



Mountain Line

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NOTICE AND AGENDA OF PUBLIC MEETING AND POSSIBLE EXECUTIVE SESSION OF THE BOARD OF DIRECTORS (BOD) OF THE NORTHERN ARIZONA INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the Board of Directors (BOD) of the Northern Arizona Intergovernmental Public Transportation Authority ("NAIPTA") and to the general public that the Board will hold an emergency meeting on:

Monday, June 29, 2020
1:00 P.M.
Mountain Line Training Room
3825 N. Kaspar Dr.
Flagstaff, AZ 86004

Due to the current public health emergency related to the Coronavirus, this meeting held in the Training Room will not be open to the public. This is a WEB BASED meeting. Members of the Board of Directors may attend by telephone or internet conferencing. Members of the public may submit comments related to agenda items before 10am on the day of the meeting to transportation@naipta.az.gov and observe the meeting by following the instructions at <https://mountainline.az.gov/about-us/board-of-directors/>.

The Board of Directors may vote to hold an executive session for the purpose of obtaining legal advice from NAIPTA's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3). The executive session may be held at any time during the meeting. Executive sessions are not open to the public, pursuant to Arizona Open Meeting Law.

Pursuant to the Americans with Disabilities Act, persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Clerk of the Board of Directors at 928-679-8922 (TTY Service 800.367.8939). Requests should be made as early as possible to allow time to arrange the accommodation.

The agenda for the meeting is as follows:

-pages 1-2

1. CALL TO ORDER
2. ROLL CALL

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DISCUSSION / ACTION ITEMS:

3. CONSIDER FY2021 LIABILITY INSURANCE OPTIONS -pages 3-66
-Heather Dalmolin, CEO and General Manager
Staff recommends the Board of Directors provide direction to the CEO and General Manager regarding FY2021 liability insurance coverage, including adoption of Resolution 2021-120 to join Transit Reinsurance Ltd, an industrial insured captive insurance corporation, and appointment of the CEO & General Manager to their Board of Directors. This action will direct staff to bind necessary insurance to meet the requirements of the Master IGA for FY2021.

ITEMS FROM COMMITTEE AND STAFF:

SCHEDULE NEXT MEETING DATE AND IDENTIFY AGENDA ITEMS

The next Board meeting will be August 19, 2020 and will be a WebEx meeting based in Flagstaff in the NAIPTA Training Room, 3825 N. Kaspar Dr., Flagstaff, AZ 86004 at 2pm. Parking will be available at 3773 N. Kaspar Dr. The public is invited to attend. August agenda items will include but not be limited to the Active Transportation Master Plan, Disadvantaged Business Enterprise (DBE) Goal, Annual Cybersecurity Report, Human Trafficking Campaign, Central Yavapai Metropolitan Planning Organization (CYMPO) Request for Service and IGA, Strategic Plan Updates, Annual Safety Report, Emergency Operations Center (EOC) Update, Pandemic Updates by Department, Maintenance Updates, and Delegation Authority Update: Agreements, Grants, and Procurements. The August agenda will be available for review on NAIPTA's website and at NAIPTA's public posting places (listed on the NAIPTA website) at least 24 hours prior to the meeting and should be consulted for a list of items that will come before the Board.

4. ADJOURNMENT

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DATE PREPARED: June 26, 2020

DATE: June 29, 2020

TO: Honorable Chair and Members of the Board

FROM: Heather Dalmolin, CEO and General Manager

SUBJECT: Consider FY2021 Liability Insurance Options

RECOMMENDATION:

Staff recommends that the Board of Directors provide direction to the CEO and General Manager regarding FY2021 liability insurance coverage, including adoption of Resolution 2021-120 to join Transit Reinsurance Ltd, an industrial insured captive insurance corporation, and appointment of the CEO & General Manager to their Board of Directors. This action will direct staff to bind necessary insurance to meet the requirements of the Master IGA for FY2021.

BACKGROUND:

Annually, staff works with Mountain Line's insurance broker to market and bind liability insurance. The lines of insurance include auto, property, employment, and public official policies. Recently, Mountain Line added Cyber Crime coverage due to growing risk as related to cybercrimes and use of social media. Per the Master IGA, coverage provides limits of \$30M through multiple policies including umbrella and excess coverage. Mountain Line has contracted with AON Risk Insurance Services West (AON) since 2006, to act as its broker, and has been working with a team out of the Albuquerque office successfully. The annual renewal process has resulted in stable premiums and deductibles. Staff have been satisfied with representation of AON and the marketing efforts conducted annually. For the past several years, Mountain Line has been successful in binding the necessary coverage at a cost of roughly \$300,000 per year.

In 2016, the Board requested that staff consider if there were more cost-effective insurance strategies and staff looked into both self-insurance programs and lower policy limits. At the time, it was determined that self-insurance was not a good option as it required tying up a large some of cash without significant savings to Mountain Line. The reduction in policy limits was explored and the recommendation was to keep the \$30M policy in place as a reduction to \$10M offered only a small cost savings as compared to the amount of lost coverage, roughly \$50,000 annually.

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During the marketing effort related to our FY2021 coverage, we learned that our long-time umbrella policy carrier had notified AON that they would not be renewing our policy as they have withdrawn from public transit market. At the same time, we were told that the insurance market was 'hardening' and we should expect coverage to increase by about 10%. AON confirmed that another carrier continued to be interested in providing coverage, a company that had bid coverage in a prior year but was higher priced. Staff was confident that all efforts were going smoothly and proceeded as in prior years, adding a 10% increase to the budget while waiting for quotes to be received in mid to late May.

On May 15, 2020, Mountain Line received notice from AON that they had restructured and sold the Albuquerque office, resulting in a loss of the team we had worked with in the past. This notice was alarming as we had not been informed that a change was pending, and we were in the middle of marketing our FY2021 policies with the team in the Albuquerque office. We spoke with the new team and were assured that we would not experience any issues in completing the marketing effort. We were notified on May 29 that the team had received the anticipated quote for our umbrella policy but that the premium was a little higher than preferred and that the total umbrella offering was \$5M and not the expected \$10M. We were told that the team was still working on the excess policy and they would be in touch. On June 5, AON checked in to inform us that they were unable to change the umbrella pricing quote and that they were still working on quoting the excess coverage policy.

On June 17, 2020, Mountain Line received an email seeking a teleconference call to discuss challenges faced in placing our coverage. During that call, AON notified staff that the only quote for the umbrella coverage was same as the prior year's \$10M policy. Additionally, they revealed that they faced issues in placing the other \$25M in coverage as our prior excess coverage carrier refused to provide a \$25M policy and would only provide \$10M in excess after our first layer of \$10M in coverage. There is a \$5M gap between the umbrella coverage and the quoted excess, and we still need another \$10M excess layer to achieve \$30M in coverage. A week later we were informed that AON was not confident they could fill the \$5M gap for less than \$300,000.

On June 26, 2020, AON arranged a call between Mountain Line and TransitRe, a transit insurance pool. TransitRe is able and willing to provide the necessary excess coverage between our umbrella and our \$10M excess layer. TransitRe provides insurance services to more than 50 transit agencies. This pool is for public transit agencies that employ their own operators and it has been in place for more than 10 years. After a review of TransitRe's operations model, staff felt it was not unlike the benefit trust, NAPEBT, and determined that this was an attractive and cost-effective option. While the pool does provide a variety of pooled insurance opportunities, staff are recommending that we join to obtain the necessary \$5M layer

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needed to reach \$10M in coverage needed beneath the proposed excess layer. To be eligible for coverage by this pool, we will need to join TransitRe and that requires certain actions:

- Complete a membership application
- By action of the Board of Directors:
 - Accept and Execute the TransitRe Bylaws Agreement
 - Accept TransitRe's formal Board-Approved Proposal of Coverage
 - Assign a designated voting representative for the membership of TransitRe
 - Provide a Reinsurance Memorandum of Coverage (MOC) approved by the governing body to be accepted by TransitRe.
 - Provide a \$300,000 letter of credit to the benefit of the State of Vermont.
(Average cost \$3,500/yr.)

The membership application has been completed by staff and TransitRe is scheduled to meet Monday June 29, 2020 to accept the application. The Bylaws and Reinsurance MOC have been reviewed by staff without concern. AON has also reviewed the draft Reinsurance MOC and confirmed it is reasonable. The Bylaws and MOC were provided to Legal for review and staff were able to address raised questions as below:

1. What are the terms of the \$300,000 Letter of Credit? This letter is to protect TransitRe regarding the 10% we agree to pay for any claims that may result in trigger of this policy level, a claim greater than the \$5M umbrella. Staff are aware and agreeable to the 10% share of any claim between \$5M and \$10M, a claim against this layer of coverage.
2. Are they licensed to issue insurance in Arizona, and are they required to be? The pool is backed by commercial policies and those carriers are licensed to issue insurance in Arizona.

The recommendation of staff, including adoption of Resolution 2021-120 to accept the bylaws and coverage of Transit Reinsurance Ltd and to appoint the CEO & General Manager to their Board of Directors ensures that Mountain Line gains at least \$10M of liability coverage for FY2021 at a cost that is within budget and reasonable for the services and programs.

While the direction regarding TransitRe does not resolve 100% of the liability insurance issues, staff recognize that closing this gap in coverage is essential to being able to gain additional layers of excess coverage. Staff are committed to continue efforts to bind an additional \$20M of excess coverage, before July 1 or as soon as possible, however are concerned about the significant rise in cost of these coverage limits. The cost of the umbrella policy and TransitRe is approximately 95% of budgeted liability insurance. It is anticipated the additional \$10M in excess from our prior carrier will result in this expense being about 20% overbudget or \$62,000. The fourth layer, the additional \$10M in excess, may cost as much as another \$100,000 per year. Staff would like direction from the Board to again explore reduction of coverage limits in light of low history of claims (only 1 claim has ever exceeded \$1M and that

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was more than 5 years ago), the changing insurance market, and significant rise in cost. In 2016, the \$20M excess layer cost about \$50,000 and in today's market that same coverage is anticipated to cost between \$180,000 and \$300,000. If the third excess layer can be identified, staff can move forward and bind that coverage while looking for alternatives, including other transit pool coverage options, canceling any placed coverage for a pro-rated refund based on number of months covered. Staff believe that it is important for coverage limits and policies to reflect best practices, the reasonably assumed liabilities, and be financially reasonable. If the Board of Directors determines, through future discussions, that existing policy limits at today's market cost are not financially prudent this action will require an amendment to the Master IGA.

TAC DISCUSSION:

Due to timing of this issue, this item was not presented to the Transit Advisory Committee.

ALTERNATIVES:

- 1) Direct the CEO and General Manager regarding FY2021 liability insurance coverage, including adoption of Resolution 2021-120 to join Transit Reinsurance Ltd and appointment of the CEO & General Manager to their Board of Directors (**recommended**): This action ensures the Mountain Line will begin FY2021 with at least \$10M in liability insurance and provides the best opportunity for binding additional excess coverage towards reaching the \$30M coverage limits named in the Master IGA. The direction to staff to explore other solutions, including changes to limits, ensures long-term financial commitment is reflective of the liability risk of the agency.
- 2) Do not approve joining TransitRe (**not recommended**): If the Board does not approve the recommendation, Mountain Line is at risk of starting business on July 1 with only \$5M in umbrella coverage in place or paying a significantly higher amount based on having no other option to achieve the \$30M policy that is standard for our programs.

FISCAL IMPACT:

The fiscal impact of this direction and decision ranges from \$335,000 to \$700,000 depending on final quotes for various insurance layers. Authorizing the membership to TransitRe is a cost of less than \$30,000 over the submitted quote from a commercial carrier of \$300,000. Additional excess layers are expected to cost between \$180,000 and \$300,000. The budget for these policies is just over \$350,000.

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SUBMITTED BY:

Heather Dalmolin
CEO and General Manager

ATTACHMENTS:

- | | |
|---|--------------|
| 1. Resolution 2021-120 TransitRe Ltd Membership | -pages 8-9 |
| 2. TransitRe Indication | -page 10 |
| 3. TransitRe Member Agreement | -pages 11-19 |
| 4. TransitRe Bylaws | -pages 20-33 |
| 5. Memorandum of Coverage | -pages 34-66 |

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RESOLUTION NO. 2021-120

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTHERN ARIZONA INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY (MOUNTAIN LINE) ACCEPTING MEMBERSHIP IN TRANSIT REINSURANCE, LTD.

Whereas the Northern Arizona Intergovernmental Public Transportation Authority (“Mountain Line”) is required to obtain insurance policies and coverages under the Master Intergovernmental Agreement (“Master IGA”) related to the formation and governance of Mountain Line; and

Whereas it is also good and sound practice for a transit authority to obtain and carry appropriate insurance coverage related to its operations; and

Whereas the Board of Directors (“Board”) has determined that it is economically and administratively advantageous for Mountain Line to obtain a portion of the appropriate insurance coverage from Transit Reinsurance, Ltd. (“TRL”); and

Whereas Mountain Line has submitted an application for membership in TRL and to purchase reinsurance offered by TRL for at least a contemporaneous three (3) year period (“Membership Application”); and

Whereas TRL’s Board of Directors accepted the Membership Application; and

Whereas TRL’s acceptance of the Membership Application is subject to the conditions set forth in Exhibit 1 to this Resolution including, but not limited to, Mountain Line’s contribution of surplus to TRL and execution of the TRL Member Agreement in the form set forth in Exhibit 1, which includes agreement to the Bylaws which are Attachment A to the Membership Agreement; and

Whereas the Board desires for Mountain Line to continue to efficiently and cost-effectively fulfill its mission to provide transportation solutions to the members of the public it serves; and

Whereas the Board has previously delegated authority to the CEO and the General Manager in relation to the administration and operation of Mountain Line, including negotiating for and obtaining appropriate insurance coverages; and

Whereas Arizona Revised Statutes §§ 28-9101, *et seq.* authorize the Board to delegate additional authority to the CEO and the General Manager; and

Whereas delegating additional authority to the CEO and the General Manager will enable Mountain Line to timely obtain appropriate insurance coverage for its operation;

NOW, THEREFORE, be it resolved by the Mountain Line Board of Directors as follows:

- Section 1: That Mountain Line is hereby authorized to accept the offer of membership in and become a Member of TRL; and
- Section 2: That Mountain Line is hereby authorized to deliver the required surplus contribution to TRL and to execute, through its CEO and General Manager, the TRL Member Agreement as set forth in Exhibit 1 to this Resolution; and
- Section 3: That the CEO and General Manager is hereby delegated on the Board's behalf and authorized to perform, or cause to be done or performed, all such acts, deeds and things and to make, execute and deliver, or cause to be made, executed and delivered, all such agreements, undertakings, documents, instruments or certificates in the name and on behalf of Mountain Line that the CEO and General Manager may deem necessary or appropriate in order to effectuate or carry out fully the purpose and intent of the this Resolution.

Passed and adopted by the Mountain Line Board of Directors this 29th day of June, 2020.

Jamie Whelan, Chair,
Mountain Line Board of Directors

Attest:

Rhonda Cashman, Clerk of the Board

Reviewed as to form:

Dickinson Wright PLLC
Mountain Line General Counsel



Indication for NAIPTA at 7/1/2020

Entity Name	Northern Arizona Intergovernmental Public Transportation Authority
Address	3773 N. Kaspar Dr. Flagstaff, Arizona 86004
Website	https://mountainline.az.gov/
Primary Contact	Kasey Lemon kasey.lemon@aon.com (602) 427-3281
Underwriting Data	10 Years of Liability Loss History Historical Miles Projected Miles of 1,030,038 for the coming year

Coverage Indications

Layer	Premium ¹	Capital Contribution ²	Quota Share ³	Total Premium
5M x 5M	\$15,000	\$10,000	10%	\$25,000

There is a post coverage year Premium Audit with no Reinstatements – no amounts due if difference in premium is less than \$10,000.

NOTE: This is an indication only and not an offer of coverage. A formal offer of coverage can be obtained by filling in an Application for Membership through our website at <http://www.transitre.com>. Membership is subject to Transit Re Board approval.

¹ Amount shown reflects a 12-month premium. This amount may be pro-rated to reflect a 12/1 renewal.

² Amounts paid as Capital Contributions will be directly credited to each member's Net Worth Allocation in Transit Re. These amount are determined by underwriting and may be adjusted annually.

³ 10% Quota Share only applies to those claims incurred by NAIPTA.

Actions Required to Begin Membership

- A completed Membership Application
- Your Governing Board will need to:
 - o Accept and Execute the Transit Re Bylaws Agreement
 - o Accept Transit Re's formal Board-Approved Proposal of Coverage
 - o Assign a designated voting representative for the membership of Transit Re
 - o Provide a Reinsurance MOC approved by the governing body to be accepted by Transit RE.
 - o Provide a \$300,000 letter of credit to the benefit of the State of Vermont. (Average cost \$3,500/yr.)

TRANSIT REINSURANCE, LTD.

MEMBER AGREEMENT

This Member Agreement (“Agreement”) is made and entered into on this ____ day of _____, 2020, among Transit Reinsurance, Ltd., a Vermont mutual captive insurance company (the “Corporation”), and the members of the Corporation listed on Schedule A attached hereto, which Schedule may be supplemented from time to time, such entities, together with those listed on any supplemental Schedule, referred to herein individually as a “Member” and collectively as the “Members”. (The Corporation and the Member(s) are hereinafter sometimes referred to as “Party” or jointly as “Parties”).

Background

- A. Transit Reinsurance, Ltd. is an industrial insured captive insurance corporation organized as a mutual insurance corporation pursuant to the general corporation and captive insurance laws of the State of Vermont.
- B. The Corporation provides policies of insurance (the term “policies of insurance” includes both policies of insurance and/or reinsurance agreements) to eligible entities that satisfy the requirements for membership, as determined by the Board of Directors, and as set forth in this Agreement and the Corporation’s Articles of Incorporation, Bylaws, and policies, and that meet the underwriting, financial and other material standards established from time to time by the Corporation.
- C. The undersigned Member desires to become a member of, and be insured or reinsured, by the Corporation in accordance with the terms of this Agreement and the Corporation’s Articles of Incorporation, Bylaws, and policies of insurance.
- D. The Corporation is willing to provide policies of insurance to the undersigned Member pursuant to the terms of this Agreement and the Corporation’s Articles of Incorporation, Bylaws and all policies adopted by the Corporation’s Directors.
- E. The Corporation and each of the Members entering into this Agreement propose to undertake insurance operations in express reliance upon the execution, delivery and performance of this Agreement by each of the Members.

NOW, THEREFORE, the Parties to this Agreement, in consideration of the mutual representations, warranties, covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, agree as follows:

ARTICLE I

MEMBERSHIP AND INCORPORATION OF GOVERNING DOCUMENTS

Section 1. Membership and Agreement to Purchase Policies of Insurance. The undersigned Member hereby agrees to maintain its membership in the Corporation and purchase policies of insurance from the Corporation for at least a contemporaneous three (3) year period, subject to the Corporation's Articles of Incorporation, Bylaws, all policies adopted by the Corporation's Directors and the terms of any commitment letter executed by and between Member and the Corporation. The undersigned Member further agrees that it shall obtain a policy of insurance from the Corporation within twelve (12) months of becoming a Member. As a condition to membership, the undersigned Member agrees to be bound by, and comply with, all of the terms and conditions set forth in this Agreement, and all related documents, including but not limited to, the Corporation's Articles of Incorporation, the Bylaws, all policies adopted by the Corporation's Directors and any policies of insurance issued by the Corporation to such Member.

Section 2. Incorporation of Governing Documents. The Parties hereby agree that the Corporation's Articles of Incorporation and Bylaws as Amended and Restated August 31, 2016 (attached hereto as Attachment A) are incorporated into, and become part of, this Agreement. All obligations imposed on, or rights granted to, Members and the Corporation under the Articles of Incorporation and the Bylaws shall be binding on each undersigned Member and the Corporation.

ARTICLE II

SURPLUS CONTRIBUTIONS AND PREMIUM

Section 1. Surplus Contributions. The undersigned Member hereby agrees to contribute surplus in such amounts and on such terms as described in Article V, Section 2 of the Corporation's Bylaws. The return of contributed surplus accounts and the distribution of earned surplus, if any, shall be governed by the provisions of Section 2 of Article VI of the Corporation's Bylaws, subject to the terms of any commitment letter by and between Member and the Corporation.

Section 2. Payment of Premium. The undersigned Member hereby agrees to pay premium for such policies of insurance as it desires to purchase from the Corporation and pay any administrative costs of the Corporation in such amounts as established by the Board of Directors.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 1. Representations and Warranties of Each Member. Each of the undersigned Members hereby severally represents and warrants to the other Members and to the Corporation that:

- (a) It has full power and authority, and has taken all necessary and proper action under its governing instruments and under applicable state law, to execute and deliver this Agreement and to consummate the transactions contemplated hereby.
- (b) It is (i) a non-profit state transit authority, board or system, (ii) a non-profit, risk-sharing group of public transit authorities, boards or systems, (iii) a general, non-profit risk sharing group which includes the exposures of public transit authorities, boards or systems, or (iv) a licensed insurer comprised in majority part of public transit authorities, boards or systems.
- (c) That if the Member is an eligible group or entity described in subsections (b)(ii), (b)(iii) or (b)(iv) of this Section 1, it exists for the benefit of a state transit authority, board or system and retains risk.
- (d) It is exempt from federal income taxation.
- (e) This Agreement constitutes a valid and binding obligation of the Member, enforceable against it in accordance with its terms.
- (f) There are no actions pending or, to the best of its knowledge, threatened by or against the Member with respect to this Agreement to which such Member is a Party, or in connection with the transactions contemplated hereby.
- (g) To the best of its knowledge after diligent inquiry, all information supplied by the Member to the Corporation in connection with its application for membership, including but not limited to exposure information and loss data, is true and correct.
- (h) It has been provided with a true and correct copy of the Corporation's, Articles of Incorporation and Bylaws as they currently exist. It has carefully considered and, to the extent Member believes such discussion necessary, discussed with its professional financial, legal and tax advisors the suitability of becoming a member of the Corporation.
- (i) It has such knowledge and experience in financial, insurance and business matters that it is capable of evaluating the merits and risks of becoming a member of the Corporation and purchasing policies of insurance from the Corporation. In making such evaluation, it has not relied upon any representations or other information from the Corporation, other than as set forth in the Corporation's business plan, Articles of Incorporation, Bylaws and the insurance coverage proposal, including premium quotations and policy provisions.

Section 2. Representations and Warranties of the Corporation. The Corporation hereby represents and warrants to each undersigned Member that:

- (a) It has full power and authority, and has taken all necessary and proper action under its governing documents and under applicable state law, to execute and deliver this Agreement and to consummate the transactions contemplated hereby.
- (b) This Agreement constitutes a valid and binding obligation of the Corporation, enforceable against it in accordance with its terms.
- (c) There are no actions pending or, to the best of its knowledge, threatened by or against the Corporation with respect to this Agreement to which the Corporation is a Party, or in connection with the transactions contemplated hereby, nor does the Corporation have reason to believe there is a valid basis for any such action.
- (d) To the best of its knowledge after diligent inquiry, all information supplied by the Corporation in connection with the application for membership is true and correct.
- (e) The Corporation will operate consistently with the requirements imposed by Vermont law.

Section 3. Survival of Representations. All representations, warranties and agreements made in this Agreement or pursuant hereto shall survive the execution, delivery and termination hereof.

ARTICLE IV ACKNOWLEDGMENTS

Section 1. Member Acknowledgments. The undersigned Member understands, acknowledges and agrees with the Corporation as follows:

- (a) To comply with all reasonable underwriting, claims management, risk management and loss control standards established by the Corporation, and shall take any and all actions required by the Corporation to address issues related to risk management, loss prevention and loss control.
- (b) That its membership may be terminated as provided in the Corporation's Bylaws. Failure to obtain a policy of insurance as provided in this Agreement shall result in immediate termination of membership.
- (c) That the Corporation's Board of Directors shall have the sole discretion to determine any distributions to Members, subject to the prior written approval of the Department of Financial Regulation of the State of Vermont. Member understands that any distributions, whether upon termination, withdrawal or dissolution, shall only be made in accordance with the Corporation's Bylaws and policies established by the Corporation's Board of Directors.

- (d) That it may withdraw from membership only in accordance with the provisions of Section 9 of Article I of the Corporation's Bylaws, subject to the terms of any commitment letter by and between Member and the Corporation.
- (e) That its membership is non-transferable.
- (f) That membership in the Corporation is for the purpose of pooling and spreading insurance risk; that any funds contributed by Member to the Corporation are for the purpose of capitalizing the Corporation in order to engage in such pooling and spreading of risk; and that the Corporation does not represent in any way that an investment return on any contributed funds will be paid to Member.

ARTICLE V EFFECTIVE DATE OF AGREEMENT

Section 1. Effective Date. This Agreement shall be effective on the date on which: (a) this Agreement has been duly executed and delivered by the undersigned Member and by the Corporation, and (b) the undersigned Member has delivered its required surplus contribution to the Corporation.

Section 2. Term. This Agreement will remain in effect so long as the undersigned Member has in force policies of insurance from the Corporation and until the undersigned Member voluntarily withdraws its membership in the Corporation or its membership is terminated in accordance with the Corporation's Bylaws. Following termination, expulsion or withdrawal, the Member's right to vote as a Member shall terminate, but the Member shall remain bound by this Agreement and the Corporation's Articles of Incorporation, Bylaws and all policies adopted by the Corporation's Directors and any other agreements by and between Member and the Corporation.

Section 3. Additional Members. Subject to the requirements of the Corporation's Articles of Incorporation and Bylaws, additional eligible entities may become members by signing an appropriate counterpart to this Agreement, as it may be amended from time to time, without the signatures of the other Members being required. The withdrawal of a Member from this Agreement, whether because such Party ceases to obtain insurance from the Corporation or otherwise, shall not invalidate or affect in any manner this Agreement with respect to the other Parties hereto.

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 1. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Vermont (without regard to Vermont's conflicts of law principles).

Section 2. Notices. All notices and other communications hereunder shall be in writing and may be communicated by facsimile, electronic mail or other form of written or wire

communication, or by mail or private carrier to each Party at its physical address, electronic mail address or facsimile number as it appears below, or at such other address for a Party as shall be specified by like notice. If notice is sent by electronic mail, such notice shall be effective upon the Corporation's receipt of electronic confirmation. If notice is sent by facsimile, such notice shall be effective on the date shown on the facsimile transmission receipt indicating that such facsimile was successfully transmitted. Written notice shall be deemed to be effective when mailed first class postpaid and correctly addressed to the Party's mailing address as it appears below, or at such other address for a Party as shall be specified by like notice.

If to the Corporation, to:

Transit Reinsurance, Ltd.
C/O Patricia L. Henderson
Strategic Risk Solutions Ltd.
159 Bank St. Fourth Floor
Burlington, VT 05401

Electronic mail: patricia.henderson@strategicrisks.com

If to Member, to:

Notices and communications delivered by certified or registered mail shall be deemed to have been given on the date entered on the return receipt.

Section 3. Amendments. This Agreement may be amended, modified or supplemented only by written agreement duly executed by all of the Parties hereto.

Section 4. Entire Agreement. This Agreement and any commitment letter by and between the undersigned Member and the Corporation embody the entire agreement and understanding of the Parties hereto in respect of the subject matter contained herein.

Section 5. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

Section 6. Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns, as the case may be; provided, however, that no Member may assign this Agreement in

whole or in part, or any of its rights, duties, powers or privileges hereunder, without the prior written consent of the Corporation.

Section 7. No Waiver. The failure of either Party at any time to require the other Party's performance of any provision hereof shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver or modification of the provision itself, or a waiver or modification of any other right under this Agreement.

Section 8. Article and Section Headings. The title headings of the respective Articles and Sections of this Agreement are included for convenience only and shall not otherwise be deemed to be a part of this Agreement or considered in its construction.

Section 9. Brokers. The Corporation and each of the undersigned Members each represent and warrant to one another that if any of them has employed any broker or agent relating to this Agreement it shall pay any brokerage commission payable to said broker or agent. The Corporation and each of the undersigned Members shall indemnify and hold one another harmless from and against any claim or claims for brokerage or other commissions arising from or out of any breach of the foregoing representations.

Section 10. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the date first written above.

TRANSIT REINSURANCE, LTD.

By: _____
[Title]

WITNESS:

Date

[NAME OF MEMBER]

By: _____
Authorized Representative

WITNESS:

Date

SCHEDULE OF ATTACHMENTS:

ATTACHMENT A

Transit Reinsurance, Ltd. Articles of Incorporation and Bylaws – As Amended August 31, 2016

ATTACHMENT B

Amended and Restated Articles of Incorporations – Executed August 24, 2016

ATTACHMENT C

Formal Offer of Insurance and Terms as approved by the Transit Reinsurance, Ltd Board of Directors authorized The ____ day of _____, 2020.

SCHEDULE A

List of the Members of Transit Reinsurance Ltd.

SCHEDULE A

Member Name	Member Address
Michigan Transit Pool	2120 University Park Drive Okemos, MI 48864
Ohio Transit Risk Pool	1 Park Center Drive STE 300 Wadsworth, OH 44281

BYLAWS

of

TRANSIT REINSURANCE, LTD. AMENDED AUGUST 31, 2016

ARTICLE I MEMBERS

Section 1. Number of Members. The Corporation shall consist of an unlimited number of Members (as that term is hereinafter defined).

Section 2. Eligibility. Those eligible for membership shall be any legal entity which is: (a) a non-profit state transit authority, board or system, (b) a non-profit, risk-sharing group of public transit authorities, boards or systems, (c) a general, non-profit risk sharing group which includes the exposures of public transit authorities, boards or systems, or (d) a licensed insurer comprised in majority part of public transit authorities, boards or systems. In the case of an eligible group or entity described in subsections (b), (c) and (d) of this Section, such entity must exist for the benefit of a state transit authority, board or system and retain risk. Each eligible entity must either be a state or a subdivision of a state exempt from federal income taxation and otherwise meet the underwriting, financial and other material standards established from time to time by the Corporation. Only eligible entities may purchase insurance from the Corporation. All questions as to whether or not a particular entity meets the foregoing requirements shall be determined by the Corporation's Board of Directors in its sole discretion.

Section 3. Founding Members. Eligible entities accepted for membership by the Corporation on or before December 31, 2005, shall be Founding Members and shall be accorded the special rights and privileges specifically provided for in the Corporation's Articles of Incorporation and Bylaws.

Section 4. Acceptance for Membership. An eligible entity may become a member of the Corporation (a "Member") by:

- (a) filing an application for membership in the form prescribed from time to time by the Corporation's Board of Directors, and
- (b) demonstrating eligibility for membership in the Corporation, and
- (c) making the required surplus contribution(s) to the Corporation, and
- (d) agreeing to apply for and purchase insurance offered by the Corporation within the time period specified by the Board of Directors, not to exceed twelve (12) months, and

- (e) executing the form of agreement for membership prescribed by the Board of Directors (a “Member Agreement”).

Each eligible entity submitting an application for membership and insurance shall, upon acceptance by the Corporation, become a Founding Member or Member as the case may be, on the effective date of membership as described in Section 5 of this Article I. The term “policy of insurance” shall include both policies of insurance and/or reinsurance agreements. An affirmative vote of two-thirds (2/3rds) of the Board of Directors shall be required before an eligible entity may be accepted by the Corporation for insurance coverage and for membership.

Section 5. Effective Date. The effective date of membership shall be the date on which all of the following conditions have been satisfied: (a) the Board of Directors accepts an eligible entity’s application for membership in accordance with Section 4 of this Article I; (b) the eligible entity delivers its required surplus contribution to the Corporation; and (c) the eligible entity and the Corporation have executed a Member Agreement. Failure to obtain a policy of insurance as provided in the Member Agreement shall result in immediate termination of membership.

Section 6. Transferability of Membership. Membership shall not be transferable.

Section 7. Termination of Membership. After a two-thirds (2/3rds) vote of the Corporation’s Board of Directors, the Corporation is authorized to terminate the membership of any Member that fails to substantially comply with these Bylaws, the Member Agreement, or any policy of insurance issued by the Corporation to any Member. The reasons for termination include, but are not limited to, non-payment of premium, fraud, material increase in hazard, failure to satisfy membership requirements, dissolution of the Member, failure to satisfy underwriting criteria, or failure to comply with policies or procedures adopted by the Board of Directors. Obligations created by the Bylaws and the Member Agreement shall remain binding even in the event of termination.

The Corporation shall provide the Member with notice of noncompliance and sixty (60) days from the date of notice in which to cure the noncompliance (the “Cure Period”). Such notice shall be provided in writing and shall describe the noncompliance giving rise to the potential termination. If a Member fails to respond to the opportunity to cure the noncompliance within the Cure Period, the termination of membership shall take place without the need for any further action by the Corporation’s Board of Directors. However, a Member may provide written notification to the Corporation during the Cure

Period by registered mail indicating that the cited noncompliance has either been cured or that it has developed a plan to cure the cited noncompliance. If such a notice is properly provided, the Member shall not be terminated unless the Corporation's Directors, on a two-thirds (2/3rds) vote, determine that the cited noncompliance has not been cured or that the plan to cure the cited noncompliance submitted for their consideration is unacceptable.

Termination of membership shall be effective at the end of the policy term, unless conduct giving rise to such termination creates an immediate material risk to the Corporation. The term "immediate material risk" shall include, but not be limited to, non-payment of premium, fraud or material increase in the exposure being insured. The Corporation shall provide written notice of termination to any Member whose membership has been terminated at least ten (10) days prior to the effective date of termination. Termination of membership shall not discharge a Member's obligation to pay any unpaid portion of any amounts due to the Corporation in accordance with these Bylaws, the Member Agreement, or any policy of insurance issued by the Corporation to such Member.

A Member shall cease being a member when and if the Member ceases to be insured/reinsured by the Corporation or, if the Member is dissolved, on the effective date of such dissolution.

Section 8. Non-renewal. The Corporation's Board of Directors may vote to non-renew a Member's policy without cause, provided the Board of Directors provides written notice by registered mail of its decision not to renew the policy at least ninety (90) days before the end of the policy term. Such action shall not be effective unless approved by the affirmative vote of at least two-thirds (2/3rds) of the Directors. Such affirmative vote shall result in the termination of such Member's membership at the end of the existing policy term.

Section 9. Withdrawal. A Member may withdraw subject to these Bylaws and the Member Agreement. A withdrawing Member must give written notice thereof to the Corporation, by registered or certified mail, no later than one hundred and twenty (120) days before the end of the policy year in which such withdrawal occurs. The return or forfeiture of contributed surplus accounts and earned surplus, if any, to or by a Member who withdraws from the Corporation or whose membership is terminated shall be governed by Article VI of these Bylaws and the Member Agreement.

Section 10. Minimum Membership Requirement. The Corporation shall have at least two (2) Members at all times. If this requirement is not satisfied, the Corporation shall be dissolved unless the remaining Member votes to continue the Corporation as a single parent captive. Upon concluding to dissolve, the Members shall thereafter develop and approve a plan of dissolution which shall be implemented upon obtaining the approval of the Vermont Department of Financial Regulation, or its successor agency (the “DFR”).

ARTICLE II MEETINGS OF MEMBERS

Section 1. Annual Meeting. The annual meeting of the Members of the Corporation shall be held at such place, within or without the State of Vermont, and at such time and on such date as may be specified in the notice of meeting or in a duly executed waiver thereof. The first annual meeting shall be held in 2005. The purpose of the annual meeting shall be to elect the members of the Board of Directors and to transact such other business as may properly be brought before the meeting. Failure to hold an annual meeting of the Members shall not cause a forfeiture or dissolution of the Corporation. If the annual meeting is not held, the Corporation may hold a special meeting in place thereof, and any business transacted or elections held at such meeting shall have the same effect as if transacted or held at the annual meeting. Such special meeting shall be called in the same manner as provided for in Section 2 of this Article.

Section 2. Special Meetings. Special meetings shall be held upon the call of the President, the Board of Directors, the Secretary of the Corporation, or on the written request to the Secretary of the Members holding at least ten percent (10%) of all the votes entitled to be cast at the meeting for any purpose. The Corporation shall hold special meetings at the registered office of the Corporation in Vermont, or at any other place, either within or without the State of Vermont, and on the date and hour, specified by the President, the Board of Directors, the Secretary of the Corporation, or by the Secretary upon written request of the Members holding at least ten percent (10%) of all the votes entitled to be cast at the meeting and stated in the notice of the meeting, or in a duly executed waiver thereof.

Section 3. Notice/Record Date. The Secretary shall give a written or printed notice of each meeting of the Members, stating the place, day and hour of the meeting, and the purpose or purposes for which the meeting is called, not less than thirty (30) and nor more than sixty (60) days before the meeting to each Member as of the Record Date. Notice of an annual meeting should include a description of the purpose or purposes of

the meeting. Notice of a special meeting shall include a description of the purpose or purposes for which the meeting is called. The Board may fix a Record Date for any meeting of the Members which shall be not more than seventy (70) nor less than thirty (30) days prior to the date of the meeting. If no such Record Date is fixed, the Record Date for the meeting shall be the day prior to the day on which first notice of the meeting is delivered to the Members. Notice may be communicated by facsimile, electronic mail or other form of written or wire communication, or by mail or private carrier to each Member at its physical address, electronic mail address or facsimile number as it appears in the records of the Corporation. If notice is sent by electronic mail, such notice shall be effective upon the Corporation's receipt of electronic confirmation. If notice is sent by facsimile, such notice shall be effective on the date shown on the facsimile transmission receipt indicating that such facsimile was successfully transmitted. Written notice shall be deemed to be effective when mailed first class postpaid and correctly addressed to the Member's address as shown in the Corporation's current record of Members. Notice to any Member having executed a proxy pursuant to Section 5 of this Article shall be deemed complete if given to such proxy. In case of death, absence, incapacity or refusal of the Secretary, such notice may be given by any other Officer, or by a person designated either by the Secretary or by the person or persons calling the meeting or by the Board of Directors. Notice of the time, place or purpose of the annual or any special meeting of the Members may be waived in writing by any Member before or after the meeting. The waiver shall be signed by the Member(s) and delivered to the Corporation for inclusion in the minutes for filing with the corporate records. Entitlement to proper notice shall be deemed waived by any Member attending in person or by proxy, unless such attendance is for the sole purpose of objecting to the absence of, or deficiencies in, the notice.

Section 4. Quorum. Except as otherwise specifically required by law, the Articles of Incorporation, or these Bylaws, a majority of votes entitled to be cast, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the Members. A quorum, once achieved, shall not be broken by the departure of any Members from the meeting. Once a Member is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting, and for any adjournment of the meeting, unless a new Record Date is or must be set for that adjourned meeting. If the required quorum is not present or represented at any meeting of the Members, the Members present in person or represented by proxy and entitled to vote on the matters to be addressed shall have the power only to adjourn the meeting from time to time, until a quorum shall be achieved. At any adjourned meeting at which a quorum is present or is deemed to be present, any business may be transacted which might have been transacted at the meeting as originally noticed.

Section 5. Voting and Proxies. Members shall be entitled to vote in person, by proxy executed in writing and signed by the Member or the Member's agent-in-fact, or by proxy transmitted to the Corporation by electronic transmission, receipt required, including electronic mail. Proxies shall be filed with the Secretary of the meeting before being voted. An appointment of a proxy shall be valid for twelve (12) months from the date of its execution, unless a shorter period is specified in the appointment form. A proxy purporting to be executed by or on behalf of a Member shall be deemed valid unless challenged at or prior to its exercise. Annual and special meetings of Members may be conducted by any electronic means, including teleconferences and video-conference telecommunication. Except as otherwise provided by law, or by the Articles of Incorporation, each Member of record on the Record Date for the meeting shall be entitled to one vote. Directors shall be elected by the Members in accordance with Article III, Section 1 of these Bylaws. Except as otherwise provided by law, the Articles of Incorporation, or these Bylaws, all other matters shall be approved if the votes cast favoring the action exceed the votes cast opposing the action.

ARTICLE III DIRECTORS

Section 1. Board of Directors; Number and Terms. The number of individuals that shall constitute the Board of Directors shall be at least three (3) and not more than five (5) and shall be determined by the Members at each annual meeting. At least one (1) Director shall be a resident of Vermont. Each Founding Member is entitled to appoint one Director. Any remaining seats on the Board of Directors, including the Vermont resident director, may be filled by vote of the non-founding Members and Founding Members voting together. The initial members of the Board of Directors shall be divided (as evenly as possible) into three classes, and shall serve one, two and three years respectively. At each annual meeting of the Members thereafter, the Members shall elect Directors for those Director positions whose terms are expiring for a term not to exceed three (3) years; provided, however, a Founding Member shall be entitled to appoint the successor to a Director whose term is expiring and who was appointed by such Founding Member. Vacancies created by reason of an increase in the size of the Board during the course of the year may be filled as provided in Section 5 of this Article.

Section 2. Quorum and Voting. Unless otherwise required by law, a majority of the total number of Directors shall constitute a quorum for the transaction of business. The vote of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors except as the Articles of Incorporation or these Bylaws shall otherwise require.

Section 3. Resignation. Any Director may resign at any time by delivering a resignation in writing to the President, the Treasurer or the Secretary or to the Board of Directors. Such resignation shall be effective on the date set forth in the notice, and if there is none, upon receipt.

Section 4. Committees. The Board of Directors may, by a resolution passed by a majority of the whole Board, designate one or more committees, including an executive committee, from among the members of the whole Board. Each committee must have two or more members. Committees designated by the Board of Directors shall be advisory and shall not exercise any powers of the Board of Directors. The Board may designate one or more Directors as alternate members of any such committee who may replace any absent or disqualified member at any meeting of the committee. Any Director may be a member of more than one committee. The procedures governing such committees with respect to notice, quorum, voting, action without meeting, and other such matters shall be the same as those specified for meetings of Directors.

Section 5. Vacancies and Newly-Created Directorships. A Founding Member may appoint one Director to fill a vacancy occurring on the Board of Directors because of a death, resignation, retirement or removal from office of a Director appointed by such Founding Member. In the event of a vacancy due to the death, resignation, retirement or removal from office of any other Director, the position may be filled by vote of the non-founding Members and Founding Members voting together. A Director so chosen to fill any such vacancy shall hold office until the election of his or her successor at the next annual meeting of Members.

Section 6. Place, Time and Notice of Meetings. The Directors may hold their meetings in such place or places, within and without the State of Vermont, as the Board of Directors may determine from time to time; however, at least one meeting each year shall be held in the State of Vermont. The Board of Directors shall meet each year immediately after the annual meeting of Members, for the purpose of organization, election of Officers, and consideration of any other business that may properly come before the meeting. Special meetings of the Directors shall be held at the call of the President or of the Secretary or of any one Director. A notice of a special meeting of the Board of Directors shall specify the purposes of the meeting. Notice of the time, date and place of all annual and special meetings of the Board of Directors shall be given in writing to each Director by the Secretary, or in the case of the death, absence, incapacity or refusal of such person, by the Officer or one of the Directors calling the meeting. Notice may be communicated by facsimile, electronic mail or other form of written or wire communication, or by mail or private carrier to each Director at its physical address, electronic mail address or facsimile number as it appears in the records of the Corporation. Such notice shall be given to each Director at least seven (7) days in

advance of the annual or special meeting. Notice shall be deemed effective at the earlier of: (1) when received; (2) 5 days after deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed; or (3) on the date shown on the return receipt if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee. Notice need not be given to any Director if that Director executes a signed, written waiver of notice either before or after the meeting, and the waiver is filed with the records of the meeting. A Director's attendance at or participation in a meeting acts as a waiver of any claim to deficiency in the notice to that Director unless the Director objects at the beginning of the meeting (or promptly upon the Director's arrival) and the Director does not thereafter vote for or assent to action taken at the meeting. Notice of a later meeting need not be given to any Director who attended a prior meeting at which such latter meeting was duly called and the time, date, and place thereof noticed.

Section 7. Telephone Meetings and Written Consents. Any action required or permitted to be taken at any meeting of the Board of Directors or committees thereof may be taken by telephone conference call or other communications equipment, between at least a quorum of the Directors, or may also be taken without a meeting if all members of the Board or committee, as the case may be, consent to such action in writing and the writing or writings are filed in the minute book of the Board or committee.

Section 8. Removal of Directors. Any Director may be removed from the Board of Directors for cause by the affirmative vote of two-thirds (2/3rds) of the Members. Such action may be taken at any meeting called for the purpose of removing the Director. Notice of such meeting must state that the purpose, or one of the purposes, of the meeting is removal of the Director. A Director subject to removal shall be given an opportunity to be present and to be heard at the meeting at which his or her removal is considered. A Director subject to removal shall be given notice of the proposed removal, and the reasons therefor, and shall have sixty (60) days to cure the stated cause for removal. If a Director fails to cure the stated cause for removal, to the satisfaction of the Members, such Director shall be immediately removed from the Board of Directors.

ARTICLE IV OFFICERS

Section 1. Officers. The Officers of the Corporation shall consist of a President, a Treasurer, a Secretary, and any other such Officers and Assistant Officers, without limitation, as the Directors may elect or appoint at their annual meeting or from time to time thereafter. The President, Secretary, and Treasurer shall be elected annually by the Directors at their first meeting following the annual meeting of the Members. Other Officers may be chosen by the Directors at such meeting or at any other time. Each

Officer shall hold office until a successor is elected and qualified or until his or her earlier death, resignation or removal. Any Officer may resign at any time upon delivering a resignation in writing to the President, the Treasurer or the Secretary or to a meeting of the Directors. Such resignation shall be effective upon receipt unless specified to be effective at some other time. Any Officer elected by the Board of Directors may be removed for cause, by a two-thirds (2/3rds) vote of the whole Board of Directors taken at a meeting duly called and held. Any vacancy occurring in any office of the Corporation by reason of death, resignation, removal of an Officer or otherwise, shall be filled by the Board of Directors in the same manner as the ordinary election of Officers by Directors, and an Officer so chosen shall hold office until the next regular election for that office, or until his or her earlier death, resignation or removal. The compensation of all Officers shall be fixed from time to time by the Board of Directors.

Section 2. President. It shall be the duty of the President to preside at all meetings of the Members and all meetings of the Board of Directors and to have general authority over the ordinary course of the business of the Corporation.

Section 3. Vice-President. Any Vice-President, or Vice-Presidents, shall have such powers and duties as shall be assigned to them by the Board of Directors or the President.

Section 4. Treasurer. The Treasurer shall, subject to the direction and under the supervision of the Directors, have: general charge of the financial concerns of the Corporation; care and custody of the funds and related valuable papers of the Corporation, except the Treasurer's own bond, if any; authority to endorse for deposit or collection all notes, checks, drafts and other obligations for the payment of money payable to the Corporation or to its order, and to accept drafts on behalf of the Corporation; authority to pay or cause to be paid all dividends voted by the Board of Directors; and shall keep, or cause to be kept, accurate books of account, which shall be the property of the Corporation. If required by the Board of Directors, the Treasurer shall give bond for the faithful performance of the Treasurer's duties in such form, in such sum, and with such sureties as the Directors shall require. Any Assistant Treasurer shall have such powers and duties as the Directors or the President may delegate to such office.

Section 5. Secretary and Assistant Secretaries. The Secretary shall, in addition to any duties imposed upon that office pursuant to Vermont law, the Articles of Incorporation or these Bylaws, keep an attested copy of the Articles of Incorporation and amendments thereto, and of these Bylaws with a reference on the margin of said Bylaws to all amendments thereof, all of which documents and books shall be kept at the registered office of the Corporation or at the office of the Secretary. The Secretary shall keep or cause to be kept, at the registered office of the Corporation or at the Secretary's

office, the membership records of the Corporation. The Secretary shall also keep a record of the meetings of the Directors. The Secretary shall give or cause to be given such notice as may be required of all meetings of Members and all meetings of the Board of Directors, and shall keep the seal of the Corporation in safe custody and affix it to any instrument when such action is incident to his or her office or is authorized by the Board of Directors. Any Assistant Secretary shall have such powers and duties as the Directors or the President may delegate to such office.

Section 6. Other Powers and Duties. Subject to these Bylaws, each Officer shall have, in addition to the duties and powers specifically set forth in these Bylaws, such duties and powers as the Directors or the President may from time to time delegate to such office.

ARTICLE V SURPLUS CONTRIBUTIONS

Section 1. Definitions.

The following terms shall have the following meanings with respect to membership in the Corporation:

(a) “Surplus” means the amount by which the Corporation’s assets exceed its liabilities. It includes both contributed and earned surplus.

(b) “Contributed Surplus” means that portion of surplus contributed by a Member as a condition of membership in the Corporation which originates from sources other than earnings.

(c) “Earned Surplus” means earnings of the Corporation after losses, expenses, and taxes. Such earned surplus consists of funds that are retained by the Corporation and that are not yet distributed as a policyholder dividend or credit.

Section 2. Surplus Contributions.

(a) Each Founding Member shall deliver contributed surplus of \$300,000.00 in accordance with the terms of the commitment letter between the Founding Member and the Corporation. Each non-founding Member shall deliver minimum contributed surplus in an amount determined by the Corporation’s Board of Directors. Directors shall at all times maintain a net minimum premium to surplus ratio for the Corporation of three to one (3:1).

(b) The amount of each Member's required surplus contribution shall be credited to the contributing Member's contributed surplus account. A contributed surplus account of each Member shall be maintained by the Corporation.

(c) Each Member's contributed surplus account shall be adjusted on a Member's withdrawal to reflect the final ultimate losses of the Corporation and all other adjustments otherwise allocable to such contributed surplus account pursuant to the provisions of Article VI of these Bylaws for the period that the Member was insured by the Corporation.

Section 3. Obligations on Termination of Membership. The termination of membership of any Member shall not relieve such Member of any liabilities or obligations accrued to the Corporation, including without limitation, liability for any unpaid surplus contributions or annual premiums.

ARTICLE VI DISTRIBUTIONS

Section 1. Distributions to Members.

(a) The Corporation shall not make any distributions of surplus for thirty-six (36) months from the date of the inception of each Member's respective policy of insurance. The term "distribution" shall mean any policyholder dividend or credit or similar transfer of money to a Member.

(b) The Directors may from time to time declare a distribution to be paid to Members, and shall, if it so declares, fix a record date for determining the Members entitled to such distribution, which record date shall be as of the end of a month. Distributions shall be based on a formula adopted by Directors. Any distribution declared by the Directors shall not be paid until the Corporation obtains the prior written approval of the DFR.

(c) If a Member is thirty (30) or more days in arrears on any material premium, surplus contribution or other obligation owed to the Corporation, it shall not be entitled to receive any distribution declared by the Directors.

(d) Upon liquidation or dissolution of the Corporation, each Member shall be entitled to receive a distribution, after all liabilities and policy obligations of the Corporation have been discharged, based on such Member's share of the Corporation's net worth.

Section 2. Distributions on Termination or Withdrawal of Membership. If a

Member withdraws or if a Member's membership is terminated:

(a) at any time after it has purchased its first insurance policy from the Corporation but before the expiration of its three (3) year commitment to be a member of and purchase insurance from the Corporation, such Member's contributed surplus account shall be forfeited to the Corporation and such Member will not be entitled to any distribution of the Company's earned surplus;

(b) after the expiration of its three (3) year commitment, but before it has been a Member for at least five (5) years, the Corporation shall only return the balance of such Member's contributed surplus account. Such Member shall not be entitled to any distribution of the Corporation's earned surplus; or

(c) after five (5) or more years of membership, the Corporation shall return to a withdrawing Member the balance of its contributed surplus account and its pro rata share of the Corporation's Net Worth as determined in accordance with the Corporation's Determination of Net Worth Policy.

The Corporation shall not return the balance of any contributed surplus account or distribute earned surplus, if any, until the policy years during which a Member participated in the Corporation have been formally closed by vote of Directors.

Payment by the Corporation of any distributions to such Member upon termination or withdrawal may be made in one (1) or more annual installments, over a period not to exceed five (5) years, commencing not later than one hundred twenty (120) days after a Directors' vote to close the policy years during which the withdrawing Member participated in the Corporation. Distributions shall be without interest and shall only be made with the prior written approval of the DFR.

Section 3. Determination of Net Worth.

(a) The Corporation's net worth at the end of any fiscal year shall be the contributed and earned surplus of the Corporation as stated in the audited financial statements using Generally Accepted Accounting Principles.

(b) A Member's share of the Corporation's net worth shall be determined annually based on a methodology to be adopted by Directors. Each Member shall be credited with the amount of its surplus contribution(s) and credited or debited with its pro rata share of the net income or loss of the Corporation as determined in the audited financial statements prepared in accordance with Generally Accepted Accounting

Principles. Each Member shall also be debited for any distributions (whether declared by the Board or paid on account of withdrawal or termination of membership).

ARTICLE VII MISCELLANEOUS PROVISIONS

Section 1. Fiscal Year. The fiscal year of the Corporation shall end on December 31st or as otherwise determined by the Board of Directors.

Section 2. Seal. The seal of the Corporation shall, subject to alteration by the Directors, consist of a flathead, circular die with the words "Vermont", the name of the Corporation, and "2004" cut or engraved thereon.

Section 3. Amendments. These Bylaws may at any time be repealed, altered or amended by an affirmative vote in writing of at least eighty percent (80%) of the votes entitled to be cast by the Members. Each Member entitled to vote on a proposed amendment to these Bylaws shall deliver to the Corporation a certificate of resolution of its Board of Directors or Trustees to confirm its approval or disapproval of any such proposed amendment.

ARTICLE VIII NOTES, CHECKS, DRAFTS AND CONTRACTS

Section 1. Notes, Checks and Drafts. The notes, checks and drafts of the Corporation shall be signed by such person or persons as the Board of Directors may from time to time designate, and in the absence of such designation, by the Treasurer. Manual signature or signatures shall be required on all notes and drafts of the Corporation. In the case of checks of the Corporation, either manual or facsimile signature or signatures may be used.

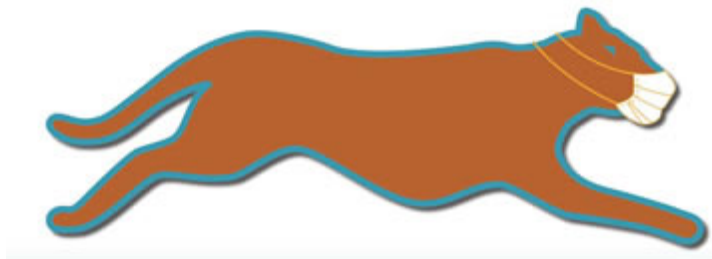
Section 2. Contracts. All material contracts shall require the approval of the Board of Directors prior to execution by any Officer. Contracts of the Corporation that have been approved by the Board of Directors shall be executed by such person or persons as may be generally designated by the Board of Directors and, in the absence of such designation, by the President, a Vice-President or the Treasurer.

ARTICLE IX INDEMNIFICATION

Indemnification Policy. The Corporation shall indemnify its Directors and Officers, and by action of its Directors, may indemnify its employees and agents, against

liability incurred by any of them in their capacity as such, to the full extent permitted by and in accordance with the laws of Vermont, as amended from time to time. Such indemnification shall continue as to a person who has ceased to be a Director, Officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

NAIPTA LIABILITY COVERAGE DOCUMENT



NAIPTA MOC

MEMORANDUM OF COVERAGE (“MOC”)

PURPOSE

The purpose of this document is to define the limits and the scope of coverage for which **TRANSIT AGENCY** shall be financially responsible under its liability program. Read the entire document carefully to determine rights, duties, terms and conditions and what is and is not covered. Words and phrases, which have special meaning, are defined in the Definition Section and are highlighted in bold capital letters throughout the document.

NAIPTA MOC

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NAIPTA MOC

TRANSIT AGENCY'S LIMITS OF LIABILITY

Cumulation of Limits. An **OCCURRENCE** with a duration of more than one **PERIOD OF COVERAGE** shall be treated as a single **OCCURRENCE** during the **PERIOD OF COVERAGE** when the **OCCURRENCE, WRONGFUL ACT, or ACCIDENT** first begins, and the liability of **TRANSIT AGENCY** under this MOC shall not accumulate from year to year, or from one **PERIOD OF COVERAGE** to another.

Any **CLAIM** or **SUIT** which alleges an **OCCURRENCE, WRONGFUL ACT** or **ACCIDENT** during more than one **PERIOD OF COVERAGE** shall be subject to the **OCCURRENCE LIMIT** which covers the date of the earliest **OCCURRENCE, WRONGFUL ACT** or **ACCIDENT** which gives rise to the **CLAIM** or **SUIT**

Multiple Lines Loss. In the event a **CLAIM** is brought which could fall under more than one coverage section of this MOC, regardless of the number of claimants or defendants, only one coverage section will apply, and only one **OCCURRENCE LIMIT** shall apply. In the event of a Multiple Lines Loss the highest **OCCURRENCE LIMIT** shall apply.

DEFINITIONS

Unless otherwise stated, the following definitions are applicable to all Sections and Coverages of this MOC.

“ACCIDENT” means an unintended event or happening.

“ADMINISTRATION” means:

- a. Giving counsel to **EMPLOYEES** with respect to **EMPLOYEE BENEFITS PROGRAMS**;
- b. Interpreting **EMPLOYEE BENEFITS PROGRAMS**;
- c. Handling of records in connection with **EMPLOYEE BENEFITS PROGRAMS**; and effecting enrollment, termination, or cancellation of **EMPLOYEES** under **EMPLOYEE BENEFITS PROGRAMS**;

Provided all such acts are authorized by the **TRANSIT AGENCY**.

“AGGREGATE LIMITS” means the maximum amount stated for which the **TRANSIT AGENCY** shall be liable during a single **PERIOD OF COVERAGE**, regardless of the number of covered **CLAIMS, SUITS** or **MEMBERS**. **AGGREGATE LIMITS** include the accrued costs of defense.

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“AIRCRAFT” means a vehicle designed to operate principally in the air. This does not include unmanned aerial vehicles (aka drones).

“AUTOMOBILE” (“AUTO”) means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment, designed principally and licensed for travel on public roads, and electric trolley buses (including lines and poles necessary for the operation of the electric trolley bus and while the trolley bus is being operated). Lines and poles necessary for the operation of the electric trolley bus are not an **AUTOMOBILE** while not in use by the trolley bus. The following are not considered an **AUTOMOBILE** unless they are being towed by or carried on an **AUTOMOBILE**:

- a. **MOBILE EQUIPMENT**;
- b. Any equipment, which is designed for use principally off public roads and not subject to registration or licensing.

The following are not considered an **AUTOMOBILE** even if they are being towed by, or carried on, an **AUTOMOBILE**:

- a. Watercraft, boat, camping or travel trailer;
- b. **RECREATIONAL MOTOR VEHICLES**; except as provided in Section II Auto Liability.

“BODILY INJURY” means physical injury, sickness or disease sustained by a person, including death, shock, mental anguish or mental injury by that person at any time, which results as a consequence of the physical injury, sickness or disease. **BODILY INJURY** does not include mental injury, such as emotional distress, mental anguish, humiliation, mental distress, or any similar injury, unless it arises out of physical injury to the person claiming a mental injury.

“CLAIM” means a notice or demand made by a person or entity upon a **MEMBER** to recover **DAMAGES**. A **CLAIM** may be further defined as follows:

With regard to **GENERAL LIABILITY COVERAGE**, Section I, a demand received by a **MEMBER** for **DAMAGES** arising out of an **OCCURRENCE**.

With regard to **AUTOMOBILE LIABILITY COVERAGE**, Section II, a demand received by a **MEMBER** for **DAMAGES** arising out of an **ACCIDENT** involving the **TRANSIT AGENCY’S AUTOMOBILE**.

With regard to **ERRORS AND OMISSIONS COVERAGE**, Section III, a demand received by a **MEMBER** for **DAMAGES** alleging a **WRONGFUL ACT** by a **MEMBER**.

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With regard to **EMPLOYEE BENEFITS LIABILITY COVERAGE**, Section IV, all notices or **SUITS** demanding payment of money based on, or arising from acts or omissions committed in the **ADMINISTRATION** of the **TRANSIT AGENCY'S EMPLOYEE BENEFITS PROGRAM(S)** by a **MEMBER**.

No **CLAIM** exists where the only money sought or demanded is the cost of **SUIT** and/or attorney's fees.

"DAMAGES" mean monetary compensation sought by a third party in pursuit of a **CLAIM** or **SUIT**.

DAMAGES do not include any of the following:

- a. Any obligation for which the **TRANSIT AGENCY** may be held liable under any **WORKERS' COMPENSATION LAW**, unemployment compensation law, disability benefits law, or under any similar federal, state or local law, ordinance, rule or regulation, however characterized;
- b. Punitive or exemplary damages, or the multiplied portion of any **DAMAGES**, or fines or penalties however characterized, imposed by law;
- c. **DECLARATORY RELIEF**, injunctive or equitable relief, or quasi-judicial or administrative orders;
- d. Repayment of any tax or assessment that was wrongfully obtained, or any interest on such tax or assessment;
- e. Amount paid or payable for the purchase or permanent acquisition of property or property rights, or for the right to permanently enforce an ordinance, regulation or restriction on the use of property;
- f. Benefits that are routinely paid by the **TRANSIT AGENCY** to, or for the benefit of, its **EMPLOYEES**, including but not limited to, wages, however characterized, other incidents of compensation, or other benefits that are routinely paid by the **TRANSIT AGENCY** to its **EMPLOYEES**.
- g. Monetary compensation sought or fees, costs, charges and reasonable and necessary expenses incurred by a third party in pursuit of a **CLAIM** or **SUIT** excluded under this MOC.
- h. Amounts the **MEMBER** would have owed in the absence of the subject **OCCURRENCE, WRONGFUL ACT, CLAIM, or SUIT**;
- i. Amounts representing disgorgement or restitution;

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- j. Amounts representing nominal damages on account of constitutional injury.

“DECLARATORY RELIEF” means any **CLAIM** or **SUIT** requesting a court of competent jurisdiction to decide the rights and obligations of the parties to an action pursuant to the State or Federal statutes.

“DEDUCTIBLE” means that portion of the loss for which the **TRANSIT AGENCY** is responsible subject to all of the terms and conditions of this MOC.

“DEFENSE COSTS” mean allocable attorney fees, costs, expenses and other fees incurred by **TRANSIT AGENCY** in connection with the investigation, adjustment, defense and/or appeal of a **CLAIM** or **SUIT** covered hereunder, including arbitration, mediation, or other dispute resolution process in which the **MEMBER** participates with **TRANSIT AGENCY’S** consent. **“DEFENSE COSTS”** do not include the office expenses or unallocated loss adjustment expenses of **TRANSIT AGENCY** or the **MEMBER** nor the salaries of the **EMPLOYEES** or officials of **TRANSIT AGENCY**.

“DISHONEST OR FRAUDULENT ACTS” means acts committed by an **EMPLOYEE** of the **TRANSIT AGENCY** which (a) causes the **TRANSIT AGENCY** to sustain such loss; or (b) results in financial benefit to the **EMPLOYEE** or another person or organization intended by the **EMPLOYEE** to receive such benefit to which they are not otherwise entitled.

“EMPLOYEE” means a current or former elected or appointed official, board member, or a person employed or formerly employed for wage or salary, while acting in the course and scope of their duties for the **TRANSIT AGENCY**. The term **EMPLOYEE** does not mean a **VOLUNTEER** or any person acting in the capacity of a broker, commission merchant, consignee, contractor, temporary worker, or leased worker, employed by another party, independent contractor or their agent, representative or employee.

“EMPLOYEE BENEFITS PROGRAMS” mean group life insurance, group accident or health insurance, pension plans, employee savings and investment plans, travel or vacation plans, workers’ compensation, unemployment insurance, social security, disability benefits insurance, or any other similar program.

“EMPLOYMENT PRACTICE VIOLATION” means an allegation of:

- a. Wrongful failure to employ;
- b. Termination of employment which is wrongful or against the law;
- c. Wrongful practices, policies, acts or omissions such as coercion, demotion, supervision, retaliation, failure to promote, evaluation, reassignment, discipline, humiliation, libel, slander, defamation of character, harassment (other than **SEXUAL HARASSMENT**), including

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violations of civil rights including discrimination by the **MEMBER**, which are employment related;

“ERROR OR OMISSION” means the failure to execute required actions, or mistaken actions committed by a **MEMBER** and the liability arising out of a **WRONGFUL ACT** by a **MEMBER** due to the negligent action or inaction, mistake, misstatement, error, neglect, inadvertence, or omission by a **MEMBER** in the discharge of duties on behalf of the **TRANSIT AGENCY**.

“FIRST AID” means the rendering of emergency medical treatment by a **MEMBER**.

“HIRED AUTOS” means only those **AUTOS** leased, hired, rented or borrowed by the **TRANSIT AGENCY**, operated by a **MEMBER**, and in the care custody and control of the **MEMBER**. This does not include any **AUTOS** leased, hired, rented or borrowed from another **MEMBER**.

“INJUNCTIVE RELIEF” means an order, forbidding the **TRANSIT AGENCY** from doing some act which the **TRANSIT AGENCY** intends or is attempting to commit, or restraining the **TRANSIT AGENCY** from committing or continuing an act, or requiring the **TRANSIT AGENCY** to undertake action.

“LAW ENFORCEMENT ACTIVITIES” means the activities of any **MEMBER** or person while acting on behalf of the **TRANSIT AGENCY**, as a law enforcement official, officer, auxiliary officer, employee, or **VOLUNTEER** of a law enforcement agency or department of the **TRANSIT AGENCY**. **LAW ENFORCEMENT ACTIVITIES** do not include **EMPLOYMENT PRACTICE VIOLATIONS** even if they involve law enforcement personnel. In addition, with respect to **LAW ENFORCEMENT ACTIVITIES** only, **PERSONAL INJURY** also includes any injury (other than **BODILY INJURY** or **PROPERTY DAMAGE**) arising out of discrimination or violation of civil rights.

“MEDICAL MALPRACTICE” means a **MEDICAL PRACTITIONER’S** failure to exercise the degree of care and skill that a **MEDICAL PRACTITIONER** of the same medical specialty would use under similar circumstances.

“MEDICAL PRACTITIONER” means an individual accredited, trained, licensed, and/or registered to provide medical assistance in accordance with the requirements of local, state, or federal laws or regulations.

“MEMBER” means not only the **TRANSIT AGENCY**, but also any official, member of a board, committee or commission, trustee, director, officer, **VOLUNTEER**, or **EMPLOYEE** of the **TRANSIT AGENCY** while acting within the course and scope of his/her duties on behalf of the **TRANSIT AGENCY**.

“MOBILE EQUIPMENT” means any of the following types of land vehicles, including any attached machinery or equipment:

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- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles that travel on crawler treads;
- c. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - 1) Power cranes, shovels, loaders, diggers or drills; or
 - 2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- d. Vehicles not described in a., b., or c., above, that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - 1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-service equipment; or
 - 2) Cherry pickers and similar devices used to raise or lower workers;
- e. Vehicles not described in a., b., c. or d., above, maintained primarily for purposes other than the transportation of persons or cargo.

“NEGLIGENT ACT” means an act or omission involving the failure to use the degree of care required of a reasonable person in the same situation. All **CLAIMS** or **SUITS** based on or arising out of the same **NEGLIGENT ACT** or a series of related **NEGLIGENT ACTS** by one or more **MEMBERS** shall be deemed one **OCCURRENCE** and subject to one **OCCURRENCE LIMIT**.

“OCCURRENCE” means an **ACCIDENT**, including (a) continuous or repeated exposure to substantially the same general harmful conditions, which results in **BODILY INJURY, PERSONAL INJURY** and/or **PROPERTY DAMAGE** during the **PERIOD OF COVERAGE**, and (b) a **WRONGFUL ACT** committed by a **MEMBER** during the **PERIOD OF COVERAGE**. All **BODILY INJURY, WRONGFUL ACT** and/or **PERSONAL INJURY** to one or more persons and/or **PROPERTY DAMAGE** arising out of a single **ACCIDENT** shall be deemed one **OCCURRENCE** and subject to one **OCCURRENCE LIMIT**.

“OCCURRENCE LIMIT” means the total amount, including but not limited to the accrued costs of defense that **TRANSIT AGENCY**, its excess insurers and/or its reinsurers are legally obligated to pay for a single **OCCURRENCE** or **WRONGFUL ACT**. Only one MOC, one **SELF-INSURED RETENTION** and/or **DEDUCTIBLE**,

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and one **OCCURRENCE LIMIT** is applicable to any one **OCCURRENCE** or **WRONGFUL ACT**.

“ORGANIC PATHOGEN” means any bacterium, virus, fungus, mold, mildew, myco-toxins, spores, any other biological contaminant, or any biogenic aerosols, or any by-product or infestation produced by such pathogen.

“PERIOD OF COVERAGE” means the length of time that the MOC is in force.

“PERSONAL INJURY” means injury (other than **BODILY INJURY** or **PROPERTY DAMAGE**) arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. Oral or written publication of material that slanders or libels a person or organization or disparages a person’s or organization’s goods, products or services;
- d. Oral or written publication of material that violates a person’s right of privacy;
- e. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- f. The use of another’s advertising idea in your advertisement;
- g. Infringing upon another’s copyright, trade dress or slogan in your advertisement.

“Advertisement” means a notice that is broadcast or published to the general public or specific market segments about your products or services for the purpose of attracting customers or supporters.

PERSONAL INJURY includes: mental anguish, shock, sickness, disease, humiliation, disability or death, which arise from one of the above, but does not include any alleged injury arising out of any actual or alleged **EMPLOYMENT PRACTICE VIOLATION**.

“POLLUTANTS” means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

“PREMISES” means the entirety of the **TRANSIT AGENCY’S** property, which is owned or occupied by the **TRANSIT AGENCY** in conducting its business.

“PROPERTY DAMAGE” means direct damage to or destruction or loss of real or tangible personal property of third parties, including all resulting loss of use of property, excluding, however, damage to the **MEMBER’S** property.

“RECREATIONAL MOTOR VEHICLE” means any motor vehicle designed for recreation, and principally used off public roads.

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“SELF-INSURED RETENTION” means that portion of the loss for which **TRANSIT AGENCY** is solely responsible subject to all the terms and conditions of this MOC.

“SEXUAL ABUSE” means any actual, attempted or alleged criminal sexual conduct directed toward a person by another person, or persons acting in concert, regardless of whether criminal charges or proceedings are brought. **SEXUAL ABUSE** also includes actual, attempted or alleged criminal, sexual molestation, sexual assault, sexual exploitation or **INJURIES** arising out of **SEXUAL ABUSE**. **SEXUAL ABUSE** does not include **SEXUAL HARASSMENT**.

“SEXUAL HARASSMENT” means any actual, attempted or alleged unwelcome sexual advances, requests for sexual favors or other unwelcome conduct of a sexual nature directed toward a person by another person, or persons acting in concert, which causes **BODILY INJURY** or **PERSONAL INJURY**, including but not limited to:

- a. Submission to or rejection of such conduct is made either explicitly or implicitly a condition of a person’s employment, or a basis for employment decisions affecting a person;
- b. Such condition has the purpose or effect of unreasonably interfering with a person’s work performance or creating an intimidating, hostile or offensive work environment.
- c. **CLAIMS** by third parties that a **MEMBER** has committed unwelcome acts of a sexual nature against them.

SEXUAL HARASSMENT does not include **SEXUAL ABUSE**.

“SUIT” means a civil proceeding in which **DAMAGES** are sought to which this MOC applies. **SUIT** includes arbitration or any other alternative dispute resolution proceeding alleging such **DAMAGES** to which the **MEMBER** must submit or submits with **TRANSIT AGENCY’S** consent. **SUIT** does not include a criminal proceeding against a **MEMBER** or any proceeding involving allegations of a violation of State open meeting laws.

“TERRORIST ACTIVITY” means any deliberate, unlawful act that:

- a. Is declared by any authorized governmental official to be, or to involve terrorism, terrorist activity or acts of terrorism; or
- b. Includes, involves, or is associated with the use or threatened use of force, violence or harm against any person, tangible or intangible property, the environment, or any natural resources, where the act or threatened act is intended, in whole or in part, to

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- 1) promote or further any political, ideological, philosophical, racial, ethnic, social, or religious cause or objective of the perpetrator or any organization, association or group affiliated with the perpetrator; or
 - 2) influence, disrupt or interfere with any government related operations, activities or policies; or
 - 3) intimidate, coerce or frighten the general public or any segment of the general public; or
 - 4) disrupt or interfere with a national economy or any segment of a national economy; or
- c. Includes, involves, or is associated with, in whole or in part, any of the following activities, or the threat thereof:
- 1) hijacking or sabotage of any form of transportation or conveyance, including but not limited to spacecraft, satellite, aircraft, train, vessel, or **AUTOMOBILE**; or
 - 2) hostage taking or kidnapping; or
 - 3) the use of **ORGANIC PATHOGENS**, or any biological, chemical, radioactive, or nuclear agent, material, device or weapon; or
 - 4) the use of any bomb, incendiary device, explosive or firearm; or
 - 5) the interference with or disruption of basic public or commercial services and systems, including but not limited to the following services or systems: electricity, natural gas, power, postal, communications, telecommunications, information, public transportation, water, fuel, sewer or waste disposal; or
 - 6) the injuring or assassination of any elected or appointed government official or any government employee; or
 - 7) the seizure, blockage, interference with, disruption of, or damage to any government buildings, institutions, functions, events, tangible or intangible property or other assets; or
 - 8) the seizure, blockage, interference with, disruption of, or damage to tunnels, roads, streets, highways, or other places of public transportation or conveyance.

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Any of the activities listed above shall be considered “**TERRORIST ACTIVITY**” except where it can be conclusively demonstrated that the foregoing activities or threats were motivated solely by personal objectives of the perpetrator.

“**TRANSIT AGENCY**” means the Northern Arizona Intergovernmental Public Transportation Authority (NAIPTA).

“**VOLUNTEER**” means an individual who is not an **EMPLOYEE** of the **TRANSIT AGENCY**, and who donates his or her work and acts at the discretion of, and within the scope of duties determined by the **TRANSIT AGENCY**, and is not paid a fee, salary or other compensation, other than a nominal fee, by the **TRANSIT AGENCY** or anyone else, for the work performed for the **TRANSIT AGENCY**.

“**WORKERS’ COMPENSATION LAW**” means the workers’ compensation law of the State. It includes any changes to those laws that are in effect during the **PERIOD OF COVERAGE**. It does not include the provisions of any law that provides non-occupational disability benefits.

“**WRONGFUL ACT**” means any actual or alleged error or mis-statement, omission, act of neglect or breach of duty due to misfeasance, malfeasance, and/or non-feasance, including any **EMPLOYMENT PRACTICE VIOLATION**, discrimination, and/or violation of civil rights by a **MEMBER**. All **CLAIMS** or **SUITS** based on or arising out of the same **WRONGFUL ACT** or a series of related **WRONGFUL ACTS** by one or more **MEMBER(S)** shall be deemed one **OCCURRENCE** and subject to one **OCCURRENCE LIMIT** of coverage.

Any reference to “section” is to a section of this MOC unless otherwise stated.

Any reference to State law shall include any amendments and revisions thereto.

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GENERAL CONDITIONS

Unless otherwise stated, the following conditions are applicable to ALL Sections of this MOC.

1. **Apportionment.** In the event a **SUIT** or **CLAIM** alleges **CLAIMS** which are covered by the terms of this MOC and **CLAIMS** which are not covered by the terms of this MOC, **TRANSIT AGENCY'S** obligation for the costs of defense and payment of any award or settlement for **DAMAGES** shall be limited to only those sums related to covered **CLAIMS**.
2. **Assignment.** No **MEMBER** shall assign any rights or duties under this MOC without formal approval of **TRANSIT AGENCY** prior to such assignment. Further, any such approved assignment shall only be binding if allowable under State law.
3. **Bankruptcy.** Bankruptcy or insolvency of the **TRANSIT AGENCY** shall not relieve **TRANSIT AGENCY** of any of its obligations hereunder. In the event of the **TRANSIT AGENCY'S** bankruptcy or closure, this MOC shall not replace the **TRANSIT AGENCY'S DEDUCTIBLE** but shall apply as if the **TRANSIT AGENCY'S DEDUCTIBLE** is applicable.
4. **Changes.** None of the provisions, conditions or other terms of this MOC shall be amended, waived or altered except by endorsement and formal approval by **TRANSIT AGENCY**.
5. **Compliance with Terms and Conditions of TRANSIT AGENCY MOC.** Coverage under this MOC shall only be afforded if the **TRANSIT AGENCY** is in substantial compliance with the terms and conditions of this MOC.
6. **Defense of Claim or Suit.** **TRANSIT AGENCY** has the right and duty to defend any **SUIT** or **CLAIM** against a **MEMBER** claiming **DAMAGES**, for which coverage is afforded under this MOC during the **PERIOD OF COVERAGE**, even if any of the allegations of the **CLAIM** or **SUIT** are groundless, false, or fraudulent, provided, however, that the **MEMBER** was acting both in good faith and not manifestly outside the **MEMBER'S** scope of employment or official duties for the **TRANSIT AGENCY**.

TRANSIT AGENCY may investigate, negotiate, and/or settle, in its sole discretion and without agreement of a **MEMBER**, any covered **CLAIM** or **SUIT** against a **MEMBER**, following review and consultation with the **TRANSIT AGENCY**.

TRANSIT AGENCY retains the exclusive right to select counsel to defend any

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CLAIM or **SUIT** brought against a **MEMBER** for which coverage is afforded under this MOC. **TRANSIT AGENCY'S** duty to defend shall arise when the **CLAIM** or **SUIT** alleges facts which would obligate **TRANSIT AGENCY** to pay on behalf of a **MEMBER** if the alleged facts were proven true. Any expenses incurred by **TRANSIT AGENCY** in connection with its right and duty to defend shall be included within the Limits of Coverage. **TRANSIT AGENCY** will only be responsible for payment of that portion of a settlement or judgment which relates to **CLAIMS** or **SUITS** for which coverage is afforded under the terms of this MOC.

TRANSIT AGENCY, in its sole discretion, may make monetary offer(s) of judgment, within the meaning of Rule 68 of the Federal Rules of Procedure, as to any **MEMBER** and any **SUIT**. If such an offer of judgment is accepted, **TRANSIT AGENCY** shall pay the full amount of the judgment. In which case, **TRANSIT AGENCY** may apportion the amount between claims that are covered under this MOC and claims that are not covered, and may seek reimbursement from the **MEMBER** for the amount apportioned to uncovered claims. Any dispute over said apportionment will be resolved as set forth in this MOC.

7. **Dispute Resolution Procedure.** **MEMBER** and **TRANSIT AGENCY** agree that it is in both parties' mutual interest to have a dispute resolution procedure in order to resolve potential disputes and disagreements relating to this MOC and the coverage provided herein, including all questions and issues relating to responsibilities, rights and duties of a **MEMBER** and **TRANSIT AGENCY**.
8. **Duties After OCCURRENCE, CLAIM or SUIT.**
 - a. **MEMBER** shall give notice to **TRANSIT AGENCY** as soon as practicable of an **OCCURRENCE** that may reasonably result in a **CLAIM** or **SUIT** in compliance with any **TRANSIT AGENCY** reporting policy. To the extent possible, such notice shall include:
 - 1) How, when and where the **OCCURRENCE** took place;
 - 2) The names, addresses and telephone numbers of any injured persons and/or witnesses;
 - 3) The nature and location of any injury and/or damage arising out of the **OCCURRENCE**.
 - b. If a **CLAIM** is made or **SUIT** is brought against any **MEMBER**, the **MEMBER** shall comply with any **TRANSIT AGENCY** reporting policy and shall:

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- 1) Immediately send **TRANSIT AGENCY** copies of any **CLAIMS**, **SUITS**, demands, notices, correspondence, summonses or legal papers received or obtained in connection with the **CLAIM** or **SUIT**;
 - 2) See that **TRANSIT AGENCY** receives written notice of the **CLAIM** or **SUIT** as soon as practicable;
 - 3) Authorize **TRANSIT AGENCY** to obtain any and all records, including, but not limited to, personnel records, minutes of meetings, memoranda, correspondence, notes, financial records, Email, electronic data, and other information requested;
 - 4) Cooperate with **TRANSIT AGENCY** in the investigation, and/or defense of the **CLAIM** or **SUIT**, including but not limited to, attendance at legal proceedings, hearings and trials, strategy and/or planning meetings, if requested by **TRANSIT AGENCY**;
 - 5) Assist **TRANSIT AGENCY**, upon its request, in the enforcement of any right against any person or organization, which may be liable to **TRANSIT AGENCY** because of injury and/or damage to which this MOC may also apply.
- c. **MEMBER** acknowledges and agrees that **TRANSIT AGENCY** has the sole authority to make representations, voluntarily make payments, assume obligations, or incur expenses, or in any way bind or obligate **TRANSIT AGENCY**.
 - d. **MEMBERS** shall not discuss any **OCCURRENCE**, **CLAIM** or **SUIT** with anyone other than **TRANSIT AGENCY**, defense counsel, anyone **TRANSIT AGENCY** deems necessary to the proper administration or defense of an **OCCURRENCE**, **CLAIM** or **SUIT**, or as required by law or contract.
 - e. **Mitigation.** In the event of a loss covered under this MOC, **MEMBER** shall take all reasonable steps to prevent further loss or damage and advise **TRANSIT AGENCY** of such action as soon as possible.
 - f. **MEMBER'S** failure to comply with the foregoing duties shall constitute a material breach deemed prejudicial to **TRANSIT AGENCY**, thereby entitling **TRANSIT AGENCY** to refuse any coverage for the **CLAIM** or **SUIT**, or any duties arising therefrom.
9. **Fraudulent CLAIMS.** If a **MEMBER** submits any **CLAIM** knowing or having a reasonable basis to know the same to be false or fraudulent, with regard to

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amount or otherwise, the coverage under this MOC shall become voidable by **TRANSIT AGENCY**.

10. **Loss Payments.** When it has been determined that **TRANSIT AGENCY** is liable under this MOC, **TRANSIT AGENCY** shall pay for those losses. **TRANSIT AGENCY'S** obligation to make loss payments shall not arise until the amount thereof has been finally determined.
11. **No Benefit to Bailee.** **TRANSIT AGENCY** will not recognize any assignment or grant any coverage for the benefit of any person, entity, or organization holding, storing or transporting **TRANSIT AGENCY'S** property, regardless of any other provision of this MOC, except for Section II, Auto Liability Coverage, paragraph 3.
12. **No Waiver of Immunities.** It is the intent of the **TRANSIT AGENCY** that the scope of risk management undertaken by them using governmental funds shall not waive, on behalf of any **MEMBER**, any defenses or immunities provided to political subdivisions or their officials or employees as provided by State or federal law. If any **MEMBER** waives any defenses or immunities (unless approved by **TRANSIT AGENCY** prior to such waiver and provided by endorsement to the MOC), coverage under this MOC is voidable by **TRANSIT AGENCY**.
13. **Non-duplication of Coverage Benefits.** No individual or entity entitled to benefits under any coverage of this MOC shall recover duplicate benefits for the same elements of loss under other coverage of this MOC, or other coverages provided by **TRANSIT AGENCY**.
14. **Other Coverage.** If a **MEMBER** has other coverage or insurance (whether primary, excess or contingent), against loss covered by this MOC, **TRANSIT AGENCY** shall be liable, under the terms of this MOC, only as excess of other valid and collectible coverage or insurance, regardless of any conflicting "Other Insurance" clause contained in such insurance obtained by the **MEMBER**. Notwithstanding the foregoing, **TRANSIT AGENCY** may purchase coverage or insurance specifically in excess of **TRANSIT AGENCY'S OCCURRENCE LIMITS** and/or **AGGREGATE LIMITS**. Such excess coverage or insurance shall not be considered "other coverage" for purposes of this MOC.
15. **Reimbursement of Defense Costs.** In the event that **TRANSIT AGENCY** defends a **CLAIM** or **SUIT** against a **MEMBER**, and it is ultimately determined that **TRANSIT AGENCY** had no duty to defend the **MEMBER**, then **TRANSIT AGENCY** is entitled to reimbursement of costs of defense that were expended in providing such defense. **TRANSIT AGENCY**, at its option, is entitled to recover said costs of defense from the **MEMBER**.

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16. **Salvage, Recovery, Subrogation and Right of Reimbursement.** All salvages, recoveries, reimbursements and payments recovered or received by **TRANSIT AGENCY** after the settlement of a **CLAIM** or **SUIT** shall be applied to that **CLAIM** or **SUIT** and any necessary adjustments shall be made between **TRANSIT AGENCY** and the **MEMBER** pursuant to **TRANSIT AGENCY'S** subrogation policy. Any amount thus found to be due either party from the other shall be paid promptly. **MEMBER** shall do whatever is necessary to enable **TRANSIT AGENCY** to exercise its rights and shall do nothing after the loss to prejudice its rights or **TRANSIT AGENCY'S** rights. All other terms and conditions of **TRANSIT AGENCY'S** subrogation policy and this MOC shall apply.
17. **Suit Against TRANSIT AGENCY.** No lawsuit shall be brought against **TRANSIT AGENCY** by a **MEMBER** or other person or organization claiming rights under this MOC. Any dispute arising out of this MOC shall be resolved pursuant to the Dispute Resolution Procedure in this MOC.
18. **Terms of MOC to Conform to Statutes.** In the event any terms of this MOC are determined to be in conflict with the statutes of the State, they are hereby amended to conform to such statutes. If any provision of this MOC is found to be illegal by a court of competent jurisdiction or change in the law subsequent to the effective date of this MOC, such section or sections shall be stricken from the MOC and all other sections and provisions shall survive and remain in full force and effect.
19. **Territory.** The coverage afforded under this MOC applies worldwide for any **SUIT** brought and maintained in the United States.
20. **Severability.** If any section or portion of this MOC is deemed to be invalid or unenforceable by a court of competent jurisdiction, that section or portion of the MOC deemed unenforceable shall be severed from this MOC with the remaining sections and portions remaining in full force and effect.
21. **Address of Chief Executive Officer.** All correspondence required to be sent to **TRANSIT AGENCY** under this MOC shall be addressed as follows:

**Chief Executive Officer
NAIPTA
3773 N. Kaspar Dr.
Flagstaff, Arizona 86004**
22. **Headings.** The headings used in the MOC are strictly for convenience only and are not intended to limit or broaden coverage.

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GENERAL EXCLUSIONS

Unless otherwise stated, these exclusions are applicable to ALL Sections of this MOC. **These are absolute exclusions. It is the intention of the TRANSIT AGENCY that there is absolutely no coverage arising out of or relating to the following, unless coverage is specifically provided by a section of this MOC or endorsement.**

This MOC does not cover:

1. **Administrative Proceedings and Regulatory Actions.** Any investigatory, administrative, regulatory, disciplinary or criminal proceeding against a **MEMBER**, except that **TRANSIT AGENCY** may at its own option, associate counsel in the defense of any such investigatory, administrative, regulatory, disciplinary or criminal proceeding. Should **TRANSIT AGENCY** elect to associate counsel, such election shall not constitute a waiver or estoppel of any rights **TRANSIT AGENCY** may have pursuant to the terms, conditions, exclusions, and limitations of this MOC.
2. **Advice to Others.** Any **CLAIM** or **SUIT** based upon or attributable to the rendering or failure to render any opinion, treatment, consultation or service, if such opinion, treatment, consultation or service was rendered or failed to have been rendered while any **MEMBER** was engaged in any activity for any organization, other than the **TRANSIT AGENCY**. This exclusion does not apply if the **MEMBER** is serving at the direction of, or on behalf of, the **TRANSIT AGENCY**, and is acting within the course and scope of their duties as such.
3. **Aircraft Activities.** Liability arising out of the ownership, maintenance, loading or unloading or operation of any **AIRCRAFT**, airfields, runways, or hangars or buildings in connection with the use, ownership, maintenance, loading or unloading or operation of any **AIRCRAFT**. This exclusion does not apply to unmanned aerial vehicles (commonly known as drones) when authorized by the **TRANSIT AGENCY** and used in the course and scope of its business operations.
4. **Asbestos, Lead or Diseases.** Any **CLAIM** or **SUIT** or other claimed loss, however characterized, in any way related to the actual, alleged or threatened presence of, or exposure to, asbestos or lead in any form, or to harmful substances emanating from asbestos or lead. This includes ingestion, inhalation, adsorption, contact with, existence or presence of, or exposure to asbestos or lead and any consequential disease, malady or condition that may result therefrom. This section includes, but is not limited to:
 - a. The existence, installation, storage, handling or transportation of asbestos or lead, asbestos or lead products, asbestos or lead fibers or dust;
 - b. The removal, abatement or containment of asbestos or lead, asbestos or lead products, asbestos or lead-containing material, asbestos or lead fibers

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or dust from any structures, materials, goods, products or manufacturing process;

- c. The disposal of asbestos or lead;
 - d. Any structures, manufacturing processes, or products containing asbestos or lead;
 - e. Any obligation to share **DAMAGES** with or repay someone else who must pay **DAMAGES** because of such injury or damage; or
 - f. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above.
5. **Breach of Contract.** Any **CLAIM** or **SUIT** or any other claimed loss, however characterized, arising directly or indirectly from the breach or alleged breach of any contract or agreement, whether written, oral or implied. This exclusion does not apply to **CLAIMS** or **SUITS** arising out of employment contracts between the **TRANSIT AGENCY** and a **MEMBER**. This exclusion does not apply to liability that the **MEMBER** would have in the absence of the contract or agreement.
6. **Civil or Criminal Penalties.** Any **CLAIM** or **SUIT** resulting from any civil or criminal penalties imposed, or provided for, pursuant to any federal, state, or local law, statute, ordinance, or regulation, however characterized.
7. **Contractual Indemnity/Assumption of Liability.** Any **CLAIM** or **SUIT** against the **TRANSIT AGENCY** seeking indemnification pursuant to a provision in a contract or agreement whereby the **TRANSIT AGENCY** agrees to indemnify another against loss, damages or liability. This exclusion does not apply:
- a. to the extent that the indemnitee is held liable to a third party for the **TRANSIT AGENCY'S** negligence, but only to the extent of the **TRANSIT AGENCY'S** negligence and provided all other applicable terms and conditions of this MOC are satisfied and no other exclusion applies;
 - b. to **CLAIMS** or **SUITS** arising out of employment contracts between the **TRANSIT AGENCY** and a **MEMBER** if all other applicable terms and conditions of this MOC are satisfied and no other exclusion applies; or
 - c. if coverage for such contractual indemnity is specifically included by endorsement to this MOC.

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8. **Cost of Suit and/or Attorney Fees.** Any **CLAIM** or **SUIT** in which the only monies sought or awarded are costs, litigation expenses and/or attorney's fees.
9. **Criminal and Related Proceedings.** Any **CLAIM** or **SUIT** for criminal proceedings and criminal defense costs, including, but not limited to those:
 - a. arising from any criminal charges or proceedings, or proceedings under any alleged violation of an open meeting law against any **MEMBER**;
 - b. arising out of any malfeasance of office or willful and deliberate violation of any Statute, regulation or ordinance;
 - c. arising from any other **DISHONEST OR FRAUDULENT ACTS** committed by any **MEMBER**, whether working alone or with others.
10. **Employee Compensation.** Any **CLAIM** or **SUIT** and/or judgments for legal penalties, wages, however characterized, or other incidents of compensation or benefits due to the **TRANSIT AGENCY'S EMPLOYEES**.
11. **ERISA.** Any **CLAIM** or **SUIT** based upon the **MEMBER'S** failure to comply with the Federal Employee Retirement Income Security Act of 1974 (ERISA), including subsequent amendments or any similar federal, state or local law(s) or regulation(s).
12. **Failure to Supply Utility.** Any **CLAIM** or **SUIT** arising out of the failure to supply water, electrical power, fuel, or any other utilities.
13. **Governmental Agencies.** The interests of the State or the United States Government, or their officers, agents, employees, **VOLUNTEERS**, officials or trustees, for their conduct and activities arising out of or in any way related to any written, oral or implied contract or agreement with **TRANSIT AGENCY**, or otherwise. Each governmental entity shall be responsible for its own conduct and activities under any such contract or agreement, except as provided by endorsement to this MOC.
14. **Injunctive and Declaratory Relief.** Any **CLAIM** or **SUIT** for **INJUNCTIVE** and/or **DECLARATORY RELIEF** or seeking issuance of writs of mandamus, prohibition, procedendo or quo warranto, or to compel compliance with State Public Records Law.
15. **Intentional Acts.** Any **CLAIM** or **SUIT** for;
 - a. **BODILY INJURY** or **PROPERTY DAMAGES** that is intended or expected from the standpoint of the **MEMBER**, even if the **BODILY INJURY** or **PROPERTY DAMAGE** is of a different kind or degree, or is sustained by a different person, than intended. This exclusion shall not

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apply to **BODILY INJURY** or **PROPERTY DAMAGE** resulting from the use of reasonable force to protect persons or property; or

- b. **PERSONAL INJURY** caused by or at the direction of the **MEMBER** with the knowledge that the act would violate the rights of another and would cause **PERSONAL INJURY**; or
 - c. **WRONGFUL ACTS, ERRORS OR OMISSIONS** that are dishonest, fraudulent, criminal or malicious.
16. **Intentional Torts Pursuant to State Revised Code or the common law of the State.** Any **CLAIM** or **SUIT** alleging an employer intentional tort. However, **TRANSIT AGENCY** may provide a defense to a **MEMBER** subject to a reservation of rights until such time that it is established judicially or otherwise that the **MEMBER** committed or participated in an employer intentional tort. In the event that a **MEMBER** committed or participated in an employer intentional tort, **TRANSIT AGENCY** may at its sole discretion recover defense costs including but not limited to attorneys' fees.
17. **Investments.** Any **CLAIM** or **SUIT** arising out of, or related to, investment activities, however characterized, including, but not limited to, failure of investments, which includes, but is not limited to, stocks, bonds and funds, to perform as represented. This exclusion does not apply to investment activities by **TRANSIT AGENCY**, the CEO or **EMPLOYEES** of **TRANSIT AGENCY**.
18. **Land Use Proceedings.** Any **CLAIM** or **SUIT** arising out of the operation of the principles of eminent domain, condemnation proceedings, inverse condemnation proceedings, regulatory taking by whatever name called, land use actions, zoning, rezoning or failure to zone, whether that liability accrues directly against the **TRANSIT AGENCY** or by virtue of any agreement entered into by or on behalf of the **TRANSIT AGENCY**. **CLAIMS** or **SUITS** alleging civil rights violations arising out of any of these listed proceedings are also excluded.
19. **Law Enforcement Activities.** Any **CLAIM** or **SUIT** in any way arising out of, or associated with, **LAW ENFORCEMENT ACTIVITIES**.
20. **Liability for Indemnity, Subrogation or Contribution.** Any **CLAIM** or **SUIT** for any liability for indemnity, subrogation or contribution brought by any party for **BODILY INJURY**, **PERSONAL INJURY** or **PROPERTY DAMAGE** sustained by any **MEMBER**.
21. **MEMBER versus MEMBER.** Any **CLAIM** or **SUIT**, including, but not limited to, a counter-claim or cross-claim by a **MEMBER** against any other **MEMBER**. However, this exclusion does not apply to **CLAIMS** or **SUITS** for **WRONGFUL ACTS** covered under Section III of this MOC.

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22. **Nuclear Incident.** Any **CLAIM** or **SUIT** arising directly or indirectly from nuclear reaction, radiation, or radioactive contamination, however caused or characterized, including any loss or damage by fire resulting therefrom.
23. **Organic Pathogens. BODILY INJURY, PERSONAL INJURY, or PROPERTY DAMAGE** attributed to, arising out of, resulting from, or in any way caused by any **ORGANIC PATHOGEN**, or other micro-organism that induces or is capable of inducing physical distress, illness or disease.

EXCEPT this exclusion does not apply to any actual or alleged discrimination based on the actual or alleged contraction of the foregoing as covered under Section III -- Errors and Omissions Coverage.

24. **Outside the Scope of Employment. DAMAGES** resulting from the act or omission of a **MEMBER** while not acting in good faith or outside the **MEMBER's** scope of employment or official duties for the **TRANSIT AGENCY**.
25. **Personal Profit.** Any **CLAIM** or **SUIT** based upon or attributable to any **MEMBER** gaining in fact any personal profit or advantage to which they, or any other **MEMBER**, organization or individual are not legally entitled, including remuneration paid in violation of law.
26. **Pollution.** Except for the necessary and reasonable expenses actually incurred by the **TRANSIT AGENCY** to clean up and remove **POLLUTANTS** from land or water if the discharge, dispersal, seepage, migration, release or escape of such **POLLUTANTS** is caused by, or results from, an **OCCURRENCE** not at or on a **TRANSIT AGENCY'S** property involving the **TRANSIT AGENCY'S AUTOMOBILE**, this MOC does not cover any injury, loss, damage, costs, fines, penalties, or expenses of any kind directly or indirectly arising out of the actual, alleged or threatened existence, discharge, dispersal, release or escape of **POLLUTANTS**:
- a. at or from **PREMISES** that the **TRANSIT AGENCY** now, or in the past, has owned, rented, or occupied, including, but not limited to, **PREMISES** that the **TRANSIT AGENCY** has operated or managed as an involuntary possessor;
 - b. at or from any site or location used by or for the **TRANSIT AGENCY** or others for the handling, storage, disposal, processing or treatment of waste at any time;
 - c. which at any time involve the transportation, handling, storage, treatment, disposal, or processing of **POLLUTANTS** by or for the **TRANSIT AGENCY** or any person or organization for whom the **TRANSIT AGENCY** may be legally responsible;

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- d. at or from any site or location on which the **TRANSIT AGENCY** or any contractors or subcontractors working directly or indirectly on the **TRANSIT AGENCY'S** behalf are performing operations:
1. if the **POLLUTANTS** are brought on or to the site or location in connection with such operations.
 2. if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the **POLLUTANTS**.
 3. whether caused or alleged to have been caused by the **TRANSIT AGENCY** or any other person, entity, or third-party, however characterized.

In addition, this MOC does not cover any loss, costs, expenses, fines, or penalties arising out of any direction, request, or order of any governmental agency, court of law, or other authority, that the **TRANSIT AGENCY** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **POLLUTANTS**, including any and all costs or attorney's fees associated therewith.

This MOC does not cover **CLAIMS** or **SUITS** arising out of the failure of the **NATRANSIT AGENCY** to prevent or regulate **POLLUTANTS** generated or caused by any other person, entity, or third-party, however characterized.

27. **Prior Coverage.** Any **CLAIM** or **SUIT** resulting from a **NEGLIGENT ACT, ERROR OR OMISSION, WRONGFUL ACT, or OCCURRENCE** for which the **TRANSIT AGENCY** is entitled to indemnity and/or payment under any MOC or policies, which commenced prior to the inception date of this MOC, or from a **NEGLIGENT ACT, ERROR OR OMISSION, WRONGFUL ACT, or OCCURRENCE** which occurred prior to the **PERIOD OF COVERAGE** of this MOC, or for which a **MEMBER** would be entitled to indemnity but for the exhaustion of the limit of such prior coverage or insurance.
28. **Products and Work.** **PROPERTY DAMAGE** to goods supplied, distributed, or handled by or for the **MEMBER**, and **PROPERTY DAMAGE** to the work or operations performed by or for the **MEMBER**, including but not limited to damage to the parts, materials, or equipment used in connection with the work or operations.
29. **Products Recall.** For any **DAMAGES** claimed for any loss, cost or expense incurred by the **TRANSIT AGENCY** or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal, or disposal of the **TRANSIT AGENCY'S** product or work, or other property of which they form a part, if such product or work is withdrawn or recalled from the market or from use

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- by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition therein.
30. **Recreational Motor Vehicles.** Any **CLAIM** or **SUIT** arising out of the ownership, maintenance or use of **RECREATIONAL MOTOR VEHICLES** except as provided by Section II, Auto Liability Coverage.
 31. **Sexual Abuse.** This MOC does not cover **DEFENSE COST** or **DAMAGES** for any **CLAIM** or **SUIT** arising directly or indirectly from any actual or alleged participation in any act of **SEXUAL ABUSE** of any person by any **MEMBER**, except for **CLAIMS** or **SUITS** alleging negligence on the part of a **MEMBER** other than the **MEMBER** personally accused of such **SEXUAL ABUSE** covered under Section I or Section III.
 32. **Sexual Harassment.** This MOC does not cover **DEFENSE COST** or **DAMAGES** for any claim or suit arising directly or indirectly from any actual or alleged participation in any act of **SEXUAL HARASSMENT** of any person by any **MEMBER**, except for **CLAIMS** or **SUITS** alleging negligence on the part of a **MEMBER** other than the **MEMBER** accused of such **SEXUAL HARASSMENT** covered under Section I or Section III.

However, for purposes of **SEXUAL HARASSMENT**, **TRANSIT AGENCY** may provide a defense to a **MEMBER**, subject to a reservation of rights, until such time that it is established judicially or otherwise that the **MEMBER** committed or participated in **SEXUAL HARASSMENT**.
 33. **Terrorist Activity.** Any **CLAIM** or **SUIT**, loss or damage arising directly or indirectly from, by, happening through or in consequence of any **TERRORIST ACTIVITY**.
 34. **War or Civil Disturbance.** Any **CLAIM** or **SUIT** loss or **DAMAGE** arising directly or indirectly from, by, happening through or in consequence of war, invasion, acts of foreign enemies, any weapon of war employing atomic fission or radioactive force (whether in time of peace or war), hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority; or **CLAIMS**, **SUITS** or liability arising directly or indirectly from nuclear fission, nuclear fusion or radioactive contamination.
 35. **Workers' and Unemployment Compensation and Disability Benefits Laws.** Any **CLAIM** or **SUIT** or any obligation for which the **TRANSIT AGENCY** may be held liable under any **WORKERS' COMPENSATION LAW**, unemployment compensation law, disability benefits law, or under any similar federal, state or local law, ordinance, rule or regulation, however characterized, as well as any **CLAIM** or **SUIT** by a spouse, domestic partner, child, parent, or

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sibling of a **MEMBER** as a consequence of **BODILY INJURY** or **PERSONAL INJURY** to the **MEMBER**.

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SECTION I GENERAL LIABILITY COVERAGE

General Liability Coverage Agreement. TRANSIT AGENCY agrees, subject to the terms, conditions, limitations and exclusions of this MOC, to pay on behalf of a MEMBER those sums which a MEMBER becomes legally obligated to pay as DAMAGES for BODILY INJURY, PROPERTY DAMAGE and PERSONAL INJURY arising out of an OCCURRENCE, which injury or damage occurs during the MOC PERIOD OF COVERAGE.

Limits of Coverage. TRANSIT AGENCY will not pay more than the applicable Limits of Coverage for the coverage afforded under this Section that result from any one (1) OCCURRENCE.

All CLAIMS or SUITS arising out of a single OCCURRENCE or series of related OCCURRENCES shall be treated as a single CLAIM or SUIT. All such CLAIMS or SUITS shall be subject to one (1) OCCURRENCE LIMIT. All terms and conditions of the MOC in effect during the earliest PERIOD OF COVERAGE in which any OCCURRENCE occurred which contributed to the DAMAGES shall apply

Provided all requirements of this MOC are met, the following are included in this General Liability Coverage Agreement:

1. **Hostile Fire and Fire Suppression Liability.** This section includes liability coverage for BODILY INJURY and/or PROPERTY DAMAGE arising out of heat, smoke, explosion, or fumes resulting from a hostile fire, excluding DAMAGES arising out of negligent fire suppression activities by firefighting personnel other than MEMBERS. For purposes of this specific condition, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.
2. **Host/Liquor Legal Liability.** This section includes coverage for BODILY INJURY and/or PROPERTY DAMAGE resulting from the provision, sale or distribution of alcoholic beverages, or civil liability imposed by any local, state or federal liquor control laws.
3. **Emergency Medical Liability.** This section includes coverage for emergency medical services rendered, or which should have been rendered, to any person or persons by a MEMBER providing FIRST AID.
4. **Products Liability.** This section includes coverage for liability arising out of the TRANSIT AGENCY'S completed products or reliance upon a representation or warranty of the TRANSIT AGENCY made at any time with respect to such products, but only if DAMAGES occur after physical possession of such product has been relinquished to another.

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EXCLUSIONS APPLICABLE TO GENERAL LIABILITY COVERAGE AGREEMENT

In addition to the **GENERAL EXCLUSIONS** contained in this MOC, Liability Coverage under the General Liability Coverage Agreement does not cover or apply to any **CLAIM or SUIT**:

1. More specifically covered under any other Section of this MOC.
2. For **PROPERTY DAMAGE** to:
 - a. Property a **MEMBER** owns, rents or occupies;
 - b. **PREMISES** a **MEMBER** sells, gives away or has abandoned;
 - c. Property loaned to the **TRANSIT AGENCY** and real or personal property in the **TRANSIT AGENCY'S** care, custody and control, except this exclusion (c) does not apply to damages caused by the **TRANSIT AGENCY'S NEGLIGENT ACTS** or omissions.
3. For any liability arising out of **MEDICAL MALPRACTICE**, except for Emergency Medical Liability coverage in connection with **FIRST AID** rendered by a **MEMBER**, as provided in this Section I.
4. For **BODILY INJURY or PROPERTY DAMAGE** arising out of the ownership, maintenance, or use of any automobile including, but not limited to, **BODILY INJURY** sustained by any person, including a **MEMBER**, engaged in the maintenance or repair of a **MEMBER'S AUTOMOBILE**.

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SECTION II - AUTOMOBILE LIABILITY COVERAGE

Automobile Liability Coverage Agreement. TRANSIT AGENCY agrees, subject to the terms, conditions, limitations and exclusions of this MOC, to pay on behalf of the MEMBER those sums which MEMBER is legally obligated to pay as DAMAGES, by reason of the liability imposed upon the MEMBER by law, because of BODILY INJURY and/or PROPERTY DAMAGE arising out of an ACCIDENT involving the TRANSIT AGENCY'S AUTOMOBILE during the MOC PERIOD OF COVERAGE.

Limits of Coverage. TRANSIT AGENCY will not pay more than the applicable Limits of Coverage for the coverage afforded under this Section that results from any one (1) OCCURRENCE.

All CLAIMS or SUITS arising out of a single ACCIDENT or series of related ACCIDENTS shall be treated as a single CLAIM or SUIT. All such CLAIMS or SUITS shall be subject to one (1) OCCURRENCE LIMIT. All terms and conditions of the MOC in effect during the earliest PERIOD OF COVERAGE in which any ACCIDENT occurred which contributed to the DAMAGES shall apply

In addition, the following are included in the Automobile Liability Coverage Agreement:

1. **AUTOMOBILES Owned by EMPLOYEES or VOLUNTEERS.** An AUTOMOBILE owned by an EMPLOYEE or VOLUNTEER of the TRANSIT AGENCY is provided coverage afforded by this Section while the AUTOMOBILE is being used by an EMPLOYEE or VOLUNTEER on business sanctioned by the TRANSIT AGENCY. Coverage provided by this Section shall be deemed excess and non-contributory to the coverage of the EMPLOYEE's or VOLUNTEER's personal coverage, which is deemed to be primary coverage regardless of any statutory provision.
2. **HIRED AUTOS.**
3. **Garage and Garagekeeper's Liability.** This section includes coverage for garage operations and for the ownership and operation of storage garages and parking lots of the TRANSIT AGENCY as bailee with respect to an AUTOMOBILE left in their custody and control.
4. **RECREATIONAL MOTOR VEHICLES** owned by the TRANSIT AGENCY and used in the operation of the TRANSIT AGENCY'S business.

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EXCLUSIONS APPLICABLE TO AUTOMOBILE LIABILITY COVERAGE AGREEMENT

In addition to the GENERAL EXCLUSIONS contained in this MOC, Automobile Liability Coverage does not cover or apply to any **CLAIM or SUIT**:

1. More specifically covered under any other Section of this MOC;
2. For **DAMAGES** to real or personal property rented to, used by, or in the care, custody or control of any **MEMBER**;
3. For Automobile Medical Payment Coverage;
4. For Uninsured/Underinsured Motorist Coverage.

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SECTION III - ERRORS AND OMISSIONS COVERAGE

ERRORS and OMISSIONS Coverage Agreement. TRANSIT AGENCY agrees, subject to the terms, conditions, limitations and exclusions of this MOC, to pay on behalf of the **MEMBER** those sums which the **MEMBER** is legally obligated to pay as **DAMAGES**, arising out of any **WRONGFUL ACT** by a **MEMBER** which occurs during the MOC **PERIOD OF COVERAGE**.

Limits of Coverage. TRANSIT AGENCY will not pay more than the applicable Limits of Coverage shown in the Declarations for the coverage afforded under this Section that results from any one (1) **OCCURENCE**.

All **CLAIMS** or **SUITS** arising out of a single **WRONGFUL ACT** or series of related **WRONGFUL ACTS** shall be treated as a single **CLAIM** or **SUIT**. All such **CLAIMS** or **SUITS** shall be subject to one (1) **OCCURRENCE LIMIT**. All terms and conditions of the MOC in effect during the earliest **PERIOD OF COVERAGE** in which any **WRONGFUL ACT** occurred which contributed to the **DAMAGES** shall apply.

EXCLUSIONS APPLICABLE TO ERRORS AND OMISSIONS COVERAGE AGREEMENT

In addition to the **GENERAL EXCLUSIONS** contained in this MOC, the **ERRORS AND OMISSIONS COVERAGE AGREEMENT** does not cover any **CLAIM** or **SUIT**:

1. More specifically covered under any other Section of this MOC.
2. For **BODILY INJURY, PERSONAL INJURY** or **PROPERTY DAMAGE**.
3. Arising out of estimates of probable costs being exceeded, or for faulty preparation of bid specifications or plans.
4. Based upon or attributable to any failure or omission of a **MEMBER** to effect or maintain insurance of any kind.
5. Arising out of or in any way involving any **EMPLOYEE BENEFITS PROGRAMS**.

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SECTION IV – EMPLOYEE BENEFITS LIABILITY COVERAGE

Employee Benefits Liability Coverage Agreement. TRANSIT AGENCY agrees, subject to the terms, conditions, limitations and exclusions of this MOC, to pay on behalf of the TRANSIT AGENCY those sums which the TRANSIT AGENCY is legally obligated to pay as **DAMAGES** by reason of a **NEGLIGENT ACT, ERROR OR OMISSION** in the **ADMINISTRATION** of an **EMPLOYEE BENEFITS PROGRAM** during the MOC **PERIOD OF COVERAGE**.

Limits of Coverage. TRANSIT AGENCY will not pay more than the applicable Limits of Coverage shown in the Declarations for the coverage afforded under this Section that result from any one (1) **OCCURENCE**

Multiple MEMBERS, CLAIMS, SUITS or Claimants. Inclusion herein of more than one (1) **MEMBER** or the making of more than one (1) **CLAIM** or the bringing of **SUITS** by more than one (1) person or organization shall not operate to increase the **OCCURRENCE LIMIT**.

All **CLAIMS** or **SUITS** arising out of a single **NEGLIGENT ACT, ERROR OR OMISSION**, or series of related **NEGLIGENT ACTS, ERRORS OR OMISSIONS** shall be treated as a single **CLAIM** or **SUIT**. All such **CLAIMS** or **SUITS** shall be subject to one (1) **OCCURRENCE LIMIT**. All terms and conditions of the MOC in effect during the earliest **PERIOD OF COVERAGE** in which any such **NEGLIGENT ACT, ERROR OR OMISSIONS** occurred which contributed to the **DAMAGES** shall apply.

EXCLUSIONS APPLICABLE TO EMPLOYEE BENEFITS LIABILITY COVERAGE

In addition to the **GENERAL EXCLUSIONS** contained in this MOC, the **EMPLOYEE BENEFITS LIABILITY Coverage Agreement** does not cover any **CLAIM or SUIT**:

1. More specifically covered under any other Section of the MOC.
2. For **BODILY INJURY, PERSONAL INJURY** or **PROPERTY DAMAGE**.
3. For failure of performance of a contract by the **TRANSIT AGENCY**, Insurer or Self Insurer.
4. Arising out of actual or alleged discrimination including, but not limited to, discrimination based on race or national origin, religion or creed, age, sex, physical disability, military status, or employment practices whether or not any of the foregoing violated any federal, State or local government law or regulation prohibiting such discrimination.

MEMORANDUM OF COVERAGE[L] DECLARATIONS

Page 1 of 2

“TRANSIT AGENCY”:
**Northern Arizona Intergovernmental
Public Transportation Authority**
3773 N. Kaspar Dr.
Flagstaff, AZ 86004

MOC Number: NAIPTA-MOC

Period of Coverage Effective: July 1, 2020

To: December 1, 2020

(Both Days at 12:01 a.m. Eastern Standard Time)

TYPES OF COVERAGE	LIMITS OF COVERAGE	CARRIER/RETENTION
<u>Liability Coverages</u>		
A. Automobile Liability B. Automobile Medical Payments C. Uninsured/Underinsured Motorists/No Fault D. Comprehensive General Liability E. Errors and Omissions F. Employee Benefits Liability	A. B. **Excluded** C. **Excluded** D. E. F.	

**THESE DECLARATIONS, TOGETHER WITH THE MEMORANDUM OF COVERAGE AND ANY
ENDORSEMENT(S), CONSTITUTE THE COMPLETE MEMORANDUM OF COVERAGE.**

**BY ACCEPTANCE OF THE MOC “TRANSIT AGENCY” AGREES THAT THESE DECLARATIONS
ACCURATELY INDICATE THE COVERAGE PROVIDED AND THE MOC COVERAGE TERMS
TO BE CEDED TO REINSURANCE UNDER THIS FORM. CONSULT YOUR REINSURANCE
AGREEMENT FOR TERMS AND CONDITIONS OF ANY REINSURANCE.**

AUTHORIZED SIGNATURE	TITLE	DATE
<u>X</u>	NAIPTA, Board President	