

Please note: All sample contracts are provided for informational purposes and may be modified as needed for actual transactions.

### Sample VAN AGREEMENT

THIS AGREEMENT is made as of \_\_\_\_\_ by and between THE VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM (the Program), \_\_\_\_\_ the legal representatives (the Representative) of \_\_\_\_\_ (the Child).

The Program is an entity created pursuant to Chapter 50 of Title 38.2 of the Code of Virginia.

The Child is a recipient of an award under the Program pursuant to § 38.2-5009 of the Code of Virginia.

Whenever in this agreement the word "Representatives" is used, it shall be construed in the singular or plural and in such gender as the sense and circumstances require.

The Program desires to fund a part of the purchase price of a medically-necessary van (**Year, Make Model, Conversion, VIN:** , hereinafter the "Van") for the benefit of the Child to ensure medically-necessary wheelchair transportation for the child. The Representatives, each having had the opportunity to read this Agreement and obtain the advice of legal counsel concerning this Agreement prior to executing it, each , each being at least 18 years old, each being of sound mind, and each not being under the influence of any substances or mentally impaired, states that Representatives' endorsements of this Agreement constitute knowing and voluntary act, also hereby memorialize Representatives' desire to accept this funding from the Program on the terms and conditions contained in this Agreement.

The Program and the Representative agree as follows:

1. **Van Funding.** The Program agrees to advance the \_\_\_\_\_ \$\_\_\_\_\_ total for the cost of the van (Van) (including \$\_\_\_\_\_ towards purchase price of the van, \$\_\_\_\_\_ for the dealership processing fee, title fees, registration fee, and \$\_\_\_\_\_ towards VA Sales Tax) and \$\_\_\_\_\_ to \_\_\_\_\_ for used by the claimant for the Child's medically-necessary transportation. The Representatives agree to provide the Program with all documentation pertaining to the purchase of a Van deemed necessary by the Program to verify and carry out its reimbursement obligation under this Agreement. The Program will not have any responsibility or obligation to fund more than \$\_\_\_\_\_ total for the purchase. The Representatives agree that the Representatives will pay \$\_\_\_\_\_ (comprised of \$\_\_\_\_\_ towards van cost and \$\_\_\_\_\_ towards VA Sales Tax) to the car dealership towards the total purchase price of the Van and that Representatives solely are responsible for payment of the \$\_\_\_\_\_.

\_\_\_\_\_ Parent/Guardian Initials

Other expenses, incurred after \_\_\_\_\_, such as (i) any and all personal property taxes assessed against the Van and paid by the Representatives (late fees and Penalties excepted); (ii) mileage incurred in connection with medical visits for the Child as set forth and in accordance with the Program's Guidelines; (iii) the cost of insuring the lift and tie downs if an additional cost is/was incurred in connection with the lift and tie downs; and (iv) annually an amount equal to the lesser of (a) the Virginia uninsured motor vehicle fee (as set forth in §46.2-706 of the Code of Virginia), or (b) the actual out-of-pocket insurance premium for the Van, shall be reimbursed by the Program pursuant to section 5 of this agreement. Any disputes regarding such reimbursements may be submitted to the Program's Board; or if a mutually agreeable resolution cannot be achieved, to the Virginia Workers' Compensation for adjudication of the matter pursuant to the Virginia Birth-Related Neurological Injury Compensation Act, Virginia Code §38.2-5001, *et seq.*

2. **Title.**

a. Title to the Van shall be held in the name of the Child's custodial parents or legal guardians until returned to the Program in accordance with Section 9 below; provided, however, all medical equipment purchased by the Program and not permanently attached to the Van will at all times remain the property of the Program. The Representatives agrees to return all such equipment to the Program when it is no longer required by the Child; provided, however, in the Program's sole discretion such equipment may be retained by the Representatives and/or the Child on terms and conditions that are satisfactory to the Executive Director or designated representative of the Program.

b. When the child is no longer in the custody of the parents or legal guardians in whose names title to the Van is held or within 90 days following the death of the Child, the Van and all medical equipment purchased by the Program shall be returned, and title thereto transferred, to the Program, unless other arrangements have been agreed to in writing between the Representatives and the Program.

3. **Lien.** The Representatives hereby grant to the Program a first priority security interest in the Van. The Representatives agree to take all action necessary to cause the Program to be listed as a first lienholder on the application for a certificate of title for the Van. The Representatives agrees to immediately deliver to the Program the certificate of title to the Van, which will be held by the Program in accordance with this Agreement. The Representatives agree not to further encumber the Van in any fashion. The Representatives agree not to use the Van as collateral for any purpose.

4. **Use and Operation of the Van.** The Representatives agree that the Van shall be use and operated primarily for the transportation of the Child. The Representatives agree that the Van shall not be used or operated for any illegal purpose, shall not be used to transport any illegal substance or cargo, and shall not be used to haul or transport any items other than the Child's medically-necessary equipment which does not exceed the Van manufacturer's capacity specifications for safe operation of the vehicle. The Representatives agree that the Van shall not be used or operated to run a business. The Representatives agree that the Van shall be used primarily for the claimant's medically necessary transportation. Any other use should be limited and incidental to the intended purpose of medical transportation.

\_\_\_\_\_ Parent/Guardian Initials

5. **Expenses Borne by the Program.** Upon submission of appropriate receipts or other documentation to the Program, for expenses incurred after \_\_\_\_\_, the Program will reimburse the Representatives for: (i) any and all personal property taxes assessed against the Van and paid by the Representative (late fees and penalties excepted); (ii) mileage incurred in connection with medical visits for the Child as set forth in accordance with the Program's Guidelines; and (iii) the cost of insuring the lift and tie downs if an additional cost is incurred in connection with the lift and tie downs. The Representatives acknowledge that this mileage reimbursement is intended only to cover the cost of gasoline associated with medically-necessary transportation. The Program also will pay to the Representatives annually an amount equal to the lesser of (i) the Virginia uninsured motor vehicle fee (as set forth in § 46.2-706 of the Code of Virginia), or (ii) the actual out-of-pocket insurance premium for the Van as demonstrated through the Representative's submission annually of documentation acceptable to the Program.

6. **Expenses Borne by the Representative.** Except as otherwise provided in this Agreement, all operating and maintenance costs for the Van, including city/county decals and tags, inspections, insurance premiums in excess of the amount reimbursed by the Program under Section 5 above, tires, and repairs, shall be borne solely by the Representatives. Also, see page 6 for special note since this van is used.

7. **Compliance with Standards.** The Representatives covenant to maintain the Van at all times in accordance with all laws, regulations and other legal standards applicable to wheelchair-accessible vehicles.

8. **Legal Authority.** The Representatives represents and warrants that he/she, each has the legal capacity and authority to enter into this Agreement on behalf of the Child and to bind the Child's estate.

9. **Van Replacement; Resale.**  
a. Once the Van's mileage reaches \_\_\_\_\_ **miles** or the Representatives reasonably believe its condition warrants replacement, the Representatives may request reimbursement for the purchase of another van. The Program will consider documentation of the Van's service history in determining the advisability and/or necessity of a Van replacement.

As a condition to the Program accepting the return of the Van, the Van must be in good working order and condition, without significant cosmetic damage, reasonable wear and tear excepted, and able to pass state inspection. If the Van is not in condition sufficient to pass state inspection, the Representatives must pay all reasonable expenses to place the Van in the condition necessary to pass state inspection, unless doing so would constitute payment of an unreasonable expense pursuant to §38.2-5009, or in light of circumstances that make doing so unreasonable. If the Program staff and Representatives cannot agree as to what constitutes a reasonable expense, or an unreasonable circumstance, the matter may be brought before the Board for determination, or if not resolved to the mutual satisfaction of the parties, adjudicated by the Virginia Workers' Compensation Commission. Upon agreement by the Program to accept return of the Van, the Representatives must transfer title to the Van to the Program contemporaneously with the return of the Van.

\_\_\_\_\_ Parent/Guardian Initials

b. Upon return of a replacement van to the Program, the Program and Representatives will negotiate the terms and conditions regarding reimbursement for the purchase of another replacement van, or if unable to resolve the matter by agreement, have the matter adjudicated by the Virginia Workers' Compensation Commission.

c. If and when a returned Van is resold by the Program, the Representatives will receive a pro rata portion of the sales proceeds, based upon the respective ownership interests of the Representatives and the Program, as reflected by the amount of money contributed towards the purchase price of the van by each party. In the case of the **Year, Make Model, Conversion, VIN:** , the Program and the Representative agree that upon resale, the Representatives, collectively, shall have no more than   % ownership interest and the Program will have an   % ownership interest for purposes of dividing the proceeds from that sale.

10. **Liability; Insurance.**

a. The Representatives acknowledge and agree that the Program does not assume any liability of any nature to the Representatives or the Child for any loss or damage that any person may sustain in the operation of the Van, whether such loss or damage may result from fire, theft, collision, or other casualty. The Representatives agree to procure prior to operating the Van and maintain at all times occurrence-based insurance insuring the Van against liability and claims for personal injury or property damage. The Representatives agree that the dollar amount of the coverage provided by the insurance policy procured and maintained by Representatives in compliance with this Section of the Agreement shall be sufficient to cover the value of the Van. All such insurance shall name the Program as an additional named insured.

b. The Representatives may submit to the Program a request for reimbursement for insurance-related expenses, incurred after \_\_\_\_\_, equal to the lesser of the Virginia uninsured motor vehicle fee or the actual out-of-pocket insurance premium for the Van as demonstrated through the Representatives' submission annually of documentation acceptable to the Program.

c. Additionally, if the insurance policy initially procured by the Representatives in compliance with this Section lapses, is cancelled, or is no longer available to the Representatives for any reason, the Representatives each agree that he/ she shall not operate the Van unless and until an appropriate replacement insurance policy affording coverage sufficient for the value of the Van has been procured and is in effect.

11. **Covenant Not To Sue.** The Representatives, each on behalf of himself/herself, the Child, and the Child's estate, agree to release and forever discharge the Program from any claims arising out of any act or omission of any person in connection with the operation or maintenance of the Van. This includes, but is not limited to any injury, death, loss, damage, expenses (including, but not limited to, reasonable attorneys' fees and all cost of litigation), or property damage arising out of or attributable to any act or omission of any person in connection with the operation or maintenance of the Van.

\_\_\_\_\_ Parent/Guardian Initials

If any dispute arises under this Agreement, the Program staff and Representatives acknowledge that Representatives may request resolution of the dispute by the Program's Board and that if a mutually agreeable resolution is not reached, the Virginia Workers' Compensation Commission shall adjudicate the matter pursuant to the Virginia Birth-Related Neurological Injury Compensation Act, Virginia Code §38.2-5001, et seq. This Agreement shall not be interpreted or applied in contravention to Virginia Code §38.2-5003. Although Representatives in good faith intend first to attempt resolution of any dispute with the Program's Board prior to initiating litigation, nothing in this agreement shall be interpreted to require the Representatives to await a determination by the Program's Board prior to filing a Petition with the Commission regarding determination of any dispute between the parties.

12. **Miscellaneous.** This Agreement shall be interpreted and enforced in accordance with the laws of the Commonwealth of Virginia, without regard to any conflicts of law provisions or principles to the contrary. This Agreement may not be assigned or transferred by the Representatives, or by them collectively, without the prior written consent of the Program, which consent may be withheld in the sole discretion of the Program, and any attempted assignment by the Representatives, individually or collectively, in violation of this Section will be void and of no force and effect whatsoever. In the event any one or more of the provisions contained in this Agreement are for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement, and the remaining provisions of this Agreement shall continue in full force and effect. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements between them regarding such subject matter. This Agreement shall be binding upon and shall inure to the benefit of the parties and their permitted assigns and successors in title or interest. Representatives agree not to request any compensation in addition to the \$ \_\_\_\_\_ paid by the Program pursuant to this Agreement of the purchase of the Van. Representatives expressly waive any right either, or both, of them might otherwise have to any additional compensation for the purchase of the Van. Representatives expressly release the Program and its Board from any claim for any additional compensation for the purchase of the Van.

\_\_\_\_\_ Parent/Guardian Initials

WITNESS the following signatures as of the date first above written.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

By: \_\_\_\_\_  
Name: Benefits and Claims Specialist

**REPRESENTATIVES**

Name: \_\_\_\_\_  
\_\_\_\_\_, Parent/Legal Guardian of Claimant

**VAN INFO**

**Year, Make Model, Conversion, Color**

**VIN:**

**Mileage:**

**Vendor:**

**SAMPLE**

\_\_\_\_\_ Parent/Guardian Initials

**ACKNOWLEDGEMENT AND RECEIPT OF VAN AGREEMENT**

I, \_\_\_\_\_, parent/legal guardian of \_\_\_\_\_, B# \_\_\_\_\_, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2017, have received, read, and understand the Virginia Birth-Related Neurological Injury Program Van Agreement that has been presented to me. I have asked questions pertaining to this Van Agreement and have receive answers which are satisfactory to me. I also understand that I may have the Van Agreement reviewed by my own legal representative prior to signing it. My signature below also affirms and attests that I am at least 18 years of age, of sound mind, not under the influence of any substance or otherwise mentally impaired, have read and understood this Acknowledgement and Receipt and have knowingly and voluntarily endorsed the Van Agreement and this Acknowledgement and Receipt.

I have read and understood all parts of the Van Agreement and will abide by all sections.

\_\_\_\_\_, Parent/Legal Guardian of Claimant

**VAN INFO**

**Year, Make Model, Conversion, Color**

**VIN:**

**Mileage:**

**Vendor:**

\_\_\_\_\_ Parent/Guardian Initials

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

COMMONWEALTH/STATE OF \_\_\_\_\_:

COUNTY OF \_\_\_\_\_ :

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, appeared before me \_\_\_\_\_, the parent or legal guardian of \_\_\_\_\_, **B#** \_\_\_\_\_, the admitted claimant, and swore to the truth and accuracy of the entire contents of the above Agreement. I have verified the identity of each person who signed this document.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

\_\_\_\_\_  
Parent/Guardian Initials

SAMPLE