

**NORTHWEST MONTANA SCHOOLS' HEALTH MULTIDISTRICT
INTERLOCAL CONSORTIUM PARTICIPATION AGREEMENT**

THIS NORTHWEST MONTANA SCHOOLS' HEALTH MULTIDISTRICT INTERLOCAL CONSORTIUM PARTICIPATION AGREEMENT ("Consortium Participation Agreement") is made and entered into as of July 1, 2023 (the "Effective Date"), by and between the respective governing bodies of the undersigned School Districts (hereinafter referenced individually as a "District" and collectively as the "Districts," "Participating Districts," "Groups" and/or "Parties: Bigfork School District, Cayuse Prairie School District, Eureka School District, Fair-Mont-Egan School District, Flathead Special Education Cooperative, Northwest Montana Educational Cooperative, Olney-Bissell School District, Somers/Lakeside School District, Smith Valley School District, Swan River School, West Valley Schools and any additional school district and other entity eligible to participate by law which become a party to this Consortium Participation Agreement in the future. All entities which are now, or in the future, parties to this Consortium Participation Agreement, shall be included in the definition of "District," "Districts," "Participating Districts," "Groups" and/or "Parties" for the purposes of this Consortium Participation Agreement.

WITNESSETH:

WHEREAS, the Districts entered into a similar Northwest Montana Schools' Health Multidistrict Interlocal Consortium Agreements dated July 1, 2023 for the purposes;

WHEREAS, the current Agreement terminates June 30, 2024.

WHEREAS, the purpose of those Interlocal Consortium Agreements was to form a Consortium to provide for joint purchasing of employee benefits, administrative services therefore, any related benefits, their respective Plans, and their eligible employees and dependents;

WHEREAS, the Agreements are pursuant to the laws of the State of Montana, to wit: §20-3-363, MCA, Title 7, Chapter 11, Part 1, MCA, Title 20, Chapter 9, Part 7, MCA;

WHEREAS, the Districts wish to now enter into a Northwest Montana Schools' Health Multidistrict Interlocal Consortium Participation Agreement (Consortium Participation Agreement) dated July 1, 2020 that continues to allow the Districts to operate a Consortium to provide for joint purchasing of employee benefit plans including a Health Plan (consisting of health, dental, and vision benefits), and life, disability and AD&D coverage, as well as administrative services therefore, stop loss coverage, and related benefits for the Districts, their respective Plans, and their eligible employees and dependents:

WHEREAS, the Districts now wish to memorialize their mutual agreement and understanding with regard to the Consortium and the parties involved, accept the terms and conditions of this Consortium Participation Agreement, and agree to vest the Consortium Board with the authority to administer the Consortium in accordance with this Agreement.

NOW, THEREFORE, for and in consideration of the promises and covenants contained herein, the Parties agree to enter into this Consortium Participation Agreement, as follows:

1. As of the Effective Date set forth above, the Parties desire and agree to form a Consortium to provide for joint purchasing of employee benefit plans including a Health Plan (consisting of health, dental, and vision benefits), and life, disability and AD&D coverage, as well as administrative services therefore, stop loss coverage, and any related benefits for the Districts, their respective Plans, and their respective eligible employees and dependents, as deemed beneficial by the Consortium Board of Trustees.
2. Formation and Structure. The Parties agree to form a Consortium structured and operated on the terms set forth in this Consortium Participation Agreement.
3. Purchase of Services. The Consortium will pay certain costs required for the operation of the benefit plans including administrative fees (administrative fees shall include third party administrative fees, consulting and legal fees, prime agency fees, and population management fees), stop loss premiums, life insurance and AD&D, benefit payments made pursuant to the terms of the Consortium's Plans, and other amounts and services as approved by the Consortium Board.
4. Plan Administrative Services. The Parties have agreed to retain a third-party administrator for the Health Plan. Any extensions, renewals, and/or subsequent RFPs must be approved by the Consortium Board as set forth below.
5. Funding Sources. The Consortium Health Plan shall be funded through transfers in accordance with the laws of the State of Montana. The transfers shall be deposited into the Health Trust Fund, by each District, according to the following:

With respect to the Consortium Health Plan, the Consortium is responsible for funding fixed monthly premiums as approved by the Consortium Board. The monthly premiums are determined by the Consortium Board for each participating District within the Consortium based on the Plan option and coverage tier selected for each individual District. Such premium rates are specified in their respective Fee Schedule which by reference is hereby incorporated into each District's Consortium Participation Agreement. A District or other entity joining the Consortium may be subject to a premium surcharge during the initial year. If a premium surcharge applies, the amount will be reflected in the applicable Fee Schedule.

The fixed monthly premium payments cover stop loss premiums and administrative fees as specified, by in force contracts with the stop loss carrier and the third-party administrator, and any other applicable vendor and/or funding obligation.

With respect to other employee benefit plans including life, AD&D and disability insurance the Consortium is responsible to pay premiums to the carriers as specified in applicable agreements.

6. Governing Authority.
 - a. The Consortium shall be vested with the discretionary authority to administer its employee benefit plans and shall have exclusive fiscal control over and be responsible for the operation of those plans and shall govern such in accordance with its fiduciary duty.

- d. The Consortium will administer the payment of certain costs required for the operation of the benefit plans including administrative fees (administrative fees shall include third party administrative fees, consulting and legal fees, and care management fees), stop loss premiums, life insurance and AD&D. benefit payments made pursuant to the terms of the employee benefit plans, and other amounts and services as approved by the Consortium Board.
 - e. Consortium expenditures are limited to services, activities, or undertakings that participating Districts are authorized by law to perform and as approved by the Consortium Board.
 - f. The Consortium Board shall utilize sound actuarial principles in the administration of the Consortium Health Plan. The Board may request additional procedures as agreed by the Board. The Consortium shall provide an annual financial report to the Participating Districts.
 - g. The Consortium Board shall ensure that the Consortium follows applicable state and federal laws.
7. Fund Balance. Any funds remaining in the Health Plan Trust Fund at the end of the Plan's fiscal year will be carried forward for the purpose of accumulating reserves to support future obligations.
8. Risk Management.
- a. General. This Consortium Participation Agreement is intended to cover the joint purchase by the Districts of a Health Plan (consisting of health, dental, and vision benefits), and life, disability and AD&D coverage, as well as administrative services, therefore, stop loss coverage, and related benefits for the Districts. The Consortium shall fund all claims under or made pursuant to its governing Health Plan document.
 - b. Each Participating District agrees that this Consortium Participation Agreement provides for and requires the joint payment of claims under its Health Plan.
 - c. Specific Stop Loss. The Consortium will arrange for and purchase "specific stop loss" insurance for the Plan. Said coverage will reimburse the Consortium for anyone (1) Plan participant's paid claims in excess of the specific stop loss deductible as determined by the Consortium Board.
 - d. Aggregate Stop Loss. The Consortium will arrange for and purchase "aggregate stop loss" insurance coverage for the Health Plans. Said coverage will provide for an aggregate stop loss attachment point (i.e., the maximum amount of claims for which the Health Plan is responsible) which is based on the estimate of claim obligations of the Health Plan.
 - e. Non-Renewal. If this Consortium Participation Agreement is terminated early or is not renewed by the Parties after the expiration of its term (or the expiration of any renewal term), the Consortium shall be responsible for all such its claim obligations plus costs and claims associated with claim run-out (claims incurred but not paid). Any cash balance remaining after payment of all Consortium obligations shall be distributed to the then

current Participating Districts (i.e., each District) based first on source, then on enrollment at the time of termination. No distribution shall be made for a period of at least eighteen (18) months following termination of this Consortium Participation Agreement to allow sufficient time for all obligations to be paid.

f. **Liability.** The Consortium agrees to fund its “maximum costs” as determined and established by the Board as a part of its premium development process (maximum costs equal all administrative fees, stop loss and life insurance premiums plus claims obligations up to its aggregate attachment point) through a combination of current premium payments and reserves.

g. **Indemnification and Third-Party Beneficiaries.** Each District agrees to indemnify the other Districts and hold them harmless as to any claim, judgment, or damage award whatsoever arising out of or related to that indemnifying District’s own negligence or wrongful act or omissions, to the extent permitted by law. This indemnification shall include but not be limited to all claims, claim obligations, contractual obligations, costs and expenses of any amounts whatsoever which are the responsibility of an individual District (including any such claim obligations arising after termination or expiration of this Consortium Participation Agreement). Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable, and each District is claiming all of the privileges and immunities and other benefits and protections afforded by law. The Parties to this Consortium Participation Agreement do not intend that this Agreement benefit any third party, and nothing herein should be construed as consent by a District to be sued by a third party in any matter arising out of this Consortium Participation Agreement. This provision shall survive expiration or earlier termination of this Consortium Participation Agreement.

9. **General Responsibilities.**

a. The Consortium will administer its employee benefit plans in accordance with each respective Plan’s governing Plan Document in effect as of July 1, 2020. Any significant/material changes in benefits or District contribution levels must be approved by the Consortium Board which is responsible to ensure that Plan provisions follow stop loss contracts.

b. Health Plan benefit and eligibility provisions must comply with stop loss contract terms as well as applicable law.

c. Increases or decreases in employee participation in each District of more than 10% from that in effect on June 30, 2024, could result in a premium for that District.

d. All Plan premiums, administrative fees and claims funding are to be paid timely in accordance with applicable law and vendor requirements.

e. Upon agreeing to participate in the Consortium each District agrees to comply with each term of the Fee Schedule extended by the Consortium.

10. **Term/Termination.**

a. The term of this Agreement shall be for one (1) year commencing on July 1, 2023, and expiring at midnight on June 30, 2024, unless terminated earlier. This Consortium

Participation Agreement may be terminated by the written agreement of all Participating Districts.

b. A Participating District may withdraw from the Consortium prior to termination if the Consortium has breached a material term of this Agreement and has not fully cured such breach within thirty (30) days after receiving notice of the breach from the Participating District. A District may be expelled from the Consortium by the Consortium Board upon a majority vote of the governing bodies of the undersigned Districts, or if the District has breached a material term of this Consortium Participation Agreement and has not fully cured such breach within thirty (30) days after receiving notice of the breach from the Consortium Board. Said District shall be responsible for all such District's claim obligations incurred through the effective date of termination and said obligation shall survive termination.

c. If a Participating District voluntarily terminates participation during the term of this or any subsequent term, said District shall be responsible for all such District's claim obligations incurred through the effective date of termination.

d. After the initial term, this Consortium Participation Agreement may be renewed. After the initial term, a District may terminate participation by giving notice to the Consortium Board at least ninety (90) days prior to the end of the then current term.

e. In the event the Consortium Participation Agreement is terminated and not renewed by all Parties, any cash balance remaining in the Health Trust Fund after payment of all Consortium obligations shall be distributed to the then current Participating Districts based on enrollment at the time of termination. No distribution shall be made for a period of at least eighteen (18) months following termination of this Agreement to allow sufficient time for all obligations to be satisfied and said remaining balance will be utilized pursuant to the laws of the State of Montana.

11. The Consortium will have a Board of Directors. The Consortium Board shall consist of one member appointed by each participating District. The Consortium Board shall have the following roles and responsibilities.

a. Administer the Consortium Plan(s).

b. Develop and establish premium rates/funding levels for participating Districts.

c. Approve the inclusion of additional Districts into the Consortium.

d. Appoint qualified professional staff as needed.

e. Approve contractual extensions or renewals, or the execution of any administrative service agreement, consulting agreements, or other service agreements.

f. Serve as a forum for joint discussions regarding direction of the Plans, regulatory compliance, benefit design, financial management and add-on services such as wellness programming, life, disability, and AD&D insurance.

Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration which shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof and shall be binding upon the Parties.

Any such arbitration must be conducted in Kalispell, Montana. There must be one arbitrator who must have experience with insurance issues related to self-funded health benefit plans, or such alternate qualifications as the parties may agree upon. The arbitrator must be acceptable to all Parties. If the parties cannot agree on the arbitrator, the arbitrator will be selected as set forth in the applicable Rules governing the arbitration.

The arbitrator has the discretion to order a pre-hearing exchange of information by the parties including, without limitation, production of requested documents, exchange of summaries of testimony of proposed witnesses, and examination by deposition of parties.

Except as otherwise provided herein, the arbitrator has the authority to award any remedy or relief that a District Court of Montana could order or grant.

The arbitration may award costs and fees to the prevailing party if, in the arbitrator's discretion, the non-prevailing party did not prosecute the arbitration or settlement of the dispute in good faith. "Costs and fees" for this purpose means reasonable pre-award expenses of the arbitration, including the arbitrator's fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees and attorneys' fees. Except as otherwise awarded by the arbitrator, all costs and fees must be borne by the party incurring such costs and fees.

APPROVED BY:

DISTRICT:

Name of District:

Date:

Board Chair Name:

Board Chair Signature:
