

## CONSIGNMENT AGREEMENT

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ODOT AGREEMENT NO. \_\_\_\_\_

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, district \_\_\_\_\_, \_\_\_\_\_ county, hereafter called "ODOT" and \_\_\_\_\_, hereinafter called the "VENDOR."

The purpose of this agreement is to permit the awarded VENDOR to stock its merchandise at selected locations within ODOT facilities for the mutual benefit of both parties to this Agreement. Ownership/title of the merchandise remains with VENDOR and does not pass to ODOT until the merchandise is withdrawn from the consigned stock.

Nothing in this Agreement is intended to relieve VENDOR of its rights and/or responsibilities set forth in the Invitation to Bid's (ITB) Terms and Conditions. In the event that this Agreement conflicts with the ITB's Terms and Conditions, the ITB's Terms and Conditions shall control over this Agreement.

The parties hereto agree as follows:

### **1. LIABILITY**

- 1.1 ODOT shall assume all liability for the loss or physical damage to VENDOR's merchandise resulting only from ODOT's negligence. This assumption of risk begins at the point of delivery of VENDOR's merchandise to the selected ODOT facility and remains in effect until VENDOR's merchandise is used by ODOT or returned to VENDOR at the VENDOR's facility or a mutually designated location.
- 1.2 VENDOR shall be responsible for all damage to persons or property resulting from defective merchandise.
- 1.3 If VENDOR discovers that any stock is missing or unaccounted for, it shall notify ODOT in writing immediately. If VENDOR establishes that the missing or unaccounted for item of merchandise was within ODOT's control, ODOT will reimburse VENDOR for the merchandise.
- 1.4 VENDOR must provide proof of insurance covering all merchandise for loss due to fire, theft, or Acts of God.

### **2. CONSIGNED INVENTORY**

- 2.1 ODOT agrees to maintain the consigned stock in an area designed to minimize potential loss or damage. ODOT will use best efforts to maintain consigned stock in a secured area with limited access and will not intermingle with other materials.
- 2.2 VENDOR must show proper identification when delivering, restocking, inspecting, or removing consigned stock from an ODOT facility. VENDOR may deliver, restock, inspect, or remove consigned stock only during ODOT's regular business hours.
- 2.3 VENDOR must clearly mark and segregate its stock inventory.
- 2.4 An ODOT representative must sign for all deliveries and removals of consigned stock.

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- 2.5 The maximum amount of time that any item of merchandise may be maintained in the consignment inventory is \_\_\_\_\_ months.
- 2.6 VENDOR must rotate the stock inventory on a first in, first out basis.
- 2.7 VENDOR is responsible for stocking sufficient quantities of merchandise to handle normal ODOT requirements.
- 2.8 If any of the consigned stock has been used but retains a trade-in-value, VENDOR must inform ODOT of the value of the trade-in for the used item of merchandise. If ODOT is willing to accept the trade-in amount, VENDOR must credit ODOT for the appropriate value and pursue the trade-in. If ODOT does not accept the trade-in amount, the used merchandise must be returned to ODOT.

### **3. WARRANTY**

- 3.1 VENDOR will handle all warranty claims regarding the merchandise they are furnishing.
- 3.2 VENDOR shall supply replacement merchandise and mediate warranty disputes with merchandise manufacturers.
- 3.3 Warranty begins when the day the merchandise is charged to the equipment repair, not when the merchandise is placed in consignment inventory.

### **4. BILLING AND PRICING**

- 4.1 VENDOR must supply an itemized statement of merchandise used. The statement shall be typed or computer generated (handwritten invoices are unacceptable) and on company letterhead.
- 4.2 If a VENDOR cannot supply an item, ODOT reserves the right to solicit quotations from any vendors and purchase the item from the vendor providing the best price, within ODOT purchasing guidelines and contracts.
- 4.3 VENDOR shall invoice ODOT on the following basis: \_\_\_\_\_

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### 5. TERMINATION

- 5.1 Unless otherwise noted below, this Agreement will continue for the duration of the Invitation to Bid.

Termination Date: \_\_\_\_\_

- 5.2 ODOT reserves the right to terminate this Agreement for any reason upon giving VENDOR thirty (30) days written notice. Before the end of this thirty (30) day period, VENDOR must remove any unused stock from ODOT's property.

- 5.3 If VENDOR wishes to terminate this Agreement for any reason, VENDOR must give ODOT thirty (30) days written notice. Notice must be served upon the individual set forth below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 5.4 Termination of this Agreement will not terminate the VENDOR'S nor ODOT's rights and/or responsibilities set forth in the Invitation to Bid.

### 4. DRUG-FREE WORKPLACE

- 6.1 VENDOR agrees to comply with all applicable state and federal laws regarding drug-free workplace. VENDOR shall make a good faith effort to ensure that all of its employees, while working on state property, will not purchase, transfer, use, or possess illegal drug or alcohol or abuse prescription drugs in any way.

### 7. TIME OF ESSENCE

- 7.1 Time is the essence of each and all of terms and provisions of this Agreement.

### 8. GOVERNING LAW

- 8.1 This Agreement shall be governed by and interpreted under the laws of the State of Ohio. Any action or proceeding arising out of the terms of this Agreement shall be brought in a court of competent jurisdiction located in Franklin County, Ohio.

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### 9. HEADINGS

- 9.1 The headings to various paragraphs and exhibits to this Agreement have been inserted for reference only and shall not to any extent have the effect of modifying, amending, or changing the expressed terms and provisions of this Agreement.

### 10. SIGNATURES

- 10.1 Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

IN WITNESS WHEREOF, this Agreement has been executed in triplicate by the parties hereto as of the date herein last written below.

\_\_\_\_\_  
Vendor

\_\_\_\_\_  
By

Date: \_\_\_\_\_

State of Ohio  
Department of Transportation

\_\_\_\_\_  
Jerry Wray, Director

Date: \_\_\_\_\_