

INSTALLER TERMS AND CONDITIONS

This Installer Terms and Condition (“Agreement”) is effective as of the date accepted by installer (“Effective Date”). The Agreement is between TBC Corporation, 4300 Professional Center Drive, Palm Beach Gardens, Florida 33410, a Delaware corporation (the “Company”), and Installer. Installer shall include any and all of vehicle service centers operated by Installer and/or any of its subsidiaries and/or related entities. Although this Agreement is between the Parties, Installer agrees that its obligations and duties herein extend to any and all subsidiaries of the Company.

NOW THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Installer Services/Obligations.** The Company hereby engages Installer to be a non-exclusive preferred installer for purchases made on a Company owned online platform(s), which the Company shall have the sole authority to designate said platform(s), and Installer hereby accepts said engagement, and, as a non-exclusive preferred installer, agrees to perform the following Services:

- a. Receive Product¹ directly from Company on Customer’s² behalf;
- b. Review Product related communication(s)/paperwork to ensure Product is matched with correct Customer and inspect Product to ensure it is free from shipping damage;
- c. Inspect Product for any flaws or defects;
- d. Ensure Product is correct for Customer’s vehicle;
- e. Properly install Product and provide Customer the same quality customer service as Installer provides any other customer;
- f. Ensure Product is properly aligned and balanced, as required and approved by Customer;
- g. Complete Company’s Installer’s Application; and
- h. Promptly notify Company if anything is incorrect or flawed with Product drop shipped to Installer.

In addition to the above, Installer agrees to receive communications (including by email, phone [including mobile], fax, text and mail) from Company related to installer activity and/or Company and customers directly and/or by automated telephone equipment or an artificial or prerecorded voice. Installer further agrees to employ qualified and properly trained technicians capable of safely performing damage-free and correct installations for any Products dropped shipped and to use the proper mounting, balancing and alignment equipment to perform proper and safe services without damaging the Products. Installer further agrees to provide Company all the necessary rights to display Installer’s name and its logo/trademark on its website as a non-exclusive preferred installer, its street address, contact information (i.e., phone number, fax number, email address, etc.), a listing of other services it routinely provides customers, its capabilities as it relates to Company Products, and the price it guarantees to charge any individual purchasing Product from Company for installation and related services such as balancing, alignment, valve stem installation, etc. Prior to changing any price for service(s) related to drop shipped Products, Installer agrees to inform the Company 14-days prior to the effective date of the price change: (1) the new prices and (2) the price change effective date. The Company will; however, try to implement the change on the website within three to five-days and shall notify Installer when the change is completed. Thus, the Company can ensure the website correctly reflects the price change and the date of said change. In addition, upon request, Installer shall send to Company a picture of its shop’s bays, lobby and outside grounds. Installer further agrees that it shall be solely responsible for any damage it causes to Customer’s vehicle and/or rims and dropped shipped products before,

¹ For the purposes of this Agreement, “Product” means tires, rims, tire related items such as wheel weights, valve stems, etc., and any other items the Company sells on its website.

² For the purpose of this Agreement, “Customer” means the individual/entity that purchased Product from the Company that is drop shipped to Installer.

during or after the install process and shall resolve the dispute over any such damage with the Customer and or the Company, as applicable.

2. **Term.** This Agreement shall continue until: (1) the Installer provides the Company thirty (30) days written notice of it terminating its participation in the Installer program, (2) the Company terminates this Agreement with the Installer at anytime for its convenience, or (3) the Company, in its sole discretion, determines to terminate this Agreement because it has received too many Customer complaints about Installer, the Installer breaches any aspect of this Agreement, fails to maintain its tire related equipment (i.e., balancers, lifts, alignment racks, etc.) up to date and in good working order, and/or fails to maintain its shop (including its lobby and bays) and its surrounding grounds in a professional clean manner. The Company requires thirty (30) days notice from the Installer to have adequate time to update the Installer portion of the website.

3. **Statement of Relationship.** It is the intent of the parties to this Agreement that the relationship between the Company and Installer is that of two separate entities and that each party entered into this Agreement for its own business benefit and that the parties to this Agreement are in no way intending to establish a partnership, joint venture, agency or any relationship other than two contracting parties.

4. **Indemnification.** Installer shall defend, indemnify and hold the Company, its subsidiaries, affiliates, direct and indirect parents and related entities and it and their successors, employees, officers, agents, and representatives harmless from any and all losses, damages, liabilities, costs, expenses, and reasonable attorneys' fees related to or arising from claim(s) and/or causes of action alleging Installer acted negligently and/or failed to perform any duty involving any services Installer provided to/for a Company customer, including services or omissions of services (i.e., failure to warn) not related to Company Product. Installer agrees to carry commercial general liability insurance on a per occurrence basis, in combination with excess liability/umbrella insurance of \$2,000,000 and to make TBC Corporation, its subsidiaries, affiliates, direct and indirect parents and related entities and it and their successors, employees, officers, agents, and representatives as additional insureds on said policies. Upon the request of Company, Installer shall provide certificates for such insurance for verification by Company.

5. **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements between the parties. No representations, promises, understandings, or agreements, oral or otherwise, not herein contained shall be of any force and effect. This Agreement shall; however, include and incorporate herein as if written herein any other documents relating Installer and Company, i.e., Installer Application, etc.

6. **Modification.** No modification or amendment of any provision of this Agreement shall be effective unless made in a written instrument, duly executed by the parties, which refers specifically to this Agreement and states that an amendment or modification is being made in the respects set forth in such instrument.

7. **Waiver.** No waiver by either party of any breach of any provision of this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any such breach or as a waiver of any breach of any other provision of this Agreement. The failure of either party at any time or times to require performance of any provision of this Agreement shall in no manner affect such party's right to enforce the same at a later time.

8. **Non-Assignment.** Neither party shall assign any of its rights or delegate or subcontract any of its duties under this Agreement without the prior written consent of the other party hereto, except that this Agreement may be assigned by the Company to any successor-in-interest of the Company. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of each party.

9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made in and to be performed in that state. The parties hereby irrevocably and unconditionally consent to submit to the jurisdiction of the courts of the State of Florida, Palm Beach County Florida and of the United States of America located in Palm Beach County, whichever is applicable, for any actions,

suits or proceedings arising out of or relating to this Agreement (and the parties agree not to commence any action, suit or proceeding relating thereto except in such courts). The parties hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement, in the courts of the State of Florida located in Palm Beach County or the United States of America located in Palm Beach County, Florida, whichever is applicable, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. The parties hereto waive any right to a trial by jury.

10. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force. The language in the Preamble shall be considered binding and treated as if it was drafted within the body of the document.

11. **Notices.** All notices of termination shall be in writing and shall be delivered personally, by overnight carrier (e.g., FedEx), or by facsimile, or first class prepaid mail and delivered to the address located in the preamble. All notices shall be considered delivered one business day after sent. Either party may change the address to which their notices and other communications are to be directed by giving notice of such change to the other party in the manner provided in this section.

12. **Warranty.** Other than any manufacturer warranty and any warranty the Company may sell to Customer with Company Products that passes to the purchaser of Product from Company, the Company does not provide any additional warranties, express and/or implied, including any warranty of merchantability or fitness for a particular purpose.

13. **Use Rights.** Installer agrees and hereby provides the Company the limited right to use its name, trademarks, and service marks (“Marks”) on Company’s online platform(s) for which Installer is a non-exclusive preferred installer. Said use rights are solely limited to use relating to Installer’s status as a preferred installer, in any form or format, on the Company’s website, unless agreed otherwise in writing by Installer. Company agrees to treat the Marks in the same manner as it does its own marks and understands that it has no claim to any ownership interest in or any other right to the Marks other than set forth herein.

NOTE: To avoid any confusion, the use herein and/or the reference to in this document of Tire America, Tire America, LLC or “we” or “our” encompasses Tire America, LLC and any of its affiliates, subsidiaries, parents (direct and in-direct), related entities, successors, predecessors, assigns and its and their employees, officers, directors and owners.

In the states of Texas and Oklahoma, Tire America, LLC is dba as TBC Tire America, LLC.