

# Trust Agreement



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**CONTRACTOR'S CHOICE**<sup>®</sup>  
PREVAILING WAGE HOUR BANK PROGRAM

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## **AGREEMENT AND DECLARATION OF TRUST**

This Agreement is made in the State of California, effective November 1, 1999 by and between Choice Administrators, Inc. ("Trustor") and John M. Word III, Edward J. Brown, Jr. and Judy Burlingham, ("Trustees") who by execution of this agreement create the Contractor's Choice Trust (referred to herein as the "Trust"). The Trustees declare that they will administer the Trust pursuant to the provisions of this agreement; and

**WHEREAS**, certain employers desire to provide bona fide health and welfare benefits for employees and families of such employees, in satisfaction of their obligations under the Service Contract Act, the "Davis-Bacon Act" and other similar statutes, and the employers have agreed that the individuals named above shall be the Trustees of the Trust, the Trustor therefore enters into this agreement with the Trustees under which any monies paid to the Trustees on account of such insurance will be held in a fund forming the Trust Fund of the Contractor's Choice Trust (which Trust Fund is herein referred to as the "Fund");

**NOW**, in consideration of the terms of this agreement, it is mutually agreed as follows:

### **ARTICLE I**

#### **PURPOSE OF THE TRUST**

The Trust is established for the purpose of (1) providing assistance to Employers with compliance issues and claims issues; (2) receiving health and welfare contributions from the participating employers, (3) providing fully insured health and welfare benefits for the employees of participating Employers, and (4) other purposes as deemed necessary.

ARTICLE II  
DEFINITIONS

Section 1. Administrator. The term "Administrator" as used herein shall mean Choice Administrators, Inc. and any successor administrator.

Section 2. Subscriber. The term "Employer" as used herein shall mean any employer who has agreed, with the consent of the Trustees, to subscribe to this Trust Agreement.

Section 3. Employees. The term "Employees" as used herein, shall mean common law employees of an Employer.

Section 4. Policy. The term "Policy" or "Policies" as used herein, shall mean the Policy or Policies of Insurance issued pursuant to this Trust and accepted by the Trustees and all amendments or supplements attached to such policies of insurance accepted by the Trustees and shall include contracts with health maintenance organizations.

Section 5. Fund. The term "Fund" as used herein, shall mean the Trust Fund created under this Trust, which shall consist of all policies together with all dividends, refunds or other sums payable to the Trustees on account of such policies, all monies received by the Trustees as contributions from Employers and any other property received, held and set aside by the Trustees for the uses and purposes set forth in this Agreement and Declaration of Trust.

Section 6. Trustees. The term "Trustees" as used herein, shall mean John M. Word III, Edward J. Brown, Jr. and Judy Burlingham, and any successor to them.

Section 7. Contributions. The term "Contributions" as used herein shall mean the irrevocable fringe benefit amounts, which the employer is required to pay for its employees pursuant to the Service Contract Act, the "Davis-Bacon Act" and other similar statutes.

ARTICLE III  
THE POLICIES

Section 1. Procuring of Policies. The Trustees shall procure a policy or policies providing such of the insurance specified in Article I as shall be determined by each Employer. Additional policies providing any of such insurance as an Employer shall determine may be procured by the Trustees at any time thereafter. The term "Policy" as used herein, shall include any rider, endorsement, or amendment made a part of the Policy.

Section 2. Control by Trustees. The Trustees shall agree with each insurance carrier upon all of the provisions to be contained in each policy and the requirements for insurance thereunder. All the rights and privileges granted to the policy holder by a policy or allowed by the insurance carrier shall be vested in the Trustees and they may take any action with respect to each policy or the insurance provided thereunder permitted by the insurance carrier and as directed by the Employer. The Trustees may enter into such agreements with the insurance carrier as necessary in regard to any such insurance in order to satisfy the determination for coverage as directed by an Employer.

ARTICLE IV  
PARTICIPATION

Section 1. Enrollment of Employers and Payments by Employers to the Fund. A corporation, proprietorship or a partnership that has executed an agreement provided by the Trustees may request participation in the Trust by submitting employees' applications together with the initial contributions determined by the Trustees on the basis of the insurance to be provided. If the requirements for the participation in the insurance under a policy are satisfied, the corporation, proprietorship or partnership shall be enrolled as an Employer under the Trust. If a corporation, proprietorship or partnership is not accepted for such participation, any contribution made by it for such purpose shall be returned and there shall be no further obligation in connection therewith. A corporation, proprietorship or partnership that is accepted as an Employer shall thereafter make contributions on such dates and in such amounts as shall be required for providing the insurance under each policy, selected by the Employer, and for administering the Trust. Participation of a corporation, proprietorship or partnership under each policy shall continue until all insurance upon which contributions of the Employer were based has been terminated pursuant to the provisions of the Policy. Prompt submission of contributions for benefit coverage shall be the responsibility solely of the Employer. Contributions will be irrevocable except for contributions based on a mistake of fact, which may be returned in accordance with applicable law. It shall also be the sole responsibility of the Employer to make the proper contributions to satisfy the requirements of the Service Contract Act of 1965 (SCA), the Davis-Bacon Act or similar statute. The Trustees shall not be obligated to review, monitor or enforce any obligation the Employer may have under any statute or contract.

Section 2. Voluntary Contributions Required of Employees of Employers. To the extent and in the manner permitted by any policy, rules, regulations, and laws which are applicable, each Employer may allow voluntary contributions from its insured employees toward the cost of providing insurance. Any such voluntary contributions shall be submitted as part of the Employer contributions to the Fund.

Section 3. Administration of Trust. To properly administer the insurance and the Trust, the Trustees may adopt such rules and regulations including any requirements for eligibility of Employers for participation in the Trust and may require the Employers to furnish such information as the Trustees deem necessary or advisable.

Section 4. Interest of Employers, Persons Insured and Persons Claim Through Them. Neither the Employer nor any person insured or person claiming by and through an insured person by reason of having been named a beneficiary for insurance benefits or otherwise, shall have any claim against the fund or any other property of the Trust. The rights and interests of persons insured and persons claiming by or through them shall be limited to the insurance benefits specified in the Policies.

## ARTICLE V

### NATURE AND USE OF THE FUND

Section 1. Nature of the Fund. The Fund shall consist of all Employer contributions made to the Trustees in accordance with the provisions of Section 1 of Article IV, policy dividends whether received by the Trustees or left with insurance carriers to accumulate with interest, investments made by the Trustees and income thereon and any other money or property which shall come into the hands of the Trustees in connection with the administration of the insurance and the Trust. The

Trustees may make investments only in such securities as are legal for investment of trust funds under the law of the jurisdiction first above named.

Section 2. Use of the Fund. The Trustees will use and administer the Fund as follows:

a. To pay or provide for the payment of all reasonable and necessary expenses, costs, and fees incurred by the Trustees in connection with the maintenance of this Trust Fund, including the employment of such actuarial, legal, administration, consulting and other expert assistance, as is necessary or appropriate in the performance of his duties.

b. To make deposits and payments pursuant to the Policy and to any other group contracts for provision of benefits hereunder.

c. To invest Trust assets, or any part thereof, in U.S. Government guaranteed obligations or in shares of mutual investment companies holding U.S. Government guaranteed obligations or in certificates of deposit of any bank, including any Co-Trustee; or in any other property in which the Trust Fund may lawfully be invested, such assets shall be disposed as promptly as is prudent under the circumstances.

d. To exercise over Trust assets all rights and powers with respect to investment that an absolute owner would have.

e. To employ, when necessary, legal counsel upon a legal question arising out of the administration of this Trust Agreement, and the Trustees shall be held harmless and fully protected in acting in good faith and relying upon the advice of such counsel.

f. To administer the Trust Fund by retaining and/or employing any person or persons or organizations to assist the Trustees in the administration of the Trust Fund;

g. To exercise all rights or privileges granted to the contract holder by the provisions of a group contract or contracts issued to the Trust as provided herein or allowed by the insurance carrier or service agency issuing such contract as directed by an Employer;

h. To sell, exchange, lease, convey, or dispose of any property at any time forming a part of the Trust Fund or the whole thereof upon such terms as is proper and to execute and deliver any and all instruments of conveyance and transfer in connection therewith;

i. To enter into any and all contracts and agreements for carrying out the terms of this Trust Agreement and for the administration of the Trust Fund and to do all acts necessary under such contracts or agreements and such acts shall be binding and conclusive on the Employers, Employees, their beneficiaries and/or dependents;

j. To transfer Trust assets to a trust formed for the same or similar purposes as this Trust, subject to the requirements and restrictions of applicable law; and

k. To do all acts whether or not expressly authorized herein which is necessary or proper for the protection of the Trust Fund held hereunder.

## ARTICLE VI

### PLAN OF BENEFITS

#### Section 1. Plans.

The Trust will provide plans for benefits for Employees through the purchase of policies and contracts as selected by Employers. All health Plans will be fully insured

by a licensed insurance company or health maintenance organization. Vacation benefit plans will be administered on an after-tax basis.

Section 2. Hourbank. A plan may provide for the “banking” or crediting of hours of Employees in order for Employees to obtain eligibility for coverage. Hourbank credits will be separately accounted for in each Employer’s plan for each Employee and each plan will specify the limits of Hourbank credit and the use of Hourbank credit. Credit may also, or instead, be based upon dollar credits rather than on hours of service.

Section 3. ERISA. To the extent any Employer’s plan is covered under the Employee Retirement Income Security Act (ERISA), it shall be the Employer’s obligation to comply with all requirements under ERISA. The Employer will be the plan sponsor and the plan administrator as defined under ERISA.

Section 4. Expenses. Expenses attributable solely to a particular Employer’s plan shall be charged to that plan. For purposes of Trust expenses which generally benefit all plans or which are necessary for operation of the Trust, each plan shall be charged a share of such expenses. In lieu of a specific charge to each plan, such expenses may be charged to a pool established from all plans due to forfeited contributions and contributions for those who do not achieve eligibility for benefits.

## ARTICLE VII

### THE TRUSTEES

Section 1. Resignation of Trustees. A Trustee may resign upon giving thirty (30) days notice, in writing, to the Trustor. The Trustor shall then give notice of such resignation to the Employers.

Section 2. Removal of Trustees. Any Trustee may be removed from office at any time by a written document requesting such removal signed by a majority of the Employers.

Section 3. Appointment of Successor Trustees. In case any Trustee shall die, resign or be removed, a successor Trustee shall be appointed by the written election of a majority of the Employers. Should the Employers fail to appoint a successor within 60 days of notice of a vacancy, the remaining Trustees may appoint a successor Trustee. Immediately upon his acceptance of the Trusteeship, in writing, a successor Trustee shall become vested with all of the property, rights, powers and duties of a Trustee hereunder, with like effect as if originally named as a Trustee.

Section 4. Compensation of Trustees. The Trustees may be reimbursed for all reasonable and necessary expenses incurred by them in the performance of their duties and may receive reasonable compensation for the services performed in the administration of the Trust.

Section 5. Annual Meeting. The Trustees shall designate one (1) meeting each year as the Annual Meeting. At said meeting the annual report of all income and disbursements shall be submitted in writing to the Trustees.

Section 6. Name of the Trustees Collectively and Execution of Instruments. The name of the Trust may be used to designate the Trustees collectively and all instruments may be effected by them in such name upon the signature of one of the Trustees.

Section 7. Number of Trustees. The minimum number of appointed Trustees shall be one (1).

Section 8. Action by Trustees. If there is more than one Trustee, the Trustees may effect actions and decisions by a majority vote at a duly called meeting of the Trustees or by written determination signed by a majority of the Trustees.

Section 9. Removal of Administrator. The Administrator may be removed by a written request signed by a majority of the Employers.

## ARTICLE VIII

### LIABILITY OF TRUSTEES

Section 1. Limit of Liability. No Trustee shall be liable for any action pursuant to the Trust in good faith taken or omitted nor for any action taken or omitted by any agent, employee or attorney selected with reasonable care nor for any action taken or omitted by any other Trustees, nor for any loss incurred through investments of monies of the Trust or failure to invest.

Section 2. Legal Action by Trustees. The Trustees may seek judicial protection by any action or proceeding they may deem necessary to settle its accounts, or to obtain a judicial determination as to any question of construction of the Trust Agreement or instruction as to any action thereunder. Any such determination shall be binding upon all parties to or claiming under this Trust Agreement.

Section 3. Costs of Suit. The costs and expenses of any action, suit or proceeding brought by or against the Trustees or any Trustee by reason of acting as such Trustee (including counsel fees) shall be paid from the Trust Fund, except in relation to matters as to which it shall be adjudged in such action, suit, or proceeding that such Trustee was acting in bad faith.

Section 4. Fidelity Bonds and Insurance. Each Trustee and each employee employed by the Trustees who may be engaged in handling of monies of the Trust Fund shall be bonded by a duly authorized surety company for such sum as the Trustees from time to time shall determine. The cost of premiums for such bonds shall be paid out of the Trust Fund. The Trustees may also purchase liability insurance for the protection of the Trust.

## ARTICLE IX

### DEALINGS WITH THE TRUSTEES

In dealings with the Trustees there shall be no obligation to determine the use by the Trustees of any funds or property of the Trust or to see that the terms of the Trust have been complied with and no obligation to inquire into the necessity or expediency of any act of the Trustees, and every instrument effected by the Trustees, whether signed by all of them or in the manner set forth in Section 6 of Article VII, may be relied upon as to any facts set forth therein and shall be conclusive that

- a. at the time of delivery of said instrument, the Trust was in full force and effect and except where there has been notice of an amendment, was in the form set forth in the agreement as of its effective date; and
- b. said instrument was executed in accordance with the terms and conditions of the Trust; and
- c. the execution and delivery of the instrument was duly authorized.

## ARTICLE X

### AMENDMENT AND TERMINATION OF THE TRUST

Section 1. Amendment. The Trust may be amended at any time by the Trustees to such extent as is deemed necessary or advisable, except that no amendment shall change the Trust to a purpose other than set forth in Article I. In order for an amendment to be effective, the Trustees shall send a copy of the proposed amendment to each Employer and the amendment will become effective within 30 days of the date of mailing, unless a majority of the Employers object to the amendment in writing within such 30 day period.

Section 2. Trust Termination. The Trust shall continue until terminated by the Trustees. Upon termination of the Trust, the Trustees shall pay all obligations of the Trust and charge them to the Fund. The Trustees shall thereupon first use the Fund to continue insurance on all employees and insured under the Policies and the families of such persons to the extent possible, and apply any remaining balance of the Fund for the benefit of such of these persons and the families of such persons as were insured thereunder at the time of termination of the Policies, in such a manner as the Trustees determine shall best carry out the purpose for which the Fund was established. Anything herein above to the contrary notwithstanding, the Trustees, upon termination of the Trust and settlement of all obligations of the Trust, may transfer the Policies and the remaining surplus, or any portion thereof, of the Fund to the Trustees of any trust or trusts established for a substantially similar purpose to be applied for uses substantially similar to those set forth in Section 2 of Article V.

Section 3. Plan Termination. If a Plan of an Employer terminates because the Employer ceases to contribute to the Plan and there is not a successor trust established or in existence to which assets of the Plan can be distributed, any remaining assets

attributable to the Plan which have not been pooled under Article VI, Section 4 will either be used to provide for the type of benefits available under this Trust or will be distributed to the Eligible Employees in a reasonable and non discriminatory manner.

ARTICLE XI

SITUS AND CONSTRUCTION OF THE TRUST

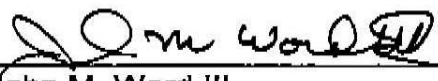
The Trust is accepted in the jurisdiction first above named and all questions pertaining to its validity, construction and administration shall be determined in accordance with the laws of such jurisdiction.

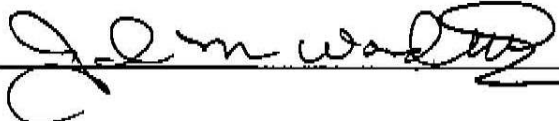
**IN WITNESS WHEREOF**, the parties have affixed their signatures as of the day and year first above written, at Orange, California.

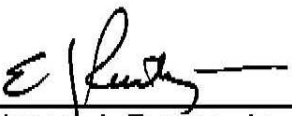
**TRUSTEES**

**TRUSTOR**

Word & Brown Insurance Administrator, Inc.

By:   
John M. Word III

By: 

By:   
Edward J. Brown, Jr.

By:   
Judy Burlingham

**CONTRACTOR'S CHOICE TRUST  
SUBSCRIPTION AGREEMENT**

This Subscription Agreement is made and entered into by and between \_\_\_\_\_  
("Participating Employer") and Contractor's Choice Trust, effective as of \_\_\_\_\_, 20\_\_\_\_\_.

The Participating Employer agrees to subscribe to the Contractor's Choice Trust and acknowledges that it has read the Trust document. The Employer also appoints Choice Administrators, Inc. as Administrator to provide the services set forth in Section III of this Agreement.

**Section I. Plan Provisions.**

As of the effective date of the Adoption Agreement, the Participating Employer employs eligible full time employees. The plan benefits selected by the Participating Employer are as follows:

Medical  
Carrier/Plan: \_\_\_\_\_

Dental  
Carrier/Plan: \_\_\_\_\_

Vision  
Carrier/Plan: \_\_\_\_\_

Life  
Carrier/Plan: \_\_\_\_\_

Chiropractic  
Carrier/Plan: \_\_\_\_\_

The Participating Employer will contribute to the plan for all eligible, full time employees that enroll and are approved for coverage.

The employee must accrue \_\_\_\_\_ of hours worked to become eligible for coverage under the plan.  
(Example: 100, 120, 130, 140, 160 monthly hours.)

- Effective date must be on the first of the month.
- Each block of monthly hours provides one (1) subsequent calendar month of coverage.
- An employee may not accrue more than 12 months of work credit. Once the max amount is accrued, contributions will be redirected towards the pension plan.

Check here if group will be set up as a monthly group.

**Section II. Employer Responsibilities.**

1. Contributions for benefits coverage will be made by the 15th day of the month for coverage or Hourbank credit for one (1) subsequent month or at least quarterly.

2. The Employer understands it is adopting the plan of benefits for its employees through the Trust.
3. Compliance with ERISA and any similar statutes is the sole responsibility of the Employer.
4. The Employer will provide the Administrator and the Trustee with information, as required by them, about eligible employees, and any other information needed to administer the selected plan of benefits.
5. The Employer will maintain an enrollment consistent with the Trust's guidelines, which adhere to carrier requirements.

**Section III. Administrative Services.**

As Administrator, Choice Administrators Contractor's Choice will perform the following services:

**Plan Maintenance:**

- Obtain applications and forward to carrier.
- Distribute insurance coverage materials including administrative guidelines, rate sheets, and enrollment materials.
- Maintain accounting records detailing employer contributions, employee voluntary contributions, trustee transfers and ending balances.
- Maintain a census database of covered employees.
- Assist Trustees in collecting and posting contributions monthly.
- Assist Trustees in transmitting premium payments to carriers.
- Reconcile carrier billing monthly.
- Perform accounts receivable tasks related to late contributions/payments.
- Provide eligibility reports to the employer monthly.
- Provide Hours and Contributions report template or billing statement to the employer monthly
- Determine eligibility for each employee including effective dates, terminations and rehires.
- Review individual applications.
- Forward new applications and corrected forms to the carrier.
- Distribute I.D. cards to employees as needed. New enrollee information and I. D. cards usually come from the carrier.
- Notify employees of their rehire status.
- Provide CONEXIS all information necessary for COBRA administration for enrolled COBRA participants.
- Provide COBRA Activity Reports to the Employer.

**ERISA Compliance:**

- Carrier will issue one form 5500 Schedule A to the Trust.
- Prepare Form 5500 for Trust.

- Prepare Summary Annual Report, if required.
- Prepare Summary Plan Description.
- Assist in certified audit, as required.

**Customer Service:**

- Provide assistance to employees, the employer and the carrier regarding eligibility issues.
- Provide assistance to employees and the carrier regarding claims issues.
- Mail supplies to clients and employees as needed.

**Renewals:**

- Communicate to broker(s) and the employer regarding open enrollment and rate changes during annual renewal.

**Section IV. Administrative and Other Fee Compensation.**

1. Choice Administrators, Inc. will be compensated for its services through the Trust at a fee of 6%.
2. If deemed appropriate, Trustees may institute or increase fees to defray administrative expenses.

**Section V. General Provisions.**

1. This Agreement will continue until terminated by the Employer or Contractor's Choice upon 30 days notice in writing. Any compensation due to Contractor's Choice will be paid through the end of the month of termination.
2. The Employer understands that in order to provide proper and complete performance of services Contractor's Choice needs to receive accurate and timely data and information, as may be requested from time to time, in order to administer the plan of benefits selected by the employer.
3. This Agreement shall inure to and be binding upon the heirs, executors and assigns of the parties but it shall not be assigned without the written consent of all parties to the Agreement.

EXECUTED on \_\_\_\_\_, 20\_\_\_\_\_.

For an effective date of \_\_\_\_\_.

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Authorized Signature**

**Contractor's Choice Trust  
Subscription and Administration Agreement**

**Schedule A**

**Benefit Plan(s) Selected by Employer**

**Blue Shield Plans**

**HMO's**

- HMO 15
- HMO 30
- HMO 40

**Shield Select Plans**

- Spectrum 250 Value
- Spectrum 500
- Savings Plus 2400/4800

**UnitedHealthcare / PacifiCare**

**HMO's**

- Standard 20/40
- Standard 30
- Standard 15/80%

**Choice+ PPO's**

- Choice+ 90/70-250
- Choice+ 80/60-500
- Choice+ 100/80-2500

**Choice+ HSA**

- HSA Choice+ 80/60
- Choice+ Consumer Choice
- Choice+ 80/60-2000

**Kaiser Permanente**

- HMO 15/250
- HMO 30/250
- HMO 10/500
- HSA 2700/5450

**Western Health Advantage**

- Premier 20
- Advantage 15-30
- Advantage 70
- Advantage 40

**Delta Dental**

- DHMO 10B
- DPO USA

**Safeguard Vision**

- Plan B
- Image 32

**Assurity Life Insurance**

- \$10,000
- \$15,000
- \$25,000

**American Specialty Health**

- Chiro only - \$15/20
- Chiro only - \$10/30
- Chiro & Acupuncture - \$15/20
- Chiro & Acupuncture - \$10/30