

**THE ARIZONA SCHOOL ALLIANCE  
FOR WORKERS' COMPENSATION, INC.**

**PARTICIPATION AGREEMENT**

This Participation Agreement (the "Agreement") is between The Arizona School Alliance for Workers' Compensation, Inc., an Arizona nonprofit corporation, (the "Alliance") and the Arizona public school district that has approved and executed a counterpart of this Agreement (the "District"). The Alliance and District agree as follows:

**1. Recitals.**

- 1.1 Authority.** A.R.S. § 11-952.01 permits two or more public agencies including school districts (as defined in A.R.S. § 11-951)
- (a) to enter into contracts or agreements to establish a separate pool and to provide for the payment of workers' compensation and employer liability claims pursuant to A.R.S. Title 23, Chapter 6, on a cooperative or contract basis with one another; or
  - (b) jointly to form a nonprofit corporation to carry out the provisions of A.R.S. § 11-952.01 on behalf of the public agency members of the nonprofit corporation directly or by contract with a private party.
- 1.2 Formation of Alliance.** Certain Arizona school districts have formed the Alliance to carry out the purposes of A.R.S. § 11-952.01 by creating a separate workers' compensation pool for member school districts who choose to participate in the Alliance.
- 1.3 Cooperative Purchasing.** Although the Alliance's purpose is to operate a workers' compensation pool for its member school districts, the Alliance and its member school districts (including District) may as an incidental activity engage in cooperative purchasing for the member districts (including District) as authorized by Arizona Administrative Code ("A.A.C.") R7-2-1191 through R7-2-1195 (the "Purchasing Rules"). The Alliance will undertake any cooperative purchasing in accordance with the requirements of the Purchasing Rules.
- 1.4 Administration.** The Alliance is administered by an administrator (the "Administrator") designated by the Board of Trustees of the Alliance (the "Board"), as established pursuant to the terms of the Bylaws of the Alliance.
- 1.5 District Participation.** The District desires to enter into an agreement to join the workers' compensation pool established by the Alliance and to provide for the payment of workers' compensation claims pursuant to A.R.S. Title 23, Chapter 6, and employer liability claims on a cooperative or contract basis with the Alliance and with other school districts who are members of the Alliance.

**1.6 Purpose.** The purpose of this Agreement is to set forth the terms of District's participation in the Alliance.

**2. Participation and Coverage Agreement.** District will participate in the Alliance on the terms of this Agreement. District acknowledges that it is bound by the Coverage Agreement, attached as Appendix A (the "Coverage Agreement"), which is incorporated herein by reference and sets forth:

- (a) the workers compensation claims and expenses covered by the Alliance;
- (b) the procedure for making claims against the Alliance;
- (c) the means and procedures for defending against such claims;
- (d) the persons or entities to be indemnified by the Alliance;
- (e) the limitations and exclusions on coverage; and
- (f) various other matters necessary or appropriate to the functioning of the Alliance.

The Coverage Agreement governs all matters relating to the payment by the Alliance of claims made against the District.

**3. Amendment of this Agreement or the Coverage Agreement.** The Board may amend this Agreement or the Coverage Agreement, and the District agrees to be bound by the amendments if:

- (a) two-thirds of the trustees present at a duly called meeting of the Board (at which a quorum is present) vote to amend;
- (b) the District is given written notice at least 90 days before the amendment is effective;
- (c) and the form of this Agreement or the Coverage Agreement are similarly amended at the same time for all members of the Alliance.

**4. Term and Termination.**

**4.1 Initial Term.** The initial term of this Agreement is for 120 months, starting July 1, 2009 (the "Effective Date"). This Agreement shall continue for 120 months from the Effective Date unless terminated earlier consistent with the termination provisions set forth in this Agreement.

**4.2 Renewal.** This Agreement shall automatically renew for additional 120 month terms, to be effective starting July 1 of the applicable year, as to each District and the Alliance, unless the District or the Alliance provides written notice to each other, stating that District's or the Alliance's intent to not renew the Agreement for the next 120 month term, at least 90 days before the expiration of the then current term.

#### **4.3 Termination.**

- (a) Termination. A District or the Alliance may terminate this Agreement, upon 90 days' written notice to the other.
- (b) Distribution of Funds On Termination. If the District terminates this Agreement for any reason, or if the Alliance terminates this Agreement as a result of the District's breach of this Agreement, District will forfeit all rights to the return of any surplus, unearned contributions and premiums, and other distributions from the Alliance.
- (c) Notice to Industrial Commission. As required by A.R.S. § 11-952.01(L), the Alliance will notify the Industrial Commission of Arizona of any suspension, termination, cancellation or expiration of this Agreement, at least 30 days before the Effective Date of the suspension, termination, cancellation or expiration.

#### **5. Termination of the Alliance.**

**5.1 Election to Terminate.** Notwithstanding any other provision of this Agreement, the Board may terminate the Alliance at any time (by a two-thirds vote of the members present at a duly called meeting of the Board at which a quorum is present) if it determines that the number of members of the Alliance or the size of the Alliance is too small to indemnify adequately against the risks covered in the Coverage Agreement. A termination under this Section will not be effective until the Alliance has given each member of the Alliance at least 12 months written notice.

**5.2 Distributions or Assessment upon Termination.** Upon termination of the Alliance (under this Section or for any other reason), and after making adequate provision for all pending and anticipated claims, the assets of the Alliance will be liquidated, a final accounting will be made, and the funds remaining in the Alliance will be distributed among the then existing members of the Alliance in proportion to the contributions made to the Alliance by each of them during the preceding 12 months. If there are inadequate funds to meet all claims and expenses of the Alliance, an assessment will be made, pursuant to this Agreement and A.R.S. § 11-952.01.

**6. Premium.** The District will pay to the Alliance a Premium (the "Premium") which will be the District's required annual contribution to the Alliance. The Premium will be computed and paid on the following basis:

**6.1 Based on Costs.** The Premium is based on the anticipated liabilities and expenses (the "Costs") of the Alliance for each fiscal year, including (1) the needs of the Alliance to pay its current claim and expense liabilities, (2) an allowance for claims reported but not expected to be paid in the fiscal year, (3) an allowance for claims

incurred but not reported, (4) an allowance for the general administrative expenses, management fees, reinsurance costs, and overhead of the Alliance, and (5) an allowance for capitalization or fund balance.

If there is any change in the costs because of any general rate increase or any legislative amendment affecting the benefits under the Workers' Compensation Law of Arizona, then the change will be made a part of this Agreement.

**6.2 *Allocation Among Members of the Alliance.*** The Costs will be allocated among the members of the Alliance based on the pro rata exposure of each covered member in the Alliance as that member's exposure relates to the total exposure of the Alliance.

- (a) Determination of Exposure. The amount of each member's exposure will be determined by the Alliance's actuary or Administrator based upon criteria and rating assumptions uniformly applied to each member.
- (b) Information. The District will (1) furnish the Alliance all available information requested by the Alliance's actuary or the Administrator to enable the actuary or the Administrator to determine the exposure of the District and (2) reply promptly to all other correspondence or inquiries from the Alliance.

**6.3 *Premium Payment.*** The District will advance Premiums to the Alliance at the beginning of each Payroll Reporting Period by paying to the Alliance four installments of twenty-five (25) percent each of the estimated annual Premium.

**6.4 *Payroll Information.*** When requested by the Alliance, the District will promptly, and no later than thirty (30) calendar days after the request, prepare a report showing, by classification, the amount of remuneration earned by its employees during the reporting period requested.

- (a) Remuneration. The remuneration earned, or man-hours accumulated, during such period by all employees (including volunteers) engaged in each classification covered by this Agreement will be computed in accordance with the rules set forth in the appropriate Manual of Workers' Compensation and Employers' Liability Insurance.

**6.5 *Audit Adjustments.*** An audit may be made at the end of the fiscal year to determine actual remuneration for that fiscal year. The Alliance will calculate a final adjustment of Premiums due to the Alliance. If the Premium calculated as a result of the audit is in excess of the Premium collected for the fiscal year, the District must pay the difference to the Alliance, when invoiced. If the Premium calculated as a result of the audit is less than the Premium collected for the fiscal year, the Alliance, at its option, will return the difference or give an appropriate credit against future Premiums.

**6.6 *Premium Upon Cancellation.*** If the District cancels this Agreement, the returned Premium will be determined by the short rate tables used for casualty insurance.

7. **Reduction in Membership Premium.** At the end of each fiscal year, the District's Premium for the following fiscal year may be reduced. The amount of the reduction may depend on (a) the amount, if any, of the Alliance's Fund Balance for the preceding fiscal year (the "Fund Balance") and (b) other factors the Board reasonably considers in evaluating how to allocate all or part of the Fund Balance among members of the Alliance (for example, a member's loss experience, aggregate payment of Premiums, or uninterrupted tenure in the Alliance). The Board may reduce the amount of the District's Premium only if the Board determines that it is financially appropriate based on the Alliance's most recent actuarial review. Any decision to reduce Premiums for one fiscal year does not obligate the Board to reduce Premiums in a similar manner or at all in succeeding fiscal years.
8. **Assessments.** If the Alliance becomes insolvent or is otherwise unable to discharge its obligations, the District may be assessed by the Alliance for an additional Premium for the then current fiscal year (an "Additional Premium"). The Additional Premium will be in the amount necessary to discharge such obligations (the "Deficiency"), except that:
- (a) the Additional Premium may not exceed the "Base Premium." The Base Premium is the District's annual Premium (1) for the year of the assessment or (2), if the District has withdrawn from the Alliance, for the last year the District was a member;
  - (b) no more than one assessment of an Additional Premium may be made during each fiscal year of the Alliance; and
  - (c) each other member of the Alliance must be assessed simultaneously its pro rata share of the Deficiency. The pro rata share will be determined by multiplying the Deficiency by a fraction, the numerator of which is the District's Base Premium and the denominator of which is the total of all Base Premiums.

The amount of the Additional Premium, and a description of the manner of its calculation, must be provided to the District in a written notice. The District must pay the Additional Premium within 90 days after the written notice. The District will remain liable, after withdrawal from participation in the Alliance and termination of this Agreement, for assessments of Additional Premiums for liabilities of the Alliance incurred during the District's period of membership in the Alliance.

9. **Suspension.** If

- (a) the District fails to pay its Premium, fails to pay an Additional Premium, or fails to comply with any other terms of this Agreement, and
- (b) the District's failure is not cured within 30 days after written notice of default,

then the Board may suspend the District's coverage under the Coverage Agreement. The suspension may be made permanent 90 days after the date of the notice of default and suspension. During the suspension period, the Board will either

- (1) decide that the suspension will be made permanent, in which case the notice of default and suspension will be deemed a notice of termination and this Agreement will be deemed terminated 90 days after the date of notice of suspension, or
- (2) decide the conditions, if any, under which the District's participation in the Alliance and coverage under the Coverage Agreement may be restored.

If the District is permanently suspended, and this Agreement is terminated, the District will be relieved of liability for Premiums for fiscal years after the fiscal year of the termination. The District's liability for Additional Premiums will continue to the extent provided elsewhere in this Agreement.

**10. Inspection and Audit of the District.** If the Alliance requests, the District must permit the Administrator, or any other designee of the Alliance to complete the following actions.

**10.1 Inspection.** The Alliance, at its option, may inspect the District's properties and operations. Neither the right to make inspections nor the making of an inspection will constitute a determination or warranty that the properties and operations are safe or are in compliance with any law or rule.

**10.2 Audit.** The Alliance may examine and audit the District's financial and administrative records that relate to the subject matter of this Agreement. An examination may be made at any time during the term of this Agreement or within five years after the termination of this Agreement.

**11. Audit of the Alliance.** The Alliance, at its expense, will arrange annually for an audit of its operations by a certified public accountant. A copy of the report will be submitted to the Board, the District, and the Arizona Department of Insurance, Arizona Departments of Education, the Arizona Industrial Commission and any other government agency to which a copy must be submitted in accordance with law. The Board will obtain an appropriate actuarial evaluation of the Alliance, including an estimate of incurred but not reported claims. The Alliance will also pay the cost of any examination of the Alliance by the Director of the Arizona Department of Insurance as permitted by A.R.S. § 11-952.01(K).

**12. Loss Control.** The District will implement a program of loss control in substantial conformance with the Loss Control Program Standards for Members as established (and amended from time to time) by the Alliance (the "Loss Control Standards"). The District acknowledges, understands and agrees that (a) the Loss Control Standards are only recommendations of minimum standards that should be adopted by each member of the Alliance, (b) the Alliance makes no representation or warranty that the Loss Control Standards are sufficient or adequate for the District, and (c) the District must tailor its loss control program to the meet District's specific requirements.

**13. Cooperative Purchasing.** In this section:

- (a) A "Purchase" is a purchase of materials and services that is (i) incidental to the workers' compensation coverages provided under this Participation Agreement and the Coverage Agreement or (ii) related to this Participation Agreement and the Coverage Agreement and specifically requested and authorized by the District.
- (b) A "Purchasing Agent" is the Alliance, or one of the Alliance's member school districts, making a Purchase on behalf of the District; and
- (c) The "Purchasing Terms" are the terms and provisions of this Participation Agreement that govern cooperative purchases by a Purchasing Agent. The Purchasing Terms do not include terms of this Participation Agreement related only to the pooling of District's workers' compensation and employers liability obligations.

The District authorizes the Alliance and its member school districts to make Purchases as its Purchasing Agent. To the extent any Purchases are deemed to be made pursuant to a "cooperative purchasing agreement" governed by the Purchasing Rules, the following provisions will apply to the Purchases as required by A.A.C. R7-2-1192:

- (a) Payment for materials and services, and inspection and acceptance of materials and services, ordered by District will be the District's exclusive obligation;
- (b) The exercise of any rights or remedies available to District under a cooperative purchase will be the exclusive obligation of District;
- (c) District may terminate the Purchasing Terms of this Participation Agreement (but not its obligations with respect to the pooling of District's workers' compensation and employers liability obligations) without notice if the Purchasing Agent fails to comply with the Purchasing Terms; and
- (d) The failure of the Purchasing Agent to secure performance from a contractor supplying goods or services in accordance with the terms of a purchase order does not require District (or any other member of the Alliance) to exercise its own rights or remedies.

**14. Subrogation.** If a recovery is obtained against a third party pursuant to the right of subrogation set forth in the Coverage Agreement, such recovery will be paid (a) first to reimburse the costs of recovery and (b) the balance, if any, to the Alliance and the District in proportion to their respective losses from the occurrence giving rise to the recovery.

**15. Conformity with Law.** If any term of this Agreement is in conflict with the laws of Arizona (as they now exist or are later amended) this Agreement will be amended automatically to conform to such laws.

**16. Authorized Representative.** The Alliance and the District will each designate a representative authorized to act on their behalf in all matters pertaining to this Agreement. The initial representative of each is designated on the signature page of this Agreement. Either party may change its representative, or their address, by written notice to the other.

- 17. Authorizing Action.** This Agreement will become effective only upon: (a) the execution of this Agreement by an authorized officer of the Alliance, (b) the execution of this Agreement by an authorized representative of the District, and (c) the delivery to the Alliance of a fully executed Agreement and a certified copy of a resolution adopted by the governing board of the District approving the execution of this Agreement.
- 18. Claim Reserves.** The Alliance will maintain claim reserves at least equal to known incurred losses and an estimate of incurred but not reported claims.
- 19. Liability.**
- 19.1 *Limited Liability of the Alliance, the Board, and the Administrator.*** The Alliance, the Board, and the Administrator have (a) no obligation to pay or defend claims except from the funds in the Alliance and (b) no liability under this Agreement except to disburse funds in the Alliance in accordance with the terms of this Agreement and the Coverage Agreement. If, after collecting all Premiums and Additional Premiums from the members of the Alliance, there are insufficient funds in the Alliance to pay the expenses and to discharge the obligations of the Alliance, then neither the Alliance, nor the Board, nor the Administrator have any further obligation to defend or pay claims.
- 19.2 *No Liability of Other Members; Liability of Alliance.*** No member of the Alliance has any liability for claims brought by third parties against any other member of the Alliance, other than the obligation to contribute Premiums and Additional Premiums to the Alliance as expressly required by this Agreement. The liability for any claim against the District will remain the sole and exclusive liability of the District. The obligation of the Alliance is to reimburse the District for liability (a) within the limits of the Coverage Agreement and (b) to the extent there are funds in the Alliance.
- 19.3 *District Liability.*** The District is not relieved of its liability incurred during the District's period of membership in the Alliance except through the payment of losses by the Alliance (to the extent required by the Coverage Agreement) or by the District. The obligations under this subsection will be no greater than that required by A.R.S. § 11-952.01(I)(4).
- 20. Invalidity of a Term.** If any term, covenant or condition of this Agreement is invalid or void, the invalidity will not affect any other term, covenant, or condition of this Agreement.
- 21. Prohibition Against Discrimination.** If it applies, the parties will comply with the Arizona Governor's Executive Order No. 75-5, entitled "Prohibition of Discrimination in State Contracts - Non-Discrimination in Employment by Government Contractors and Subcontractors," and any subsequent similar Executive Order.

22. **Governing Law and Venue.** This Agreement will be construed under the laws of the State of Arizona. Any action arising out of this Agreement must be brought in Maricopa County.
23. **Counterparts.** This Agreement may be executed in any number of counterparts. All counterparts will be deemed to constitute one and the same instrument, and each counterpart will be deemed an original.
24. **Conflict of Interest.** The parties acknowledge that this Agreement is subject to cancellation pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein.
25. **Appendices.** The Appendices are attached to this Agreement and incorporated by this reference. The Appendices include Appendix A, Coverage Agreement, Appendix B, Articles of Incorporation, Appendix C, Bylaws, and Appendix D, Coverage Acceptance Form.

26. The parties have executed this Agreement on May 25, 20 11.

**THE ARIZONA SCHOOL ALLIANCE FOR WORKERS' COMPENSATION, INC.**

By

Its Account Manager

**Authorized Representative for the Alliance:**

Jennifer Howell

Name

Account Manager

Title

333 E. Osborn Road, Suite 300

Address

Phoenix

City

Arizona

State

85012

Zip Code

Telephone: (602) 222-2103

**MAMMOTH-SAN MANUEL UNIFIED SCHOOL DISTRICT NO. 8:**

By

Its

**Authorized Representative for the District:**

Name

Title

711 McNab Pkwy

Address

San Manuel, AZ 85631

City

State

Zip Code

Telephone: (520) 385-2337

# **APPENDIX A**

# **THE ARIZONA SCHOOL ALLIANCE FOR WORKERS' COMPENSATION, INC.**

## **COVERAGE AGREEMENT**

This Coverage Agreement ("Agreement") is Exhibit A to the Participation Agreement between The Arizona School Alliance for Workers' Compensation, Inc. ("Alliance", "we" or "us") and the school district named in the Participation Agreement ("District", "you" or "your"). In consideration of the payment of the Premiums, and subject to all the terms and conditions of this Agreement and the Coverage Acceptance Form signed by the District for the applicable coverage period, the Alliance agrees with the District as follows:

### **I. RECITALS**

- A. *Membership in the Alliance.*** By execution of the Participation Agreement, District has agreed to become a member of the Alliance and participate in the Alliance's workers compensation pool to provide for the payment of workers compensation claims made against District and other school districts which choose to join the Alliance.
- B. *Payment of Premium.*** The Participation Agreement requires that District pay a Premium (the "Premium") to become a member and participate in the Alliance.
- C. *Use of Terms.*** Terms used but not defined in this Agreement have the meaning given them in the Participation Agreement.
- D. *Purpose of Agreement.*** This Agreement states the terms, conditions, limits and exclusions of coverage provided by the Alliance for the payment of workers compensation claims made against District.

### **II. GENERAL**

- A. *Coverage Agreement.*** This Agreement includes at its effective date the signed Coverage Acceptance Form, which is incorporated herein by this reference. The terms of this Agreement may not be changed or waived except by endorsement issued by the Alliance to be part of this Agreement.
- B. *Who is Covered.*** You are covered if you are the District named in the Coverage Acceptance Form.
- C. *Workers Compensation Law.*** Workers Compensation Law means the workers or workmen's compensation law and occupational disease law of the State of Arizona. It includes any amendments to that law which are in effect during the Agreement period. It does not include any federal workers or workmen's compensation law, any federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

D. **State.** State means the State of Arizona.

E. **Locations.** This Agreement covers all of your workplaces located within the State.

### III. WORKERS COMPENSATION COVERAGE

A. **How This Coverage Applies.** This workers compensation coverage applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. Bodily injury by accident must occur during the Agreement period.
2. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the Agreement period.

B. **We will Pay.** The Alliance will pay promptly when due the benefits required of you by the workers compensation law of the State.

C. **We Will Defend.** The Alliance has the right and duty to defend at our expense any claim, proceeding or suit against you for benefits payable by this coverage. The Alliance has the right to investigate and settle these claims, proceedings or suits. We have no duty to defend a claim, proceeding or suit that is not covered under this Agreement.

D. **We Will Also Pay.** The Alliance will also pay these costs, in addition to other amounts payable under this coverage as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this coverage;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this coverage; and
5. expenses we incur.

E. **Other Insurance.** We will not pay more than our share of benefits and costs covered by this Agreement and other insurance or self-insurance. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance will be equal until the loss is paid.

F. **Payments You Must Make.** You are responsible for any payments in excess of the benefits regularly provided by the workers compensation law including those required because:

1. of your serious and willful misconduct;
2. you knowingly employ an employee in violation of law;

3. you fail to comply with a health or safety law or regulation; or
4. you discharge, coerce or otherwise discriminate against any employee in violation of the workers compensation law.

If we make any payments in excess of the benefits regularly provided by the workers compensation law on your behalf, you will reimburse us promptly.

**G. *Recovery From Others.*** We have your rights, and the rights of persons entitled to the benefits of this Agreement to recover our payments from anyone liable for the injury. You will do everything necessary to protect those rights for us and to help us enforce them.

**H. *Statutory Provisions.*** These statements apply where they are required by law.

1. As between an injured worker and us, we have notice of the injury when you have notice.
2. Your default or the bankruptcy or insolvency of you will not relieve us of our duties under this coverage after an injury occurs.
3. We are directly and primarily liable to any person entitled to the benefits payable by this coverage. Those persons may enforce our duties; so may an agency authorized by law. Enforcement may be against us or against you and us.
4. Jurisdiction over you is jurisdiction over us for purposes of the workers compensation law. We are bound by decisions against you under that law, subject to the provisions of this Agreement that are not in conflict with that law.
5. This coverage conforms to the parts of the workers compensation law that apply to:
  - a. benefits payable by this coverage; or
  - b. special taxes, payments into security or other special funds, and assessments payable by us under that law.
6. Terms of this coverage that conflict with the workers compensation law are changed by this statement to conform to that law.

Nothing in these paragraphs relieves you of your duties under this Agreement.

#### **IV. EMPLOYER'S LIABILITY COVERAGE**

**A. *How This Coverage Applies.*** This employer's liability coverage applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must arise out of and in the course of the injured employee's employment by you.
2. The employment must be necessary or incidental to your work in the State of Arizona.
3. Bodily injury by accident must occur during the Agreement period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing

or aggravating such bodily injury by disease must occur during the Agreement period.

5. If you are sued, the original suit and any related legal actions for damages for bodily injury by accident or by disease must be brought in the United States of America, its territories, possessions, or Canada.

**B. *We Will Pay.*** We will pay all sums you legally must pay as damages because of bodily injury to your employees provided the bodily injury is covered by this employer's liability coverage.

The damages we will pay, where recovery is permitted by law, include damages:

1. for which you are liable to a third party by reason of a claim or suit against you by that third party to recover the damages claimed against such third party as a result of injury to your employee;
2. for care and loss of services; and
3. for consequential bodily injury to a spouse, child, parent, brother or sister of the injured employee;

provided that these damages are the direct consequence of bodily injury that arises out of and in the course of the injured employee's employment by you; and

4. because of bodily injury to your employee that arises out of and in the course of employment, claimed against you in a capacity other than as employer.

**C. *Exclusions.*** This employer's liability coverage does not cover:

1. liability assumed under a contract. This exclusion does not apply to a warranty that your work will be done in a workmanlike manner;
2. punitive or exemplary damages because of bodily injury to an employee employed in violation of law;
3. bodily injury to an employee while employed in violation of law with your actual knowledge or the actual knowledge of any of your executive officers;
4. any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law or any similar law;
5. bodily injury intentionally caused or aggravated by you;
6. bodily injury occurring outside the United States of America, its territories or possessions, and Canada. This exclusion does not apply to bodily injury to a citizen or resident of the United States of America or Canada who is temporarily outside these countries;
7. damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions.
8. bodily injury to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950), the Non appropriated

Fund Instrumentality's Act (5 USC Sections 8171-8173), the Outer Continental Shelf Lands Act (43 USC Sections 1331-1356), the Defense Base Act (42 USC Sections 1651-1654), the Federal Coal Mine Health and Safety Act of 1969 (30 USC Sections 901-942), any other federal workers' or workmen's compensation law or other federal occupational disease law, or any amendments to these laws;

9. bodily injury to any person in work subject to the Federal Employers' Liability Act (45 USC Sections 51-60), any other federal laws obligating an employer to pay damages to an employee due to bodily injury arising out of or in the course of employment, or any amendments to those laws;
10. bodily injury to a master or member of the crew of any vessel;
11. fines or penalties imposed for violation of federal or state law; and
12. damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801-1872) and under any other federal law awarding damages for violation of those laws or regulations issued thereunder, and any amendments to those laws.

**D. *We Will Defend.*** We have the right and duty to defend, at our expense, any claim, proceeding or suit against you for damages payable by this employer's liability coverage. We have the right to investigate and settle these claims, proceedings and suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this coverage. We have no duty to defend or continue defending after we have paid our applicable limit of liability under this coverage.

**E. *We Will Also Pay.*** We will also pay these costs, in addition to other amounts payable under this coverage, as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but no loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this coverage;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this coverage; and
5. expenses we incur.

**F. *Other Insurance.*** We will not pay more than our share of damages and costs covered by this Agreement and other insurance or self-insurance.

Subject to any limits of liability that apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance and self-insurance will be equal until the loss is paid.

**G. *Limits of Liability.*** Our liability to pay for damages is limited. Our limits of liability are shown on the Coverage Acceptance Form. They apply as explained below.

1. Bodily Injury by Accident. The limit shown for “bodily injury by accident-each accident” is the most we will pay for all damages covered by this coverage because of bodily injury to one or more employees in any one accident. A disease is not bodily injury by accident unless it results directly from bodily injury by accident.
2. Bodily Injury by Disease. The limit shown for “bodily injury by disease-coverage or policy limit” is the most we will pay for all damages covered by this coverage and arising out of bodily injury by disease, regardless of the number of employees who sustain bodily injury by disease. The limit shown for “bodily injury by disease-each employee” is the most we will pay for all damages because of bodily injury by disease to any one employee.

Bodily injury by disease does not include disease that results directly from a bodily injury by accident.

3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this coverage.

**H. *Recovery from Others.*** We have your rights to recover our payment from anyone liable for an injury covered by this employer’s liability coverage. You will do everything necessary to protect those rights for us and to help us enforce them.

**I. *Actions Against Us.*** There will be no right of action against us under this coverage unless:

1. You have complied with all the terms of this Agreement; and
2. The amount you owe has been determined with our consent or by actual trial and final judgment.

This employer’s liability coverage does not give anyone the right to add us as a defendant in an action against you to determine your liability. The bankruptcy or insolvency of you will not relieve us of our obligations under this employer’s liability coverage.

## **V. OTHER STATES COVERAGE**

**A. *How This Coverage Applies.*** It is agreed that, with respect to injuries sustained by District employees temporarily working outside of Arizona and which arise out of and in the course of employment, the Alliance will indemnify the insured for such workers compensation benefits as the insured is obligated to pay under the Workers Compensation Laws of such other state.

**B. *Notice.*** Tell us at once if you begin work in any state other than the State of Arizona.

## **VI. YOUR DUTIES IF INJURY OCCURS**

### **A. *Duties.***

1. Tell us at once if injury occurs that may be covered by this Agreement.
2. Provide for immediate medical and other services required by the workers compensation law.
3. Give us or our agent the names and addresses of the injured persons and of witnesses, and other information we may need.
4. Promptly give us all notices, demands and legal papers related to the injury, claim, proceeding or suit.
5. Cooperate with us and assist us, as we may request, in the investigation, settlement or defense of any claim, proceeding or suit.
6. Do nothing after an injury occurs that would interfere with our right to recover from others.
7. Do not voluntarily make payments, assume obligations or incur expenses, except at your own cost.

## **VII. CONDITIONS**

**A. *Transfer of Your Rights and Duties.*** Your rights or duties under this Agreement may not be transferred without our written consent.

### **B. *Cancellation***

1. You may cancel this Agreement pursuant to section 4 of the Participation Agreement.
2. We may cancel this Agreement pursuant to section 4 of the Participation Agreement.
3. The coverage will end on the day and hour stated in the cancellation notice.

## **APPENDIX B**

**RESTATED ARTICLES OF INCORPORATION  
OF THE ARIZONA SCHOOL ALLIANCE  
FOR WORKERS' COMPENSATION, INC.**

1. Name. The name of this nonprofit corporation is The Arizona School Alliance for Workers' Compensation, Inc.

2. Purpose. This corporation is organized for the purpose of conducting any or all lawful affairs for which a non-profit corporation may be incorporated under the Arizona Revised Statutes. This corporation is a nonprofit risk sharing group of certain public school districts in the State of Arizona.

3. Initial Activity. The corporation initially intends to enter into and perform contracts forming a workers' compensation pool, authorized by A.R.S. §§ 11-952.01 and 15-382 (as they may be amended), for the payment of workers' compensation claims on a cooperative or contract basis pursuant to A.R.S. Title 23, Chapter 6.

4. Statutory Agent. The name and address of the statutory agent of the corporation is Michael E. Hensley, Jones, Skelton & Hochuli, 2901 North Central Avenue, Suite 800, Phoenix, Arizona 85012.

5. Membership. The members of the corporation shall be those public school districts in the State of Arizona who qualify as members and join this corporation in the manner provided in the Bylaws.

6. Board of Trustees. The board of directors shall be known as the board of trustees. Each trustee must be an elected official or employee of a public school district within the State of Arizona. The number to serve on, and the time and manner of elections to, the board of trustees is fixed by the Bylaws.

7. Incorporators. The names and addresses of the incorporators are:

Gregory B. Jacobs  
3610 North 44th Street, #250  
Phoenix, Arizona 85018

Bill French  
830 South Main Street, Suite 2-I  
Cottonwood, Arizona 86326

William Thompson  
830 South Main Street, Suite 2-I  
Cottonwood, Arizona 86326

Dean Wilson  
830 South Main Street, Suite 2-I  
Cottonwood, Arizona 86326

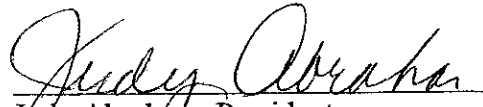
8. Indemnification. The corporation shall indemnify each of its trustees and officers to the fullest extent permissible under the indemnity provisions of the Arizona Revised Statutes applicable to non-profit corporations, or the Bylaws or any agreement, both to the extent permissible thereunder.

9. Liability. To the fullest extent permitted by Arizona, no trustee or officer shall be liable to the corporation or its members for monetary damages for breach of fiduciary duty and to the fullest extent permitted by Arizona law, any trustee or officer shall be immune from civil liability and shall not be subject to suit directly or by way of contribution for any action or omission resulting in damage or injury if the person was acting in good faith and in furtherance of the purpose or purposes for which the corporation is organized, unless the damage or injury was caused by willful and wanton or grossly negligent conduct of the trustee or officer. If the Arizona Revised Statutes are hereafter amended to authorize further elimination or limitation of the personal liability of directors and officers, then the liability of a trustee or officer of the corporation shall be eliminated or limited to the fullest extent permitted by the Arizona Revised Statutes, as so amended. Any repeal or modification of this Article 9 shall not adversely affect any right or protection of a trustee or officer of the corporation existing at the time of the repeal or modification.

10. No Personal Liability. The private property of the incorporators, trustees, officers, employees, and agents of this corporation is forever exempt for corporate debts and liabilities.

11. Dissolution. If this corporation is dissolved, all of its assets will belong to the member school districts, and will be divided among them in proportion to the payments made by them to this corporation during the last full calendar year of its corporate existence or as otherwise agreed among them.

EXECUTED this 26 day of May, 1999.

  
Judy Abraham, President

635601

# **APPENDIX C**

B Y L A W S  
OF  
THE ARIZONA SCHOOL ALLIANCE  
FOR WORKERS' COMPENSATION, INC.  
(As Amended December 1, 2006)

SECTION 1

OFFICES AND CORPORATE SEAL

1.1 Principal Office. The corporation shall maintain a principal office in Arizona. The corporation may maintain offices and transact business at any place designated by the board of trustees in the State of Arizona. The corporation's known place of business and mailing address is: The Arizona School Alliance for Workers' Compensation, Inc., 4041 North Central Avenue, Suite 1200, Phoenix, AZ 85012.

1.2 Corporate Seal. A corporate seal is not required on any instrument executed for the corporation. If a corporate seal is used, it shall be either a circle having on its circumference "The Arizona School Alliance for Workers' Compensation, Inc.," and in the center "Incorporated 1996 Arizona," or a circle having on its circumference the words "Corporate Seal."

SECTION 2

MEMBERS

2.1 Members. The corporation has one class of Members, consisting of those public school districts in the State of Arizona which (a) execute all documents necessary to become and remain Members, (b) join the workers' compensation pool for which this corporation is organized, and (c) make all payments to the corporation required by their Membership in the corporation and its workers' compensation pool.

2.2 Admission of Members. Members will be admitted upon their execution of all documents necessary to join the corporation and the corporation's workers' compensation pool.

2.3 Voting Rights of Members. Each Member is entitled to one vote on each matter brought before Members. Members are entitled to vote upon any proposed amendment to the articles of incorporation of the corporation and to elect the board of trustees of the corporation at the annual meeting of Members.

2.4 Premiums. Premiums will be established in the manner provided in the Participation Agreement between this corporation and each Member.

2.5 Suspension and Removal. A Member will be suspended upon its failure to pay Membership Fees as required by its Participation Agreement. A Member will be removed upon termination of its Participation Agreement for any reason. During any suspension, and after termination, a Member may not vote or exercise any other right of a Member.

## SECTION 3

### MEETINGS AND VOTING

3.1 Annual Meetings. The corporation shall hold annual meetings of Members on or about the third week of July or on another date designated by the board of trustees. At the annual meeting, Members shall elect a board of trustees and may transact any other business properly noticed before the meeting.

3.2 Special Meetings. The president may and the president or the secretary shall, on written request of a majority of the board of trustees or of Members holding one-tenth of the outstanding votes of Members of the corporation, call special meetings of Members, for any purpose or purposes unless otherwise prescribed by statute. The written request and the notice of the special meeting shall state the purposes of the meeting and the business transacted at the meeting shall be limited to purposes stated in the notice.

3.3 Time and Place of Meetings. The board of trustees, the president, or the secretary shall fix the time and place of all meetings of Members, both regular and special, all of which shall be public meetings. All meetings of Members shall be held at such time and place. Meetings may be held by means of conference telephone or other similar communication equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to such communication shall constitute presence in person at such a meeting.

3.4 Voting. Each voting Member is entitled to one vote, or such other voting rights as are provided by statute, in the articles of incorporation, or elsewhere in these Bylaws, in person or by proxy. Members entitled to vote at the meeting shall be determined as of 4 p.m. on the business day before notice of the meeting is sent to Members. No proxy shall be voted or acted upon after eleven months from its date, unless the proxy provides for a longer period.

3.5 Notice of Meetings. The corporation shall give written notice of all meetings to each Member entitled to vote. Such notice shall state the place, date, hour, and shall contain an agenda.

3.6 List of Members. The corporation shall prepare an alphabetical list of Members entitled to vote at each meeting, showing the name and address of each Member entitled to vote. The list shall be available at the meeting and may then be inspected by any Member.

3.7 Quorum and Adjournment. The holders of one-third of the votes entitled

to vote at any meeting of Members, present in person or by proxy, shall constitute a quorum for the transaction of business except as otherwise provided by statute. If a quorum is not present at any meeting, Members present may recess and resume the meeting at a later date with less than twenty-four hours' notice and if, prior to recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given. At an adjourned meeting, when a quorum is present, Members may transact any business they might have transacted at the meeting as originally noticed. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, the corporation shall give a notice of the adjourned meeting to each Member entitled to vote at the meeting.

3.8 Majority Required. When a quorum is present at any meeting, the vote of the holders of a majority of the voting power present and voting shall decide any matter properly noticed before the meeting, unless an express provision of a statute or of the articles of incorporation requires a different vote.

3.9 Waiver of Notice. Attendance of a Member at meeting shall constitute waiver of the right to notice pursuant to Section 3.5 of these Bylaws (but not waiver of any rights under Open Meeting Laws) unless the Member objects at the commencement of the meeting that the meeting is not lawfully called or convened. Any Member may waive the right to notice of a meeting pursuant to Section 3.5 of these Bylaws by executing a written waiver of notice.

## SECTION 4

### TRUSTEES

4.1 Number and Election. The board of trustees shall consist of at least five (5) and not more than nine (9) trustees as established from time to time by resolution of the board of trustees. Each trustee shall be an elected official of a public entity within the State of Arizona, an employee of a public entity within the State of Arizona or an employee leased to a public entity within the State of Arizona. Except as provided in these Bylaws for the filling of vacancies, Members shall elect the trustees at the annual meeting of Members under the following procedures:

- (a) At least 10 days (but not more than 50 days) before the annual meeting, the nominating committee (or, if none is appointed, the board of trustees) will submit to Members a list of the persons nominated for election as trustee;
- (b) At the annual meeting nominations also may be made by any Member; and
- (c) Each Member is entitled to one vote for each vacancy on the board of trustees, but may not cast votes cumulatively.

Each trustee shall hold office for a term of three years or until a successor is elected and qualifies, or until such trustee's earlier resignation or removal. Members notwithstanding the preceding sentence, trustees shall be classified in such a manner that the terms of approximately one-third of the trustees shall expire annually.

4.2 Vacancies. A majority of the trustees then in office, though less than a quorum, or a sole remaining trustee may fill vacancies and newly created trusteeships. A trustee so chosen shall hold office until a successor is elected and qualifies, or until such trustee's earlier resignation or removal.

4.3 Powers. The board of trustees shall manage the business of the corporation and may exercise all powers of the corporation and do all lawful acts and things permitted by statute or by the articles of incorporation. In order that the corporation may continue to qualify as a workers' compensation pool, the board of trustees must observe and comply with all the terms of A.R.S. §11-952.01 and of all other applicable statutes. Consistent with A.R.S. §11-952.01 the corporation may:

- (a) establish offices where necessary in this state and employ staff to carry out the purposes of the corporation;
- (b) retain legal counsel, actuaries, auditors, engineers, private consultants, and advisors;
- (c) make and alter bylaws and rules pertaining to the exercise of its purpose and powers;
- (d) purchase, lease, or rent real and personal property as it deems necessary; and
- (e) enter into a financial services agreement with banks, and may issue checks in its own name with the permission of the state treasurer.

4.4 Time and Place of Meetings. All meetings of the board of trustees shall be held at such time and place within the State of Arizona as shall be stated in the written notice to Members, the public, and the board of trustees. Any meeting held by the board of trustees for any purpose whatsoever shall be open to the public.

4.5 Annual Meetings. The board of trustees shall hold its annual meeting immediately following the annual meeting of Members at the place Members and time specified in written notice given to Members and the public. If a quorum is not present, the board of trustees may recess and resume the meeting at a later date with less than twenty-four hours' notice and if, prior to recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given.

4.6 Regular Meetings. The board of trustees may establish a fixed time, date

and place for regularly scheduled meetings during a specified calendar period. Regular meetings of the board of trustees may be held without notice to Members or the public, if public notice of the meetings is given at the beginning of the calendar period specifying the calendar period for which the notice applies. Such notice shall state that an agenda for the meetings will be available at least twenty-four hours in advance and where and how to obtain a copy of such agenda.

4.7 Special Meetings. The president or the secretary may, and on written request of two trustees shall, call special meetings of the board of trustees on not less than twenty-four hours' notice to each Member personally or by telegram, telefax, e-mail or telephone, and to the public in writing.

4.8 Quorum and Adjournment. Except as otherwise specifically provided by statute or by the articles of incorporation, a majority of members of the board of trustees then in office shall constitute a quorum of the board of trustees. The concurrence of a majority of a quorum shall be sufficient to take action on any business of the board. If a quorum is not present, the trustees present may recess and resume the meeting if public notice is given before recessing, stating the time, place and agenda for the resumption or the method by which public notice shall be given.

4.9 Waiver of Notice. Attendance of a trustee at a meeting shall constitute waiver of notice unless the trustee objects at the commencement of the meeting that the meeting is not lawfully called or convened. Any trustee may waive notice of any meeting by executing a written waiver of notice.

4.10 Trustee Reimbursement. By resolution of the Board, a Trustee may be reimbursed for reasonable expenses incurred in attending meetings of the Board and performing other authorized services as a Trustee, provided such expenses are not reimbursed to the Trustee in any other manner. Consistent with applicable law, a Trustee shall be precluded from serving the Corporation in any other capacity and receiving reimbursement for reasonable expenses therefore.

4.11 Trustee Resignation. Any Trustee may resign at any time by giving written notice to the Board, provided that such resignation shall be effective on the date of receipt of such notice or at any later time specified therein.

## SECTION 5

### OFFICERS

5.1 Election of Officers. The board of trustees, at the annual meeting, shall elect the officers of the corporation to three-year terms, including at least a president, a secretary and a treasurer. The board of trustees may elect such other officers and agents as it deems necessary or appropriate. Any number of offices, except the offices of president and secretary, may be held by the same person.

5.2 Tenure and Duties of Officers. Officers shall hold their offices at the

pleasure of the board of trustees, shall have the titles designated by the board of trustees, and shall exercise the powers and perform the duties determined from time to time by the board of trustees.

5.3 Compensation. The board of trustees shall determine from time to time the compensation of the officers. An officer shall not be prevented from receiving compensation because of service as a trustee. The minutes of the meetings of the board of trustees shall set forth the compensation of the officers or the method of fixing the compensation of the officers.

5.4 Vacancies. The board of trustees may fill at any time a vacancy in any office because of death, resignation, removal, disqualification or otherwise.

5.5 President. If a chairman of the board is not appointed, is not serving, or is absent, the president shall preside at meetings of Members and of the board of trustees. Subject to policies established by the board of trustees, the president shall be the chief operating officer of the corporation. The president may sign deeds, conveyances, contracts, agreements, and all other instruments requiring execution on behalf of the corporation.

5.6 Vice Presidents. There shall be as many vice presidents as the board of trustees chooses to appoint. Vice presidents shall perform the duties assigned to them by the board of trustees or the president. Any one of the vice presidents, as authorized by the board of trustees, shall have all the powers and perform all the duties of the president if the president is temporarily absent or unable to act.

5.7 Secretary. The secretary shall keep, or cause to be kept, minutes of all meetings of Members, board of trustees and committees. The secretary is the custodian of the corporate seal, if any, and shall affix it to documents when necessary or appropriate. The secretary shall give or cause to be given required notices of all meetings of Members or board of trustees. The secretary shall have custody of the books and records of the corporation, except the books of account, and in general shall perform all the duties incident to the office of secretary of a corporation and such other duties as may be assigned by the board of trustees or the president.

5.8 Treasurer. The treasurer shall have custody of the funds and securities of the corporation and the books of account. The treasurer shall see to the deposit of the funds of the corporation in the bank or banks the board of trustees designates. The books of account shall be monitored on a current basis under the treasurer's direction and supervision. The treasurer shall render financial statements to the president and to all trustees at proper times. The treasurer shall have charge of the preparation and filing of reports, financial statements, and returns as required by law. The treasurer shall give the corporation a fidelity bond as required by law or by the board of trustees, with the premium therefore paid by the corporation as an operating expense.

## SECTION 6

### COMMITTEES

6.1 Executive Committee. The board of trustees may elect an executive committee consisting of the chairman of the board and at least two other trustees as elected by the board of trustees (the size of the executive committee to be determined by resolution of the board of trustees). Members of the executive committee shall serve at the pleasure of, and may be removed with or without cause at any time by, the board of trustees. If a vacancy occurs on the executive committee, the vacancy may be filled only by the board of trustees. The Executive Committee shall have and may exercise the powers of the board of trustees between meetings of the board of trustees, provided that (a) actions of the executive committee shall be subject to ratification of the full board of trustees except where the calling of a meeting of the full board would be impracticable in the good faith determination of the chairman and except where the full board specifically authorizes the executive committee to take action without subsequent ratification by the full board, and (b) the executive committee shall not possess any authority of the board of trustees prohibited to it by law and may not (i) fill any vacancy on the board of directors or (ii) adopt amendments to the articles of incorporation or these bylaws. The board of trustees may, by resolution, further restrict the power and authority of the executive committee. All meetings of the executive committee shall be held at such time and place within the State of Arizona as shall be stated in written notice to members, the public, and the board of trustees. Any meeting of the executive committee for any purpose whatsoever shall be open to the public. A quorum of the members of the executive committee may establish a fixed time, date and place for regularly scheduled meetings during a specified calendar period. Regular meetings of the executive committee may be held without notice to Members or the public, if public notice of the meetings is given at the beginning of the calendar period specifying the calendar period for which the notice applies. Such notice shall state that an agenda for the meetings will be available at least 24-hours in advance and where and how to obtain a copy of such agenda. A quorum of the members of the executive committee may call special meetings of the executive committee on not less than 24-hours notice to each Member personally or by telegram, telefax, e-mail or telephone, and to the public in writing. Except as otherwise provided by statute, a majority of the members of the executive committee then in office shall constitute a quorum of the executive committee. The concurrence of a majority of a quorum shall be sufficient to take action on any business of the executive committee. If a quorum is not present, the members of the executive committee present may recess and adjourn the meeting if public notice is given before recessing, stating the time, place and agenda for the resumption or the method by which public notice shall be given. Attendance of a member of the executive committee at a meeting shall constitute waiver of notice unless the member objects at the commencement of the meeting that the meeting is not lawfully called or convened. Any member of the executive committee may waive notice of any meeting by executing a written waiver of notice.

6.2 Other Committees. The board of trustees may establish other regular or special committees, including a nominating committee. The resolution establishing a regular or special committee shall set forth its powers and duties. In the discretion of the board of trustees, persons serving on a regular or special committee need not be trustees. The corporation may pay Members of regular or special committees compensation for attending committee meetings.

6.3 Minutes of Committee Meetings. The chairman of each regular or special committee designated by the board of trustees shall keep, or cause to be kept, minutes of such committee meetings and shall file the minutes with the secretary of the corporation.

## SECTION 7

### INDEMNIFICATION OF TRUSTEES AND OFFICERS

7.1. Indemnification. Except as provided in these Bylaws, the corporation shall hold harmless and indemnify each of its trustees and officers ("indemnatee") against any and all liability and expenses incurred by indemnatee in connection with any threatened or actual proceeding or legal action resulting from indemnatee's service to corporation or to another entity at corporation's request.

7.2. Exclusions. Except insofar as permitted by law, corporation shall not indemnify indemnatee for acts listed in A.R.S. §10-2305.C.8.

7.3. Procedure. Indemnatee shall notify corporation promptly of the threat or commencement of any proceeding or legal action with respect to which indemnatee intends to seek indemnification. Corporation shall be entitled to assume indemnatee's defense with counsel reasonably satisfactory to indemnatee, unless indemnatee provides corporation with an opinion of counsel reasonably concluding that there may be a conflict of interest between indemnatee and corporation in the defense of the proceeding or legal action. If corporation assumes the defense, corporation shall not be liable to indemnatee for legal or other expenses subsequently incurred by indemnatee.

7.4. Expense Advances. Corporation shall advance automatically expenses, including attorneys' fees, incurred or to be incurred by indemnatee in defending a proceeding or legal action upon receipt of notice of the expenses. If required by law, before advancing any expenses the corporation may require that an indemnatee or a representative promise to repay the advances if a final judicial decision (after expiration or exhaustion of any appeal rights) determines that indemnatee is not entitled to be indemnified for such expenses.

7.5. Settlement of Claims. Corporation shall not be obligated to indemnify indemnatee for any amounts incurred in settlement if settlement is made without corporation's prior written consent. Corporation shall not enter into any settlement that would impose any penalty or limitation on indemnatee without indemnatee's prior written consent. Neither corporation nor indemnatee will unreasonably withhold consent to any proposed settlement.

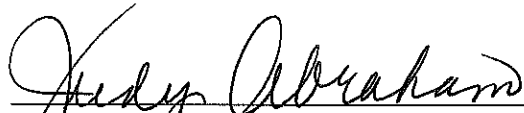
7.6. Effect of Repeal. In order that indemnatee may rely on the

indemnification promised by this Section, no repeal or amendment of this Section shall reduce the right of indemnitee to payment of expenses or indemnification for acts of indemnitee taken before the date of repeal or amendment.


SECTION 8

REPEAL, ALTERATION OR AMENDMENT

These bylaws may be repealed, altered or amended or substitute bylaws may be adopted only by a majority of the board of trustees at any time.

  
Judy Abraham, President

ATTEST:

  
Clyde Dangerfield, Secretary

## **APPENDIX D**

# The Alliance

The Arizona School Alliance for Workers' Compensation, Inc.

## Coverage Acceptance Form (Appendix D to the Participation Agreement)

---

District:	Mammoth-San Manuel Unified School District No. 8		
Address:	711 Mcnab Pkwy, San Manuel, AZ 85631		
Contact Person:	Mr. John Ryan		
Phone Number:	(520) 385-2337	Fax Number:	(520) 385-2621
Effective Date:	July 1, 2011	through	June 30, 2012

---

### 2011/2012 PREMIUM

CODE	CLASSIFICATION	PAYROLL	RATE	ESTIMATED ANNUAL PREMIUM
8868	Professional Employees & Clerical	\$4,228,831	0.52	\$21,990
9101	All Other Employees	\$1,070,731	4.41	\$47,219
8411	Volunteers	-	-	-
TOTAL:		\$5,299,562		\$69,209

#### Premium includes:

##### Workers' Compensation Limits:

Statutory

##### Employers Liability Limits:

Bodily Injury by Accident: \$500,000 each accident

Bodily Injury by Disease: \$500,000 each employee

Bodily Injury by Disease: \$500,000 coverage or policy limit

I, the undersigned, as the Authorized Representative of the above-named School District, do hereby accept the coverages and pricing indicated above for the guaranteed cost program that are dependent upon the coverage selected by the School District. By signing this Coverage Acceptance Form, I agree to the terms and conditions of the Participation Agreement through June 30, 2012.

Agreement Number: 1963-SA-AZ-159

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

## **RESOLUTION**

**SUBJECT:** It is resolved by action of the Governing Board of Mammoth-San Manuel Unified School District No. 8 (the "District") made on \_\_\_\_\_ 20\_\_\_\_\_, to enter into an Agreement with the Arizona School Alliance for Workers' Compensation. Purpose of the Agreement is to become a member of a non-profit corporation which has been established pursuant to Arizona Revised Statutes Section 11-952.01.

- a. Enter into contracts or agreements to establish a separate Workers' Compensation pool on a cooperative or contract basis with other School Districts;
- b. Self-insure or jointly purchase insurance, or both, for Workers' Compensation and employers liability for employees of the School Districts and members of the governing board;

\_\_\_\_\_ (Authorized Person) or our authorized representative as designated in the participation agreement is hereby authorized to execute an agreement on behalf of the District and the Arizona School Alliance for Workers' Compensation on the terms and conditions set forth in the form Agreement attached to this Resolution, or such other terms and conditions which are determined to be appropriate, to execute any and all agreements, documents, and other instruments which are deemed appropriate to evidence the District's membership in the Arizona School Alliance for Workers' Compensation and to execute any and all other agreements, documents and instruments on behalf of the district that are determined to be appropriate to accomplish in whole or in part the purposes of the foregoing Resolutions. In each instance, the signature of the designated party is conclusive evidence of the District's agreement to the terms and conditions thereof.

\_\_\_\_\_  
President

\_\_\_\_\_  
Member

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

## INDUSTRIAL COMMISSION OF ARIZONA

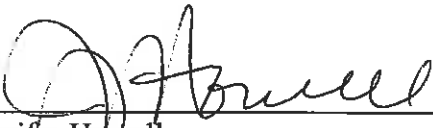
### Supplemental Indemnity Agreement for Workers' Compensation Pool Created Under A.R.S. 11-952.01(B)

The undersigned person or entity (hereinafter referred to as a "Member") desires to join a Workers' Compensation pool organized and formed under the authority of A.R.S. 11-952.01(B). The pool ("Pool") operates under the name "the Arizona School Alliance for Workers' Compensation, Inc." and was originally formed under a pre-incorporation agreement executed by Mingus Union High School District No. 4 and Wickenburg Unified School District No. 9. Attached as Exhibit A and incorporated by reference is a list of the current trustees and members of the Pool.

Attached as Exhibit B and incorporated in this supplemental agreement by reference is the indemnity agreement for the Pool executed by the original members, Mingus Union High School District No. 4 and Wickenburg Unified School District No. 9. The terms of the indemnity agreement are incorporated by reference in this supplemental agreement.

The undersigned Member, by executing this supplemental indemnity agreement, joins in the Pool and accepts, as applicable to it, the indemnity agreement attached as Exhibit B. The Member acknowledges that it is bound by the terms of the indemnity agreement and its conditions.

The undersigned authorized representative of the Pool has executed this supplemental indemnity agreement to indicate the Pool's acceptance of the Member.

  
\_\_\_\_\_  
Jennifer Howell  
Account Manager

5/25/11  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Representative of Member  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date

Mammoth-San Manuel Unified School District No. 8  
Name of School District

# **EXHIBIT A**

**ARIZONA SCHOOL ALLIANCE FOR WORKERS' COMPENSATION, INC.**  
**Alliance Trustees and Members of the Pool**

**TRUSTEES**

1. James Brown—President
2. Clyde Dangerfield—Secretary
3. Richard Conrad—Treasurer
4. Camille Casteel—Member
5. Linda Morrow—Member
6. David Peterson—Member

**MEMBERS**

1. Agua Fria Union High School District No. 216
2. Aguila Elementary School District No. 63
3. Alhambra Elementary School District No. 68
4. Alpine Elementary School District No. 7
5. Amphitheater Unified School District No. 10
6. Apache Elementary School District No. 42
7. Apache Junction Unified School District No. 43
8. Arlington Elementary School District No. 47
9. Ash Creek Elementary School District No. 53
10. Ash Fork Joint Unified School District No. 31
11. Balsz Elementary School District No. 31
12. Beaver Creek Elementary School District No. 26
13. Benson Unified School District No. 9
14. Bicentennial Union High School District No. 76
15. Bisbee Unified School District No. 2
16. Blue Ridge Unified School District No. 32
17. Bonita Elementary School District No. 16
18. Bouse Elementary School District No. 26
19. Bowie Unified School District No. 14
20. Buckeye Elementary School District No. 33
21. Bullhead City Elementary School District No. 15
22. Camp Verde Unified School District No. 28
23. Cartwright Elementary School District No. 83
24. Casa Grande Elementary School District No. 4
25. Casa Grande Union High School District No. 82
26. Cave Creek Unified School District No. 93
27. Cedar Elementary School District No. 25
28. Central Arizona Valley Institute of Technology
29. Chandler Unified School District No. 80
30. Chevelon Butte School District No. 5
31. Cochise Technology District
32. Coconino Association for Vocations, Industry, and Technology

33. Colorado City Unified School District No. 14
34. Colorado River Union High School District No. 2
35. Concho Elementary School District No. 6
36. Congress Elementary School District No. 17
37. Coolidge Unified School District No. 21
38. Cottonwood-Oak Creek Elementary School District No. 6
39. Double Adobe Elementary School District No. 45
40. Douglas Unified School District No. 27
41. Dysart Unified School District No. 89
42. East Valley Institute of Technology No. 1
43. Elfrida Elementary School District No. 12
44. Eloy Elementary School District No. 11
45. Flagstaff Unified School District No. 1
46. Florence Unified School District No. 1
47. Flowing Wells Unified School District No. 8
48. Gila Bend Unified School District No. 24
49. Gila Institute for Technology District No. 2
50. Gilbert Unified School District No. 41
51. Heber-Overgaard Unified School District No. 6
52. Higley Unified School District No. 60
53. Hyder Elementary School District No. 16
54. Isaac Elementary School District No. 5
55. Joseph City Unified School District No. 2
56. Kayenta Unified School District No. 27
57. Kingman Unified School District No. 20
58. Kyrene Elementary School District No. 28
59. Laveen Elementary School District No. 59
60. Lake Havasu Unified School District No. 1
61. Liberty Elementary School District No. 25
62. Littlefield Unified School District No. 9
63. Madison Elementary School District No. 38
64. Maine Consolidated School District No. 10
65. Marana Unified School District No. 6
66. Maricopa County Regional Schools
67. Mary C. O'Brien Accommodation School District No. 90
68. McNary Elementary School District No. 23
69. Mingus Union High School District No. 4
70. Mobile Elementary School District No. 86
71. Mohave Valley Elementary School District No. 16
72. Morenci Unified School District No. 18
73. Morristown Elementary School District No. 75
74. Mountain Institute Joint Technological Education District No. 2
75. Murphy Elementary School District No. 21
76. Navajo County Hope School
77. Navajo County Rainbow Accommodation School
78. Navajo County Schools

79. Navajo County Special Services Consortium
80. Northern Arizona Vocational Institute of Technology
81. Oracle Elementary School District No. 2
82. Osborn Elementary School District No. 8
83. Palo Verde Elementary School District No. 49
84. Paloma Elementary School District No. 94
85. Palominas Elementary School District No. 49
86. Parker Unified School District No. 27
87. Patagonia Elementary School District No. 6
88. Patagonia Union High School District No. 20
89. Payson Unified School District No. 10
90. Peach Springs Unified School District No. 8
91. Pearce Elementary School District No. 22
92. Pendergast Elementary School District No. 92
93. Phoenix Union High School District No. 210
94. Pima County JTED
95. Pima County School Reserve Fund
96. Pinal County Juvenile Justice School No. 86
97. Quartzsite Elementary School District No. 4
98. Red Rock Elementary School District No. 5
99. Riverside Elementary School District No. 2
100. Roosevelt Elementary School District No. 66
101. Round Valley Unified School District No. 10
102. Sacaton Elementary School District No. 18
103. Saddle Mountain Unified School District No. 90
104. Sahuarita Unified School District No. 30
105. Salome Elementary School District No. 30
106. San Fernando Elementary School District No. 35
107. San Simon Unified School District No. 18
108. Sanders Unified School District No. 18
109. Santa Cruz County School District No. 99
110. Santa Cruz Elementary School District No. 28
111. Santa Cruz Valley Unified School District No. 35
112. Santa Cruz Valley Union High School District No. 840
113. Scottsdale Unified School District No. 48
114. Sedona-Oak Creek Joint Unified S. D. No. 9
115. Seligman Unified School District No. 40
116. Sentinel Elementary School District No. 71
117. Show Low Unified School District No. 10
118. Somerton Elementary School District No. 11
119. St. David Unified School District No. 21
120. St. Johns Unified School District No. 1
121. Stanfield Elementary School District No. 24
122. Sunnyside Unified School District No. 12
123. Tanque Verde Unified School District No. 13
124. Tempe Union High School District No. 213

125. Tolleson Union High School District No. 214
126. Tombstone Unified School District No. 1
127. Topock Elementary School District No. 12
128. Tuba City Unified School District No. 15
129. Union Elementary School District No. 62
130. Valentine Elementary School District No. 22
131. Vernon Elementary School District No. 9
132. Wenden Elementary School District No. 19
133. Western Arizona Vocational Education District
134. Western Maricopa Education Center No. 402
135. Whiteriver Unified School District No. 20
136. Willcox Unified School District No. 13
137. Wilson Elementary School District No. 7
138. Window Rock Unified School District No. 8

## **EXHIBIT B**

## INDUSTRIAL COMMISSION OF ARIZONA

### INDEMNITY AGREEMENT FOR WORKERS' COMPENSATION POOL CREATED UNDER A.R.S. § 11-952.01(B)

The named persons or entities, hereinafter referred to as "Members", have organized and formed a workers' compensation pool under the authority of A.R.S. § 11-952.01(B). The following are the members of the pool:

1. Wickenburg Unified School District No. 9
2. Mingus Union High School District No. 4
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

The workers' compensation pool organized under the authority of A.R.S. § 11-952.01(B) shall operate under the following name and for purposes of this Indemnity Agreement shall be referred to as "Pool": Arizona School Alliance for Workers' Compensation, Inc.

The Pool has designated the following elected officials or employees of public entities as its Board of Trustees:

1. Archy Hamm
2. Judy Abraham
3. Gail Anderson
4. Dr. Marvin Lamer
5. Dr. Nancy Alexander
6. Dr. Frank Davidson
7. Gary Spiker

The Board of Trustees has designated the following person as the Administrator of the Pool to carry out the policies established by the Board of Trustees:

Gregory B. Jacobs

The Board of Trustees has appointed Gregory B. Jacobs as its Service Agent for the Pool and its Members, individually and collectively. The Members of the Pool have ratified and confirmed that appointment. The services, duties and responsibilities of the Service Agent are provided for by contract between the Service Agent and the Pool that includes the following provisions:

1. (Fee for service)
2. (Procedure for collection of funds)
3. (Description of loss control program)
4. (Procedure for claims processing)
5. (Surety Bond and Excess Insurance Coverage)

The Members and Pool, in making application to the Arizona Industrial Commission for authorization to self-insure for workers' compensation under A.R.S. § 23-961 agree to comply with the governing law applicable to workers' compensation pools and employers subject to the Arizona Workers Compensation Act and further agree to comply with the following conditions and requirements:

**I. Guaranty Bond or Alternate Securities**

The Pool shall post a corporate surety bond or alternate securities in the aggregate sum of \$250,000 to secure performance of all obligations imposed by law and the Commission. The Pool agrees to keep the bond or securities posted as long as required by the Commission. The Pool shall from time to time be entitled to receive the interest accruing on any negotiable securities posted, provided the Pool is not in default in payment of any compensation benefits or tax assessments.

**II. Excess Insurance**

The Pool shall furnish proof of excess insurance in the amount of ten million dollars.

**III. Liability of Members**

Each Member is liable for its own industrial claims or losses incurred during the Member's period of membership in the Pool to the extent that the claims or losses are not paid by the Pool. A Member's liability for its own claims or losses continues for the life of the claim and continues notwithstanding the Pool's inability to pay the Member's claims or losses. Failure of the Pool to comply with the provisions of the Arizona Workers' Compensation Act relating to the payment and processing of claims shall result in the assignment of the claims to the State Compensation Fund under A.R.S. § 23-966 and shall not relieve a Member of liability for its own losses or claims. In the event that claims are assigned to the State Compensation Fund under A.R.S. § 23-966, the State Compensation Fund shall have a claim against a Member for the amount paid by the State Compensation Fund for the Member's industrial claims and losses, including costs, necessary expenses and reasonable attorney's fees. Notwithstanding the provisions of A.R.S. § 10-2311(B), Members of a nonprofit corporation organized under A.R.S. § 11-952.01 (B) shall remain liable for the Member's own industrial claims or losses incurred during the Member's period of membership in the Pool to the extent that the claims or losses are not paid by the Pool.

#### **IV. Liability of the Pool**

The Pool shall pay all claims for which each Member incurs liability during each Member's period of membership. The Pool shall defend, in the name of and on behalf of any Member, any suits or other proceedings which may arise or be instituted against a Member under the Arizona's Employer's Liability Act (A.R.S. § 23-801 et seq.) or as a result of injury or death covered by the Arizona Workers' Compensation Act (A.R.S. § 23-901 et seq.) and accompanying rules although such suits or other proceedings are wholly groundless, false or fraudulent. The Pool shall pay all legal costs connected with the such suits and proceedings. The Pool shall also pay all judgments or awards, all interest due and accruing after entry of a judgment and all expenses incurred for investigation, negotiation or defense related to such suits or other proceedings.

#### **V. Addition of New Members**

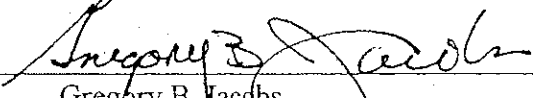
A Supplemental Indemnity Agreement by and between any new Member of the Pool and the Pool shall be filed with the application to the Industrial Commission for the admission of new Members to the Pool. The Supplemental Indemnity Agreement shall provide that the new member is bound by the terms of this Indemnity Agreement. The Supplemental Indemnity Agreement shall also incorporate by reference this Indemnity Agreement filed with the Industrial Commission, shall be signed by each new Member and an authorized representative of the Pool, and shall provide that the new Members and Pool agree to the conditions of this Indemnity Agreement.

#### **VI. Renewal Provisions**

The Pool shall update its Indemnity Agreement as required by A.A.C. R20-5203(B)(2) to reflect any changes occurring since the last filing approved by the Industrial Commission.

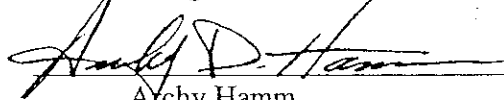
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Arizona School Alliance for Workers' Compensation, Inc.

  
\_\_\_\_\_  
Gregory B. Jacobs  
Plan Administrator

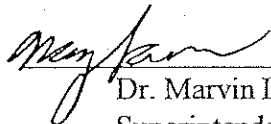
Attest:

Wickenburg Unified School District No. 9

  
\_\_\_\_\_  
Archy Hamm  
Business Manager

Attest:

Mingus Union High School District No. 4

  
\_\_\_\_\_  
Dr. Marvin Lamer  
Superintendent

# LEGAL PROFILE SUMMARY FOR THE ADDITION OF NEW MEMBERS TO EXISTING WORKERS' COMPENSATION POOL

Requirement of Statute or Rule		Location in Package Submitted to ICA Including:		
		Name of Document	Page	Paragraph Number
1.	Intergovernmental agreement "IGA" or contract between new member and pool (A.R.S. 11-952.A)	N/A	N/A	N/A
a.	Attorney approval that IGA is in proper form and is within the power and authority granted under the laws of this state to the public agency, board, or commission (11-952 (D))			
b.	Approval of IGA by State Board of Education if contracting parties to IGA are school district (11-952 (A))			
c.	Proof of filing or intent to file IGA with the Secretary of State and Attorney General, if applicable (11-952 (F) and (G))			
d.	Proof of appropriate action by ordinance, resolution or otherwise pursuant to laws applicable to the governing bodies of the participating agencies approving or extending the duration of the IGA (11-952 (H))			
2.	Agreement or contract adding new member to the workers' compensation pool for the purpose of providing coverage for workers' compensation, employers' liability and occupational disease claims for the new member (A.R.S. 11-952.01 (B) and A.A.C. R20-5-202 (C) (4))	Participation Agreement	N/A	N/A
3.	Other Requirements			
a.	Notify the director of insurance of the addition of a new member to the pool and file with the director of insurance and with the attorney general a copy of the IGA which the attorney general shall file with the secretary of state as prescribed in 11-952 (11-952.01 (G) (6))	N/A	N/A	N/A
b.	Indemnity Agreement signed by a duly authorized agent of the pool and the new member jointly and severally binding the pool and each of its member to comply with the provisions of A.R.S. Title 23, Chapter 6, and rules adopted pursuant to Chapter 6	Supplemental Indemnity Agreement	N/A	N/A

I, Jennifer Howell, on behalf of The Arizona School Alliance for Workers' Compensation, Inc., declare and affirm that the information contained in the LEGAL PROFILE SUMMARY and information in support of the LEGAL PROFILE are true, complete, and correct.

Signed and dated this 25<sup>th</sup> day of May, 2011

The Arizona School Alliance for Workers' Compensation, Inc.

By [Signature]  
(Authorized Representative of Pool or Member Pool)



SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of MAY, 2011

Marijon Anderson  
(Notary Public)  
My Commission expires on 10-28-2014

I, \_\_\_\_\_, on behalf of Mammoth-San Manuel Unified School District No. 8, declare and affirm that the information contained in the LEGAL PROFILE SUMMARY and information in support of the LEGAL PROFILE are true, complete, and correct.

Signed and dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Mammoth-San Manuel Unified School District No. 8

By \_\_\_\_\_  
(Authorized Representative of Member)

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Notary Public)  
My Commission expires on \_\_\_\_\_