

**ARIZONA PUBLIC EMPLOYERS HEALTH POOL
MEMBERSHIP AGREEMENT**

1. Parties. The parties to this Membership Agreement (the “**Agreement**”) are the Arizona Public Employers Health Pool, an Arizona nonprofit corporation (the “**Pool**”) and _____ (the “**Member**”).

2. Recitals. This Agreement is based upon certain understandings and in furtherance of certain objectives:

2.1. WHEREAS, A.R.S. § 11-952.01, as amended, permits two or more public agencies, as defined in A.R.S. § 11-951, to enter into contracts pursuant to the provisions of A.R.S. § 11-952.01, as may be amended from time to time or otherwise allowed by applicable law, for the joint purchase of life insurance, disability insurance, accident insurance or health benefits plan insurance and to pool retention of such risks, as may be determined hereafter by the Board of Trustees of the Pool (“**Board**”); and

2.2. WHEREAS, the Pool is administered by an administrator (the “**Administrator**”) designated by the Board; and

2.3. WHEREAS, the Member desires to enter into an agreement to provide to the employees of the Member certain insurance and health benefits.

NOW, THEREFORE, the Pool and Member agree as follows:

3. Coverage. The Pool shall provide such coverages to the employees of the Member as more particularly described in the Plan Documents attached hereto as Appendix A, and incorporated by this reference (the “**Plan Documents**”). The terms of this Agreement and the Plan Documents may be amended by majority vote of the Board, provided, that any amendment to this Agreement become effective upon a date designated by the Board after first giving the Member at least thirty (30) days’ prior written notice thereof. Notwithstanding the foregoing: (i) the Board may, without prior notice to the Member, amend this Agreement if the amendment does not decrease or materially change the insurance coverage available to the Member including, but not limited to, incidental or grammatical amendments (ii) individual Plan Documents may contain separate amendment provisions which shall take precedence over this Section 3. Plan Document changes do not require 30 days’ prior written notice.

3.1. Term and Renewal. This Agreement shall become effective July 1, 2011 (“**Agreement Effective Date**”). The anniversary date of this Agreement shall be July 1st of the year following the Agreement Effective Date (“**Anniversary Date**”). This Agreement shall automatically be renewed annually thereafter unless terminated pursuant to Section 3.2 or Section 6 of this Agreement.

3.2. Termination for Cause. The Board may at any time during the term of this Agreement or any extensions thereof suspend or terminate coverage for nonpayment of Premium

or any other breach by the Member of the terms of this Agreement. Coverage shall be suspended or terminated pursuant to Section 6 of this Agreement.

3.3. Termination Without Cause. Except as provided in Section 4 of this Agreement, this Agreement may be terminated by the Pool or the Member by written notice of termination given at least ninety (90) days prior to the then current Anniversary Date of the this Agreement. The Board may in its sole and absolute discretion, and only in the event of extraordinary circumstances demonstrated by the Member, grant the Member a thirty (30) day extension of coverage under the Plan Documents on such renewal terms and conditions that are submitted to the Member by the Administrator for the next succeeding renewal year, pro-rated by the Administrator for the thirty (30) day extension period. Any extension granted pursuant to this Section 3.3 shall not change the Anniversary Date if the Agreement is renewed. If the Agreement is not renewed, the Agreement shall terminate upon the expiration of the thirty (30) day extension period.

3.4. Distribution of Assets On Termination. In the event the Member shall terminate this Agreement for any reason, or in the event the Board shall terminate this Agreement pursuant to Section 3.2 and Section 6 of this Agreement, the Member shall thereupon forfeit any and all rights to the return of any surplus, unearned contributions, or other legally permitted distributions from the Pool.

3.5. Effect of Termination. Notwithstanding the termination of this Agreement, following the date of termination, the Member shall assist the Pool in connection with the processing of covered claims and making eligibility determinations.

4. Termination of the Pool. Notwithstanding any other provision hereof, the Pool may be terminated at such time as the Board determines (by a vote of at least two-thirds of the number of Board Members then serving on the Board at a duly called meeting of the Board at which a quorum is present) that the number of Members of the Pool or the size of the Pool is too small to provide insurance and health benefits hereunder. Any termination pursuant to this Section 4 shall not be effective until the Board shall have given each Member of the Pool at least ninety (90) days' written notice. Upon termination of the Pool, and after making adequate provision for all pending and anticipated claims, the assets of the Pool shall be liquidated, a final accounting shall be made, and the assets thereafter remaining in the Pool shall be distributed among the then-existing Members of the Pool in accordance with an asset distribution plan as established by the Board.

5. Fees and Pool Assets.

5.1. Premium. The Plan Documents shall set forth the payment obligations of the Member (the "**Premium**") for the current policy year of this Agreement. The Premium shall be based on claims experience, exposure and trending analyses as recommended by the Administrator and other consultants to the Board and as approved by the Board. The Member agrees to furnish the Pool all available information requested by the Pool's Administrator to enable the Administrator and the Board to determine the Member's Premium. The Member shall pay its total Premium to the Pool in cash or cash equivalents within thirty (30) days after the

Anniversary Date, or no later than such later dates as may be permitted by the Board pursuant to a payment plan established by the Administrator and approved by the Board.

5.2. Member Employees.

5.2.1 The Pool shall have no obligation to collect any payments from Member employees except as may be required under the Plan Documents in connection with COBRA benefits.

5.2.2 The Member shall not offer any direct or indirect incentive to a Member employee to induce the Member employee to decline any coverage under the Plan Documents. If a Member offers a direct or indirect incentive to a Member employee to decline any coverage under the Plan Documents, and if the Member employee declines such coverage, upon demand by the Pool the Member shall pay the Pool as liquidated damages and not as a penalty an amount equal to the premium that would have been payable for the declined coverage. Such amount shall be paid in a lump sum payment equal to the aggregate amount of premium payments that would have been payable from the date that coverage for the Member employee terminated until the date of the Pool's demand for such payment and shall continue monthly thereafter until such time that the Member employee either terminates employment with the Member or enrolls for new coverage under the Plan Documents.

5.3. Pool Assets. All assets of the Pool shall be owned by the Pool and shall not in any way be deemed an asset of any employee of the Member. To the extent permitted by law, all Pool benefits shall be exempt from attachment, garnishment, levy of execution, bankruptcy proceedings, or any other legal process.

6. Suspension. In the event the Member (i) fails to pay its Premium as specified herein or (ii) fails to comply with any of the other terms of this Agreement, the Pool may, if such failure is not cured after ten (10) days' written notice, terminate the Member's coverage under this Agreement. The date of such termination shall be referred to as the "**Coverage Termination Date.**" Notwithstanding such termination of coverage, the Member shall retain its rights to the return of any surplus or other distributions from or assets of the Pool for a ninety (90) day period (the "**Ninety Day Reinstatement Period**") following such notice by the Pool. To retain this right, the Member must notify the Pool in writing during the Ninety Day Reinstatement Period of the Member's election (the "**Reinstatement Election**") to reinstate coverage by delivering to the Pool a payment in an amount equal to the outstanding Premium and otherwise curing the failure giving rise to the termination of coverage. Upon the Pool's receipt of such payment and evidence documenting that the Member has cured the failure giving rise to the termination of coverage, together with such data and other information as the Pool may reasonably request, and provided that the Administrator determines (in the exercise of the Administrator's sole and absolute discretion) that the reinstatement of coverage is appropriate based on sound business judgment, claims experience and exposure during the Ninety Day Reinstatement Period (or applicable portion thereof), coverage under this Agreement and the Plan Documents will be reinstated, effective as of the Coverage Termination Date. If the Member fails to provide the Pool the Reinstatement Election (together with such documentation, data and other information as required pursuant to this Section 6) during the Ninety Day Reinstatement Period, or if the Member provides the Reinstatement Election (together with such documentation, data and other

information as required pursuant to this Section 6) during the Ninety Day Reinstatement Period and the Member's reinstatement is denied pursuant to this Section 6, upon the expiration of the Ninety Day Reinstatement Period, the Member shall cease to be a Member of the Pool, shall lose all rights as a Member of the Pool including (without limitation) the right to return of any surplus or other distributions from or assets of the Pool, and shall remain liable for all accrued amounts owed to the Pool. In the event of such termination, the Member shall be relieved of any liability for ordinary Premium under Section 5 for fiscal years after the year of the Member's termination. The Member's liability for additional assessments shall continue to the extent provided in Section 7 below.

7. Assessment. If the Pool is determined to be insolvent or is otherwise found to be unable to discharge its legal liabilities and other obligations, the Members of the Pool shall be assessed on a pro rata basis as calculated by the amount of each Member's annual contribution in order to satisfy the deficiency. The amount of such assessment may not exceed the amount of the Member's annual Premium to the Pool for the year in which the assessment is made or (if the Member has withdrawn from the Pool) for the last year that the Member was a Member of the Pool. The amount of each assessment and a description of the manner of calculating the same shall be provided to the Member in writing (the "**Assessment Notice**"), and the Member shall pay such assessment pursuant to the terms and conditions of the Assessment Notice. The Member shall remain liable for assessments for liabilities of the Pool incurred during the Member's period of membership in the Pool, notwithstanding the Member's withdrawal from participation in the Pool or the termination of this Agreement.

8. Audit. The Pool shall be audited annually at the expense of the Pool by a certified public accountant, and a copy of the report shall be submitted to the Board, the Member, and the Arizona Department of Insurance. The Board shall obtain an appropriate actuarial evaluation of the claim reserves of the Pool including an estimate of the incurred but not reported claims and shall maintain claim reserves equal to known incurred losses and an estimate of incurred but not reported claims, as determined by the Board.

9. Failure to Pay Benefits. None of the Members or the Board of Trustees of the Pool shall be liable for the failure or omission, for any reason, to pay any benefits under the Plan Documents. If for any reason the Board determines that funds are insufficient to pay claims, the amounts of benefits payable to an eligible employee of the Member or to a dependent person of such employee shall, in all events, be limited to the extent that sufficient funds are available to the Pool for the payment of claims. In such event, payment to such eligible employees and dependents shall be limited to the extent that sufficient funds are available and shall be paid in the order received pursuant to the Plan Documents.

10. Conformity with Law. In the event any term or provision of this Agreement shall be in conflict with Arizona or federal laws as they now exist or are hereafter amended, this Agreement is subject to and shall be automatically deemed amended to conform to such laws and statutes.

11. Authorized Representatives; Prompt Reply. The Pool and the Member shall each designate a representative authorized to act on each of the respective parties' behalf in all matters pertaining to this Agreement.

For the Pool: John Ashton
Administrator
333 East Osborn Road, Suite 300
Phoenix, Arizona 85012
(602) 257-9119

For the Member:

Name

Title

Address

City State Zip Code

Telephone

Such representatives and/or addresses may be changed by either party from time to time by written notice to the other. The Member (through its Authorized Representative listed above) shall reply promptly to all correspondence or inquiries from the Pool.

12. Authorizing Action. This Agreement shall become effective only upon: (a) the execution of this Agreement by an authorized officer of the Pool, (b) the execution of this Agreement by an authorized representative of the Member, and (c) the delivery to the Pool of a fully executed Agreement.

13. Prior Acts of Parties. All covenants, promises, agreements, conditions and understandings between the Pool and the Member, and any other acts of the parties undertaken pursuant to A.R.S. § 11-952.01 are superseded by and merge into this Agreement, and this Agreement and any Appendices hereto set forth all covenants, promises, agreements, conditions and understandings between the Pool and the Member as of each Anniversary Date. There are no covenants, promises, agreements, conditions or understandings either oral or written between the Pool and the Member other than set forth herein and in the Appendices hereto.

14. Liability. The Pool, the Board and the Administrator shall have no obligation to pay or defend claims except from the funds in the Pool, and no liability pursuant to this Agreement and any Appendix hereto except to disburse funds in the Pool in accordance with the terms of this Agreement. In the event that after collecting all assessments or Premium from the Members of the Pool as provided for herein, there are insufficient funds in the Pool to pay the expenses and to discharge the obligations of the Pool, neither the Pool, the Board nor the Administrator shall have any further obligation to defend or pay claims.

14.1. No Member of the Pool has any liability for claims brought by third parties against any other Member of the Pool, other than the obligation to contribute certain funds to the Pool as expressly required by this Agreement. The liability for any claim against a Member shall remain the sole and exclusive liability of the Member. The obligation of the Pool is to provide benefits to the Member as required by the Plan Documents, and only to the extent there are funds in the Pool for such coverage.

14.2. As required by A.R.S. § 11-952.01(K)(4)(as applicable), the following statement is included in this Agreement: the Member is not relieved of its liability incurred during the Member's period of membership in the Pool except through the payment of losses by the Pool (as required by the Plan Documents) or by the Member.

15. Invalidity of a Term. The parties agree that in the event any term, covenant or condition herein contained should be held to be invalid or void by a court of competent jurisdiction, the invalidity of any term, covenant or condition shall in no way affect any other term, covenant or condition of this Agreement.

16. Governing Law And Venue. This Agreement shall be construed under the laws of the State of Arizona. Any action arising out of this Agreement, whether for the enforcement thereof or otherwise, shall be brought in Maricopa County.

17. Counterparts. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of such counterparts shall be deemed an original hereof.

18. Conflict of Interest. This Agreement may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of one party was, at any time while the Agreement or an extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement.

19. Disclaimer. The Pool is neither the "Plan Sponsor" nor the "Administrator" (as those terms are defined under ERISA, COBRA and PHSA) under ERISA, COBRA, PHSA or any other federal or state law governing the delivery of benefits or insurance. Further, the Pool shall not be considered a "fiduciary" (as that term is defined under ERISA, COBRA and PHSA) of the Member.

20. Amendments. All references to provisions of statutes, codes and regulations include any and all amendments thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 6th day of April 2011 to be effective as of July 1, 2011 (“**Agreement Effective Date**”).

POOL:

ARIZONA PUBLIC EMPLOYERS HEALTH
POOL, an Arizona nonprofit corporation

By: _____

Its: Administrator _____

MEMBER:

By: _____

Its: _____

APPENDIX A
PLAN DOCUMENTS