

CELARITY

CAFETERIA PLAN

WITH

PRE-TAX PREMIUM PAYMENT

Effective December 1st, 2023

TABLE OF CONTENTS

<u>ARTICLE I INTRODUCTION</u>	3
<u>ARTICLE II ADMINISTRATIVE INFORMATION</u>	4
Phone Number].....	Error! Bookmark not defined.
2.1. Plan Administrator.....	4
2.2. Future of the Plan	5
2.3. Not an Employment Contract	5
<u>ARTICLE III DEFINITIONS</u>	5
<u>ARTICLE IV ELIGIBILITY TO PARTICIPATE</u>	6
<u>ARTICLE V ELECTIONS</u>	7
5.1. Period of Coverage; Election Form Generally Irrevocable	7
5.2. Limits on Salary Reduction Amounts Elected	7
5.3. Annual Enrollment Period	7
5.4. Change in Election.....	7
5.5. Changes Required for Non-discrimination Compliance	9
<u>ARTICLE VI TERMINATION OF PARTICIPATION</u>	10
<u>ARTICLE VII BENEFITS</u>	10
<u>ARTICLE VIII PLAN BENEFITS</u>	10
8.1. Contributions	10
<u>ARTICLE IX PLAN ADMINISTRATION</u>	10
9.2. Plan Expenses	10
9.4. Indemnification of Employer.....	11
9.5. Compliance with Laws	11
9.6. Applicable Laws	11
9.7. Effect of Mistake	11
9.8. Headings	11
<u>ARTICLE X ENDORSEMENT</u>	11

ARTICLE I
INTRODUCTION

Celarity (“Employer”) hereby establishes the Celarity Cafeteria Plan (the “Plan”). The purpose of the Plan is to permit all Eligible Employees to pay health insurance premiums through salary reduction on a pre-tax basis.

This Plan is intended to qualify as a cafeteria plan under section 125 of the Internal Revenue Code of 1986, as amended (“Code). The Plan shall be construed and interpreted in a manner that is consistent with the requirements of these sections and any implementing regulations and is to be interpreted in a manner consistent with the requirements of the Code. Employer expects to continue the Plan but reserves the right to amend or terminate it at any time and for any reason.

ARTICLE II
ADMINISTRATIVE INFORMATION

Plan Name	Celarity Cafeteria Plan (“Plan”)
Type of Plan	The Plan is a cafeteria plan under Section 125 of the Code.
The Plan Sponsor	Celarity 200 Southdale Ctr. Edina, MN, 55435 952-941-0022
Employer ID (EIN)	41-1790178
Plan Administrator	Gravie 10 NE 2 nd Street Suite #300 Minneapolis, MN, 55413 612-355-1590
The Agent for Service of Legal Process	Robert Arnold Celarity 200 Southdale Ctr Edina, MN, 55435 952-948-2368 In addition, service of legal process may be made upon the Plan Administrator.
Plan Number	501
Plan Year	Each Plan Year lasts for 12 months from [December 1 to November 30].
Type of Funding	Benefits under the Plan shall be paid from Employer's general assets. There is no trust or other fund, no independent source of funds, or any insurance contract that guarantees the payment of benefits under the Plan. Eligible Employees who elect any of the benefits requiring Participant contributions will contribute at a fixed rate toward the cost of the Plan through payroll deductions as specified in the Election Form.

2.1. Plan Administrator

The Plan Administrator has the discretionary authority to administer the Plan in all of its details, including determining eligibility for benefits and construing all terms of the Plan. The Plan Administrator has the exclusive right and discretion to interpret the Plan and to determine all questions of fact and/or law that may arise in connection with the administration of the Plan.

2.2. Future of the Plan

Employer intends to continue this Plan indefinitely. However, Employer reserves the right to change or terminate the Plan at any time without your consent or the consent of your Spouse or Dependents. Employer or any authorized officer or representative of Employer can make changes to or terminate the Plan. You will be notified if any changes are made. Nothing in this Plan is intended to entitle you to vested benefits.

2.3. Not an Employment Contract

Neither this Plan nor any action taken with respect to it will confer upon any person the right to continued employment with Employer.

ARTICLE III **DEFINITIONS**

In this document, there are some words and phrases that have specific meanings within the context of the Plan. To help the reader understand these words, they are defined here and capitalized in this document.

- 3.1. **Calendar Year** means the twelve month period beginning January 1 and ending December 31.
- 3.2. **Change in Status** has the meaning described in Article V.
- 3.3. **Code** means the Internal Revenue Code of 1986, as amended.
- 3.4. **Compensation** means the wages or salary paid to an employee prior to any Salary Reduction election under the Plan.
- 3.5. **Dependent** means any individual who is a citizen or national of the United States or a resident of the United States or a country contiguous to the United States and is either a Qualifying Child or a Qualifying Relative as defined in Code § 152. The term Dependent shall include any Participant's child (as defined in Code § 152(f)(1)) through the end of the taxable year in which the child attains age 26.
- 3.6. **Earned Income** means all income derived from wages, salaries, tips, self-employment and other compensation included in gross income for the taxable year.
- 3.7. **Election Form** means the form that Employer provides to the Eligible Employee to elect benefits under the Plan and specify Salary Reduction amounts. This form may be delivered and completed online.
- 3.8. **Eligible Employee** means an individual that Employer classifies as a common-law employee, is on Employer's W-2 payroll and is regularly works [30] or more hours per week, but does not include any of the following:
 - (a) Any leased employee or anyone classified by Employer as a contract worker, independent contractor or temporary employee, whether or not such employee is on Employer's W-2 payroll;

- (b) Any individual who performs services for Employer but is paid by a temporary or other staffing agency;
- (c) Any self-employed individual;
- (d) Any partner in a partnership;
- (e) Any more than 2% shareholder in a Subchapter S corporation.

Because you are an Eligible Employee of Employer, this document will refer directly to you as an “Employee.”

- 3.9. **Employer** means Celarity and any related employer that adopts this Plan with the approval of Celarity.
- 3.10. **ERISA** means the Employee Retirement Income Security Act of 1974, as amended.
- 3.11. **Health Insurance** means employer sponsored group health and accident plan, whether insured or self-insured.
- 3.12. **HIPAA** means Health Insurance Portability and Accountability Act of 1996, as amended.
- 3.13. **Participant** means a person who is an Eligible Employee and who is participating in this Plan. Because you are a Participant in this Plan, this document will refer directly to “you” as a “Participant.”
- 3.14. **Plan** means the Celarity Cafeteria Plan as described herein and as amended from time to time.
- 3.15. **Premium Expense** means the employee’s cost of premiums for employer-sponsored Health Insurance.
- 3.16. **Salary Reduction** means the amount your Compensation is reduced and applied by Employer under this Plan before any applicable federal and/ or state taxes have been deducted from your Compensation. Salary Reductions are applied by Employer to pay the Participant’s share of the contributions for benefits under the Plan and, for purposes of this Plan and the Code, are considered to be Employer contributions.
- 3.17. **Spouse** means an individual who is legally married to a Participant as determined under applicable state law and who is treated as a spouse under the Code.

ARTICLE IV
ELIGIBILITY TO PARTICIPATE

4.1. Participation

You may elect to participate in the Plan on the later of this Plan’s Effective Date or the first day of the calendar month on or after the date you meet all of the following criteria and the first day of any subsequent Plan Year in accordance with the annual enrollment period described in Article V,

provided that an Election Form is submitted to the Plan Administrator before the first day participation will commence:

- (a) you are an Eligible Employee of Employer;
- (b) you have been employed by Employer [30] consecutive calendar days.

[*include* any other limitations that may apply.]

ARTICLE V ELECTIONS

5.1. Period of Coverage; Election Form Generally Irrevocable

Subject to Section 5.4, the election specified on your Election Form is irrevocable during the Plan Year, except as provided in Sections 5.3 through 5.6.

5.2. Limits on Salary Reduction Amounts Elected

The total Salary Reduction amount that you may elect on an Election Form for all benefits under this Plan cannot exceed your Earned Income for the Plan Year. The limits on Salary Reduction amounts for each individual benefit are as follows:

Plan. The minimum amount that you may elect to salary reduce under the Plan for the Plan Year is [\$100] and the maximum amount is your Earned Income for the Plan Year.

5.3. Annual Enrollment Period

An annual enrollment period will be scheduled by Employer prior to the beginning of each Plan Year. At that time, you will receive enrollment instructions describing the Plan.

In order to participate in the Plan, you must complete an Election Form, specifying the total amount of your annual Compensation that you wish to reduce on a pre-tax basis each Plan Year to apply toward each benefit under the Plan. The amount you elect to reduce will be deducted prorated (in equal amounts) from your salary beginning the first payday of the Plan Year. An Election Form must be returned to the Plan Administrator on or before the last day of the annual enrollment period, and it will become effective on the first day of the next Plan Year.

If you do not become an Eligible Employee until after the first day of a Plan Year, you may file an Election Form with the Plan Administrator during the 30-day period following the first day on which you become an Eligible Employee. The Plan Administrator will provide you an Election Form at the time your employment commences or as soon as administratively feasible after you become an Eligible Employee.

5.4. Change in Election

Treasury Regulations require that generally, your election must remain the same for the entire Plan Year. If the Premium Expenses increase (or decrease) during the Plan Year, and you are required to make a corresponding change in your payments, the cafeteria plan will, on a reasonable and consistent basis, automatically make a prospective increase (or decrease) in your

election. You will also be allowed to change your election if the change is “on account of and corresponds with” a Change in Status event that affects eligibility for coverage under the Plan. The determination of whether a requested change is “on account of and corresponds with” a Change in Status event will be made by the Plan Administrator in its sole discretion and on a uniform and consistent basis in accordance with the Plan Administrator's interpretation of the applicable regulations.

To change an election, you must complete and return an Election Form to the Plan Administrator within 30 days of the occurrence of the Change in Status event. Notwithstanding the foregoing, a Change in Status that results in a person becoming ineligible for coverage under the Plan will automatically result in a corresponding election change, whether or not requested by the Participant within the normal 30-day period.

- (a) Change in Status Events: Valid Change in Status Events consist of the following:
 - i) Change in your Legal Marital Status: marriage, divorce, annulment, legal separation or death of Spouse;
 - ii) Change in Number of Dependents: events that change your number of Dependents, such as birth, adoption, placement for adoption or death;
 - iii) Change in Employment Status of you, your Spouse or Dependent: any of the following that change the employment status of you, your Spouse, or your Dependent: termination or commencement of employment, strike or lockout, beginning or returning from an unpaid leave of absence, change in worksite that also affects benefit eligibility, or a change from an eligible to an ineligible employment status or classification;
 - iv) Dependent Satisfies (or Ceases to Satisfy) Dependent Eligibility Requirements: events that cause your Dependent to satisfy or cease to satisfy eligibility requirements for coverage, such as due to age, student status, or similar circumstances;
 - v) Change in Residence: A change in the place of residence of the Participant or his Spouse or Dependents;
 - vi) Termination of Employment: All Salary Reduction elections under the Plan will terminate upon termination of employment in accordance with Article VI as applicable.
 - vii) Leave of Absence: All Salary Reduction elections under the Plan will terminate upon the commencement of an unpaid leave that is not designated leave under the Family Medical Leave Act.
- (b) Other Changes That May Allow Changes under the Plan:
 - i) HIPAA Special Enrollment Right: If a Participant or his Spouse or Dependent is entitled to special enrollment rights under a group health plan (other than excepted benefits), as required by HIPAA under Code section

9801(f), then a Participant may revoke a prior election for group health coverage and make a new election, provided the election change corresponds with such HIPAA special enrollment rights. As required by HIPAA, a special enrollment right will arise in the following circumstances:

- a) A Participant or his Spouse or Dependent declined to enroll in a group health plan coverage because he had other coverage, and eligibility for such coverage is subsequently lost because (1) the coverage was provided under COBRA and the COBRA coverage was exhausted, or (2) the coverage was non-COBRA coverage and the coverage terminated due to loss of eligibility for coverage or Employer contributions for coverage were terminated; or
 - b) A new Dependent is acquired as a result of marriage, birth, adoption or placement for adoption.
 - ii) Change in Employment Altering Employee's Eligibility for Health Insurance: any of the following that change your eligibility for Health Insurance: a significant curtailment in coverage or elimination or addition of a new benefit option under the Health Insurance, or a significant change in the coverage or cost of coverage for the Health Insurance.
- (c) Other Events That May Allow Changes under the Plan:
- i) Judgment, Decree, or Order: If a judgment, decree, or order (collectively called "order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a Qualified Medical Child Support Order under the Employee Retirement Income Security Act) requires you to cover a child for accident or health coverage, you may increase Salary Reduction amounts for coverage under the Plan to provide coverage for of the child. Likewise, if the order requires another individual to provide coverage for the child, you may reduce Salary Reduction amounts.
 - ii) Medicare and Medicaid: If you, your Spouse, or Dependent becomes entitled to Medicare or Medicaid (other than coverage only for pediatric vaccines), you may make a change to reduce Salary Reduction amounts for coverage under the Plan to take into account Medicare or Medicaid. Likewise, if you, your Spouse, or Dependent loses eligibility for coverage under Medicare or Medicaid, you may increase Salary Reduction amounts to take into account loss of that coverage.

5.5. Changes Required for Non-discrimination Compliance

The Plan Administrator retains the authority to modify or revoke your election without your consent if the Plan Administrator deems it necessary in order to comply with non-discrimination rules under the Code.

ARTICLE VI
TERMINATION OF PARTICIPATION

Participation will terminate on the earliest of:

- (a) The date you cease to be an Employee;
- (b) The date on which you no longer meet the definition of an Eligible Employee;
- (c) The date the Plan is terminated or amended to exclude you;
- (d) The date of your election not to participate during the Annual Enrollment Period or due to a Change in Status.

ARTICLE VII
BENEFITS

7.1. Benefits Offered

You may elect the following Benefits:

Reimbursement of Insurance Premiums through the Premium Only Plan (or “Plan”)

Each Benefit is described in more detail within separate Articles in this document.

ARTICLE VIII
PLAN BENEFITS

8.1. Contributions

You contribute to the Plan (the “Plan”) through pre-tax dollars. You select the amount of your contributions, up to authorized Coverage under the Plan shall cease upon termination from employment.

ARTICLE IX
PLAN ADMINISTRATION

9.1 Amendment or Termination

Although Employer intends to continue this Plan indefinitely, Employer expressly and specifically reserves the sole and exclusive right at any time to amend or terminate the Plan. Any amendment or termination will be evidenced by a written instrument duly executed by an officer of Employer.

9.2 Plan Expenses

All reasonable expenses incurred in administering the Plan will be paid by Employer for Participants in the Plan. If any expenses are charged to you (for example, the charge associated with requesting a replacement or second electronic payment card), notification will be provided.

9.3 Indemnity for Liability

Employer indemnifies each Employee, officer, and director of Employer, and all persons formerly serving in this capacity, acting on behalf of the Plan, against any and all liabilities or expenses, including all legal fees relating thereto, arising in connection with the exercise of their duties and responsibilities to the Plan, provided however that Employer does not indemnify any person for liabilities or expenses covered by insurance nor due to that person's own gross negligence or willful misconduct.

9.4 Indemnification of Employer

If you receive one or more payments or reimbursements under this Plan on a tax-free basis that do not qualify for tax-free treatment under the Code, then you will indemnify and reimburse Employer for any liability it may incur for failure to withhold federal income taxes, Social Security taxes, or other taxes from the payments or reimbursements.

9.5 Compliance with Laws

It is intended that this Plan meet all applicable requirements of the Code and all regulations issued thereunder. The Plan is not subject to ERISA, and it does not provide benefits that are subject to ERISA, HIPAA or COBRA.

9.6 Applicable Laws

The provisions of the Plan will be construed, administered and enforced according to applicable Federal law and the laws of the State of the principal place of business of Employer to the extent not preempted.

9.7 Effect of Mistake

Clerical errors or omissions in information provided to you do not deprive you of your right to receive a benefit, and do not affect the amount of your benefit. Conversely, clerical errors or omissions do not cause you to have the right to receive a benefit to which you are not entitled and if you receive an overpayment by mistake, you must repay the overpayment, if requested to do so. The Plan Administrator, reserves the right to correct any mistake in any reasonable manner, including but not limited to, adjusting the amount of future benefit payments, repaying to the Plan any overpayment, or making catch-up payments to you for an underpayment. The failure to enforce any provision of the Plan does not affect the Plan's right thereafter to enforce such provision, nor does such failure affect its right to enforce any other Plan provision.

9.8 Headings

The headings of the various sections are inserted for the convenience of reference and are not to be regarded as part of this Plan or as indicating or controlling the meaning of any provision.

ARTICLE X **ENDORSEMENT**

In witness whereof, and as conclusive evidence of the adoption of the foregoing document comprising the Cafeteria Plan, Employer has caused this Plan to be executed in its name and on its behalf. This agreement may be adopted through an electronic signature.

Robert Arnold

Signature

Robert Arnold

Printed Name

Managing Director

Title