

CONSENT AGREEMENT

This **Consent Agreement** is by and between **Central Transport International, Inc. ("CTI, Inc.")** and the **State of Ohio, Department of Commerce, Division of the State Fire Marshal Bureau of Underground Storage Tank Regulations ("BUSTR")**.

WHEREAS, the State Fire Marshal is charged with the responsibility of administering, implementing, and enforcing Chapter 3737.87, *et seq.* of the Ohio Revised Code ("ORC") and the regulations promulgated thereunder.

WHEREAS, CTI, Inc. is a corporation organized under the laws of Michigan that conducts business in the State of Ohio with its principal place of business located at 12225 Stephens Road, Warren, Michigan 48089.

WHEREAS, CTI, Inc. is an "owner", as that term is defined in ORC 3737.87(H) and "operator", as that term is defined in ORC 3737.87(G) of one 10,000 gallon underground storage tank ("the UST") system that contained diesel fuel at its truck terminal located at 4407 Payne Avenue, Dayton, Ohio ("the Site").

WHEREAS, ORC 3737.882(C)(1) provides that no person shall violate or fail to comply with a rule adopted under division (A) of section 3737.88 of the Revised Code.

WHEREAS, Ohio Administrative Code ("OAC") 1301:7-9-12 mandates that certain actions be taken when operating UST systems are taken out of service.

WHEREAS, the UST has been out of service for more than twelve months.

WHEREAS, on or about March 6, 2002, an authorized representative of BUSTR conducted an inspection of the Site to determine compliance with ORC 3737.87 *et seq.* and the regulations promulgated thereunder, and noted violations of OAC 1301:7-9-12 at the Site.

WHEREAS, CTI, Inc. acted in violation of ORC 3737.882(C) and OAC 1301:7-9-12(D)(2)(e) when it temporarily closed the UST at the Site without obtaining a permit from the State Fire Marshal's BUSTR.

WHEREAS, CTI, Inc. acted in violation of ORC 3737.882(C) and OAC 1301:7-9-12(G)(1) when it failed to leave the vent lines open and functioning, failed to secure all lines, pumps, manways and ancillary equipment, and failed to empty the UST while it remained temporarily closed.

WHEREAS, CTI, Inc. acted in violation of ORC 3737.882(C) and OAC 1301:7-9-12(G)(2) when it failed to permanently remove the UST that had been out of service for more than twelve months.

WHEREAS, the UST meets the upgrade requirements as set forth in OAC 1301:7-9-06- (C).

WHEREAS, CTI, Inc. has represented that it intends to place the UST back into service no later than December 10, 2003.

WHEREAS, the State Fire Marshal desires to satisfy the existing claims against CTI, Inc. only insofar as such claims relate to CTI, Inc.'s failure to comply with the temporary closure requirements of OAC 1301:7-9-12 as specifically set forth in this Consent Agreement.

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

1. CTI, Inc. shall obtain a permit for the temporary closure of the UST at the Site from the State Fire Marshal's BUSTR in accordance with OAC 1301:7-9-12(D) within fifteen (15) days of the date this Consent Agreement is signed by the State Fire Marshal.

2. CTI, Inc. shall perform a closure assessment of the UST in accordance with the requirements of OAC 1301:7-9-12 (K)(4) through (K)(6) and submit a written closure report to BUSTR in accordance with the requirements of OAC 1301:7-9-12(L) within forty five (45) days of the date this Consent Agreement is signed by the State Fire Marshal.

3. CTI, Inc. shall place the UST at the Site back into service or shall permanently remove the UST in accordance with all requirements of OAC 1301:7-9-12 no later than **December 10, 2003**. In the event the UST is placed into production prior to December 11, 2003, CTI, Inc. shall conduct a tightness test of the entire UST system prior to placing it back into service.

4. CTI, Inc. shall pay to BUSTR One Thousand One Hundred Twenty Five Dollars (\$1,125.00) by delivering a certified check for that amount, payable to the order of "Treasurer, State of Ohio -- BUSTR Administration Fund" to Jena Suhadolnik, Administrative Assistant, or her successor, Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215 upon execution of this Consent Agreement.

5. The payment required herein shall not be construed as a valuation of any civil penalty claim available pursuant to ORC 3737.882(C) nor shall this payment be construed to satisfy any civil penalty liability which may accrue should this Consent Agreement be breached. If this Agreement should be breached, the State Fire Marshal reserves the right to freely pursue any and all remedies presently available.

6. Upon compliance with all terms set forth in this Consent Agreement, the State Fire Marshal shall fully and forever release and discharge CTI, Inc. from any claim or cause of action BUSTR has against CTI, Inc. only for those specific violations regarding the UST at the Site as set forth in this Consent Agreement. Nothing in this Consent Agreement shall be construed so as to prejudice the right of the State Fire Marshal's BUSTR to issue other orders and enforce the provisions of ORC Chapter 3737 and OAC Chapter 1301.

7. In the event of any default of the terms set forth herein, the State Fire Marshal may elect any and all remedies it deems appropriate.

8. Any submission to BUSTR as required by this Consent Order shall be delivered to:

State Fire Marshal
Bureau of Underground Storage Tank Regulations
Attn: Enforcement Section
6606 Tussing Road
P.O. Box 687
Reynoldsburg, Ohio 43068

9. This Consent Agreement is effective as of the date of the State Fire Marshal's signature below.

Signed and subscribed on behalf of the parties hereto.

IN WITNESS WHEREOF, the parties hereby acknowledge that they have read this **Consent Agreement** and understand its terms, and intend to be fully bound thereby.

AGREED:

CENTRAL TRANSPORT INTERNATIONAL, INC.

By: _____ Date _____
RICHARD A. DOMENICK, Director of
Construction & Maintenance and Authorized
Representative of Central Transport International, Inc.
6497 East Ten Mile Road
CenterLine, Michigan 48015

AGREED:

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF THE STATE FIRE MARSHAL
BUREAU OF UNDERGROUND STORAGE TANK REGULATIONS

By: _____ Date _____
ROBERT R. RIELAGE, CFO, EFO, MIFireE
State Fire Marshal
8895 East Main Street
Reynoldsburg, OH 43068

APPROVED:

JIM PETRO, ATTORNEY GENERAL OF OHIO

By: _____ Date _____
SANDRA H. RAMOS
Assistant Attorney General
Environmental Enforcement Section
Bureau of Underground Storage Tank Regulations
8895 East Main Street, Box 687
Reynoldsburg, OH 43068
(614) 752-7938

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CENTRAL TRANSPORT INTERNATIONAL, INC.

By: 

RICHARD A. DOMENICK, Director of
Construction & Maintenance and Authorized
Representative of Central Transport International, Inc.
6497 East Ten Mile Road
CenterLine, Michigan 48015

3/17/03

Date

AGREED:

STATE OF OHIO

DEPARTMENT OF COMMERCE

DIVISION OF THE STATE FIRE MARSHAL

BUREAU OF UNDERGROUND STORAGE TANK REGULATIONS

By: 

ROBERT R. RIELAGE, CFO, EFO, MIFireE
State Fire Marshal
8895 East Main Street
Reynoldsburg, OH 43068

17 Mar 03

Date

APPROVED:

JIM PETRO, ATTORNEY GENERAL OF OHIO

By: 

SANDRA H. RAMOS
Assistant Attorney General
Environmental Enforcement Section
Bureau of Underground Storage Tank Regulations
8895 East Main Street, Box 687
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3-17-03

Date