

# **Niagara Tobacco Asset Securitization Corporation**

## **Handbook**

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## **COMMITTEES**

Audit/Finance Committee: Independent members only to extent practicable members familiar with corporate, financial & accounting practices.

Governance Committee: Independent members only.

## **COMPENSATION, REIMBURSEMENT AND ATTENDANCE POLICY**

Pursuant to and in accordance with Election 8566 and 895-k of the General Municipal Law of the State of New York, all Directors, other than the Independent Director, of the board of the Niagara Tobacco Asset Securitization Corporation (the "Board") shall serve without salary but may be reimbursed for reasonable expenses incurred in the performance of Corporation duties with the approval of the Board.

The officers, employees, and agents of the Corporation shall serve at such compensation levels as may be approved by the Board from time to time and may be reimbursed for reasonable expenses incurred in the performance of Corporation duties with the approval of the Board.

The Independent Director may be compensated for his or her services as Independent Director in an amount fixed from time to time by majority vote of the entire Board of Directors other than the Independent Director.

Attendance at each meeting of the Board shall be recorded by the Secretary in the minutes thereof. A majority of the entire Board of Directors shall constitute a quorum for the transaction of business at meetings of the Board unless the vote to be taken by the Board of Directors for any particular action to be authorized is required by the Certificate of Incorporation or those by the By-laws to be greater than a unanimous affirmative vote of a majority of the entire Board of Directors, in which case a quorum for the transaction of any such business shall be all of the members of the entire Board of Directors.

## **CODE OF ETHICS AND BOARD TRAINING**

The members of the board (the "Board") of the Niagara Tobacco Asset Securitization Corporation (the Corporation), a duly established public benefit corporation of the State of New York (the "State"), along with the officers and staff of the Corporation, shall comply with and adhere to the provisions of Article 18 of the General Municipal Law of the State of New York.

Further, no director, officer, or employee of the corporation shall (1) accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties; (2) accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position of authority; (3) disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests; (4) use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or others; (5) engage in any transaction as a representative or agent of the Corporation with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with proper discharge of his or her official duties; (6) not, by his or her conduct, give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person; (7) abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest,; and (8) endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

Pursuant to subdivision 2 of Section 2824 of the PAL, any member of the Board appointed on or after January 13, 2006 shall participate in State-approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors within one year of their appointment to the Corporation. Further, each Board member appointed after January 13, 2006 shall execute a certificate of independence pursuant to subdivision 2 of Section 2825 of the PAL. Such certificate shall be executed in substantially the form attached to this Manual as Exhibit D.

## **DEFENSE AND INDEMNIFICATION POLICY**

Pursuant to the Bylaws of the Niagara Tobacco Asset Securitization Corporation (the "Corporation"), the Corporation shall indemnify all members of the Board of the Corporation and each officer and employee thereof, in the performance of their duties, and to the extent authorized by the Board, each other person authorized to act for the Corporation or on its behalf, to the full extent to which indemnification is permitted under the Laws of the State of New York or the County of Niagara, New York.

## **DISPOSITION OF REAL PROPERTY GUIDELINES**

### **SECTION 1. DEFINITIONS**

A. "Contracting officer" shall mean the officer or employee of the Niagara Tobacco Asset Securitization Corporation (hereinafter, the "Corporation") who shall be appointed by resolution to be responsible for the disposition of property.

B. "Dispose" or "disposal" shall mean transfer of title of any other beneficial interest in personal or real property in accordance with section 2897 of the Public Authorities Law.

C. "Property" shall mean personal property in excess of five thousand dollars (\$5,000) in value, and real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

### **SECTION 2. DUTIES**

A. The Corporation shall:

- (1) maintain adequate inventory controls and accountability systems for all property owned by the Corporation and under its control;
- (2) periodically inventory such property to determine which property shall be disposed of;
- (3) produce a written report of such property in accordance with subsection B herewith; and
- (4) transfer or dispose of such property as promptly and practicably as possible in accordance with Section 2 below.

B. The Corporation shall

- (1) publish, not less frequently than annually, a report listing all real property owned in fee by the Corporation. Such report shall consist of a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the Corporation and the name of the purchaser for all such property sold by the Corporation during such period; and.

- (2) shall deliver copies of such report to the Comptroller of the State of New York, the Director of the budget of State of New York, the Commissioner of the New York State Office of General Services, and the New York State Legislature (via distribution to the majority leader of the senate and the speaker of the assembly)

### **SECTIONS 3. TRANSFER OR DISPOSITION OF PROPERTY**

A. Supervision and Direction - Except as otherwise provided herein, the duly appointed contracting officer (the "Contracting Officer") shall have supervision and direction over the disposition and sale of property of the Corporation. The Corporation shall have the right to dispose of its property for any valid corporate purpose.

B. Custody and Control – The custody and control of Corporation property, pending its disposition, and the disposal of such property, shall be performed by the Corporation or by the Commissioner of General Services when so authorized under this section.

C. Method of Disposition – Unless otherwise permitted, the Corporation shall dispose of property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Corporation and/or contracting officer deems proper. The Corporation may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, except in compliance with all applicable law, no disposition of real property, and interest in real property, or any other property which because of its unique nature is not subject to fair market pricing shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction.

D. Sales by the Commissioner of General Services (the "Commissioner") – When the Corporation shall have deemed that transfer of property by the Commissioner will be advantageous to the State of New York, the Corporation may enter into an agreement with the Commissioner of ?????????? pursuant to which Commissioner may dispose of property of the Corporation under terms and conditions agreed to by the Corporation and the commissioner. In disposing of any such property, the Commissioner shall be bound by the terms hereof and references to the contracting officer shall be deemed to refer to such Commissioner.

E. Validity of Deed, Bill of Sale, Lease, or Other Instrument – A deed, bill of sale, lease, or other instrument executed by or on behalf of the

Corporation, purporting to transfer title or any other interest in property of the Corporation in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.

F. Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement –

- (1) Except as permitted by all applicable law, all disposals or contracts for disposal of property made or authorized by the Corporation shall be made after publicly advertising for bids except as provided in subsection (3) of this Section F.
- (2) Whenever public advertising for bids is required under subsections (1) of this Section F:
  - a. the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property proposed for disposition;
  - b. all bids shall be publicly disclosed at the time and place state in the advertisement; and
  - c. the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Corporation, price and other factors considered; provided, that all bids may be rejected at the Corporation's discretion.
- (3) Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (1) and (2) of this Section F but subject to obtaining such competition as is feasible under the circumstances, it:
  - a. the personal property involved is of a nature and quantity which, if disposed of under subsection (1) and (2) of this Section F, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other

satisfactory terms of disposal can be obtained by negotiation;

- b. the fair market value of the property does not exceed fifteen thousand dollars;
  - c. bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
  - d. the disposal will be to the state or any other political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;
  - e. the disposal is for an amount less than the estimated fair market value of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property is intended to further the public health, safety, or welfare or an economic development interest of the Corporation, the state or a political subdivision (to include but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, or where the authority's enabling legislation permits or other economic development initiatives), the purpose and the terms of such disposal are documented in writing and approved by resolution of the board of the Corporation; or
  - f. such action is otherwise authorized by law.
- (4) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:
- a. any personal property which has an estimated fair market value in excess of fifteen thousand dollars;
  - b. any real property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses "a" through "e" of this subparagraph;

- c. any real property disposed of by lease for a term of five years or less, if the estimated fair annual rent is in excess of one hundred thousand dollars for any of such years;
  - d. any real property disposed of by lease for a term of more than five years, if the total estimated rent over the term of the lease is in excess of one hundred thousand dollars; or
  - f. any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.
- (5) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under all applicable law not less than ninety (90) days in advance of such disposal, and a copy thereof shall be preserved in the files of the Corporation making such disposal.

The Guidelines are subject to modification and amendment at the discretion of the Corporation board and shall be filed annually with all local and state agencies as required under all applicable law.

The designated Contracting Officer for the Corporation is the President.

# INVESTMENT POLICY

## I. INVESTMENT AND DEPOSIT POLICY

### A. Introduction

1. Scope – This investment and deposit policy applies to all monies and other financial resources available for investment and deposit on its own behalf or on behalf of any other entity or individual.
2. Objective – The primary objectives of the local Corporation's investment activities are, in priority order:
  - a. to conform with all applicable federal, state and other legal requirements (legal);
  - b. to adequately safeguard principal (safety);
  - c. to provide sufficient liquidity to meet all operating requirements (liquidity); and
  - d. to obtain a reasonable rate of return (yield).
3. Prudence – All participants in the investment process and all participants responsible for depositing the Corporation's funds shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair confidence in the corporation to govern effectively.

Investments and deposits shall be made with judgment and care, under circumstances that prevailing, which person of prudence, discretion and intelligence exercise in the management of their own affairs, nor for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

All participants involved in the investment process and all participants responsible for depositing the corporation's funds shall refrain from personal business activity that could conflict with proper execution of the investment program or the deposit of the Corporation's funds or which could impair their ability to make impartial investment decisions.

4. Diversification – It is the policy of the Corporation to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

5. Internal Controls

- a. All money's collected by an officer or employee of the Corporation shall be immediately deposited in such depositories and designated by the Corporation for the receipt of such funds.
- b. The Corporation shall maintain or cause to be maintained a proper record of all book, notes, securities or other evidences of indebtedness held by the Corporation for investment and deposit purposes.
- c. The Corporation is responsible for establishing and maintaining an internal control structure to provide reasonable, but no absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

6. Designation of Depositories

The Corporation shall designate as depositories of its money those banks and trust companies authorized to serve as such pursuant to said law.

**B. Investment Policy**

1. Permitted Investments

Pursuant to GML Section 11, the Corporation is authorized to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:

- a. Special time deposit accounts;\*
- b. Certificates of deposits;\*
- c. Obligations of the United State of America;\*\*
- d. Obligations guaranteed by agencies of the United State of America where payment of principal and interest are guaranteed by the United State of America.
- e. Obligation of the State of New York;\*

*\* Special time deposit accounts and certificates of deposit are permitted investments provided that (1) they shall be payable within such time as the proceeds shall be needed to meet expenditures for which the moneys were obtained and (2) they are collateralized in the same manner as set forth in Section (C) below for deposits of public funds.*

*\*\* all investment obligations shall be payable or redeemable at the option of the Corporation within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Corporation within two (2) years of the date of purchase.*

## 2. Authorized Financial Institutions and Dealers

The Corporation shall maintain a list of financial institutions and dealers, approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Conditions (Call Report) at the request of the Corporation. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The President is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated as least annually.

## 3. Purchase of Investments

The Corporation may contract for the purchase of investments:

- a. Directly, including through a repurchase agreement, form an authorized trading partner.
- b. By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the GML where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.
- c. By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.

All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the corporation by the bank or trust company shall be held pursuant to a written custodial agreement as described in GML Section 10.

The custodial agreement shall provide that securities held by the bank or trust company, as agent of the custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the Corporation a perfected interest in the securities.

#### 4. Repurchase Agreements

Repurchase agreements are authorized subject to the following restrictions:

- a. All repurchase agreement must be entered into subject to a Master Repurchase Agreement.
- b. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- c. Obligations shall be limited to obligations of the United State of America and obligations guaranteed by agencies of the United State of America.
- d. No substitution of securities will be allowed.
- e. The custodian shall be a party other than the trading partner.

### **C. Deposit Policy**

#### 1. Collateralization of Deposits

In accordance with the provisions of GML, 10, all deposits of the Corporation, including certificates of deposit and special time

deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- a. By pledge of “eligible securities” with an aggregate “market value” as provided by GML Section 10, equal to the aggregate amount of deposits from the categories designated in Exhibit A attached hereto.
- b. By an eligible “irrevocable letter of credit” issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.
- c. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations. The terms and conditions of any eligible surety shall be approved by the governing board.

## 2. Safekeeping and Collateralization

Eligible securities used for collateralizing deposits shall be held by the depository bank or trust company subject to security and custodial agreements.

The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events, which will enable the local government to exercise its rights against the pledged securities. In the event that the securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Corporation or its custodial bank.

The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of backing for any other deposits or liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution, or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the Corporation a perfected interest in the securities.

## EXHIBIT A

### SCHEDULE OF ELIGIBLE SECURITIES

(1) Obligation issued, or fully insured or guaranteed as to the payment of principal and interest by the United State of America, as agency thereof or a United State government sponsored corporation.

(2) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank and the African Development Bank.

(3) Obligations partially insured or guaranteed by an agency of the United State of America, at a proportion of the Market Value of the obligation that represents the amount of the insurance or guaranty.

(4) Obligations issued of fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation or such State or obligations of any public benefit corporation which under a specific State statue may be accepted as security for deposit of public moneys.

(5) Obligations issued by states (other that the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.

(6) Obligations of Puerto Rico rated in one of the three highest rating categories by at least on nationally recognized statistical rating organization.

(7) Obligations of countries, cities and other governmental entities of a state other than the State of New York having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one fo the three highest categories by at least on nationally recognized statistical rating organization.

(8) Obligations of domestic corporations rated one of the two highest rating categories by at least on nationally recognized statistical rating organization.

(9) Any mortgage related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by ban regularity agencies.

(10) Commercial paper and bankers' acceptances issued by a bank, other than the Bank, rated in the highest short term category by at least one

nationally recognized statistical rating organization and having maturities of not longer than 60 days from the date they are pledged.

(11) Zero Coupon obligations of the United State government marketed an “treasury strips”.

## PROCUREMENT POLICIES AND PROCEDURES

### A. Introduction

1. Scope – In accordance with Article 18-A of the General Municipal Law (the "IDA Act"), Section 104-b of the General Municipal Law, and the Public Authorities Accountability Act of 2005, the Niagara Tobacco Asset Securitization Corporation is required to adopt procurement policies which will apply to the procurement of goods and services not subject to the competitive bidding requirements of Sections 103 of the GML and paid for by Niagara Tobacco Asset Securitization Corporation for its own use and account.

2. Purpose – Pursuant to Section 104-b of the GML, the primary objectives of this policy are to assure the prudent and economical use of public monies which will apply in the best interest of the taxpayers of a political subdivision or district, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and corruption.

### B. Procurement Policy

1. Determination Required – Prior to commencing any procurement of goods and services, the President or an authorized designee shall prepare a written statement setting forth the basis for (1) the determination that competitive bidding is not required for such procurement, and if applicable (2) the determination that such procurement is not subject to any requirements set forth in this policy. Such written statements shall be maintained by the President or such authorized designee in a specially designated procurement file.

2. Procurement for determining whether Procurements are subject to Competitive Bidding – The procedure for determining whether a procurement of goods and services is subject to competitive bidding shall be as follows:

- a. The President or an authorized designee shall make the initial determination as to whether competitive bidding is required. This determination will be based on Section 103 of the GML which requires competitive bidding for expenditures of (1) more than \$20,000 for the performance of any public works contract (services, labor or construction), and (2) more than \$10,000 for any purchase contract (acquisition of commodities, materials, supplies or equipment).
- b. The President or such authorized designee shall review the purchase request against prior years'

expenditures and a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate purchase of a similar nature will exceed the above competitive bidding procedures shall be followed for said expenditures.

- c. The President or such authorized designee shall present any legal issues regarding the applicability of the competitive bidding requirements stated herein to the Corporation's Counsel.

3. Methods of Competition to be used for Non-Bid Procurements and Procurements Exempt by Statute – Alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals or written quotations, verbal quotations or any other method of procurement which furthers the purposes of this Section except for items excepted herein (see 7 below) or procurements made pursuant to:

- a. GML, Section 103(3) (through county contracts), or
- b. GML, Section 104 (through state contracts), or
- c. State Finance Law, Section 175-b (from agencies for the blind or severely handicapped), or
- d. Correction Law, Section 186 (articles manufactured in correctional institutions).

4. Procedures for the Purchase of Commodities, Equipment or Goods under \$10,000.

- a. Up to \$500                      The discretion of the President or authorized designee.
- b. \$501 - \$3,000                Documented verbal quotations from at least three (3) vendors.
- c. \$3,001 - \$10,000            Written/fax quotations from at least three (3) vendors.

5. Procedures for the Purchase of Public Works or Services under \$20,000.

- a. Up to \$1,000                      The discretion of the President or authorized designee.

- b. \$1,001 - \$5,000 Documented verbal quotations from at least three (3) vendors.
- c. \$5,001 - \$20,000 Written/fax quotations from at least three (3) vendors.

6. Basis for the Award of Contracts – Contracts will be awarded to the lowest responsible vendor who meets the specifications.

7. Circumstances justifying an Award to other than the Lowers Cost quoted.

- a. Delivery requirements
- b. Quality requirements
- c. Quality
- d. Past vendor performance
- e. The unavailability of three or more vendors who are able to quote on a procurement.
- f. It may be in the best interests of the Corporation to consider only one vendor who has previous expertise with regard to a particular procurement.

8. Documentation

- a. For each purchase made the President or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.
- b. The basis for any determination that competitive bidding is not required shall be documented, in writing, by the President or such authorized designee, and filed with the purchase order or contract therefore.
- c. For those items not subject to competitive bidding such as professional services, emergencies, purchased under city contracts or procurements from sole sources, documentation should include a memo to the files which details why the procurement is not subject to competitive bidding and include, as applicable:
  - (1) a description of the facts giving rise to the emergency and that they meet the statutory criteria; or
  - (2) a description of the professional services; or
  - (3) written verification of city contracts; or
  - (4) opinions of Counsel, if any; or

- (5) a description of sole source items and how such determinations were made.
- d. Whenever an award is made to other than the lowest quote the reasons for doing so shall be set forth in writing and maintained in the procurement file.
- e. Whenever the specified number of quotations cannot or will not be secured, the reasons for this shall be indicated in writing and maintained in the procurement file.

9. Exceptions to Bidding

- a. Emergency Situation – An emergency exists if the delay caused by soliciting quotes would endanger the health, welfare or property of the municipality or of the citizens. With approval by the President such emergency shall not be subject to competitive bidding or the procedures stated above.
- b. Resolution Waiving Bidding Requirements – The Corporation may adopt a resolution waiving the competitive bidding requirements whenever it is determined to be impracticable.
- c. Sole Source – Defined as a situation when there is only one possible source from which to procure goods and/or services and it is shown that the item needed has unique benefits, the cost is reasonable for the product offered and there is no competition available. In this situation, a request for a resolution waving bidding requirements, as described above, is required.
- d. True Lease – Prices will be obtained through quotations whenever possible. The award shall be made on the basis of goods and/or services to be provided, ability to meet the specifications desired and price.
- e. Insurance – All insurance policies shall be procured in accordance with the following procedure:
  - (1) Premium less than \$10,000 – documented telephone quotations from at least three agents (if available).
  - (2) Premium over \$10,001 – written quotations/fax or proposals from at least three agents (if possible).

- f. Professional Services – This category includes services which require special education and/or training, license to practice or are creative in nature. Examples of professional services are: lawyers, doctors, accountants, engineers, artists, etc. For the procurement of professional services, the procedure set forth in Exhibit B shall apply.

10. Minority and Women Business Enterprises – The Corporation shall comply with all applicable legal requirements relating to the hiring of such businesses.

11. Input from members of the Corporation – Comments concerning the procurement policy shall be solicited from the members of the Corporation from time to time.

12. Annual Review – the Corporation shall annually review its policies and procedures.

13. Unintentional Failure to Comply – the unintentional failure to comply with the provisions of Section 104-b of the GML shall not be grounds to void action taken or give rise to a cause of action against the Corporation or any officer thereof.

## **TRAVEL AND OTHER EXPENSES REIMBURSEMENT POLICY**

### **1. Purpose**

The Board of Directors of the Niagara Tobacco Asset Securitization Corporation recognizes that board members, officers, and employees (“Personnel”) of Niagara Tobacco Asset Securitization Corporation may be required to travel or incur other expenses from time to time to conduct Corporation business and to further the mission of this organization. The purpose of this Policy is to ensure that (a) adequate cost controls are in place, (b) travel and other expenditures are appropriate, and (c) to provide a uniform and consistent approach for the timely reimbursement of authorized expenses incurred by Personnel. It is the policy of Niagara Tobacco Asset Securitization Corporation to reimburse only reasonable and necessary expenses actually incurred by Personnel.

When incurring business expenses, Niagara Tobacco Asset Securitization Corporation expects Personnel to:

- A. Exercise discretion and good business judgment with respect to those expenses;
- B. Be cost conscious and spend Niagara Tobacco Asset Securitization Corporation’s money as carefully and judiciously as the individual would spend his or her own funds; and
- C. Report expenses, supported by required documentation, as they were actually spent.

### **2. Expenses Report**

Expenses will not be reimbursed unless the individual requesting reimbursement submits a written Expense Report. The Expense Report, which shall be submitted at least monthly or within two weeks of the completion of travel expense reimbursement is requested, must include:

- A. The individual’s name;
- B. If reimbursement for travel is requested, the date, origin, destination and purpose of the trip, including a description of each Corporation related activity during the trip;
- C. The name and affiliation of all people for whom expenses are claimed (i.e., people on whom money is spent in order to conduct Niagara Tobacco Asset Securitization Corporation’s business); and

- D. An itemized list of all expenses for which reimbursement is requested.

### **3. Receipts**

Receipts are required for all expenditures billed directly to Niagara Tobacco Asset Securitization Corporation, such as airfare and hotel charges. No expense in excess of \$25.00 will be reimbursed to Board Members or employees unless the individual requesting reimbursement submits with the Expense Report written receipts from each vendor (not a credit card receipt or statement) showing the vendor's name, a description of the services provided (if not otherwise obvious), the date, and the total expenses, including tips (if applicable).

### **4. General Travel Requirements**

#### **A. Advance Approval**

All trips involving air travel or at least one overnight stay must be approved in advance by the individual's supervisor; however, any out-of state travel must be approved by Niagara Tobacco Asset Securitization Corporation's President or his/her designee.

#### **B. Necessity of Travel**

In determining the reasonableness and necessity of travel expenses, Personnel and the person authorizing the travel shall consider the ways in which Niagara Tobacco Asset Securitization Corporation will benefit from the travel and weigh those benefits against the anticipated costs of the travel. The same considerations shall be taken into account in deciding whether a particular individual's presence on a trip is necessary. In determining whether the benefits to Niagara Tobacco Asset Securitization Corporation outweigh the costs, less expenses alternatives, such as participation by telephone or video conferencing, or the availability of local programs or training opportunities, shall be considered.

#### **C. Personal and Spousal Travel Expenses**

Individuals traveling on behalf of Niagara Tobacco Asset Securitization Corporation may incorporate personal travel or business with their Corporation-related trips; however, Board Members and/or employees shall not arrange Corporation travel at a time that is less advantageous to Niagara Tobacco Asset Securitization Corporation or involving greater expense to incurred as a result of personal travel, including but not limited to extra hotel nights, additional stopovers, meals or transportation, are the sole responsibility of the individual and will not be reimbursed by Niagara Tobacco Asset Securitization Corporation. Expenses associated with travel of an individual's spouse, family, or friends will not be reimbursed by Niagara Tobacco Asset Securitization Corporation.

## **5. Air Travel**

### **A. General**

Air travel reservations should be made as far in advance as possible in order to take advantage of reducing fares. Niagara Tobacco Asset Securitization Corporation will reimburse or pay only the cost of the lowest coach class fare actually available for direct, non-stop flights from the airport nearest the individual's home or office to the airport nearest the destination.

### **B. Saturday Stays**

Board Members and/or employees traveling on behalf of Niagara Tobacco Asset Securitization Corporation are not required to stay over Saturday nights in order to reduce the price of an airline ticket. An individual who chooses to stay over a Saturday night shall be reimbursed for reasonable lodging and meal expenses incurred over the weekend to the extent the expenses incurred do not exceed the difference between the price of the Saturday night stay ticket and the price of the lowest price available ticket that would not include a Saturday night stay. To receive reimbursement for such lodging and meal expenses, the individual must supply, along with the Expenses Report, documentation of the amount of the difference between the price of the Saturday stay and non-Saturday stay airline tickets.

### **C. Frequent Flyer Miles and Compensation for Denied Boarding**

Board Members and/or employees traveling on behalf of Niagara Tobacco Asset Securitization Corporation may accept and retain frequent flyer miles and compensation for denied boarding for their personal use. Individuals may not deliberately patronize a single airline to accumulate frequent flyer miles if less expensive comparable tickets are available on another airline.

## **6. Lodging**

Personal traveling on behalf of Niagara Tobacco Asset Securitization Corporation may be reimbursed at the single room rate for the reasonable cost of hotel accommodations. Convenience, the cost of staying in the city in which the hotel is located, and proximity to other venues on the individual's itinerary shall be considered in determining reasonableness. Board Members and/or employees shall make use of available corporate and discount rates for hotels. "Deluxe" or "luxury" hotel rates will not be reimbursed.

## **7. Out-of-Town Meals**

Board Members and/or employees traveling on behalf of Niagara Tobacco Asset Securitization Corporation are reimbursed for the reasonable and actual

cost of meals (including tips) subject to a maximum per diem meal allowance of \$\_\_\_\_\_ (\$38.00) per day and the terms and conditions established by Niagara Tobacco Asset Securitization Corporation relating to the per diem meal allowance.

## **8. Ground Transportation**

Board Members and/or employees are expected to use the most economical ground transportation appropriate under the circumstances and should generally use the following, in this order of desirability:

### **A. Courtesy Cars**

Many hotels have courtesy cars, which will take you to and from the airport at no charge. The hotel will generally have a well-marked courtesy phone at the airport if this service is available. Board Members and/or employees should take advantage of this free service whenever possible.

### **B. Airport Shuttle or Bus**

Airport shuttles or busses generally travel to and from all major hotels for a small fee. At major airports such services are as quick as a taxi and considerably less expensive. Airport shuttle or bus services are generally located near the airport's baggage claim area.

### **C. Taxis**

When courtesy cars and airport shuttles are not available, a taxi is often the next most economical and convenient form of transportation when the trip is for a limited time and minimal mileage is involved. A taxi may also be the most economical mode of transportation between an individual's home and the airport.

### **D. Rental Cars**

Car rentals are expensive so other forms of transportation should be considered when practical. Board Members and/or employees will be allowed to rent a car while out of town provided that advance approval has been given by the President and that the cost is less than alternative methods of transportation.

## **9. Personal Cars**

Board Members and/or employees are compensated for use of their personal cars when used for Corporation business. When individuals use their personal car for such travel, including travel to and from the airport, mileage will be allowed at the currently approved IRS rate per mile.

In the case of individuals using personal cars to take a trip that would normally be made by air, e.g., Buffalo to New York City, mileage will be allowed at the currently approved rate; however, the total mileage reimbursement will not exceed the sum of the lowest available round trip coach airfare.

## **10. Parking/Tolls**

Parking and toll expenses, including charges for hotel parking, incurred by Board Members and/or employees traveling on Corporation business will be reimbursed. The cost of parking tickets, fines, car washes, valet service, etc., are the responsibility of the board member or employee and will not be reimbursed.

On-airport parking is permitted for short business trips. For extended trips, Board Members and/or employees should use off-airport facilities.

## **11. Entertainment and Business Meetings**

Reasonable expenses incurred for business meetings or other types of business-related entertainment will be reimbursed only if the expenditures are approved in advance by the President and qualify as a tax deductible expenses. Detailed documentation for any such expenses must be provided, including:

- A. date and place of entertainment;
- B. nature of expenses;
- C. names, titles and corporate affiliation of those entertained;
- D. a complete description of the business purpose for the activity including the specific business matter discussed;
- E. vendor receipts (not credit card receipts or statements) showing the vendor's name, a description of the services provided, the date, and the total expenses, including tips (if applicable)

## **12. Other Expenses**

Reasonable operational expenses (if applicable) – related telephone and fax charges due to the absence of Personnel from the individual's place of business are reimbursable. In addition, reasonable and necessary gratuities that are not covered under meals may be reimbursed. Finally, emergency secretarial work and/or postal charges incurred are reimbursed for the purpose of work on behalf of Niagara Tobacco Asset Securitization Corporation.

### **13. Non-Reimbursable Expenditures**

Niagara Tobacco Asset Securitization Corporation maintains a strict policy that expenses in any category that could be perceived as lavish or excessive will not be reimbursed, as such expenses are inappropriate for reimbursement by a nonprofit, charitable organization. Expenses that are not reimbursable\* include, but are not limited to:

- A. Travel insurance;
- B. First class tickets or upgrades;
- C. When lodging accommodations have been arranged by Niagara Tobacco Asset Securitization Corporation and the individual elects to stay elsewhere, reimbursement is made at the amount no higher than the rate negotiated by Niagara Tobacco Asset Securitization Corporation. Reimbursement shall not be made for transportation between the alternate lodging and the meeting site;
- D. Limousine travel;
- E. Movies, liquor or bar costs;
- F. Membership dues at any county club, private club, athletic club, golf club, tennis club or similar recreational organization;
- G. Participation in or attendance at golf, tennis or sporting events, without the advance approval of the President or his designee;
- H. Purchase of golf clubs or any other sporting equipment;
- I. Spa or exercise charges;
- J. Clothing purchasing;
- K. Business conferences and entertainment which are not approved by the President of Niagara Tobacco Asset Securitization Corporation;
- L. Valet service;
- M. Car washes;
- N. Toiletry articles;

O. Expenses for spouses, friends or relatives. If a spouse, friend or relative accompanies Board Members and/or employees on a trip, it is the responsibility of the Board Member or employee to determine any added cost for double occupancy and related expenses and to make the appropriate adjustment in the reimbursement request.

P. Overnight retreats without the prior approval of the President or his/her designee.

## WHISTLEBLOWER POLICY

Policy: If any employee reasonably believes that some policy, practice, or activity of Niagara Tobacco Asset Securitization Corporation is in violation of law, a written complaint may be filed by that employee with the President.

It is the intent of Niagara Tobacco Asset Securitization Corporation to adhere to all laws and regulations that apply to the organization, and the underlying purpose of this Policy is to support the organization's goal of legal compliance. The support of all employees is necessary to achieving compliance with various laws and regulations. An employee is protected from retaliation only if the employee brings the alleged unlawful activity, policy, or practice to the attention of the President and provides the President with a reasonable opportunity to investigate and correct the alleged unlawful activity. The protection described below is only available to employees that comply with this requirement.

Niagara Tobacco Asset Securitization Corporation will not retaliate against an employee who, in good faith, has made a protest or raised a complaint against some practice of Niagara Tobacco Asset Securitization Corporation, or of another individual or entity with whom Niagara Tobacco Asset Securitization Corporation has a business relationship, on the basis of a reasonable belief that the practice is in violation of law or a clear mandate of public policy.

Niagara Tobacco Asset Securitization Corporation will not retaliate against an employee who discloses or threatens to disclose to a supervisor or a public body any activity, policy, or practice of Niagara Tobacco Asset Securitization Corporation that the employee reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate or public policy concerning health, safety, welfare, or protection of the environment.

## CONFLICT OF INTEREST POLICY

**Section 1. Purpose.** The purpose of the conflict of interest policy is to protect the Corporation's interest when it is contemplating entering into a related Party Transaction, or other transaction or arrangement that might benefit the private interest of an officer, director, or Key Employee or might result in a possible excess benefit transaction. This policy supplements but does not replace any other applicable state and federal laws governing conflicts of interest applicable to the Corporation.

### **Section 2. Definitions.**

(a) "Interested Person": An Interested Person is any (i) Related Party or (ii) any director, officer, Key Employee or member of a committee with Board-delegated powers, who has a direct or indirect Financial Interest, or who has any other interest or relationship that could reasonably be viewed as having the potential to affect his or her decision-making judgment.

(b) "Financial Interest": A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

(i) an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement,

(ii) a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or

(iii) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

(c) "Compensation" includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

(d) A "Conflict of Interest" shall exist (i) when an Interested Person has a Financial Interest in a proposed transaction, or (ii) with respect to all proposed Related Party Transactions.

(e) "Deciding Body" means the Audit Committee, if any, and otherwise the independent directors of the Board or another committee of the Board comprised solely of independent directors.

(f) A "Relative" of an individual means his or her (i) spouse, ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren; or (ii) domestic partner as defined in Section 2994-a of the New York Public Health Law, or any successor statute.

(g) "Related Party" means (i) any director, officer or Key Employee of the Corporation or any affiliate of the Corporation; (ii) any Relative of any director, officer or Key Employee of the Corporation or any affiliate of the Corporation; or (iii) any entity in which an individual described in clauses (i) and (ii) has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent.

(h) "Related Party Transaction" means any transaction, agreement or any other arrangement in which a Related Party has a Financial Interest and in which the Corporation or any affiliate of the Corporation is a participant.

(i) "Key Employee" means any person who is in a position to exercise substantial influence over the affairs of the Corporation, as referenced in the excess benefit transaction provisions of the Internal Revenue Code and related regulations.

### Section 3. Procedures.

(a) Duty to Disclose. In connection with any actual or possible Conflict of Interest, an interested person must disclose the existence of the financial or other interest and be given the opportunity to disclose all material facts to the Deciding Body.

(b) Determining Whether a Conflict of Interest Exists. After disclosure of the interest and all material facts, and after any discussion with the Interested Person, he or she will leave the Deciding Body's meeting while the determination of a Conflict of Interest is discussed and voted upon. The remaining Deciding Body members will decide if a Conflict of Interest exists.

(c) Procedures for Addressing the Conflict of Interest. The chair of the Deciding Body meeting will, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement. After exercising due diligence, the Deciding Body will determine whether the corporation can obtain, with reasonable efforts, a more advantageous transaction or arrangement from a person or entity that would not give rise to a Conflict of Interest. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a Conflict of Interest, the Deciding Body will determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it will make its decision as to whether to enter into the transaction or arrangement.

(d) Additional Procedures for Addressing a Conflict of Interest that is a Related Party Transaction. The Corporation shall not enter into a Related Party Transaction unless the transaction is determined by the Deciding Body to be fair, reasonable and in the Corporation's best interest at the time of such determination. Any director, officer or Key Employee who has an interest in a Related Party Transaction shall disclose in good faith to the Deciding Body the material facts concerning such interest. In addition, with respect to any Related Party Transaction in which a Related Party has a substantial financial interest, the Deciding Body shall: (i) prior to entering into the transaction, consider alternative transactions to the extent

available; (ii) approve the transaction by not less than a majority vote of the directors or committee members present at the meeting; and (iii) contemporaneously document in writing the basis for the Deciding Body's approval, including its consideration of any alternative transactions.

(e) **No Improper Attempts to Influence Vote.** The Interested Person with the Conflict of Interest is prohibited from making any attempt to influence improperly the deliberation or voting on the matter giving rise to the Conflict of Interest.

(f) **Violations of the Conflicts of Interest Policy.** If the Deciding Body has reasonable cause to believe that an individual has failed to disclose actual or possible Conflicts of Interest, it will inform the individual of the basis for such belief and afford the individual an opportunity to explain the alleged failure to disclose. If, after hearing the individual's response and after making further investigation as warranted by the circumstances, the Deciding Body determines the individual has failed to disclose an actual or possible Conflict of Interest, it will take appropriate disciplinary and corrective action.

**Section 4. Records of Proceedings.** The minutes of the Deciding Body's meeting will contain the names of persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible Conflict of Interest, the nature of the Financial Interest, any action taken to determine whether a conflict of interest was present, the Deciding Body's decision as to whether a Conflict of Interest in fact existed, the names of persons who were present for discussions, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

**Section 5. Compensation.** Any person (or family member of such person) who receives compensation or other payment, directly or indirectly, from the Corporation is precluded from voting on matters pertaining to his/her compensation or other payment. Directors who receive compensation, directly or indirectly, from the Corporation may provide information to the Deciding Body regarding compensation.

**Section 6. Initial and Annual Statements.** Each director shall initially (prior to his or her initial election) and annually thereafter complete, sign and submit to the Secretary of the Corporation a written statement identifying, to the best of his or her knowledge, any entity of which such director is an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which the Corporation has a relationship, and any transaction in which the Corporation is a participant and in which the director might have a Conflict of Interest. The Secretary of the Corporation shall provide a copy of all completed statements to the Chair of the Deciding Body.

**Section 7. Periodic Reviews.** To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, the Board will conduct periodic reviews, including, at a minimum, whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining, and whether any partnerships, joint ventures, and arrangements with management organizations conform to the Corporation's written policies, are properly recorded,

reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction. The Corporation may, but need not, use outside advisors to assist it in its periodic reviews. If outside advisors are used, their use will not relieve the Board of its responsibility for ensuring periodic reviews are conducted.