61.118
AGC-20

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DB
CONCUR.....
NONCONCUR.....
DATE 8.24.76
FILE 135.1
121.1
123.1
61.118

April 16, 1976

Mr. D. David Brown
President
Trans-Share Corporation
Box 1364
Los Altos, California 94022

Dear Mr. Brown:

This letter is in reply to your letter dated April 7, 1976, with copies of the Share-A-Flite membership card, membership agreement, and a form letter sent to new members of the association.

While it is the expressed intent of the Trans-Share Corporation, the managing member of the association, to provide a nationwide referral service to both pilots and passengers, to enable both to secure the cost benefits of shared costs within the terms of FAR 61.118(b), the size and scope of this undertaking, combined with the "extensive advertising and magazine coverage" used by the TSC strongly suggests, if not compels the conclusion that pilot/operators are holding out to the public that their services are available for compensation or hire. Flight operations conducted in this context could well be contrary not only to FAR 61.118, but FAR 135.1. As the referral service is not limited to costs of operating small aircraft, it would patently involve violations of FAR Part 123 where a large aircraft is used, and depending on the circumstances, Part 121 of the Federal Aviation Regulations.

Initially, we note that a new member is not limited to a human person, but may be another association, corporation. The member, from the standpoint of the potential flight crewmember, may be the holder of a commercial pilot or airline transport pilot certificate. The referral service is not limited to the use of small aircraft. It encourages frequent flights by the pilot/operators with any segment of the public which happens to need transportation from Point A to Point B. The more non-specific the referral request, the better the chance for a match-up.

The Civil Aeronautics Board, pursuant to Title IV of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1371 et seq., exercises statutory economic authority over "persons" engaged in air transportation. The identification of a common carrier is premised upon the "holding out" to

the public by the person or persons engaged in the service. The "holding out" is the "means which communicates to the public that a transportation service is indiscriminately available" to the members of the segment of the public it is designed to attract. Transocean A. L., Enforcement Proceeding, 11 C.A.B. at 353. It might be difficult for the pilot/operator of the aircraft to contend successfully that he (she) did not have common carrier responsibility to the passengers in the event of accident or other situations normally involving liability. Notwithstanding the disclaimer in the membership agreement, it is also possible that the CAB could place "indirect carrier" status on your corporation, insofar as some substantial amount of property may be shipped as part of the service offered. (See: 14 CFR 296) The "service" offered by the Association, as defined in paragraph 1.d. of the membership agreement, would involve, as to some number of the flights, the air shipment of property for business purposes.

The term "compensation or hire" is not defined in the Act or the regulations. A test is set forth in the definition of a "commercial operator" at FAR 1.1. A commercial operator is, with reference to interstate operations, limited to private carriage. FAR 1.1 provides, in part, "Where it is doubtful that the operation is for 'compensation or hire,' the test applied is whether the carriage by air is merely incidental to the person's other business or is, in itself, a major enterprise for profit." The profit motive is obviously an integral element in private carriage operations.

In summary, even if the TSC or the association are not themselves the owners or lessors of any aircraft, nor the employers of any pilots, it is conceivable that the legal responsibilities arising out of the holding out to the public will result in FAR compliance problems, and considerations of economic significance for review by the CAB.

Sincerely,

Original Signed by
DeWitte T. Lawson, Jr.

DeWITTE T. LAWSON, JR.
Acting Regional Counsel

cc:
AGC-20 (w/encl)
AWE-260 "
CAB-(Fred Phillips) (w/encl)

61.118

TRANS-SHARE CORPORATION

box 1364 los altos, california 415 941-5120

April 7, 1976

Richard Wittry
Regional Counsel
Federal Aviation Administration
15000 Aviation Blvd
Lawndale, CA 90261

Dear Mr. Wittry:

Back in November we spoke on the phone about the SHARE-A-FLITE energy savings concept. At that time we agreed to send you some of our promotional literature and our membership agreememt. Those materials are all enclosed in this letter for your evaluation.

It is our intent that members of the organization riding together share operating costs as provided by Part 61.118(b).

I'm sorry it took us so long to get the information to you, but for a while it looked as though the response wasn't going to be great enough to justify starting up. That turned around, however, and now we're getting some really great response.

I'd look forward to discussing any ideas you might have and would appreciate a call at 415 941-5120 after you've looked the enclosed materials over.

Sincerely,

D. David Brown

D. David Brown
President

DDB/raf

RECEIVED
REGIONAL COUNSEL

APR 09 1976

A.M. 7|8|9|10|11|12| 1|2|3|4|5|6 P.M.

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HERE IS YOUR MEMBERSHIP CARD!

Unless otherwise indicated this card is valid immediately for use in locating fellow travellers on t
SHARE-A-FLITE nationwide ride referral system, subject to the terms and conditions of the attached membe
ship agreement. **Please take a moment to read the instructions before using the card — it'll save y
time.** WELCOME ABOARD!

CUT HERE

SHARE-A-FLITE NATIONWIDE REFERRAL LINE *800 547-0933

John Q Member
1234 Anystreet
Anytown, US 99999

EXPIRES 99/99/99

ID NUMBER 00000

MEMBERSHIP CARD *In Oregon, call 503 227-2149

box 1364 los altos, california 94022 415 941-5120

TRIP PLAN

1 ID #	2 REQUEST ☐ Rider(s) ☐ Seat(s)	3 Departure Point	4 Destination
5 Departure Time & Date: Earliest	Latest	6 Time Enroute	7 SEATS	8 TOTAL WT
9 ESTIMATED COST/SHARE	10 PHONE CONTACT	11 OPTIONS (over)	
12 REMARKS (Scheduled Stops, etc.)			

CUT HERE

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TRANS-SHARE CORPORATION

box 1364 los altos, california 415 941-5120 *800 547-0933 TOLL-FREE
*In Oregon, ca 503 227-2149

Dear New Member:

Welcome aboard! We want to thank you for joining the SHARE-A-FLITE ride referral system and for your support of our goals to help you save your money and the nation's energy resources.

At the present time there are well over 22,000 people participating in personal transportation resource sharing, and we are currently servicing in excess of 500 referral requests per day nationwide. Extensive advertising and magazine coverage will help spread the word around to as many people as possible to help out in handling the anticipated record breaking travel requirements coming up this summer. SHARE-A-FLITE will be a real boon to the Bicentennial travel requirements of the USA.

As you know, the major factor is satisfaction of your travel requirements and those of your fellow members is the number of total SHARE-A-FLITE participants. We're projecting well over 50,000 members by the end of 1976, but we'd like to make it grow even faster than that. Your enthusiasm for SHARE-A-FLITE is the most effective tool for growth. Tell your friends about SHARE-A-FLITE so they can cash in on the savings, too. We have provided an extra membership application for you to pass on to an interested friend -- if you need more than one, drop us a line or call and we'll send more. Or for really fast service, we can now activate a membership instantly on the toll-free telephone line if it's charged to a credit card.

Here are a few tips that will make SHARE-A-FLITE work better for you:

1 - The more advance notice you give and the more non-specific your referral request, the better your chances for a matchup.

2 - Wide leeway in earliest & latest departure times helps, too.

3 - Organizing your request before calling using the Trip Plan form on your membership card cuts the time we both spend on the phone. The telephone bill is really paid by you, and brevity is the largest money-saver to keep membership costs low.

Any other comments or ideas you have to help make SHARE-A-FLITE work better are most welcome. We sincerely hope that you will derive great satisfaction from your SHARE-A-FLITE membership.

Pleasant travelling!

Sincerely,

D. David Brown

D. David Brown
President

DDB/raf

Col·118

TRANS-SHARE CORPORATION

box 1344 los altos, california 415 941-5120

Dear fellow economizer:

Thank you for your inquiry. We welcome your interest in a truly unique air travel innovation developed to bring added economy to transportation. It is called SHARE-A-FLITE and it can save you money every time you go on a trip. In fact, if you only use the service once in the coming year, you will probably save more than an entire year's dues.

These savings stem from the inherent efficiencies of transportation provided by the 200,000 plus privately owned light aircraft registered in the United States.

During the year June 1974 through June 1975, 39.8 million empty private aircraft seats flew the skies of the United States on intercity trips. A large number of these flights provided direct transportation to and from the 12,400 General Aviation airports in the country not presently served by scheduled airlines. (Only 505 are served by airlines.)

Through SHARE-A-FLITE, increasingly large numbers of these empty seats are being filled by passengers who participate in flight expenses with the aircraft operator. Both the pilot and the rider save money and time:

Shared operating cost per seat is usually less than ½ the cost of comparable commercial transportation.

Direct flights to more cities result in further savings in time and money.

Light aircraft use less than ½ the fuel per passenger as airlines and save energy.

Interested? You'll find more complete details on the other side. Take a minute to read about it now.

Happy flying!

Sincerely,

Bob Carter

Trans-Share Corporation
Bob Carter, Membership Chairman

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SHARE-A-FLITE MEMBERSHIP AGREEMENT

In consideration of the mutual promises and conditions herein contained, Member and SHARE-A-FLIGHT agree:

1. Definitions. As used in this Membership Agreement, the following definitions shall apply:
   a. "Association" shall mean SHARE-A-FLIGHT, an unincorporated non-profit association operating pursuant to the laws of the State of California. The membership of the Association shall consist of the "Members," as hereinafter defined, without number or limitation.
   b. "Member" shall mean Trans-Share Corporation, as hereinafter defined, and those persons who purchase and maintain valid memberships in the Association as herein provided.
   c. "Trans-Share Corporation" or "TSC" shall mean Trans-Share Corporation, a Utah corporation. A membership in the Association shall not constitute, for federal or state purposes, any ownership interest in Trans-Share Corporation by a Member.
   d. "Service" shall mean the service to be provided to a Member by the Association which shall be limited to the introduction of Members who desire to provide or obtain transportation between points mutually accessible and agreeable to the individual Members, excluding TSC.
   e. "Match Credit" shall mean one (1) or more credits as shown on the books and records of the Association to be applied as the cost of matching Members when an actual match-up is made. With the purchase of a membership or the renewal of a membership on an annual basis, a Member is entitled to three (3) free Match Credits which are nonrefundable and do not carry over from year to year. A Member may purchase additional Match Credits at a current cost of Two Dollars ($2.00) each at any time by deposit of an amount equal to the Match Credit cost multiplied by the number of Match Credits purchased with the Association.
   f. "Match Debt" shall mean a charge to a Member for a match-up service extended by the Association when no Match Credits exist in the account of a Member. A Member shall be entitled to only one (1) Match Debt, which, if not paid within thirty (30) days from date of creation shall result in termination of the membership as otherwise provided herein.

2. Membership. A Member becomes a Member in the Association by the purchase of a membership which will be evidenced by a membership card which will be delivered by the Association to the Member upon payment of the membership fee. The membership is the personal property of the Member, is not transferable or assignable, carries no voting privileges in the Association or other rights in any property, proprietary data or other tangible or intangible assets of the Association or of TSC. A Member shall not be liable to the Association for any dues or assessments (general or special) except the annual membership fee and Match Credit fees as herein specifically stated. Members shall not be liable to any third party for the debts of the Association.
   As above stated, TSC is a Member of the Association; provided, however, that it is not obligated to purchase an initial membership or renew its membership annually by the payment of a renewal membership fee as herein otherwise stated for regular Members. Further, TSC shall not have the right to utilize or purchase the services of the Association, directly or indirectly. Pursuant to a separate management agreement between TSC and the Association, TSC has agreed to manage the affairs of the Association for compensation and provide the facilities, proprietary data, equipment and other tangible and intangible assets required for the achievement of the business purposes of the Association.

3. Match-Up Procedure. When a Member desires a match-up for a ride or a passenger for a ride available, the Member should do the following:
   a. Call the Association on the toll-free number printed on the membership card and identify the caller by the membership number of the Member appearing on the membership card.
   b. Specify the match-up desired or available.
   c. Once notified by the Association of a match-up, it is the responsibility of the individual Member to make contact with the other Member(s) in the match-up to finalize travel arrangements.

4. Travel Arrangements. Other than notifying the Member(s) of a match-up, all other responsibilities including notification, cost sharing, departure times, return times, and all other aspects related to a travel arrangement between or among Members, the Association has no right or duty. Each Member specifically agrees and understands that the sole purpose and service of the Association is to provide the match-up based on information provided and does not in any way represent itself as being capable or authorized to arrange specific travel arrangements for any Member, including TSC. Each Member further specifically represents and agrees that the responsibility for all travel arrangements related to a match-up between Members is the sole responsibility of the Members including notification of departure time, notification of cancellation or change of trip plans, cost sharing, insurance coverage or any other arrangement related to the trip arrangements.

5. Membership Use Restrictions. Use of the membership is subject to the following terms and conditions:
   a. That a Member is in good standing with the Association.
   b. That the Member has Match Credits existing in his or her account or no unpaid Match Debts. (To avoid the possibility of cancellation of a membership by the Association by virtue of an unpaid Match Debt, the Association encourages Members who anticipate frequent use of the services of the Association to purchase one (1) or more Match Credits in addition to those initially credited to the account of the Member. The purchase price of a Match Credit shall be specified from time to time by the Association.)
   c. In the event that a membership has been terminated by the Association for whatever reason, a Member will no longer be entitled to a Match Debt as specified in subparagraph b above.
   d. None of the foregoing use restrictions are intended to limit the number of match-up requests that a Member may make. If a match-up is not immediately available and the Association cannot so notify a Member, the match-up request will be maintained until the date specified by the Member or until the match-up is provided by the Association, whichever date first occurs.
   e. In connection with any match-up request by a Member, the Association will provide its written notification. All notifications will be oral and will only be made to the Member whose request completes a match-up.
   f. If a Member initiates a single match-up request which involves the simultaneous transportation for more than one (1) person to the same destination from the same point of origination, the Member's account will be charged only one (1) Match Credit if a match-up is made regardless of the number of people who are actually served by such match-up.
   g. A membership may be used by persons other than the Member since identification with the Association is by membership number only. ACCORDINGLY, A MEMBER WHO ALLOWS THE USE OF THE MEMBERSHIP BY ANY OTHER PERSON IS SOLELY RESPONSIBLE FOR THE PURCHASE OF ALL MATCH CREDITS NECESSARY TO UTILIZE THE MEMBERSHIP IN EFFECTING MATCH-UPS BETWEEN OR AMONG MEMBERS.

6. Lost or Stolen Membership Cards. When any Member believes that a membership card has been lost or stolen or is being used by any unauthorized person, the Member may notify the Association and subject to the advance payment of a Two Dollars and Fifty Cents ($2.50) cancellation and transfer fee, the Association will cancel the prior membership and issue a new membership card and number which shall be valid for the remaining term of the original membership. The substituted membership shall carry with it the number of unused Match Credits or be subject to the payment of any Match Debt existing at the time of cancellation and reissuance.

7. Liability and Release. Member hereby recognizes and agrees that the Association does not carry any liability insurance for the benefit of the Members. The sole purpose of the Association is to create a means for accommodating Member match-up requests. Accordingly, by the purchase and acceptance of a membership in the Association, Member hereby releases the Association, its officers, employees and agents (including TSC) from all or any liability arising out of or in any way related to membership in the Association. Member recognizes and agrees that this release extends to and covers those situations contemplated by Section 1542 of the California Civil Code, the benefits of which Member hereby waives and which reads:

   > A general release does not extend to claims which the creditor does not know or expect to exist in his favor at the time of executing the release, which if known to him must have materially affected his settlement with the debtor.

   Accordingly, Member hereby agrees and accepts full responsibility and liability for any or all damages arising out of or in any way related to the utilization of his membership or services provided by the Association and agrees to defend, indemnify and hold harmless Association, TSC, the employees, agents and officers of either, from all liability or claims thereof and for any loss, expense or demand incurred as a result of the use of the membership or services extended by the Association. The Member further agrees that the foregoing indemnity and hold harmless extend to the payment of reasonable attorneys' fees and costs incurred in any situation where the Association or TSC is required to appear on account of any claim made involving a Member.
   IN LIGHT OF THE FOREGOING RELEASE AND ASSUMPTION OF LIABILITY BY THE MEMBER, THE ASSOCIATION STRONGLY RECOMMENDS THAT EACH MEMBER BE COMPLETELY SATISFIED BY VIRTUE OF HIS OR HER OWN INVESTIGATION AS TO THE INSURANCE COVERAGE AVAILABLE IN CONNECTION WITH TRANSPORTATION AND THE CONDITION AND SAFETY QUALIFICATIONS OF THE VEHICLE WHICH IS OFFERED BY ANOTHER MEMBER WHO IS A PARTY TO A MATCH-UP.

8. Disclaimer. The Association hereby disclaims any warranty, express or implied, and any representation to the Member in respect to the following matters:
   a. That it is qualified with any state or federal agency to provide transportation services to any person for any reason whatsoever. The only service provided by the Association is the service defined under Section 1, paragraph d of this Agreement.
   b. That the Association has in any manner whatsoever inspected or otherwise determined the characteristics including safety or suitability of any vehicle provided by another Member in a match-up for the travel contemplated by any Member.
   c. That any Member providing transportation for another Member on a cost-sharing basis is legally licensed or otherwise authorized by appropriate state or federal agencies to operate the vehicle owned or utilized by such Member.
   d. That the Association maintains any insurance for the benefit of its Members or others.
   e. That the services offered by the Association are exempt from regulation by any state or federal agency.
   f. That any guarantee or other such inducement is offered to any Member that will assure such Member of a match-up pursuant to a request made. All services of the Association are extended on a "best efforts" basis only. There is no assurance that match-ups will occur regardless of lead time or anticipated availability of match-ups.
   g. That there is any assurance that the Association will continue to do business on the basis provided in this Agreement. Each Member assumes the risk that the Association will cease to function, without notice, and any paid up benefits or credits to which the Member is otherwise entitled existing on the date of termination of business of the Association are subject to forfeiture as a result of such termination.

9. Termination. A membership in the Association can or will terminate upon the occurrence of any one or more of the following:
   a. Death of a member.
   b. The expiration of one (1) year from the date of validation of a membership.
   c. Cancellation by the Association in the event of non-payment of a Match Debt within thirty (30) days from date of creating a match-up where no Match Credits exist to the account of the Member.
   d. For any other cause in the reasonable determination of TSC that a Member has abused the membership and his or her affiliation with the Association is no longer beneficial to the interests of other Members of the Association. Specifically included in the foregoing category of causes of termination, the Association, if it determines that Member is abusing the toll-free telephone use privileges provided by the Association, may cancel the membership. The toll-free incoming call line is normally available only for the purposes of requesting a match-up, referral of persons who desire to become Members of the Association, or the purchase of memberships in the Association.
   e. Any Member may voluntarily terminate his or her membership in the Association upon written request to the Association. In the event that a request of cancellation is received by the Association along with all membership materials within fifteen (15) days from the date of original mailing of the membership agreement and membership card to the Member, all membership fees will be refunded to the Member provided that the membership has not been used in any manner whatsoever. In the event that a request for termination of the membership occurs after the said fifteen-day period or after utilization of the membership in any manner whatsoever, the membership shall be canceled upon request but no membership fees or prepaid Match Credits will be refunded to the canceling Member.
   f. In addition to rights of termination specified in paragraph e, above, the Association reserves the right to terminate a membership without cause. In the event of such termination, the Association shall notify the Member in writing and refund to the Member an amount equal to the prorated value of the membership based on a Two Dollar ($2.00) allowance for each unused Match Credit (either free or prepaid) plus the membership fee less Eight Dollars and Fifty Cents ($8.50) divided by 365 and multiplied by the number of days remaining on the membership.

10. Applicable Law. This Agreement shall be interpreted in accordance with the laws of the State of California.

11. Exclusive Agreement. There are no understandings, agreements or representations expressed or implied between a Member and the Association not specified herein.

12. Miscellaneous.
   a. Binding Effect. This Agreement is binding upon the Member and the Association only. It is nonassignable by death or otherwise; its benefits and obligations are not intended to accrue to or inure to the benefit of any assignee whether by assignment or devise.
   b. Capacity to Contract. Notwithstanding any other provision in this Agreement to the contrary, if a Member does not have the legal capacity to contract, this Agreement and the membership will be void, effective as of the date of issuance as respects any obligation of the Association to the Member or others. However, such termination shall not release or otherwise excuse performance by the Member of any obligation for payment of Match Debts or other obligations to the Association accrued prior to the date of termination by the Association.
   c. Effective Date of Agreement. The signature of the Association and Member to this Agreement are not necessary in order that it become binding upon the parties. The application to the Association, the payment of the membership fee and/or the subsequent use or the retention of the membership for a period of more than fifteen (15) days from date of mailing of the membership to the Member by the Association shall constitute acts sufficient on behalf of the Member to have accepted the membership pursuant to the terms and conditions contained herein.
   d. Price Changes. All membership dues and other fees specified in this Agreement are subject to change at any time by the Association without notice.