

WCTS RFP SAMPLE

TRANSIT VEHICLES LEASE AGREEMENT

1. **LEASE AGREEMENT.** This Lease is by and between _____ (hereinafter referred to as "Lessee") and _____ (hereinafter referred to as "Lessor").
2. **TERM.** This lease is for a term of approximately ____ continuous months, beginning _____ and ending _____. If the Lessor extends the _____ Agreement, this Lease shall automatically be extended for an identical period of time.
3. **COMPENSATION.** In consideration for the provision of the Vehicles listed in Exhibit A, Lessee shall be responsible to Lessor for an annual payment amount equal to ____ effective _____ through _____. The lease payment during any extensions shall be prorated on a month-to-month basis if the extension is less than twelve consecutive months.
4. **USAGE.** Lessee shall lease the Vehicles for use in Lessor's _____ systems to provide transportation services to the general public, visitors, and people with special needs, such as the elderly and disabled, as outlined in the _____ Agreement.
5. **VEHICLE.** Lessor hereby leases to Lessee the Vehicles and equipment more fully described in Exhibit A, attached hereto and by reference incorporated herein.
6. **REGISTRATION AND TAXES.** Lessor shall maintain ownership interest in each Leased Vehicle and provide valid registration. Lessor shall be responsible for determining taxes and/or all license fees due and shall pay all taxes, license fees and other charges and expenses whatsoever with respect to each Vehicle.
7. **LESSOR AND LESSEE DUTIES.** Lessor and Lessee will have the following duties which it agrees will be faithfully executed during the term of this Lease:
 - a. Lessor will maintain and service the Vehicles during the Lease Term as needed to keep Vehicles in good operating condition. Lessee will keep the Vehicle free from physical damage. Lessor will pay for all operating expenses for the Vehicles during the Lease Term, including, but not limited to, the cost of fuel, lubrication and oil parts, labor, storage, parking, towing, tolls and all other costs associated with operating the Vehicles unless otherwise noted in the ____ Operations and Management Agreement.
 - b. Lessee will not subject the Vehicles to more than normal wear and tear. If, upon scheduled Lease termination, Lessor's appraiser, as required by applicable law, determines that the vehicles have been subject to excess wear and tear, Lessee will be responsible and liable for the cost to restore the vehicle to the required condition, subject to the Lessee's right to obtain

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its own appraisal and/or dispute the amount owed as provided by applicable law. Standards that Lessor applies in determining that the Vehicles have been subject to excess wear and tear are: the vehicle will not pass inspection to which it is or will be subject that portion of repairs is the responsibility of the Lessee; the Vehicles are not returned with the same or comparable equipment or accessories, in working order in which Lessee is responsible to maintain, as installed at the time of delivery to Lessee; the Vehicles' paint is in a substantially worse condition than when originally leased due to factors such as inappropriate cleaning procedures or chemicals, decal removal, vandalism, collision, fire or storm damage; there are any special identifications, making or modifications anywhere on the vehicle; the windows, lenses or lights are cracked or broken and it is determined that such breakage was not part of normal wear and tear; damage has resulted from flood water, hail, sand, abuse, misuse, negligence, accident, or excessive use, which is herein defined as use in excess of 5,000 miles per month.

- c. Lessee will not modify the Vehicles without the prior written consent of Lessor and the STATE. Any accessories, equipment or parts installed in or on the Vehicles with or without Lessor's permission become the property of Lessor and part of the Vehicles.
 - d. Lessee agrees not to use or permit the use of the Vehicles: (a) for any unlawful or wrongful purpose or in violation of any law; (b) to transport passengers in excess of the rated capacity of the vehicle; and (c) for any personal purpose.
 - e. Lessor may inspect Vehicles from time to time at any reasonable time and upon the prior request of the Lessor to Lessee.
 - f. **DEFAULT.** If Lessee fails to make annual lease payments as required under item 3, or if Lessee fails to perform in any manner under the terms of this lease, the lease will be considered in default. Lessor then may do any or all of the following without giving notice to Lessee except as otherwise required by law: (a) take any reasonable measures to correct the default or to save Lessor from loss, in which case Lessee will immediately pay for the cost and expenses incurred; (b) terminate this Lease and Lessee's rights to possess the Vehicles; (c) take possession of the Vehicles by any peaceable method or manner permitted by law, with or without court action; (d) charge Lessee the amount stated in Section 8.1 below.
- 8.1** In the event Lessor retains an attorney to correct the default or collect other sums due Lessor, Lessee agrees to pay all reasonable attorney fees and other collection costs.

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- g. ODOMETER READINGS.** Lessee agrees not to tamper with or disable the odometer of the Vehicles during the term of the Lease and to notify Lessor immediately upon the failure of the odometer during the Lease Term.
- h. INSURANCE.** While the Vehicles are in the possession or control of Lessee, Lessee shall comply with the insurance requirements outlined in the _____ Agreement, including providing evidence of insurance both prior to the transfer of Vehicles to Lessee under this Lease and prior to the insurance policy expiration date.
- i. ASSIGNMENT.** Lessee may not assign or transfer any of its rights or obligations under this Lease, or sublet the Vehicle to another party, without prior written consent of the Lessor, except that Lessee may assign to a wholly-owned subsidiary or parent corporation. If Lessor consents to such an assignment, Lessee will continue to remain liable for performance under this Lease.
- j. TERMINATION OF LEASE.** Termination of this lease shall only occur in conjunction with termination of the _____ Agreement. Lessee shall return the Vehicles to Lessor at _insert address_____ on or before the expiration or termination of this lease.
- k. GENERAL PROVISIONS.** Lessee will pay all amounts due under this Lease. If Lessor or Lessee waive or delays enforcing any rights under this Lease, it will not affect their ability to enforce those rights afterward. Notices under this Lease, must be in writing, properly addressed, and mailed US Mail, certified return receipt requested and will be effective upon receipt. This Lease shall constitute the entire agreement between the parties and may not be changed except by an instrument in writing, signed by both parties. The laws of the State of North Carolina will govern this Lease.
- l. WARRANTIES.** Lessee acknowledges that Lessor is not the manufacturer, the agent of the manufacturer, or the distributor of the Vehicles hereunder. Lessor makes no warranty of the representation, express or implied, as to the fitness, safeness, design, merchantability, condition, quality, capacity, or workmanship of the Vehicles nor any warranty that the Vehicles will satisfy the requirements of any law or contract specification, and as between Lessor and Lessee, Lessee agrees to bear all such risks at its sole risk and expense. Lessee specifically waives its rights to make claim against Lessor and Vehicles for breach or any warranty of any kind whatsoever and as to Lessor, Lessee leases the Vehicles "as is." In no event shall Lessor be liable for special, incidental, or consequential damages whatsoever or howsoever caused, provided that the damage did not result from the defective condition of any vehicle or

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equipment, which was known to Lessor and which Lessor failed to disclose to, or concealed from, Lessee.

- m. LESSEE'S WARRANTIES.** Lessee warrants that (a) Lessee is and shall at all times hereafter be duly organized, validly existing and in good standing under the laws of the State of North Carolina and it has duly authorized the execution, delivery and performance of this Lease Agreement; (b) this Lease Agreement has been duly and validly executed and delivered by Lessee and constitutes the valid and binding obligation of the Lessee and; (c) all financial statements presented to Lessor have been prepared in conformity with generally accepted accounting principals consistently applied and fairly and accurately present Lessee's financial condition and income as of the date given and since the date of such financial statements there has been no material adverse change in the financial condition of Lessee or any guarantor of Lessee's obligations hereunder.
- n. FORCE MAJEURE AND NO CONSEQUENTIAL DAMAGES.** Lessor shall not be liable for any failure or delay in delivery and Leased Vehicles ordered for lease pursuant to this Lease Agreement, or for any failure to perform any provision thereof, resulting from fire or other casualty, riot, strike or other labor difficulty, governmental regulation or restriction or any cause beyond Lessor's control. In no event shall Lessor be liable for any inconveniences, loss of profit, or any other consequential, incidental or special damages resulting from any defect in or any theft, damage, loss, or failure of any asset, and there shall not be any abatement or set off of monthly lease charges because of the same, provided that defect or damage to the asset was not disclosed to Lessee by Lessor, despite Lessor's knowledge of the defect or damage.
- o. SECURITY INTEREST.** In the event that any court determines that this Lease is not a true lease, then Lessee hereby grants Lessor a security interest in the Leased Vehicles and this Lease Agreement, together with all accessions, replacements and substitutions therefore or thereto and proceeds thereof. Lessor is authorized to file this Lease Agreement or any financing statements with respect to this Lease Agreement or the Leased Vehicles. Any such filing shall not be deemed evidence of any intent to create a security interest under the Uniform Commercial Code. Lessee authorizes Lessor to insert in this Lease Agreement serial numbers, other identification data of the Leased Vehicles when determined by Lessor and dates or other unintentionally omitted non-substantive items to render this Lease Agreement complete. Lessor is hereby appointed by Lessee as its true and lawful attorney to cause this Lease Agreement, or any statements or other instrument in respect of this Lease Agreement showing the interest of Lessor in the Leased Vehicles including Uniform Commercial Code Financing Statements, to be filed or recorded and re-filed and re-

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recorded, and grants Lessor the right to execute Lessee's name thereto. Lessee agrees to execute and deliver any statement or instrument requested by Lessor for such purpose, and agrees to pay or reimburse Lessor for any searches, filings, recordings or any stamp fees or taxes arising from the filing or recording of any such instrument or statement.

p. INDEMNIFICATION. Lessee and lessor each agree to indemnify, defend and save harmless the other party and the other party's officers, agents, and employees, from and against any and all claims and losses whatsoever arising out of, or in any way related to, the indemnifying party's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorney's fees, court costs, investigation cost, and expert's fees) incurred by the indemnitee in connection with such claims or losses. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers, agents, and employees.

q. OTHER AGREEMENTS. This lease is contingent on the execution of a _____ agreement between Lessor and Lessee for the operation of _____. This Lease shall have no force or effect unless and until the transportation operations and management agreement is executed by the respective parties and is in full force and effect. This lease will automatically terminate should the _____ agreement between Lessor and Lessee be terminated for any reason.

IN WITNESS WHEREOF, the parties have entered into this Lease Agreement as of the ____ day of _____ 2013.

_____.

By:_____

By:_____

Dated:_____

Dated:_____

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EXHIBIT A List of Vehicles

Type of Vehicle	VIN Number