TIRE AGREEMENT INSTRUCTIONS

The tire agreements are the result of non-competitive negotiations and are optional use agreements. This agreement is only valid for "over the counter" sales of tires and some related dealer services.

Orders must be placed with participating dealers identified by the Contractor. Single purchases are limited to the single quote threshold of $5000. All payments must be made directly to the selling dealer with the buyer's purchase card at the point of sale; however, localities may make payment with a purchase card or any other means which is mutually agreeable between the locality and selling dealer. The Wright Express and Voyager Card are not accepted. These purchases must not be processed in eVA.

Very large tires priced over $5000 must be purchased using normal competitive procedures.

Procedure to purchase a tire pursuant to these tire agreements:

a. Identify the tire needed.

b. Review the manufacturer's price list to determine the price of the tire.

c. Use the manufacturer's dealer list to locate a dealer.

d. Purchase the tire as an "over the counter" sale using a purchase card or as directed above for localities.

e. Goodyear Tire dealers are listed as either "retail" or "commercial". Commercial dealers focus their sales on larger tires such as truck tires and retail dealers focus their sales on smaller vehicles tires such as passenger cars.

Delivery to your location is not part of this Purchase Agreement. If the tire is not in stock, you may have the dealer order it or go to another dealer on the dealer list.

Contractor contact information:

The Goodyear Tire & Rubber Company
200 Innovation Way D/709
Akron, OH 44316-0001
Jeff Goodenow
330-796-4352
Fax: 330-796-3404
jsgoodenow@goodyear.com

COMMONWEALTH OF VIRGINIA

VOLUME DISCOUNT SALES PURCHASE AGREEMENT

Agreement No: E194-1430PA

This agreement entered into July 1, 2013 by **The Goodyear Tire & Rubber Company**, *hereinafter* called the "Contractor", and the Commonwealth of Virginia, Department of General Services, Division of Purchases and Supply, called the "Purchasing Agency".

Witnesseth that the Contractor and the Purchasing Agency, in consideration of mutual covenants, promises and agreements herein contained, agree as follows:

Scope of Agreement: The Contractor shall provide tires to the Agencies of the Commonwealth of Virginia, or other public bodies as set forth in the Purchase Agreement documents.

PERIOD OF PERFORMANCE: September 1, 2013 through August 31, 2014

The agreement documents shall consist of:

(1) This signed form;

(2) The attached terms and conditions; and,

(3) The attached Goodyear Tire & Rubber Company Price List.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound.

CONTRACTOR:

By: Maylon Carroll

Print Name: Maylon Carroll

Title: General Manager - Govt Sales

Company Name: The Goodyear Tire & Rubber Company

Date: July 8, 2013

PURCHASING AGENCY:

By: Katherine A Bosdell

Print Name: Katherine Bosdell, CPPB, VCO

Title: Statewide Contract Officer

COVA Division: DGS/DPS

Date: 7/18/13

I. PURCHASING AGREEMENT

Program Outline: The Purchasing Agreement, hereinafter referred to as "PA", is established on a non-competitive voluntary basis with The Goodyear Tire & Rubber Company. The purpose of the PA is to ensure that all agencies and public bodies of the Commonwealth are afforded the opportunity to avail themselves of a uniform Vendor discount when purchasing small dollar goods less than $5,000 per transaction from The Goodyear Tire & Rubber Company. This is a non-mandatory program and purchasing agencies are under no obligation to purchase from this agreement.

II. GENERAL TERMS AND CONDITIONS

A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this Purchase Agreement in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under "Vendors Manual" on the vendors tab.

B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting Purchase Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the Purchase Agreement or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

C. **ANTI-DISCRIMINATION:** By submitting their signed Purchase Agreement, the Contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Purchase Agreement on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that Purchase Agreement with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every Purchase Agreement over $10,000 the provisions in 1. and 2. below apply:

1. During the performance of this Purchase Agreement, the contractor agrees as follows:

    a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or

any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2. The contractor will include the provisions of 1. above in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

D. **ETHICS IN PUBLIC CONTRACTING:** By submitting their signed Purchase Agreement, the Contractor certifies that the Agreement is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Contactor, supplier, manufacturer or subcontractor in connection with their Purchase Agreement, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into a written Purchase Agreement with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the Purchase Agreement for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

F. **DEBARMENT STATUS:** By submitting their signed Purchase Agreement, the Contractor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

G. **PRECEDENCE OF TERMS:** The following General Terms and Conditions *VENDORS MANUAL,* APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

H. **ASSIGNMENT OF PURCHASE AGREEMENT:** A Purchase Agreement shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

I. **CHANGES TO THE PURCHASE AGREEMENT:** Changes can be made to the Purchase Agreement in any of the following ways:

1. The parties may agree in writing to modify the scope of the Purchase Agreement. An increase or decrease in the price of the Purchase Agreement resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Purchase Agreement.

2. The Purchasing Agency may order changes within the general scope of the Purchase Agreement at any time by written notice to the contractor. Changes within the scope of the Purchase Agreement include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

   a. By mutual agreement between the parties in writing; or

   b. By agreeing upon a unit price or using a unit price set forth in the Purchase Agreement, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or

   c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the Purchase Agreement. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the Purchase Agreement price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this Purchase Agreement or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this Purchase Agreement shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the Purchase Agreement generally.

J. **TAXES:** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this Purchase Agreement shall usually be free of Federal excise and

transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

K. **DRUG-FREE WORKPLACE:** During the performance of this Purchase Agreement, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific Purchase Agreement awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Purchase Agreement.

L. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this Purchase Agreement because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific Purchase Agreement is not in its best interest. If the award of this Purchase Agreement is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Purchase Agreement objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

M. **BID PRICE CURRENCY:** Unless stated otherwise in the solicitation, the contractor shall state prices in US dollars.

N. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a Purchase Agreement with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Purchase Agreement. A public body may void any Purchase Agreement with a

business entity if the business entity fails to remain in compliance with the provisions of this section.

III. SPECIAL TERMS AND CONDITIONS

A. **AUTHORIZED USERS**: Unless otherwise instructed by the Division of Purchases and Supply, all departments, institutions, agencies and other public bodies of the Commonwealth of Virginia, to include cities, counties, towns and political subdivisions, may order tires under this agreement.

B. **EXCISE TAX**: Excise tax exemption registration No. 54-73-0076K may be used when required.

C. **INSPECTION/APPROVAL**: Inspection on delivery and approval of Contractor's invoice is the responsibility of receiving state agency or public body.

D. **ORDERS**: This agreement is only valid for "over the counter" sales of tires and services as offered by the Contractor. Orders will only be placed with participating dealers identified by the Contractor. All payments will be made directly to the selling dealer with the buyer's purchase card. Localities may make payment with their purchase card or any other means, which is mutually agreeable between the locality and selling dealer.

E. **MINIMUM ORDERS:** There is no minimum order under this agreement.

F. **DELIVERY:** Delivery is to be made from the dealer's inventory. If a tire is not in stock at the dealer the purchasing agency at their discretion may request that the selling dealer order the tires for pickup at a mutually agreeable future date.

G. **PRICES:** All prices provided by the Contractor shall be F.O.B. selling dealer.

H. **POSTING OF PRICES AND DEALER INFORMATION**: The Contractor gives permission for the Division of Purchases and Supply to post this agreement, pricing data, dealership information and any other information necessary to facilitate the use of this agreement by the authorized users of this agreement on the Division's web site.

I. **PRICE ESCALATION/DE-ESCALATION**: Due to uncertain market conditions, the Commonwealth and the Contractor may negotiate mutually agreeable price changes to this agreement.

J. **CANCELLATION**: This agreement may be cancelled by either party with thirty 30 days written notice to the other party.

K. **VOLUME REPORTS**: The Contractor shall provide annual sales volume reports in Microsoft Excel format. The report should contain, at a minimum the following data and other information as may be requested by the Commonwealth: Product Number, Tire Description, Sale Price, Sale date, Invoice Number, Invoice Date, Number of Tires Sold by Product Number and the Name of the purchasing Commonwealth state agency or other public body.

L. **MANDATORY ACCEPTANCE OF SMALL PURCHASE CHARGE CARD:**
Purchasing charge cards offer State agencies and Institutions the opportunity to streamline their procedures for procuring and paying for small dollar goods and services. Dealers providing goods and services under this purchasing agreement should note that acceptance of payment by purchase card is mandatory (unless waived by DPS) within 90 days of contract award.

Vendors must establish their card account at Level 2, which is mandatory or Level 3, which is optional. Information on the various levels for the Bank of America (BOA) Visa Purchasing Card is indicated below.

Charge Card Levels:
The amount of data passed for each charge card payment depends on the level at which the charge card is established. The levels are delineated below and the preferred level by the Commonwealth is level 2.

Level 1 vendors provide basic credit card purchase information, including but not limited to the data listed below. By passing "Basic Data", the vendor has a standard interchange cost.

- Supplier Name
- Merchant Category Code
- Date
- Total Purchase Amount

Level 2 vendors provide additional information to the Level 1 elements, including, but not limited to the data listed below. By passing level 2 detail, the vendor will receive lower interchange costs. **Level 2 is mandatory for any vendors who do business with the Commonwealth of Virginia and accept Bank of America (BOA) Visa Purchasing Card.**

- Customer Code (PCO Number from eVA)
- Vendor Tax ID

Level 3 vendors provide line item detail, in addition to the Level 1 and Level 2 elements, including, but not limited to the data listed below. By passing Level 3 (which is optional) data which is considered Superior data, the vendor will receive the lowest interchange costs.

- Item Description
- Item Quantity
- Item Unit of Measure
- Product Code
- Freight Amount
- Extended line Item Amount

M. **FINANCIAL WARRANTY:** Contractor shall ensure that the prices, discounts, incentives, and other financial terms (collectively, the "financial deal") applicable to purchases under this Contract is always at least as favorable to the purchaser as the financial deal that the Contractor or its affiliates make available to any public body in Virginia for the same good(s)/service(s) outside this Contract. Throughout the term of this Contract, if Contractor (or any affiliate) makes a better financial deal available to a public body in Virginia for any

good(s)/service(s) available under this Contract, Contractor shall immediately notify DGS of the details and, at DGS's option, sign an amendment to this Contract, so that an equivalent financial deal for the affected good(s)/service(s) is also available as an option under this Contract. Contractor may request exemption if the better financial deal was for a spot purchase, and DGS shall grant such request if DGS in good faith finds that the spot purchase involved special circumstances affecting cost that would make it unfair to apply an equivalent financial deal outside of that spot purchase. Upon DGS's request (and annually on August 1), Contractor shall submit to DGS an affidavit certifying full compliance with this Section. The Contractor (and any affiliate) shall waive any contractual or other right that inhibits any public body in Virginia from disclosing to DGS or others the financial terms made available to the public body, and upon request from DGS, Contractor shall ensure that a signed confirmation of the waiver is provided to the public body and DGS. As used in this Section, an affiliate is any entity that controls, is controlled by, or is under common control with, the Contractor.