**ENTER EMPLOYER NAME PREMIUM ONLY PLAN**

*(Effective As Of ENTER PLAN EFFECTIVE DATE)*

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*ENTER EMPLOYER NAME PREMIUM ONLY PLAN*

*(Effective As Of ENTER PLAN EFFECTIVE DATE)*

INTRODUCTION

The **ENTER EMPLOYER NAME** Premium Only Plan (the "Plan") is hereby adopted effective **ENTER PLAN EFFECTIVE DATE**. The Plan is intended to constitute a legally enforceable “cafeteria plan” under Code Section 125. Accordingly, the Plan shall always be construed and administered in a manner consistent with the requirements of Code Section 125, the rulings and regulations thereunder and any other pertinent provisions of the Code. The Plan is intended to be a pre-tax premium only plan that is not subject to the Employee Retirement and Income Security Act of 1974, as amended. In addition, the Plan is intended to meet the safe harbor for nondiscrimination testing set forth in Proposed Treasury Regulation Section 1.125-7(f) by meeting the requirements of Proposed Treasury Regulation Section 1.125-7(b)(3) each Plan Year.

# DEFINITIONS

As used herein, the following words and phrases shall have the meanings specified below unless the context clearly requires a different meaning.

## Code

means the Internal Revenue Code of 1986, as amended, or replaced, from time to time. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provisions of any legislation which amends, supplements, or replaces such section or subsection.

## Coverage Period

means the 12-month period starting on the Health Care Program effective date and ending 12 months later.

## Dependent

means dependent as defined by each Health Care Program. However, for purposes of any Health Care Program that provides medical benefits, a Dependent shall also include Participant’s children who have not attained age 26, (or such later age as determined by the Plan Administrator and permitted under federal law) and, for grandfathered plans as defined under Department of Labor Regulation 2590.715-1251 prior to Plan Years beginning before January 1, 2014, who are not eligible to enroll in another employer’s medical plan, other than the medical plan of a parent.

## Effective Date

means **ENTER PLAN EFFECTIVE DATE**.

## Election Period

means the period of time commencing prior to each Coverage Period and ending prior to the first day of each Coverage Period, during which eligible Employees may elect to make Salary Reductions under this Plan. The initial Election Period for an Employee who first becomes eligible to participate in a Health Care Program during a Coverage Period shall be the initial enrollment period for coverage established by the Employer in its discretion.

## Employee

means each current or future person whose relationship to his Employer is classified by the Employer as that of a common law employee. The term Employee shall not include:

#### any leased employee as defined in Section 414(n)(2) of the Code;

#### any employee who is part of a collective bargaining unit unless the Employer and the representative for the collective bargaining unit have agreed to participation hereunder; or

#### any person whose relationship with the Employer is deemed by the Employer not to be that of a common law employee.

The Employer’s employment classification of a person shall be binding and controlling on all parties and shall continue in effect regardless of any contrary classification or reclassification of such person by any other person or entity including, but not limited to, the Internal Revenue Service, the Department of Labor, or a court of competent jurisdiction

## ***Employer***

means the Sponsor and any other member of a controlled group that includes the Sponsor, which adopts this Plan with the approval of the Sponsor **IF THERE IS A PARTICIPATING EMPLOYER, INCLUDE THE FOLLOWING LANGUAGE:** and is set forth on Appendix A hereto. The term “controlled group” shall include: (i) a controlled group of corporations, within the meaning of Code Section 414(b); (ii) a group of trades or businesses under common control, within the meaning of Code Section 414(c); (iii) an affiliated service group, within the meaning of Code Section 414(m); or (iv) a trade or business required to be aggregated pursuant to Code Section 414(o).

## ***Employer Contributions***

means contributions to the Plan for the purpose of providing benefits hereunder made by the Employer on an Employee’s behalf pursuant to a Salary Reduction election.

## ***FMLA***

means the Family and Medical Leave Act of 1993, as amended.

## ***Health Care Program***

means the Employer’s group health plan, vision plan, dental plan and/or other welfare benefit options through insurance policy(ies) with Washington Dentists’ Insurance Agency, in each case with respect to which premiums are paid through this Plan on a pre-tax basis due to an Employee's election of coverage under the terms of the group health plan, vision plan, dental plan and/or other welfare benefit options.

## ***Participant***

means any Employee who becomes a Participant as provided in Article II.

## Plan

means the **ENTER EMPLOYER NAME** Premium Only Plan, as amended from time to time.

## ***Plan Administrator***

means the Sponsor or any person or committee designated by it from time to time to be the Plan Administrator.

## ***Plan Year***

means the 12 consecutive month period beginning on the effective date of the Health Care Program and ending on the date 12 months later.

## ***Qualified Change in Status***

means an event with respect to an Employee that would allow such Employee to revoke or modify his Salary Reduction during a Coverage Period, in accordance with Code Section 125 and the regulations thereunder as they may be changed from time to time. Code Section 125 and the regulations thereunder generally provide that existing elections may be modified or revoked under one or more of the following circumstances:

If the Employee and/or his dependents are enrolling for group health coverage pursuant to the special enrollment rules set forth in Code Section 9801(f);

If the Employee has one or more of the following “change in status” events: a change in the legal marital status of the Employee; a change in the number of dependents of the Employee; a change in employment status (including worksite) of the Employee or his dependents; a dependent child ceasing to be eligible for dependent coverage; or a change in the place of residence of the Employee and/or his dependents. In the case of such an event, an Employee’s new Salary Reduction must be consistent with such event to the extent required by the rules and regulations of the Department of Treasury;

If the Employee is required to enroll his child or foster child under an accident or health plan pursuant to a judgment, decree or order of a court;

If the Employee or his dependents become entitled to or ineligible for Medicare (Part A or B) or Medicaid coverage (other than coverage consisting solely of coverage for pediatric vaccines);

If there is a significant change in the cost or coverage of an accident or health plan; or

If the Participant takes a leave pursuant to the Family and Medical Leave Act.

The Plan Administrator, in its discretion, shall determine whether a Participant has incurred a Qualified Change in Status based on all the relevant facts and circumstances and in accordance with the rules and regulations issued under Code Section 125.

## ***Salary Reduction***

shall mean the amount by which a Participant authorizes the Employer to reduce his salary in order to provide for Employer Contributions in lieu of contributions otherwise required by the Employee under the Health Care Program. Compensation shall be reduced pursuant to a deemed election made by such Participant during the applicable Election Period.

## ***Sponsor***

means or any successor or successors that continue to maintain the Plan.

## ***Spouse***

shall mean the legally married husband or wife of a Participant under applicable state law, and who is treated as a spouse and married under the Code, unless legally separated by court decree.

## ***USERRA***

means the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended.

# ELIGIBILITY

## ***Eligibility to Participate***

. Each active Employee shall be eligible to participate in the Plan on the date he becomes eligible to commence participation in a Health Care Program.

## ***Cessation of Participation***.

Each Participant shall continue as such until the earliest date upon which any one of the following events occurs:

the Participant terminates employment with the Employer for any reason including death, even though coverage or benefits under a Health Care Program may continue to the extent provided in the Health Care Program and/or by law;

the Participant ceases to be an eligible Employee; or

the Participant revokes his Salary Reduction election during a Coverage Period pursuant to Section 3.4 with respect to the Health Care Program.

Subject to any specific limitations set forth herein or under any Health Care Program, a Participant shall continue to participate in this Plan during any leave of absence subject to the following:

### If the Participant continues to receive his compensation during such leave, the Participant’s cash compensation will be reduced and applied in accordance with Article III.

If the Participant does not continue to receive his compensation during such leave, the Participant’s participation in this Plan shall be suspended.

Notwithstanding the foregoing, a Participant shall have the right to continue participation under the Health Care Program during an unpaid leave of absence pursuant to the FMLA, or while performing service in the uniformed services pursuant to USERRA, by contributing his share of the contributions for his optional benefits to the Employer at such time and in such manner as voluntarily agreed between the Employer and Participant. A Participant may elect not to participate in the Plan during any FMLA or USERRA leave, provided that upon the return of such Participant from his FMLA or USERRA leave, the Participant shall be entitled to be reinstated under this Plan on the same terms as prior to taking such leave. The provisions of this Plan shall be interpreted and construed in accordance with the FMLA, USERRA and the regulations promulgated thereunder, and in the case of conflict, the provisions of FMLA or USERRA, as applicable, shall control.

## ***Reinstatement of Former Participant***

. If a Participant terminates employment with the Employer and is re-employed within 30 days of his date of termination, then the Participant shall automatically be reinstated in the Plan, and he shall return to his elections in effect prior to his termination of employment unless an intervening event has occurred that otherwise would permit him to modify his elections in a manner consistent with Section 3.4. If a Participant terminates employment and is re-employed more than 30 days following his termination of employment, then such Participant will be eligible to recommence participation in the Plan following satisfaction of the eligibility requirements of Section 2.1.

# BENEFITS

## ***Benefits Provided***

. The optional benefits provided by this Plan are the payment of Employee contributions, on a pre‑tax Salary Reduction basis, to a Health Care Program as required pursuant to the terms of coverage elected under such Program.

## ***Incorporation of Program Benefits***

. While an election to receive benefits under the Health Care Program is made pursuant to this Plan, the actual benefits will be provided not by this Plan but by the Health Care Program. The type and amount of the benefits available under the Health Care Program, the requirements for participating in such Programs, and the other terms and conditions of coverage shall be set forth from time to time under such Programs.

## ***Selection of Benefits and Authorization of Salary Reduction***

. Each Participant who elects coverage under a Health Care Program shall be deemed to have elected pre-tax contributions to the extent Employee contributions are required for coverage under the terms of the Health Care Program.

## ***Irrevocability of Benefit Selection and Salary Reduction Designation***

. Elections deemed to be made under Section 3.3, including the election to receive compensation in cash or benefits or coverage under the Health Care Program, shall be irrevocable by a Participant during the Coverage Period, subject to a Qualified Change in Status. A Participant may revoke a benefit election for the balance of a Coverage Period and file a new election only if both the revocation and the new election are made within 30 days (or such shorter period allowed by law) of and are on account of and consistent with a Qualified Change in Status. Notwithstanding the foregoing, a Qualified Change in Status that results in ineligibility for coverage shall automatically cause a corresponding change in election.

## ***Effective Date of Benefit Selection and Salary Reduction Designation***

. A Participant’s selection of coverage under a Health Care Program and his authorization or designation of the Salary Reduction for the applicable Coverage Period shall be effective as of the first day of such Coverage Period.

## ***Increase or Decrease in the Cost of Coverage***

#### . Notwithstanding any provision in this Plan to the contrary, each Participant's Salary Reduction authorization shall be automatically increased or decreased to reflect any change in the cost of coverage permitted because of a Qualified Change in Status or any significant change in the cost of coverage under the Health Care Program as determined by the Plan Administrator. If during a Coverage Period any increase in the cost of coverage applicable to a benefit package option select by a Participant under the Health Care Program is significant, then the Plan Administrator, in its discretion, may permit each affected participant to choose among the following options.

#### (a) Elect to make a corresponding prospective increase in his Salary Reduction election;

#### (b) Revoke his existing benefit election and, in lieu thereof, to receive prospective coverage under another benefit package option providing similar coverage; or

#### (c) if no other benefit package option providing similar coverage is available, cease coverage.

#### If during a Coverage Period any decrease in the cost of coverage applicable to a Health Care Program, or a benefit package option under a Health Care Program, is significant, then the Plan Administrator, in its discretion, may permit Employees (including Employees who are not Participants) to elect the plan or benefit package option with respect to which there was a significant decrease in cost. For purposes of the foregoing, (i) the Plan Administrator shall have the sole discretion to determine whether or not a change in the cost of coverage for a benefit package option results in a “significant increase” or “significant decrease” in cost; (ii) the term “benefit package option” shall mean an option for coverage under a Health Care Program; and (iii) the term “type of coverage” shall refer to the coverage option selected by a Participant under an optional benefit which determines the number of persons actually covered (e.g., employee-only coverage, employee plus one coverage, or family coverage).

## ***Automatic Termination of Election***

#### . Elections deemed to be made under Section 3.3 shall automatically terminate on the date on which the Participant ceases to be a Participant in the Plan, although coverage or benefits under the Health Care Program may continue if and to the extent provided by such Program.

## ***Maximum Contributions***

. The maximum amount of contributions under the Plan for any Participant for a Plan Year shall be the costs from time to time of the most expensive benefits available to the Participant as applicable. The maximum amount of contributions under the Plan for any Participant for a Health Care Program for the Plan Year shall be the cost of any required Employee contributions for coverage under a Health Program in accordance with the terms of the Health Care Program.

# CONTRIBUTIONS AND FUNDING

## ***Funding of Benefits***

. Benefits under this Plan shall be financed through Participant Salary Reduction as designated by each Participant with respect to coverage or required by each Participant with respect to coverage under the Health Care Program. Salary Reduction amounts shall be made by payroll deduction for each applicable payroll period during the Coverage Period. No Salary Reduction shall be made for any period during which the Employee does not receive compensation from the Employer.

## ***Excess Amounts***

. If the aggregate amount of Salary Reduction designated by a Participant for a Coverage Period exceeds the contributions that would otherwise be required by the Employee for coverage under any Health Care Program for such Coverage Period, such excess shall be forfeited by the Participant and shall be used by the Plan Administrator to pay the fees of any trustees or other expenses of administering the Plan.

## ***Exclusive Benefit***

. The Plan shall not at any time be used for or diverted to purposes other than for the exclusive benefit of the Participants. No amendment shall divest any person of his interest herein, except as may be required by the Internal Revenue Service or other governmental authority.

# ADMINISTRATION

## ***Plan Administrator***

. The Plan Administrator is responsible for the operation and administration of the Plan. The Plan Administrator has the exclusive authority to interpret and construe the Plan, to correct defects, to supply omissions, to reconcile inconsistencies, to make factual determinations to the extent necessary to effectuate the Plan, and to determine all questions that arise in connection with the operation and administration of the Plan, in its sole and absolute discretion, including without limitation, all questions regarding eligibility for coverage and eligibility for and the amount of any benefits paid or payable under the Plan. The Plan Administrator’s interpretations and decisions shall be controlling, binding and final on all Plan Participants and all other parties. This provision shall apply for all purposes under the Plan, regardless of whether the Plan specifically provides that any particular action by the Plan Administrator shall be in its sole discretion. The Plan Administrator, in its sole discretion, may designate, appoint, or employ any number of persons or entities that it deems necessary and appropriate to assist it in the operation and administration of the Plan.

The Plan Administrator may adopt rules for the administration of the Plan as it considers desirable, provided such rules do not conflict with the Plan. All rules, decisions and designations by the Plan Administrator under the Plan shall be made in a nondiscriminatory manner and persons similarly situated shall be treated alike.

The Plan Administrator may delegate to any person or entity any of its powers or duties under the Plan. Such delegation shall be in writing and, to the extent of any such delegation, the delegate shall become responsible for the administration of this Plan and have the discretionary authority to determine eligibility for benefits or to construe the terms of the Plan (if the delegate is a fiduciary by reason of the delegation); in such event, references to the Plan Administrator shall apply instead to the delegate. Any action by the Plan Administrator in assigning of any of its responsibilities to specific persons who are officers or employees of the Plan Administrator, or any affiliates shall not constitute a delegation of the Plan Administrator’s responsibilities but rather shall be treated as the way the Plan Administrator has determined internally to discharge such responsibilities.

## ***Compensation and Expense of Plan Administrator***

. Unless otherwise determined by the Employer, the Plan Administrator shall serve without compensation for services as such, but all expenses of the Plan Administrator shall be paid by the Employer. Such expenses shall include any expense incident to the functioning of the Plan, including but not limited to, attorneys’ fees, accounting and clerical charges, and any other costs of administering the Plan.

## ***Indemnification***

. The Employer shall indemnify any employee to whom it has delegated fiduciary duties against all claims, losses, damages, expenses and liabilities arising from responsibilities in connection with this Plan, unless the same is determined to be due to gross negligence or willful misconduct.

# CLAIM FOR BENEFITS

## ***General***

. Any claim for benefits under the Health Care Program shall be made to the third-party administrator or insurance carrier thereunder and administered in accordance with the provisions of the Health Care Program. If the third-party administrator or insurance carrier denies any claim, a Participant or beneficiary shall follow the claim review procedures set forth under such Program.

## ***Limitations Period***

***.*** Notwithstanding any provisions in this Plan to the contrary, a Participant, beneficiary or other claimant may bring a legal action with respect to a claim under the Plan only if: (a) all of the claim’s procedures described in this Plan have been exhausted, and (b) such legal action is commenced within ninety (90) days after a decision on review is furnished or is deemed furnished as applicable.

# AMENDMENT/TERMINATION

## ***Amendment of Plan***

. The Sponsor shall have the right at any time, from time to time, to modify, alter or amend the Plan in whole or in part and may make any amendment retroactive if deemed necessary and appropriate.

## ***Termination of Plan***

. Sponsor shall have the right to terminate the Plan at any time, effective as of such date as it may determine. Upon termination of the Plan, all elections and reductions in cash compensation related to the Plan shall terminate.

# MISCELLANEOUS

## ***Information to be Furnished***

. Participants shall provide the Employer and Plan Administrator with such information and evidence and shall sign such documents as may reasonably be requested from time to time for the purpose of administration of the Plan.

## ***Limitation of Rights***

. Neither the establishment of the Plan nor any amendment thereof, nor the payment of any benefits, will be construed as giving to any Participant or other person any legal or equitable right against the Sponsor, any Employer nor the Plan Administrator, except as provided herein. Neither the establishment of the Plan or any amendment thereof, nor the payment of benefits, nor any action taken with respect to the Plan shall confer upon any person the right to be continued in the employment of any Employer. Nothing contained in the Plan shall give a Participant or any other person any right, title or interest in any property of any Employer.

## ***Applicable Law***

. Except to the extent federal law is controlling, the provisions of the Plan shall be interpreted, construed, and enforced according to the laws of the State of Washington.

## ***Headings***.

The headings and subheadings of articles and sections are included solely for convenience of reference, and if there shall be any conflict between such headings and the text of the Plan, then the text of the Plan shall control.

## ***Gender and Number***

. Whenever any words are used herein the masculine, feminine, or neutral gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

## ***Severability of Provisions***

. The provisions of the Plan are severable, and should any provision be ruled illegal, unenforceable, or void, all other provisions not so ruled shall remain in full force and effect.

## Employer’s Protective Clauses

.

Upon the failure of either the Participant or the Employer to obtain any insurance contemplated by this Plan (whether as a result of negligence, gross neglect or otherwise), the Participant’s benefits shall be limited to the insurance premium, if any, that remained unpaid for the period in question and the actual insurance proceeds, if any, received by the Employer or the Participant as a result of the Participant’s claim.

The Employer shall not be responsible for the validity of any insurance contract issued hereunder or for the failure on the part of the Insurer to make payments provided for under any insurance contract, or for the action of any person which may delay payment or render null and void, in whole or in part, any insurance contract. With regard to this paragraph, the following shall apply.

#### Once insurance is applied for or obtained, the Employer shall not be liable for any loss which may result from the failure to pay premiums to the extent premium notices are not received by the Employer.

#### To the extent premium notices are received by the Employer, the Employer’s liability for the payment of such premiums shall be limited to the amount of such premiums and shall not include liability for any other loss which may result from failure to pay such premiums.

#### The Employer shall not be liable for the payment of any insurance premiums or any loss which may result from the failure to pay an insurance premium if the benefits available under this Plan are insufficient to provide for the amount of such premium cost at the time it is due. In such circumstances, the Participant shall be responsible for and see to the payment of such premiums. The Employer shall undertake to notify a Participant if available benefits under this Plan are insufficient to provide an insurance premium but shall not be liable for any failure to make such notification.

## ***Funding***

. Unless otherwise required by law, contributions to the Plan need not be placed in trust or dedicated to a specific benefit but shall instead by considered general assets of the Employer. Furthermore, and unless otherwise required by applicable law, nothing herein shall be construed to require the Employer or the Plan Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account, or asset of the Employer from which any payment under the Plan may be made.

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the Sponsor has caused this Plan document to be executed effective as of the Effective Date.

**ENTER EMPLOYER NAME**

By:

**ENTER NAME OF SIGNATORY**

Title:

**COMPLETE THE BELOW TABLE IF THERE IS A PARTICIPATING EMPLOYER. IF NO PARTICIPATING EMPLOYER, DELETE THE TABLE**

**APPENDIX A**

**Participating Employers**

|  |  |
| --- | --- |
| Name of Entity | Date of Participation |
| (1) |  |
| (2) |  |
| (3) |  |