



CONSULTING AGREEMENT

This consulting agreement (herein referred to as the "Agreement") is made on 1/28/2014 by and between Santa Barbara Unified School District (herein referred to as the "Client") and Alliant Insurance Services, Inc. (herein referred to as the "Consultant").

RECITAL OF FACTS

The Consultant is engaged in the business of providing services as an employee benefit consultant and insurance broker. The Client now wishes to engage the services of the Consultant to provide consulting services (herein referred to as "Services") for the Client's Employee Benefits programs (herein referred to as "Plans"), subject to the terms and conditions set forth below.

1. SCOPE OF SERVICES

- A.** The Client hereby engages Consultant, and Consultant hereby accepts such engagement, to perform the Services (defined in the attached Exhibit I) on behalf of the Client, all in accordance with the terms and conditions of this Agreement. Nothing provided herein, nor in the list of Services, is provided as legal or tax analysis or opinion and none of the Services performed by Consultant shall be interpreted to be or relied upon as legal or tax analysis, opinion, or advice.
- B.** The Consultant shall not have discretionary authority or discretionary control with respect to the management of any of the Plan's funds, nor have independent authority to exercise any control respecting management or disposition of the assets of such Plans, nor render any investment advice with respect to any money or other property of such Plans. The Client agrees that the Consultant is not a "fiduciary" for purposes of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, and that the Client shall not represent that the Consultant is a fiduciary.
- C.** To enable Consultant to perform the Services, the Client shall, upon execution of this Agreement, and thereafter promptly upon the request of Consultant, provide all information regarding the Client and its existing plans as requested by Consultant in connection with its performance of the Services. Consultant agrees to perform the Services in accordance with professional standards recognized in its business, and that adequate personnel, as determined in its sole discretion, will be assigned for that purpose. Consultant will advise the Client of its progress throughout this engagement.

2. DEFINITIONS

When used throughout this Agreement, capitalized terms, whether in the singular or in the plural form, shall have the meanings ascribed to them at their first occurrence. In addition, the following terms, when capitalized, whether in the singular or in the plural form, shall have the meanings set forth below:

- A.** Commission – Remuneration paid by Client's insurance carriers (or excess pools) directly to Consultant.

- B. Compensation – Remuneration paid to Consultant as consideration for its Services performed under this Agreement, which shall be in the form of either a Fee and/or Commission.
- C. Confidential Information – Information considered by its owner to be confidential, proprietary and/or trade secret including, without limitation, client information, data, recommendations, proposals, reports and similar information, and work product.
- D. Disclosing Party – The Party disclosing Confidential Information under this Agreement.
- E. Fee – Annual remuneration paid monthly, quarterly, or as agreed upon by Client directly to Consultant for Services (does not include Commission).
- F. Party – Client or Consultant.

3. TERM AND TERMINATION

- A. **Initial Term:** The term of this Agreement shall begin on the date specified and shall end twelve (12) months later.
- B. **Automatically Renew:** Unless either Party notifies the other Party in writing, this Agreement shall be automatically renewed for successive one-year period(s).
- C. **Termination during Initial Term:** The Agreement may not be terminated by either Party during the initial 12-month term of the Agreement unless such termination is in response to a material breach of the Agreement. The breaching Party must be provided with written notice of such breach and be afforded twenty-one (21) days to remedy the breach. If the breach is not remedied during the 21 day period, the non-breaching Party may terminate the Agreement with seven (7) days written notice.
- D. **Termination after Initial Term:** After the Initial term, either Party may terminate the Agreement upon sixty (60) calendar days written notice to the other Party.
- E. **Final Fees:** Upon termination, the Consultant shall issue a final invoice for any billable services performed and related expenses incurred by the Consultant. The Client shall pay such invoice within thirty (30) calendar days of receipt.

4. SUPPORT

- A. The Client shall provide the Consultant with such support facilities and information as may be necessary to enable the Consultant to properly perform its services. Consultant may rely on this information as accurate and complete.
- B. The Consultant will utilize the Consultant's employees or subcontractors for the purposes of performing obligations under this Agreement. The Client may reasonably request that the Consultant assign different consulting personnel to perform the services under this Agreement. Specific personnel will be assigned to the Client as needed. The Consultant reserves the right to reassign personnel at any time.

- C. If, in the opinion of the Consultant, an attorney, actuary, physician, dentist, accountant, investment counsel, investment analyst or similar professional (an "Outside Professional") needs to be retained, the Consultant will notify the Client of such need. If both parties agree to such need, the Client will then retain such professional and be the responsible Party for such service and cost.

5. THIRD-PARTY BROKERS

Consultant may determine from time to time that it is necessary or appropriate to utilize the services of third-Party brokers (such as underwriting managers and reinsurance brokers) to assist in marketing the Client insurance program. Subject to the provisions herein, these third-Party brokers may be affiliates of Consultant (e.g., other companies of Consultant that provide services other than those included within the Scope of Services of this Agreement), or may be unrelated third-Party brokers. Compensation to such third-Party brokers will not be part of Consultant's Fee.

6. OTHER THIRD PARTIES

Nothing in this Agreement, express or implied, is intended to nor shall be construed to confer upon any person, firm, or corporation, other than the parties to this Agreement, any remedy or claim under or by reason of this Agreement as third-Party beneficiaries or otherwise. The terms and conditions of this Agreement are for the sole and exclusive benefit of the parties to this Agreement.

7. CONFIDENTIALITY AND OWNERSHIP OF RECORDS, WORK PRODUCT, AND OTHER DOCUMENTS

A. Confidential Information. The services and work product exchanged by the Parties under this Agreement are to be used exclusively to carry out the terms, conditions, and purposes set forth herein. The Parties acknowledge that during the term of this Agreement, they may each exchange Confidential Information. Except as otherwise provided herein or as required by applicable law, the Parties understand and agree that they will not disclose, distribute, use, or rely upon Confidential Information received from the other without the permission of the Disclosing Party.

B. Ownership. Except as otherwise provided in this Agreement, Confidential Information is and remains the absolute and exclusive property of the Disclosing Party and/or its affiliates, and is its unique and valuable asset. Unless otherwise authorized by this Agreement, no copies of Confidential Information shall be made without the written permission of the Disclosing Party. The Parties agree that, except as otherwise provided herein, they will not directly or indirectly communicate, divulge, or otherwise disclose any of the other's Confidential Information to any unauthorized person, firm, or corporation, and shall prevent, to the best of their ability, the unauthorized disclosure of such Confidential Information to others.

- i. **Work Product.** The Client shall retain all ownership rights in and to any information, data, methods, specifications or products supplied by the Client. The Consultant shall retain all ownership rights in and to any information, data, benefit analysis, specifications or products (collectively, "Work Product") supplied by the Consultant, together with all intellectual property rights herein. The Work Product is solely for use by the Client and its Plans and may not, without

C. Exclusions. The following types of information shall not be considered confidential:

- i. Information in the public domain or that becomes a part of the public domain, other than as a result of a breach of the confidentiality provisions of this Agreement;
- ii. Information that is independently developed by either Party as demonstrated by the Party's records;
- iii. Information that is disclosed by a third Party whom the Recipient Party has no reason to believe has any confidentiality or fiduciary obligation to the owner of such information; or
- iv. Information that is required to be disclosed by law or judicial process, provided the Disclosing Party gives the Non-Disclosing Party prior notice of subpoena or request for information so that the Non-Disclosing Party can seek a protective order, or other appropriate injunctive relief.

D. Reasonable Efforts. The Parties agree to employ reasonable and customary business practices to protect and secure Confidential Information from unauthorized release or distribution and to limit access and usage of such information to those employees, officers, agents, and representatives who "need to know" in order to provide the products and Services under this Agreement. The Parties further agree that those employees, officers, agents, and representatives who are privy to Confidential Information shall be informed about the confidential nature of the information and required to maintain its confidentiality as provided under this Agreement.

E. Privacy. Each Party agrees that it shall comply with any requirements of prevailing privacy laws, including but not limited to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended, to the extent applicable to its activities conducted pursuant to this Agreement.

8. CONSULTANT AS INDEPENDENT CONTRACTOR

Consultant is an independent contractor of Client. This Agreement shall not create the relationship of employer and employee, a partnership, or a joint venture between Client and Consultant. The parties shall be solely liable for the wages, employment taxes, fringe benefits, work schedules, and work conditions of their respective employees, agents and subcontractors. Neither Party shall have authority to sign any document on behalf of the other, or to commit the other in any manner whatsoever, without the prior authorization of that Party.

9. LIMITATION OF LIABILITY / INDEMNITIES

A. Plans. The Consultant shall have no responsibility, risk, liability or obligation for funding of the Plans. The responsibility and obligation for funding the Plans shall reside solely and totally with the person or entities provided in the Plans. The Plans and Plan provisions recommended by the Consultant to the Client are solely recommendations by the Consultant and the Client, not the Consultant, has the ultimate authority to select and modify Plans. The Consultant has no discretion or control with respect to the

- B. Advice and Recommendations.** Consultant is not responsible for Client's compliance with regulation and statutes affecting the Plans. Consultant's advice or recommendations shall not be construed as legal advice. The Client agrees that it will, if it deems it necessary, seek legal advice from its own legal counsel on whether particular advice or recommendations satisfy applicable law.
- C. Indemnity: Consultant.** In the event that Consultant, its agents, employees, representatives, or assigns, negligently or intentionally violate any law or regulation, any provision of the Agreement, or any written rule, regulation, policy, procedure or similar instruction related to Services, Consultant shall indemnify, defend, and hold Client harmless from and against all loss and damage, including any reasonable costs or expenses (including attorney's Fees), incurred by Client in connection with such conduct.
- D. Indemnity: Client.** In the event that Client, its agents, employees, representatives, or assigns, negligently or intentionally violate any law or regulation, or any provision of the Agreement, Client shall indemnify, defend, and hold Consultant harmless from and against all loss and damage, including any reasonable costs or expenses (including attorney's Fees), incurred by Consultant in connection with such conduct.
- E. Limitation of Liability.** Consultant's liability to the Client for any damages arising from the Services rendered hereunder is limited to the amount of Service Fees paid to Consultant for such services pursuant to this Agreement, and in no event shall Consultant be liable to the Client for any incidental or consequential damages arising from the Services, unless caused by Consultant's gross negligence or willful misconduct. This limitation of liability for Consultant extends to all of its representatives, attorneys, accountants, directors, officers, agents, and employees.

10. OBLIGATIONS AND WARRANTIES

- A. Obligations of Client.** Client will cooperate with Consultant in the performance of Consultant's duties by providing complete and accurate information as to Client's loss experience, risk exposures, and any other pertinent information that Consultant requests. Client shall promptly review coverage documents concerning the employee benefits insurance and products delivered by Consultant for consistency with Client's specifications. In addition, Client shall have the responsibility to keep record of and immediately report significant changes in exposures, loss-related data, and/or any other material changes to Consultant. This reporting must be memorialized in writing and delivered to Consultant in accordance with the notice provisions below.
- B. Warranty.** Consultant warrants that the Services performed by Consultant, its employees, agents and subcontractors, will be of a high quality and performed in a professional manner in accordance with industry standards and practice, and in compliance with all applicable laws and regulations, including but not limited to all applicable licensing requirements. Consultant also warrants that the Services provided in this Agreement and any attachments will meet the requirements of this Agreement.

11. NO ASSIGNMENT WITHOUT WRITTEN AGREEMENT

This Agreement is binding upon the Parties hereto and their respective successors by merger, sale, consolidation, or reorganization. Neither Party shall assign its interest in, or delegate the performance of its obligations under this Agreement to any other person or entity without prior written consent by both parties. Consultant shall not subcontract any Service under this Agreement without advance written approval from Client. Any such subcontract shall incorporate by reference the terms and conditions of this Agreement. This Agreement inures to the benefit of the parties and their permitted successors and assignees.

12. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of California without reference to its conflicts of law principles.

13. AGREEMENT TO ARBITRATE

The Parties agree to arbitrate any controversy, claim, or dispute between them arising out of or in any way related to this Agreement, the relationship between them, or any disputes upon termination of Agreement. Arbitration is the Parties' only recourse for such claims and the Parties waive the right to pursue such claims in any other forum, unless otherwise required by law. Notwithstanding the foregoing, both parties shall have the right to seek temporary equitable relief in a court of law concerning any controversy claim or dispute between them arising out of or in any way related to this Agreement as set forth above. Any permanent equitable relief, however, shall be solely adjudicated by the arbitrator who shall apply the applicable state or federal law in determining whether or not to grant equitable relief.

- A. Initiation of Arbitration. In no event shall the request for arbitration be made after the date when institution of legal or equitable proceedings based on such claims would be barred by the applicable statute of limitations. Either Party can initiate arbitration by timely serving or mailing a written notice to the contact and address provided at the end of this Agreement. Any notice of arbitration that is served by mail shall not be deemed complete until five (5) days after the postmarked date.
- B. Arbitration Procedure. The arbitration shall be conducted by a single neutral arbitrator before JAMS, The Resolution Experts ("JAMS") and in accordance with the JAMS Rules. If the Parties are unable to agree on a single neutral arbitrator, the arbitrator shall be selected in accordance with the then current rules of JAMS. The arbitration shall be held in San Diego, CA, unless the parties mutually agree otherwise. The parties are entitled to representation by an attorney or other representative of their choosing. The prevailing Party shall recover all reasonable Fees associated with the arbitration. The arbitrator shall have the power to enter any award that could be entered by a judge of a trial court, and only such power, and shall issue a written and signed decision that sets forth findings of fact and conclusions of law upon which the decision is based. The arbitrator shall follow the law and, except as otherwise provided herein, shall have no power to alter, modify, ignore, or otherwise deviate from the express terms of this Agreement. The parties agree to abide by and perform any award rendered by the arbitrator. Judgment on the award may be entered in any court having jurisdiction thereof, subject to the limited judicial review provided for by applicable state law, such as California Code of Civil Procedure §§1285-1288.

- C. Enforceability. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law, and shall be in accordance with the procedures established for arbitration under the state law. The parties understand that by agreeing to arbitrate their disputes, they are giving up their right to have their disputes heard in a court of law and, if applicable, by a jury.

14. ATTORNEYS' FEES

The prevailing Party in any court or administrative proceeding to enforce or interpret the provisions of this Agreement shall be entitled to recover reasonable attorneys' fees and costs incurred in the prosecution or defense of said action, in addition to any other relief to which that Party might otherwise be entitled.

15. INTEGRATED AGREEMENT

It is understood and agreed that this Agreement, including the attached exhibits, constitutes the complete understanding of the parties hereto with respect to the subject matter hereof, and all provisions, negotiations, and representations, whether oral or written, not included herein are hereby abrogated. This Agreement supersedes all prior agreements entered into between the parties, save for any provisions in the attached exhibits. This Agreement may not be changed, modified or varied except by written instrument signed by both parties.

16. MATERIAL CHANGE

In the event that Client operations change substantially, thus changing the scope and nature of exposures, losses, and/or insurance program(s), the Parties will negotiate in good faith to revise this Agreement's Compensation arrangement as appropriate. It is agreed and understood that a material change shall include a change in existing coverage or limits, and/or lines of coverage.

17. SEVERABILITY PROVISION

If any provision of this Agreement is held by a court of competent jurisdiction to be void or unenforceable for any reason, then the same may be severed from this Agreement without affecting the validity or enforceability of the remaining provisions of this Agreement, which shall remain in full force and effect.

18. SURVIVAL

Any terms, conditions, warranties, and any other provisions evidently intended to have continuing effect, shall survive the completion of the performance, and the expiration or termination, of the Agreement.

19. NOTICES

All notices or other communications shall be in writing and delivered to the addresses below the signatures to this Agreement. Such addresses may be changed by notice to the other Party in accordance with this Section. All notices, requests, and other communications given under this Agreement, shall be in writing and deemed duly given: (a) when delivered personally to the recipient; (b) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid); (c) five (5) business days after being sent by U.S. certified mail (charges prepaid); or (d) one (1) business day after being sent to the recipient by fax or email transmission.

20. WAIVER OF BREACH

No delay or omission in the exercise of any right or remedy set forth herein will be deemed a waiver of any right or remedy. No waiver of any provision, breach, remedy, or right under this Agreement shall be valid or binding unless executed in a signed writing by the Party making the waiver. No waiver shall constitute a waiver of any other provision, breach, remedy, or right under this Agreement, nor shall any waiver constitute a continuing waiver.

21. HEADINGS AND CONSTRUCTION

The Parties agree that the headings and sections of this Agreement are used for convenience only and shall not be used to interpret the provisions herein. The Parties also agree that the terms of this Agreement were jointly negotiated and each has had an opportunity to review and discuss each provision with legal counsel, to the extent desired. Therefore, the normal rule of construction that construes any ambiguities against the drafting Party shall not be employed in the interpretation of this Agreement.

22. IMPACT UPON BENEFIT ADMINISTRATION OUTSOURCING AGREEMENT

The Parties may enter into separate agreements ("Separate Agreement") with respect to Consultant's provision of benefit administration services to Client. Notwithstanding any other provision of this Agreement or any Separate Agreement, any Separate Agreement shall automatically terminate upon the termination of this Agreement. Client acknowledges that termination of this Agreement may trigger a termination provision as specified in the Benefit Administration Outsourcing Agreement and/or COBRA Administration Agreement.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed and delivered as of the date first above written.

ALLIANT INSURANCE SERVICES, INC.

Santa Barbara Unified School District

By: _____

Name: Michael Menerey

Title: First Vice President

By: _____

Name: Meg Jette

Title: Assistant Superintendent Business Services

Address for Notices:

Alliant Insurance Services Inc.
Michael Menerey
First Vice President
333 S. Hope Street, Suite 3750
Los Angeles, CA 90071

Address for Notices:

Santa Barbara USD
Meg Jette
Assistant Superintendent Business Services
720 Santa Barbara Street
Santa Barbara, CA 93101

Exhibit I - Services

This agreement pertains to the following group plans, which are currently or may subsequently be established by the Company.

- A. Medical insurance plans
- B. Dental insurance plans
- C. Vision insurance plans
- D. Employee Assistance Programs
- E. Business Travel Accident
- F. Disability insurance plans
- G. Administrative Plans (does not include provision of actual TPA services)
 - (1) Flexible Spending Accounts,
 - (2) COBRA
 - (3) Commuter Assistance
 - (4) Child Care
- H. Long Term Care insurance
- I. Legal Assistance Plans
- J. Miscellaneous Employee Benefit Programs

Description of Services to be Performed: “Standard” services as indicated in this section are included for the Fees outlined in Exhibit II. Optional services as indicated in this sections are available for an additional Fee.

| Services | Proposed Fee |
|---|--------------|
| Strategic Planning/Annual Objective setting | Included |
| Pre-renewal meeting (strategy, market update, compliance, etc.) | Included |
| Renewal Negotiation, Analysis and Recommendations | Included |
| Procurement of Alternative Cost Saving Initiatives and Options | Included |
| Stop Loss, TPA and Network Procurement and Analysis for Self-Insured plan options | Included |
| Underwriting and Fully Insured Equivalent Rate Development for Self-Funded Plans | Included |
| Utilization Review and Trend analysis | Included |
| Financial Reporting for Self-Insured plans | Included |
| Access to Alliant Purchasing Programs and Private Health Exchange | Included |
| Legislative Compliance Support and Contract Review | Included |
| Health Care Reform Compliance & Consulting | Included |
| Contract Review | Included |
| Joint Labor Management Committee and Administration Support | Included |
| Employer & Employee Advocacy | Included |
| Open Enrollment Support | Included |
| Strategic HR Membership Program | Included |
| K-12 School District Benchmarking | Included |
| Communication Support (Brochures, Notices, Wallet Card) | Included |
| Ben-IQ Application | Included |
| Employee Surveys | Included |
| Alliant Connect Customized Web Portal | Included |
| Wellness Program Consulting, Analysis and Recommendations | Included |

Exhibit II – Compensation

- A. Standard Services:** Services associated with this Compensation schedule are defined in Exhibit I.
- B. Alliant Specialty Insurance Services (ASIS):** In addition to the Compensation that Alliant receives, its related entity, Alliant Specialty Insurance Services (ASIS) and its underwriting operations, Alliant Underwriting Services (AUS), may receive compensation from Alliant and/or carriers for providing underwriting services. The financial impact of the compensation received by ASIS is a cost included in the premium. Compensation received by ASIS will be disclosed in writing to Client and is agreed to by Client as part of the premium. Client further acknowledges that Alliant and ASIS maintain an arm's length relationship. Client understands that while Alliant represents Client as an individual entity, ASIS independently administers its program as a whole and not on behalf of any particular member.
- C. Special Compensation:** Agent or broker Commissions are customarily paid by the insurance carrier as a percentage of the premium. In addition to Compensation received for such services, the Consultant, or a related entity, may also receive Compensation for additional services provided to either the client or the insurance carrier. To the extent such Compensation exists, it is included in the cost of the insurance offering. These additional services could include, but are not limited to: Underwriting services, program administration services and other services provided to either the client or the insurance carrier. While these services are included in the cost of the insurance offering, any services contracted for by the client directly will be invoiced accordingly. With exception, the Consultant may also receive income as a result of a contingent income agreement with the insurance carriers. Exceptions are as follows:
- i. Any Client may "opt out" of having the premiums associated with their placements included in any contingent income agreement that Consultant may enter into.
 - ii. Placements on behalf of federal or state governmental entities, or any political subdivisions thereof, are excluded from participation in any contingent income agreement that Consultant may enter into.
- D. Changes in Services.** The Fee is subject to adjustment if Client requests a change in Services and/or employee benefits insurance or products, or if the Client's size or organization changes to alter the time involved in the Service. Tasks or functions that are not presently included in the Service may be available on a "per service basis" for a separate Fee.
- E. Payment.** The Fee shall be paid monthly, quarterly, or as otherwise agreed upon by the Parties. Payment shall be due no later than forty-five (45) days from the date of the invoice.

The Parties agree to the following:

The Fee for Services outlined in Exhibit I will be a flat Fee of eight thousand one hundred sixty six dollars and sixty seven cents (\$8,166.67) per month.

Service Guarantee

Consultant is committed to delivering all Services at the highest quality levels. In recognition of that commitment to quality, we will place up to 20 percent (20%) of the Fee outlined above at risk.

The categories of this Service Guarantee are:

1. Execution of client deliverables (10%) – Reimbursed if deliverables do not meet Client's satisfaction;
2. Service and support (10%) – Reimbursed if service and support of Client with decision making tools, attendance at meetings, and assistance for any implementation of new benefits/products and transition of carriers do not meet Client's satisfaction.

The Client can invoke the terms of this guarantee. All categories are based solely on client satisfaction level.