

**PARTICIPATION AGREEMENT
BETWEEN BOARD OF COMMISSIONERS OF THE
COUNTY OF CONVERSE, WYOMING
AND CONVERSE COUNTY LIBRARY
FOR EMPLOYEES' GROUP HEALTH INSURANCE PLAN**

1. **Parties.** This Agreement is made and entered into this _____ day of _____, _____ by and between the Board of Commissioners of the County of Converse, Wyoming, a body corporate and political subdivision of the State of Wyoming, (hereinafter referred as “County”) whose address is 105 North 5th Street, Suite 114, Douglas, Wyoming 82633 and the _____ Outside Board (hereinafter referred to as "Participating Board") whose address is _____, Douglas, Wyoming 82633.

WITNESSETH:

WHEREAS, the County is administering a self-funded Employees’ Group Health Insurance Plan (hereinafter referred to as “Plan”) which may allow eligible outside entities to participate in the Plan as approved by the Board of County Commissioners of Converse County, Wyoming.

WHEREAS, the Participating Board is desirous to participate in the Plan, and the County is desirous of providing such benefits under the Plan to the best of its abilities.

NOW THEREFORE BE IT RESOLVED and in consideration of the matters described above, and the mutual benefits and obligations set forth in this Contract, the parties agree as follows:

2. Responsibilities of County.

2.01. County will administer the Plan according to the Plan “Converse County Employees Benefit Booklet” or similar document in place.

2.02 County may change the Plan benefits as needed to maintain viability for the County and its Plan participants, to include Participating Board, within the guidelines set forth in the Plan “Converse County Employees Benefit Booklet.”.

2.03 County will determine the eligibility of all participants.

- 2.04** County will establish the funding levels for each Plan year (normally October 1st through September 30th)
- 2.05** County will to the best of its ability, establish and maintain sufficient cash balances in the Plan.
- 2.06** County will advise all participants of updates to the Plan, provide forms to administer the Plan and generally give notices as needed.

3. Responsibilities of Participating Board:

3.01 The Participating Board shall adopt and abide by the Plan’s eligibility requirements and other requirements as stated in the “Converse County Employees Benefit Booklet” as amended from time to time by County. Further, the Participating Board shall also authorize the adoption of such other agreements or contracts as may be necessary to implement and maintain employee health insurance.

3.01.01 The Participating Board will maintain the appropriate enrollment percentages along with mirroring the same contribution levels set forth and approved by the County Commissioners for county employees. Enrollment percentages are as follows:

Potential Number of Enrollees	Percent
1-4	100%
5-9	100% less one potential enrollee
10 and over	8 potential enrollees or 75%, whichever is greater

3.02 The Participating Board will adhere to all terms of the “Benefit Document” or similar Plan document in place from time to time between the County and any insurance company or provider.

- 3.03** The Participating Board will utilize any handouts or documents provided by the County that are to be used in the explanation of health care benefits and/or coverage available under the County's Plan.
- 3.04** The Participating Board shall make payments of premiums to the County Clerk's office for those employees enrolled in the Plan by the first day of the month prior to the month of coverage. Failure to pay the total premium due within ten (10) days of that date OR within ten (10) days after a notice of deficit has been sent by the County Clerk's office, may cause cancellation of coverage.
- 3.05** The Participating Board shall advise the County Clerk's office in writing, monthly, of the total number of their employees, the total number of employees that are eligible for participation in the Plan and the total number of those employees that participate in a separate group insurance plan through an alternative insurance provider. The Participating Board shall advise the County Clerk's office within five (5) days of any changes in personnel who are enrolled in the Plan, or of any change in the number of employees that are eligible to participate in the Plan.
- 3.06** Should the Plan experience funding shortages, the Participating Board shall contribute to the fund on a pro-rata (per contract) basis as determined by Converse County's Health Insurance Management Team.
- 3.07** The Participating Board shall abide by the rules and regulations of the Affordable Care Act (PPACA 2010), including any subsequent modifications, amendments, or superseding laws. The Participating Board shall hold the County harmless for any failure to provide notices or information to Participating Board employees as required by such law.
- 3.08** The Participating Board shall be responsible to pay the required Patient Centered Outcome Research Institute Trust Fund (PCORI) Fees and any other fees as required by law.
- 3.09** The Participating Board is required and agrees to pay the County Clerk's Office an additional \$10 monthly, per enrolled employee of the Participating Board, as an administration fee for assisting the Participating Board in maintaining the membership files and insurance coverages for eligible employees and dependents.

3.10 Failure of the Participating Board to make timely payment of its premiums and fees, maintain appropriate enrollment percentages and contribution levels, or timely keep the County Clerk's office informed of changes in personnel who are or should be enrolled in the Plan, may cause cancelation of the coverage and result in the Participating Board being liable for any and all damages and Plan benefits that were extended while the Participating Board was not in compliance with those requirements.

4.0 General Provisions.

4.01 Amendments. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.

4.02 Applicable Law/Venue. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have exclusive jurisdiction over this Agreement and the parties, and the venue shall be the Eighth Judicial District, Converse County, Wyoming, unless the County consents in writing to resolve this matter by mediation, arbitration, or otherwise.

4.03 Assignment/Agreement Not Used as Collateral. Neither party shall assign or otherwise transfer any rights or delegate any of the duties set forth in this Agreement without the prior written consent of the other party. The Participating Board shall not use this Agreement, or any portion thereof, for collateral of any financial obligation.

4.05 Entirety of Agreement. This Agreement, consisting of eight (8) pages, represents the entire and integrated Agreement between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral.

4.06 Ethics. Participating Board shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat §9-13-101, et seq.), and any and all ethical standards governing Participating Board's profession.

4.07 Force Majeure. Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

4.08 Indemnification.

4.08(i). Participating Board shall indemnify, defend and hold harmless the County, and their officers, agents, employees, successors, and assignees from and an all claims, lawsuits, losses and liability arising out of Participating Board's failure to perform any of Participating Board's duties and obligations under this Agreement or in connection with negligent performance of Participating Board's duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of Participating Board's professional services under this Agreement.

4.08(ii). Participating Board shall be liable to County for all damages, including consequential damages and every expense, cost, exclusion of betterment, attorney's fees and payment incurred by County as the result of the Participating Board's negligence or negligent acts in fulfilling any of the terms or services under this Agreement.

4.08(iii). Without limitation as to other remedies, which County may have, Participating Board will without additional compensation, correct or revise any errors or deficiencies in its services.

4.09 Independent Participating Board. Participating Board shall function as an independent Board for the purposes of this Agreement and shall not be considered an employee of the County for any purpose. Participating Board shall assume sole responsibility for any debts or liabilities that may be incurred by Participating Board in fulfilling the terms of this Agreement, and shall be solely responsible for

the payment of all federal, state and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing Participating Board or its agents and/or employees to act as an agent or representative for or on behalf of the County, or to incur any obligation of any kind on the behalf of the County.

4.10 Kickbacks. Participating Board certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Agreement. Participating Board shall provide the County with a certification under oath that he has not in any way been involved in any gratuities, kickbacks, or contingent fees in connection with his selection or ultimate performance under this Agreement. If Participating Board breaches or violates this warranty, County may, at its discretion, terminate this Agreement without liability to the County, or deduct from the Agreement price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

4.11. Compliance with Laws. Participating Board shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Contract.

4.12 Notices. All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, facsimile, e-mail, or delivery in person.

4.13. Liaison and Notice. The following are the designated representatives for County and Participating Board.

4.13(i). County's designated representative is Karen Rimmer, County Clerk, whose address is 107 North 5th Street, Suite 114, Douglas, WY 82633; and email address: Karen.rimmer@conversecountywy.gov.

4.13(ii). The participating Board's project representative is _____, whose address is _____; telephone number is _____ and facsimile is _____, and email address is _____.

- 4.13(iii)** all notices and invoices required in this Agreement shall be in writing, properly addressed to the liaison above, and mailed first-class, postage prepaid. All notices sent via U.S. Postal Services are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.
- 4.14 Prior Approval.** This Agreement shall not be binding upon either party, no services shall be performed under the terms of this Agreement, until this Agreement has been reduced to writing, approved by the Converse County Board of Commissioners.
- 4.15 Sovereign Immunity.** The County does not waive Sovereign immunity by entering into this Agreement, and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat §1-39-104(a) and all other state law.
- 4.16 Termination of Contract.** This Agreement continues from the _____ day of _____, _____ to the _____ day of _____, _____, but may be otherwise terminated: (1) By any party at any time for failure of the other party to comply with the terms and conditions of this Agreement; or (2) By any party upon sixty (60) days prior written notice to the other party; or (3) Upon mutual written agreement of both parties. Upon termination of the Agreement for any reason, a new Agreement must be signed and executed before any Plan benefits or obligations will become enforceable.
- 4.17 Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement. The parties to this Agreement intend and expressly agree that only parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

4.18 Severability. Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of this Agreement shall continue in full force and effect and either party may attempt to renegotiate the terms affected by the severance.

4.19 Titles Not Controlling. Titles of paragraphs are for reference only and shall not be used to construe language in this Agreement.

4.20 Waiver. The waiver or any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach.

4.21 Time is of the Essence. Time is of the essence in all provisions of the Agreement.

IN WITNESS WHEREOF, the County has caused this Agreement to be signed and executed in its behalf by its Chairperson, and duly attested by its County Clerk and Converse County Participating Board has signed and executed this Agreement the day and year first written above.

BOARD OF COMMISSIONERS OF THE COUNTY OF CONVERSE, Wyoming:
BOARD OF CONVERSE COUNTY COMMISSIONERS

/s/ _____
Chairman

ATTEST: _____
Converse County Clerk

Converse County Participating Board

(Signed) President, Board of Directors

ATTEST: _____

Secretary