SAMPLE EMPLOYEE HEALTHCARE CONTRIBUTIONS ONLY PLAN DOCUMENT
FOR PRESBYTERIAN CHURCH (U.S.A.) EMPLOYERS

(Long Form Version)

INSTRUCTIONS AND LEGAL DISCLAIMER

This sample plan document for a **Section 125 Employee Healthcare Contributions Only Plan** has been prepared by The Board of Pensions of the Presbyterian Church (U.S.A.) as part of a toolkit for employers who want to offer a plan that will enable employees to pay any healthcare contributions required for Medical Plan participation on a pretax basis.

In producing a sample plan, the Board of Pensions intends only to supply a sample of the documentation that an employing organization needs to prepare when adopting such a program. The Board does not provide legal or tax advice to employing organizations and the sample plan is not intended to substitute for the advice of your legal or tax counsel. **If your organization elects to adopt a plan, it should adopt its plan with the advice of its own legal and tax counsel.**

The Board has posted two sample plan documents at pensions.org. This document is sample #2.

**#2: Section 125 Employee Healthcare Contributions Only Plan (Short Form Version)**

The only benefit provided by this sample plan is pretax coverage for an employee’s healthcare contribution under the Medical Plan. If you would like to offer additional plan features, for example, to allow for the payment of out-of-pocket Medical expenses on a pretax basis then another type of plan may be more suitable.

A number of provisions in this sample plan include a suggested default option that is fairly simple to administer. The default option may not be the most advantageous to employees or the least risky to the employing organization. The default provisions that were selected by the Board in drafting this sample plan are listed below. **Each employing organization must make its own decisions about the plan design provisions before it prepares and adopts a final plan document.**

Coverage under a plan must be provided for a full 12‑month period (referred to in the sample plan as the *Plan Year*). However, if an employing organization wishes to adopt a plan in the middle of a plan year, it may do so, provided that coverage is available for the entire short plan year. For example, if a plan uses the calendar year as a plan year, but the plan is adopted July 1, the full amount of coverage elected by eligible employees must be available from July 1 through December 31.

The tax benefits of a Healthcare Contributions Only Plan are contingent upon compliance with the technical and operational compliance requirements of the Internal Revenue Code and the U.S. Department of the Treasury and Internal Revenue Service regulations, rulings, and interpretations. In recent years, these legal requirements have been modified several times. **If your organization adopts a plan, it is the responsibility of the organization to keep current with the law and regulations governing such plans and to administer it in accordance with all applicable laws and regulations.** **The Board of Pensions does not assume legal responsibility for these plans and shall not be responsible for your plan or its operation.**

Each employing organization should review the sample plan provisions, particularly the following default provisions, to determine the applicability of the terms to its organization. The plan document should be customized for each organization’s needs. The default provisions are marked with an “\*” in the Plan document.

* Eligibility (Section 2.01). The sample plan provides that all employees who are regularly scheduled to work a minimum of 20 hours per week are eligible upon enrollment in the Medical Plan. The provision may be revised to cover only a particular class of employees (e.g., salaried or hourly). Also, the minimum hours requirement and/or the initial waiting period could be modified or eliminated. The Affordable Care Act requires that the maximum waiting period for health coverage is 90 days. Coverage must be effective no later than the 91st day of employment.
* Coverage Following Severance (Section 3.02). Under the sample plan, coverage is not available if an individual is receiving severance. This provision could be revised to allow coverage if permitted under the severance agreement.
* Leaves of Absence (Section 3.03). The sample plan permits employees who take unpaid leaves of absence to continue coverage during the leave in accordance with the employer’s policy on Medical Plan enrollment. Alternatively, this provision could prohibit coverage during an unpaid leave (which would eliminate the administrative burden of processing after‑tax contributions).
* Administration of the Plan (Section 6.01). The sample plan provides that the employing organization is legally responsible for administering the plan and is treated as a fiduciary of the plan. The employing organization may delegate some or all of its administration duties to a person or committee.
* \* Under IRS regulations adopted since the June, 2013 U.S. Supreme Court decision in the U.S. v. Windsor case, for purposes of federal tax law the term “spouse” includes a same-gender spouse who has a marriage certificate. The term “spouse” does not include a same-gender covered partner who has entered into a civil union under state law, even if the state’s civil union statute gives comparable rights and privileges to individuals joined in a marriage. Covered partners with civil union certificates do not qualify for benefits under this Plan. The dues contributed by both the member and the employer for civil union partners are subject to federal income tax.

SAMPLE PLAN

[\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Presbyterian Church (U.S.A.)]

Employee Healthcare Contributions Only Plan

(describing pretax healthcare contribution payments available to employees)

Effective [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

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INTRODUCTION

The [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] Employee Healthcare Contributions Only Plan (the “Plan”) was established to provide for the payment of employee contributions for Medical Plan dues of [\_\_\_\_\_\_\_\_\_\_\_\_ Presbyterian Church (U.S.A.)] (“Employer”). This document constitutes the Plan, effective [\_\_\_\_\_\_\_\_\_].

This Plan provides solely for the payment of an employee’s share of Medical Plan dues for Family coverage with pretax dollars.

Employer reserves the right to alter, amend, modify or terminate the Plan in whole or in part, at any time for any reason in a manner consistent with the provisions of Article VII.

This Plan is sponsored by a church organization and is intended to be a church plan as defined in section 414(e) of the Internal Revenue Code, as amended (“Code”) that has not made an election under Section 410(d) of the Code and is therefore exempt from the requirements of the Employment Retirement Income Security Act of 1974 generally applicable to such plans.

As required by federal law, the marital status of an employee under this Plan must be determined by federal law, not state law. As a result, while a covered partner as defined under the Board’s Benefits Plan may be entitled to coverage under those plans, only a “spouse” of an Eligible Employee as defined under federal law will qualify for benefits as a spouse under this Plan unless the covered partner qualifies as a dependent under section 152 of the Code.

This document, as it may be duly amended, shall constitute the Plan in its entirety. In the event any discrepancies exist between this document and any amendment, the amendment shall govern.

This Plan is intended to qualify as an “accident and health plan” within the meaning of section 105(e) of the Code and any other pertinent laws or regulations, so that the benefits provided under the Plan shall be eligible for exclusion from each Employee’s income for federal income tax purposes under section 105(b) of the Code. The provisions of this Plan shall be interpreted in accordance with that intent.

# DEFINITIONS

The following capitalized words and phrases, when used in the text of this document and any attachment or materials incorporated herein or amendment hereto, have the meanings set forth below. Words in the masculine gender include the feminine gender, and vice versa. Wherever any words are used in the singular form, they shall be construed as if they were also used in the plural form in all cases where the plural form would so apply, and vice versa. Where the definitions include rules regarding the definition, those rules shall apply.

Annual Enrollment Period

Annual Enrollment Period means the period of time preceding the beginning of each Plan Year during which Participants may elect coverage under the Plan.

Benefits Plan

Benefits Plan means the Benefits Plan of the Presbyterian Church (U.S.A.) administered by the Board of Pensions of the Presbyterian Church (U.S.A.)

Child Coverage Order

A judgment, decree, or order resulting from a divorce, legal separation, annulment, or change in legal custody that requires accident or health coverage for the child or an Eligible Employee.

Claim Administrator

Claim Administrator means the person, persons, entity or entities appointed by the Employer, who shall process all or a designated portion of the claims under this Plan in accordance with the Plan’s terms.

\*COBRA

COBRA means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended from time to time. Church plans are exempt from certain COBRA requirements applicable to medical or cafeteria plans. The Benefits Plan provides for medical continuation coverage that is comparable to COBRA coverage.

Code

Code means the Internal Revenue Code of 1986, as amended from time to time.

Compensation Reduction Agreement

Compensation Reduction Agreement means a form prescribed by the Plan Administrator for purposes of enrolling for coverage under the Plan or for changing or waiving such coverage.

Dependent

Dependent means an employee’s covered partner and any individual who is a dependent of the employee within the meaning of section 152 of the Code, as modified by statute, regulation, or otherwise.

Effective Date

Effective Date means [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]. The Effective Date of any amendment or restatement is the effective date specified in the amendment or restatement.

Eligible Employee

Eligible Employee means an individual who is an Eligible Employee within the meaning of Section 2.01.

Employer

Employer means [*Insert name of employer*] Presbyterian Church (U.S.A.).

HIPAA

HIPAA means the Health Insurance Portability and Accountability Act of 1996, as amended from time to time.

Medical Plan

Medical Plan means the Medical Plan of the Benefits Plan of the Presbyterian Church (U.S.A.).

Participant

Participant means any Eligible Employee who meets the requirements for participation under this Plan and for whom coverage is in effect under this Plan or an individual who has elected continuation coverage under Section 3.04 and for whom coverage is in effect under this Plan.

Plan

Plan means the Employee Healthcare Contributions Only Plan of the Employer, as described herein and as amended from time to time.

Plan Administrator

Plan Administrator means the person, persons or committee identified to serve as Plan Administrator in Section 5.01.

Plan Year

Plan Year means the period beginning [\_\_\_\_\_\_\_\_\_] and ending [\_\_\_\_\_\_\_\_\_] or a 12-consecutive-month period beginning on any [\_\_\_\_\_\_\_\_\_] thereafter.

Primary Medical Coverage

Primary Medical Coverage means coverage under the Medical Plan of the Presbyterian Church (U.S.A.) or such other group health plan offered by the Employer that meets the minimum value defined in the Code at section 36B(c)(2)(C)(ii).

Prior Coverage

Prior Coverage means coverage under a group health plan or health insurance coverage that is subject to the requirements of HIPAA, other than coverage under a plan maintained by the Employer.

Qualifying Change in Status

Qualifying Change in Status means, as determined by the Plan Administrator, subject to any restriction under applicable law, the occurrence of one of the following events:

* + 1. an event that changes an Eligible Employee’s legal marital status, including marriage, death of a Spouse, divorce or dissolution of a marriage, legal separation, or annulment;
		2. an event that changes the number of an Eligible Employee’s Dependents, including birth of a child, adoption, or placement for adoption or death of a Dependent;
		3. a termination or commencement of employment, a commencement of or a return from a leave of absence, or a change in work site of an Eligible Employee, Spouse or other Dependent of an Eligible Employee;
		4. a change in employment status of an Eligible Employee, Spouse or other Dependent of an Eligible Employee that causes the individual to become or cease to be eligible for this Plan;
		5. an event that causes the eligibility of an Eligible Employee’s Dependent for coverage under this Plan to change, including attainment of a limiting age;
		6. a change in the residence or work site of an Eligible Employee, Spouse or other Dependent of an Eligible Employee; or

(g) another change that is determined by the Plan Administrator, consistent with the rules under section 125 of the Code and the regulations promulgated thereunder, to be an occurrence in the life or work of an Eligible Employee, his covered partner, or any other of his Dependents that would permit the Eligible Employee to elect, waive, or change coverage under this Plan during the Plan Year, including certain changes in benefits coverage for the Eligible Employee, covered partner of the Eligible Employee, or other Dependent of the Eligible Employee, including the elimination of coverage, loss of availability of coverage, substantial decrease in coverage (including material changes in availability of network providers), or other similar fundamental loss of coverage as determined by the Plan Administrator.

Special Enrollment Event

Special Enrollment Event means, with respect to any Eligible Employee:

(a) the marriage of the Eligible Employee; or

(b) the birth, adoption, or placement for adoption of a child of the Eligible Employee; or

(c) the qualifying loss of Prior Coverage by the Eligible Employee, Spouse or a Dependent, so long as a statement is submitted to the Plan Administrator to such effect in accordance with the rules established by the Plan Administrator. For purposes of this definition, qualifying loss means:

* + - 1. if the Prior Coverage is provided under COBRA or the Benefits Plan medical continuation coverage, the exhaustion of such coverage; or
			2. if the Prior Coverage is not described in a statement as noted in Section (c), the loss of eligibility for such coverage or the termination of employer contributions toward the Prior Coverage; or

(d) the loss of eligibility for coverage in a Medicaid plan under Title XIX of the Social Security Act or a state child healthcare plan under Title XXI of the Social Security Act; and

(e) eligibility for assistance with coverage under a Medicaid plan under Title XIX of the Social Security Act or a state child healthcare plan under Title XXI of the Social Security Act.

Spouse

Spouse means “spouse” as defined under federal law.

# ELIGIBILITY AND ENROLLMENT

## Eligibility\*

Individuals shall become eligible to participate in the Plan as follows:

### An individual who was an actively employed employee (including a teaching elder) onthe day before the Effective Date shall be eligible to participate in this Plan beginning on the Effective Date of the Eligible Employee’s enrollment in the Medical Plan.

### Each newly hired or reemployed active employee regularly scheduled to work at least [ ] hours per week shall be eligible to participate in the Plan as of the later of the day after the commencement of employment or enrollment in the Medical Plan.

### The term *Eligible Employee* does not include any employee who performs service for the Employer as a leased employee within the meaning of Code section 414(n) or 414(o), nor an employee who is an in-house temporary employee.

### No Eligible Employee shall become a Participant unless the Eligible Employee enrolls in accordance with the rules set forth in Section 2.02.

## Enrollment

An Eligible Employee may elect, waive or change coverage under this Plan in accordance with and only in accordance with the provisions of this Section.

### Initial Enrollment

An individual who is newly eligible to participate in the Plan must complete a Compensation Reduction Agreement to enroll in the Plan and commence participation in the Plan. Such Compensation Reduction Agreement must be completed, executed, and returned to the Plan Administrator no later than 30 days after the individual has received the Compensation Reduction Agreement.Such coverage will be effective as soon as administratively possible, but no later than 30 days after the completed Compensation Reduction Agreement is received by the Plan. If the Plan Administrator does not receive a properly completed Compensation Reduction Agreement by the day of the applicable time period, the Eligible Employee shall not be covered under the Plan.

### Annual Enrollment Period

During the Annual Enrollment Period, an Eligible Employee may enroll for, waive, or modify his coverage by submitting a properly completed Compensation Reduction Agreement. Such new election shall be effective as soon as administratively possible, but no later than 30 days following the Annual Enrollment Period. If the Plan Administrator does not receive a properly completed Compensation Reduction Agreement by the end of the Annual Enrollment Period, the Eligible Employee will be deemed to have elected to continue his existing coverage through the following Plan Year.

### Qualifying Change in Status

#### Subject to any provisions set forth in this Plan, an Eligible Employee shall be permitted to change coverage under this Plan during a Plan Year upon a Qualifying Change in Status or other event in accordance with the rules specified in the Plan, including without limitation, the rules specifying that certain changes in coverage or the cost of coverage will not serve as a basis for a change of coverage under this Plan.

#### If an Eligible Employee experiences a Qualifying Change in Status and the Eligible Employee completes, executes, and returns to the Plan Administrator an Compensation Reduction Agreement within 30 days after the date of the event, the Eligible Employee may enroll for, waive, or change his coverage provided that such election is consistent with the Eligible Employee’s Qualifying Change in Status and the terms of this Plan. The election shall be effective as of the date the properly completed Compensation Reduction Agreement is received by the Employer.

#### There is no limit to the number of Qualifying Changes in Status that can occur during a Plan Year.

#### The Plan Administrator shall make all determinations as to whether a Qualifying Change in Status has occurred and whether a requested change in coverage is consistent with a Qualifying Change in Status. For purposes of making such a determination, the Plan Administrator may require an Eligible Employee to submit evidence that the Eligible Employee has incurred a Qualifying Change in Status and such other evidence as the Plan Administrator deems reasonable under the circumstances.

### Special Enrollment Rules

An Eligible Employee may elect to enroll for coverage when a Special Enrollment Event occurs in accordance with the rules specified under the Plan.

### Other Mid-Year Change Events

#### If an Eligible Employee, Spouse or Dependent of an Eligible Employee becomes entitled to coverage under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act, other than coverage solely relating to the distribution of pediatric vaccines under section 1928 of such Act, the Eligible Employee may change his or her election to cancel or decrease contributions.

#### If an Eligible Employee, Spouse or Dependent of an Eligible Employee who is entitled to coverage under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act, other than coverage solely relating to the distribution of pediatric vaccines under 1928 of such Social Security Act, loses eligibility for such coverage, the Eligible Employee may elect to commence or increase contributions.

#### If a Child Coverage Order requires the covered partner or former covered partner of an Eligible Employee to provide accident or health coverage to the Eligible Employee’s child, and the coverage is, in fact, provided, the Eligible Employee may change elections under the Plan.

#### If a Child Coverage Order requires the coverage of an Eligible Employee’s child under the Plan, the Eligible Employee may change elections to account for the coverage.

### Any change made under this Section 2.02 shall be effective prospectively only.

##  Default Coverage

In the event of a failure to elect coverage under this Plan, the following rules shall apply:

### If a new Eligible Employee fails to submit a properly completed Compensation Reduction Agreement by the date specified in Section 2.02(a), the Eligible Employee shall be deemed to waive coverage under the Plan for the balance of the PlanYear.

### If an Eligible Employee fails to submit a properly completed Compensation Reduction Agreement or to elect coverage under this Plan by the end of the Annual Enrollment Period for a PlanYear, the Eligible Employee shall be deemed to have elected to continue his existing coverage through the following Plan Year subject to any modifications to this Plan, the benefit options elected, and the costs of those benefit options.

In either case (a) or (b), the Eligible Employee shall be permitted to enroll for coverage in accordance with Section 2.02(b) during the next Annual Enrollment Period or in accordance with Section 2.02(c) following a Qualifying Change in Status.

Coverage provided by default under this section shall, for all purposes under the Plan, be treated as if it had been elected by an Eligible Employee.

## Compensation Reduction Agreements

Subject to Section 5.03(h), no election by an Eligible Employee with regard to enrollment for coverage, a change in coverage, or the waiver of coverage shall be effective unless the election is made in writing on the prescribed Compensation Reduction Agreement and the form is timely filed with the Plan Administrator.

# TERMINATION OF BENEFITS

##  Termination Date of Coverage

An individual’s participation in the Plan shall terminate as of the earliest of:

### the date of termination of this Plan;

### the date as of which this Plan is amended to terminate benefits with respect to a classification of employees of which the individual is a member;

### the date as of which the individual elects to stop participating in this Plan, provided that the election is made in accordance with the rules of Article II;

### the date as of which the individual dies, retires or otherwise ceases to be an Eligible Employee; or

### the date as of which the individual enters the armed forces of any country on active, full-time duty, subject to any right to continue coverage under the Uniformed Services Employment and Reemployment Rights Act of 1994, as such Act may be amended from time to time.

##  Coverage Following Severance\*

Coverage for an individual shall cease during a period for which the individual is entitled to severance benefits from his Employer.

##  Leaves of Absence\*

### An Eligible Employee who takes an unpaid leave of absence from his Employer shall continue to be an Eligible Employee to the extent and only to the extent provided in the personnel policies and practices of the Employer or elsewhere in this Plan.

An employee who is eligible to continue Medical Plan participation during an unpaid leave of absence may elect to: (a) continue Medical Plan participation during this period by making after-tax premium payments to the Medical Plan, thereby continuing coverage; or (b) cease Medical Plan participation during the leave period.

If the employee elects to continue Medical Plan participation during the leave period, the employee shall pay his premiums on an after-tax basis during the leave period according to the same payment schedule that applied immediately prior to his leave period. The Employee shall remit his premium payments to the Employer on a timely basis during the leave period.

If the employee elects to terminate coverage under the Medical Plan during the period of leave, upon the employee’s return to employment, his pre‑leave coverage shall be reinstated automatically.

An Eligible Employee who takes a paid leave of absence from his Employer shall continue to be an Eligible Employee hereunder and shall continue to participate during his leave of absence on the same basis, subject to the same terms and conditions, as he had participated immediately prior to his period of absence.

## Continuation Coverage

Coverage under this Plan shall terminate upon Eligible Employee’s termination of Medical Plan enrollment as an active employee of Employer.

# BENEFITS, FUNDING, AND CONTRIBUTIONS

## Provision of Benefits

The benefits available under this Plan for a Plan Year shall take the form of pretax contributions toward the cost of the Employee’s healthcare coverage.

## Pretax Contributions

Pretax payments towards the cost of the employee’s healthcare coverage shall be deducted from the Participants’ compensation in pursuant to his Compensation Reduction Agreement under the Plan.

# ADMINISTRATION OF THE PLAN

##  Administration of the Plan

The Employer shall serve as Plan Administrator responsible for the administration of the Plan and shall be a named fiduciary of this Plan and shall make all determinations under the eligibility provisions set forth in Article II of the Plan. The Employer, acting as a named fiduciary or as Plan Administrator, may assign or delegate any of its responsibilities for administering this Plan or carrying out its provisions. To the extent of any such assignment or delegation, the assignee or delegate shall have all of the authority and powers of the Employer. Any action taken by the Employer assigning any of its responsibilities as Plan Administrator to specific persons who are directors, officers, or employees of the Employer shall not constitute delegation of the Employer’s responsibility, but rather shall be treated as the manner in which the Plan Administrator (on behalf of the Employer) has determined internally to discharge such responsibilities.

## Appointment of Claim Administrator

The Employer may appoint one or more Claim Administrators to process all or a designated portion of claims under this Plan in accordance with its terms. The person, persons, entity or entities serving as Claim Administrator shall serve at the pleasure of the Employer. Each Claim Administrator shall have the authority and discretion to interpret the Plan with respect to its duties and to decide questions and disputes arising under the Plan with respect to such duties, which interpretations and decisions shall be final and binding for purposes of the Plan, subject to any right of Participants to appeal the interpretation and decisions under this Plan.

## Powers of the Plan Administrator

The Plan Administrator is specifically given the discretionary authority and such powers as are necessary for the proper administration of this Plan, including, but not limited to, the following:

### to make claim decisions and benefit payments or direct the Claim Administrator to process all or a designated portion of claims and to make benefit payments to or on behalf of Participants entitled to benefits under this Plan;

### to have the authority and discretion to interpret the Plan, to decide questions and disputes, to supply omissions, to correct defects, and to resolve inconsistencies and ambiguities arising under the Plan, which interpretations and decisions shall be final and binding for purposes of this Plan;

### to authorize its agents to execute or deliver any instrument or make payments on the Plan Administrator’s behalf;

### to obtain from Participants and others, such information as shall be necessary for the proper administration of this Plan, such as proof of other coverage and financial data needed to determine if an individual qualifies as the Dependent of an employee (e.g., income tax returns);

### to appoint committees with such authority and powers as the Plan Administrator deems necessary;

### to retain counsel, employ agents, and provide for such clerical, accounting, actuarial, consulting, claims processing, and other services as it deems necessary or desirable to assist it in the administration of this Plan;

### to retain the right, authority, and discretion to make claim payment and benefit decisions upon appeal to the extent it has the authority to make such appeal determinations under Section 5.04;

### to prescribe forms and procedures for enrollment, claim filing, and other administrative purposes under the Plan and to require their use for such purposes and, notwithstanding anything in this Plan to the contrary, to the extent permitted by applicable law, to establish and maintain a procedure whereby any Compensation Reduction Agreement or other submission requiring a written form may be made telephonically or electronically and whereby elections or submissions made in accordance with such procedure shall be deemed to have been made as if on the applicable written form;

### to adopt rules for the administration of the Plan; and

### to maintain records of administration of the Plan.

No determination of the Plan Administrator or the Claim Administrator in one case shall create a bias or retroactive adjustment in any other case. Expenses for the administration of the Plan shall be paid out of forfeitures under the Plan.

## Claims Procedure

The Claim Administrator shall review claims for benefits under this Plan and respond thereto within 30 days after receiving the claim. This period may be extended one time for up to 15 days. The Claim Administrator shall provide to every claimant who is denied a claim for benefits written notification setting forth:

### the specific reason or reasons for the denial;

### specific reference to pertinent Plan provisions upon which the denial is based;

### a description of any additional material or information necessary for the claimant to perfect the claim;

### if an internal rule, guideline or protocol was relied upon in making the determination, a copy of the rule, guideline or protocol or a statement that it will be provided free of charge upon request; and

### an explanation of the claim review procedure set forth below.

The claimant or his duly authorized representative may request a full and fair review of the claim by the Plan Administrator. The claimant’s request for review by the Plan Administrator must be submitted to the Plan Administrator in writing within one hundred eighty (180) days of the claimant’s receipt of a notice of denial from the Claim Administrator.

The review of a claim by the Plan Administrator shall be subject to the following rules. The claimant or his duly authorized representative may review pertinent documents and may submit issues and comments, including without limitation appropriate evidence or testimony of an expert, in writing. The review will not afford deference to the initial adverse benefit determination. The review will not be conducted by the individual who made the adverse benefit determination or by that individual’s subordinate. The Plan Administrator shall make a decision promptly, and not later than sixty (60) days after the Plan Administrator’s receipt of a request for review. The decision on review shall be in writing and shall include specific reasons for the decision, and specific references to the pertinent Plan provisions on which the decision is based.

In the event that the Claim Administrator or Plan Administrator does not make a determination with respect to a claim within the time limit prescribed by this Section, the claim or appeal of such claim decision shall be deemed denied.

## Records and Reports

The Claim Administrator and Plan Administrator shall maintain all such books, accounts, records and other data as may be necessary for the proper administration of this Plan.

The Plan Administrator shall make available to each Participant for examination at reasonable times during normal business hours such records under the Plan in its possession as pertain to him.

## Fiduciary Duty and Care

All fiduciaries under this Plan, including the Claim Administrator and the Plan Administrator, shall discharge their respective fiduciary responsibilities solely in the interest of the Participants of this Plan for the exclusive purpose of providing benefits to Participants and defraying the reasonable expenses of administering this Plan with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims and in accordance with the provisions of this Plan.

## Limitation on Liability

A Plan fiduciary shall be entitled to rely upon information from any source assumed reasonably and in good faith to be correct. The Employer, Plan Administrator and Claims Administrator shall not be subject to any liability with respect to his duties under this Plan unless it acts fraudulently or in bad faith. No person shall be liable for any breach of fiduciary responsibility resulting from the act or omission to act of any other fiduciary or any person to whom fiduciary responsibilities have been allocated or delegated.

## Indemnification

To the extent permitted by law, the Employer shall indemnify and hold harmless each director, officer, or employee of the Employer to whom fiduciary responsibility with respect to this Plan is allocated or delegated, from and against any and all liabilities, costs and expenses incurred by any such person as a result of any act, or omission to act, in connection with the performance of his duties, responsibilities and obligations under this Plan, other than such liabilities, costs and expenses as may result from the gross negligence or willful misconduct of any such person or amounts paid by such person in a settlement to which the Employer does not consent. The Employer may obtain, pay for and keep current a policy or policies of insurance, insuring any of its employees who has any fiduciary responsibility with respect to this Plan from and against any and all liabilities, costs and expenses incurred by any such person as a result of any act, or omission to act, in connection with the performance of his duties, responsibilities and obligations under this Plan.

# DURATION AND AMENDMENT OF THE PLAN

## Right to Amend

The Employer reserves the right to amend the Plan at any time, in any manner, including, without limitation, the right to amend the Plan to reduce, add to or modify the type and amount of benefits provided for any and all Participants. Any amendment shall be formally adopted in writing. The Employer reserves the right to delegate this authority to amend, in whole or in part, to any committee, office, officer, or other person or persons as it deems appropriate.

## Right to Terminate

Although the Employer intends to maintain this Plan for an indefinite period, the Employer reserves the absolute right to terminate or partially terminate the Plan at any time, for any reason by or pursuant to a resolution of the board of directors of Employer. Any termination or partial termination of the Plan shall not adversely affect the payment of benefits to which a Participant was entitled under the Plan prior to the date of termination or partial termination. If the Plan is terminated, each Participant shall be entitled to benefits for healthcare costs incurred prior to the date of termination.

# MISCELLANEOUS

## Effect on Employment

Nothing in this Plan shall be construed as a contract of employment between the Employer and any of its employees. Participation in this Plan shall not lessen or otherwise affect the responsibilities of such an employee to perform fully his duties in a satisfactory and businesslike manner, nor shall it affect the Employer’s right to discipline, discharge, or take any other action with respect to such an employee.

## Legal Compliance

The Employer may prospectively limit, reallocate or deny any benefit for a Participant or any group of Participants to the extent necessary to avoid discrimination under or otherwise comply with any pertinent provision of the Code or other applicable law.

## Governing Law

This Plan shall be governed by and construed in accordance with applicable federal laws and, to the extent not superseded, with the laws of the State of . Benefits provided under this Plan are intended to be exempt from taxation under section 105 of the Code, and the Plan is intended to comply with any other Code sections as may be applicable to church plans for purposes of retaining such tax exemption.

## No Guarantee of Tax Consequences

Notwithstanding any provision of this Plan to the contrary, the Employer and the Plan Administrator make no commitment or guaranty that any amounts paid to or for the benefit or coverage of a Participant under this Plan shall be excludable from the Participant’s gross income for federal, state or local income tax purposes, or that any other particular federal, state or local tax treatment shall apply or become available to any Participant as a result of the operation of this Plan. By accepting a benefit under this Plan, a Participant agrees to be liable for any tax that may be imposed with respect to those benefits, plus any interest or penalties that may be imposed in connection with the tax.

## Family Medical Leave Act

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan becomes subject to the requirements of the Family and Medical Leave Act and regulations thereunder, this Plan shall be operated in accordance with Treasury Regulation section 1.125-3.

## Uniform Services Employment and Reemployment Rights Act

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with USERRA and the regulations thereunder.

## Invalid Provisions

If any provision of this Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision, and this Plan shall be construed and enforced as if such provision had not been included.

Executed this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

[\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EMPLOYER

By:

Name:

Title: