

SAMPLE
VEHICLE LEASE AGREEMENT

THIS VEHICLE LEASE AGREEMENT dated the ____ day of _____, 19__ BETWEEN:

BRITISH COLUMBIA TRANSIT a corporation incorporated pursuant to the British Columbia Transit Act,

(hereinafter called "BC Transit")

OF THE FIRST PART

AND:

OPERATING COMPANY

(hereinafter called "Operating Company")

OF THE SECOND PART

A. **WHEREAS** the Operating Company is desirous of leasing and/or sub-leasing from BC Transit the vehicle (s) and equipment described in the list attached hereto as Schedule "A" (hereinafter collectively called the "equipment").

B. **AND WHEREAS** BC Transit either owns the equipment or is itself leasing the equipment (or part thereof as the case may be) from a third party pursuant to the Head Lease Agreement (hereinafter called the "Head Lease Agreement").

THIS AGREEMENT WITNESSETH that for good and valuable consideration, the parties hereto agree and covenant as follows:

1. **DEFINITIONS** In this indenture, the words "Lease" and "Lease Agreement" shall be deemed to mean, refer to and include the words "Sub-Lease" and "Sub-Lease Agreement", if applicable and as the context of this Lease Agreement so requires, as between BC Transit (Sub-Lessor) and the Operating Company (Sub-Lessee).

2. **LEASE** BC Transit hereby agrees to lease to the Operating Company and the Operating Company hereby agrees to lease from BC Transit the equipment, together with all accessories, additions, repairs and replacement parts affixed thereto, now or in the future.

3. **RENT** The Operating Company agrees to pay to BC Transit the sum of One Dollar (\$1.00) forthwith and such payment shall be the rental charges payable by the Operating Company to BC Transit in respect of the equipment.

4A. **TERM** The term of this Lease Agreement shall commence on the date hereof and shall be terminated on that date of the following events first to occur:

a) The termination date provided for in the Annual Operating Agreement made pursuant to the BC Transit Act to which BC Transit and the Operating Company are party thereto which is to effect at the time this Lease is enacted, and/or any successor Annual Operating Agreement (hereinafter collectively called the Annual Operating Agreement); or

b) That date being two (2) weeks after BC Transit has delivered to the Operating Company written notice of its intention to terminate this Lease Agreement; or

c) That date which BC Transit and the Operating Company mutually agree shall be an effective date of termination of this Lease Agreement.

4B. **TERMINATION OF HEAD LEASE** Notwithstanding the provisions of Section 4A herein, if any item of equipment is the subject of a Head Lease and if for any reason such Head Lease is terminated, then at the option of BC Transit, this Lease Agreement shall terminate with respect to such item of equipment.

5. **ACCEPTANCE** The Operating Company acknowledges that it has inspected the equipment and accepts the equipment as being in a good state of repair, except to the extent that the Operating Company notifies BC Transit in writing within ten (10) days of delivery (manufacturer's latent defects included).

6. **USE** The Operating Company shall use the equipment only for those purposes set out in the Annual Operating Agreement. The Operating Company shall not use the equipment for pleasure or any other business not contemplated in the Annual Operating Agreement. The Operating Company shall observe and adhere to the operating procedures and guidelines as issued by BC Transit and which relate to the use of the equipment.

7. **HEAD LEASE** BC Transit covenants with the Operating Company to perform and observe the covenants on its part contained in the Head Lease Agreement, if any. The Operating Company covenants with BC Transit to perform and observe the covenants on the part of BC Transit to be performed or observed under the provisions of the Head Lease, if any, other than the covenant to pay rent.

8. **LOCATION** The Operating Company shall cause the equipment to remain situate in the transit service area as designated in the Annual Operating Agreement, and the Operating Company shall not remove the equipment from the said transit service area without the prior written consent of BC Transit.

9. **OWNERSHIP** Title to and ownership of the equipment, subject to the provisions of any Head Lease Agreement, shall at all times be and remain in the name of BC Transit and the Operating Company shall have no right of property therein, except the right to use the equipment in accordance with the terms of this Lease Agreement.

10. **OPERATING COSTS** The Operating Company shall pay all operating costs whatsoever of the equipment, including without limiting the generality of the foregoing, the cost of fuel, oil, insurance as prescribed in the Annual Operating Agreement, licences pursuant to the Motor Carrier Act, licence and registration fees pursuant to the Motor Vehicle Act, municipal licences, and motor vehicle inspections fees (where applicable).

11. **REPAIRS** The Operating Company shall maintain and keep the equipment in good condition and repair to the satisfaction of BC Transit, adhering to the BC Transit Preventive Maintenance Program. The Operating Company further covenants that as component parts of the equipment either wear out or

become otherwise inoperative, to replace the same with either parts which are approved by the manufacturer of the equipment or such substitute parts as BC Transit may from time to time permit.

12. **INSPECTION** BC Transit shall have the right to inspect the equipment, without prior notice, at all reasonable times during the term of this Lease Agreement.

13. **ALTERATION** The Operating Company shall not alter or add or allow any other party to alter or add to the equipment in any way without the prior written approval of BC Transit. Any alterations, or additions to the equipment which are approved by BC Transit shall become and remain the property of BC Transit. The Operating Company shall affix on the equipment, any labels or insignias supplied by BC Transit. The Operating Company shall not permit any advertising to be posted on the exterior or the interior of the equipment, save and except as provided for in the Annual Operating Agreement.

14. **RECORDS** The Operating Company shall keep for each item of equipment and deliver to BC Transit as specified or upon request the following records:

- a) Any record as required by the Annual Operating Agreement to be provided by the Operating Company.
- b) Vehicle Daily Report Card (Form M098).
- c) Preventative Maintenance Inspection Guide (Form M299).
- d) Record of Preventive Maintenance Bus Inspections (Form M300).
- e) Road Call Analysis (Form M301).
- f) Monthly Bus Fuel Consumption Report (Form M307).
- g) Unit Change Record (Form M310).
- h) Accident/Incident Report (Form M318).

15. **MOTOR VEHICLE INSPECTION** The Operating Company shall be responsible for ensuring that the equipment is maintained in compliance with the British Columbia Motor Vehicle Act and Regulations, including the Commercial Vehicle Inspection Program. The Operating Company shall be responsible for ensuring the equipment is submitted for inspections pursuant to the provisions of Motor Vehicle Act, if so required by said provisions.

16. **LOSS OR DAMAGE** The Operating Company assumes and shall bear the entire risk of loss or damage to the equipment. No loss or damage to the equipment or any part thereof shall affect or impair any of the obligations of the Operating Company hereunder, and this Lease Agreement shall continue in full force and effect notwithstanding such loss or damage to the equipment. The Operating Company shall insure the equipment according to the laws in force and effect in the Province of British Columbia and in accordance with the provisions of the Annual Operating Agreement, and such provisions shall be incorporated into the terms and conditions of this Lease Agreement. The Operating Company shall punctually pay all insurance premiums when due in respect of any policies of insurance required to be purchased by it pursuant to the Annual Operating Agreement and the Operating Company shall provide BC Transit with copies of certificates of such insurance policies. In the event of loss or damage of any kind whatsoever to the equipment, the Operating Company shall forthwith comply with the reporting procedures in respect of such loss or damage as established by BC Transit. BC Transit at its sole discretion may either replace the lost or damaged equipment or alternatively direct the Operating

Company to repair the damaged equipment, and the Operating Company shall comply with such direction.

17. **SURRENDER** Upon the termination of this Lease Agreement, the Operating Company shall forthwith return the equipment to BC Transit in good condition and repair, ordinary wear and tear resulting from the proper use of the equipment excepted, and the Operating Company shall, at its cost, return the equipment to BC Transit at a destination designated by BC Transit in the transit service areas as defined in the Annual Operating Agreement, and if the Operating Company fails to so deliver the equipment within one (1) week from the termination of this Lease Agreement, BC Transit shall have the right to enter upon the premises where the equipment may be, and take possession of and remove it at the Operating Company's expense, all without legal process. The Operating Company covenants that, upon termination of this lease or upon surrender of the equipment for any other reason:

- a) The equipment shall be in good condition and repair, in compliance with the BC Transit Maintenance Program;
- b) The records for mechanical repairs listed in Section 14 of this agreement shall accompany each vehicle;
- c) Average tire tread depth for all tires shall not be less than 8mm (10/32").
- d) A vehicle transfer form shall be executed by the Operating Company where applicable, and shall accompany each vehicle, and
- e) The Operating Company shall maintain insurance coverage in accordance with the provisions of Section 22 herein during the period of time that the equipment is being transferred to BC Transit, notwithstanding that this Lease Agreement may be terminated.

18. **LIENS AND CHARGES** The Operating Company shall, at all times, keep the equipment free from all levies, liens and encumbrances whatsoever and shall pay all licence fees, registration fees and assessments, charges and taxes, in accordance with the Annual Operating Agreement, which may be now or hereafter imposed directly upon the ownership, leasing, rent, possession or use of the equipment. If the Operating Company fails to pay any such levies, liens, encumbrances, assessments, charges or taxes, BC Transit may pay the same and in such event the costs thereof, together with interest calculated monthly at a rate equivalent to the prime rate established by The Royal Bank of Canada on the first day of each month, plus two (2%) percent per annum, shall forthwith be due and payable by the Operating Company to BC Transit. Non-payment of such costs by the Operating Company to BC Transit forthwith upon demand by BC Transit shall be deemed to be a default under this Lease Agreement.

19. **WARRANTIES** The Operating Company acknowledges that BC Transit makes no warranties, either express or implied, as to any matter whatsoever, including without limiting the generality of the foregoing, the condition of the equipment nor its merchantability nor its fitness for any particular purpose.

20. **ASSIGNMENT SUB-LEASE** The Operating Company shall not transfer, deliver up possession of, or sublet the equipment, and the Operating Company's interest in this Lease Agreement shall not be assignable by the Operating Company without prior written consent of BC Transit; but nothing herein contained shall prevent BC Transit from assigning, pledging, mortgaging, transferring or otherwise disposing, either in whole or in part, of BC Transit's right hereunder. If the Operating Company is a corporation, then any sale or transfer of shares in the capital of the Operating Company shall be deemed to be an assignment under this Lease Agreement, and the written consent of BC Transit to such a sale or transfer shall be first had and obtained.

21. **INDEMNIFICATION** The Operating Company shall indemnify BC Transit against, and hold BC Transit harmless from any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities including the costs arising out of, connected with or resulting from the equipment including without limitation the installation, possession, use, operation or return of the equipment or otherwise on account of any personal injury or death or damage to property occasioned by the operation of the said equipment during the term hereby granted.

22. **ANNUAL OPERATING AGREEMENT** The Operating Company covenants and agrees with BC Transit to perform each and every one of the conditions, terms, covenants and provisos contained in the Annual Operating Agreement, which on the part of the Operating Company are to be observed and performed.

23. **DEFAULT** Notwithstanding Section 4, the Operating Company covenants and agrees with BC Transit that BC Transit shall have the right to cancel and terminate this Lease Agreement forthwith by reason of any one or more of the following events:

a) If the Operating Company fails to observe and perform any of the terms, conditions, covenants and provisos contained in the Annual Operating Agreement, which on its part are to be observed and performed.

b) If the Operating Company fails to perform any of the terms, conditions, covenants and provisos contained in this Lease Agreement which on its part are to be observed and performed.

c) If a petition under any bankruptcy law shall be filed by or against the Operating Company or the Operating Company shall make any assignment for the benefit of its creditors or the Operating Company shall suffer or permit the appointment of any trustee or receiver or receiver-manager for the Operating Company's business or assets or any part thereof or otherwise becomes financially insolvent or if the Operating Company shall make or suffer any assignment, voluntary or involuntary, of the Operating Company's interest in any of the equipment included in this Lease Agreement or suffer any lien, attachment or levy of execution to become attached thereto.

d) If the Operating Company uses any equipment included in this Lease Agreement unreasonably or abusively resulting in damage to such equipment or an abnormal reduction in the life of the equipment or any part thereof.

24. **TERMINATION** Upon the termination of this Lease Agreement, the Operating Company shall forthwith return to BC Transit all items of equipment as referred to herein and the Operating Company shall be liable to BC Transit for damages and costs which BC Transit may sustain by reason of the Operating Company's default of this Lease Agreement, including, without limiting the generality of the foregoing, all legal fees and other expenses incurred by BC Transit in attempting to enforce the provisions of this Lease Agreement or to recover damages for default under this Lease Agreement, or to recover any equipment not forthwith returned by the Operating Company to BC Transit.

25. **WAIVER** No covenant or proviso contained in this Lease Agreement to be performed by the Operating Company may be waived by BC Transit, except by prior written consent of BC Transit, and any forbearance or indulgence by BC Transit in this regard shall not constitute its waiver of such covenant or proviso to be performed by the Operating Company.

26. **REGULATIONS** Nothing in this Lease Agreement shall preclude BC Transit from setting "lease fees" chargeable in connection with the public transportation system operated by the Operating Company pursuant to the aforementioned Annual Operating Agreement. (Note: Lease fees are based upon the capital cost of vehicles and are covered by the Annual Operating Agreement budget).

27. **TIME OF THE ESSENCE** Time is to be of the essence of this Lease Agreement and each and all of its provisions.

28. **INTERPRETATION** It is hereby agreed by and between the parties hereto that wherever the singular or masculine is used throughout this Lease Agreement, the same shall be construed as meaning the plural or the feminine or body corporate or politic respectively and vice versa, where the context or the parties hereto so require and in the case where more than one Operating Company is a party hereto, the liability of each Operating Company shall be joint and several.

29. **GOVERNING LAW** This Lease Agreement shall be interpreted and enforced in accordance with the laws of the Province of British Columbia.

30. **EXECUTORS ADMINISTRATORS AND ASSIGNS** This Lease Agreement shall ensure to the benefit of and be binding upon the parties hereto, and their respective heirs, executors, administrators, successors and permitted assigns.

IN WITNESS WHEREOF the parties hereto set their hands and seals and where a party is a corporate entity, the seal of such party has been affixed hereto in the presence of its duly authorized officers, the day, month and year first above written.

BRITISH COLUMBIA TRANSIT
per:

)
)
)
)

The Corporate Seal of THE OPERATOR
was hereunto affixed

)
)
)
)

Authorized Signatory (ies)