



## **CAFETERIA PLAN**

(Pre-Tax Premium Plan)

**January 1, 2019**

**For Employers Participating in the Concordia Health Plan of**

**The Lutheran Church—Missouri Synod**

**NOTICE TO ORGANIZATIONS PARTICIPATING IN  
THE CONCORDIA HEALTH PLAN**

Understanding the burden placed upon workers and their employing organizations by ever-increasing costs for medical care, Concordia Plan Services wants to alert you to some provisions of the tax laws that could give assistance to your workers.

This Cafeteria Plan packet describes how an organization can establish a Cafeteria Plan if that organization requires its workers to share in the cost for worker/dependent coverage for the Concordia Health Plan. The Concordia Health Plan requires the employer to pay at least 50% of the worker's coverage. If the workers share the cost of the Concordia Health Plan by paying for all or a portion of worker/dependent coverage, the worker's portion should be secured through payroll deduction. If a Cafeteria Plan is set up, the cost of the worker/dependent coverage can be withheld on a pre-tax basis. Avoiding taxes on the cost of the Concordia Health Plan is the objective of the plan—this will give financial assistance to your workers! **Please note that this Cafeteria Plan permits pre-tax contributions for coverage under the Concordia Health Plan and not for any other benefits (e.g., benefits under a health care or dependent care flexible spending arrangement or Health Savings Account [HSA]). However, pre-tax contributions may be available for other benefits under a separate cafeteria plan or if this document is revised to incorporate additional pre-tax withholdings and payment provisions by you and/or your legal counsel.**

The following materials explain the concept including the necessary legal forms to implement such a plan:

ATTACHMENT 1—Explanation for Employer

ATTACHMENT 2—Explanation for Worker

ATTACHMENT 3—Certificate of Resolution

ATTACHMENT 4—Instructions for Completing Salary Reduction Agreement

ATTACHMENT 5—Salary Reduction Agreement

Please share the attached material with those in your organization who have responsibility for decisions regarding employer and worker benefits. **When implemented, the signed documents should be retained by the employer for its records and not mailed to Concordia Plan Services.**

If you do not require your workers to share in the cost of worker/dependent coverage for the Concordia Health Plan, you should note that Section 125 of the Internal Revenue Code does permit a cafeteria plan for other benefits. As noted in the Explanation for Employer (ATTACHMENT 1), should you wish to assist your workers with their out-of-pocket cost for other medical expenses, you may consider setting up Flexible Spending Account (FSA) and/or Health Savings Account (HSA) arrangement(s) available through SelectAccount (for plan options administered through Blue Cross Blue Shield of Minnesota, UMR, or Cigna) or Kaiser Permanente (for plan options administered through Kaiser Permanente). Please contact Concordia Plan Services at 1-888-927-7526 for additional information.

This plan provides your organization with an opportunity to help your workers reduce their overall cost of health care by saving income taxes on some of the dollars they spend to pay for those expenses. Should you have any questions regarding this plan and the attached material, please call Health Services at 1-888-927-7526, extension 6002.

Blessings on your ministry,

Concordia Plan Services

**PLEASE NOTE:** There has been a recent trend by state regulators to require that all residents obtain health coverage and require employers to establish a Cafeteria Plan to allow their employees to pay for health coverage with pre-tax dollars. This Pre-Tax Premium Plan has been made available to you for use in paying Concordia Health Plan contributions only. If your state regulation applies to your organization, you will need to seek advice from your tax advisor or attorney to establish a Cafeteria Plan that meets your individual state regulations.

## **ATTACHMENT 1**

### **CAFETERIA PLAN EXPLANATION FOR EMPLOYER**

Concordia Plan Services attempts to provide church workers and their employing organizations with health (including prescription drugs, mental health coverage, and health and wellness opportunities) and dental benefits at a reasonable cost. However, because of the ever-increasing cost of health and dental care, some organizations have asked their workers to share in the cost of the Concordia Health Plan.

The amount paid by workers for contributions to the Concordia Health Plan are dollars on which the worker has already paid taxes. Generally, these amounts can only be taken as a deduction on the worker's tax form if the total health care expenses (including health insurance premiums) exceed 10 percent of adjusted gross income. Therefore, the worker must pay his or her share of contributions with money on which he or she has already paid taxes ("after tax dollars"). Even if a worker is entitled to take a deduction for these amounts, that deduction is limited.

In order to reduce the burden of the cost of health benefits on your workers, Concordia Plan Services has developed a prototype cafeteria plan (Cafeteria Plan) which may be adopted by congregations and other organizations participating in the Concordia Health Plan. This plan is described in the information included in this packet.

This is a fairly simple plan. Through its use, a worker may elect to reduce his/her salary by a specific amount (up to the full amount of his/her share of the Concordia Health Plan contributions) and direct the employer to pay these amounts for his/her share of the contribution amount for the Concordia Health Plan. By doing this, these amounts will be excluded from the worker's taxable income. The result is that the worker will be paying his/her share of the Concordia Health Plan contribution with money on which he/she has not paid taxes ("pre- tax dollars"), as opposed to using after tax dollars. This results in a reduction of the worker's tax liability, while maintaining the health care protection.

It is important to note that the plan outlined in the attached document only pertains to the payment of Concordia Health Plan contributions. It is possible under the Cafeteria Plan to include other benefits that are allowed under Section 125 of the Internal Revenue Code. However, if additional features are added, it significantly increases the complexity of the plan. For instance, if an employer wishes to reimburse workers for health expenses not covered by the Concordia Health Plan or other insurance, Internal Revenue Service regulations require an insurance-type arrangement whereby the employer could pay more in benefits than it receives in contributions from the worker. Because of these complexities, we have attempted to keep the plan simple. However, if you wish to investigate other options which may be available, you may consider setting up a Flexible Spending Account (FSA) and/or Health Savings Account (HSA) arrangement(s) available through SelectAccount (for plan options administered through Blue Cross Blue Shield of Minnesota, UMR, or Cigna) or Kaiser Permanente (for plan options administered through Kaiser Permanente). Please contact Concordia Plan Services at 1-888-927-7526 for additional information or seek legal advice from your own counsel or another company that supports Flexible Spending Accounts and/or Health Savings Accounts.

It should be noted that by adopting the Cafeteria Plan, an employer will not involve itself with the administration of the Concordia Health Plan. Any questions, comments, or complaints related to a worker's benefits coverage or other requirements included in the Concordia Health Plan must still be addressed by Concordia Plan Services. The employer's only involvement in this plan is with regard to the payment of the worker's share of Concordia Health Plan contributions and only to the extent of the amounts that are withheld from the worker's salary. The employer's only liability to the worker will be the repayment of any amounts not properly paid to the Concordia Health Plan after the worker has notified the employer of the problem and provided the employer with ample time to remedy the error.

In addition to this explanation and the explanation to your workers, this packet includes a resolution to be adopted by the employer and a Salary Reduction Agreement form to be executed by each worker wishing to participate in

the plan. You may use the documents that are contained in this packet. However, if you make any changes or have any questions, you should consult your legal counsel. Even if no changes are made, you may wish to consult with your legal counsel or local tax adviser regarding the treatment of the contributions under local law.

If it is decided that your organization wishes to adopt a Cafeteria Plan as outlined in this packet, it should be made effective on the first day of a month. The procedures are as follows:

1. Adopt the Resolution. Your organization must first adopt the resolution which is contained in this packet. In order to pass the resolution, certain blank spaces must be filled in. First, you must identify the appropriate body of the organization which has the authority to pass this resolution and insert the name of that body in the title of the resolution and in the introductory paragraph. In a congregation, this body may be the Voters' Assembly or the Church Council. In other not-for-profit organizations, this body is usually the board of directors. The name of this body should also be inserted in the blank in Paragraph 14 of the resolution. Second, you must insert the legal name of the organization in the title of the resolution and the introductory paragraph of the resolution. Third, the name of the state in which your organization is located should be inserted in the introductory paragraph and inserted in the blank in Paragraph 12. After these changes have been made, the resolution will be ready for adoption. Be sure to attach a copy of the Salary Reduction Agreement (marked as Exhibit A) to the resolution.
2. Salary Reduction Agreements. Immediately after adoption, you should contact your workers who are participating in the Concordia Health Plan and provide them with a copy of the Explanation for Worker and the Salary Reduction Agreement. In order for a worker to participate in the Cafeteria Plan, a signed and completed Salary Reduction Agreement must have been received by the employer prior to or coincident with enrollment/re-enrollment in the Concordia Health Plan. This agreement is drafted to provide that the worker is electing to have his/her pay reduced by the amount he or she is required to contribute for the coverage elected under the Concordia Health Plan. If the worker's required contribution changes during the initial year or in subsequent years, the amount of the worker's pay reduction will be automatically adjusted. Therefore, there is no need to execute a new agreement each year or for a permissible mid-year change. Generally, a change is effective only in the immediately succeeding calendar year. There are, however, exceptions to this general rule in the event of certain changes in circumstances, which, subject to Internal Revenue Service and other governmental restrictions and interpretations, include the following: (i) a change in legal marital status, number of dependents, employment status, or residence, (ii) a dependent satisfies or ceased to satisfy eligibility requirements, (iii) Concordia Health Plan coverage for a child is required to be provided or cancelled pursuant to a court order, (iv) a change in eligibility for Medicare or Medicaid coverage, or a state child health insurance program, (v) significant cost or coverage changes, (vi) taking leave under the Family and Medical Leave Act, (vii) eligibility for a special enrollment period in the Concordia Health Plan under the Health Insurance Portability and Accountability Act of 1996, (viii) reduction in expected average weekly hours to under 30 hours together with intended enrollment in another plan providing "minimum essential coverage" prescribed under the federal Affordable Care Act; or (ix) eligibility for and intention to enroll in a "Qualified Health Plan" through a "Marketplace" under the federal Affordable Care Act. Any other changes can result in the loss of the anticipated tax benefit. Instructions for completing and amending these Agreements are included with this packet. Again, this is applicable only if your workers personally contribute towards the cost of the Concordia Health Plan.
3. Bookkeeping. After the resolution has been adopted and the workers have executed Salary Reduction Agreements, the organization should mark on its payroll records the amounts to be withheld from the various workers' paychecks. Thereafter, the paychecks should reflect the reduced amount. When the employer is notified by Concordia Plan Services of increases or

decreases in the contribution rates for the Concordia Health Plan, the amounts withheld from the worker's paycheck should also be adjusted accordingly.

Under Internal Revenue Code Proposed Regulation Section 1.125-1(p)(5), salary reduction contributions withheld from a worker's paycheck in the last month of a plan year can be used to pay health plan contributions for the first month of the following plan year.

For withholding of federal income taxes, state income taxes (if applicable), and Social Security, the amount of the reduction should not be considered as wages subject to these taxes. Also, such amount should not be included as income on the worker's Form W-2.

4. Making Payments to the Concordia Health Plan. The employer should hold the amounts withheld from the workers' paychecks and combine these amounts with the employer's amounts when paying the billing statement sent by Concordia Plan Services.
5. Salary Reporting for Concordia Plans. The adoption of the Cafeteria Plan will not reduce the worker's compensation (salary) for Concordia Plans purposes. The reduction is only applicable with regard to income taxes and Social Security.

Some questions may arise from workers who hear about the ability of an employer to reimburse the non-covered health care expenses of its workers. Once again, this plan does not involve a reimbursement element and all amounts which are withheld by the employer are to be used when paying the billing statements for the Concordia Health Plan. No other payments are contemplated by the documents which are included in this packet.

As we mentioned earlier, health care costs continue to rise. Employers generally can do little to limit these increases. However, by adopting the Cafeteria Plan described in this packet, your organization will provide its workers with an opportunity to reduce some of the costs which are related to health care. We believe this is a commendable goal and encourage you to carefully consider this plan.

## **ATTACHMENT 2**

### **CAFETERIA PLAN EXPLANATION FOR WORKER**

Through your employing organization, you participate in the Concordia Health Plan. Concordia Plan Services attempts to provide church workers with health (including prescription drugs, mental health coverage, and health and wellness opportunities) and dental coverage at the lowest possible cost. However, since the cost of health care in America continues to rise, Concordia Plan Services—like other health plan providers—must pass along these increased costs through increased contribution rates. Since you are sharing all or part of the cost of the Concordia Health Plan, you are being affected by these increased costs.

Your share of these increased contributions is paid out of money on which you have already paid taxes. Generally, these amounts can only be taken as a deduction on your tax form if your total health care expenses (including health insurance premiums) exceed 10 percent of adjusted gross income. Therefore, you must pay your share of the contributions with money on which you have already paid taxes (“after tax dollars”), and if you are entitled to a deduction for these amounts, it is limited.

In order to assist you in paying your share of the cost of the Concordia Health Plan, your employing organization has adopted a Cafeteria Plan. Under this plan, you may elect to reduce your salary by the full amount of your share of the cost of the Concordia Health Plan and direct your employer to pay these amounts to Concordia Plan Services. These amounts will not be included in your taxable income, so that, in effect, you will be paying your share of the Concordia Health Plan contribution with money on which you have not paid taxes (“pre-tax” dollars). This will result in a reduction in your tax liability, while maintaining your health care protection.

A person elects to participate in the employer’s Cafeteria Plan by executing a Salary Reduction Agreement. In this Agreement, you will designate that your pay will be reduced by the amount of your share of the cost of the Concordia Health Plan. Once this Agreement is executed, it is irrevocable except as noted in the following paragraph. You cannot during the course of the year change the amounts being withheld. However, if the Concordia Health Plan contribution rate increases or decreases, the deduction from your salary and the contributions under this Cafeteria Plan will be adjusted accordingly.

As noted above, your election is irrevocable. There is an exception to this rule if there are certain changes in circumstances which, subject to Internal Revenue Service and other governmental restrictions and interpretations, include the following: (i) a change in legal marital status, number of dependents, employment status, or residence, (ii) a dependent satisfies or ceases to satisfy eligibility requirements, (iii) Concordia Health Plan coverage for a child is required to be provided or cancelled pursuant to a court order, (iv) a change in eligibility for Medicare or Medicaid coverage, or a state child health insurance program, (v) significant cost or coverage changes, (vi) taking leave under the Family and Medical Leave Act, (vii) eligibility for a special enrollment period in the Concordia Health Plan under the Health Insurance Portability and Accountability Act of 1996, (viii) reduction in expected average weekly hours to under 30 hours together with intended enrollment in another plan providing “minimum essential coverage” prescribed under the federal Affordable Care Act; or (ix) eligibility for and intention to enroll in a “Qualified Health Plan” through a “Marketplace” under the federal Affordable Care Act. However, even in these cases the change in your Salary Reduction Agreement must be directly related to these changes. In this case, you are allowed to increase or decrease the amount to be withheld under the Salary Reduction Agreement. With respect to the Cafeteria Plan, it is important to note that your employer is not by means of this plan involving itself in any way with the Concordia Health Plan beyond being an eligible and participating employer.

Any questions, comments, or complaints related to your benefits must still be addressed by Concordia Plan Services. Your employer’s only involvement in this plan is with regard to the payment of your share of the Concordia Health Plan contributions and only to the extent of the amounts that are withheld from your salary. Your employer’s only liability to you will be the repayment of any amounts not properly paid to the Concordia Health Plan after you have notified your employer of a problem and provided them with ample time to remedy the error.

In order to take advantage of this benefit, you simply need to complete a Salary Reduction Agreement and return it to your employer. Your employer will then withhold the required amount and send it to Concordia Plan Services on your behalf. This amount will be excluded from income on your Form W-2 each year. Also, the amount of the reduction will not be subject to withholding for federal income taxes, state income taxes (if applicable), and Social Security. The adoption of the Cafeteria Plan will not reduce your compensation (salary) for Concordia Plans purposes. The reduction is only applicable with regard to income taxes and Social Security.

Health care costs continue to rise. Your employer may not be in a position to lower or eliminate these increases. However, it is hoped that by adopting the Cafeteria Plan, your employer has provided you with an opportunity to reduce some of the costs related to health care.

**ATTACHMENT 3**

**CERTIFICATE OF RESOLUTION**

**OF \_\_\_\_\_ (Governing Body) ADOPTING A CAFETERIA PLAN  
FOR \_\_\_\_\_ (Organization Name)**

I am the qualified and acting \_\_\_\_\_\*of \_\_\_\_\_(the Organization), a nonprofit organization organized and existing under the laws of the State of \_\_\_\_\_, and as such I have custody of the books and records of the Organization; on the \_\_\_\_day of \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_.m., a duly called and constituted meeting of the \_\_\_\_\_ (Governing Body)\*\* of the Organization was held. Upon motion duly made and seconded, the following resolution was adopted in accordance with the Constitution and Bylaws of the Organization.

\* Insert title of individual authorized by Governing Board.

\*\* In the case of a congregation, this is usually the "Voters' Assembly," but it may be the "Church Council" if the governing documents of the congregation give it authority to act. In the case of other not-for-profit organizations, this is usually the Board of Directors.

SINCE, the Organization provides its workers the opportunity to participate in benefits administered by Concordia Plan Services ("Concordia Plan Services");

SINCE, the Organization desires to assist its workers in paying their share of the contributions of the benefits with pre-tax dollars.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

1. Adoption. The Organization hereby adopts the cafeteria plan (the "Cafeteria Plan") described in this resolution to allow its workers to elect to reduce their salaries for the purpose of using pre-tax dollars to pay their share of contributions for the following described benefits. The Cafeteria Plan as adopted by this resolution is intended to qualify as a cafeteria plan pursuant to Section 125 of the Internal Revenue Code of 1986, as amended ("Code") and shall be effective as of January 1, 2019. The Cafeteria Plan year is from January 1 to December 31.\* If the Organization has heretofore adopted a cafeteria plan with respect to the Benefits described below (an "Existing Plan"), the Cafeteria Plan shall replace such Existing Plan in its entirety.  

\* If the Cafeteria Plan is adopted after January 1, the effective date of the first year of the Cafeteria Plan will be the date of adoption to December 31. After the initial year, the Calendar Plan year is from January 1 to December 31.
2. Benefits. Workers may elect as a benefit to pay through this Cafeteria Plan their share of the contributions cost for coverage under the "Concordia Health Plan" offered by Concordia Plan Services. Concordia Health Plan provides various health benefits as more fully described in the plan documents for said plan, which may be amended from time to time. The foregoing benefits are referred to herein as the "Benefits."
3. Participation. All eligible workers of the Organization participating in the Concordia Health Plan shall be eligible to participate in this Cafeteria Plan. Any such worker may elect to participate in the Cafeteria Plan by executing a salary reduction agreement in the form attached hereto as Exhibit A (the "Salary Reduction Agreement"). Workers must complete the Salary Reduction Agreement prior to the plan year in which the Salary Reduction Agreement is effective. The election is valid for the next succeeding calendar year (or in the case of the first year of the Cafeteria Plan or upon the initial eligibility of a worker, for the balance of the then current calendar year), subject to automatic extensions. Once the election becomes effective, the election is irrevocable, subject to changes permitted under the applicable law, regulations and other regulatory guidance. In the event the amount of required contribution increases or decreases, corresponding increases or decreases in the amounts withheld pursuant to the worker's election will be made.

4. Cafeteria Plan. Upon the execution of a Salary Reduction Agreement, the Organization shall establish a Cafeteria Plan account for the electing workers. This account shall be established by the Organization noting on its payroll records the amount by which the electing worker's salary is to be reduced for each payroll period. Upon payment of the worker's periodic compensation, the Organization will withhold the designated amount to be distributed in accordance with Paragraph 5 below.
5. Payment to Concordia Health Plan. Upon the withholding of the designated amount, the Organization will pay the withheld amount to Concordia Plan Services to pay contributions on behalf of the worker for the Concordia Health Plan. No other benefits will be provided under this Cafeteria Plan.
6. Claims Procedure. If any worker believes she or he is being denied any rights or benefits under this Cafeteria Plan, such worker may file a claim in writing with the Organization. If such claim is wholly or partially denied, the Organization shall notify such worker of its decision in writing. Such notification shall be written in a manner calculated to be understood by the worker and shall contain (i) specific reasons for the denial, (ii) specific reference to pertinent plan provisions, (iii) a description of any additional material or information necessary for such worker to perfect such claim and an explanation of why such material or information is necessary, and (iv) information as to the steps to be taken if the worker wishes to submit a request for review. Such notification shall be given within 60 days after the claim is received by the Organization (or within 120 days, if special circumstances require an extension of time). If such notification is not given within such period, the claim will be considered denied as of the last day of such period and such worker may request a review of the claim.
7. Review Procedure. Within 60 days after the date on which a worker receives a written notice of a denied claim (or, if applicable, within 60 days after the date on which such denial is considered to have occurred), such worker (or duly authorized representative) may (i) file a written request with the Organization for a review of the denied claim and of pertinent documents and (ii) submit written issues and comments to the Organization. The Organization shall notify such worker of its decision in writing. Such notification will be written in a manner calculated to be understood by the worker and shall contain specific reasons for the decision as well as specific references to pertinent plan provisions. The decision on review will be made within 60 days after the request for review is received by the Organization (or within 120 days, if special circumstances require an extension of time for processing the request). If the decision on review is not made within such period, the claim will be considered denied.
8. Limitation of Liability. The Organization shall not be liable for any loss or obligation with respect to any health benefit of Concordia Health Plan. Notwithstanding anything in this Resolution and related documents to the contrary, upon the failure of the Organization to provide the Benefits contemplated by this Resolution (whether as a result of circumstances, negligence, gross negligence, or otherwise), the worker's exclusive remedy (after notifying the Organization and allowing it a reasonable amount of time to correct the error) shall be the refund of the amount by which he/she elected to reduce his/her salary which was not properly remitted to Concordia Plan Services for the Concordia Health Plan. The Organization and all officers and workers who administer the Cafeteria Plan shall not in any way be liable for any loss or obligation with respect to the coverage available under the Concordia Health Plan.
9. Taxes. The Organization believes that the Cafeteria Plan is in compliance with Code Section 125 and the Regulations thereunder, as the same has been and will be from time to time amended, and other applicable regulatory guidance. It further believes that it provides a fringe benefit to workers which is not subject to tax pursuant to other provisions of the Code. Any worker, by accepting a benefit under the Cafeteria Plan, agrees to be liable for any tax, penalties, and interest, if any, that the federal or state government may impose with respect to the Benefits described in the Cafeteria Plan if the

intended tax benefits are not available. Furthermore, the worker waives any right to collect from the Organization any such taxes, penalties, or interest.

10. Termination. Any provision of this Resolution and related documents shall be terminated upon the happening of any one of the following events:
  - a. Upon the mailing or posting of a notice by the Organization of termination;
  - b. Bankruptcy, insolvency, or dissolution of the Organization;
  - c. The cancellation of coverage under the Concordia Health Plan as a result of either the Organization's termination of participation in such Plan or the termination of such Plan;
  - d. As to a particular worker, the termination of coverage under the Concordia Health Plan or the worker's withdrawal from the Concordia Health Plan; or
  - e. As to a particular worker, the termination of employment of the worker. Upon termination, a worker's benefits shall terminate, and all amounts which have been withheld will be forwarded to Concordia Plan Services for the Concordia Health Plan. Upon the payment of such amounts, all of the Organization's liability and obligations under this Cafeteria Plan shall cease.
11. Authorization of Officers. The President, Secretary, and Treasurer of the Organization are hereby authorized, empowered, and directed to do all acts and to execute all documents as are, in the discretion of the officers, necessary, proper, or convenient to implement this Cafeteria Plan.
12. Choice of Law. The Cafeteria Plan shall be interpreted under the laws of the State of \_\_\_\_\_ (State where Organization is located).
13. Plan Year. The "Plan Year" of the Cafeteria Plan shall be the calendar year.
14. Amendments. This Cafeteria Plan may be amended at any time and from time to time by a resolution of the (Governing Body), provided that any such change is permitted under the Code and further provided that all such amendments are communicated in writing to all workers participating in the Cafeteria Plan. Additionally, if any provision of the Cafeteria Plan at any time differs from the requirements for qualification as a cafeteria plan set forth in Code Section 125, or any other applicable section of the Code, the regulations promulgated under any such section, or any Internal Revenue Service revenue procedure or revenue ruling, this Cafeteria Plan shall be deemed amended to conform to such law, regulation, or Internal Revenue Service procedure or ruling.
15. Church Plan Status. The Concordia Health Plan and this Cafeteria Plan are each considered a "church plan" as defined in Section 3(33) of the Employee Retirement Income Security Act of 1974 ("ERISA") and, as such, are exempt from certain provisions of ERISA.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

## ATTACHMENT 4

### INSTRUCTIONS FOR COMPLETING SALARY REDUCTION AGREEMENT

Once an employing organization has adopted the resolution creating the Cafeteria Plan, workers must execute Salary Reduction Agreements in order to actually implement the plan. There are some strict tax rules regarding when such an agreement can be effective. Failure to comply with these rules will jeopardize the tax benefits which may be available under this plan. Therefore, care should be taken in completing these agreements and in the treatment of their effective dates.

In completing the Salary Reduction Agreement, the effective date, the name of the worker, and the name of the employer should be inserted in the Agreement before it is executed. Also, a copy of the resolution containing the Cafeteria Plan should be attached to the Agreement. These Agreements are irrevocable for the period during which they are effective. Therefore, they should be completed carefully.

The following rules govern the effective dates of these Agreements:

1. Upon Adoption of the Cafeteria Plan. In the case of workers currently participating in the Concordia Health Plan, these workers must execute a Salary Reduction Agreement and return it to the employer by the first day of the month beginning after the employer adopts the Cafeteria Plan resolution. Otherwise, they cannot participate in the plan for the current year.
2. Newly Eligible Workers. In the case of workers who in the future become eligible to participate in the Concordia Health Plan, they must execute a Salary Reduction Agreement and return it to the employer before they begin to participate in the Cafeteria Plan.
3. General Rule. In the case of all workers participating in the Concordia Health Plan after the effective date of the resolution (except newly eligible workers), in order to participate in the plan for any calendar year, a signed and completed Salary Reduction Agreement must have been received by the employer prior to the beginning of that calendar year. Once the year begins, a worker cannot (except under the limited circumstances identified above in 1 and 2) begin participating in the plan during that calendar year. Once a worker has provided the employer with a Salary Reduction Agreement, no other agreement needs to be signed. The Agreement automatically renews itself from year to year.
4. Changes in Amounts Withheld. **If a worker's share of the cost of elected coverage under the Concordia Health Plan changes or a worker elects a change in coverage under the Concordia Health Plan due to a change in status as permitted, the amount of pay reduction pursuant to this Salary Reduction Agreement is automatically adjusted accordingly.** Any such change is usually effective only in the immediately succeeding calendar year, since no changes are allowed to be made during the course of a calendar year. There is an exception to this rule if there are certain changes in circumstances which, subject to Internal Revenue Service and other governmental restrictions and interpretations, include the following: (i) a change in legal marital status, number of dependents, employment status, or residence, (ii) a dependent satisfies or ceased to satisfy eligibility requirements, (iii) Concordia Health Plan coverage for a child is required to be provided or cancelled pursuant to a court order, (iv) a change in eligibility for Medicare or Medicaid coverage, or a state child health insurance program, (v) significant cost or coverage changes, (vi) taking leave under the Family and Medical Leave Act, (vii) eligibility for a special enrollment period in the Concordia Health Plan under the Health Insurance Portability and Accountability Act of 1996, (viii) reduction in expected average weekly hours to under 30 hours together with intended enrollment in another plan providing "minimum essential coverage" prescribed under the federal Affordable Care Act; or (ix) eligibility for and intention to enroll in a "Qualified Health Plan" through a "Marketplace" under the federal Affordable Care Act. Any other changes can result in the loss of the anticipated tax benefit.

**ATTACHMENT 5**

**CAFETERIA PLAN  
SALARY REDUCTION AGREEMENT**

This "Agreement" is made and entered into on \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_(the "Employer") and \_\_\_\_\_(the "Worker").

**RECITALS**

SINCE, the Worker is employed by the Employer;

SINCE, the Worker is a participant in the Concordia Health Plan administered by Concordia Plan Services ("Concordia Plan Services") and pays part of the contributions for coverage under said plan;

SINCE, the Employer has adopted a resolution adopting a Cafeteria Plan (the "Cafeteria Plan") which is attached hereto and incorporated by reference; and

SINCE, the Worker desires to participate in the Cafeteria Plan, and the Employer desires to offer the Worker the opportunity to participate in the Cafeteria Plan:

**TERMS AND CONDITIONS**

THEREFORE, in consideration of the mutual promises herein contained, the Employer and the Worker agree as follows:

1. By means of this Agreement, the Worker elects to participate in the Cafeteria Plan. The worker hereby elects that the contributions for worker/dependent coverage under the Concordia Health Plan be subject to the Cafeteria Plan.
2. During the term of this Agreement, the Worker authorizes the Employer to reduce his/her salary, in equal installments on a periodic basis (based upon the Employer's regular payroll period), by an amount equal to the Worker's cost of benefit coverage elected under the Concordia Health Plan, beginning with the payroll period effective \_\_\_\_\_ and continuing for each succeeding payroll period.
3. The Employer and the Worker agree that the amount withheld from the Worker's salary will be credited by the Employer to a bookkeeping account bearing the Worker's name. The Employer agrees to remit the installments to Concordia Plan Services for the Concordia Health Plan in accordance with the foregoing elections in payment of the worker's share of the contributions for said plan.
4. The Worker and the Employer agree that this Agreement shall be effective for one year beginning on the first day of the immediately succeeding January, or for the portion of the current calendar year remaining in the case of a newly eligible worker, or in the first year of the Cafeteria Plan in the case of workers eligible to participate in the Cafeteria Plan before the effective date, for the portion of the year remaining after the effective date of the Cafeteria Plan. Unless the Worker in writing notifies the Employer prior to the expiration of this Agreement of his/her intention not to renew this Agreement, this Agreement will be automatically renewed for another one-year term effective for the next succeeding calendar year.
5. The Employer agrees to reduce the Worker's gross income by the amount actually withheld and remitted pursuant to this Agreement, and to adjust the Worker's gross income to reflect his/her lower salary for purposes of state (if applicable) and federal income tax and Social Security tax withholding.
6. The Worker agrees that his/her election to participate in the Cafeteria Plan, as evidenced by this Salary Reduction Agreement, is irrevocable for the plan year to which it applies; provided, however, that

he/she may change this election on account of certain changes in circumstances, provided that the change in the election directly relates to the changed circumstances, and the Employer may change this election in the event of an increase or decrease of the Concordia Health Plan contributions, as permitted by the Internal Revenue Code of 1986 and the regulations thereunder, as amended, and other applicable regulatory guidance. The Worker agrees that he/she may not repudiate, or "take back," his/her election in order to receive his/her normal salary, a refund of the amount withheld, or some other benefit.

7. While this Cafeteria Plan is intended to qualify as a cafeteria plan pursuant to Code Section 125, the Employer does not assure the Worker that intended tax benefits will be available. By accepting potential benefits under this Cafeteria Plan, any covered Worker and his/her covered dependents agree to be liable for any taxes or penalties, plus interest, if any, that the federal or state government may impose with respect to these benefits.
8. The Worker agrees that in the event of the Employer's failure to properly remit the withheld amounts to Concordia Plan Services for the Concordia Health Plan, his/her exclusive remedy under this Agreement (after giving the Employer adequate opportunity to correct any error) will be a refund of the amount withheld which was not properly paid.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

WORKER

EMPLOYER

\_\_\_\_\_  
Signature of Worker

\_\_\_\_\_  
Signature of Authorized Employer Representative

\_\_\_\_\_  
Printed Name of Worker

\_\_\_\_\_  
Printed Name of Authorized Employer Representative

\_\_\_\_\_  
Title