Ad may only be placed after all main information and features of the Articles have been entered online, for instance the volume offered and the foreseeable delivery period. The Supplier is solely responsible for ensuring that all information in a Sales Ad is correct and complete. Intires.com will not check this. Prior to entering an Article, all information may be corrected by means of the usual key and mouse functions.

**3.**

Articles placed as Sales Ads by the Supplier must be new tires, i.e. not older than 18 months (reckoned from the production week). The Articles also shall not be "deinstalled", i.e. they cannot be tires which have been deinstalled from new vehicles or salesroom/display vehicles.

Deinstalled Articles or Articles with a production date older than 18 months must be indicated as such by the Supplier in the Article description.

**4.**

A Sales Ad placed on the Platform in itself does not represent a binding offer, but rather remains open (*invitation ad offerendum*).

**5.**

Once a Buyer has placed an order based on a Sales Ad on the Platform, this is deemed a binding offer from Intires.com toward the Supplier, to which Intires.com is bound for a period of 36 hours as of the time the order was placed. Upon expiry of this period, the legally binding effect of the offer made by Intires.com is deemed to expire automatically, i.e. without further notice.

**6.**

After receiving an offer from Intires.com, the Supplier shall immediately send a receipt confirmation by e-mail to Intires.com. The Supplier shall then either accept or refuse the offer by e-mail to Intires.com within 36 hours after receiving the offer.

**7.**

If the Supplier accepts the offer, the Supplier is responsible for delivering the goods as described in the Sales Ad directly to the recipient named by Intires.com. Delivery to Intires.com is not allowed and will be rejected by Intires.com. The delivery must be neutral, i.e. the Article shall only display the manufacturer's label and their usual information (production week, etc.). No reference to a distributor/intermediary vendor is allowed.

Intires.com has the right to check Articles prior to them being sent by the Supplier. In consultation with the Supplier and an inspection company contracted by Intires.com, any such examination will either be at the port of shipment or at the Supplier's place of business.

Unless otherwise agreed, delivery will be FOB (Port of Shipment) per ICC Incoterms 2010. The Supplier will keep Intires.com informed, without delay by e-mail or fax, of any circumstances which might prevent the Supplier from meeting its obligation of delivery.

**8.**

In cases of force majeure, the Supplier is freed from the obligation to deliver for the period of and to the extent the force majeure is in effect. Force majeure is deemed to be any event which is outside the influence of the Supplier and which prevents the Supplier either in whole or in part from fulfilling its delivery obligations, including fire damage, flood, strikes or other

lawful lock-outs as well as interruptions in business or public-authority actions which are not the fault of the Supplier. Supply bottlenecks or other hindrances on the part of the Supplier's pre-suppliers will only be deemed force majeure if the pre-supplier on its own part is prevented from meeting its obligation due to one of the situations described above. The Supplier will inform Intires.com immediately in the event of a force majeure as well as when it has ceased, and will make its best effort to remove the force majeure and/or to mitigate its effects. In the event of force majeure, Intires.com and the Supplier will consult with one another on their further course of action and will determine together how to proceed once the force majeure has ended. Notwithstanding that, Intires.com has the right to withdraw from the purchase agreement with the Supplier if the force majeure lasts longer than six weeks after the agreed delivery date.

**9.**

Supplier will direct the purchase invoice toward Intires.com with contents as per the Sales Ad. The Supplier will ensure that Intires.com at all times has the correct bank account information of the Supplier for this purpose. Delays in payment which are due to incorrect information or failure to inform Intires.com of the Supplier's account information, shall be borne solely by the Supplier.

**10.**

Suppliers provide a warranty and shall be liable for the Articles sold by them being in conformity with contract as per the applicable laws. The Suppliers indemnify Intires.com against any and all claims of Buyers and/or third parties – on whatsoever legal basis – due to defects in an Article or Article failing to conform to contract. This includes the costs of any legal defense which may become necessary for Intires.com, including any court or procedural costs.

Intires.com may assert claims against the Supplier due to non-conformity of Articles within 30 months, where mandatory statutory claim periods do not set out longer periods. Intires.com is not obligated to have examined the goods itself or to have issued a defect notice. Intires.com however is obligated to pass on any defect notice (see C.I.7) it may receive from the Buyer within ten working days (Mondays through Fridays).

**D. Obligations of (registered) Users; Third-Party Content; Viruses; Intellectual Property; Sanctions**

**1.**

Intires.com has the right to temporarily restrict or prevent access to the Platform for (registered) users where this may be necessary due to reasons of capacity limitations, security or integrity of the server or to carry out technical work and the measure serves to ensure or improve performance of the services (e.g. maintenance work). In such cases Intires.com will take into consideration the rightful interests of registered users and where possible will send an information notice at the time or prior thereto regarding such restriction.

In the event of an unexpected system down which prevents placing or accepting sales offers or other functions, Intires.com will do its best to make public the information on the system notifications.

**2.**

It is strictly forbidden to (registered) users to take any measures which interrupt or harm proper functioning of the Platform. To the extent which can reasonably be expected, users will take care that data entered through the Platform does not carry viruses, worms or Trojan horses.

**3.**

When placing a Sales Ad, Suppliers must ensure that the description of the Article(s) as well as any pictures used do not infringe rights of third parties. Descriptions and pictures may only refer to the respective Sales Ad. (Registered) users shall not enter contents (e.g. by adding links or frames) which violate any laws, public-authority directives or public morals. They shall not enter contents which infringes rights of third parties, in particular copyrights, trademarks or personal rights.

**4.**

Registered users shall not use information obtained from the Platform on other registered users, such as address, contact data and e-mail address, for any purpose other than contractual or pre-contractual communication regarding sales. In particular a registered user shall not use such data for purposes of commercial advertising or send the other party any unrequested advertising (spam).

**5.**

Intires.com does not claim ownership or assume liability for any third-party content under any circumstances. Intires.com reserves the right to block third-party content if the content is criminal or obviously serves to promote criminal acts.

**6.**

If there is concrete indication that a registered user has violated laws, the rights of third parties or this T&C in connection with the user's use of the Platform, Intires.com may

- a. send the registered user a warning notice;
- b. temporarily restrict user's use of the Platform;
- c. delete Sales Ads or other contents of such registered user from the Platform;
- d. temporarily or permanently bar the user from the Platform (suspend user's account).

Registered users who are subject to such actions may provide proof against suspected activity. In choosing one of the above actions, Intires.com will take into account the interests of the registered user, in particular where there is indication that the registered user may not have been at fault.



## 7.

Intires.com may permanently bar a registered user from the Platform if

- the user has repeatedly given false contact data, in particular a false or invalid e-mail address;
- the user has transferred the account to a third party and/or has caused harm to another registered user or to Intires.com;
- the user has failed to pay the due fees on time for use of the Platform;
- any other good cause; good cause for example is repeated breach (at least twice) of the laws set out in D. 6, or breach of rights of third parties or this T&C.

## 8.

A registered user who has been permanently barred has no right to have the barred account reopened. The registered user also has no right to use the Platform through accounts of other registered user or to apply for use again, for instance by using a different name. If a user account is barred within a certain quarter, the registered user has no claim to pro rata repayment of any fees paid for that quarter.

## **E. Intires.com liability under use agreement; indemnity of Intires.com by Supplier and customers**

### 1.

Intires.com will only be liable toward its registered users due to breach of the contract for Platform use in cases of intent or gross negligence as set out by law; in cases of slight negligence Intires.com will only be liable in the event of breach of a cardinal contractual obligation. Liability for breach of a cardinal obligation is limited to damages which are typical for the type of contract. A cardinal obligation is deemed any obligation which must be met in order for the contract to be carried out at all and which the registered user would usually expect to be met.

### 2.

Intires.com assumes no liability for interruptions in the Internet connection used by registered users to connect to the site.

### 3.

Where the Platform offers the possibility of linking to databanks, websites, or other services of third parties, e.g. through links or hyperlinks, Intires.com assumes no liability for access, extent of security of such databanks or services, nor for their content. In particular Intires.com is not liable for ensuring legality of such sites nor whether they are correct and complete or up-to-date etc.

**4.**

Registered users indemnify Intires.com against any and all claims which other registered users or third parties may assert against Intires.com due to infringement of their rights by any Sales Ad placed by the registered user on the Platform or any other content.

The registered user will bear the costs of legal defense which may be required by Intires.com including any court or procedural costs. This will not apply if the infringement was not the fault of the registered user.

**F. Term of Contract; Termination**

**1.**

Contracts for use of the Platform are concluded for an undefined duration and can be terminated by Intires.com or the registered user before the end of the current month, taking effect at the end of the following month.

**2.**

A written termination notice (incl. by e-mail or fax) is sufficient to terminate. The right of Intires.com to temporarily or permanently bar a registered user remains unaffected thereby.

**G. Final Provisions**

**1.**

A registered user may not transfer/assign the use agreement made with Intires.com, either in whole or in part, to a third party.

**2.**

A registered user may only assert offset against claims owed to Intires.com if the offset claims are undisputed, have been upheld by a court of law, or if it involves a cross-selling offset with compensation claims of (counter-)claims of Intires.com.

**3.**

The contract for use of the Platform as well as all purchase agreements for Articles are governed by German law, ousting the CISG. Place of jurisdiction for any and all disputes arising from them is Hamburg, Germany. Intires.com however at its discretion may sue a Supplier or Buyer at the court having jurisdiction at the Supplier's/Buyer's place of business.

**4.**

Should individual provisions of this T&C be or become void, ineffective or unfeasible, the validity of the T&C as a whole will not be affected. In lieu of the invalid provision, Intires.com will agree with the registered user to apply a provision which comes as close as possible

under law to the economic intent of the invalid provision. In the event an omission is discovered, a provision will be agreed which corresponds to that which Intires.com and the registered user would have agreed if they had been aware of the omission at the time they entered into the contract.

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