



## Provider Agreement

Each Employer offers a 403(b) Program to its Employees as a benefit of employment. Section 403(b) of the Internal Revenue Code (IRC) authorizes this program and the Internal Revenue Service (IRS) holds Employer (as sponsor of the program) responsible for assuring that its Employees' contributions do not exceed limits imposed by IRC Sections 402(g), 403(b), and 415. Therefore, Employer reserves the right to reduce, suspend, and/or reinstate the contributions specified in salary reduction agreements at any time, to ensure compliance with all applicable IRC limitations.

*Carruth Compliance Consulting, Inc. and each of its associated Employers agree to the terms and conditions set forth herein insofar as they pertain to CCC and/or Employer.*

*Effective on the date hereof, the Provider identified herein (the "Provider"), in consideration of being designated an authorized Provider, agrees to the terms and conditions set forth herein with respect to purchases, sales, transfers or other transactions related to 403(b) annuity contracts and/or custodial accounts that are processed by the Provider.*

### CCC, Employer, and Provider Agree:

1. CCC and Employer agree that Provider has no responsibility for calculating maximum allowable contributions (MAC), since Employer has secured the indemnified services of CCC to ensure that all 403(b) Program contributions are in compliance with applicable law.
- CCC Contact Information**  
 J. Harvey Carruth  
 Carruth Compliance Consulting, Inc.  
 10555 SW Lady Marion Drive  
 Tigard, OR 97224  
 Phone: 503-968-8961  
 Fax: 503-968-7802  
 E-mail: [jcarruth@ncompliance.com](mailto:jcarruth@ncompliance.com)
2. When CCC determines that contributions on behalf of a Participant must be reduced and/or suspended to avoid excess deferrals or amounts, Provider agrees to accept such reduced or suspended contributions on behalf of its clients who are employed by Employer.
  3. CCC agrees to make Provider information and web links available on Employer's section of CCC's website, based on Provider's responses in Section VIII of the Questionnaire component of this document.
  4. By submission of a letter of participation to CCC, Employer authorizes CCC to act on behalf of Employer with regard to all aspects of Employer's 403(b) Program and authorizes Provider to communicate directly with, and release information to, CCC as a designated Employer representative.
  5. Employer agrees to make the 403(b) Program available to all Employees under the eligibility rules set out in Internal Revenue Code Section 403(b)(1)(A)(ii) relating to salary reduction programs of public educational institutions.

6. Employer agrees that it allows its Employee Participants to make direct transfers under Revenue Ruling 90-24 to 403(b) qualified annuity contracts and/or custodial accounts of companies not on the Employer list of authorized service providers.
7. Provider shall offer only annuity contracts or custodial accounts, the terms of which comply with the provisions of applicable law, including, but not limited to, Section 403(b) of the Internal Revenue Code of 1986, as amended, and all applicable laws of the state of Oregon. Such annuities and/or custodial accounts shall be available for purchase by the Employer for any eligible Employee.
8. Provider agrees that Employer will not be responsible in any way for allocation of a Participant's total monthly contribution to Provider among the various Provider funds. Rather, Employer will remit contributions by check or electronically, at Employer discretion, along with Employer generated documentation of total amounts to be credited to individual Participants' accounts with Provider. Allocation of contributions among Provider's separate accounts and funds will be handled entirely between Provider and Participants.
9. If loans are offered under Provider's products, Provider agrees to administer such loans in accordance with Internal Revenue Code Section 72(p) and the IRS final loan regulations. Neither CCC nor Employer shall be responsible for determining or communicating the status of a Participant's pending, existing, and/or outstanding loans against 403(b) accounts under Employer's 403(b) Program.
10. Provider agrees to administer hardship distributions in accordance with Treas. Reg. 1.401(k)-1(d)(2). Neither CCC nor Employer shall be responsible for determining or communicating a Participant's eligibility for such distributions. When the "deemed hardship distribution standards" of Treas. Reg. 1.401(k)-1(d)(2)(iv) are used to justify a hardship distribution to an Employee of Employer, Provider agrees to notify Employer and/or CCC of such distribution so that elective deferrals will be suspended for a period of six months.

11. Provider agrees to follow the directives of Domestic Relations Orders that meet the requirements of Internal Revenue Code Section 414(p)(1)(A)(i), as authorized by Internal Revenue Code Section 414(p)(11) for this governmental employer. Such Domestic Relations Orders do not require CCC or Employer involvement.
12. Provider agrees to make corrective distributions of excess deferrals or amounts, adjusted for earnings or losses through the distribution date, when Employer and Employees of Employer make such requests under Revenue Procedure 2003-44, later applicable Revenue Procedure, or IRS audit closing agreement.
13. Provider agrees that it shall require, within its capacity to control, that all agents marketing its products comply with all Employer policies regarding solicitation of Employees.
14. In the event of an income tax audit of CCC or Employer, or as otherwise may be reasonably necessary to enable CCC or Employer to comply with applicable law, Provider agrees that it shall extend its cooperation in providing necessary information to CCC and Employer regarding products provided by Provider to Employees of Employer, provided such information was maintained or prepared by Provider in providing such products. This provision shall survive the termination of this Agreement.
15. Provider agrees to permit or accept tax-free transfers under applicable rules, to provide direct rollover options as required by law, and to require certification that a rollover of all or a portion of any account value is an eligible rollover distribution. Provider agrees that Employer verification will not be requested for Participant distribution requests when the Participant is at least 59 ½ years of age. Employer agrees to verify severance from employment of Participants upon Provider request.
16. Provider agrees to bear the responsibility for providing directly to Participants appropriate notification regarding minimum required distributions.
17. Provider shall be responsible for reporting and withholding taxes on distributions it makes directly to Employees and/or their Beneficiaries, as appropriate. For annuity or custodial accounts that permit Employee-directed requests through Provider, the reason for the distribution shall be certified by the Employee so that the restrictions of applicable law regarding allowable transfers, direct rollovers, and rollovers are met.
18. Provider agrees to indemnify and hold harmless CCC, Employer, any individual member of Employer's governing board, and Employees from every claim, demand or suit which may arise out of, be connected with, or be made by reason of the negligence of Provider or failure of Provider to meet the requirements of this Agreement. Notwithstanding the preceding sentence, this indemnification shall not cover any claim, demand, or suit based on erroneous information provided by CCC, Employer, or its Employees or their willful misconduct or negligence. Provider, at its own expense and risk, shall defend, or at its option settle, any court proceeding that may be brought against CCC, Employer, including members of the governing board, and Employees on any claim, demand or suits covered by this indemnification, and shall satisfy any judgment that may be rendered against any of them with respect to any such claim or demand, provided that CCC or Employer notifies Provider, in writing, within twenty (20) business days of receipt of such claim or demand. Provider's liability hereunder shall be limited to actual damages and out-of-pocket legal fees and expenses only.
19. This Agreement may be terminated by CCC or Provider upon thirty (30) days written notice to the other party, provided that no such termination shall affect any liability incurred by Provider prior to such termination.
20. This Agreement contains the entire agreement of the parties regarding the subject matter contained herein, and supersedes all prior agreements between Provider and CCC and all prior agreements between Provider and Employer.
21. This Agreement may be amended at any time by mutual written agreement of the parties.
22. In the event of any dispute between the parties regarding their rights or duties under this Agreement, or regarding the interpretation of this Agreement, the prevailing party shall be entitled to its reasonable costs and attorney fees, including paralegal fees, through and including any appeals.
23. Failure of either party to require performance of any duty of the other party or otherwise to enforce any right under this Agreement shall not constitute a waiver of that party's right to enforce any other provision of this Agreement.
24. This Agreement shall be governed by and construed in accordance with the laws of the state of Oregon.

**Questionnaire Section I: Provider Information**

Company/Organization Name \_\_\_\_\_

Primary Nature of Business \_\_\_\_\_  
(Insurance Company, Mutual Fund Vendor, 403(b) Broker/Dealer, or Marketing Firm)

Name of Individual Completing this Questionnaire \_\_\_\_\_

Title of Individual Completing this Questionnaire \_\_\_\_\_

Telephone Number \_\_\_\_\_ E-mail Address \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State &amp; Zip \_\_\_\_\_

**Questionnaire Section II: 403(b) Options**

So that Employees can be provided with a list of our authorized service providers and the types of 403(b) investment options available, please check from the following list those that you offer. Use the comments section for any clarifying remarks. Check only those that meet the requirements to be qualified as 403(b) options.

\_\_\_\_\_ Fixed annuities \_\_\_\_\_ 403(b)(7) custodial mutual funds (no-load)

\_\_\_\_\_ Variable annuities with a fixed account \_\_\_\_\_ 403(b)(7) custodial mutual funds (load)

\_\_\_\_\_ Variable annuities without a fixed account \_\_\_\_\_ 403(b)(7) custodial mutual funds (deferred sales charges)

Comments: \_\_\_\_\_

**Questionnaire Section III: Roth 403(b) Contributions Option**

Provider will accept Roth 403(b) contributions remitted after December 31, 2005: Yes \_\_\_\_\_ No \_\_\_\_\_

**Questionnaire Section IV: Minimum Contribution Requirements**

Internal Revenue Code Section 403(b)(12)(A)(ii) requires that Employer must make the 403(b) plan available to virtually all Employees who will annually contribute more than \$200 per year. Employer requires a \$25 minimum monthly contribution, with the understanding that Employees who desire to contribute less than \$300 in a given year may do so by discontinuing contributions. What are the minimum contribution requirements for your products/investment options, if any?

Monthly Minimum \$ \_\_\_\_\_ Annual Minimum \$ \_\_\_\_\_ N/A \_\_\_\_\_

**Questionnaire Section V: Marketing Information (Also See Section VIII)**

Please indicate how you plan to make Employees aware of your products/investment options, within the parameters of Employer policies regarding solicitation of Employees:

\_\_\_\_\_ Agents who are contracted exclusively with you \_\_\_\_\_ Independent 403(b) practitioners

\_\_\_\_\_ Regional or central office employees \_\_\_\_\_ Web URLs (See Section VII)

\_\_\_\_\_ Seminars, meetings, and/or brochure distribution \_\_\_\_\_ Other (explain under comments)

Comments: \_\_\_\_\_

**Questionnaire Section VI: Administration**

Please attach detailed instructions for remittance of contributions on behalf of Employees. Employer will remit contributions by check or electronically, at Employer discretion, along with Employer generated documentation of total amount to be credited to each Participant's account with Provider. Employer will not be responsible in any way for allocation of a Participant's total monthly contribution to Provider among the various Provider funds.

**Questionnaire Section VII: Timeliness of Deposits**

How soon after receipt of contributions are deposits made into Participant accounts? \_\_\_\_\_

**Questionnaire Section VIII: Information for Employer Section of CCC Website**

CCC provides 403(b) and 457(b) compliance assurance and plan administration services to Employer. One component of those services involves development and maintenance of an Employer section of the CCC website. This website section is the official source of information about 403(b) and 457(b) programs for all Employees of Employer. Therefore, it is critically important that Provider information within Employer's section of the CCC website be complete and accurate. Moreover, Provider has the opportunity to specify (within limits) exactly what information should appear and which web links should be included. Illustrations are available at the following Authorized Vendors page in the Portland Public Schools section of the CCC website, with AIG VALIC and Openheimer Funds serving as excellent examples:

<http://www.ncompliance.com/client/portland/vendor-info/authorized-vendors.html>

Our goal is to make it as easy as possible for Employees to obtain information about all authorized vendors, to include the information authorized vendors want to include, and to facilitate communication between Employees and Provider. Please provide below appropriate web links and other requested information to be included for Provider in the Employer section of the CCC website, or indicate that a web link or the information is not available by entering N/A. In the case of forms for various purposes (enrollment, distribution request, etc.), please provide a company website URL whenever possible. If no company website URL is available, but an electronic file version of such form is available (Word, Excel, PDF, etc.), please indicate "Electronic File Available" and provide a copy to CCC for inclusion in your company's information on the Employer section of the CCC website. Provider approval will be secured before making the information available to Employees of Employer. As a last resort, please provide hard copy forms for scanning and inclusion on the CCC website. It is understood that the same web URL and/or form may be used for multiple purposes, so it is expected that duplications will occur in responses (e.g., various distribution types on the same form).

Main Company Website URL \_\_\_\_\_

Main Company Telephone Number \_\_\_\_\_

Main Company E-mail Address \_\_\_\_\_

Web URL for Fund Profiles \_\_\_\_\_

Web URL for Fund Prospectuses \_\_\_\_\_

Web URL for Fund Performance \_\_\_\_\_

Web URL for Fund Fees and Loading Charges \_\_\_\_\_

Web URL to Request Additional Information \_\_\_\_\_

**Forms (provide electronic file version or hard copy to CCC if no web URL is available)**

Web URL for 403(b) Annuity Contract Application \_\_\_\_\_

Web URL for 403(b)(7) Custodial Account Application \_\_\_\_\_

Web URL for Reallocation of Contributions \_\_\_\_\_

Web URL for Internal Fund Transfers \_\_\_\_\_

Web URL for Rollover Distributions to Internal Eligible Retirement Plan \_\_\_\_\_

Web URL for 90-24 Fund Transfers to External 403(b) Account \_\_\_\_\_

Web URL for Rollover Distributions to External Eligible Retirement Plan \_\_\_\_\_

Web URL for Regular Distribution Request \_\_\_\_\_

Web URL for Hardship Distribution Request \_\_\_\_\_

Web URL for Excess Deferral Distribution Request \_\_\_\_\_

Web URL for Loan Request \_\_\_\_\_

**List additional Provider website URLs that would be helpful to Employees below, with brief descriptions.**

(If necessary, include additional information in a separate file, preferably Word or Excel.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please provide any additional information that would be helpful to CCC, Employer, or Employees below.**

(If necessary, include additional information in a separate file, preferably Word or Excel.)

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