

**CONSIGNMENT CONTRACT**  
**Informal Education Products, Ltd. – Fall 2011-2012**  
**Publisher of Museum Tour Catalog – www.museumtour.com**

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

Publisher	Consignor
Informal Education Products, Ltd. 2517 S.E. Mailwell Dr. Milwaukie, OR 97222 Direct Line: 503-794-7100 Fax: 503-794-7111 E-Mail: marilynnee@museumtour.com	

**IEP's Order for Consigned "Merchandise" for: Museum Tour Catalog is as follows:**

Product	Consignor Product ID	\$ Paid to Consignor	% of Retail	Retail Price \$ each	Catalog Space	Due in Warehouse
						P.O.s issued Early summer For late Aug. delivery

**Terms of Consignment:**

- Shipping:** Consignor shall be responsible for the cost of shipping to IEP. IEP shall receive Merchandise and shall store it carefully and properly in IEP's warehouse to protect it from loss, damage, or deterioration. IEP shall designate the Merchandise as the property of the Consignor by a conspicuous notice in IEP's warehouse, and shall perform all acts required by law to protect the right of Consignor to the Merchandise. Additional cost for oversized shipping to IEP's customers may be added to the per unit retail price of merchandise. Any additional oversized shipping costs added to the retail price will not be included in the % of retail, \$ paid to Consignor for merchandise.
- Samples:** One sample at no cost of each item will be made available immediately upon signing the agreement. Samples are used for photographic purposes and training customer service representatives. If necessary for photographic purposes a second sample at no cost will be requested. Samples become the property of IEP and will not be returned.
- Publicity:** I agree to participate in IEP's Public Relation Campaigns. When requested by the media, samples will be taken out of inventory at no cost to IEP. IEP will notify you when a sample is taken for Public Relations.  
 I understand and agree (Please initial)    Yes \_\_\_\_\_ No \_\_\_\_\_
- Terms and Termination:** The term of this agreement shall begin immediately upon signing and shall remain in force until July 31, 2012. IEP shall sell the Merchandise in its possession in accordance with this agreement. Upon termination of the agreement all remaining merchandise in IEP's possession under consignment shall be returned to a designated North American facility of choice by August 31, 2011 at IEP's expense, providing that the Space Reservation Contract is not in default and no outstanding monies are due.

CONSIGNOR HAS READ AND AGREES TO THE TERMS AND CONDITONS ON PAGE 2 AND 3 HEREOF.

Accepted and Agreed for Consignor	Accepted and Agreed for IEP
Authorized Signature: _____	By: _____
Title: _____	Authorized Signature: _____ Marilynne Eichinger-President
Date: _____	Date: _____

## ADDITIONAL TERMS AND CONDITIONS OF CONSIGNMENT AGREEMENT

**Definitions:** The terms "IEP" refers to Informal Education Products, Ltd publisher of The Museum Tour Catalog, [www.museumtour.com](http://www.museumtour.com)

**1. Title to Merchandise:** Title to the Merchandise delivered to IEP shall at all times remain in Consignor's name until sold to IEP's customers in the ordinary course of business. Title to merchandise will change from Consignor to IEP if purchased and/or paid for by IEP or if Consignor is in payment default of Space Reservation Contract. Title to the proceeds of the Merchandise shall vest in and belong to Consignor, and such proceeds shall be held by IEP in trust for Consignor until accounted for and remitted to Consignor. IEP may sell the Consigned Merchandise to its customers in the ordinary course of business.

**2. Risk of Loss; Insurance; Expenses:**

- a) IEP shall bear all risks of loss for the Merchandise from the time it is received by IEP until the Merchandise is either returned to Consignor or sold by IEP to its customers in accordance with this agreement. IEP represents and warrants that it will promptly pursue all remedies and will pay Consignor for Merchandise in the event of a loss. IEP will immediately notify Consignor in the event of a loss.
- b) Following the receipt by IEP of Merchandise, IEP shall insure the Merchandise at the agreed upon consignment rate against all risks of loss (including, without limitation, loss by fire, explosion, theft and other casualty) in accordance with and subject to IEP's existing property coverage.
- c) From and after the time IEP receives the Merchandise, IEP shall pay all expenses incident to the Merchandise, including without limitation all expenses of delivery to customers, and all taxes and other charges assessed and levied on such Merchandise while in IEP's possession or in connection with its sale.

**3. Report of Sales and Payment:** No later than forty-five (45) days following the initial drop of the catalog, and on the 15<sup>th</sup> of each month thereafter, IEP shall make a written report to Consignor listing prior months merchandise sales less returns and/or damaged, defective merchandise extended out with the amount equal to the agreed upon consignment rate listed on Page 1 of this document. Payment will be made to Consignor within fifteen (15) days after the date of each report providing that the Space Reservation Contract is not in default and no monies are owed.

**4. Merchandise/Restocking:** Merchandise to fill initial purchase order must be received no later than September 10<sup>th</sup>, 2011 to avoid customer backorders. If customer backorders occur due to a lack of initial inventory then IEP has the right to charge Consignor any additional customer shipping created by the backorder resulting from lack of merchandise. Additional Merchandise as ordered by IEP needs to be shipped on time to restock shelves. Consignor agrees to have sufficient inventory in stock at all times to fulfill forecasted orders. Unless otherwise agreed in writing, such additional shipments shall be added to and governed by this agreement.

**5. Records:** IEP shall keep accurate record of all Merchandise in its possession under consignment and shall give the representatives of Consignor access to such records on demand and shall permit such representatives, at reasonable times, to make an inventory of the Merchandise in IEP's possession. The Consigned Merchandise shall include the Merchandise in transit as well as the Merchandise in IEP's warehouse.

**6. Returned Merchandise:** Damaged and Defective Merchandise received by IEP or returned by a customer is the responsibility of the Consignor. All costs incurred for damaged or defective merchandise including shipping costs will be charged back to the Consignor. Shipping costs incurred for defective product shall include return shipping from IEP's customer to IEP's warehouse or directly to Consignor's warehouse and the cost of return shipping from IEP's warehouse to Consignor's warehouse. Consignor accepts responsibility and will promptly reimburse IEP for all customer refunds for returns.

**7. No Authority to Act for Consignor:** IEP shall sell the Merchandise in Consignor's name and at Consignor's designated price through IEP's catalog(s); and Consignor authorizes IEP to use Consignor's trademarks and service marks in connection with the sales of Merchandise. Nothing in this agreement shall authorize or empower IEP to assume or create any obligation or responsibility whatsoever, express or implied, on behalf or in the name of Consignor, or to bind Consignor in any manner, or make any representation, warranty, or commitment on behalf of Consignor, this agreement being limited solely to the consignment of the Merchandise herein specified.

**8. Consignor's Warranties; Indemnification:**

- a) Consignor represents and warrants that IEP's customers who purchase in the ordinary course of business will receive title to the Merchandise purchased by them free and clear of all liens, claims and encumbrances arising from or through Consignor.
- b) Consignor hereby agrees to indemnify and to defend IEP and to hold IEP and its affiliates, employees, officers, director, agents, predecessors, successors, and assigns harmless from and against any and all claims, suits, liabilities, losses, judgments and expenses (including reasonable attorney's fees) that IEP may suffer or become obligated to pay to the third parties arising out of (i) the infringement of any patent, trademark, copyright or other proprietary rights of third parties by Consignor in the manufacture, use or sale of the Merchandise, (ii) any false or misleading labeling or other deceptive advertising practices alleged by third parties to have been employed by Consignor in connection with the Merchandise, or (iii) the quality of the materials or workmanship utilized in the manufacture of the Merchandise being other than as represented by Consignor.

**9. Effect of Agreement:** The terms specified in this agreement supercede and control all other oral and written communications between the parties regarding the Merchandise consigned. IEP will not be bound by any conditions appearing on any other Consignor form which in any way amends the terms and conditions of this agreement. Any provisions of this agreement which are typewritten or handwritten by IEP shall supercede any contrary or inconsistent provision printed as part of this agreement form.

**10. Limitation of Liability:** IEP shall not be liable under any circumstances for any consequential, incidental, special, or exemplary damages arising out of or in any way connected with this agreement, including but not limited to lost income, profits, loss of use, any claim bases on indemnity or contribution, or failure of any limited or exclusive remedy to achieve its essential purpose or otherwise. Consignor's exclusive remedy against IEP shall be a return of or payment for the Merchandise. An action for any alleged breach of this agreement must be commenced within one (1) year from August 1, 2012.

**11. Force Majeure:** The parties shall not be in default and liable for breach of this agreement in the event their business is interrupted because of strikes, labor disturbances, lockout, riot, fire, act of God, or the public enemy, or any other cause, whether like or unlike the foregoing, if beyond and reasonable efforts of them to control and which may prevent or delay them from performing their obligations hereunder.

**12. Benefit:** This agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns as long as any assignment is made with the prior written consent of all parties.

**13. Notices:** Any notice required by this agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, or recognized overnight delivery service.

**14. Miscellaneous:** A waiver of and/or failure to perform any one or more of the conditions of this agreement shall not constitute a waiver of or an excuse for non-performance as to any other part of this agreement. The rights and remedies herein expressly provided shall be in addition to any other rights and remedies given by the law. This agreement and the rights and obligations of the parties hereunder shall be governed by the laws of the State of Oregon without regard to conflict of laws principles. If litigation arises hereunder, jurisdiction and venue of such litigation shall be in the State or Federal courts located within Clackamas County, Oregon. In addition to any other remedies available to IEP, Consignor's failure to comply with the terms and conditions of the agreement will result in additional handling charges and expenses being charged to Consignor. In any dispute hereunder, whether or not litigation is commenced, the prevailing party shall be entitled to its costs and expenses incurred, including reasonable attorney's fees. This agreement shall not be amended except in writing signed by both parties.

**Terms accepted by Consignor:**

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

