

MATTHEWS BUSES, INC.

Route 9
Ballston Spa, NY 12020

Loaner Agreement No. _____ 20160829 _____

Loaner agreement, dated _____ 08/29/2016 _____ by and Between Matthews Buses, Inc.
(hereinafter called "Lessor") and _____ ELMIRA HEIGHTS CSD _____ whose street address is 301
Sayer Street, City of Horseheads, State of NY (hereinafter called "Lessee")

(1) **Equipment and Rent:** Lessor hereby sells Lessee, and Lessee hereby purchases from Lessor the
following equipment:

2015 Thomas 310TS VIN # 4UZABRDT7FCFW9781

NOTE: INSURANCE CERTIFICATE REQUIRED NAMING MATTHEWS BUSES INC.
2900 RTE 9 BALLSTON SPA NY 12020 AS ADDITIONAL INSURED AND LOSS PAYEE

(2) **Term:** This loan, upon the rents, promises, terms and conditions set forth here, is for a term of
N/A days commencing on the date (the commencement date) that equipment is delivered to
Lessee. (3) **Price and Payment:** Lessee shall pay to Lessor the sum of \$ N/A per month for a term of
N/A months. (other: if not applicable, so state): _ _

September 1st until delivery of new bus or September 30th, whichever is sooner.

(4) A. **Time:** Upon signing this lease agreement, Lessee shall pay Lessor the sum of \$ ___N/A___ constituting the payment in advance of the ___N/A___ monthly payments of rent stated above. On the commencement date, Lessee shall commence, and on the 1st day of each month thereafter shall continue making the monthly payments in the order and amounts stated above, until the lease term expires.

B. **Place:** All payment shall be made at the office of the Lessor, at the address set forth below the Lessor's signature herein, or at such other place as Lessor may designate.

(5) **Care and Use of Equipment:** Lessee, at its own cost and expense, shall maintain the equipment in good operating condition, repair and appearance, and protect from deterioration other than normal wear and tear; shall use the equipment in the regular course of its business only, within its normal capacity, without abuse and in a manner contemplated by the manufacturer thereof, shall not make modifications, alterations or additions to the equipment without the written consent of Lessor, which shall not be reasonably withheld. All modifications, repairs, alterations, additions, replacements, substitutions, operation accessories and controls shall accrue to the equipment and become the property of the Lessor. Lessor shall have the right, during normal hours to enter upon the premises where the equipment is located in order to inspect, observe or otherwise protect Lessor's interest and Lessee shall cooperate in affording Lessor the opportunity to do same. For the purpose of assuring Lessor that Lessor's equipment will be properly serviced, Lessee agrees to cause the equipment to be maintained pursuant to the manufacturer's standard preventive maintenance schedule and/or recommendations. Lessee agrees that Lessor shall not be responsible for any loss or damage whatsoever to the equipment, nor shall Lessor be responsible for latent defects, wear and tear or gradual deterioration or loss of the equipment or any part thereof. Lessor shall not be liable to Lessee or anyone else for any liability, claim, loss, damage or expense of any kind or nature caused directly or indirectly by the inadequacy of the equipment, or any item supplied by the vendor or any other party, any interruption of use or loss of service or use of performance of any equipment; any loss of business or other consequence or damage, whether or not resulting from any of the foregoing. In the event the unit suffers a catastrophic engine, transmission or any other major component breakdown, the Lessee is responsible for the repair to return the vehicle to its original condition. Further to above, lessee, shall maintain vehicle in such a manner to pass New York Department of Transportation inspections and receive certification of same.

- (6) **Loss and Damage:** Lessee hereby assumes and shall bear the entire risk of loss of and damage to equipment from any and every cause whatsoever. No loss of or damage to equipment or any part thereof shall impair any obligation of Lessee under this lease, which shall continue in full force and effect. In the event of damage of any kind whatsoever to any item of equipment (unless the same is damaged beyond repair), Lessee, at the option of Lessor, shall at Lessee's expense (a) place the same in good repair, condition and working order, or (b) replace the same with like equipment of the same make and of the same or a later model, and in good repair, condition and working order. If equipment, or any item thereof, is determined by Lessor to be lost, stolen, destroyed or damaged beyond repair, Lessee shall immediately pay Lessor in cash an amount equal to the aggregate amount of unpaid total rent for the balance of the term of this lease or the fair market value of vehicle whichever is greater. Upon such payment this lease shall terminate with respect to the equipment or items thereof so paid for, and Lessee thereupon shall become entitled thereto as-is-where-is, without warranty, express or implied, with any respect to any matter whatsoever.
- (7) **Indemnity:** Lessee shall indemnify and save Lessor harmless from any and all liability arising out of the ownership, selection, possession, leasing, renting, operation, control, use, maintenance, delivery and/or return of equipment. In the event the vehicle is lost, destroyed, stolen or damaged beyond repair, the amount to be paid by Lessee shall be \$ Present Market Value Of The Bus
- (8) **Insurance:** Lessee shall keep equipment insured against all risks of loss or damage from every cause whatsoever for not less than the replacement cost new of said equipment without consideration for depreciation and shall carry required liability insurance, single limit one (1) million dollars, both personal injury and property damage; covering equipment and its use. Lessee shall be liable for all deductible portions of all required insurance; and any or all physical damages. Lessee shall supply a certificate of insurance to Lessor stating the above limits prior to the beginning of the term, listing Lessor as lienholder/loss payee.
- (9) **Compliance with Laws/Payment of Taxes:** Lessee shall comply with all laws and regulations relating to, and shall promptly pay when due, all license fees, registration fees, assessments, charges and taxes, municipal, state and federal, excluding, however, any taxes payable in respect to Lessor's income, which may now or hereafter be imposed upon the ownership, possession, leasing, renting, operation, control, use, maintenance, delivery and/or return of equipment, and shall save Lessor harmless against actual or asserted violations, and pay all costs and expense of every character in connection therewith or arising therefrom.

(10) **Title of Lessor/Recording:** Title to equipment shall at all times remain in Lessor, and Lessee, as its own cost and expense, shall protect and defend the title, listing Matthews Buses, Inc. as first only lienholder. Lessee shall at all times keep equipment free and clear from all levies, attachments, liens, encumbrances and charges or other judicial thereof and shall indemnify and save Lessor harmless from any loss or damage caused thereby. Lessee will cooperate with Lessor, and take whatever action may be necessary, to enable Lessor to file, register or record, and refile, re-register or re-record, this lease in such offices as Lessor may determine and wherever required or permitted by law, for the proper protection of Lessor's title to equipment, and will pay all costs, charges and expenses incident thereto.

(11) **Inspection:** If equipment is removed, with the consent of Lessor, from the address specified above, Lessee shall whenever requested advise Lessor of its exact location. Lessor may, for the purpose of inspection, at all reasonable times enter upon any job, building or place where equipment is located and may remove equipment forthwith, without notice to Lessee, if equipment is, in the opinion of Lessor, being used beyond its capacity or in any manner improperly cared for or abused.

(12) **Default/Remedies:** If (A) Lessee shall default in the payment of all rent or in making any other payment hereunder when due, or (B) Lessee shall default in the payment when due of any indebtedness of Lessee to lessor arising independently of this lease, or (C) Lessee shall default in the performance of any other covenant herein and such default shall continue for 5 days after written notice thereof to Lessee by Lessor, or (D) Lessee becomes insolvent or makes an assignment for the benefit of creditors, or (E) Lessee applies for or consents to the appointment of a receiver, trustee or liquidator of Lessee or of all or a substantial part of the assets of Lessee, or if such receiver, trustee or liquidator is appointed without the application or consent of Lessee, or (F) a petition is filed by or against Lessee under the Bankruptcy Act, or any amendment thereto (including, without limitation, a petition for reorganization, arrangement or extension) or under any other insolvency law or law providing for the relief of debtors, then, if and to the extent permitted by applicable law, Lessor shall have the right to exercise any one or more of the following remedies:

(1) to declare the entire amount of unpaid total rent for the balance of the term of this lease due and payable; (2) without demi or legal process, to enter into premises where equipment may be found and take possession of and remove the same, where upon all rights of Lessee in equipment shall terminate absolutely, and (a) retain equipment and all prior payments of rent made hereunder; or (b) retain all prior payments of rent, and re-let or sell all, or a portion of the equipment, at public or private sale, with or without notice to lessee, with or without having such equipment at any sale. Lessor shall apply the

proceeds of any such re-letting, or sale, as the case may be, less expenses for retaking, storage, advertising, repairing and reselling, together with reasonable attorneys' fees incurred by lessor as a result of lessee's default, to be applied to the payment for the unpaid total rent, for the balance of the term of the lease, lessee remaining liable for the balance of said unpaid total rent, and any surplus thereafter remaining to be paid to lessee, its successors and/or assigns or to whomever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct; (c) retain equipment and all prior payments of rent, crediting Lessee with the reasonable value of equipment, Lessee remaining liable for the balance of the unpaid total rent for the balance of the above mentioned expenses, including reasonable attorneys' fees incurred by Lessor, being agreed that the amounts to be retained by Lessor and the balance to be paid by Lessee under this sub-section (1) shall not be as a penalty but as liquidated damages for the breach hereof and as reasonable return for the use of equipment and for the depreciation thereof; (2) to pursue any other remedy available to Lessor at law or in equity.

(13) **Remedies Cumulative/No Waiver:** All remedies of Lessor hereunder are cumulative, and may, to the extent permitted by law, be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise, and no delay of any other remedy. No failure on the part of the Lessor to exercise, and no delay in exercising any right or remedy hereunder shall operate as a waiver thereof; no shall any single or partial exercise by Lessor of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy.

(14) **Interest and Expenses:** Should Lessee fail to pay any part of the rent herein reserved or any other sum required to be paid by Lessee to Lessor hereunder, Lessee shall pay Lessor interest on such delinquent payment at the highest legal rate from the date when such payment as due until paid, and expenses of collection including reasonable attorneys' fees.

(15) **Late Charges:** In addition, if any monthly rental payment is not received by lessor within ten days of its due date, lessee agrees to pay a late charge of 5% of such monthly rental payment for each month, or fraction thereof, that such payment is overdue. These charges are intended to partially compensate lessor for the additional costs of collection necessitated by lessor not receiving the monthly rental payment in a timely manner. N/A

(16) **Redelivery:** On termination of this lease, Lessee shall, at its own cost and expense, return equipment to lessor at an address specified by Lessor in the same condition as received, reasonable wear and tear and normal depreciation excepted.

(17) **Notices:** All notices relating hereto shall be in writing and delivered in person to an officer of the party of which such notice is being given or mailed by registered mail to such party at the address specified below its signature hereto, or at such other address as may be hereafter specified by like notice by either party to the other.

(18) **No Warranties/Entire Agreement:** Lessee agrees that Lessor has made no representation or warranty of any kind, nature or description, express or implied, with respect to equipment. This lease contains the entire agreement between the parties and may not be changed, modified, terminated or discharged except upon 90 days prior written notice, and except as provided in paragraph twelve. All terms of this agreement remain in effect during period of notice.

(19) **Conflict with Applicable Law:** If any provisions of this lease are in conflict with any statute or rule of law of any state or territory wherein it may be sought to be enforced, then such provisions shall be deemed null and void to the extent that they may conflict therewith, but without invalidating the remaining provisions hereof. For the sole purpose of resolving any problem of conflict of laws with respect to filing or recording hereof, it is agreed that this instrument shall be deemed to be executed, completed and effective when equipment is received at the address at which it is to be located and that questions of filing or recording shall be determined by the law of such place. In all other respects this lease shall be governed by the law of the State of New York.

(20) Notwithstanding any language in the agreement to the contrary, no defense and indemnification will extend to Lessor's, or officers, owners, employees, agents, or other representatives of Lessor, own acts of negligence or willful misconduct.

(21) Notwithstanding any language in the agreement to the contrary, Lessor shall not be entitled to collect attorneys' fees pursuant to this agreement.



Matthews Buses, Inc.
Paul Daniels

Lessee

Sales Director
Title

August 29, 2016
Date

Title

Date

In witness whereof, the parties hereto have executed this agreement on August 29, 2016.


By: Lessor, Paul Daniels, Sales Director
Matthews Buses, Inc.
2900 Route 9 - Malta
Ballston Spa, NY 12020

Signed and sworn to before me this 30 day of August

JOANN WALLACE
Notary Public, State of New York
No. 02WA6319243
Qualified in Washington County
~~Commission Expires February 17, 2019~~
(Seal) Notary Public 

Name: Lessee _____

AUTHORIZED SIGNATURE: Lessee _____

Signed and sworn to before me this _____ day of _____, 20____

(Seal) Notary Public

Date _____

Daimler

Truck Financial

DEMONSTRATOR AGREEMENT (FLOORPLANNED UNITS)

To: Mercedes-Benz Financial Services USA LLC, and its successors, transferees and assigns (hereinafter "Creditor");

Pending the sale of the Equipment identified below, the undersigned Dealer or Bodybuilder (both referred to as "Dealer") and the undersigned User will be permitted to use the Equipment for demonstration purposes on the terms and conditions set forth herein. Dealer and User agree that (1) only licensed drivers will operate the Equipment; (2) all applicable laws will be complied with; (3) the Equipment will remain fully insured against loss and damage and will have adequate liability insurance as required by Creditor' policies and agreements;

Year	Make	Model	Serial No.	Demo Start Date	Demo Return Date
1. 2015	Thomas	310TS	4U2ABRD77FCFW9781	9/1/16	9/30/16
2.					
3.					
4.					
5.					

User acknowledges receipt of a true and correct copy of this Agreement.

User Name/Title (print):

Authorized Signature:

Address:

Phone Number:

License # and State

Contact Name:

Date:

Purpose of Demonstrator Equipment:

☐ Owner Use

☐ Trade Show

☐ Display Unit

☒ Test Drive

Dealer represents and warrants that no income will be collected by Dealer as a result of the use of the Equipment for demonstration purposes.

Insurance Confirmation:

Dealer has confirmed that the User named above has the following insurance coverage on the above-described equipment.

☐ Collision (including Property Damage and Physical Damage) with a deductible of \$_____ and coverage of \$_____.

☐ Comprehensive with a deductible of \$_____ and coverage of \$_____.

☐ Public Liability with a deductible of \$_____ and coverage of \$_____.

Name of Insurance Company:

Name of Insurance Agent:

Phone Number of Agent:

Accepted by:

Mercedes-Benz Financial Services USA LLC

Matthews Buses LLC

Dealer Name:

Authorized Signature:

Title:

Date:

Signature:

Title:

Date: