

Section 403(b) Plan Hold Harmless and Information Sharing Agreement between Investment Provider and Chaffey Community College District

THIS HOLD HARMLESS AGREEMENT (hereinafter "Agreement") is made and executed the _____ day of _____, _____ by the Chaffey Community College District (hereinafter "Employer") and _____ (hereinafter "Provider").

WHEREAS, the Employer certifies that it is an eligible employer to offer a 403(b) plan to its employees; and

WHEREAS, the Employer desired to make available to its employees a 403(b) Plan complying with Section 403(b) of the Internal Revenue Code (IRC) and Section 17501 of the California Revenue and Taxation Code (RTC); and

WHEREAS, the Provider desired to provide investment products consisting of annuity policies and/or custodial accounts through its authorized agents and/or representatives.

IT IS AGREED AS FOLLOWS:

Provider Product Compliance with Applicable Law. The Provider hereby certifies that it fully complies with all federal state laws and regulations applicable to annuity policies and/or custodial accounts it offers for sale. Furthermore, the Providers shall only make available for purchase those annuity policies and/or custodial accounts that fully comply with all the provisions of Section 403(b) of the IRC, the relevant state law and take all necessary steps to maintain such compliance with all applicable federal and state laws and regulations, as amended.

Provider Administration of 403(b) Products. Provider hereby agrees to administer its annuity policies and/or custodial accounts with all, but not limited to, the following provisions:

- (a) Provider shall obtain authorization from Employer prior to processing request submitted by Participants for distributions, loans, hardship withdrawals, exchanges, rollovers, etc. Provider shall, to the best of its ability, determine whether the restrictions of the applicable rules and regulations regarding allowable transfers, direct rollovers, distributions, hardship withdrawals, and loans are met
- (b) Provider shall be solely responsible for all reporting and withholding taxes on, but not limited to, distributions, rollovers, transfers, hardship withdrawals and/or loan defaults it makes directly to Participants and/or their beneficiaries, as appropriate
- (c) Provider shall provide all necessary notification to applicable Participants regarding any required minimum distributions that must be taken and perform all required minimum distributions

- (d) Provider _____ **does** _____ **does not** offer loan provisions in its 403(b) products.
- i. If Provider offers loan provisions, as indicated above, Provider hereby certifies that it complies with all current regulations regarding loans from a 403(b) program and shall continue to maintain its compliance with all future issued federal and state regulation governing loan provisions. In addition, Provider agrees to prepare all the appropriate tax reporting documents in event of a default under the terms of the loan

Information Sharing Between Employer and Provider. Employer and Provider agree to exchange information necessary for compliance with the requirements of Code section 403(b) and the Regulations.

- (a) Employer and Provider acknowledge that as a result of this Agreement, each party may be required to share non-public information regarding a Plan participant, former participant and/or their beneficiaries ("NPI"), as defined in federal and state law. Each party agrees to maintain the confidentiality of such NPI and shall not use, disclose, further, or make accessible such NPI to anyone other than their authorized employees and/or agents as necessary to carry out their obligation under this Agreement and to maintain the Employer's 403(b) Plan in compliance with Code section 403(b) and the Regulations
- (b) Information that shall be shared includes, but not limited to, information regarding employment status, contributions, loan balances, hardship withdrawals and transactions made to with the Provider or from other 403(b) contract/accounts under the Employer's 403(b) Plan, including exchanges, and such information necessary to facilitate activities permitted under the Plan or tax compliance and reporting
- (c) Each party shall rely on the information provided and shall have no responsibility to verify the accuracy or completeness of any such information. In no event shall either party rely solely on the Participants to self certify information that may directly or indirectly affect the Employer's 403(b) Plan
- (d) Each party shall make a good faith effort to provide information to the other party as soon as administratively possible upon receiving a request from the other party.

Cooperation with Employer. In the event of an income tax audit of the Employer, Provider agrees that it shall extend its cooperation in providing necessary information to the Employer regarding employees participating in the Provider's products.

Written Communications and Notices. Any written communications and/or notices to the Employer shall be mailed to:

Chaffey Community College District
Attn: Accounting & Payroll Dept.
5885 Haven Avenue
Rancho Cucamonga, CA 91737

Written communication, notices, payroll remittance shall be sent to the Provider based on information provided in Addendum A. Provider hereby agrees to notify as soon as

administratively feasible of any changes in the name of the Provider, its custodian, payroll remittance instructions, mailing address and/or contract individuals.

Hold Harmless and Indemnification. The Provider shall defend, hold harmless and indemnify the Employer, its Governing Board, its officers, and employees (hereinafter "Indemnified Parties") from every claim, obligation, demand and lawsuit, which may arise out of, be connected with or made by reason of the employees of the Employer purchase of Provider's annuity policies and/or custodial accounts, Provider's non-compliance with applicable rules and regulations including incorrect administration of such annuity policies and/or custodial accounts, actions or inactions taken by the Provider's employees, agents and/or representatives. Provider shall satisfy any and all judgment rendered or settlement against any of the Indemnified Parties, including attorney fees, except for the liability resulting from the gross negligence, willful misconduct, actual fraud or criminal conduct of any Indemnified Parties. Employer, its Governing Board, and Officers shall not be held responsible, in any event, regarding any claim or direction given to the Provider by Participants, including but not limited to, account investment direction, loan, distribution or hardship withdrawal request. Employer shall notify Provider within a reasonable amount of time on the receipt of any such claim, demand or suit.

No Endorsement of Provider. Provider hereby acknowledges that no endorsement or recommendation, written or otherwise implied, is made of the Provider, its products, agents and/or representatives. Provider, its agents and/or representatives shall make no representations to the contrary. By executing this Agreement, Providers name shall be placed on a list of like Providers that have executed such Agreement with the Employer. Such list may be referred to as the "Approved Provider List". The term "Approved," in reference to the "Approved Provider List" shall not signify that the Employer approved, endorsed or is making a recommendation of any product or service offered by the Provider. The term "Approved" in this context shall only represent that the Provider executed this Agreement and that the Provider is in good standing with the Employer at the time such list is published.

Termination of Agreement. The Provider reserves the right upon thirty (30) days written notice to the Employer, to discontinue making such annuity policies and/or custodial accounts available for purchase by the employees of the Employer. Provider termination of this Agreement shall in no manner affect any rights of the Employer prior to such termination and the Provider shall continue to hold the Indemnified Parties harmless for all occurrences prior to Provider termination of this Agreement, as described above. The Employer reserves the right, upon thirty (30) days written notice to the Provider, to terminate this Agreement. Employer termination of this Agreement shall in no manner affect any rights of the Employer prior to the termination and Provider shall continue to hold the Indemnified Parties harmless for all occurrences prior to Provider termination of this Agreement, as described above. Termination of this Agreement shall result in removal of Provider name from the Employer's "Approved Provider List."

Termination of Employee SRA. Provider hereby acknowledges that the Employer reserves the right to terminate an employee SRA between the Employer and employee with respect to salary deferral contributions made to the Provider in the event Provider fails to comply with this Agreement, the Provider fails to comply with IRC 403(b) and any other federal and state law or regulation, or this Agreement is terminated by either the Provider or the Employer.

Amendments and/or Alteration of Terms. No alteration, variation, and/or amendments of the terms of this Agreement shall be valid unless both parties mutually consent in writing to such alterations, variations and/or amendments.

Severability. If any provision(s) of this Agreement is determined to be illegal, unenforceable, or invalid, the remaining provisions of this Agreement shall not be affected and shall remain in full force and effect.

Assignment. The Provider shall not assign any rights or obligation under this Agreement to a third party without the written consent of the Employer.

Governing Law. This Agreement shall be governed by laws of the State of California. Any action or proceedings related to or connected with this Agreement shall be brought in the proper court of the State of California.

Prior Agreement. This Agreement supersedes and replaces any and all prior agreements between the Employer and the Provider.

For the Provider:

Provider Full Legal Name

Signature

Name (please print)

Title

Date

For the Employer:

Signature

Name (please print)

Title

Date

PROVIDER CONTACT INFORMATION

Provider Name: _____

Provider 403(b) Compare Number: _____

Provider Mailing Address for Written Communication

Street: _____

City: _____ State: _____ ZIP: _____

Authorized Person to Execute Hold Harmless Agreement

Name: _____

Title: _____

Phone: (____) _____ Fax (____) _____

Email: _____

Payroll Remittance Instructions

Contact Person/Department for Payroll Remittance

Name: _____

Title: _____

Department: _____

Phone: (____) _____ Fax (____) _____

Email: _____

Warrant Remittance

Warrant Made Payable to: _____

(Mailed to) Street: _____

City: _____ State: _____ ZIP: _____

Payroll/Participant Data Remittance

(Mailed to) Street: _____

City: _____ State: _____ ZIP: _____

Electronically Remit Payroll/Participant Data Instructions

Additional Instruction or information for Provider
