



2014

**LIABILITY
COVERAGES DOCUMENT**

TABLE OF CONTENTS

Introduction	1
Layered Coverage	1
Section 1. Coverage Agreement.....	2
Coverages.....	2
Coverage A. <i>Bodily injury and property damage</i>	2
Coverage B. <i>Personal injury and advertising injury</i>	2
Coverage C. <i>Contractual liability</i>	2
Coverage D. <i>Vanpool Driver Medical Expense Protection</i>	2
Coverage E. <i>Underinsured Motorists Coverage</i>	2
Investigation, Settlement, and Defense.....	2
Supplementary Payments.....	3
Limits of Liability.....	3
Section 2. Who is Covered?.....	3
Section 3. Exclusions	4
Intentional Acts.....	4
Workers' Compensation.....	4
Aircraft	4
Pollution.....	4
War, Insurrection, Terrorist Activity	4
Owned, Rented, or Occupied Property.....	5
Certain <i>personal injury and advertising injury</i> Activities.....	5
Employment-Related Practices	5
Fines or Punitive Damages	5
Watercraft.....	5
Nuclear Material.....	5
Asbestos, Lead, Mold.....	5
Section 4. General Policy Conditions	5
Duties in the Event of <i>occurrence, claim or suit</i>	5
Legal Action Against Us.....	6
Other Coverage.....	6
Primary Coverage.....	6
Excess Coverage.....	6
Method of Sharing.....	6
Contributions, Audits, and Assessments.....	6
Subrogation.....	7
Section 5. Definitions.....	7
<i>Additional covered parties</i>	7
<i>Advertising injury</i>	7
<i>Bodily injury</i>	7
<i>Contractual liability</i>	7
<i>Medical and hospital benefits</i>	7
<i>Member</i>	7
<i>Occurrence</i>	7

Personal injury.....7
Products/Completed Operations Hazard.....8
Pollutants.....8
Property damage.....8
Suit.....8
Underinsured motor vehicle8

INTRODUCTION

The Washington State Transit Insurance Pool (Pool) is not an insurance company. It is an entity created pursuant to RCW 48.62. It is controlled and governed by applicable state statutes and regulations, the Interlocal agreement through which the Pool was formed, and its own bylaws and governance documents.

The state statutes and regulations, which apply to insurance companies, do not apply to the Pool. The state insurance commissioner does not regulate the Pool. The judicial cases which apply to the construction and interpretation of insurance policies do not apply to this coverage document.

This shall be construed, applied, and interpreted in accordance with the Pool's rules, regulations, and bylaws.

Various provisions in this coverage document restrict coverage. Please read the entire document carefully to determine rights, duties, and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the **member** shown in the Coverage Declarations and any other person or organization qualifying as an **additional covered party**. The words "we," "us," "our," "WSTIP" or "Pool" refer to the Washington State Transit Insurance Pool.

Words and phrases that appear in bold italics have special meaning. Please refer to definitions in Section 5.

LAYERED COVERAGE

The coverage provided by the Pool's program is in layers. The first layer of coverage is funded by the Pool and its terms and conditions are as set forth in this coverage document. Above the Pool's layer of coverage are coverages provided by excess or reinsurers. For the most part, the coverages provided by the excess or reinsurers "follow the form" of the Pool's coverage but there are some differences. Coverage for any loss above the Pool's layer shall be determined by the terms, conditions, and exceptions as set forth in the excess or reinsurance coverage documents.

COVERAGE PART

Section 1. Coverage Agreement

A. Coverages

1. The Pool will pay those sums which the *member* or *additional covered party* becomes legally obligated to pay as damages arising from the following activities or events:
 - a. **Coverage A. Bodily injury and property damage liability**
Damages from *bodily injury* or *property damage* caused by an *occurrence* that takes place during the coverage period.
 - b. **Coverage B. Personal injury and advertising injury liability**
Damages from *personal injury* or *advertising injury* caused by an offense that was committed during the coverage period; Provided, the total limit available for any loss involving more than one line of coverage shall be no greater than the highest limit available for the lines of coverage involved.
 - c. **Coverage C. Contractual liability**
Damage arising from *contractual liability* arising during the coverage period.
2. The Pool will pay:
 - a. **Coverage D. Vanpool Driver Medical Expense Protection**
Medical and hospital benefits to any vanpool driver who suffers *bodily injury* as a result of an *occurrence* while operating a van within the terms and conditions of a vanpool agreement with *member*.
3. The Pool will pay those sums which *member* or *additional covered party* is legally entitled to recover as compensatory damages arising from the following event:
 - a. **Coverage E. Underinsured Motorists Coverage**
Bodily injury sustained by *member* or *additional covered party* as a result of an *occurrence* caused by the owner or driver of an *underinsured motor vehicle* and involving that vehicle; Provided, there is no coverage for an *additional covered party* who is covered by workers' compensation.

B. Investigation, Settlement, and Defense

1. The Pool has the right and duty to defend any *suit* seeking damages from a *member* or *additional covered party* under Coverages A through E. We may, at our discretion, investigate and settle any claim or *suit* as we consider appropriate. The *member* or *additional covered party* has an obligation to cooperate with us in our investigation and defense. Our duty to defend or settle ends when the limit of liability for the applicable coverage has been exhausted by payment of judgments, settlements, or supplementary payments.
2. A *member* is obligated to pay its deductible.

C. Supplementary Payments

We will pay, but not in addition to damages, with respect to any claim or *suit* we defend:

1. All defense costs and expenses we incur.
2. All reasonable expenses incurred by the *member* or *additional covered party* at our request to assist us in the investigation or defense of the claim or *suit*.
3. All interest on the amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of liability.

D. Limits of Liability

1. The most we will pay as damages and supplementary payments for any coverage arising out of any one *occurrence*, an *advertising* or *personal injury* offense, or *contractual liability* is the limit of liability shown in the Coverage Declarations; Provided, when an *occurrence*, offense, or *contractual liability* spans more than one coverage period, the most we will pay is the highest limit of liability as shown in the Coverage Declarations.
2. The most we will pay as damages and supplementary payments for liability arising from *products/completed operations hazard* arising out of one or more *occurrences* in a Coverage Period is the limit of liability shown in the Coverage Declarations.
3. We will not cover any matter for which *member* or *additional covered party* has coverage under the Public Officials' Liability coverage document issued by Pool to *member*.

Section 2. WHO IS COVERED?

The coverage afforded by the Coverage Document applies to:

A. The *member* identified in the Coverage Declarations;

B. *Additional covered parties* as follows:

1. Any official, trustee, employee, or volunteer of the *member* but only while acting within the scope of his or her official duties.
2. Any person or entity to which the *member* is obligated by virtue of a written contract to provide coverage such as is provided by this coverage document but only in respect to operations or services provided to the *member* at its request as set forth in the written contract; Provided, any such written contract shall meet the Pool's underwriting standards and if it does not then this coverage document shall provide no coverage to the person or entity; Provided further, any such written contract must contain a hold harmless provision endorsed by the Pool.
3. For underinsured motorist coverage only, any occupant of a vehicle for which a *member* has purchased underinsured motorist coverage.
4. For motor vehicle coverage only, any vanpool driver.
5. For motor vehicle coverage only, any person driving a motor vehicle owned by a *member* with permission of the *member* for which the Pool provides coverage, Provided:
 - a. any such permissive user has a valid driver's license;
 - b. the permissive user is at least 21 years of age;

- c. the coverage provided to the permissive user by this coverage document is excess to any other coverage in favor of the permissive user;
 - d. the limits of coverage provided to the permissive user by this coverage document are \$300,000 for bodily injury and \$100,000 for property damage; and
 - e. the permissive user may not provide permission to any other person to drive the motor vehicle.
6. Any person or entity named as an additional insured on a certificate of insurance issued by the Pool.
 7. The Pool and the employees of the Pool while acting within the scope of his, her or its official duties.

Section 3. EXCLUSIONS

This coverage document does not apply to and there is no coverage for:

A. Intentional Acts

Bodily injury or property damage expected or intended from the standpoint of the **member** or **additional covered party**. This exclusion does not apply to:

1. The use of force to protect persons or property; or
2. **Member's** liability for damages as a result of vicarious liability for acts of its employees.

B. Workers' Compensation

Any obligation under a workers' compensation law or any similar law. This exclusion does not apply where an employee of **member** is injured in the course of such employment where it is determined that the employee is not entitled to receive worker's compensation benefits.

C. Aircraft

Liability arising out of the ownership, maintenance, use, or entrustment to others of any aircraft or operation of any airfield.

D. Pollution

Bodily injury, property damage, or personal injury which would not have occurred in whole or in part but for the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of **pollutants** at any time. This exclusion does not apply to:

1. **Bodily injury, property damage or personal injury** caused by heat, smoke, or fumes from a hostile fire. A hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be; or
2. The discharge, dispersal, seepage, migration, release, or escape of pollutants caused directly by the upset, overturn, or damage of a motor vehicle for which this coverage document provides liability coverage.

E. War, Insurrection, Terrorist Activity

Bodily injury or property damage due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion, revolution, or terrorist activity.

F. Owned, Rented, or Occupied Property

Property damage to:

1. Property you own, rent, or occupy; or
2. Property loaned to you.

G. Certain *personal injury* and *advertising injury* Activities

1. ***Personal injury* or *advertising injury*:**
 - a. Arising out of oral or written publication of material, if done by or at the direction of ***member*** or ***additional covered party***, with knowledge of its falsity;
 - b. Arising out of oral or written publication of material the first publication of which took place prior to the coverage period; or
 - c. Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of ***member*** or ***additional covered party***.
2. ***Advertising injury*** arising out of:
 - a. Breach of contract;
 - b. The failure of goods, products, or services to conform with advertised quality or performance; or
 - c. The wrong description of the price of goods, products, or services.

H. Employment-Related Practices

Any actual or alleged wrongful termination, discipline, or discrimination related to hiring or employment.

I. Fines or Punitive Damages

Fines, punitive damages, or exemplary damages.

J. Watercraft

Liability arising out of the ownership, maintenance, use (including loading, unloading, embarking, or disembarking), or entrustment to others of any watercraft.

K. Nuclear Material

Liability arising out of the hazardous properties of nuclear material.

L. Asbestos, Lead, Mold

Liability arising out of, resulting from, caused or contributed to by asbestos, lead or mold or exposure to asbestos, lead, or mold or for the costs of abatement, mitigation, removal or disposal of asbestos, lead, or mold.

Section 4. General Policy Conditions

The coverages in this coverage document are subject to the following conditions:

A. Duties in the Event of *occurrence*, *claim* or *suit*

1. You should notify us within three business days of an **occurrence** which appears likely to involve coverage. Notice should include:
 - a. How, when, and where the **occurrence** took place;
 - b. The names and addresses of any injured person(s) or witness(es); and
 - c. The nature and location of any injury or damage arising out of the **occurrence**.
2. If you receive a claim, notice, or **suit** which appears likely to involve this coverage document you must record the date and time received and promptly provide us a copy.

B. Legal Action Against Us

No person or entity may:

1. Join us as a party or otherwise bring us into a **suit** seeking damages from **member** or **additional covered party**; or
2. Sue us unless all of the terms of this coverage document have been met.

C. Other Coverage

If other coverage is available to **member** or **additional covered party** for an **occurrence** or offence, our obligations are limited as follows:

1. **Primary Coverage.** This coverage is primary except as provided by Section 4C2. If this coverage is primary, our obligations are not affected unless the other coverage is also primary in which case we will share coverage by the method described in Section 4C3.

2. **Excess Coverage.**

a. This coverage is excess over other coverages where the other coverage is available to you as an **additional covered party** or additional insured under a coverage document or policy issued by a contractor or service provider performing work for you.

b. When this coverage is excess, we have no duty to defend any **suit** or claim that some other entity has a duty to defend. However if such other entity fails or refuses to defend, then we will do so on the condition that you transfer to us your rights to proceed against that entity.

c. When this coverage is excess, we will pay the amount of damages not paid by underlying coverages but only to our limits of liability.

3. **Method of Sharing.**

a. If the other coverages permit contribution by equal shares, we shall follow this method so that each entity providing coverage contributes equal amounts up to its coverage limits.

b. If the other coverages do not permit contribution by equal shares, we shall contribute by limits so that each entity providing coverage shall contribute based on the ratio of its applicable limit to the total limits of all entities providing coverage.

D. Contributions, Audits, and Assessments

We will compute all contributions and assessments and perform all audits in conformity with the Pool's governance documents and Bylaws.

E. Subrogation

If you have the right to recover all or part of a payment we have made on your behalf, you must transfer those rights to us and do nothing to impair those rights; Provided, you may waive subrogation but only prior to any **occurrence**. Upon request, you must bring **suit** at our expense to enforce such rights and/or cooperate with us in enforcing such rights.

Section 5. DEFINITIONS

- A. Additional covered parties** are those persons or entities set forth in Section 2 B
- B. Advertising injury** means injury arising out of one or more of the following offenses committed in the course of advertising your goods, products, or services:
1. 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;
 2. Oral or written publication of material that violates a person's right of privacy;
 3. Misappropriation of advertising ideas or style of doing business; or
 4. Infringement of copyright, title, or slogan.
- C. Bodily injury** means physical injury, mental injury, shock, sickness, or disease sustained by a person, including death resulting from any of these at any time.
- D. Contractual liability** means liability for **bodily injury, property damage, advertising injury, or personal injury** arising from the operation of a hold harmless provision in a written agreement where **member** has agreed to hold another person or entity harmless; Provided, there shall be no **contractual liability** coverage under this coverage document arising in an agreement for professional architectural, engineering, or surveying services.
- E. Medical and hospital benefits** means payments for reasonable and necessary medical expenses incurred as a result of a covered **occurrence** and includes payments for dental services, prescriptions, prosthetic devices, ambulance expenses, and funeral expenses. Benefits do not include loss of income or expenses for household services.
- F. Member** means a Washington State public transit entity that participated in the formation of the Pool or has been approved for membership in the Pool.
- G. Occurrence** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results in **bodily injury or property damage**.
- H. Personal injury** means injury arising out of one or more of the following offenses:
1. False arrest, detention, or imprisonment;
 2. Malicious prosecution;
 3. Defamation;

4. Wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling, or premises that a person occupies;
5. 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 service;
6. Oral or written publication of material that violates a person's right of privacy;
7. Assault and battery not committed by, at the direction, or with consent of **Member**; or
8. Discrimination prohibited by state or federal law including discrimination based upon race, religion, nationality, national origin, color, creed, sex, sexual preference, age, employment, or disability.

H. *Products/Completed Operations Hazard* means all ***bodily injury*** and ***property damage*** which occurs away from premises you own or rent and arising out of your products or work that has been sold, transferred, or performed for others except:

1. Products that are still in your physical possession; or
2. Work that has not yet been completed.

I. *Pollutants* means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, lead, asbestos, and waste. Waste includes materials to be recycled, reconditioned, or reclaimed.

J. *Property damage* means physical injury to tangible property, including all resulting loss of use of that property.

K. *Suit* means a civil proceeding in which damages are sought. ***Suit*** includes:

1. An arbitration proceeding in which such damages are claimed and to which you must submit or do submit with our consent; or
2. Any other alternative dispute resolution proceeding in which such damages are claimed and to which you submit with our consent.

L. *Underinsured motor vehicle* means a land motor vehicle:

1. For which no liability bond or policy applies at the time of an ***occurrence***;
2. For which a liability bond or policy applies at the time of the ***occurrence***, but the amount paid under all of the bonds or policies to a covered party is not enough to pay the full amount the covered party is legally entitled to recover as damages caused by the ***occurrence***;
3. For which all insuring or bonding companies deny coverage or are or become insolvent; or
4. That is a hit-or-run vehicle and neither the driver nor owner can be identified.

This Coverage Document was adopted by the Pool's Board of Directors on 12-6-13.

Verified by general counsel on 12-12-13. 