

**TEXAS FREELANCE ASSOCIATION BENEFITS TRUST
PARTICIPATION AGREEMENT**

THIS PARTICIPATION AGREEMENT (the “Participation Agreement”), is entered into between the Texas Freelance Association Benefits Trust (the “Trust”) and [Employer/Freelancer] (the “Participating Member”) (collectively referred to herein as the “Parties”), effective [Date].

WITNESSETH THAT:

WHEREAS, the Trust operates as a funding vehicle for a multiple employer welfare arrangement;

WHEREAS, the Trust provides self-funded welfare benefits to several employers throughout the State of Texas who are Eligible Members of the Texas Freelance Association and who have elected to participate in the Trust; and

WHEREAS, the Participating Member and the Trust desire to enter into this Participation Agreement to define the obligations of both Parties.

NOW, THEREFORE, in consideration of the mutual covenants and agreement set forth below, it is hereby covenanted and agreed by the Participating Member and the Trust as follows.

**ARTICLE I
DEFINED TERMS**

1.1 “Code” means the Internal Revenue Code of 1986, as amended, and the regulations and guidance promulgated thereunder.

1.2 “Coverage Classification” means the type of coverage elected by Participants (e.g., single, single plus one, or family).

1.3 “Eligible Employees” refers to employees or former employees of Participating Members who have the right to enroll in coverage under the terms of the Plan. An Eligible Employee shall include a “working owner” of a trade or business without common law employees who meets the requirements of Sections 2510.3-5(e)(1)-(2) of the Department of Labor regulations.

1.4 “Eligible Employees and their Dependents” refers to employees or former employees of Participating Members (including working owners described in Section 1.3), as well as their spouses, children and other dependents as defined under the Code, who have the right to enroll in coverage under the terms of the Plan.

1.5 “Eligible Member” means an employer who is (a) certified by the Texas Freelance Association to be a dues-paying member in good standing, and (b) an employer of one or more employees, within the meaning of Section 3(5) and (6) of ERISA, including a Freelancer, and (c) performs independent freelance work as referenced in Section 6.11.

1.6 “ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations and guidance promulgated thereunder.

1.7 “Freelancer” means an individual who provides services on a contract basis and who meets the requirements of Section 2510.3-5(e)(2) of the Department of Labor regulations such that the individual:

(a) Has an ownership right of any nature in a trade or business, whether incorporated or unincorporated, including a partner and other self-employed individuals;

(b) Earns wages or self-employment income from the trade or business for providing personal services to the trade or business; and

(c) Either:

(i) Works an average of at least 20 hours per week or at least 80 hours per month providing personal services to the individual’s trade or business; or

(ii) Has wages or self-employment income from such trade or business that at least equals the working owner’s cost of coverage for participation by the Eligible Member and Dependents in the Plan.

The determination of Freelancer status under this Section 1.7 shall be made by the Trustees or their designee at the time the individual first satisfies the additional other requirements to be an Eligible Member.

1.8 “HIPAA” means the Health Insurance Portability and Accountability Act of 1996.

1.9 “Participants and Beneficiaries” are Eligible Employees and their Dependents who are enrolled in the Plan.

1.10 “Participating Member” means an Eligible Member that has elected to participate in the Plan.

1.11 “Participation Agreement” means this document which sets forth certain rights and responsibilities of Participating Members.

1.12 “Partner Organization” means an organization with which the Trust has an agreement under which certain benefits are provided to members of such organization.

1.13 “PHI” is health information protected by applicable medical privacy law, including HIPAA.

1.14 “PII” is information about an individual that is protected by applicable privacy law, including HIPAA.

1.15 “Plan” means the Texas Freelance Association Benefits Plan, an employee welfare benefit plan under ERISA.

1.16 “Qualified Beneficiary” means a Participant or Beneficiary who qualifies for continuation coverage under state or federal law.

1.17 “Required Contribution” means the payment required of the Participating Member under this Participation Agreement to secure coverage under the terms and conditions of the Plan.

1.18 “Trust” means the Texas Freelance Association Benefits Trust.

1.19 “Trust Agreement” means the Trust Agreement for the Texas Freelance Association Benefits Trust, as amended.

1.20 “Trustees” means the individuals who oversee benefits under the Plan.

1.21 “We,” “Us,” and “Our” means the Trust or its Trustees, as well as any Administrator appointed by the Trust or its Trustees.

1.22 “You” or “Your” means the Participating Member that has accepted this Participation Agreement.

1.23 “Your SPD” is short for Summary Plan Description and means the document describing Your benefits under the Plan.

ARTICLE II PARTICIPATION IN THE TEXAS FREELANCE ASSOCIATION BENEFITS TRUST

2.1 The Participating Member hereby agrees that it shall participate in the Trust and the Plan. The Trust accepts the Participating Member for participation in the Trust and the Plan, subject to the terms and conditions of this Participation Agreement and the Trust Agreement.

2.2 The Participating Member agrees to be bound by the terms of the Trust Agreement as currently in effect and as may be amended in the future. The Trust Agreement, as it may be amended, shall be deemed to be incorporated into this Participation Agreement and made a part hereto. The Participating Member will be notified of any material amendment to the Trust Agreement and provided with a copy for review.

2.3 The Participating Member acknowledges and agrees that the Trustees, in their sole discretion, shall select all service providers that shall be retained by the Trust and the Plan.

2.4 The Benefits provided or made available under the Plan are limited to those set forth in, and are subject to all terms and conditions of, the applicable plan documents, including, without limitation, the provisions of plan documents respecting the classes of employees eligible for such benefits, the amount and types of benefits available, and the circumstances under which benefits are not available or may terminate.

2.5 In the event and to the extent not insured against by an insurance company pursuant to the provisions of any applicable insurance policy, the Participating Member agrees that it shall indemnify and hold harmless the Trustees from any and all claims, demands, suits or proceedings in connection with the Plan or the Trust that may be brought by any of the Participating Members, Participants and Beneficiaries, or by the legal representatives of any of the foregoing, or by any other person, corporation, entity, government or agency thereof; provided, however, that such indemnification shall not apply to a Trustee for such Trustee’s acts of willful misconduct in connection with the Plan or the Trust. The provisions of this Section 2.5 shall survive termination of this Agreement for a period of three (3) years from the date of termination of this Agreement,

and this indemnification requirement shall be binding on the Parties' respective successors and assigns.

ARTICLE III REQUIRED CONTRIBUTIONS

3.1 Required Contributions. You are required to pay the monthly Required Contribution on behalf of Your Participants and Beneficiaries. The Required Contribution amount will be calculated based on the number of Participants and Beneficiaries that are shown in the Trust's enrollment records at the time of calculation, subject to any adjustments that may be made if You are a member of one of our Partner Organizations.

We may make retroactive adjustments to the Required Contribution for any additions or terminations of Participants or Beneficiaries or changes in coverage that are not reflected in Our records at the time We calculate the Required Contribution. Adjustments will not be made for changes occurring more than 60 days prior to the date We received notification of the change from You.

You must notify Us in writing within 31 days of the effective date of any enrollment, termination or other changes. You must also notify Us in writing each month of any change in the Coverage Classification for any Participant.

The Trust reserves the right to change the schedule of Required Contribution amounts at any time if such amount was determined based on a material misrepresentation that resulted in the rates being different than they would have been without such material misrepresentation. If this happens, We may change the rates retroactive to the effective date of Your coverage. We reserve the right to change the schedule of Required Contributions, after a 31-day prior written notice on the first anniversary of the effective date of this Participation Agreement specified in the application or on any monthly due date thereafter, or on any date the provisions of this Participation Agreement are amended.

3.2 Payment of the Required Contribution. The Required Contribution must be paid in advance by You on a monthly basis. The first Required Contribution is due and payable on or before the effective date of coverage. Subsequent contributions are due and payable no later than the first day of each payment period while this Participation Agreement is in force. Unless otherwise provided by the Trustees, any Required Contribution shall be made directly to the Trust.

A charge for late payments will be assessed for any Required Contribution not received within 10 calendar days following the due date. A service charge will be assessed for any insufficient funds check received. All Required Contributions must be accompanied by documentation that states the names of the Participant(s) for whom payment is being made. In the event of a delinquency, You may be charged attorneys' fees and any other costs related to the collection of Required Contributions.

3.3 Grace Period. A grace period of 31 days will be granted for the payment of any Required Contribution not paid when due. During the grace period, Your coverage will continue in force. The grace period will not extend beyond the termination of this Participation Agreement. You are liable for payment of the Required Contribution during the grace period. If We receive written notice from You to terminate the coverage during the grace period, We will

adjust the Required Contribution so that it applies only to the number of days coverage was in force during the grace period. Coverage terminates as described in Article V if the grace period expires and the Required Contribution remains unpaid.

ARTICLE IV PARTICIPATING MEMBER OBLIGATIONS TO DISCLOSURE INFORMATION ABOUT BENEFITS AND SERVICES

4.1 Federal employee benefits law, known as ERISA, requires that a plan's covered benefits and limitations, as well the rights and responsibilities of Participants and Beneficiaries, be explained in Your SPD. By signing this Participation Agreement, You agree to distribute the SPD to Your Participants within 90 days of when they become covered under the Plan, as well as upon the occurrence of certain other events.

4.2 General Requirements for Electronic Distribution of Plan Documents. Plan documents may be distributed electronically when certain conditions are met. The following requirements apply to all recipients of electronic communications: (i) the information (e.g., PHI, PII) must be safeguarded from improper disclosure; (ii) a notice (email is acceptable) informing the Participant of the significance of the document must be issued each time a document is furnished electronically; and (iii) the distributor must permit the Participant to ask to receive any document in paper form.

(a) Participants with Work-Related Computer Access. In addition to requirements (i), (ii) and (iii), Participants with work-related computer access must be able to access the electronic documents at any location where he or she is expected to work, and access to electronic information systems must be an integral part of the employee's job duties.

(b) Participants without Access to Computers as Part of Work-Related Duties. In addition to (i), (ii) and (iii), these Participants must affirmatively consent to electronic delivery of plan information. Participants must also be provided with information about the types of documents that will be provided electronically; their right to withdraw consent; procedures for withdrawing consent and updating information (e.g., email address; the right to request paper documents; and the types of hardware and software required). Notice must be issued to the Participants alerting them to the fact that an electronic disclosure is being made. As a Participating Member, You are required to furnish required documents in paper form (US Mail or hand delivery) if a Participant does not consent to the electronic distribution.

4.3 Distribution Upon Request. You also agree to provide Plan Participants with a copy of the SPD within 30 days of a written request. Participants should read their SPD so they understand the benefits to which they are entitled. You agree to ask Participants to keep their SPD in the same place they keep other important financial information.

4.4 Distribution of Information Regarding Changes to Your SPD. Because laws change frequently, We will periodically review Your SPD and update it to reflect any changes in the law or Your welfare plan. After the SPD has been furnished, changes may occur to the Plan or information contained in the SPD. Under ERISA, any modification in the Plan's terms that is "material"—and any change in required SPD content—must be disclosed to Plan Participants.

(a) When this happens, We may either issue a new SPD to You or a Summary of Material Modifications (“SMM”) which is a description of the change. An SMM generally will be furnished within 210 days after the end of the plan year in which a modification or change is adopted.

(b) If the change relates to a material reduction in covered benefits or services, the SMM will be provided by the Trustees no later than 60 days after the date of adoption of the reduction. Depending on the nature of the change, We may issue the SMM prior to the effective date of the change. You must distribute Your SMM in the same manner as the SPD explained above.

4.5 Distribution of Updated SPD. You will also be required to furnish an updated SPD at least once every five years if there have been any material changes during that period of time. You will be required to furnish a new SPD once every ten years even if no material changes have been made.

4.6 Distribution of Summary Annual Report. The Trustees will provide You with an annual statement summarizing the Trust’s financial condition. You will be required to furnish this summary annual report within nine months of the close of the plan year.

ARTICLE V TERMINATION OF COVERAGE

5.1 Conditions for Termination of Coverage Under This Participation Agreement. This Participation Agreement and all welfare benefits under this Participation Agreement, the Plan, and the Trust shall automatically terminate with respect to Participants and Beneficiaries on the earliest of the dates specified below:

(a) On the last day of the grace period if Your Required Contribution and Access Fee remain unpaid. You remain liable for payment of the Required Contribution and Access Fee for the period of time the Participation Agreement remained in force during the grace period.

(b) On the date We specify, after 31 days written notice to You, that this Participation Agreement shall be terminated with respect to Your coverage due to Your violation of participation and contribution rules.

(c) On the date We specify, in written notice to You, that this Participation Agreement shall be terminated with respect to Your coverage because You provided Us with false information material to the execution of this Participation Agreement or to the provision of coverage under this Participation Agreement. In this case, We have the right to rescind this Participation Agreement back to the effective date. Any unearned premium will be refunded.

(d) On the date specified by You, after at least 31 days prior written notice to Us, that Your coverage under the Participation Agreement shall be terminated.

(e) On the date We specify, in written notice to You, as a result of You no longer being an Eligible Member under this Participation Agreement or the terms of the Trust.

5.2 Payment and Reimbursement Upon Termination. Upon any termination of coverage under the Plan, You are and will remain liable to Us for the payment of any and all Required Contributions that are unpaid at the time of termination, including a pro rata portion of the Required Contribution for any period this Participation Agreement was in force during the grace period preceding the termination.

ARTICLE VI MISCELLANEOUS

6.1 Referral Program. You may be eligible to receive financial or other compensation for referring other potential Plan participants to evaluate the Plan or eligible to receive financial or other compensation if referred by others to evaluate the Plan, both in accordance with state and federal law.

6.2 Capitalized Terms. All capitalized terms used herein without definition have the respective meanings ascribed to them in the Trust Agreement.

6.3 No Waiver. No waiver of any breach of this Participation Agreement shall constitute a waiver of any other breach, whether of the same or any other terms of this Participation Agreement, nor shall any delay or omission of either party's exercise of any right arising from any default affect or impair the party's rights as to the same or future default.

6.4 Entire Agreement. This Participation Agreement and any amendments constitute the entire Participation Agreement between the Trust and You. All statements made by Us, the Participating Member, or a Participant or Beneficiary will, in the absence of fraud, be deemed representations and not warranties.

6.5 Amendments and Alterations. Amendments to this Participation Agreement are effective on the date We specify. No change will be made to this Participation Agreement unless made by an Amendment which is approved by the Trustees. No agent has authority to change the Participation Agreement or to waive any of its provisions.

6.6 Relationship Between the Parties

(a) The relationships between Us and network providers, and relationships between Us and Participating Members, are solely contractual relationships between independent contractors. Network providers, service providers and Participating Members are not Our agents or employees, nor are We or any of Our employees an agent or employee of network providers and Participating Members.

(b) The relationship between a network provider and any Participant or Beneficiary is that of provider and patient. The network provider is solely responsible for the services provided by it to any Participant or Beneficiary. The relationship between any Participating Member and any Participant and Beneficiary is that of employer and employee (or former employee), dependent, or any other category of individuals specified in this Participation Agreement.

(c) Each Participating Member is solely responsible for enrollment and coverage classification changes (including termination of a Covered Person's coverage).

6.7 Records. You must furnish Us with all information and proofs which We may reasonably require with regard to any matters pertaining to this Participation Agreement. We may at any reasonable time inspect:

- (a) All documents furnished to You by any individual in connection with coverage;
- (b) Your payroll; and
- (c) Any other records pertinent to the coverage under this Participation Agreement.

The Parties agree that information and records with respect to benefits under the Plan will be considered confidential. We have the right to release any and all records concerning health care services which are necessary to implement and administer the terms of the Plan, including records necessary for appropriate medical review and quality assessment or as We are required by law or regulation.

6.8 Administrative Services. The services necessary to administer the Plan and the benefits provided under it will be provided in accordance with standard administrative procedures or those standard administrative procedures established by the administrator designated by the Trustees. If You request that administrative services be provided in a manner other than in accordance with these standard procedures, including requests for non-standard reports, You must pay for such services or reports at the then-current charges for such services or reports.

6.9 Examination of Participants and Beneficiaries. In the event of a question or dispute concerning benefits for covered health services, We may reasonably require that a physician chosen by Us examine the Participant or Beneficiary at Our expense.

6.10 Clerical Error. Clerical errors will not deprive any individual of benefits under this Participation Agreement or create a right to benefits. Failure to report enrollments will not be considered a clerical error and will not result in retroactive coverage for eligible persons. Failure to report the termination of coverage will not continue the coverage for a Participant or Beneficiary beyond the date it is scheduled to terminate according to the terms of this Participation Agreement. Upon discovery of a clerical error, any necessary appropriate adjustment in contributions will be made. However, We will not grant any such adjustment in contributions or coverage to You for more than 60 days of coverage prior to the date We received notification of the clerical error.

6.11 Independent Freelance Work. Participating Members must be engaged during the coverage period in performing independent freelance work as a working owner, such as a sole proprietor, independent contractor, or other self-employed person.

6.12 Workers' Compensation Not Affected. Benefits provided under this Participation Agreement do not substitute for and do not affect any requirements for coverage by workers' compensation insurance.

6.13 Conformity with Law; Severability. Any provision of this Participation Agreement which is or becomes in conflict with the requirements of state or federal statutes or

regulations (of the jurisdiction in which this Participation Agreement is delivered) is deemed to be amended to conform to the minimum requirements of those statutes and regulations. In case any provision of this Participation Agreement is held invalid or unenforceable, the validity and enforceability of the Participation Agreement's remaining provisions shall not in any way be affected or impaired.

6.14 Continuation Coverage. Federal and state law sometimes requires that the Trust permit certain individuals known as "Qualified Beneficiaries" to continue coverage under the Plan even in the event that they are no longer otherwise eligible for coverage. The circumstances under which Participants and Beneficiaries become Qualified Beneficiaries are described in Your SPD. Written notice to Qualified Beneficiaries shall be provided by Us or a designated Administrator to the Participating Employee's last known address as contained in Your business records.

6.15 Trust's Status. The Trust will not be deemed or construed to be the common law employer of Plan Participants and is not responsible for fulfilling any duties of an employer other than those in connection with the Plan. The Trust does not agree to assume any of Your obligations. To the extent services offered through the Trust overlap with any action You are required to perform by law, the Trust does not agree to assume Your legal duty, and You should not rely on the Trust as the primary source of information or services in order to meet its legal obligations. No statements, representations, or communications by the Trust should be construed as legal, medical or tax advice and should not be relied upon as such.

6.16 Multiple Employer Welfare Arrangement. All Benefits provided or made available by a Participating Member to its Eligible Employees and their Dependents pursuant to the Participation Agreement are considered to be provided under an "employee welfare benefit plan" within the meaning of Section 3(1) of ERISA that is maintained by a "group or association of employers" within the meaning of Section 3(5) of ERISA. The Trustees shall be responsible for preparing and filing any Form 5500 and Form M-1 required to be filed in respect to the employee welfare benefit plan and for complying with any and all other disclosure and reporting requirements applicable in respect of such separate plan.

6.17 Assignment. The Participating Member may not assign this Participation Agreement or any of the Participating Member's rights and obligations hereunder without the prior written consent of the Trustees. Subject to the preceding sentence, this Participation Agreement will be binding upon and enforceable against any assignee. Any assignment of this Participation Agreement without the prior written consent of the Trustees shall be null and void and given no effect.

6.18 Governing Law. Each Party agrees to abide by all applicable federal and state laws and regulations, including, but not limited to, ERISA and the Code. Except to the extent preempted by federal law, this Participation Agreement shall be governed by and construed under the laws of the State of Texas, without regards to principles of conflicts of laws. Venue for any dispute arising out of this Participation Agreement shall be solely in the United States District Court for the Northern District of Texas, Dallas Division.

6.19 Headings. The titles and headings of the Articles and Sections hereof are included solely for convenience, and in the event of any conflict between such titles or headings and the text, the text shall control.

6.20 Counterparts. This Participation Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature Page Follows]

You will be deemed to have accepted the terms of this Participation Agreement by the payment of any Required Contribution and the acceptance of coverage for Eligible Employees and their Dependents.

PARTICIPATING MEMBER

TEXAS FREELANCE ASSOCIATION
BENEFITS TRUST

By:

By:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Name:

Name: _____

Title:

Title:

_____	_____
_____	_____
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Address:

Address: 627 1st Avenue, Unit A, Seattle,
WA 98117