

North Dakota Department of Transportation
INVITATION TO BID

NDDOT Contract # 50160036

| | |
|--|--|
| Bid Number: 975-34-16-050 | Bid Opening Date & Time: 01/28/2016 02:00 PM |
| Items: Rental, Construction Equipment 2016-2017 | Buyer: Vanessa Brosten |
| Bid Mailing Address: 608 East Boulevard Avenue | Telephone Number: 701-328-4466 |
| City, State, Zip: Bismarck, North Dakota, 58505-0700 | Email: vbrosten@nd.gov |
| Contract Period: 05/01/2016 TO 04/30/2017 | Date Prepared: 01/14/2016 |

BID RESPONSE

Please submit your bid response on the attached forms in conformance with the instructions and specifications in the NDAC 04-12-01 – 04-12-16. One copy of your bid response must be returned to the North Dakota Department of Transportation (NDDOT) prior to the time and date specified for the bid opening. Bid responses received after the time and day specified for the bid opening will be rejected. Mark envelope with word "BID" and the opening time and date. If your bid response is accepted by NDDOT, then your bid response will constitute a binding contract.

CONTRACT

This contract is made and entered into by and between NDDOT for the state of North Dakota (hereinafter state) and

| | |
|--|---|
| Vendor Name North Central Rental & Leasing | Vendor Address 3401 33rd St. SW Fargo, ND 58104 |
|--|---|

(hereinafter vendor). In consideration of and for the acceptance by the state of the offer made by the vendor pursuant to the bid response, the vendor agrees and promises to sell, furnish, and deliver to the state, at the time, places, and prices specified in the bid response, all goods, merchandise, supplies, commodities, equipment, or other items contained in the bid response and for which the vendor has been awarded this contract by the state. The vendor shall fully perform this contract in accordance with the terms and conditions contained in the bid response including all specifications, rules, or regulations mentioned therein, and shall comply with all applicable provisions of the NDAC 04-12-01 – 04-12-16 promulgated by the State Purchasing Division; such manual being made a part of this contract by reference. The Risk Management Appendix and Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.

The following must be completed by the vendor; failure to do so may result in the rejection of the vendors bid proposal.

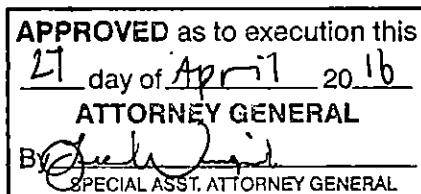
| | | |
|--|-----------------------------------|--|
| Vendor Name North Central Rental & Leasing | | |
| Mailing Address 3401 33rd St. SW Fargo, ND 58104 | | |
| Telephone Number 701-250-1636 | Fax Number 701-250-1608 | E-mail Address lowellmalard@butler machinery.com |

Christopher Lee CFO
Name & Title (Type or Print)
[Signature]
Signature
1-28-16
Date

To be signed by Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer or bid may be rejected. (if signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

FOR ND DEPARTMENT OF TRANSPORTATION USE ONLY Accepted by the state according to provisions of award.

| | |
|--|---|
| Authorized Signature <i>Grant Levi</i> <i>Darcy R. Rosendahl, Dep. Dir.</i> | Date <i>28 APR 2016</i> |
| Recommended for approval <i>[Signature]</i> | Approximate contract amount \$ 105,000.00 |



CLA 7480 (Div. 50)

MAILING INSTRUCTIONS

Mail only one completed and signed request for bid document per envelope, unless instructed otherwise. Request for bid documents not signed or received after the date and time specified in the request for bid will be rejected.

BID IS: ☒ SEALED ☐ NOT SEALED

Address the envelope containing your response in the following manner:

BID NUMBER - 975-34-16-050
BID OPENING DATE/TIME - January 28, 2016; 2:00 PM Central
N. D. DEPT. OF TRANSPORTATION
PROCUREMENT SECTION
608 E BOULEVARD AVE
BISMARCK ND 58505-0700

BIDDERS INSTRUCTIONS

1. **Acceptance/Rejection/Waiver.** The state of North Dakota reserves the right to accept or reject any or all bids and to waive minor irregularities or technicalities, provided such waiver does not substantially change the offer or provide a competitive advantage to any vendor, in the judgment of the state.
2. **Affirmative Action.** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of individuals with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.
3. **Assistance to Bidders with a Disability.** Bidders with a disability and/or language assistance, contact Civil Rights Division, NDDOT, 701-328-2978 or civilrights@nd.gov or TTY 711, as soon as possible so that reasonable accommodations can be made. Additionally, the Request for Reasonable Accommodations form (SFN 60135) can be accessed at the following NDDOT website location: <http://www.dot.nd.gov/forms/sfn60135.pdf>.
4. **Alterations and/or Corrections.** The person signing the bid response must initial any or all manual alterations and/or corrections to the bid response. Those bid responses with alterations and/or corrections that are not initialed may be rejected.
5. **Award.** Award will be made to a responsive, responsible bidder with the lowest price considering conformity with specifications, terms of delivery, quality, and serviceability. NDDOT reserves the right to consider bids varying in minor respects from any specific requirements herein, but judged to meet the intent of this request.

Past performance may also affect the award at the discretion of the NDDOT. References must be furnished upon request by NDDOT.

Contracts are not awarded at the bid opening. Bid responses will be firm for 30 days, unless stated otherwise.
6. **Awards, Splitting of.** The state reserves the right to make awards by item, groups of items, or on the total low bid for all the items specified as indicated in the detailed specifications. Bidders interested only in the total low bid for all items are to state 'all or nothing' on their bid response.
7. **Bidder Checklist.** HAVE YOU REMEMBERED TO:
 - Bid F.O.B. Destination (Ship To: Address) Freight Prepaid.
 - Mark envelope as indicated.
 - Review Standard Terms and Conditions contained in this solicitation.
 - Sign your bid on the cover sheet.
 - Initial all bid/pricing changes you made.
 - Bid responses must be submitted in ink or type written.
 - Review and complete all requirements contained in this solicitation to ensure compliance.

8. **Bidder's Responsibility and Late Bids.** It is the bidder's responsibility to ensure that a bid response is physically deposited with the NDDOT Procurement Office prior to the date and time specified for the opening. Late bid responses will not be opened and will be rejected and returned regardless of the degree of lateness or the reasons. It is the bidder's responsibility to comply with the State of North Dakota's laws and regulations.

9. **Bid Summary.** Bid summaries are available when the bid has been awarded. When bids are issued using the State's electronic bidding system, the bid summary will be posted and available for download from:
<http://www.nd.gov/spo/>

Bid summaries will be mailed to those bidders who supply a self-addressed, stamped envelope with their bid response. A copy of the bid summary may also be obtained by visiting the NDDOT Procurement Office during normal working hours.

10. **Bid Bond.** Waived in this instance; however, bidder(s) failing to enter into a contract with this office, upon notification of award, may be subject to removal from the bidder's list.

11. **Clarifications, Bid Changes and Questions Deadline.** The Procurement Officer is the point of contact. Any irregularities, lack of clarity, requested bid changes and all questions regarding this bid and the procurement process must be addressed to the Procurement Officer referenced on the first page of this document not later than end of business January 21, 2016. (Contact information is indicated on cover page). If a bid amendment is required, it will generally be issued after this date.

The bidder is cautioned that the requirement of this solicitation can be altered only by written amendments and that verbal communications from whatever source are of no effect.

12. **Definitions.**

- Bidder - any person or firm submitting a competitive bid in response to a solicitation.
- Bid summary - a summary of all bid responses received by the NDDOT Procurement Office.
- Bid response - the executed document submitted by a bidder in response to a solicitation.
- Contract - a deliberate written agreement between two or more competent persons to perform specific act or acts.
- Contractor - any person or firm having a contract with a governmental body.
- Solicitation - the process of notifying prospective bidders that the state wishes to receive bids for furnishing goods or services.

13. **Deviation from Specifications Supplied by NDDOT.** Unless otherwise indicated by the bidder, it will be assumed that specifications will be met in all respects. Any deviation from the minimum specifications indicated herein must be clearly pointed out PRIOR TO THE DEADLINE FOR RECEIPT OF QUESTIONS; otherwise, it will be considered that the items offered are in strict compliance with these specifications, and the bidder will be held responsible.

14. **Electronic & Facsimile Bids.** Bid responses are not to be email attached or faxed to the NDDOT unless this transmittal method has been authorized by the Procurement Officer or bid document. (Contact the Procurement officer regarding additional requirements and exceptions.) Bid responses electronically submitted or faxed may be rejected as non-responsive.

15. **Freight/F.O.B. Destination.** Freight and transportation charges are to be included in the price of the products, unless otherwise specified in the solicitation. (F.O.B. - Free On Board).

16. **Indemnification.** The attached Equipment Rental Agreement will be incorporated into the contract.

Bidders must review the attached Equipment Rental Agreement for indemnification and insurance requirements.

Objections to any of the provisions must be in writing to the attention of the Procurement Officer by the time and date set for receipt of questions.

17. **Multiple Bid(s).** Bidders may submit more than one bid response(s) for the item(s) specified in the solicitation. Each bid submitted must comply in all aspects with the bid requirements and these instructions.

18. **Negotiation.** NDDOT reserves the right to negotiate with the successful bidder to ensure the best possible consideration is afforded to all concerned.

19. **Open Records.** After bid opening, bid documents will be subject to the North Dakota open records law. Records are closed or confidential only if specifically stated in law. If a request for public information is received, the procurement officer will determine whether the information is an exception to the North Dakota open records law, and the information will be processed appropriately. Those interested in reviewing the bid file are to make arrangements with the NDDOT Procurement Office. The NDDOT Procurement Office hours are 8:00 a.m. - 12:00 p.m. and 1:00 p.m. - 5:00 p.m. Monday through Friday.

20. **Performance Bond.** Successful bidders will not be required to furnish a performance bond; however, failure to perform satisfactorily will result in the immediate termination of the contract(s) and bidders may be subject to removal from the bidder's list.

21. **Preparation of Bid.** Bids will be accepted on NDDOT forms only. If the document is located on the State Procurement Office website, then bidder is to download the document and type or write their responses as indicated by the bid document. Alteration of the bid document may be cause for bid rejection. Bidders are cautioned to examine specifications and all instructions. Failure to do so will be at the bidder's risk.

22. **Pricing.** Unit prices are to be stated in United States currency and based on the unit of measurement specified in the solicitation, F.O.B. Destination, to the NDDOT delivery locations specified herein.

In the event of mathematical differences between the unit price and extended total, the unit price will prevail.

23. **Protest of Award.** An interested party may protest the award within seven days after receiving notice in accordance with N.D.C.C. 54-44.4-12 and N.D.A.C. 4-12-14.

24. **Receipt of Bids.** All sealed bids received by the NDDOT Procurement Office will be opened and read at 608 East Boulevard Avenue, Bismarck, North Dakota, at the time specified in the solicitation.

25. **Rejection.** Bid responses may be rejected if:

- The bid response is not legible.
- The bid response is not submitted on the form supplied.
- The bid response is not completed as requested.
- The bid response is completed and/or signed in pencil.
- The bid response is faxed to the procurement office.
- The bid response is not signed by an authorized company representative.
- The bid response is not responsive to the specifications or other requirements of the solicitation.
- Changes to the bid response are not initialed.
- The bid response is received after the time and date specified.
- The bidder has not met Vendor Registration requirements or is suspended or debarred.
- The bid document has been altered by the bidder.
- The bidder is determined to be not responsible (N.D.A.C. 4-12-11-04).
- The price is not fair and reasonable
- Or a combination of above.

26. **Signature.** The bid must be signed manually in ink. The name and title of the person signing the bid response must be typed or printed above the signature. The bid must be signed by **Owner, Partner, Corp. Pres., Vice Pres., or other authorized Corp. Officer** or the bid may be rejected. If signed by other authorized Corp. Officer or representative, please attach a letter signed by the Owner, Partner, Corp. Pres., or Vice Pres. indicating the individual has authority to enter into a contract on behalf of the company (or a Power of Attorney).

27. **Supplemental Terms and Conditions.** Bids including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with any conditions contained in this ITB or that diminish the State's rights will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award.

After award of contract:

- a) If a conflict arises between a supplemental term or condition included in the bid and a term or condition of the ITB, the term or condition of the ITB will prevail, and,
- b) If the State's rights would be diminished as a result of application of a supplemental term or condition included in the bid, the supplemental term or condition will be considered null and void.

Changes, modifications, additions, or alterations to the bid document could be cause for rejection of the submitted bid at the sole discretion of the NDDOT. Contact the Procurement Officer in writing prior to the deadline for clarifications.

28. **Taxes.** The State does not pay sales tax or federal excise tax. The state sales tax exemption number is E-2001. The federal tax-free transaction number is 45-0309764.

29. **Vendor Registration.** Bids will be accepted from bidders who are not currently Approved Bidders for the State of North Dakota; however, the successful bidder may be required to become approved prior to award, in accordance with N.D.C.C. 54-44.4-09. To become an Approved Bidder, you must: 1) register with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidder List Application to the ND State Procurement Office. Registration instructions and forms are available on-line at: www.nd.gov/spo/vendor. Contact the ND State Procurement Office at 701-328-2683 or infospo@nd.gov for assistance.

30. **Withdrawal or changes to a bid response prior to the bid opening date and time.** A bidder may withdraw or make a change to his bid response prior to the bid opening date and time. The request to make a change or withdraw must be in writing by a representative of the firm. The request to withdraw or change must be signed by the bidder or his designated representatives.

31. **Withdrawals after the bid opening date and time.** Withdrawals after the bid opening will be allowed only upon written approval from the NDDOT Procurement Office. Vendors continually withdrawing bids after the bid opening may be removed from the Vendor Database.

GENERAL CONTRACT TERMS AND CONDITIONS

1. **Applicable Law and Venue.** Any dispute arising out of this agreement will be resolved under the laws of the State of North Dakota.

2. **Binding Contract.** The acceptance of a bid response in writing by the purchasing agency constitutes a contract between the bidder and the State. Written acceptance from the purchasing agency will be in the form of a purchase order, notification of award, or contract. Any oral agreement or arrangement by a bidder with a State employee or purchasing agency will have no force or effect unless reduced to writing.

3. **Contract Management.** The day to day activities of the rental will be dealt with on the district level between district personnel and the awarded dealership(s). Any changes in the contract must be approved by the Procurement Officer.

4. **Contract Volume.** The quantities to be rented as indicated herein are best estimates. NDDOT reserves the right to vary actual quantities from those indicated at any time before the bid opening and by written notification to the contractor(s) after award and throughout the term of the contract.

5. **Service Locations.** Service and repair are critical. Bidders must identify their nearest service locations by district and describe their ability to keep their loaders running during the term of the contract with minimal down time. Bidders must include a narrative describing their ability to respond to breakdowns with emergency service or replacement equipment.

6. **Compliance with Laws, Nondiscrimination and Affirmative Action.** The contractor must, in performance of work under this contract, fully comply with all applicable federal, state or local laws, rules, regulations and policies, including those relating to nondiscrimination, affirmative action, accessibility and civil rights including Title VI of the Civil Rights Act of 1964. The contractor agrees to file all required reports on time, to make required payroll deductions, and to pay all taxes and premiums owed on time, including sales and use taxes and unemployment compensation and workers' compensation premiums. The contractor shall have and keep current at all times during the term of this contract all licenses and permits required by law.

7. **Contract Amendments, Waivers.** After a binding contract has been entered into, no changes (i.e. additions, substitutions, subcontracting or a price adjustment) may be made, unless prior approval has been obtained from the purchasing agency and Procurement Officer.

The terms of this contract shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

8. **Contract Term and Renewal Option.** The NDDOT will enter into a contract which will be effective beginning upon an acceptable delivery date to extend for a period of not more than twelve months. This contract is non-renewable.

9. **Contract Termination.**

- a. **Termination without Cause.** This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.
- b. **Termination for Lack of Funding or Authority.** The State may terminate this contract effective upon delivery of written notice to the contractor, or on any later date stated in the notice, under any of the following conditions:
 - i. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
 - ii. If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
 - iii. If any license or certificate required by law or regulation to be held by the contractor to provide the services required by the contract is for any reason denied, revoked or not renewed.Any such termination of this contract under (i), (ii), or (iii), above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
- c. **Termination for Cause.** The State by written notice to the contractor may terminate the whole or any part of this contract:
 - i. If the contractor fails to provide services required by this contract within the time specified herein or any extension thereof; or
 - ii. If the contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms and after receipt of written notice from the State, fails to correct such failures within ten days or such longer period as NDDOT may authorize.
 - iii. The rights and remedies of the State provided in the above clause related to defaults by the contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- d. **Termination, Deliveries.** If the contract is terminated for any reason, the contractor is responsible for delivery of all commodities and services ordered prior to the termination, unless those orders had been canceled by the Purchasing Agency or Entity.

10. **Contract Price Adjustment.** The Contract Unit Prices shall be firm for the twelve (12) months of the contract period.

11. **Inspection and Investigations.** The State reserves the right to conduct inspections and investigations related to the bidder and offered commodities or services to make determinations regarding compliance with the bid requirements and responsibility of the bidder.

12. **Billing and Payment Procedures.** : Invoices are to be submitted to the individual districts. Failure to submit correct invoices to the appropriate NDDOT office may delay contractor payment.

Payment will normally be made within thirty days after delivery and acceptance of commodities or services under this contract and receipt of a correct invoice. All invoice and payment inquiries must be directed to the purchasing agency.

13. **Subcontracts, Assignment.** The contractor shall not subcontract, assign or transfer the contractor's interests or duties under this contract without express written consent of the purchasing agency.

14. **Successors in Interest.** The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

15. **Receiving.** Deliveries must arrive at the designated destination(s) during normal business hours unless other shipping/receiving instructions are issued by NDDOT personnel. The contractor shall contact the NDDOT to schedule delivery dates and times at least 24 hours in advance of delivery.

All NDDOT offices will be closed in recognition of State holidays. Any day declared a holiday by the President or Governor will also be recognized by office closure.

16. **Specifications.** Bidders shall submit detailed manufacturer's specifications and literature along with the bid response.

17. **Equipment Rental Agreement (ERA).** Attached is an example of NDDOT's Equipment Rental Agreement which will serve as the rental agreement for the Lessor and the Lessee. Suppliers' rental agreements will not apply to this rental. Where the bid document and the ERA conflict, the bid specifications will prevail.

Objections to any of the provisions must be in writing to the attention of the Procurement Officer by the time and date set for receipt of questions.

After the contract has been awarded and as soon as the required insurance information is available; ERA(s) will be provided to the Lessor(s), to be signed and returned to the NDDOT.

18. **Equipment Summary:** An equipment summary will be maintained which will include the equipment data (vendor, serial number, make, model, description, unit value). Awarded contractors will provide serial numbers and assist in the maintenance of accurate data in the equipment summary.

BIDDER CHECKLIST

HAVE YOU REMEMBERED TO?

- ☐ Bid F.O.B. Destination (Ship To: Address) Freight Prepaid
- ☐ Mark bid envelope as indicated
- ☐ Review this solicitation document - then provide questions or objections by date specified
- ☐ Provide an authorized signature on the bid cover sheet
- ☐ Initial all bid or pricing changes you made
- ☐ Bid responses must be submitted in ink or type written
- ☐ Identify service locations
- ☐ Attach rental conditions and a brief narrative of your company's ability to respond to breakdowns with emergency service or replacement equipment
- ☐ Indicate bidders' award preference by district as requested
- ☐ Provide manufacturer's specifications and literature
- ☐ If offering more than one size, then attach a list of models

PLEASE ATTACH RENTAL CONDITIONS AND A BRIEF NARRATIVE OF YOUR COMPANY'S ABILITY TO RESPOND TO BREAKDOWNS WITH EMERGENCY SERVICE OR REPLACEMENT EQUIPMENT.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SPECIFICATIONS
FOR RENTAL OF
MOTORGRADERS, FOUR-WHEEL-DRIVE ARTICULATED WHEEL LOADERS, TRACTOR
BACKHOES, AND DOZERS**

The intent of this bid specification is to request pricing for the rental of motor graders, four-wheel-drive articulated wheel loaders, tractor backhoes, and dozers for general highway maintenance operations. The machines shall be new or used less than **400** hours and **be of the current make and model**. The contract rental period will be 12 months. All machine serial numbers shall be provided to the lessee as soon as they become available to allow for adequate time for insurance processing. Two working days notice shall be given to on site DOT personnel prior to delivery and pickup. Dealer shall be responsible for delivery to and pickup from the District Headquarters at no additional cost to the department. Quantities and locations are shown below. **The quantities are estimates and could change depending on pricing.** The department may not rent the motor graders, four-wheel-drive articulated wheel loaders, tractor backhoes, and dozers depending on the bid pricing. This will be determined once the bids are received. The Lessor can exchange any unit during the contract period as long as the Lessee always has a machine on site and meets the specification. Larger sized machines than minimum specifications may be bid or provided by vendor with prior approval from NDDOT, contact procurement officer with any questions. Award will be made based off of low price meeting minimum specifications.

Motor graders, four-wheel-drive articulated wheel loaders, tractor backhoes, and dozers are to be used for an estimated 100 engine hours during the rental period of 12 months per machine. Additional hours over 100 shall be invoiced at the quoted hourly rate for hours over 100. Minimum payment for each machine shall be the hourly rate times the estimated usage of 100 hours. ($\text{\$Hourly Rate as bid} \times 100 \text{ hours} = \text{Minimum payment}$)

Lessee will carry physical damage insurance on the motor graders, four-wheel-drive articulated wheel loaders, tractor backhoes, and dozers. Lessee will accept responsibility for any breakage due to negligence done by them. The machines will have normal wear and tear from general use when returned. The dealer and DOT representative must agree on any excessive damage within 10 working days of the machines return. No claims for damage after the 10 working days will be permitted.

Lessor, or an authorized representative, shall provide 24-hour parts availability as feasible. Major repairs shall be done at the dealer's service facility. Lessee personnel will be responsible for daily maintenance, greasing, and checking fluids. Machines out of service for five working days or more shall require a replacement machine of similar features and horsepower to be setup and delivered to the assigned location as mutually agreed upon by the specific delivery lessee.

Lessor, or an authorized representative, shall provide all oil and filters for routine maintenance at no charge to the department. The routine maintenance will be performed by the lessee as required by the manufacturer and/or the operator's handbook. The lessor may require the maintenance be performed by the servicing dealer. If the lessor requires the routine maintenance be performed by the authorized servicing dealer, this shall be done at no cost to the department.

Lessor, or an authorized representative, shall at the time of delivery be available to make recommendations to prevent damage to the motor graders, AWD loaders, tractor backhoes, and dozers. Lessor, or an authorized representative, shall also at the time of delivery provide familiarization training to ensure efficient operation, identify daily maintenance items, lessor's requirements on the machines cleanliness, and basic operation.

Payment/compensation shall be paid as follows: 70% of the total price bid for 100 hours of use will be paid upon satisfactory acceptance of the contract and delivery of the machines. The remaining 30% plus any additional amount over 100 hours shall be paid upon satisfactory completion of the contract rental period. Invoices shall be addressed to the Districts receiving the machines.

As a minimum, each motor grader unit shall be equipped with:

The motor graders shall be delivered and training provided at the following locations:
Delivery by May 1st 2016 to April 30th 2017;

| | |
|--------|---------------|
| 1 each | Minot, ND |
| 1 each | Dickinson, ND |
| 1 each | Fargo, ND |

BIDDER'S PREFERRED DELIVERY DISTRICT(S)

| DISTRICT | QTY | CONFIGURATION | BIDDER'S PREFERENCE FOR DELIVERY (YES, NO, OR N/A) |
|-----------|-----|---------------|--|
| MINOT | 1 | STANDARD | _____ |
| DICKINSON | 1 | STANDARD | _____ |
| FARGO | 1 | STANDARD | _____ |

BIDDER PREFERS TO PROVIDE TO ALL DISTRICTS FOR ALL ITEMS? YES X NO ____

PLEASE ATTACH RENTAL CONDITIONS AND A BRIEF NARRATIVE OF YOUR COMPANY'S ABILITY TO RESPOND TO BREAKDOWNS WITH EMERGENCY SERVICE OR REPLACEMENT EQUIPMENT.

ITEM NO. 1 MOTOR GRADER W/ RH WING 3 EACH \$ 210.00/HOUR*

YEAR/MAKE: 2012-2016 Caterpillar MODEL: 140M2/3 AWD

(Caterpillar 926M, John Deere 444K, Case 521F, Volvo L60G or Similar Equivalent, Larger model machines may be substituted with NDDOT approval)

| | COMPLY YES | NO | COMMENTS |
|---|---------------|----|----------|
| Minimum of 120 HP diesel engine, can be larger | <u>X</u> | | |
| Full power shift with torque converter or hydrostatic | <u>X</u> | | |
| Deluxe cab, ROPS, air conditioning/heat | <u>X</u> | | |
| Standard Instrumentation | <u>X</u> | | |
| Hour meter, must only mark time when engine is running | <u>X</u> | | |
| Suspension seat | <u>X</u> | | |
| Single joystick hydraulic controls | <u>X</u> | | |
| 3 rd valve hydraulics plumbed to the front of the loader arms | <u>X</u> | | |
| Four wheel drive | <u>X</u> | | |
| Limited slip differentials minimum, prefer differential lock | <u>X</u> | | |
| 20.5 x 25 tire size minimum (if cannot provide size, please submit questionnaire to procurement officer for alternate size approvals) | <u>X</u> | | |
| Hydraulic quick coupler with minimum of 2.5 yd. general purpose bucket with bolt on cutting edge installed on machine. | <u>X</u> | | |
| Engine heater, 120v | <u>X</u> | | |
| Hydraulic tank heater, 120v - or low viscosity fluid for winter time use. Please indicate which in comments | <u>X</u> | | |
| Back up alarm | <u>X</u> | | |
| Headlights, warning and tail lights, manufacturers standard | <u>X</u> | | |
| Full factory warranty throughout the rental period | <u>X</u> | | |

The four-wheel-drive articulated wheel loader shall be delivered and training provided at the following locations:

Delivery by May 1st 2016 to April 30th 2017:

| | |
|--------|-----------------|
| 5 each | Bismarck, ND |
| 1 each | Valley City, ND |
| 3 each | Dickinson, ND |
| 2 each | Williston, ND |
| 1 each | Fargo, ND |

BIDDER'S PREFERRED DELIVERY DISTRICT(S)

| DISTRICT | QTY | CONFIGURATION | BIDDER'S PREFERENCE FOR DELIVERY (YES, NO, OR N/A) |
|-------------|-----|---------------|--|
| BISMARCK | 5 | STANDARD | _____ |
| VALLEY CITY | 1 | STANDARD | _____ |
| DICKINSON | 3 | STANDARD | _____ |
| WILLISTON | 2 | STANDARD | _____ |
| FARGO | 1 | STANDARD | _____ |

BIDDER PREFERS TO PROVIDE TO ALL DISTRICTS FOR ALL ITEMS? YES X NO ____

PLEASE ATTACH RENTAL CONDITIONS AND A BRIEF NARRATIVE OF YOUR COMPANY'S ABILITY TO RESPOND TO BREAKDOWNS WITH EMERGENCY SERVICE OR REPLACEMENT EQUIPMENT.

ITEM NO. 2 FOUR-WHEEL-DRIVE ARTICULATED WHEEL LOADER 12 EACH

\$ 42.00 /HOUR*

YEAR/MAKE: 2013-2016 Caterpillar MODEL: 924K or 926M

As a minimum, tractor backhoe shall be equipped with:

The tractor backhoes shall be delivered and training provided at the following locations:

1 each Fargo, ND

BIDDER'S PREFERRED DELIVERY DISTRICT(S)

| DISTRICT | QTY | CONFIGURATION | BIDDER'S PREFERENCE FOR DELIVERY (YES, NO, OR N/A) |
|----------|-----|---------------|--|
| FARGO | 1 | STANDARD | _____ |

BIDDER PREFERS TO PROVIDE TO ALL DISTRICTS FOR ALL ITEMS? YES X NO ____

PLEASE ATTACH RENTAL CONDITIONS AND A BRIEF NARRATIVE OF YOUR COMPANY'S ABILITY TO RESPOND TO BREAKDOWNS WITH EMERGENCY SERVICE OR REPLACEMENT EQUIPMENT.

ITEM NO. 3 **TRACTOR BACKHOE** **1 EACH** **\$ 70.00 /HOUR***

YEAR/MAKE: 2014-2016 Caterpillar MODEL: 420F or 420F2

LGP Dozer (Large)

(Caterpillar D6N, Case 1650M, Deere 750K or Similar equivalent)

As a minimum, each dozer unit shall be equipped with:

| | COMPLY | | COMMENTS |
|---|---------------|-----------|-----------------|
| | YES | NO | |
| 150 HP approximate | X | | |
| 36,000lb operating weight approximate | X | | |
| Deluxe cab, ROPS, air conditioning/heat | X | | |
| Standard Instrumentation | X | | |
| Hour meter, must only mark time when engine is running | X | | |
| Suspension seat | X | | |
| Engine heater, 120v | X | | |
| Hydraulic tank heater, 120v - or low viscosity fluid for winter time use. Please indicate which in comments | X | | |
| Low ground pressure track | X | | |
| Power angle tilt dozer blade 13' width approximate | X | | |
| Headlights, warning and tail lights, manufacturers standard | X | | |
| Full warranty throughout the rental period | X | | |

OPTIONAL LGP Dozer (Small)

(Caterpillar D6K, Case 1150M, Deere 700K or Similar Equivalent)

| | COMPLY | | COMMENTS |
|--|---------------|---------------|---|
| | YES | NO | |
| 125 HP approximate | <u>X</u> | <u> </u> | <u> </u> |
| 29,500 lb operating weight approximate | <u>X</u> | <u> </u> | <u> </u> |
| Minimum 11' dozer blade | <u>X</u> | <u> </u> | <u> </u> |
| Meets all other above specifications for standard LGP Dozer | <u>X</u> | <u> </u> | <u> </u> |

| | | |
|---|------|-----------------|
| 1 | each | Bismarck, ND |
| 1 | each | Devils Lake, ND |
| 1 | each | Minot, ND |
| 1 | each | Dickinson, ND |
| 1 | each | Williston, ND |
| 1 | each | Fargo, ND |

| DISTRICT | QTY | CONFIGURATION | BIDDER'S PREFERENCE FOR DELIVERY (YES, NO, OR N/A) |
|-------------|-----|-------------------|--|
| BISMARCK | 1 | STANDARD (LARGE) | |
| DEVILS LAKE | 1 | SMALLER SPEC UNIT | |
| MINOT | 1 | SMALLER SPEC UNIT | |
| DICKINSON | 1 | SMALLER SPEC UNIT | |
| WILLISTON | 1 | SMALLER SPEC UNIT | |
| FARGO | 1 | STANDARD (LARGE) | |

PLEASE ATTACH RENTAL CONDITIONS AND A BRIEF NARRATIVE OF YOUR COMPANY'S ABILITY TO RESPOND TO BREAKDOWNS WITH EMERGENCY SERVICE OR REPLACEMENT EQUIPMENT.

YEAR/MAKE: 2013-2016 Caterpillar MODEL: D6K2

Please complete the information below as it applies to the bid that has been submitted:

PRIMARY CONTACT NAME AND BUSINESS LOCATION (Required)

PRIMARY CONTACT NAME Lowell Malard

BUSINESS NAME: Butler Machinery Company

MAILING ADDRESS: PO Box 757 3630 Miriam Ave

CITY & STATE: Bismarck, ND ZIP CODE: 58501

PHONE NUMBER: 701-250-1636 TOLL FREE: 800-584-0890

FAX NUMBER: 701-250-1608 EMAIL: lowellmalard@butlermachinery.com

BISMARCK DISTRICT SERVICE FACILITY (Indicate 'Same as above' if applicable)

SERVICE CONTACT NAME Dustin Alderin

BUSINESS NAME: Butler Machinery Company

SERVICE ADDRESS: 3630 Miriam Ave

CITY & STATE: Bismarck, ND ZIP CODE: 58501

PHONE NUMBER: 701-250-1637 TOLL FREE: 800-584-0890

FAX NUMBER: 701-250-1610 EMAIL: dustinalderin@butlermachinery.com

VALLEY CITY DISTRICT SERVICE FACILITY (Indicate 'Same as above' if applicable)

SERVICE CONTACT NAME Sedric Trevithick

BUSINESS NAME: Butler Machinery Company

SERVICE ADDRESS: 1910 27th. Ave. SE

CITY & STATE: Jamestown, ND ZIP CODE: 58401

PHONE NUMBER: 701-253-6503 TOLL FREE: 800-335-3851

FAX NUMBER: 701-253-6517 EMAIL: sedrictrevithick@butler
machinery.com

DEVILS LAKE DISTRICT SERVICE FACILITY (Indicate 'Same as above' if applicable)

SERVICE CONTACT NAME Steve Miller

BUSINESS NAME: Butler Machinery Company

SERVICE ADDRESS: 7910 Highway 2 W

CITY & STATE: Devils Lake, ND ZIP CODE: 58301

PHONE NUMBER: 701-205-6809 TOLL FREE: _____

FAX NUMBER: 701-665-3817 EMAIL: stevemiller@butlermachinery.com

MINOT DISTRICT SERVICE FACILITY (Indicate 'Same as above' if applicable)

SERVICE CONTACT NAME Dustin Alderin
BUSINESS NAME: Butler Machinery Company
SERVICE ADDRESS: 1505 Hwy 2, Bypass E
CITY & STATE: Minot, ND ZIP CODE: 58702
PHONE NUMBER: 701-250-1637 TOLL FREE: _____
FAX NUMBER: 701-858-1117 EMAIL: dustinalderin@butlermachinery.com

DICKINSON DISTRICT SERVICE FACILITY (Indicate 'Same as above' if applicable)

SERVICE CONTACT NAME Bruce Honcharenko
BUSINESS NAME: Butler Machinery Company
SERVICE ADDRESS: 2803 I-94 Business Loop E
CITY & STATE: Dickinson, ND ZIP CODE: 58601
PHONE NUMBER: 701-456-1403 TOLL FREE: _____
FAX NUMBER: 701-456-1417 EMAIL: brucehoncharenko@butler
machinery.com

GRAND FORKS DISTRICT SERVICE FACILITY (Indicate 'Same as above' if applicable)

SERVICE CONTACT NAME Craig Lampros
BUSINESS NAME: Butler Machinery Company
SERVICE ADDRESS: 1201 S 46th St
CITY & STATE: Grand Forks, ND ZIP CODE: 58201
PHONE NUMBER: 701-780-7776 TOLL FREE: _____
FAX NUMBER: 701-780-7777 EMAIL: craiglampros@butlermachinery.com

WILLISTON DISTRICT SERVICE FACILITY (Indicate 'Same as above' if applicable)

SERVICE CONTACT NAME "Same as Minot"
BUSINESS NAME: _____
SERVICE ADDRESS: _____
CITY & STATE: _____ ZIP CODE: _____
PHONE NUMBER: _____ TOLL FREE: _____
FAX NUMBER: _____ EMAIL: _____

FARGO DISTRICT SERVICE FACILITY (Indicate 'Same as above' if applicable)

SERVICE CONTACT NAME Jason Damlo

BUSINESS NAME: Butler Machinery Company

SERVICE ADDRESS: 3402 36th St SW

CITY & STATE: Fargo, ND ZIP CODE: 58104

PHONE NUMBER: 701-298-1838 TOLL FREE: 800-726-7475

FAX NUMBER: 701-298-1810 EMAIL: jasondamlo@butlermachinery.com

SAMPLE DOCUMENT**EQUIPMENT RENTAL AGREEMENT**

North Dakota Department of Transportation
Financial Management Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

| | | |
|-------------------------|-----------------|---------------------------------|
| NAME | LESSOR (VENDOR) | LESSEE (STATE) |
| | | ND DEPARTMENT OF TRANSPORTATION |
| ADDRESS | | 608 E BOULEVARD AVENUE |
| CITY, STATE ZIP CODE | | BISMARCK ND 58505-0700 |
| CONTACT | | VANESSA BROSTEN |
| PHONE NO | | 701-328-4466 |

| | | | |
|--|----------------------|--|---|
| DATE | RENTAL TERM | BEGINS ON | ENDS ON |
| DAY (8HRS.) | RENTAL RATES * \$ | TRANSPORTATION CHARGES IF APPLICABLE | METER READING OUT |
| WEEK (44HRS.) | \$ | | |
| MONTH (176 HRS.) | \$ | MINIMUM RENTAL AMOUNT GUARANTEED BY LESSEE | METER READING IN |
| EXCESS HOURS BILLED AT | \$ | | |
| * RENTAL RATES ARE BASED ON HOUR METER USAGE | | | |
| EQUIPMENT WILL BE USED AT | | | LESSEE WILL NOT REMOVE THE EQUIPMENT FROM THIS LOCATION WITHOUT NOTIFICATION. |
| SERIAL NUMBER | MAKE | MODEL | DESCRIPTION |
| | | | UNIT VALUE |

| | | | | |
|---------------------|----------|-----|--|--|
| BILL TO INFORMATION | | | | |
| NAME | | | | |
| ADDRESS | | | | |
| CITY | STATE | ZIP | | |
| CONTACT | PHONE NO | | | |

TERMS AND CONDITIONS**AGREEMENT:**

Lessor, in consideration of the covenants, promises, and agreements on the part of the Lessee, hereinafter contained, hereby leases the equipment to Lessee in accordance with the terms of this agreement.

AMENDMENTS:

The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

TRANSPORTATION CHARGES:

Lessee shall pay to the Lessor transportation charges incurred by Lessor in delivering the equipment to Lessee, and shall pay all such charges to return the equipment to Lessor upon termination of the lease. If applicable, transportation charges may be included in the rental rate.

OPERATION OF EQUIPMENT:

Lessee agrees that the equipment will be operated only by competent employees and will not be operated beyond the manufacturer's rated capacity nor improperly cared for or abused. The Lessee will pay for all costs of operation including regular maintenance and all repairs necessary due to improper use. Lessor shall supply all information necessary for Lessee to properly prepare operators and maintenance for their responsibilities. The equipment shall be returned to Lessor in as good condition as received, less reasonable wear and tear.

REPAIRS:

The expense of all major repairs made during the rental period, which shall be made by the Lessor's maintenance personnel, including labor, parts, mileage and other items will be paid by the Lessor unless required repairs are due to abuse or misuse of the equipment. The Lessee agrees to pay for repair of damaged tires or excessive wear. Cuts resulting in permanent damage to a tire will be subject to repair or replacement by Lessee if due to improper use or abuse. If the machine is down for more than 24 hours due to repairs, Lessor will issue credit of the prorated rental rate, or replace with a like or similar machine, if mutually agreed upon, or the agreement may be terminated and credited accordingly.

WARRANTY:

Lessor assigns to Lessee, for and during the term of this agreement, so long as Lessee shall not be in default, all manufacturer's warranties and guarantees, express or implied, issued on or applicable to the equipment.

ALTERATIONS AND MODIFICATIONS OF EQUIPMENT:

Lessee shall not make any additions, attachments, alterations or improvements to the equipment without the prior written consent of Lessor. Any addition, attachment, alteration or improvement of equipment shall belong to and become the property of Lessor unless, at the request of the Lessor, it is removed prior to the return of such item of equipment by Lessee. Lessee shall be responsible for all costs relating to such removal and shall restore such item of equipment to its operating condition that existed at the time it became subject to the applicable lease.

LIABILITY:

Lessee and Lessor each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

INSURANCE:

Insurance shall be secured and kept in force during the term of this agreement, from insurance companies or a government self-insurance pool authorized to do business in the state of North Dakota, to include the following coverage:

- 1) Lessee and Lessor shall provide commercial general liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Lessee shall provide property insurance insuring the full and true value of the equipment. Insurance policy shall name Lessee as insured and Lessor as an additional insured and loss payee thereof as Lessor's interest may appear. An Evidence of Property Insurance shall be provided to the Lessor by the Lessee.

The insurance coverage listed above shall meet the following additional requirements:

- 1) Any deductible or self insured retention amount or other similar obligation shall be the sole responsibility of the party purchasing the coverage.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A. M. Best Company Inc., provided any excess policy follows form for coverage. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which is in excess.
- 3) Either party may request a certificate of insurance evidencing the required coverage that is in effect and providing that the coverage may not be canceled or modified without thirty (30) days prior written notice to the other party.
- 4) Failure to provide insurance as required in this agreement is a material breach of contract.

TAXES:

The State does not pay sales tax or most federal taxes. The State's sales tax exemption number is E-2001. The federal tax free transaction number is 45-70-0010K. the federal employer identification number is 45-6002432.

INSPECTION:

Lessee agrees to permit Lessor or its representatives to inspect equipment leased hereunder at all reasonable times upon request of Lessor.

TERMINATION:

- a. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 day's notice, in writing or delivered by certified mail or in person.
- b. In addition, Lessee may terminate this agreement effective upon delivery of written notice to the Lessor, or at such later date as may be established by Lessee, under any of the following conditions:
 - 1) If Lessee funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The agreement may be modified unilaterally to accommodate a reduction in funds.
 - 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - 3) If any license or certificate required by law or regulation to be held by the Lessor to provide the services required by the agreement is for any reason denied or revoked.

Any such termination of this agreement under (1), (2), or(3), above, shall be without prejudice to any obligations of either party already accrued prior to such termination.

- c. Either party, by written notice, may terminate the whole or any part of this agreement:
 - 1) If either party fails to provide services called for by this agreement within the time specified herein or any extension thereof; or
 - 2) If either party fails to perform any other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from either party, fails to correct such failures within ten days or such longer period as either party may authorize.

LESSEE AGREES TO:

- 1 Notify Lessor of any change in agreed location.
- 2 Not sublease, rent or loan above equipment.
- 3 Not hold Lessor responsible for weather conditions, such as rain, snow, etc. No credit is expected because of these conditions.
- 4 Notify Lessor immediately of any mechanical failure, at which time a decision will be made who is responsible for repairs.
- 5 Pay a clean up charge for excessively dirty equipment.

PURCHASE ORDER:

A Purchase Order will not be issued as a result of this agreement. The executed agreement will bind the contractual obligation of the Lessee. Purchase Orders or Claim for Payments will be executed for payment of monthly invoices.

RENTAL PAYMENTS:

Lessee shall pay Lessor, upon invoice, rental payments. Payment for itemized additional charges is upon invoice. All rent and other amounts payable by Lessee to Lessor hereunder shall be paid to Lessor at the address specified above or at such other place as Lessor may designate in writing to Lessee.

LATE PAYMENTS:

Customary late charges on accounts not paid within thirty (30) days of invoice are allowable, not to exceed the maximum rate of interest permitted by law.

EXTENDED RENTAL PERIOD:

Lessee shall notify Lessor of extended rental needs. Lessee reserves the right to negotiate seasonal rates with the Lessor and may opt to extend the agreement upon mutual consent.

REQUEST FOR BID:

If a written request for bid for the equipment rental was solicited, any accompanying specific terms, conditions and specifications therein will become part of this agreement.

GOVERNING LAW AND VENUE:

Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this agreement shall be governed by and construed in accordance with applicable Federal Law and the laws of the state of North Dakota, at the time the agreement was executed. All disputes arising from this agreement shall be brought in the South Central District Court of the state of North Dakota.

MERGER AND WAIVER:

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Lessor, by the signature below of its authorized representative, hereby acknowledges that the Lessor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

| | |
|---|---------|
| LESSOR (Vendor) TO BE SIGNED BY OWNER, PARTNER, CORPORATE PRESIDENT, VICE PRESIDENT, OR OTHER AUTHORIZED CORPORATE OFFICER OR BID MAY BE REJECTED. (IF SIGNED BY OTHER CORP. OFFICER, PLEASE ATTACH COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTATION SHOWING AUTHORITY TO SIGN.) | |
| NAME (TYPE OR PRINT) : | TITLE : |
| SIGNATURE : | DATE : |

| | |
|-------------------------------|--------|
| LESSEE (Agency) | |
| APPROVED AS TO SUBSTANCE BY : | DATE : |
| AGENCY DIRECTOR SIGNATURE : | DATE : |

SAMPLE DOCUMENT

RENTAL EQUIPMENT RETURN FORM

Check lights for damage:

Check sheet metal and fiber glass for damage:

Check cab roof, antenna, mirrors, and glass for damage:

Check cab interior for smoking, tears, etc.:

Check all tires/tracks for damage (take pictures if any tires/tracks are in question):

Date: _____

Model: _____

Serial Number: _____

Hours: _____

Dealer: _____

Dealer Signature: _____

District: _____

District Signature: _____

**EVIDENCE OF PROPERTY INSURANCE**DATE (MM/DD/YYYY)
04/26/2016

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

| | | | | | |
|--|--|--|--|---|--|
| AGENCY Vaaler Insurance/Bismarck PO Box 933 Bismarck, ND 58502 Rollin C. Mehlhoff | | PHONE (A/C, No, Ext): 701-258-2800 | | COMPANY Great American Insurance Co Prop & IM Division 6300 S Syracuse Way, Suite 295 Centennial, CO 80111 | |
| FAX (A/C, No): 701-258-2838 | | E-MAIL ADDRESS: | | | |
| CODE: | | SUB CODE: | | | |
| AGENCY CUSTOMER ID #: NDDE-07 | | | | | |
| INSURED ND Dept. of Transportation Financial Management Division 608 E Boulevard Ave Bismarck, ND 58505 | | LOAN NUMBER AUTO FLEET/CE | | POLICY NUMBER IMP118755911 | |
| | | EFFECTIVE DATE 07/01/15 | | EXPIRATION DATE 07/01/16 | |
| | | | | <input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED | |
| THIS REPLACES PRIOR EVIDENCE DATED: | | | | | |

PROPERTY INFORMATION

LOCATION/DESCRIPTION

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION

| COVERAGE / PERILS / FORMS | AMOUNT OF INSURANCE | DEDUCTIBLE |
|---|---------------------|------------|
| CAT Auto Physical Damage- per sch Excludes aircraft/watercraft Not less than \$25,000 or more than \$650,000 each 80% co-insurance - Actual Cash Value | 23,012,251 | 25,000 |
| Contractors Eq. - Actual Cash Value - per sch Excludes Items <\$50,000 and >\$800,000 80% co-insurance | 4,970,294 | 15,000 |
| Contractors Equip Leased or Rented From Others (Excludes: Equipment leased or rented with ACV of \$25,000 or less) | 3,000,000 | 15000 |

REMARKS (Including Special Conditions)

see attached spreadsheet

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

| | | |
|---|--|---------------------------|
| NAME AND ADDRESS North Central Rental & Leasing 3401 33rd St South PO Box 9559 Fargo,, ND 58106-9559 | <input type="checkbox"/> MORTGAGEE | ADDITIONAL INSURED |
| | <input checked="" type="checkbox"/> LOSS PAYEE | |
| | LOAN # | |
| | AUTHORIZED REPRESENTATIVE Rollin C. Mehlhoff | |

| No. | Dist. | Location | Description | Vendor | Year | Make | Model | Rental Period | | Mths | Min Hrs. | Rate | EA | Total | Serial Number | Value | Dealer # |
|-----|-------|-------------|-------------------|-------------------|------|-------------|------------|---------------|-----------|------|----------|-----------|----|--------------|---------------|-----------|----------|
| 1 | 1 | BISMARCK | Wheel Loader AWD | North Central R&L | 2015 | CATERPILLAR | 926M3VFUSL | 5/1/2016 | 4/30/2017 | 12 | 100 | \$42.00 | Hr | \$4,200.00 | OLTE00457 | \$211,369 | M022025 |
| 2 | 1 | BISMARCK | Wheel Loader AWD | North Central R&L | 2015 | CATERPILLAR | 926M3VFUSL | 5/1/2016 | 4/30/2017 | 12 | 100 | \$42.00 | Hr | \$4,200.00 | OLTE00874 | \$207,351 | M022302 |
| 3 | 1 | BISMARCK | Wheel Loader AWD | North Central R&L | 2015 | CATERPILLAR | 930K3VFUSL | 5/1/2016 | 4/30/2017 | 12 | 100 | \$42.00 | Hr | \$4,200.00 | ORHN04138 | \$233,705 | M021518 |
| 4 | 1 | BISMARCK | Wheel Loader AWD | North Central R&L | 2015 | CATERPILLAR | 930K3VFUSL | 5/1/2016 | 4/30/2017 | 12 | 100 | \$42.00 | Hr | \$4,200.00 | ORHN04143 | \$242,904 | M021519 |
| 5 | 1 | BISMARCK | Wheel Loader AWD | North Central R&L | 2015 | CATERPILLAR | 930K3VFUSL | 5/1/2016 | 4/30/2017 | 12 | 100 | \$42.00 | Hr | \$4,200.00 | ORHN04065 | \$233,247 | M021626 |
| 6 | 2 | VALLEY CITY | Wheel Loader AWD | North Central R&L | 2015 | CATERPILLAR | 926M3VFUHL | 5/1/2016 | 4/30/2017 | 12 | 100 | \$42.00 | Hr | \$4,200.00 | OLTE00885 | \$213,211 | M022304 |
| 7 | 3 | Devils Lake | LGP Dozer (small) | North Central R&L | | CATERPILLAR | | 5/1/2016 | 4/30/2017 | 12 | 100 | \$ 170.00 | Hr | \$ 17,000.00 | | | |
| 8 | 4 | MINOT | LGP Dozer (small) | North Central R&L | | CATERPILLAR | | 5/1/2016 | 4/30/2017 | 12 | 100 | \$ 170.00 | Hr | \$ 17,000.00 | | | |
| 9 | 5 | DICKINSON | Wheel Loader AWD | North Central R&L | 2015 | CATERPILLAR | 926M3VUSL | 5/1/2016 | 4/30/2017 | 12 | 100 | \$42.00 | Hr | \$4,200.00 | OLTE00459 | \$211,369 | M022027 |
| 10 | 5 | DICKINSON | Wheel Loader AWD | North Central R&L | 2015 | CATERPILLAR | 926M3VFUHL | 5/1/2016 | 4/30/2017 | 12 | 100 | \$42.00 | Hr | \$4,200.00 | OLTE00454 | \$214,091 | M022024 |
| 11 | 7 | WILLISTON | LGP Dozer (small) | North Central R&L | | CATERPILLAR | | 5/1/2016 | 4/30/2017 | 12 | 100 | \$ 170.00 | Hr | \$ 17,000.00 | | | |
| 12 | 8 | FARGO | Wheel Loader AWD | North Central R&L | 2015 | CATERPILLAR | 926M3VFUHL | 5/1/2016 | 4/30/2017 | 12 | 100 | \$42.00 | Hr | \$4,200.00 | OLTE00453 | \$214,091 | M022023 |
| 13 | 8 | Fargo | LGP Dozer | North Central R&L | 2015 | CATERPILLAR | D6N LGPACC | 5/1/2016 | 4/30/2017 | 12 | 100 | \$ 170.00 | Hr | \$ 17,000.00 | OPBA02823 | 337269 | M021797 |

EQUIPMENT RENTAL AGREEMENT

North Dakota Department of Transportation
Financial Management Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

| | | |
|-------------------------|---|---------------------------------|
| NAME | LESSOR (VENDOR) | LESSEE (STATE) |
| | North Central Rental & Leasing LLC | ND DEPARTMENT OF TRANSPORTATION |
| ADDRESS | 3401 33rd Street South | 608 E BOULEVARD AVENUE |
| CITY, STATE ZIP CODE | Fargo, ND 58104 | BISMARCK ND 58505-0700 |
| CONTACT | Lowell Malard | VANESSA BROSTEN |
| PHONE NO | 701-527-8892 | 701-328-4466 |

| | | | | | |
|--|------|-------|--|---|---|
| DATE April 21, 2016 | | | RENTAL TERM | BEGINS ON May 1st 2016 | ENDS ON April 30th 2017 |
| RENTAL RATES * DAY (8HRS.) \$ WEEK (44HRS.) \$ MONTH (176 HRS.) \$ EXCESS HOURS BILLED AT \$ * RENTAL RATES ARE BASED ON HOUR METER USAGE | | | TRANSPORTATION CHARGES IF APPLICABLE MINIMUM RENTAL AMOUNT GUARANTEED BY LESSEE | | METER READING OUT METER READING IN |
| EQUIPMENT WILL BE USED AT | | | | | LESSEE WILL NOT REMOVE THE EQUIPMENT FROM THIS LOCATION WITHOUT NOTIFICATION. |
| SERIAL NUMBER | MAKE | MODEL | DESCRIPTION | | UNIT VALUE |
| SEE ATTACHED SPREADSHEET | | | Construction Equipment | | |

| | | | | | |
|---------------------|--|----------|---------------------|-----|-------------------|
| BILL TO INFORMATION | | | | | |
| NAME | North Dakota Department of Transportation | | | | |
| ADDRESS | 1700 3rd Ave W Suite 101 | | | | |
| CITY | Dickinson | STATE | ND | ZIP | 58601-3009 |
| CONTACT | Aaron Auer | PHONE NO | 701-227-6526 | | |

TERMS AND CONDITIONS

AGREEMENT:

Lessor, in consideration of the covenants, promises, and agreements on the part of the Lessee, hereinafter contained, hereby leases the equipment to Lessee in accordance with the terms of this agreement.

AMENDMENTS:

The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

TRANSPORTATION CHARGES:

Lessee shall pay to the Lessor transportation charges incurred by Lessor in delivering the equipment to Lessee, and shall pay all such

charges to return the equipment to Lessor upon termination of the lease. If applicable, transportation charges may be included in the rental rate.

OPERATION OF EQUIPMENT:

Lessee agrees that the equipment will be operated only by competent employees and will not be operated beyond the manufacturer's rated capacity nor improperly cared for or abused. The Lessee will pay for all costs of operation including regular maintenance and all repairs necessary due to improper use. Lessor shall supply all information necessary for Lessee to properly prepare operators and maintenance for their responsibilities. The equipment shall be returned to Lessor in as good condition as received, less reasonable wear and tear.

REPAIRS:

The expense of all major repairs made during the rental period, which shall be made by the Lessor's maintenance personnel, including labor, parts, mileage and other items will be paid by the Lessor unless required repairs are due to abuse or misuse of the equipment. The Lessee agrees to pay for repair of damaged tires or excessive wear. Cuts resulting in permanent damage to a tire will be subject to repair or replacement by Lessee if due to improper use or abuse. If the machine is down for more than 24 hours due to repairs, Lessor will issue credit of the prorated rental rate, or replace with a like or similar machine, if mutually agreed upon, or the agreement may be terminated and credited accordingly.

WARRANTY:

Lessor assigns to Lessee, for and during the term of this agreement, so long as Lessee shall not be in default, all manufacturer's warranties and guarantees, express or implied, issued on or applicable to the equipment.

ALTERATIONS AND MODIFICATIONS OF EQUIPMENT:

~~Lessee shall not make any additions, attachments, alterations or improvements to the equipment without the prior written consent of~~ Lessor. Any addition, attachment, alteration or improvement of equipment shall belong to and become the property of Lessor unless, at the request of the Lessor, it is removed prior to the return of such item of equipment by Lessee. Lessee shall be responsible for all costs relating to such removal and shall restore such item of equipment to its operating condition that existed at the time it became subject to the applicable lease.

LIABILITY:

Lessee and Lessor each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

INSURANCE:

Insurance shall be secured and kept in force during the term of this agreement, from insurance companies or a government self-insurance pool authorized to do business in the state of North Dakota, to include the following coverage:

- 1) Lessee and Lessor shall provide commercial general liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Lessee shall provide property insurance insuring the full and true value of the equipment. Insurance policy shall name Lessee as insured and Lessor as an additional insured and loss payee thereof as Lessor's interest may appear. An Evidence of Property Insurance shall be provided to the Lessor by the Lessee.

The insurance coverage listed above shall meet the following additional requirements:

- 1) Any deductible or self insured retention amount or other similar obligation shall be the sole responsibility of the party purchasing the coverage.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A. M. Best Company Inc., provided any excess policy follows form for coverage. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which is in excess.
- 3) Either party may request a certificate of insurance evidencing the required coverage that is in effect and providing that the coverage may not be canceled or modified without thirty (30) days prior written notice to the other party.
- 4) Failure to provide insurance as required in this agreement is a material breach of contract.

TAXES:

The State does not pay sales tax or most federal taxes. The State's sales tax exemption number is E-2001. The federal tax free transaction number is 45-70-0010K. the federal employer identification number is 45-0309764..

INSPECTION:

Lessee agrees to permit Lessor or its representatives to inspect equipment leased hereunder at all reasonable times upon request of Lessor.

TERMINATION:

- a. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 day's notice, in writing or delivered by certified mail or in person.
- b. In addition, Lessee may terminate this agreement effective upon delivery of written notice to the Lessor, or at such later date as may be established by Lessee, under any of the following conditions:
 - 1) If Lessee funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The agreement may be modified unilaterally to accommodate a reduction in funds.
 - 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - 3) If any license or certificate required by law or regulation to be held by the Lessor to provide the services required by the agreement is for any reason denied or revoked.

Any such termination of this agreement under (1), (2), or (3), above, shall be without prejudice to any obligations of either party already accrued prior to such termination.

- c. Either party, by written notice, may terminate the whole or any part of this agreement:

- ~~1) If either party fails to provide services called for by this agreement within the time specified herein or any extension thereof; or~~
- 2) If either party fails to perform any other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from either party, fails to correct such failures within ten days or such longer period as either party may authorize.

LESSEE AGREES TO:

- 1 Notify Lessor of any change in agreed location.
- 2 Not sublease, rent or loan above equipment.
- 3 Not hold Lessor responsible for weather conditions, such as rain, snow, etc. No credit is expected because of these conditions.
- 4 Notify Lessor immediately of any mechanical failure, at which time a decision will be made who is responsible for repairs.
- 5 Pay a clean up charge for excessively dirty equipment.

PURCHASE ORDER:

A Purchase Order will not be issued as a result of this agreement. The executed agreement will bind the contractual obligation of the Lessee. Purchase Orders or Claim for Payments will be executed for payment of monthly invoices.

RENTAL PAYMENTS:

Lessee shall pay Lessor, upon invoice, rental payments. Payment for itemized additional charges is upon invoice. All rent and other amounts payable by Lessee to Lessor hereunder shall be paid to Lessor at the address specified above or at such other place as Lessor may designate in writing to Lessee.

LATE PAYMENTS:

Customary late charges on accounts not paid within thirty (30) days of invoice are allowable, not to exceed the maximum rate of interest permitted by law.

EXTENDED RENTAL PERIOD:

Lessee shall notify Lessor of extended rental needs. Lessee reserves the right to negotiate seasonal rates with the Lessor and may opt to extend the agreement upon mutual consent.

REQUEST FOR BID:

If a written request for bid for the equipment rental was solicited, any accompanying specific terms, conditions and specifications therein will become part of this agreement.

GOVERNING LAW AND VENUE:

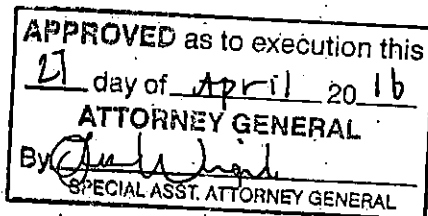
Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this agreement shall be governed by and construed in accordance with applicable Federal Law and the laws of the state of North Dakota, at the time the agreement was executed. All disputes arising from this agreement shall be brought in the South Central District Court of the state of North Dakota.

MERGER AND WAIVER:

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Lessor, by the signature below of its authorized representative, hereby acknowledges that the Lessor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

| | |
|--|----------------------|
| LESSOR (Vendor) TO BE SIGNED BY OWNER; PARTNER; CORPORATE PRESIDENT; VICE PRESIDENT, OR OTHER AUTHORIZED CORPORATE OFFICER OR BID MAY BE REJECTED. (IF SIGNED BY OTHER CORP. OFFICER, PLEASE ATTACH COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTATION SHOWING AUTHORITY TO SIGN.) | |
| NAME (TYPE OR PRINT): <i>Christopher Lee</i> | TITLE: <i>CFO</i> |
| SIGNATURE: <i>[Signature]</i> | DATE: <i>4-21-16</i> |

| | |
|---|--------------------------|
| LESSEE (Agency) | |
| APPROVED AS TO SUBSTANCE BY: <i>Brian Dean</i> | DATE: <i>4-27-16</i> |
| AGENCY DIRECTOR SIGNATURE: <i>Grant Levi</i> <i>Darcy R. Rosendahl, Dep. Dir.</i> | DATE: <i>28 APR 2016</i> |



EQUIPMENT RENTAL AGREEMENT

North Dakota Department of Transportation
Financial Management Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

| | | |
|-------------------------|---|---------------------------------|
| NAME | LESSOR (VENDOR) | LESSEE (STATE) |
| | North Central Rental & Leasing LLC | ND DEPARTMENT OF TRANSPORTATION |
| ADDRESS | 3401 33rd Street South | 608 E BOULEVARD AVENUE |
| CITY, STATE ZIP CODE | Fargo, ND 58104 | BISMARCK ND 58505-0700 |
| CONTACT | Lowell Malard | VANESSA BROSTEN |
| PHONE NO | 701-527-8892 | 701-328-4466 |

| | | | | | |
|--|------|-------|--|---|---|
| DATE April 21, 2016 | | | RENTAL TERM | BEGINS ON May 1st 2016 | ENDS ON April 30th 2017 |
| DAY (8HRS.) RENTAL RATES * \$ | | | TRANSPORTATION CHARGES IF APPLICABLE | | METER READING OUT |
| WEEK (44HRS.) \$ | | | MINIMUM RENTAL AMOUNT GUARANTEED BY LESSEE | | METER READING IN |
| MONTH (176 HRS.) \$ | | | | | |
| EXCESS HOURS BILLED AT \$ | | | | | |
| * RENTAL RATES ARE BASED ON HOUR METER USAGE | | | | | |
| EQUIPMENT WILL BE USED AT | | | | | LESSEE WILL NOT REMOVE THE EQUIPMENT FROM THIS LOCATION WITHOUT NOTIFICATION. |
| SERIAL NUMBER | MAKE | MODEL | DESCRIPTION | | UNIT VALUE |
| SEE ATTACHED SPREADSHEET | | | Construction Equipment | | |

| | | | | | |
|---------------------|--|----------|---------------------|-----|--------------|
| BILL TO INFORMATION | | | | | |
| NAME | North Dakota Department of Transportation | | | | |
| ADDRESS | 316 6th Street South | | | | |
| CITY | Devils Lake | STATE | ND | ZIP | 58301 |
| CONTACT | Dennis Ramsey | PHONE NO | 701-665-5104 | | |

TERMS AND CONDITIONS

AGREEMENT:

Lessor, in consideration of the covenants, promises, and agreements on the part of the Lessee, hereinafter contained, hereby leases the equipment to Lessee in accordance with the terms of this agreement.

AMENDMENTS:

The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

TRANSPORTATION CHARGES:

Lessee shall pay to the Lessor transportation charges incurred by Lessor in delivering the equipment to Lessee, and shall pay all such

charges to return the equipment to Lessor upon termination of the lease. If applicable, transportation charges may be included in the rental rate.

OPERATION OF EQUIPMENT:

Lessee agrees that the equipment will be operated only by competent employees and will not be operated beyond the manufacturer's rated capacity nor improperly cared for or abused. The Lessee will pay for all costs of operation including regular maintenance and all repairs necessary due to improper use. Lessor shall supply all information necessary for Lessee to properly prepare operators and maintenance for their responsibilities. The equipment shall be returned to Lessor in as good condition as received, less reasonable wear and tear.

REPAIRS:

The expense of all major repairs made during the rental period, which shall be made by the Lessor's maintenance personnel, including labor, parts, mileage and other items will be paid by the Lessor unless required repairs are due to abuse or misuse of the equipment. The Lessee agrees to pay for repair of damaged tires or excessive wear. Cuts resulting in permanent damage to a tire will be subject to repair or replacement by Lessee if due to improper use or abuse. If the machine is down for more than 24 hours due to repairs, Lessor will issue credit of the prorated rental rate, or replace with a like or similar machine, if mutually agreed upon, or the agreement may be terminated and credited accordingly.

WARRANTY:

Lessor assigns to Lessee, for and during the term of this agreement, so long as Lessee shall not be in default, all manufacturer's warranties and guarantees, express or implied, issued on or applicable to the equipment.

ALTERATIONS AND MODIFICATIONS OF EQUIPMENT:

Lessee shall not make any additions, attachments, alterations or improvements to the equipment without the prior written consent of Lessor. Any addition, attachment, alteration or improvement of equipment shall belong to and become the property of Lessor unless, at the request of the Lessor, it is removed prior to the return of such item of equipment by Lessee. Lessee shall be responsible for all costs relating to such removal and shall restore such item of equipment to its operating condition that existed at the time it became subject to the applicable lease.

LIABILITY:

Lessee and Lessor each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

INSURANCE:

Insurance shall be secured and kept in force during the term of this agreement, from insurance companies or a government self-insurance pool authorized to do business in the state of North Dakota, to include the following coverage:

- 1) Lessee and Lessor shall provide commercial general liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Lessee shall provide property insurance insuring the full and true value of the equipment. Insurance policy shall name Lessee as insured and Lessor as an additional insured and loss payee thereof as Lessor's interest may appear. An Evidence of Property Insurance shall be provided to the Lessor by the Lessee.

The insurance coverage listed above shall meet the following additional requirements:

- 1) Any deductible or self insured retention amount or other similar obligation shall be the sole responsibility of the party purchasing the coverage.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A. M. Best Company Inc., provided any excess policy follows form for coverage. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which is in excess.
- 3) Either party may request a certificate of insurance evidencing the required coverage that is in effect and providing that the coverage may not be canceled or modified without thirty (30) days prior written notice to the other party.
- 4) Failure to provide insurance as required in this agreement is a material breach of contract.

TAXES:

The State does not pay sales tax or most federal taxes. The State's sales tax exemption number is E-2001. The federal tax free transaction number is 45-70-0010K. the federal employer identification number is 45-0309764..

INSPECTION:

Lessee agrees to permit Lessor or its representatives to inspect equipment leased hereunder at all reasonable times upon request of Lessor.

TERMINATION:

- a. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 day's notice, in writing or delivered by certified mail or in person.
- b. In addition, Lessee may terminate this agreement effective upon delivery of written notice to the Lessor, or at such later date as may be established by Lessee, under any of the following conditions:
 - 1) If Lessee funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The agreement may be modified unilaterally to accommodate a reduction in funds.
 - 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - 3) If any license or certificate required by law or regulation to be held by the Lessor to provide the services required by the agreement is for any reason denied or revoked.

Any such termination of this agreement under (1), (2), or(3), above, shall be without prejudice to any obligations of either party already accrued prior to such termination.

- c. Either party, by written notice, may terminate the whole or any part of this agreement:
 - 1) If either party fails to provide services called for by this agreement within the time specified herein or any extension thereof; or
 - 2) If either party fails to perform any other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from either party, fails to correct such failures within ten days or such longer period as either party may authorize.

LESSEE AGREES TO:

- 1 Notify Lessor of any change in agreed location.
- 2 Not sublease, rent or loan above equipment.
- 3 Not hold Lessor responsible for weather conditions, such as rain, snow, etc. No credit is expected because of these conditions.
- 4 Notify Lessor immediately of any mechanical failure, at which time a decision will be made who is responsible for repairs.
- 5 Pay a clean up charge for excessively dirty equipment.

PURCHASE ORDER:

A Purchase Order will not be issued as a result of this agreement. The executed agreement will bind the contractual obligation of the Lessee. Purchase Orders or Claim for Payments will be executed for payment of monthly invoices.

RENTAL PAYMENTS:

Lessee shall pay Lessor, upon invoice, rental payments. Payment for itemized additional charges is upon invoice. All rent and other amounts payable by Lessee to Lessor hereunder shall be paid to Lessor at the address specified above or at such other place as Lessor may designate in writing to Lessee.

LATE PAYMENTS:

Customary late charges on accounts not paid within thirty (30) days of invoice are allowable, not to exceed the maximum rate of interest permitted by law.

EXTENDED RENTAL PERIOD:

Lessee shall notify Lessor of extended rental needs. Lessee reserves the right to negotiate seasonal rates with the Lessor and may opt to extend the agreement upon mutual consent.

REQUEST FOR BID:

If a written request for bid for the equipment rental was solicited, any accompanying specific terms, conditions and specifications therein will become part of this agreement.

GOVERNING LAW AND VENUE:

Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this agreement shall be governed by and construed in accordance with applicable Federal Law and the laws of the state of North Dakota, at the time the agreement was executed. All disputes arising from this agreement shall be brought in the South Central District Court of the state of North Dakota.

MERGER AND WAIVER:

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Lessor, by the signature below of its authorized representative, hereby acknowledges that the Lessor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

| | |
|--|----------------------|
| LESSOR (Vendor) TO BE SIGNED BY OWNER; PARTNER; CORPORATE PRESIDENT; VICE PRESIDENT, OR OTHER AUTHORIZED CORPORATE OFFICER OR BID MAY BE REJECTED. (IF SIGNED BY OTHER CORP. OFFICER, PLEASE ATTACH COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTATION SHOWING AUTHORITY TO SIGN.) | |
| NAME (TYPE OR PRINT): <i>Christopher Lee</i> | TITLE: <i>CEO</i> |
| SIGNATURE: <i>[Signature]</i> | DATE: <i>4-21-16</i> |

| | |
|---|--------------------------|
| LESSEE (Agency) | |
| APPROVED AS TO SUBSTANCE BY: <i>[Signature]</i> | DATE: <i>4-27-16</i> |
| AGENCY DIRECTOR SIGNATURE: <i>for Grant Levi</i> <i>Darcy R. Rosendahl, Dep. Dir.</i> | DATE: <i>28 APR 2016</i> |

| |
|--|
| APPROVED as to execution this <i>27</i> day of <i>April</i> 20 <i>16</i> ATTORNEY GENERAL By <i>[Signature]</i> SPECIAL ASST. ATTORNEY GENERAL |
|--|

EQUIPMENT RENTAL AGREEMENT

North Dakota Department of Transportation
Financial Management Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

| | | |
|-------------------------|---|---------------------------------|
| NAME | LESSOR (VENDOR) | LESSEE (STATE) |
| | North Central Rental & Leasing LLC | ND DEPARTMENT OF TRANSPORTATION |
| ADDRESS | 3401 33rd Street South | 608 E BOULEVARD AVENUE |
| CITY, STATE ZIP CODE | Fargo, ND 58104 | BISMARCK ND 58505-0700 |
| CONTACT | Lowell Malard | VANESSA BROSTEN |
| PHONE NO | 701-527-8892 | 701-328-4466 |

| | | | | |
|--|------|--|---|---|
| DATE April 21, 2016 | | RENTAL TERM | BEGINS ON May 1st 2016 | ENDS ON April 30th 2017 |
| DAY (8HRS.) RENTAL RATES * \$ | | TRANSPORTATION CHARGES IF APPLICABLE | | METER READING OUT |
| WEEK (44HRS.) \$ | | MINIMUM RENTAL AMOUNT GUARANTEED BY LESSEE | | METER READING IN |
| MONTH (176 HRS.) \$ | | | | |
| EXCESS HOURS BILLED AT \$ | | | | |
| * RENTAL RATES ARE BASED ON HOUR METER USAGE | | | | |
| EQUIPMENT WILL BE USED AT | | | | LESSEE WILL NOT REMOVE THE EQUIPMENT FROM THIS LOCATION WITHOUT NOTIFICATION. |
| SERIAL NUMBER | MAKE | MODEL | DESCRIPTION | UNIT VALUE |
| SEE ATTACHED SPREADSHEET | | | Construction Equipment | |

BILL TO INFORMATION

| | | | | | |
|---------|--|----------|---------------------|-----|-------------------|
| NAME | North Dakota Department of Transportation | | | | |
| ADDRESS | 1305 Highway 2 Bypass East | | | | |
| CITY | Minot | STATE | ND | ZIP | 58701-7922 |
| CONTACT | Bob Allen | PHONE NO | 701-857-6911 | | |

TERMS AND CONDITIONS

AGREEMENT:

Lessor, in consideration of the covenants, promises, and agreements on the part of the Lessee, hereinafter contained, hereby leases the equipment to Lessee in accordance with the terms of this agreement.

AMENDMENTS:

The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

TRANSPORTATION CHARGES:

Lessee shall pay to the Lessor transportation charges incurred by Lessor in delivering the equipment to Lessee, and shall pay all such

charges to return the equipment to Lessor upon termination of the lease. If applicable, transportation charges may be included in the rental rate.

OPERATION OF EQUIPMENT:

Lessee agrees that the equipment will be operated only by competent employees and will not be operated beyond the manufacturer's rated capacity nor improperly cared for or abused. The Lessee will pay for all costs of operation including regular maintenance and all repairs necessary due to improper use. Lessor shall supply all information necessary for Lessee to properly prepare operators and maintenance for their responsibilities. The equipment shall be returned to Lessor in as good condition as received, less reasonable wear and tear.

REPAIRS:

The expense of all major repairs made during the rental period, which shall be made by the Lessor's maintenance personnel, including labor, parts, mileage and other items will be paid by the Lessor unless required repairs are due to abuse or misuse of the equipment. The Lessee agrees to pay for repair of damaged tires or excessive wear. Cuts resulting in permanent damage to a tire will be subject to repair or replacement by Lessee if due to improper use or abuse. If the machine is down for more than 24 hours due to repairs, Lessor will issue credit of the prorated rental rate, or replace with a like or similar machine, if mutually agreed upon, or the agreement may be terminated and credited accordingly.

WARRANTY:

Lessor assigns to Lessee, for and during the term of this agreement, so long as Lessee shall not be in default, all manufacturer's warranties and guarantees, express or implied, issued on or applicable to the equipment.

ALTERATIONS AND MODIFICATIONS OF EQUIPMENT:

Lessee shall not make any additions, attachments, alterations or improvements to the equipment without the prior written consent of Lessor. Any addition, attachment, alteration or improvement of equipment shall belong to and become the property of Lessor unless, at the request of the Lessor, it is removed prior to the return of such item of equipment by Lessee. Lessee shall be responsible for all costs relating to such removal and shall restore such item of equipment to its operating condition that existed at the time it became subject to the applicable lease.

LIABILITY:

Lessee and Lessor each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

INSURANCE:

Insurance shall be secured and kept in force during the term of this agreement, from insurance companies or a government self-insurance pool authorized to do business in the state of North Dakota, to include the following coverage:

- 1) Lessee and Lessor shall provide commercial general liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Lessee shall provide property insurance insuring the full and true value of the equipment. Insurance policy shall name Lessee as insured and Lessor as an additional insured and loss payee thereof as Lessor's interest may appear. An Evidence of Property Insurance shall be provided to the Lessor by the Lessee.

The insurance coverage listed above shall meet the following additional requirements:

- 1) Any deductible or self insured retention amount or other similar obligation shall be the sole responsibility of the party purchasing the coverage.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A. M. Best Company Inc., provided any excess policy follows form for coverage. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which is in excess.
- 3) Either party may request a certificate of insurance evidencing the required coverage that is in effect and providing that the coverage may not be canceled or modified without thirty (30) days prior written notice to the other party.
- 4) Failure to provide insurance as required in this agreement is a material breach of contract.

TAXES:

The State does not pay sales tax or most federal taxes. The State's sales tax exemption number is E-2001. The federal tax free transaction number is 45-70-0010K. the federal employer identification number is 45-0309764..

INSPECTION:

Lessee agrees to permit Lessor or its representatives to inspect equipment leased hereunder at all reasonable times upon request of Lessor.

TERMINATION:

- a. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 day's notice, in writing or delivered by certified mail or in person.
- b. In addition, Lessee may terminate this agreement effective upon delivery of written notice to the Lessor, or at such later date as may be established by Lessee, under any of the following conditions:
 - 1) If Lessee funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The agreement may be modified unilaterally to accommodate a reduction in funds.
 - 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - 3) If any license or certificate required by law or regulation to be held by the Lessor to provide the services required by the agreement is for any reason denied or revoked.

Any such termination of this agreement under (1), (2), or(3), above, shall be without prejudice to any obligations of either party already accrued prior to such termination.

- c. Either party, by written notice, may terminate the whole or any part of this agreement:
 - 1) If either party fails to provide services called for by this agreement within the time specified herein or any extension thereof; or
 - 2) If either party fails to perform any other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from either party, fails to correct such failures within ten days or such longer period as either party may authorize.

LESSEE AGREES TO:

- 1 Notify Lessor of any change in agreed location.
- 2 Not sublease, rent or loan above equipment.
- 3 Not hold Lessor responsible for weather conditions, such as rain, snow, etc. No credit is expected because of these conditions.
- 4 Notify Lessor immediately of any mechanical failure, at which time a decision will be made who is responsible for repairs.
- 5 Pay a clean up charge for excessively dirty equipment.

PURCHASE ORDER:

A Purchase Order will not be issued as a result of this agreement. The executed agreement will bind the contractual obligation of the Lessee. Purchase Orders or Claim for Payments will be executed for payment of monthly invoices.

RENTAL PAYMENTS:

Lessee shall pay Lessor, upon invoice, rental payments. Payment for itemized additional charges is upon invoice. All rent and other amounts payable by Lessee to Lessor hereunder shall be paid to Lessor at the address specified above or at such other place as Lessor may designate in writing to Lessee.

LATE PAYMENTS:

Customary late charges on accounts not paid within thirty (30) days of invoice are allowable, not to exceed the maximum rate of interest permitted by law.

EXTENDED RENTAL PERIOD:

Lessee shall notify Lessor of extended rental needs. Lessee reserves the right to negotiate seasonal rates with the Lessor and may opt to extend the agreement upon mutual consent.

REQUEST FOR BID:

If a written request for bid for the equipment rental was solicited, any accompanying specific terms, conditions and specifications therein will become part of this agreement.

GOVERNING LAW AND VENUE:

Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this agreement shall be governed by and construed in accordance with applicable Federal Law and the laws of the state of North Dakota, at the time the agreement was executed. All disputes arising from this agreement shall be brought in the South Central District Court of the state of North Dakota.

MERGER AND WAIVER:

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Lessor, by the signature below of its authorized representative, hereby acknowledges that the Lessor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

| | |
|--|----------------------|
| LESSOR (Vendor) TO BE SIGNED BY OWNER; PARTNER; CORPORATE PRESIDENT; VICE PRESIDENT, OR OTHER AUTHORIZED CORPORATE OFFICER OR BID MAY BE REJECTED. (IF SIGNED BY OTHER CORP. OFFICER, PLEASE ATTACH COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTATION SHOWING AUTHORITY TO SIGN.) | |
| NAME (TYPE OR PRINT): <i>Christopher Lee</i> | TITLE: <i>CFO</i> |
| SIGNATURE: <i>[Signature]</i> | DATE: <i>4-21-16</i> |

| | |
|---|--------------------------|
| LESSEE (Agency) | |
| APPROVED AS TO SUBSTANCE BY: <i>Brad Dan</i> | DATE: <i>4-27-16</i> |
| AGENCY DIRECTOR SIGNATURE: <i>Nancy R. Rosendahl, Dep. Dir.</i> | DATE: <i>28 APR 2016</i> |

| |
|--|
| APPROVED as to execution this <i>27</i> day of <i>April</i> 20 <i>16</i> ATTORNEY GENERAL By <i>[Signature]</i> SPECIAL ASST. ATTORNEY GENERAL |
|--|

EQUIPMENT RENTAL AGREEMENT

North Dakota Department of Transportation
Financial Management Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

| | | |
|-------------------------|---|---------------------------------|
| NAME | LESSOR (VENDOR) | LESSEE (STATE) |
| | North Central Rental & Leasing LLC | ND DEPARTMENT OF TRANSPORTATION |
| ADDRESS | 3401 33rd Street South | 608 E BOULEVARD AVENUE |
| CITY, STATE ZIP CODE | Fargo, ND 58104 | BISMARCK ND 58505-0700 |
| CONTACT | Lowell Malard | VANESSA BROSTEN |
| PHONE NO | 701-527-8892 | 701-328-4466 |

| | | | | |
|--|------|--|---|--|
| DATE April 21, 2016 | | RENTAL TERM | BEGINS ON May 1st 2016 | ENDS ON April 30th 2017 |
| DAY (8HRS.) WEEK (44HRS.) MONTH (176 HRS.) EXCESS HOURS BILLED AT * RENTAL RATES ARE BASED ON HOUR METER USAGE | | TRANSPORTATION CHARGES IF APPLICABLE MINIMUM RENTAL AMOUNT GUARANTEED BY LESSEE | METER READING OUT METER READING IN | |
| EQUIPMENT WILL BE USED AT | | | LESSEE WILL NOT REMOVE THE EQUIPMENT FROM THIS LOCATION WITHOUT NOTIFICATION. | |
| SERIAL NUMBER | MAKE | MODEL | DESCRIPTION | UNIT VALUE |
| SEE ATTACHED SPREADSHEET | | | Construction Equipment | |

| | | | | | |
|---------------------|--|----------|---------------------|-----|-------------------|
| BILL TO INFORMATION | | | | | |
| NAME | North Dakota Department of Transportation | | | | |
| ADDRESS | 605 Dakota Parkway West – PO Box 698 | | | | |
| CITY | Williston | STATE | ND | ZIP | 58802-0698 |
| CONTACT | Rick Sigvaldsen | PHONE NO | 701-774-2738 | | |

TERMS AND CONDITIONS

AGREEMENT:

Lessor, in consideration of the covenants, promises, and agreements on the part of the Lessee, hereinafter contained, hereby leases the equipment to Lessee in accordance with the terms of this agreement.

AMENDMENTS:

The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

TRANSPORTATION CHARGES:

Lessee shall pay to the Lessor transportation charges incurred by Lessor in delivering the equipment to Lessee, and shall pay all such

charges to return the equipment to Lessor upon termination of the lease. If applicable, transportation charges may be included in the rental rate.

OPERATION OF EQUIPMENT:

Lessee agrees that the equipment will be operated only by competent employees and will not be operated beyond the manufacturer's rated capacity nor improperly cared for or abused. The Lessee will pay for all costs of operation including regular maintenance and all repairs necessary due to improper use. Lessor shall supply all information necessary for Lessee to properly prepare operators and maintenance for their responsibilities. The equipment shall be returned to Lessor in as good condition as received, less reasonable wear and tear.

REPAIRS:

The expense of all major repairs made during the rental period, which shall be made by the Lessor's maintenance personnel, including labor, parts, mileage and other items will be paid by the Lessor unless required repairs are due to abuse or misuse of the equipment. The Lessee agrees to pay for repair of damaged tires or excessive wear. Cuts resulting in permanent damage to a tire will be subject to repair or replacement by Lessee if due to improper use or abuse. If the machine is down for more than 24 hours due to repairs, Lessor will issue credit of the prorated rental rate, or replace with a like or similar machine, if mutually agreed upon, or the agreement may be terminated and credited accordingly.

WARRANTY:

Lessor assigns to Lessee, for and during the term of this agreement, so long as Lessee shall not be in default, all manufacturer's warranties and guarantees, express or implied, issued on or applicable to the equipment.

ALTERATIONS AND MODIFICATIONS OF EQUIPMENT:

Lessee shall not make any additions, attachments, alterations or improvements to the equipment without the prior written consent of Lessor. Any addition, attachment, alteration or improvement of equipment shall belong to and become the property of Lessor unless, at the request of the Lessor, it is removed prior to the return of such item of equipment by Lessee. Lessee shall be responsible for all costs relating to such removal and shall restore such item of equipment to its operating condition that existed at the time it became subject to the applicable lease.

LIABILITY:

Lessee and Lessor each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

INSURANCE:

Insurance shall be secured and kept in force during the term of this agreement, from insurance companies or a government self-insurance pool authorized to do business in the state of North Dakota, to include the following coverage:

- 1) Lessee and Lessor shall provide commercial general liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Lessee shall provide property insurance insuring the full and true value of the equipment. Insurance policy shall name Lessee as insured and Lessor as an additional insured and loss payee thereof as Lessor's interest may appear. An Evidence of Property Insurance shall be provided to the Lessor by the Lessee.

The insurance coverage listed above shall meet the following additional requirements:

- 1) Any deductible or self insured retention amount or other similar obligation shall be the sole responsibility of the party purchasing the coverage.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A. M. Best Company Inc., provided any excess policy follows form for coverage. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which is in excess.
- 3) Either party may request a certificate of insurance evidencing the required coverage that is in effect and providing that the coverage may not be canceled or modified without thirty (30) days prior written notice to the other party.
- 4) Failure to provide insurance as required in this agreement is a material breach of contract.

TAXES:

The State does not pay sales tax or most federal taxes. The State's sales tax exemption number is E-2001. The federal tax free transaction number is 45-70-0010K. the federal employer identification number is 45-0309764..

INSPECTION:

Lessee agrees to permit Lessor or its representatives to inspect equipment leased hereunder at all reasonable times upon request of Lessor.

TERMINATION:

- a. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 day's notice, in writing or delivered by certified mail or in person.
- b. In addition, Lessee may terminate this agreement effective upon delivery of written notice to the Lessor, or at such later date as may be established by Lessee, under any of the following conditions:
 - 1) If Lessee funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The agreement may be modified unilaterally to accommodate a reduction in funds.
 - 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - 3) If any license or certificate required by law or regulation to be held by the Lessor to provide the services required by the agreement is for any reason denied or revoked.

Any such termination of this agreement under (1), (2), or(3), above, shall be without prejudice to any obligations of either party already accrued prior to such termination.

- c. Either party, by written notice, may terminate the whole or any part of this agreement:
 - 1) If either party fails to provide services called for by this agreement within the time specified herein or any extension thereof; or
 - 2) If either party fails to perform any other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from either party, fails to correct such failures within ten days or such longer period as either party may authorize.

LESSEE AGREES TO:

- 1 Notify Lessor of any change in agreed location.
- 2 Not sublease, rent or loan above equipment.
- 3 Not hold Lessor responsible for weather conditions, such as rain, snow, etc. No credit is expected because of these conditions.
- 4 Notify Lessor immediately of any mechanical failure, at which time a decision will be made who is responsible for repairs.
- 5 Pay a clean up charge for excessively dirty equipment.

PURCHASE ORDER:

A Purchase Order will not be issued as a result of this agreement. The executed agreement will bind the contractual obligation of the Lessee. Purchase Orders or Claim for Payments will be executed for payment of monthly invoices.

RENTAL PAYMENTS:

Lessee shall pay Lessor, upon invoice, rental payments. Payment for itemized additional charges is upon invoice. All rent and other amounts payable by Lessee to Lessor hereunder shall be paid to Lessor at the address specified above or at such other place as Lessor may designate in writing to Lessee.

LATE PAYMENTS:

Customary late charges on accounts not paid within thirty (30) days of invoice are allowable, not to exceed the maximum rate of interest permitted by law.

EXTENDED RENTAL PERIOD:

Lessee shall notify Lessor of extended rental needs. Lessee reserves the right to negotiate seasonal rates with the Lessor and may opt to extend the agreement upon mutual consent.

REQUEST FOR BID:

If a written request for bid for the equipment rental was solicited, any accompanying specific terms, conditions and specifications therein will become part of this agreement.

GOVERNING LAW AND VENUE:

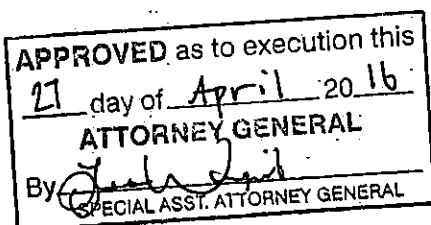
Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this agreement shall be governed by and construed in accordance with applicable Federal Law and the laws of the state of North Dakota, at the time the agreement was executed. All disputes arising from this agreement shall be brought in the South Central District Court of the state of North Dakota.

MERGER AND WAIVER:

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Lessor, by the signature below of its authorized representative, hereby acknowledges that the Lessor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

| | |
|---|----------------------|
| LESSOR (Vendor) TO BE SIGNED BY OWNER; PARTNER; CORPORATE PRESIDENT; VICE PRESIDENT, OR OTHER AUTHORIZED CORPORATE OFFICER OR BID MAY BE REJECTED. (IF SIGNED BY OTHER CORP. OFFICER, PLEASE ATTACH COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTATION SHOWING AUTHORITY TO SIGN.) | |
| NAME (TYPE OR PRINT): <i>Christopher Lee</i> | TITLE: <i>CFO</i> |
| SIGNATURE: <i>[Signature]</i> | DATE: <i>4-21-16</i> |

| | |
|--|--------------------------|
| LESSEE (Agency) | |
| APPROVED AS TO SUBSTANCE BY: <i>Brad Darr</i> | DATE: <i>4-27-16</i> |
| AGENCY DIRECTOR SIGNATURE: <i>for Grant Levi Darcy R. Rosendahl, Dep. Dir.</i> | DATE: <i>28 APR 2016</i> |



EQUIPMENT RENTAL AGREEMENT

North Dakota Department of Transportation
Financial Management Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

| | | |
|-------------------------|---|---------------------------------|
| NAME | LESSOR (VENDOR) | LESSEE (STATE) |
| | North Central Rental & Leasing LLC | ND DEPARTMENT OF TRANSPORTATION |
| ADDRESS | 3401 33rd Street South | 608 E BOULEVARD AVENUE |
| CITY, STATE ZIP CODE | Fargo, ND 58104 | BISMARCK ND 58505-0700 |
| CONTACT | Lowell Malard | VANESSA BROSTEN |
| PHONE NO | 701-527-8892 | 701-328-4466 |

| | | | | |
|--|------|--|---|---|
| DATE April 21, 2016 | | RENTAL TERM | BEGINS ON May 1st 2016 | ENDS ON April 30th 2017 |
| RENTAL RATES * | | TRANSPORTATION CHARGES IF APPLICABLE | | METER READING OUT |
| DAY (8HRS.) | \$ | | | |
| WEEK (44HRS.) | \$ | | | |
| MONTH (176 HRS.) | \$ | MINIMUM RENTAL AMOUNT GUARANTEED BY LESSEE | | METER READING IN |
| EXCESS HOURS BILLED AT | \$ | | | |
| * RENTAL RATES ARE BASED ON HOUR METER USAGE | | | | |
| EQUIPMENT WILL BE USED AT | | | | LESSEE WILL NOT REMOVE THE EQUIPMENT FROM THIS LOCATION WITHOUT NOTIFICATION. |
| SERIAL NUMBER | MAKE | MODEL | DESCRIPTION | UNIT VALUE |
| SEE ATTACHED SPREADSHEET | | | Construction Equipment | |

| | | | | | |
|---------------------|--|----------|---------------------|-----|-------------------|
| BILL TO INFORMATION | | | | | |
| NAME | North Dakota Department of Transportation | | | | |
| ADDRESS | 503 38th Street South | | | | |
| CITY | Fargo | STATE | ND | ZIP | 58103-1198 |
| CONTACT | Troy Gilbertson | PHONE NO | 701-239-8904 | | |

TERMS AND CONDITIONS

AGREEMENT:

Lessor, in consideration of the covenants, promises, and agreements on the part of the Lessee, hereinafter contained, hereby leases the equipment to Lessee in accordance with the terms of this agreement.

AMENDMENTS:

The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

TRANSPORTATION CHARGES:

Lessee shall pay to the Lessor transportation charges incurred by Lessor in delivering the equipment to Lessee, and shall pay all such

charges to return the equipment to Lessor upon termination of the lease. If applicable, transportation charges may be included in the rental rate.

OPERATION OF EQUIPMENT:

Lessee agrees that the equipment will be operated only by competent employees and will not be operated beyond the manufacturer's rated capacity nor improperly cared for or abused. The Lessee will pay for all costs of operation including regular maintenance and all repairs necessary due to improper use. Lessor shall supply all information necessary for Lessee to properly prepare operators and maintenance for their responsibilities. The equipment shall be returned to Lessor in as good condition as received, less reasonable wear and tear.

REPAIRS:

The expense of all major repairs made during the rental period, which shall be made by the Lessor's maintenance personnel, including labor, parts, mileage and other items will be paid by the Lessor unless required repairs are due to abuse or misuse of the equipment. The Lessee agrees to pay for repair of damaged tires or excessive wear. Cuts resulting in permanent damage to a tire will be subject to repair or replacement by Lessee if due to improper use or abuse. If the machine is down for more than 24 hours due to repairs, Lessor will issue credit of the prorated rental rate, or replace with a like or similar machine, if mutually agreed upon, or the agreement may be terminated and credited accordingly.

WARRANTY:

Lessor assigns to Lessee, for and during the term of this agreement, so long as Lessee shall not be in default, all manufacturer's warranties and guarantees, express or implied, issued on or applicable to the equipment.

ALTERATIONS AND MODIFICATIONS OF EQUIPMENT:

Lessee shall not make any additions, attachments, alterations or improvements to the equipment without the prior written consent of Lessor. Any addition, attachment, alteration or improvement of equipment shall belong to and become the property of Lessor unless, at the request of the Lessor, it is removed prior to the return of such item of equipment by Lessee. Lessee shall be responsible for all costs relating to such removal and shall restore such item of equipment to its operating condition that existed at the time it became subject to the applicable lease.

LIABILITY:

Lessee and Lessor each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

INSURANCE:

Insurance shall be secured and kept in force during the term of this agreement, from insurance companies or a government self-insurance pool authorized to do business in the state of North Dakota, to include the following coverage:

- 1) Lessee and Lessor shall provide commercial general liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Lessee shall provide property insurance insuring the full and true value of the equipment. Insurance policy shall name Lessee as insured and Lessor as an additional insured and loss payee thereof as Lessor's interest may appear. An Evidence of Property Insurance shall be provided to the Lessor by the Lessee.

The insurance coverage listed above shall meet the following additional requirements:

- 1) Any deductible or self insured retention amount or other similar obligation shall be the sole responsibility of the party purchasing the coverage.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A. M. Best Company Inc., provided any excess policy follows form for coverage. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which is in excess.
- 3) Either party may request a certificate of insurance evidencing the required coverage that is in effect and providing that the coverage may not be canceled or modified without thirty (30) days prior written notice to the other party.
- 4) Failure to provide insurance as required in this agreement is a material breach of contract.

TAXES:

The State does not pay sales tax or most federal taxes. The State's sales tax exemption number is E-2001. The federal tax free transaction number is 45-70-0010K. the federal employer identification number is 45-0309764..

INSPECTION:

Lessee agrees to permit Lessor or its representatives to inspect equipment leased hereunder at all reasonable times upon request of Lessor.

TERMINATION:

- a. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 day's notice, in writing or delivered by certified mail or in person.
- b. In addition, Lessee may terminate this agreement effective upon delivery of written notice to the Lessor, or at such later date as may be established by Lessee, under any of the following conditions:
 - 1) If Lessee funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The agreement may be modified unilaterally to accommodate a reduction in funds.
 - 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - 3) If any license or certificate required by law or regulation to be held by the Lessor to provide the services required by the agreement is for any reason denied or revoked.

Any such termination of this agreement under (1), (2), or (3), above, shall be without prejudice to any obligations of either party already accrued prior to such termination.

- c. Either party, by written notice, may terminate the whole or any part of this agreement:
 - 1) If either party fails to provide services called for by this agreement within the time specified herein or any extension thereof; or
 - 2) If either party fails to perform any other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from either party, fails to correct such failures within ten days or such longer period as either party may authorize.

LESSEE AGREES TO:

- 1 Notify Lessor of any change in agreed location.
- 2 Not sublease, rent or loan above equipment.
- 3 Not hold Lessor responsible for weather conditions, such as rain, snow, etc. No credit is expected because of these conditions.
- 4 Notify Lessor immediately of any mechanical failure, at which time a decision will be made who is responsible for repairs.
- 5 Pay a clean up charge for excessively dirty equipment.

PURCHASE ORDER:

A Purchase Order will not be issued as a result of this agreement. The executed agreement will bind the contractual obligation of the Lessee. Purchase Orders or Claim for Payments will be executed for payment of monthly invoices.

RENTAL PAYMENTS:

Lessee shall pay Lessor, upon invoice, rental payments. Payment for itemized additional charges is upon invoice. All rent and other amounts payable by Lessee to Lessor hereunder shall be paid to Lessor at the address specified above or at such other place as Lessor may designate in writing to Lessee.

LATE PAYMENTS:

Customary late charges on accounts not paid within thirty (30) days of invoice are allowable, not to exceed the maximum rate of interest permitted by law.

EXTENDED RENTAL PERIOD:

Lessee shall notify Lessor of extended rental needs. Lessee reserves the right to negotiate seasonal rates with the Lessor and may opt to extend the agreement upon mutual consent.

REQUEST FOR BID:

If a written request for bid for the equipment rental was solicited, any accompanying specific terms, conditions and specifications therein will become part of this agreement.

GOVERNING LAW AND VENUE:

Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this agreement shall be governed by and construed in accordance with applicable Federal Law and the laws of the state of North Dakota, at the time the agreement was executed. All disputes arising from this agreement shall be brought in the South Central District Court of the state of North Dakota.

MERGER AND WAIVER:

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Lessor, by the signature below of its authorized representative, hereby acknowledges that the Lessor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

| | |
|---|----------------------|
| LESSOR (Vendor) TO BE SIGNED BY OWNER; PARTNER; CORPORATE PRESIDENT; VICE PRESIDENT, OR OTHER AUTHORIZED CORPORATE OFFICER OR BID MAY BE REJECTED. (IF SIGNED BY OTHER CORP. OFFICER, PLEASE ATTACH COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTATION SHOWING AUTHORITY TO SIGN.) | |
| NAME (TYPE OR PRINT): <i>Christopher Lee</i> | TITLE: <i>CFO</i> |
| SIGNATURE: <i>[Signature]</i> | DATE: <i>4-21-16</i> |

| | |
|---|--------------------------|
| LESSEE (Agency) | |
| APPROVED AS TO SUBSTANCE BY: <i>Brad Jan</i> | DATE: <i>4-27-16</i> |
| AGENCY DIRECTOR SIGNATURE: <i>for Grant Levi</i> <i>Darcy R. Rosendahl, Dep. Dir.</i> | DATE: <i>28 APR 2016</i> |

APPROVED as to execution this
27 day of April 2016
ATTORNEY GENERAL
By *[Signature]*
SPECIAL ASST. ATTORNEY GENERAL

EQUIPMENT RENTAL AGREEMENT

North Dakota Department of Transportation
Financial Management Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

| | | |
|-------------------------|---|---------------------------------|
| NAME | LESSOR (VENDOR) | LESSEE (STATE) |
| | North Central Rental & Leasing LLC | ND DEPARTMENT OF TRANSPORTATION |
| ADDRESS | 3401 33rd Street South | 608 E BOULEVARD AVENUE |
| CITY, STATE ZIP CODE | Fargo, ND 58104 | BISMARCK ND 58505-0700 |
| CONTACT | Lowell Malard | VANESSA BROSTEN |
| PHONE NO | 701-527-8892 | 701-328-4466 |

| | | | | |
|--|------|--|--|---|
| DATE April 21, 2016 | | RENTAL TERM | BEGINS ON May 1st 2016 | ENDS ON April 30th 2017 |
| DAY (8HRS.) WEEK (44HRS.) MONTH (176 HRS.) EXCESS HOURS BILLED AT * RENTAL RATES ARE BASED ON HOUR METER USAGE | | RENTAL RATES * \$ \$ \$ \$ | TRANSPORTATION CHARGES IF APPLICABLE MINIMUM RENTAL AMOUNT GUARANTEED BY LESSEE | METER READING OUT METER READING IN |
| EQUIPMENT WILL BE USED AT | | | | LESSEE WILL NOT REMOVE THE EQUIPMENT FROM THIS LOCATION WITHOUT NOTIFICATION. |
| SERIAL NUMBER | MAKE | MODEL | DESCRIPTION | UNIT VALUE |
| SEE ATTACHED SPREADSHEET | | | Construction Equipment | |

| | | | | | |
|---------------------|--|----------|---------------------|-----|--------------|
| BILL TO INFORMATION | | | | | |
| NAME | North Dakota Department of Transportation | | | | |
| ADDRESS | 1524 8th Avenue SE | | | | |
| CITY | Valley City | STATE | ND | ZIP | 58072 |
| CONTACT | Kathy Beach | PHONE NO | 701-845-8815 | | |

TERMS AND CONDITIONS

AGREEMENT:

Lessor, in consideration of the covenants, promises, and agreements on the part of the Lessee, hereinafter contained, hereby leases the equipment to Lessee in accordance with the terms of this agreement.

AMENDMENTS:

The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

TRANSPORTATION CHARGES:

Lessee shall pay to the Lessor transportation charges incurred by Lessor in delivering the equipment to Lessee, and shall pay all such

charges to return the equipment to Lessor upon termination of the lease. If applicable, transportation charges may be included in the rental rate.

OPERATION OF EQUIPMENT:

Lessee agrees that the equipment will be operated only by competent employees and will not be operated beyond the manufacturer's rated capacity nor improperly cared for or abused. The Lessee will pay for all costs of operation including regular maintenance and all repairs necessary due to improper use. Lessor shall supply all information necessary for Lessee to properly prepare operators and maintenance for their responsibilities. The equipment shall be returned to Lessor in as good condition as received, less reasonable wear and tear.

REPAIRS:

The expense of all major repairs made during the rental period, which shall be made by the Lessor's maintenance personnel, including labor, parts, mileage and other items will be paid by the Lessor unless required repairs are due to abuse or misuse of the equipment. The Lessee agrees to pay for repair of damaged tires or excessive wear. Cuts resulting in permanent damage to a tire will be subject to repair or replacement by Lessee if due to improper use or abuse. If the machine is down for more than 24 hours due to repairs, Lessor will issue credit of the prorated rental rate, or replace with a like or similar machine, if mutually agreed upon, or the agreement may be terminated and credited accordingly.

WARRANTY:

Lessor assigns to Lessee, for and during the term of this agreement, so long as Lessee shall not be in default, all manufacturer's warranties and guarantees, express or implied, issued on or applicable to the equipment.

ALTERATIONS AND MODIFICATIONS OF EQUIPMENT:

Lessee shall not make any additions, attachments, alterations or improvements to the equipment without the prior written consent of Lessor. Any addition, attachment, alteration or improvement of equipment shall belong to and become the property of Lessor unless, at the request of the Lessor, it is removed prior to the return of such item of equipment by Lessee. Lessee shall be responsible for all costs relating to such removal and shall restore such item of equipment to its operating condition that existed at the time it became subject to the applicable lease.

LIABILITY:

Lessee and Lessor each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

INSURANCE:

Insurance shall be secured and kept in force during the term of this agreement, from insurance companies or a government self-insurance pool authorized to do business in the state of North Dakota, to include the following coverage:

- 1) Lessee and Lessor shall provide commercial general liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Lessee shall provide property insurance insuring the full and true value of the equipment. Insurance policy shall name Lessee as insured and Lessor as an additional insured and loss payee thereof as Lessor's interest may appear. An Evidence of Property Insurance shall be provided to the Lessor by the Lessee.

The insurance coverage listed above shall meet the following additional requirements:

- 1) Any deductible or self insured retention amount or other similar obligation shall be the sole responsibility of the party purchasing the coverage.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A. M. Best Company Inc., provided any excess policy follows form for coverage. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which is in excess.
- 3) Either party may request a certificate of insurance evidencing the required coverage that is in effect and providing that the coverage may not be canceled or modified without thirty (30) days prior written notice to the other party.
- 4) Failure to provide insurance as required in this agreement is a material breach of contract.

TAXES:

The State does not pay sales tax or most federal taxes. The State's sales tax exemption number is E-2001. The federal tax free transaction number is 45-70-0010K. the federal employer identification number is 45-0309764..

INSPECTION:

Lessee agrees to permit Lessor or its representatives to inspect equipment leased hereunder at all reasonable times upon request of Lessor.

TERMINATION:

- a. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 day's notice, in writing or delivered by certified mail or in person.
- b. In addition, Lessee may terminate this agreement effective upon delivery of written notice to the Lessor, or at such later date as may be established by Lessee, under any of the following conditions:
 - 1) If Lessee funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The agreement may be modified unilaterally to accommodate a reduction in funds.
 - 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - 3) If any license or certificate required by law or regulation to be held by the Lessor to provide the services required by the agreement is for any reason denied or revoked.

Any such termination of this agreement under (1), (2), or(3), above, shall be without prejudice to any obligations of either party already accrued prior to such termination.

- c. Either party, by written notice, may terminate the whole or any part of this agreement:
 - 1) If either party fails to provide services called for by this agreement within the time specified herein or any extension thereof; or
 - 2) If either party fails to perform any other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from either party, fails to correct such failures within ten days or such longer period as either party may authorize.

LESSEE AGREES TO:

1. Notify Lessor of any change in agreed location.
2. Not sublease, rent or loan above equipment.
3. Not hold Lessor responsible for weather conditions, such as rain, snow, etc. No credit is expected because of these conditions.
4. Notify Lessor immediately of any mechanical failure, at which time a decision will be made who is responsible for repairs.
5. Pay a clean up charge for excessively dirty equipment.

PURCHASE ORDER:

A Purchase Order will not be issued as a result of this agreement. The executed agreement will bind the contractual obligation of the Lessee. Purchase Orders or Claim for Payments will be executed for payment of monthly invoices.

RENTAL PAYMENTS:

Lessee shall pay Lessor, upon invoice, rental payments. Payment for itemized additional charges is upon invoice. All rent and other amounts payable by Lessee to Lessor hereunder shall be paid to Lessor at the address specified above or at such other place as Lessor may designate in writing to Lessee.

LATE PAYMENTS:

Customary late charges on accounts not paid within thirty (30) days of invoice are allowable, not to exceed the maximum rate of interest permitted by law.

EXTENDED RENTAL PERIOD:

Lessee shall notify Lessor of extended rental needs. Lessee reserves the right to negotiate seasonal rates with the Lessor and may opt to extend the agreement upon mutual consent.

REQUEST FOR BID:

If a written request for bid for the equipment rental was solicited, any accompanying specific terms, conditions and specifications therein will become part of this agreement.

GOVERNING LAW AND VENUE:

Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this agreement shall be governed by and construed in accordance with applicable Federal Law and the laws of the state of North Dakota, at the time the agreement was executed. All disputes arising from this agreement shall be brought in the South Central District Court of the state of North Dakota.

MERGER AND WAIVER:

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Lessor, by the signature below of its authorized representative, hereby acknowledges that the Lessor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

| | |
|--|----------------------|
| LESSOR (Vendor) TO BE SIGNED BY OWNER; PARTNER; CORPORATE PRESIDENT; VICE PRESIDENT, OR OTHER AUTHORIZED CORPORATE OFFICER OR BID MAY BE REJECTED. (IF SIGNED BY OTHER CORP. OFFICER, PLEASE ATTACH COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTATION SHOWING AUTHORITY TO SIGN.) | |
| NAME (TYPE OR PRINT): <i>Christopher Lee</i> | TITLE: <i>CFO</i> |
| SIGNATURE: <i>[Signature]</i> | DATE: <i>4-21-16</i> |

| | |
|--|--------------------------|
| LESSEE (Agency) | |
| APPROVED AS TO SUBSTANCE BY: <i>Brad Jan</i> | DATE: <i>4-27-16</i> |
| AGENCY DIRECTOR SIGNATURE: <i>for Grant Levi</i> <i>Darcy R. Roseendahl, Dep. Dir.</i> | DATE: <i>28 APR 2016</i> |

| |
|---|
| APPROVED as to execution this <i>27</i> day of <i>April</i> 20 <i>16</i> ATTORNEY GENERAL By: <i>[Signature]</i> SPECIAL ASST. ATTORNEY GENERAL |
|---|

EQUIPMENT RENTAL AGREEMENT

North Dakota Department of Transportation
Financial Management Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

| | | |
|-------------------------|---|---------------------------------|
| NAME | LESSOR (VENDOR) | LESSEE (STATE) |
| | North Central Rental & Leasing LLC | ND DEPARTMENT OF TRANSPORTATION |
| ADDRESS | 3401 33rd Street South | 608 E BOULEVARD AVENUE |
| CITY, STATE ZIP CODE | Fargo, ND 58104 | BISMARCK ND 58505-0700 |
| CONTACT | Lowell Malard | VANESSA BROSTEN |
| PHONE NO | 701-527-8892 | 701-328-4466 |

| | | | | | | |
|--|------|-------|--|---|--|---|
| DATE April 21, 2016 | | | RENTAL TERM | BEGINS ON May 1st 2016 | ENDS ON April 30th 2017 | |
| DAY (8HRS.) WEEK (44HRS.) MONTH (176 HRS.) EXCESS HOURS BILLED AT * RENTAL RATES ARE BASED ON HOUR METER USAGE | | | TRANSPORTATION CHARGES IF APPLICABLE MINIMUM RENTAL AMOUNT GUARANTEED BY LESSEE | | METER READING OUT METER READING IN | |
| EQUIPMENT WILL BE USED AT | | | | | | LESSEE WILL NOT REMOVE THE EQUIPMENT FROM THIS LOCATION WITHOUT NOTIFICATION. |
| SERIAL NUMBER | MAKE | MODEL | DESCRIPTION | | | UNIT VALUE |
| SEE ATTACHED SPREADSHEET | | | Construction Equipment | | | |

| | | | | | |
|---------------------|--|----------|---------------------|-----|--------------|
| BILL TO INFORMATION | | | | | |
| NAME | North Dakota Department of Transportation | | | | |
| ADDRESS | 218 South Airport Road | | | | |
| CITY | Bismarck | STATE | ND | ZIP | 58504 |
| CONTACT | Gary Feist | PHONE NO | 701-328-6952 | | |

TERMS AND CONDITIONS

AGREEMENT:

Lessor, in consideration of the covenants, promises, and agreements on the part of the Lessee, hereinafter contained, hereby leases the equipment to Lessee in accordance with the terms of this agreement.

AMENDMENTS:

The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

TRANSPORTATION CHARGES:

Lessee shall pay to the Lessor transportation charges incurred by Lessor in delivering the equipment to Lessee, and shall pay all such charges to return the equipment to Lessor upon termination of the lease. If applicable, transportation charges may be included in the rental rate.

OPERATION OF EQUIPMENT:

Lessee agrees that the equipment will be operated only by competent employees and will not be operated beyond the manufacturer's rated capacity nor improperly cared for or abused. The Lessee will pay for all costs of operation including regular maintenance and all repairs necessary due to improper use. Lessor shall supply all information necessary for Lessee to properly prepare operators and maintenance for their responsibilities. The equipment shall be returned to Lessor in as good condition as received, less reasonable wear and tear.

REPAIRS:

The expense of all major repairs made during the rental period, which shall be made by the Lessor's maintenance personnel, including labor, parts, mileage and other items will be paid by the Lessor unless required repairs are due to abuse or misuse of the equipment. The Lessee agrees to pay for repair of damaged tires or excessive wear. Cuts resulting in permanent damage to a tire will be subject to repair or replacement by Lessee if due to improper use or abuse. If the machine is down for more than 24 hours due to repairs, Lessor will issue credit of the prorated rental rate, or replace with a like or similar machine, if mutually agreed upon, or the agreement may be terminated and credited accordingly.

WARRANTY:

Lessor assigns to Lessee, for and during the term of this agreement, so long as Lessee shall not be in default, all manufacturer's warranties and guarantees, express or implied, issued on or applicable to the equipment.

ALTERATIONS AND MODIFICATIONS OF EQUIPMENT:

Lessee shall not make any additions, attachments, alterations or improvements to the equipment without the prior written consent of Lessor. Any addition, attachment, alteration or improvement of equipment shall belong to and become the property of Lessor unless, at the request of the Lessor, it is removed prior to the return of such item of equipment by Lessee. Lessee shall be responsible for all costs relating to such removal and shall restore such item of equipment to its operating condition that existed at the time it became subject to the applicable lease.

LIABILITY:

Lessee and Lessor each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

INSURANCE:

Insurance shall be secured and kept in force during the term of this agreement, from insurance companies or a government self-insurance pool authorized to do business in the state of North Dakota, to include the following coverage:

- 1) Lessee and Lessor shall provide commercial general liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Lessee shall provide property insurance insuring the full and true value of the equipment. Insurance policy shall name Lessee as insured and Lessor as an additional insured and loss payee thereof as Lessor's interest may appear. An Evidence of Property Insurance shall be provided to the Lessor by the Lessee.

The insurance coverage listed above shall meet the following additional requirements:

- 1) Any deductible or self insured retention amount or other similar obligation shall be the sole responsibility of the party purchasing the coverage.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A" or better by A. M. Best Company Inc., provided any excess policy follows form for coverage. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which is in excess.
- 3) Either party may request a certificate of insurance evidencing the required coverage that is in effect and providing that the coverage may not be canceled or modified without thirty (30) days prior written notice to the other party.
- 4) Failure to provide insurance as required in this agreement is a material breach of contract.

TAXES:

The State does not pay sales tax or most federal taxes. The State's sales tax exemption number is E-2001. The federal tax free transaction number is 45-70-0010K. the federal employer identification number is 45-0309764..

INSPECTION:

Lessee agrees to permit Lessor or its representatives to inspect equipment leased hereunder at all reasonable times upon request of Lessor.

TERMINATION:

- a. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 day's notice, in writing or delivered by certified mail or in person.
- b. In addition, Lessee may terminate this agreement effective upon delivery of written notice to the Lessor, or at such later date as may be established by Lessee, under any of the following conditions:
 - 1) If Lessee funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The agreement may be modified unilaterally to accommodate a reduction in funds.
 - 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
 - 3) If any license or certificate required by law or regulation to be held by the Lessor to provide the services required by the agreement is for any reason denied or revoked.

Any such termination of this agreement under (1), (2), or(3), above, shall be without prejudice to any obligations of either party already accrued prior to such termination.

- c. Either party, by written notice, may terminate the whole or any part of this agreement:
 - 1) If either party fails to provide services called for by this agreement within the time specified herein or any extension thereof; or
 - 2) If either party fails to perform any other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from either party, fails to correct such failures within ten days or such longer period as either party may authorize.

LESSEE AGREES TO:

- 1 Notify Lessor of any change in agreed location.
- 2 Not sublease, rent or loan above equipment.
- 3 Not hold Lessor responsible for weather conditions, such as rain, snow, etc. No credit is expected because of these conditions.
- 4 Notify Lessor immediately of any mechanical failure, at which time a decision will be made who is responsible for repairs.
- 5 Pay a clean up charge for excessively dirty equipment.

PURCHASE ORDER:

A Purchase Order will not be issued as a result of this agreement. The executed agreement will bind the contractual obligation of the Lessee. Purchase Orders or Claim for Payments will be executed for payment of monthly invoices.

RENTAL PAYMENTS:

Lessee shall pay Lessor, upon invoice, rental payments. Payment for itemized additional charges is upon invoice. All rent and other amounts payable by Lessee to Lessor hereunder shall be paid to Lessor at the address specified above or at such other place as Lessor may designate in writing to Lessee.

LATE PAYMENTS:

Customary late charges on accounts not paid within thirty (30) days of invoice are allowable, not to exceed the maximum rate of interest permitted by law.

EXTENDED RENTAL PERIOD:

Lessee shall notify Lessor of extended rental needs. Lessee reserves the right to negotiate seasonal rates with the Lessor and may opt to extend the agreement upon mutual consent.

REQUEST FOR BID:

If a written request for bid for the equipment rental was solicited, any accompanying specific terms, conditions and specifications therein will become part of this agreement.

GOVERNING LAW AND VENUE:

Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this agreement shall be governed by and construed in accordance with applicable Federal Law and the laws of the state of North Dakota, at the time the agreement was executed. All disputes arising from this agreement shall be brought in the South Central District Court of the state of North Dakota.

MERGER AND WAIVER:

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Lessor, by the signature below of its authorized representative, hereby acknowledges that the Lessor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

| | |
|---|----------------------|
| LESSOR (Vendor) TO BE SIGNED BY OWNER; PARTNER; CORPORATE PRESIDENT; VICE PRESIDENT, OR OTHER AUTHORIZED CORPORATE OFFICER OR BID MAY BE REJECTED. (IF SIGNED BY OTHER CORP. OFFICER, PLEASE ATTACH COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTATION SHOWING AUTHORITY TO SIGN.) | |
| NAME (TYPE OR PRINT): <i>Christopher Lee</i> | TITLE: <i>CFO</i> |
| SIGNATURE: <i>[Signature]</i> | DATE: <i>4-21-16</i> |

| | |
|---|--------------------------|
| LESSEE (Agency) | |
| APPROVED AS TO SUBSTANCE BY: <i>Brian Dan</i> | DATE: <i>4-27-16</i> |
| AGENCY DIRECTOR SIGNATURE: <i>Grant Levi</i> <i>Darcy R. Rosendahl, Dep. Dir.</i> | DATE: <i>28 APR 2016</i> |

| |
|---|
| APPROVED as to execution this <i>27</i> day of <i>April</i> 20 <i>16</i> ATTORNEY GENERAL By <i>[Signature]</i> SPECIAL ASST. ATTORNEY GENERAL |
|---|