

CONTRACT NAME: AGREEMENT BETWEEN AMERICAN FIDELITY ASSURANCE COMPANY AND THE DAVIS JOINT UNIFIED SCHOOL DISTRICT

BRIEF DESCRIPTION OF CONTRACT: American Fidelity Assurance Company provides a service which will allow DJUSD to move the District's annual employee benefits open enrollment to an electronic online process.

This will allow us to be more effective and efficient in providing our employee benefits and will also allow the District to move our focus to benefits communication instead of clerical/administration.

This service is at no-cost to DJUSD and is provided as a service from our current benefits vendor, American Fidelity Assurance Company. There will be two agreements. One agreement will establish an open business partnership with American Fidelity to work as an agent of the District and another with CALPERS for electronic enrollment.

ENROLLMENT SUPPORT AGREEMENT

This Enrollment Support Agreement (this "Agreement") is made between American Fidelity Assurance Company, located at 9000 Cameron Parkway, Oklahoma City, OK 73114 ("Company") and Davis Joint Unified School District, located at 526 B Street, Davis, CA 95616 ("Client") effective the 21st day of April, 2017 ("Effective Date").

Whereas Company and Client wish to enter into an arrangement in which the Company shall provide open enrollment support to Client and in exchange the Client shall perform the obligations in accordance with the terms and conditions set forth herein. For mutual consideration, the receipt and sufficiency of which is acknowledged, the parties hereby agree as follows:

COMPANY OBLIGATIONS

1. Company will provide open enrollment support beginning upon a mutually agreeable date.
2. Company will provide support of its salaried account managers to Client and Client's employees.
3. Company will offer AFA-approved, voluntary insurance products and services, and any additional plans the parties may mutually agree to in the future to Client's employees.

CLIENT OBLIGATIONS

4. Client shall grant Company the right to be Client's exclusive Section 125 administration provider.
5. Client shall grant Company the right to offer to Client's employees AFA-approved, voluntary insurance products and services, and any additional plans the parties may mutually agree to in the future.
6. Client shall provide adequate working conditions (i.e., building space for one-on-one benefit reviews, incidentals) during enrollment meetings that support Company's staff.
7. Client shall provide such other cooperation and services to American Fidelity as may be mutually agreed to by and between the parties
8. Client shall also provide to Company annual individual one-on-one access to Client's employees for the offering of additional supplemental employee benefits and ability to adequately communicate the supplemental plan offerings through a jointly determined and approved enrollment process outlined below.

APPROVED ENROLLMENT PROCESS

9. The approved enrollment process is:
 - a. During the term of this Agreement, Company will individually see all benefit-eligible employees to educate them and introduce them to the new online system as well as walk them through their enrollment the first year in the time frame the Client deems acceptable.
 - b. Company will be able to offer the individual insurance voluntary programs that are currently available to the employees during this time frame and also re-enroll employees for the Section 125 re-service which will occur concurrently.
 - c. Company will be allowed to conduct group meetings at each site in reference to enrollment and to assist employees who may need help in answering questions and/or to help enroll in the system.
 - d. Client shall cooperate with Company in providing all information requested by Company in connection with providing services hereunder. Such information shall be provided at least 45 days in advance of the enrollment period.

10. Client agrees that if, at any time during the term of this Agreement, it elects to utilize any of Company's self-service options, available now or in the future, then additional agreements may be required at the time of such election.
11. Client further agrees that specialized support requiring manpower or resources exceeding those allotted to standard support may accrue additional hourly billable rates. Company shall make this determination on a case-by case basis and shall make best efforts to inform the Client in advance regarding any such charges.

LIMITATION OF LIABILITY

12. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE ENTIRE LIABILITY OF COMPANY FOR ALL MATTERS OR CLAIMS RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT PAID BY CLIENT FOR THE SERVICES DURING THE TWELVE (12) MONTHS PRIOR TO SUCH CLAIM OR \$5000, WHICHEVER AMOUNT IS LESS. SUBJECT TO APPLICABLE LAW, COMPANY IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES. COMPANY WILL ALSO NOT BE LIABLE FOR DAMAGES RELATING TO FAILURES OF TELECOMMUNICATIONS, THE INTERNET, ELECTRONIC COMMUNICATIONS, CORRUPTION, VIRUSES, SPYWARE, OR LOSS OF BUSINESS, REVENUE, PROFITS OR INVESTMENT. THE LIMITATIONS APPLY EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
13. CLIENT SHALL BE FULLY RESPONSIBLE FOR ALL THE INFORMATION, INSTRUCTIONS, REPORTS, AND DATA ("CLIENT DATA") IT PROVIDES TO THE COMPANY. COMPANY SHALL RELY ON THE ACCURACY OF SUCH CLIENT DATA IN THE PERFORMANCE OF SERVICES HEREUNDER. ACCORDINGLY, TO THE FULLEST EXTENT PERMITTED BY LAW, CLIENT AGREES TO INDEMNIFY COMPANY FOR ALL CLAIMS, DAMAGES AND COSTS, INCLUDING ATTORNEYS' FEES ARISING FROM OR RELATING TO CLIENT'S PROVISION OF CLIENT DATA TO COMPANY.
14. IN THE EVENT THAT CLIENT INSTRUCTS COMPANY TO RELEASE ANY CLIENT DATA TO THIRD PARTIES, CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ANY REQUIRED CONSENTS AND COMPLIANCE MATTERS, INCLUDING BUT NOT LIMITED TO PUTTING IN PLACE APPROPRIATE AGREEMENTS REQUIRING THE THIRD PARTIES TO ADEQUATELY SAFEGUARD THE CLIENT DATA. CLIENT AGREES TO INDEMNIFY, DEFEND AND HOLD COMPANY HARMLESS FROM ANY LOSS, DAMAGE, COSTS (INCLUDING ATTORNEY'S FEES) OR CLAIM THAT ARISES FROM OR IS RELATED TO RELEASE OF SUCH INFORMATION TO THE THIRD PARTY OR FROM ANY NEGLIGENT ACTIONS AND/OR OMISSIONS OF THE THIRD PARTY.

REGULATORY AUTHORITY- FORCE MAJEURE

15. This Agreement and the obligations of the parties shall be subject to modification to comply with applicable laws, regulations, court rulings, and administrative orders, as amended. In no event shall either party have any claim against the other for failure of performance if such failure of performance is caused by acts of God, natural disasters including fire, flood, or winds, civil or military action, including riots, civil insurrections or acts of terrorists or the taking of property by condemnation.

TERM

16. The initial term of this Agreement shall be one year from the Effective Date ("Initial Term"). After the expiration of the Initial Term, this Agreement shall renew automatically in one year terms. Either party may terminate this Agreement at any time for any reason by providing a written notice of 30 days to the other party. Either party may also terminate the Agreement without any notice for a material breach of the terms and conditions of the Agreement by the other party.

CONFIDENTIALITY

17. Both parties acknowledge that they will have access to and receive disclosure of certain confidential or proprietary information about each other. Each party shall protect and preserve the confidential and proprietary nature of all confidential information in its possession. Both parties agree to treat any information obtained, as a consequence of this Agreement, as proprietary in nature and not to be shared with any other entity without the express prior written permission of the other party. Notwithstanding the foregoing, confidential information shall not include any information that is or becomes generally available to the public or any information that is lawfully obtained by the disclosing party from a third party with the right to disclose such information. In the event of a breach or threatened breach of this provision, the provisions of this paragraph may be enforced by an injunction restraining the breaching party from the commission of such breach to the full extent thereof, or to such extent as a court of competent jurisdiction may deem just and proper for the reasonable protection of the rights and interest of the non-breaching party. Nothing contained herein shall be construed as prohibiting either party from pursuing any other remedies available to it for such breach or threatened breach, including the recovery of money damages. This provision shall survive the termination of this agreement. Where required to comply with law, the parties agree to execute a Business Associate Agreement furnished by AFA, the terms of which, if signed, shall be incorporated herein by reference.

MISCELLANEOUS

18. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the parties. For avoidance of doubt, the separate confidentiality agreement signed by the parties shall continue in full force and effect on matters of confidentiality.
19. The services shall be provided to the extent permitted by law.
20. Company does not provide tax or legal advice, and the Client must retain licensed professionals in order to obtain such advice.
21. The headings used herein are for convenience only and shall not aid in interpretation of any term of the Agreement.
22. Company reserves the right to change the fees associated with the support it provides, but only with advance written notice of 60 days.

AMERICAN FIDELITY ASSURANCE COMPANY
DISTRICT

By:

Name: Keith Johnson

Title: Senior Vice President and CSO, AFES Date:

DAVIS JOINT UNIFIED SCHOOL

By: 

Name: John Bowes, Ed.D.

Title: Superintendent