

PIRELLI PERFORMANCE PROGRAM™
AUTHORIZED ASSOCIATE DEALER STANDARD TERMS AND CONDITIONS 2023

References herein to the “**Authorized Dealer**” refer to the Authorized Associate Retail Dealer Applicant provided in the Pirelli Performance Program Authorized Associate Retail Dealer Program Enrollment Form (as modified in writing from time to time and accepted by Pirelli, the “**Enrollment Form**”) to which these Pirelli Performance Program Authorized Associate Dealer Standard Terms and Conditions (“**Standard Terms and Conditions**”) are attached and incorporated. The Authorized Dealer’s appointment and participation in the Pirelli Performance Program (the “**Program**”) is subject to Pirelli’s acceptance of the relevant application in its sole discretion, and is further subject to the conditions set forth herein and the Pirelli Standard Trademark Usage Guidelines (the “**Guidelines**”) as then in effect, as may be amended, revised or restated, from time to time, at Pirelli’s sole discretion. The Enrollment Form, the Standard Terms and Conditions and the Guidelines are collectively referred to as the “**Pirelli Performance Program Agreement**” or “**PPP**”. References herein to “**Pirelli**” refer to Pirelli Tire LLC, a Delaware limited liability company. References herein to “**Owner**” refer to the Owner/Principal listed on the Enrollment Form and must be a person or entity that owns more than 50% of Authorized Dealer’s outstanding capital stock.

1. Appointment

(a) The Authorized Dealer agrees to use commercially reasonable best efforts to: (i) promote, market, sell and service the Pirelli branded products (the “**Products**”) and (ii) maintain and enhance Pirelli’s reputation as a prestigious and high-performance brand.

(b) The Authorized Dealer acknowledges and agrees that Pirelli retains the right to designate other persons or entities as Pirelli distributors, dealers, sales agents authorized Pirelli Performance Program associate dealers, without limitation. or compensation of any kind to the Authorized Dealer.

(c) In order to participate in the Program, If an Owner has more than one Authorized Dealer, they shall be considered a “**Common Owner Group**.” Each Common Owner Group must designate one Authorized Dealer as the “**Main Authorized Associate Retail Dealer**” in writing at the time of enrollment.

(d) In order to be enrolled in the Program, an Authorized Dealer must purchase a minimum of 24 units of Eligible Products (as defined below) per Enrolled Location from its selected Pirelli Performance Program Distributors within 30 days of being notified that such Authorized Dealer’s Enrollment Form has been accepted by Pirelli.

(e) In order to be enrolled and remain in the Program, an Authorized Dealer must have a retail brick & mortar storefront, such requirement to be satisfied at Pirelli’s sole discretion. E-commerce / internet-only retailers are not eligible to enroll in the Program

2. Selection of Pirelli Performance Program Authorized Distributors

(a) For purposes of earning and calculating potential Program benefits and other rewards (“**Rewards**”), each Authorized Dealer shall choose a Pirelli Performance Program Primary Authorized Distributor (“**Primary PPP Distributor**”) and (an optional) Pirelli Performance Program Secondary Authorized Distributor (any of those with effective designations, a “**Secondary PPP Distributor**” and, collectively with the Primary PPP Distributors, the “**PPP Authorized Distributor(s)**”); provided that all Enrolled Locations under a Common Owner must choose the same PPP Distributor(s). Each Authorized Dealer will be notified by Pirelli upon effectiveness of any such additional designation of Secondary PPP Distributors.

(b) Subject to Section 2(c) below, an Authorized Dealer may change its PPP Authorized Distributors with Pirelli’s written approval, which may be withheld in its sole discretion, by completing the appropriate forms.

(c) Authorized Dealers will be permitted to submit requests to modify their PPP Distributors only in the month of November. If approved by Pirelli, requests timely submitted will be effective as of January 1 of the following year. Authorized Dealers are permitted to change their PPP Distributor selections once every 12 months, except that if an Authorized Dealer does not have a Secondary PPP Distributor selected, the initial Secondary PPP Distributor may be added at any time.

Notwithstanding the foregoing, an Authorized Dealer may only choose a Primary PPP Distributor that has been participating in the Program for at least 12 months.

If at any time a PPP authorized Distributor ceases to qualify for or participate in the Program, as determined by Pirelli in its sole discretion, Pirelli may accept a replacement a new PPP Distributor upon request by an Authorized Dealer and fulfillment of any applicable Program requirements, in each case as determined by Pirelli in its sole discretion.

(d) An Authorized Dealer or PPP Distributor will no longer qualify for the Program if it sells Products directly or indirectly to or through third-party Internet platforms, including but not limited to Amazon, and eBay, unless authorized in writing by Pirelli. Pirelli will have the right to terminate the Pirelli Performance Program Agreement for cause effective upon with a five (5)-day written notice if it determines that such Authorized Dealer is selling Products in violation of this Section 2(d).

3. Rewards

(a) All purchases of Eligible Products (as defined below) by PPP authorized Distributors, by any such PPP Distributors, that comply with the requirements set forth in this Section 3 will be used by Pirelli to calculate the applicable Rewards (as defined below).

(b) All Pirelli Replacement Passenger and Light Truck Tires (“**Eligible Products**”), are eligible for consideration in the calculation of Rewards earned by an Authorized Dealer, except for any products subject to national account deliveries, returns, allowances and approved warranty claims; provided that such products are installed, mounted and serviced at the physical location(s) or retail outlet(s) indicated by the Authorized in its Enrollment Form and approved by Pirelli. Products sold by PPP Authorized Dealers or PPP Distributors through Internet platforms, wholesale or otherwise in violation of this Program do not qualify for Rewards.

(c) In order for Eligible Product purchases to qualify for Rewards starting from their second calendar year of enrollment in this Program, an Authorized Dealer must meet a minimum purchase requirement of 50 units per calendar quarter or 200 units per calendar year per Enrolled Location (“**Minimum Purchase Requirement**”), as reported by such Authorized Dealer’s PPP Distributors.

- (i) Units purchased “off program” (i.e., from a source that is not a PPP Distributor) are not counted towards the Minimum Purchase Requirement.
- (ii) In the event of a Common Owner Group, the Minimum Purchase Requirement above applies for each Enrolled Location.
- (iii) If the Minimum Purchase Requirement is not met during a quarter, the Authorized Dealer will not be eligible to receive payments rewards. In case the Minimum Purchase Requirement is not met on a quarter but is met for the calendar year, Pirelli will pay the net of annual reward according to the annual level achieved deducting the rewards already paid. If the Minimum Purchase Requirement is not met during two consecutive quarters in the same calendar year, the Authorized Dealer will not be eligible to receive payments for Rewards payment relating to such quarters or calendar year. In addition, failure by the Authorized Dealer to meet the Minimum Purchase Requirement during the quarter immediately following the second such quarter referred to in the preceding sentence will cause such Authorized Dealer to cease to participate in the Program at Pirelli’s option upon notice to such Authorized Dealer.

(d) All units of Eligible Products purchased by the Authorized Dealer from the Primary PPP authorized Distributor and up to Twenty five percent (25%) of the units of Eligible Products purchased by the Authorized Dealer from the Secondary PPP authorized Distributors qualify for the calculation of quarterly or annual rewards (collectively, “**Rewards**”) to be earned by an Authorized Dealer, provided that the Minimum Purchase Requirement is met per Enrolled Location, as follows:

- (i) Authorized Dealer may earn cash rewards paid on a quarterly or annual basis, as determined by Pirelli in its sole discretion, based on the total number of eligible units purchased by the Authorized Dealer from such Authorized Dealer’s PPP Distributors during the relevant calculation period, as follows:

Opening order and min quarter/annual requirement:

Opening order within first 30 days from enrollement	24
Min Quarter order requirement (units)	50
Min Annual order requirements	200
Max units from Secondary Distributor	25%

Yearly volumes and Cash rewards by Levels

	Level 1		Level 2		Level 3		Level 4		Level 5
Yearly volumes tiers	200	399	400	799	800	1199	1200	1800	>=1800
Quarter	50	99	100	199	200	299	300	449	>=450
\$/tire Payout	\$5		\$8		\$10		\$12		\$15

Min quarter and annual requirement are waived during first calendar year, on this case dealers that has not reached level 1 will be rewarded as follow:

	Starter	
Yearly volumes tiers	1	199
Quarter		49
\$/tire Payout	\$2	

- (ii) An Authorized Dealer that enrolls in the Program but fails to qualify to remain in the Program will, solely during the first calendar year of their application for enrollment, still be paid-out according to the level/bracket achieved described in Section 3(d) above even if it fails to meet the Minimum Purchase Requirement.
 - (iii) Marketing and other incentives: In addition to the cash Rewards according to the level/bracket achieved described in Section 3(d) above, Pirelli may in its sole discretion offer Associate Dealers deemed eligible additional marketing or other incentives according to the level/bracket achieved.
- (e) In the case of a Common Owner Group, the following rules apply for calculating Rewards:
- (i) The calculation by Pirelli of Rewards for a Common Owner Group, as well as the determination of whether the requirements set forth herein are met, are based on each single location qualifying purchases by Authorized Dealers and their Primary PPP Distributor or effectively designated Secondary PPP Distributors (every store stand-alone).

In the event the resulting Rewards per Authorized Dealer is a fractional number, the payable Rewards per Authorized Dealer will be rounded down to the nearest whole number.
 - (ii) An Associated Dealer may cease to be considered as part of a Common Owner Group and entitled to Rewards on a stand-alone upon mutual agreement among Pirelli, such Associate Dealer, and the relevant Owner.
- (f) Rewards are paid by Pirelli directly to the Authorized Dealer during the calendar quarter immediately following the quarter in which they were earned. However, in the case of a Common Owner Group, the Owner may elect for Pirelli to pay combined Rewards collectively to the Main Authorized Associate Retail Dealer at such other dates as it determines.
- (g) Rewards are paid directly by Pirelli to the Authorized Dealer during the first month of the quarter immediately following the quarter during which such quarter Rewards were earned according to the level/bracket volumes achieved as of the last day of the preceding quarter. Dealer are allowed to catch-up and moves up from one bracket level to another during the same calendar year during the calendar year, such dealer will be entitled to receive additional payments so that the total payout calculated on an annual basis reflects the net of tire payout amount of the bracket reached at the end of such calendar year and the cash reward payouts received. In the case of a Common Owner Group, the Owner may elect for Pirelli to pay Rewards to the Main Authorized Associate Retail Dealer at such other dates as it determines.
- (h) All taxes, federal, state or otherwise, costs and charges associated with and related to the payment or issuance of Program Rewards by Pirelli to an Authorized Dealer and/or its personnel shall be the sole responsibility of the Authorized Dealer and/or its personnel, as the case may be.
- (i) Issuance or delivery of Rewards may be forfeited, delayed or withheld, in whole or in part, at Pirelli's sole discretion, if an Authorized Dealer is in default or breach of the Pirelli Performance Program Agreement. This includes forfeiture, delay or withholding of any Rewards based on sales made during a period where such Authorized Dealer is later determined to have been ineligible for the Program for all or part of the period. Any and all determinations made by Pirelli related to the Program shall be final and binding.

4. Limited Product Warranties

- (a) Authorized Dealer understands that Products bearing the Pirelli brand name and D.O.T. number are warranted according to applicable Pirelli warranties as provided in the Original Equipment and Replacement Limited Warranty, Passenger and Light Truck Tires described at <https://www.pirelli.com/tires/en-us/car/tire-use-guide-warranty/tire-warranty>, as may be amended by Pirelli in its sole discretion from time to time (the “**Warranty**”). The Authorized Dealer agrees to comply with the terms and conditions of the Warranty and to display all Pirelli warranties according to Pirelli policy and all applicable federal and state laws. An Authorized Dealer is not allowed to modify the terms of the Warranty or any other warranties applicable to Pirelli products.

(b) The Authorized Dealer understands and agrees that Warranty claims and Warranty adjustments will be processed and settled in accordance with Pirelli Warranty procedures.

(c) Authorized Dealer is responsible for performing warranty work and processing warranty claims and warranty adjustments for Pirelli replacement and original equipment tires presented by end users in accordance with the terms and conditions of the Warranty.

(d) Warranty work, claims and/or adjustments, including reimbursement for the same, are subject to change and final approval by Pirelli.

5. Advertising and Promotion

Throughout the term of the Pirelli Performance Program Agreement, the Authorized Dealer will maintain, in each of its Enrolled Locations, prominently displayed Pirelli signs and other point-of-sale materials supplied, from time to time, by Pirelli, in accordance with the Pirelli Standard Trademark Usage Guidelines and other instruction from Pirelli. The Authorized Dealer agrees that its use of any Pirelli Intellectual Property (defined below) will be in accordance with the Pirelli Standard Trademark Usage Guidelines and/or any other instructions from Pirelli. Pirelli and/or its affiliates retain all right, title and interest in and to the “Pirelli” name and any and all other trademarks, trade names or other intellectual property or proprietary technology (“**Intellectual Property**”) related to or concerning the Products used, from time to time, by an Authorized Dealer. Under no circumstances will anything in the Pirelli Performance Program Agreement be construed as granting, by implication or by estoppel or otherwise, a license to Pirelli’s Intellectual Property.

6. Term and Termination

(a) The Pirelli Performance Program Agreement will become effective after official enrollment approval from Pirelli, and will continue in effect until the earlier of (a) the end of the then current calendar year and (b) the effective date of a notice of early termination given as provided hereunder (the “**Term**”). The Pirelli Performance Program Agreement will automatically renew for a successive Term, unless a written notice of non-renewal is provided by the Authorized Dealer or Pirelli at least thirty (30) days prior to the end of the calendar year.

(b) The Pirelli Performance Program Agreement may be terminated without cause by either Pirelli or an Authorized Dealer, upon a thirty (30)-day advance written notice of termination to the other party, unless otherwise or sooner terminated by Pirelli for cause, including without limitation the following:

(i) The Authorized Dealer commits a material breach or default under this Pirelli Performance Program Agreement, which breach or default, if capable of remedy, is not remedied within fifteen (15) days after the receipt of written notice thereof;

(ii) The Authorized Dealer (i) makes an assignment for the benefit of creditors, (ii) permits the appointment of a trustee or receiver of all or a substantial part of its assets,

(iii) admits in writing its inability to meet its obligations when due or commits any other act of bankruptcy or insolvency, or (iv) institutes voluntary proceedings in bankruptcy or insolvency or permit involuntary institution of such proceedings against it;

(iii) The Authorized Dealer fails to make any payment of money to Pirelli when due and such failure continues for five days after the receipt of written notice from Pirelli of such failure by Authorized Dealer; for purposes of this subparagraph (iii), each payment received from the Authorized Dealer will be credited against its earliest payment obligation then due;

(iv) Pirelli reasonably believes that the Authorized Dealer will not be able to perform or satisfy its obligations under this Pirelli Performance Program Agreement.

(v) The Distributor breaches or is under investigation for a breach of this Section, in which case Pirelli may immediately terminate this Agreement and the Authorized Dealer will indemnify and hold harmless Pirelli and its representatives, from and against any loss, claim, cost or expense (including without limitation legal and attorneys’ fees) incurred by Pirelli or its representatives based upon or arising out of Associate Dealer’s breach of any the following. Authorized Dealer shall comply, during the term of this Agreement, with any anticorruption law or similar legislation, codes, rules, policies and regulation applicable to any of the Parties and/or to the performance of their obligations under this Agreement (“Anti-Corruption Laws”) and shall not directly or indirectly pay, offer, promise or give anything (including, without limitation, service) of value to any employee or official of a government, government controlled or owned enterprise or company, political party, candidate for political office, or to any other person while being aware of or having a belief that such money or item of value will be passed on to one of the above, to influence any act or decision by such person or by any government body for the purpose of obtaining, retaining or directing business to Pirelli, Distributor or any of their respective affiliates

or any other person or entity or securing an improper advantage thereto in any way related to this Agreement or the Pirelli Performance Program.

(c) Upon end of the Term of the Pirelli Performance Program Agreement, the Authorized Dealer will no longer be authorized to act as a Pirelli Performance Program associate dealer and will not present itself out to the public as such. Furthermore, the Authorized Dealer must immediately remove any reference to the Program from all written materials, all promotional materials (including without limitation signs, banners, names, trademarks, advertising, sales, technical and other similar materials) which identify or appear to identify the Authorized Dealer as a Pirelli authorized associate dealer. Any such materials must be returned immediately upon the end of the Term to Pirelli.

(d) Immediately upon the end of the Term of the Pirelli Performance Program Agreement, the Authorized Dealer shall cease to qualify for any Program Rewards and any Program Rewards accumulated and not already distributed to such Authorized Dealer may be subject to forfeiture as determined by Pirelli, in its sole discretion.

(e) Nothing herein shall be deemed to impact or change any orders for Products or any other agreements in place for the purchase or other use of Products, including but not limited to orders already placed and inventory in the possession or control of an Authorized Dealer at any time prior to the beginning of the Term.

(f) Authorized Dealers may not re-apply or re-enroll in the Pirelli Performance Program for a period of 12 months following the end of the applicable Term.

(g) In the event of a termination of this Agreement without cause in accordance with the terms and conditions hereof, any and all amounts expended by the Parties prior to such termination will be deemed to be for their own account, and will not be subject to recovery against the other Party, nor will either Party make claims for losses or damages incurred, including without limitation lost profits, incidental or consequential damages, as a result of such termination.

7. Audit

At any time upon prior written notice, Pirelli reserves the right to audit the Authorized Dealer regarding the purchases and sales of Products as well as compliance with this Agreement, either through the use of internal personnel or a third party external auditor or other representative (collectively, the “**Auditors**”). Authorized Dealer agrees to cooperate and cause any of its Primary Authorized PPP Distributor and effectively designated Secondary Authorized PPP Distributors to cooperate with the Auditors and provide them with information or materials as requested conjunction with their audit.

8. Miscellaneous

(a) Authorized Dealer represents that the listed PPP Authorized Dealer on the Enrollment Form beneficially owns more than 50% of such Authorized Retail Dealer’s outstanding capital stock and agrees to promptly notify Pirelli requesting Pirelli’s consent to remain in Program if any such ownership percentage changes during the course of the Program.

(b) The Authorized Dealer agrees at all times to keep its account(s) with its Primary Authorized PPP Distributor and effectively designated Secondary Authorized PPP Distributors current and in good standing, as may be further required by such PPP Distributors, the Program or the Pirelli Performance Program Agreement.

(c) The Authorized Dealer is an independent contractor and not an agent, joint venturer, franchisee or employee of Pirelli. The Authorized Dealer does not pay a fee in connection with the Pirelli Performance Program Agreement.

(d) The Agreement is governed by, and construed in accordance with, the laws of the State of Georgia, excluding its conflict of laws provisions. The jurisdiction for any suit, action, proceeding or judgment relating to the Pirelli Performance Program Agreement is the state and federal courts in the state of Georgia, within the county or district in which Pirelli is located.

(e) The Pirelli Performance Program Agreement may be amended, revised or restated by Pirelli from time to time, effective thirty (30) days after Pirelli notifies Authorized Dealers of such events.

(f) In the event that any term or provision of the Pirelli Performance Program Agreement shall be held to be invalid, void or unenforceable by a court of competent jurisdiction, then the remainder of the Pirelli Performance Program Agreement shall not be affected, and each such term and provision shall be valid and enforceable to the fullest extent permitted by law and the unenforceable or invalid provision shall be construed to be amended in order to avoid such unenforceability or invalidity while preserving as closely as possible the intent of the parties.

(g) Pirelli shall in no event be liable (i) under the Pirelli Performance Program Agreement or under the Program for any amount exceeding the value of any accumulated Program Rewards during the Term for which payment may be owing or

(ii) otherwise, for any incidental, consequential, punitive or economic damages, whether based in contract, tort, common law or otherwise, which liability Pirelli expressly herein disclaims.

(h) Unless otherwise provided, any notice given under the Pirelli Performance Program Agreement (including an address change) will be in writing and may be effected by (i) registered mail, return receipt requested, or a nationally recognized overnight courier addressed to Pirelli at 100 Galleria Parkway SE Suite 1510 Atlanta, GA 30339 and to the Authorized Dealer at the principal place of business provided in the Enrollment Form or (ii) confirmed facsimile transmission. In addition, any notice of approval of appointment or approval of changes to the PPP Distributors or Main Authorized Associate Retail Dealer may be made by confirmed e-mail transmission.

(i) The Enrollment Form, these Standard Terms and Conditions and the Pirelli Standard Trademark Usage Guidelines constitute the entire agreement between Pirelli and the Authorized Dealer with respect to the Pirelli Performance Program and supersede all other oral and written representations, understandings and agreements related thereto.

PIRELLI TIRE LLC

By: _____

Name: _____

Title: _____

AS Authorize Dealer:

[Pirelli Performance Program dealer NAME]

By: _____

Name: _____

Title: _____