

**MEMBERSHIP AGREEMENT AND BYLAWS
OF THE
BETTER HEALTH COLLECTIVE**

Effective: July 1, 2022

INTRODUCTION

This combined Membership Agreement and Bylaws ("Agreement") is made by and between The Better Health Collective and the entities listed in Appendix A ("Participating Members" or "Members") to establish and govern the operations of the Better Health Collective Employee Health Benefits Pool (the "Pool").

WHEREAS, Minnesota Statutes, § 471.59, provides that two (2) or more governmental units may, by agreement, jointly or cooperatively exercise any power common to them; and

WHEREAS, the Participating Members are governmental units for purposes of Minnesota Statutes, § 471.59; and

WHEREAS, Minnesota Statutes, § 471.617, provides that certain governmental entities which together employ more than one hundred (100) employees may jointly self-insure employee health benefits; and

WHEREAS, together the Participating Members employ more than one hundred (100) employees; and

WHEREAS, the Participating Members have jointly established in full force and effect certain self-insurance arrangements to provide certain employee health benefits, and those arrangements constitute a self-insurance pool under Minnesota law, including Minnesota Statutes, § 471.617, and Minnesota Rules, Chapter 2785; and

WHEREAS, the Participating Members may, in the future, wish to jointly provide other employee benefits, permitted under applicable law, to their employees; and

WHEREAS, the Participating Members authorize the Board of Trustees to act as a joint board for the purpose of exercising certain powers as set forth in this combined Membership Agreement and Bylaws.

NOW, THEREFORE, each Participating Member in exchange for the mutual covenants, promises, and obligations contained herein, promises and agrees as follows:

ARTICLE I. NAME, PURPOSE, AND AUTHORITY

1.1 Name. The name of the Pool created herein is Better Health Collective.

1.2 Purpose. The purpose of the Pool is to provide health benefits and related services to eligible Employees, Former Employees, and Dependents of Participating Members.

1.3 Authority.

1.3.1 Sourcewell. Sourcewell is a statutory service cooperative authorized pursuant to Minnesota Statutes, § 123A.21, subdivision 7(a)(19) and § 471.617, subdivisions 1-2, to

create and operate a joint self-insurance pool for the purposes of providing employee health benefits to statutory and home rule charter cities, counties, school districts, and instrumentalities thereof that wish to jointly self-insure for such benefits. Sourcewell is the Sponsoring Association of the Pool, and it also qualifies as a Participating Member.

- 1.3.2 Participating Members. Participating Members are Sourcewell, statutory or home rule charter cities, counties, school districts, or instrumentalities thereof that wish to jointly self-insure for employee health benefits pursuant to Minnesota Statutes, § 471.617, subdivision 2.
- 1.3.3 Joint Powers Act. The governing bodies of Sourcewell (as the Sponsoring Association) and each Participating Member have entered this Agreement pursuant to the Minnesota Joint Powers Act, set forth at Minnesota Statutes, § 471.59, subdivision 1, to govern the formation, operation, and dissolution of the Pool.
- 1.4 Prior Agreements. This Membership Agreement and Bylaws shall supersede and terminate any prior agreement(s) or bylaws regarding Better Health Collective and its predecessor, the Sourcewell Risk Management Pool.

ARTICLE II. DEFINITIONS

- 2.1 Board of Trustees. “Board of Trustees,” “Board,” or “Trustees” mean the governing body of the Pool.
- 2.2 Bylaws. “Bylaws” mean the elements of this combined Membership Agreement and Bylaws, and any amendments thereto, which prescribe the purpose, governance, and administration of the Pool. References to “Membership Agreement” or “Agreement” include the Bylaws.
- 2.3 Commissioner. “Commissioner” means the Minnesota Commissioner of Commerce.
- 2.4 Covered Person. “Covered Person” means an individual enrolled for Coverage under the Plan.
- 2.5 Coverage. “Coverage” means the right of a Covered Person to benefits provided by the Pool, by virtue of the Coverage Document(s).
- 2.6 Coverage Document(s). “Coverage Document(s)” mean the document(s) specifying the characteristics and duration of Coverage provided through the Pool. Characteristics of Coverage include the kind of loss or benefit the Pool will reimburse, subject to specific exclusions, limitations, or deductibles.
- 2.7 Days. “Days” means calendar days.
- 2.8 Dependent. “Dependent” means the legal spouse or child under age 26 of an Employee or Former Employee of a Participating Member.
- 2.9 Employee. “Employee” means a current employee of a Participating Member who is eligible for participation in the Plan.

- 2.10 Employee Health Benefits Pool. “Employee Health Benefits Pool” means a self-insurance pool that covers employee health benefits, disability benefits, or both.
- 2.11 Financial Administrator. “Financial Administrator” means an entity engaged by the Board of Trustees to invest the Pool’s assets and provide other financial or accounting services.
- 2.12 Former Employee. “Former Employee” means an individual previously employed by a Participating Member who is eligible for continuing participation in the Plan.
- 2.13 Membership Agreement. “Membership Agreement” or “Agreement” means this combined Agreement and Bylaws, and any amendments hereto, which prescribe the purpose, government, and administration of the Pool. References to “Bylaws” include this Membership Agreement.
- 2.14 Participating Member. “Participating Member” or “Member” means any Minnesota Political Subdivision that satisfies the Pool’s membership requirements and has been approved by the Board of Trustees for participation in the Pool. The Pool’s membership is limited to qualified Political Subdivisions. For the avoidance of doubt, the Pool shall not operate as a public/private pool, and shall not offer membership to any private entity.
- 2.15 Plan. “Plan” means any Plan maintained by the Board of Trustees and authorized by Minnesota law to provide employee health benefits to eligible Employees, Former Employees, and Dependents of Participating Members.
- 2.16 Policy Year. “Policy Year” means a 12-month period of employee health benefits coverage under a Plan offered by the Pool to a Participating Member.
- 2.17 Political Subdivision. “Political Subdivision” means a statutory or home rule charter city, county, school district, or instrumentality thereof, and includes any service cooperative that establishes or operates a self-insured employee health benefits pool.
- 2.18 Pool. “Pool” refers to Better Health Collective and means a self-insurance fund or agreement for the reciprocal assumption of risk established by or amongst two or more Political Subdivisions for coverage of their respective risks.
- 2.19 Premium. “Premium” means the amount paid or to be paid by Participating Members for Coverage. “Premium” does not include assessments or penalties.
- 2.20 Reserve. “Reserve” mean amounts established as pool liabilities for all incurred losses, both reported and unreported, and for unearned Premiums, which are maintained pursuant standards established by the Board of Trustees in compliance with applicable Minnesota statutes and rules.
- 2.21 Runoff Pool. “Runoff Pool” means a pool that no longer has authority to self-insure, but that continues to exist for the purpose of paying claims, preparing reports, and administering transactions associated with the period in which the Pool provided Coverage.
- 2.22 Self-insure. “Self-insure” means to assume primary liability or responsibility for certain risks or benefits rather than transferring liability or responsibility to some other entity.

- 2.23 Service Company. “Service Company” means an entity engaged by the Board of Trustees to provide services related to the day-to-day operation of the Pool that are not already reserved for the Board, individual Trustees, Participating Members, the Financial Administrator, or another service provider.
- 2.24 Sponsoring Association. “Sponsoring Association” refers to Sourcewell and means a statewide nonprofit organization of Political Subdivisions that sponsors or organizes a pool, and which has as its primary purpose providing services to Minnesota Political Subdivisions that are not related to insurance or self-insurance.
- 2.25 Surplus. “Surplus” means the amount by which the Pool’s assets exceed its liabilities and includes paid-in capital and retained earnings.
- 2.26 Trustee. “Trustee” means an individual selected pursuant to Article III to serve on the Board of Trustees and act on behalf of Participating Members.

ARTICLE III. BOARD OF TRUSTEES

- 3.1 Powers, Duties, and Responsibilities. The Board of Trustees shall be responsible for the operations and financial integrity of the Pool.
- 3.1.1 Authority to Delegate. The Board is responsible for operation of the Pool. The Board may delegate some or all of its responsibilities to the Chairperson or other Trustees between Board meetings. All responsibilities of the Pool not expressly delegated by the Board to the Sponsoring Association, to a Participating Member, to a Service Company, to a Financial Administrator, or other contractors, as authorized by Minnesota Rules, Part 2785.0800, are the responsibility of the Board.
- 3.1.2 Responsibilities. The Board of Trustees shall, at a minimum, have the following responsibilities:
- (a) Fiduciary responsibility for the Pool’s operations and financial condition, including but not limited to the review and approval of annual budgets and financial statements;
 - (b) Selection, supervision, and evaluation of the Service Company, Financial Administrator, auditor, insurer, and other service providers;
 - (c) On the basis of the Pool’s overall financial condition, authorizing changes in practices related to premiums, reserve, or investment practices; and declaring assessments or dividends, as appropriate;
 - (d) Approving all reports to the Commissioner regarding Pool operations and status;
 - (e) Monitoring for delinquent premiums, loss experience, and the financial condition of members and authorizing disciplinary action or expulsion, as appropriate;
 - (f) Authorizing acceptance or rejection of applications for membership in the Pool;

- (g) Developing and adopting Board policies as needed to ensure the day-to-day operations of the Pool are conducted in a compliant and transparent manner;
- (h) Making or recommending changes to this Membership Agreement and Bylaws for the improvement of the Pool's operation and financial integrity;
- (i) Monitoring the Pool's compliance with all applicable statutes and rules; and
- (j) Such other activities necessary to carry out the purposes of this Agreement.

3.2 Board Structure. Pool operations shall be managed by a Board of Trustees consisting of seven (7) voting members, who shall include three (3) members representing Sourcewell as the Sponsoring Association. The remaining four (4) members of the Board of Trustees shall consist of one (1) elected official representing Participating Members that are local school districts; one (1) elected official representing Participating Members that are cities, counties, or other governmental units (CCOGA); at least one (1) staff person representing Participating Members that are local school districts or CCOGA; and one (1) at-large representative of Participating Members, who may be either an elected official or a staff person.

3.2.1 Selection of Trustees.

- (a) Sourcewell shall appoint three (3) Trustees from its Board of Directors or staff. Sourcewell shall present its appointments to the Board of Trustees at least 30 days before the expiration of its Trustee's term or within a reasonable time after a Trustee appointed by Sourcewell resigns, is removed or disqualified as outlined below, or otherwise needs to be replaced.
- (b) The remaining four (4) Trustees shall be appointed by the Labor Management Committee. The Labor Management Committee shall present its appointments to the Board of Trustees at least 30 days before the expiration of its Trustee's term or within a reasonable time after a Trustee appointed by the Labor Management Committee resigns, is removed or disqualified as outlined below, or otherwise needs to be replaced.

3.2.2 Term. Each Trustee may serve for a term of four (4) years and may be re-appointed for one (1) additional Term.

3.2.3 Resignation. Any member of the Board of Trustees may resign at any time upon written notice to the Board of Trustees or its Chairperson. Such resignation shall take effect on the later of the date specified in the notice or the date notice is received by the Board or the Chairperson.

3.2.4 Disqualification. A Trustee shall be disqualified from service if they no longer serve as an elected official for a Participating Member or as otherwise required by applicable Minnesota law or rule. A Trustee shall also be disqualified based on the unanimous vote of the Board of Trustees in the event a Trustee fails to fulfil his or her obligations as a Trustee or engages in conduct that calls into question a Trustee's honesty, integrity or suitability to serve as a Trustee.

- 3.2.5 Appointment of Successor Trustees. In the event of a Trustee's disqualification or resignation, a successor Trustee shall be appointed in accordance with section 3.2.1 to fulfill the resigning or disqualified Trustee's remaining term. Any person appointed as a Successor Trustee may be re-appointed for one (1) additional Term.
- 3.3 Meetings. The Board of Trustees shall meet no fewer than four (4) times each calendar year. The time, date, and location of regular meetings shall be determined by the Board.
- 3.3.1 Organizational Meeting. An Organizational Meeting of the Board of Trustees shall be held in March of each year, at which time the Board shall elect a Chairperson and appoint the members of the permanent committees as outlined below.
- 3.3.2 Annual Meeting. An Annual Meeting of the Board of Trustees and Participating Members shall be held for the purpose of reviewing the affairs of the Pool and its financials.
- 3.3.3 Special Meetings. Special meetings of the Board may be called by the Chairperson or any five (5) Trustees.
- 3.3.4 Quorum. A quorum at any meeting of the Board of Trustees shall consist of a majority of the elected Board of Trustees.
- 3.3.5 Voting. Unless otherwise provided herein, all decisions of the Trustees shall be made by majority vote of the Trustees present at the meeting at which such vote is taken. A quorum is required for any actions to be taken by the Trustees.
- 3.3.6 Minutes. Minutes of all regular, special, and emergency meetings of the Board of Trustees shall be sent to each Trustee within a reasonable time after the meeting.
- 3.3.7 Open Meetings Law. All meetings of the Board of Trustees shall be conducted in compliance with the Minnesota Open Meetings Law at Minnesota Statutes, Chapter 13D.
- 3.4 Committees. At the Organizational Meeting of the Board of Trustees, the Chair of the Board shall name the members of the permanent committees, as follows:
- 3.4.1 Labor Management Committee. The Labor Management Committee, as required pursuant to Minnesota Statutes, § 123A.25, shall consist of at least one (1) administrator and one (1) union member representing Participating Members that are local school districts; one (1) administrator and one (1) union member representing Participating Members that are CCOGA; one (1) member representing Former Employees of Participating Members; and one (1) school district and one (1) CCOGA member at large, who can be either an administrator or a union member. Two (2) members of the Board of Trustees shall serve as ex Officio, non-voting members of the Labor Management Committee, with one (1) Trustee representing the Sponsoring Association and one (1) representing Participating Members that are not the Sponsoring Association. The Labor Management Committee shall be tasked to perform the following functions and any other duties delegated to it by this Agreement or resolution of the Board of Trustees:
- (a) Make recommendations regarding management matters related to Coverage;

- (b) Assist in the preparation of the Annual Budget;
- (c) Make recommendations regarding requests for expenses in excess of budget;
- (d) Review quarterly and annual financial reports; and
- (e) Review all applications for membership in the Pool and make a recommendation to the Board of Trustees.

3.4.2 Other Committees. The Board may designate other advisory or ad hoc committees and delegate authority to them in accordance with this Agreement and applicable Minnesota statutes and rules. The Board shall consider, but is not required to adopt, committee recommendations and proposals.

ARTICLE IV. MEMBERSHIP

4.1 Powers, Duties, and Responsibilities. Each Participating Member shall fulfill the duties and responsibilities as outlined herein. At the discretion of the Board of Trustees, failure by a Participating Member to fulfill its duties and obligations may constitute the basis for expulsion pursuant to Section 4.7.2 herein. These duties and responsibilities include, but are not limited to:

- 4.1.1 Compliance. The duty to fully comply with this Agreement, as written or amended; any delegation of authority from the Board of Trustees; Board policies and procedures; and applicable Minnesota statutes and rules.
- 4.1.2 Financial Obligations. The duty to pay to the Pool all Premiums, assessments, and other required contributions within the expected timeline and in the appropriate amounts.
- 4.1.3 Participation. The duty to actively participate in Annual Meetings and other Pool-related matters as requested or required by this Agreement or the Board of Trustees, and to promptly act on matters requiring resolution of the Member's governing body.
- 4.1.4 Cooperation. The duty to fully cooperate with the Board of Trustees, the Pool's Service Company and Financial Administrator, and any other service provider engaged by the Board.
- 4.1.5 Communication. The duty to notify Covered Persons within thirty (30) days if the Participating Member withdraws or is expelled from the Pool and any other circumstance in which the Member is obligated to provide notice to Covered Person.

4.2 Contractual Obligations.

- 4.2.1 Continuing Duties and Responsibilities. The duties and responsibilities of Participating Members, including the duty to comply with this Agreement, shall continue throughout the Member's participation in the Pool and thereafter as required herein.
- 4.2.2 Enforcement. This Agreement may be enforced in law or equity by the Board of Trustees or any Participating Member.

- 4.2.3 Consideration. Consideration for the duties and responsibilities imposed upon Participating Members is based upon the mutual promises and agreements set forth herein and the advantages each Member gains through participation in the Pool.
- 4.2.4 Liability. This Agreement does not constitute consent to liability for any claim against another Participating Member. Nor does it create a partnership, surety, indemnification, or liability for the general debts or claims against another Member.
- 4.3 Health Coverage Comparison Shopping and Collective Bargaining.
- 4.3.1 Member Obligations. The Board of Trustees is not capable or authorized to act on behalf of Participating Members with respect to their collective bargaining obligations. Specifically, but without limitation:
- (a) Each Participating Member is solely responsible for meeting the collective bargaining limitations provided in Minnesota Statutes, § 471.6161, subdivision 5, which require that the aggregate value of benefits provided by a group insurance contract for employees covered by a collective agreement shall not be reduced, unless the public employer and exclusive representative of employees of an appropriate bargaining unit agree to a reduction in benefits;
 - (b) Each Participating Member shall be solely responsible for meeting the requirements specific to school districts pursuant to Minnesota Statutes, § 471.6161, subdivision 8, if applicable; and
 - (c) Each Participating Member shall be solely responsible for complying with the notice and other requirements regarding the adoption or dissolution of a self-insured employee benefit plan as set forth in Minnesota Statutes, § 471.617, subdivision 4.
- 4.3.2 Pool Obligations. Pursuant to Minnesota Statutes, §§ 471.617, subdivision 5 and 123A.21, subdivisions 7(c) and 12:
- (a) The Pool shall rebid contracts for third party administration at least every four (4) years and otherwise comply with applicable Minnesota statutes and rules with respect to establishing Premiums related to employee health benefits; and
 - (b) The Board of shall not impose a fine or other penalty against a school district or other Political Subdivision that solicits bids and other information from competing sources of employee health benefits, provided such action does not occur within five (5) months prior to the end of the Participating Member's Policy Year. However, the Board may prohibit any school district or other Political Subdivision that solicits such a bid from participating in the Pool for up to one (1) year if the entity leaves the Pool to obtain other Coverage.
 - (c) Notwithstanding Minnesota Statutes, § 13.203, the Pool shall provide each Participating Member with the Participating Member's monthly claims data. All such data will be de-identified and shall not include identifying information as defined pursuant to Minnesota Statutes, § 144.291, subdivision 2(d). No

Participating Member or its employee or agent shall disclose any information about individual claims or total claims of an individual without the consent of the individual, except that the information may be disclosed to officers, employees, or agents of the Participating Member to the extent necessary to enable them to perform their duties in administering the health benefit program.

- 4.4 Eligibility and Application. Any Minnesota Political Subdivision may apply to enter the Pool by submitting a Request for Proposal (RFP) or application form and documentation establishing the prospective member's ability to meet the Pool's underwriting standards and any other nondiscriminatory membership criteria adopted by the Board of Trustees. All Coverage offered by the Pool shall be available to all Participating Members and to all eligible Employees, Former Employees, and Dependents according to the same underwriting standards. However, the Board shall not be required to accept prospective members that do not meet the Pool's underwriting standards.
- 4.5 Approval and Admission of New Members. Upon review and approval of the documentation outlined in Section 4.4 herein, the Board of Trustees shall adopt a resolution approving a prospective member's participation in the Pool and directing the Board Secretary to add the new Member to the list of Participating Members in Appendix A¹ upon receipt of:
- 4.5.1 Membership Agreement and Bylaws. An executed copy of this Agreement; and
- 4.5.2 Board Resolution. A resolution from the governing body of the prospective member outlining the prospective member's commitment to:
- (a) Fully comply with this Agreement; Minnesota Rules, Parts 2785.0010 to 2785.1600, including joint and several liability; and other applicable Minnesota statutes and rules; and
 - (b) Participate in the Pool for a minimum of one (1) Policy Year. This initial commitment shall automatically renew for subsequent one-year terms unless the Participating Member provides notice of voluntary withdrawal pursuant to Section 4.7.
- 4.6 Effective Date. The effective date for membership shall be January 1 or July 1, whichever is closest to the date the Participating Member meets the requirements outlined herein. The Board of Trustees may permit entry into the Pool at other times and may impose restrictions and limitations with respect to such entry.
- 4.7 Leaving the Pool.
- 4.7.1 Voluntary Withdrawal. A Participating Member may withdraw from the Pool without penalty by providing notice to the Board of Trustees at least five (5) months before the end of the Participating Member's Policy Year subject to the following:

¹ Appendix A may be modified at any time to pursuant to this Agreement and Bylaws. Such modifications do not constitute an amendment to this Agreement and do not otherwise modify the terms and conditions herein.

- (a) Withdrawal is prohibited if the Participating Member has not participated in the Pool continuously for a minimum of one (1) complete Policy Year or if there are outstanding Premiums or assessments owed by the Member.
- (b) The Board shall notify the Commissioner under any circumstances in which the Member's withdrawal may cause the Pool to be in violation of the minimum annual Premium requirement as outlined in Section 8.2.2 herein or would otherwise compromise the Pool's financial integrity.
- (c) Withdrawal is generally irrevocable upon receipt of the notice by the Board of Trustees. However, the Board may reject the notice if the Member's withdrawal is contrary to applicable law or revoke it at the request of the Member.
- (c) The Pool shall pay eligible claims incurred by Covered Persons prior to the effective date of withdrawal ("Run Out Claims") provided such claims are presented to the Pool, or its designee, within 180 days after the effective date of the withdrawal. The withdrawing Member shall be responsible for any claims incurred after the effective date of the withdrawal and any Run Out Claims submitted to the Pool after the 180-day period ends.

4.7.2 Expulsion. No less than annually, the Board of Trustees shall review each Participating Member's status and experience to determine whether they meet any criteria for expulsion. Expulsion is subject to the requirements for voluntary withdrawal above except that a Member may be expelled with outstanding Premiums or assessments owing and regardless of whether the minimum membership commitment has been satisfied, if applicable. Criteria for expulsion include:

- (a) Failure to remit any Premium, assessment, or penalty in the amount required by the date due;
- (b) Failure to comply with this Agreement and Bylaws, a delegation of authority from the Board, Board policies and procedures, or applicable laws and rules;
- (c) Failure to perform other assigned obligations with respect to the Pool or any Plan;
- (d) Failure to satisfy the standards of financial integrity adopted by the Board; or
- (e) Other action or failure to act which the Board of Trustees determines to be detrimental to the interests of the Pool or any Plan.

4.7.3 Member Interest in Surplus Following Withdrawal or Expulsion. A Member that withdraws or is expelled from the Pool has no right to a share of the Pool's Surplus.

ARTICLE V. ADOPTION AND AMENDMENT OF BYLAWS

5.1 Adoption. This combined Membership Agreement and Bylaws is intended to describe the purpose, governance, and operations of the Pool, and to satisfy applicable Minnesota statutes and rules. The Agreement shall be adopted, in writing, by resolution of the governing bodies of each of the Pool's Participating Members.

- 5.2 Amendment. The Board of Trustees shall have the authority to amend or restate this Agreement and Bylaws at any time, provided such action is taken by resolution at a duly noticed meeting of the Board with an agenda that specifically includes the amendment or restatement as an item of business. The Board of Trustees shall solicit the advice and counsel of the Labor Management Committee in considering any material amendment to this Agreement. The Chairperson shall file any changes to this Agreement with the Commissioner within thirty (30) days after adoption.

ARTICLE VI. SERVICE COMPANY

- 6.1 Powers, Duties, and Responsibilities. The Board of Trustees shall engage a Service Company to perform services necessary to the Pool's day-to-day operations and the administration of Coverage, except those services and responsibilities reserved to Sourcewell, other Participating Members, the Board, individual Trustees, the Financial Administrator, the accountant, or other service providers. Such services may include but are not limited to: account and record keeping; billing and collection of Premiums and assessments; claims investigation, settlement, and reserving; claims payment, including those subject to stop-loss insurance or member deductibles; general administration; loss control; and underwriting.
- 6.2 Selection.
- 6.2.1 Qualifications. The Board shall select a Service Company licensed by the Commissioner as a self-insurance plan administrator, an insurance company authorized to transact insurance in Minnesota, or a service plan corporation.
- 6.2.2 Procedures.
- (a) The Board may issue a request for proposal (RFP) with respect to a need for a Service Company at any time, but at least every four (4) years.
- (b) The Board shall evaluate responses to the RFP in accordance with applicable law, and criteria adopted by the Board and select a Service Company qualified to provide the required services. Notwithstanding the above, the Board may negotiate with any entity that responds to the RFP or disregard the responses altogether.
- (c) In evaluating a Service Company, the Board shall verify the entity's licensures and consider its experience in delivering service required. The Board shall also ensure there are no potential conflicts of interest between the entity and the Pool.
- 6.3 Compensation and Agreement. The Board shall negotiate with the Service Company with respect to compensation and other necessary terms, which shall be documented in a contract approved by the Board and executed by the Chairperson and the Service Company.
- 6.4 Annual Review. The Board shall conduct an annual review of the Service Company's performance and take necessary action if the entity is not performing as expected or required pursuant to the Board's contract with the Service Company.

ARTICLE VII. FINANCIAL ADMINISTRATOR

- 7.1 Powers, Duties, and Responsibilities. The Board of Trustees shall engage a Financial Administrator to invest the Pool's assets and provide other necessary financial or accounting services. Certain duties relating to financial administration of the Pool may also be delegated to Sourcewell or another Participating Member. Investment of the Pool's assets shall be subject to Minnesota Statutes, § 118A.04, with regard to the permitted types of investments, maturities, and depositories. Pool assets shall not be invested in securities or debts of a Participating Member or any entity under contract with the Pool.
- 7.2 Selection. The Board shall engage a Financial Administrator that employs persons trained and experienced in money management and investments and possess no less than five (5) years' experience as an organization in these specialties with demonstrated competence. The Board may not engage a Financial Administrator that employs an owner, officer, employee, or agent of the Service Company or any subcontractor of the Service Company.
- 7.3 Compensation. The Board shall negotiate with the Financial Administrator with respect to compensation and other necessary terms, which shall be documented in a contract approved by the Board and executed by the Chairperson and the Financial Administrator.
- 7.4 Annual Review. The Board shall conduct an annual review of the Financial Administrator's performance and take necessary action if the entity is not performing as expected or required pursuant to the Boards contract with the Financial Administrator.

ARTICLE VIII. COVERAGE, PLAN PARTICIPATION, AND PREMIUMS

- 8.1 Coverage. As an Employee Health Benefits Pool, the Pool shall provide only employee health benefits, disability benefits, or both, as those terms are defined herein.
- 8.1.1 Changes in Coverage. The Board of Trustees may, from time to time, amend or terminate an existing Plan, or adopt a new Plan.
- 8.1.2 Notice of Changes in Coverage. Participating Members shall be solely responsible for notifying their Employees, Former Employees, and Dependents of changes to any Plan(s) offered by the Pool. In addition, each Participating Member shall be solely responsible for meeting obligations related to collective bargaining of benefits pursuant to Section 4.3.
- 8.1.3 Coverage Administration and Related Requirements. The Pool is subject to the state statutes and rules applicable to insurance companies that provide insurance similar to the coverage offered by the Pool. Such requirements include, but are not limited to, Minnesota Statutes, Chapters 60A, 62A, 62E, 65A, 65B, 70A, 72A, and 72C, 79, and 176, and rules adopted under these chapters concerning:
- (a) Filing and requesting approval for coverage documents;
 - (b) Coverage document content and language;
 - (c) Mandated benefits, including coverage conversion and continuation;
 - (d) Coverage administration, including notices to Covered Persons;

- (e) Claims administration; and
- (f) Other practices affecting coverage.

8.1.4 Uniform Underwriting. All Coverages offered by the Pool shall be available according to the same underwriting standards to all Participating Members and, if applicable, to all Member's Employees, Former Employees, and Dependents.

8.1.5 Continuing Responsibility. Notwithstanding cancellation or termination of Coverage to a specific Participating Member, ceasing to offer a particular Coverage or ending or revocation of the Pools authority to self-insure, the Pool retains indefinitely all responsibilities to Members and other Covered Persons associated with the period while Coverage was in force. This responsibility ceases only after the Pool dissolves pursuant Section 12.4 herein.

8.2 Premiums.

8.2.1 Schedule. Participating Members shall pay Premiums owed on a monthly basis with payments due in the month before the Premium is earned. The Board of Directors shall promptly take action to collect past due Premiums. Collection costs shall be the sole responsibility of the delinquent Member.

8.2.2 Minimum Annual Premium. The Pool shall maintain an annual premium volume in accordance with applicable statutory requirements. The Pool shall monitor its premium volume to ensure it is meeting statutory requirements, or other premium volume amount approved by the Commissioner, and shall comply with any and all requirements to notify the Commissioner regarding its premium volume.

8.2.3 New Pool Deposit Premium. The Pool shall maintain an initial deposit premium for its first year of operations in an amount that complies with applicable statutory requirements or pursuant to an arrangement approved by the Commissioner.

8.2.4 Premium Changes. The Board of Directors shall conduct an annual review, based on sound actuarial principals, of Premiums to determine whether a rate adjustment is required for any Participating Member(s) or Plan(s). Premium changes shall be approved by the Board and disclosed to Participating Members at least sixty (60) days prior to the effective date of the change. Participating Members shall be solely responsible for notifying Covered Persons and appropriate union representatives of such changes.

8.3 Former Employees. Participating Members shall be responsible for determining who, if any, of their Former Employees remain eligible for Employee Health Benefits. If the Member withdraws or is expelled from the Pool, its Former Employees shall no longer be eligible for Coverage.

ARTICLE IX. FINANCIAL INTEGRITY

9.1 Standards of Financial Integrity. The Board of Trustees shall establish written standards of financial integrity for the Pool. These standards shall comply with applicable Minnesota law and rule, including, but not be limited to, the following:

9.1.1 Pool Assets. The Pool's assets:

- (a) Shall not be commingled with the assets of any Participating Member;
- (b) Shall not be loaned to anyone for any purpose or used as security for a loan, except as permitted for investments;
- (c) Shall be employed solely for the purposes stated in this Membership Agreement and Bylaws, and applicable Minnesota law and rule; and
- (d) Shall not be considered the property or right of any Participating Member or Covered Person, except for benefits under the Coverage Documents, for declared dividends or distributions, if any, or for its portion of assets remaining after the Pool's dissolution.

9.1.2 Sources of Funds.

- (a) Except for stop-loss coverage as described below, the Board shall not borrow money, issue debt instruments, or obtain funds through subrogation.
- (b) The Board may receive funds only from:
 - i. Legal action to collect delinquent debts;
 - ii. Participating Members or jointly and severally liable past Members, as applicable, as Premiums, assessments, and penalties;
 - iii. Its insurers and indemnitors pursuant to applicable agreements;
 - iv. Dividends, interest, or proceeds from the sale of investments;
 - v. Refunds of excess payments;
 - vi. Coordination of benefits with other insurance programs; and
 - vii. Collection of money owed to the Pool.

9.1.3 Use of Pool Assets. The Board of Trustees shall expend funds for payment of losses, expenses, and for other costs customarily borne by insurers under conventional insurance policies in Minnesota, and for any other purpose permitted or provided by applicable law.

9.1.4 Reserves. The Board of Trustees shall establish Reserves for all incurred losses, both reported and unreported, and for unearned Premiums. To the extent the amount of loss is uncertain, the reserve shall be set conservatively. As the degree of uncertainty is changed by new events or information, the amount of the reserve shall be modified accordingly. Accounting for Reserves shall be as required by the financial statement forms and instructions under Minnesota Rules, Part 2785.1600, subpart 2.

9.1.5 Fidelity Bond. All individuals who handle, or who have authority to gain access to, Pool funds, including Trustees, shall be covered by a fidelity bond or policy of insurance

coverage approved by the Commissioner covering losses from dishonesty, robbery, forgery or alteration, misplacement, or mysterious or unexplainable disappearance. The amount of coverage for each occurrence shall be \$300,000 or more. The Pool shall purchase a fidelity bond or policy of insurance coverage approved by the Commissioner covering the required service providers and individuals or submit to the Commissioner separate proof of coverage for all required service providers and individuals not covered under the Pool's bond or applicable insurance coverage.

9.1.6 Separate Accounts. The Board of Trustees may, but shall not be required to, establish separate accounts for the payment of claims or certain types of expenses. The accounts shall be used only by the Service Company, its authorized subcontractors, or the Financial Administrator, as appropriate to the account's purpose. The amount in these separate accounts shall not exceed an amount reasonably sufficient to pay the claims or expenses for which the account is established. All monetary and investment assets not in such accounts shall be under the control of the Pool's Financial Administrator.

9.1.7 Maintenance of Sound Financial Condition. The Board of Trustees shall regularly monitor the Pool's revenues, expenses, and loss development, and evaluate its current and expected financial condition.

- (a) If necessary, the Board shall attempt, in good faith, to maintain or restore the Pool's sound financial condition, using any means at its disposal, including, but not limited to, adjusting premium rates, underwriting standards, dividend rates, expulsion standards, and other powers granted by applicable Minnesota law or rules and this Agreement and Bylaws.
- (b) If the Board's actions are inadequate to maintain or restore the Pool's financial condition, the Commissioner shall, as appropriate, order an increase in premium rates, revoke the Pool's self-insurance authority pursuant to Section 12.3.2 herein, or order that an assessment be levied against Participating Members under Section 9.5 herein.

9.2 Reporting.

9.2.1 Financial Statements. The Board of Trustees shall prepare annual financial statements containing a statement of net position; statement of revenues, expenses, and changes in net position; and a statement of cash flows. Such statements:

- (a) Shall be filed with the Commissioner no later than 60 days after the end of the Pool's Fund Year; and
- (b) Shall be audited by an independent certified public accountant, who shall submit a report to the Commissioner within 180 days of the end of the Pool's Fund Year.
- (c) Every second annual financial statement shall be accompanied by a statement from a qualified actuary concerning the statement of net position items that are based on actuarial assumptions and methods. The form of the actuary's statement and the scope of their review shall comply with the Commissioner's instructions.

- (d) The Pool shall file quarterly reports with the Commissioner, in the event the Commissioner requires quarterly reporting to ensure the Pool's financial integrity.

9.2.2 Annual Status Report. No later than 60 days after the end of the Pool's Fund Year, the Board of Trustees shall file with the Commissioner a statement describing any changes that have occurred in the information filed with its initial application for authority to self-insure or its most recent status report.

9.3 Joint and Several Liability.

9.3.1 Pool Liabilities and Expenses. Pursuant to Minnesota Rules, Part 2785.1400, subpart 1(A):

- (a) Each current Participating Member shall be jointly and severally liable for all Pool liabilities and expenses; and
- (b) Each past Member shall continue to be jointly and severally liable for the Pool's liabilities and expenses for three (3) complete Fund Years after leaving the Pool. Each past Member shall continue to be jointly and severally liable for the Pool's liabilities and expenses for a period of three (3) complete Fund Years after leaving the Pool. After the period of continuing liability, past Members are no longer jointly and severally liable for the Pool's liabilities and expenses, unless runoff pool liability is applicable.

9.3.2 Runoff Pool Liabilities and Expenses. All current Members participating in the Pool at the time self-insurance authority ends continue to be jointly and severally liable for the Pool's liabilities and expenses until the Pool is dissolved. All past Members that are jointly and severally liable for the Pool's liabilities and expenses at the time its self-insurance authority ends continue to be jointly and severally liable until the Pool is dissolved.

9.4 Assessment. The Board of Trustees may levy an assessment against current and past Participating Members under the following circumstances:

9.4.1 Assessment to Correct a Deficit. If the Pool's total liabilities exceed its total assets, the Board shall restore a positive Surplus within ninety (90) days by assessing all jointly and severally liable current and past Participating Members according to the following formula:

All jointly and severally liable Participating Members and past Participating Members may be assessed proportionately to their share of the total premiums paid and owed during the assessment base period. The assessment base period at the time of the Pool's self-insurance authority ending, shall remain the basis of assessments under this item until final Pool dissolution. The assessment base period includes all completed quarters of the current fund year and includes the most recent three complete fund years.

9.4.2 Assessment to Increase Surplus. The Board of Trustees may also forestall a deficit or to otherwise improve the Pool's financial strength by assessing all jointly and severally liable

current Participating Members. The assessment may be calculated using any reasonable procedure, consistent with these Bylaws

9.5 Cash Flow and Stop-Loss Insurance.

9.5.1 Cash Flow Difficulties. The Board of Trustees shall protect the Pool from cash flow difficulties using methods that include, but are not limited to, the following:

- (a) Establishing and maintaining a Surplus consisting of funds contributed by Participating Members and the Pool's net position; or
- (b) Obtaining language in the Pool's stop-loss insurance policy requiring the insurer to advance funds to the Pool if the policy limits have been or are likely to be exceeded. The funds may be considered an advance against the insurer's potential liability for the policy period.

9.5.2 Stop Loss Insurance. The Pool may purchase excess or stop-loss insurance for indemnification of a portion of its losses. If stop loss insurance is required pursuant to Minnesota law, any such stop-loss insurance shall comply with Minnesota Rules, Part 2785.1300 and Minnesota Statutes, § 471.617. If the Pool determines that an excess or stop-loss insurance policy will be terminated or modified causing a violation of applicable law or otherwise compromising the Pool's financial integrity, the Pool shall notify the Commissioner prior to the termination or modification taking effect and shall indicate what corrective action will be taken.

9.5.3 Stop-Loss Requirements. The Board of Trustees shall comply with the following with respect to any stop-loss insurance it purchases:

- (a) If the Board elects to terminate or modify a stop-loss policy in a manner that would violate applicable law or otherwise compromise the Pool's financial integrity, the Board shall notify the Commissioner prior to the effective date of the termination or modification and indicate what corrective action will be taken.
- (b) No liability transferred to a stop-loss insurer may, directly or indirectly, be returned to the Pool or a Participating Member of the Pool.

9.6 Dividends. The Board of Trustees may, but shall not be required to, declare and pay dividends or distributions from its Surplus subject to the following requirements:

9.6.1 Limitations. The Board shall not declare a dividend or distribution from Surplus if doing so will cause the Surplus to be negative or if the Pool has a stop-loss advancement liability.

9.6.2 Allocation. Any dividend declared shall be allocated in proportion to each eligible Participating Member's share of the total Premiums paid during the period used to calculate the dividend.

9.6.3 Eligibility and Member Responsibilities. Only Members participating in the Pool at the time a dividend or distribution is declared shall be eligible to receive the dividend or distribution. If a dividend be distributed, each Participating Member shall be responsible

for determining how the dividend or distribution shall be used in accordance with applicable Minnesota law.

ARTICLE X. LIABILITY AND INSURANCE

10.1 Member Liability. Unless otherwise specified in this Agreement, no Participating Member shall be liable for the acts or omissions of another Member. Nothing in this Agreement shall be construed as a waiver of a Participating Member's limitation of liability pursuant to Minnesota Statutes Chapter 466.

10.2 Trustee Liability.

10.2.1 Limitations. No Trustees shall be held liable for:

- (a) Mistakes in judgment or other actions made, taken, or omitted by the Trustee in good faith;
- (b) Any action made, taken, or omitted by any Pool agent, employee, or independent contractor selected by the Trustees with reasonable care;
- (c) Any loss incurred through investment or failure to invest Pool funds; or
- (d) Any action taken or omitted by another Trustee.

No Trustee shall be required to give a bond or other security to guarantee the faithful performance of their duties except as required by this Agreement or by law.

10.2.2 Defend and Hold Harmless. Pool assets shall be used to defend and hold harmless any Trustee for actions taken by the Trustee within the scope of their authority. The Board of Trustees shall purchase insurance providing fiduciary liability coverage for the Trustees.

10.2.3 Duties. The Trustees shall discharge their duties solely in the interest of the Pool and:

- (a) For the exclusive purpose of providing benefits to Covered Persons and defraying the reasonable expense of administering the Pool and the Plan(s);
- (b) With the care, skill, prudence, and diligence under the then prevailing circumstances that a prudent person in a like capacity and familiar with such matters would use in conducting an enterprise of a like character and aims; and
- (c) In accordance with the documents and instruments governing the Pool and Plan(s) insofar as such documents and instruments are consistent with the law.

ARTICLE XI. DISPUTE RESOLUTION

11.1 Informal Dispute Resolution. The Board of Trustees shall seek to resolve any dispute between the Pool and any Participating Member, or a dispute amongst Members, through informal discussion. Such efforts shall be facilitated by the Chairperson, or, if the Chairperson has a conflict of interest due to the nature of the dispute, by an alternate Officer or Trustee.

- 11.2 Formal Dispute Resolution. If a dispute cannot be resolved through informal efforts, the Board may refer the dispute to formal mediation facilitated by a mediator mutually acceptable to the parties to the dispute. In the event the dispute cannot be resolved through mediation, the parties to the dispute may pursue other reasonable procedures for resolution, including formal litigation.

ARTICLE XII. DURATION AND DISSOLUTION

- 12.1 Duration. Pursuant to Minnesota Statutes, § 471.59, subdivision 4, but subject to the provisions herein regarding Member withdrawal, this Agreement shall be ongoing.

- 12.2 Merger. To the extent not prohibited by applicable law, the Board of Trustees may apply to merge with any other plan or pool established under Minnesota law. The Board of Trustees shall solicit the advice and counsel of the Labor Management Committee in considering any such merger.

- 12.3 Ending Self-Insurance Authority.

- 12.3.1 Voluntary Termination of Authority to Self-Insure. The Board of Trustees may elect to end the Pool's self-insurance authority and cease to provide Coverage, provided such decision is made at least 45 days before the end of the current Fund Year. The Board shall provide notice of its decision to the Commissioner within fourteen (14) days.

- 12.3.2 Revocation of Authority to Self-Insure. The Commissioner shall, by order, revoke the Pool's authority to self-insure upon no less than ten (10) days' written notice if any of the following events occur, and the Commissioner judges the event(s) to be material:

- (a) Failure of the Pool to comply with applicable Minnesota statutes or rules;
- (b) Failure of the Pool to comply with any lawful order of the Commissioner;
- (c) Commission by the Pool of an unfair or deceptive practice as defined in Minnesota Statutes, §§ 72A.17 to 72A.32, or in related rules;
- (d) Deterioration of the Pool's financial integrity to the extent that its ability to meet obligations promptly and in full is or will be significantly impaired.

- 12.3.3 Runoff Period. The Pool shall continue to exist as a Runoff Pool after its authority to self-insure has ended for purposes of paying claims, preparing reports, and administering transactions associated with the period in which the Pool provided Coverage. The Runoff Pool shall continue to comply with applicable Minnesota statutes and rules. No Members shall be permitted to join, leave, or be expelled from the Pool during the runoff period.

- 12.4 Dissolution.

- 12.4.1 Authorization to Dissolve. The Board of Directors shall not dissolve the Pool or Runoff Pool without requesting authorization from the Commissioner. The Commissioner shall grant the request within 60 days of receipt if either of the following conditions are met:

- (a) The Pool demonstrates that it has no outstanding liabilities, including incurred but not reported liabilities; or

- (b) The Pool has obtained an irrevocable commitment from a licensed insurer that provides for payment of all outstanding liabilities and provision of related services, including claims payment, preparation of reports, and the administration of transactions associated with the period when the Pool or Runoff Pool provided Coverage.

12.4.2 Pool Assets and Liabilities Upon Dissolution. Upon receipt of authorization to dissolve, the Board of Trustees shall distribute the Pool's assets to Participating Members as follows: upon final dissolution of the Pool, all property purchased or owned pursuant to this Agreement shall be sold and the proceeds thereof, together with all other assets not necessary for satisfaction of the Pool's obligations, shall be distributed in accordance with applicable law to the Participating Members. The amount distributed to each Participating Member shall be based on the following two-step formula:

Step 1. 70% of remaining assets will be distributed based on the ratio of (1) the total consecutive Member Months associated with each Participating Member during the final 120 months of coverage provided by the Pool and, if dissolution occurs prior to January 1, 2032, the Pool's predecessor (the Sourcewell Risk Management Pool), divided by (2) the total Member Months for all Participating Members in the Pool during the final 120 months of such coverage. For this purpose, a "Member Month" is one month of coverage for each Employee, Dependent, and Former Employee receiving coverage through the Pool and/or the Sourcewell Risk Management Pool.

Step 2. 30% of remaining assets will be distributed only to Participating Members who have annual premiums in the last 12 months of coverage greater than the Community Rate of the entire Pool. 30% of remaining assets will be distributed based on the ratio of (1) the amount of annual premium paid by the Participating Member in the last 12 months of coverage that exceeds the Community Rate, divided by (2) the total amount of annual premium paid by all Participating Members that exceeds the Community Rate. Community Rate is calculated by determining the average premium amount for each Participating Member needed to fund the Pool's medical claims experience adjusted for health plan benefits, age composition and the geography of each respective Participating Member.

ARTICLE XIII. GENERAL PROVISIONS

- 13.1 Record Keeping. The Board of Trustees shall maintain within Minnesota all records necessary to verify the accuracy and completeness of all reports submitted to the Commissioner under Minnesota Rules, Part 2785.1600. All records concerning claims, reserves, financial transactions, and other matters necessary for Pool operations are the property of the Board of Trustees.
- 13.2 Notice. Any notice required by this Agreement shall be in writing and shall be deemed to have been given when deposited in a U.S. Post Office, registered or certified mail, postage prepaid, return receipt requested and addressed as follows:

If to the Board of Trustees or the Pool: Better Health Collective

202 South 12th Street NE
PO Box 219
Staples, MN 56479

If to a Member: To the address set forth in Appendix A or to such other address as any party to this Agreement may, from time to time, specify in writing to the other parties and to the Pool.

Any notice required by this Agreement may be waived by the party or parties to whom such notice is required to be provided hereunder.

- 13.3 Section Headings. The section headings inserted in this Agreement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Agreement or the meaning of any provision thereof.
- 13.4 Validity and Savings Clause. In the event any provision of this Agreement shall be declared by a final judgment of a court of competent jurisdiction to be unlawful, unconstitutional, or invalid as applied to any Member, the lawfulness, constitutionality, or validity of the remainder of this Agreement shall not be deemed affected thereby.
- 13.5 Counterparts. This Agreement and any amendments thereto may be executed in any number of counterparts which taken together constitute a single instrument. New Members approved for participation in the Pool after the Effective Date of this Agreement shall sign the Agreement and their names and contact information shall be added to Appendix A without the need to amend the Agreement as a whole.
- 13.6 Amendment. The Board of Trustees may, in accordance with Section 5.2 herein, amend this Agreement and such amendment shall be evidenced in writing and executed by the Members.
- 13.7 Minnesota Law. This Agreement shall be governed by, and the Pool and Plan(s)) shall be operated in accordance with Minnesota Law, including Minnesota Statutes, Chapters 13, 13D, 60A, 62A, 62E, 62L, 70A, 72A, 72C, and 471.
- 13.8 Other Applicable Law. The Pool and the Plan(s) shall be operated in accordance with applicable federal law, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), as it applies through the Public Health Services Act (PHSA).
- 13.9 Entire Agreement. All agreements, covenants, representations, and warranties among the Members expressed or implied, oral or written, concerning the subject matter of this Agreement are contained herein. All prior or contemporaneous conversations, negotiations, agreements, representations, covenants, and warranties concerning the subject matter of this Agreement are merged into this Agreement. Union contracts, negotiations, and the like are expressly outside the subject matter of this Agreement, are not merged into this Agreement, and remain the sole responsibility of each Member, and not the Board of Trustees or the Pool.

CERTIFICATION

The undersigned, the [Secretary of the Board] hereby certifies that the foregoing Membership Agreement and Bylaws were adopted pursuant to a resolution of the Members, effective as of [DATE].

[Secretary]

AGREEMENT

Pursuant to all applicable state and federal laws, this Membership Agreement and Bylaws of Better Health Collective has been approved by the governing board of the undersigned party as evidence by the signatures below.

PARTICIPATING MEMBER

Name of Participating Member

Authorized signature

Name/Title

DATE

SOURCEWELL HEALTH BOARD OF TRUSTEES

Authorized Signature

Name/Title

DATE

APPENDIX A
MEMBERS AND ADDRESSES