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## Chapter 20 — Medical Expense Reimbursement Plan

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### Article I — Title, Establishment, and General Definitions

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## **Article I — Title, Establishment, and General Definitions**

### **§ 20-101 Short Title.**

This Chapter shall be known, and may be cited, as the “Borough of Alburtis Medical Expense Reimbursement Plan.”

### **§ 20-102 Establishment.**

The Borough of Alburtis hereby establishes a Medical Expense Reimbursement Plan in order to provide certain employees with reimbursements of certain qualifying medical care expenses that are excludable from gross income under Section 105(b) of the Internal Revenue Code of 1986. The Plan is intended to qualify as a medical expense reimbursement program under Section 105(b) of the Internal Revenue Code of 1986, an employer-provided accident or

health plan under Section 106(a) of the Internal Revenue Code of 1986, and a qualified health flexible spending arrangement under the regulations promulgated with respect to Section 125 of the Internal Revenue Code of 1986, as they may be amended from time to time, and is to be interpreted in a manner consistent with the requirements of those provisions.

### **§ 20-103 Definitions—In General.**

For purposes of this Chapter, the terms defined in the remaining Sections of this Article I shall have the meanings indicated therein, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning.

### **§ 20-104 Administrator.**

The term “Administrator” shall mean the Plan Administrator described in Article VI.

### **§ 20-105 Cafeteria Plan.**

The term “Cafeteria Plan” shall mean the mean the Borough of Alburtis Cafeteria Plan under Chapter 14, as amended from time to time.

### **§ 20-106 Code.**

The term “Code” shall mean the Internal Revenue Code of 1986, as amended (Title 26, U.S. Code). Reference to a section of the Code shall mean that section as it may be amended or renumbered from time to time, or any corresponding provision of any future legislation that amends, supplements or supersedes that section.

### **§ 20-107 Coverage Amount.**

For any Participant in any Plan Year, the term “Coverage Amount” shall mean the amount of medical expense reimbursement coverage elected by the Participant under the Cafeteria Plan.

### **§ 20-108 Dependent.**

The term “Dependent” means, with respect to any Participant, any individual who is either—

(a) a dependent of the Participant within the meaning of Code § 152 (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof), except that any child to whom Code § 152(e) applies (relating to special rule for divorced parents) shall be treated as a “Dependent” of both parents;

(b) a child (as defined in Code § 152(f)(1)) of the Participant who as of the end of the Plan Year has not attained age 27; or

(c) an alternate recipient under a Qualified Medical Child Support Order (as these terms are defined under federal law) with respect to the Participant.

#### **§ 20-109 Effective Date.**

The “Effective Date” of this Plan is February 1, 2007.

#### **§ 20-110 Employer.**

The term “Employer” shall mean the Sponsor, and all Related Employers which have adopted this Plan and executed a copy of this Chapter.

#### **§ 20-111 Grace Period.**

The term “Grace Period” with respect to any Plan Year of this Plan, shall mean the period from January 1 through March 15 immediately following the end of the Plan Year.

#### **§ 20-112 Participant.**

The term “Participant” shall mean any person who participates in this Plan in accordance with Article II.

#### **§ 20-113 Plan.**

The term “Plan” shall mean the **Borough of Alburtis Medical Expense Reimbursement Plan**, as set forth in this Chapter, and as it may be amended from time to time.

#### **§ 20-114 Plan Year.**

The term “Plan Year” shall mean any 12 consecutive month period beginning on January 1 and ending on the following December 31. However, the first Plan Year under this Plan shall be the period from February 1, 2007 through December 31, 2007, inclusive.

#### **§ 20-115 Qualified Employee.**

The term “Qualified Employee” shall mean, as of any given date, any person who is receiving remuneration for personal services rendered to the Employer (other than as an

independent contractor) and whose customary employment is at least thirty-five (35) hours per week, *provided* such person is neither—

(a) a nonresident alien who receives no remuneration from the Employer which constitutes income from sources within the United States (within the meaning of the Code); nor

(b) a person who is included in a unit of employees covered by a negotiated collective bargaining agreement which does not expressly provide for his/her inclusion as a person eligible for participation in this Plan.

### § 20-116 Qualifying Medical Care Expenses.

(a) **In General.** Except as provided otherwise in this § 20-116, the term “Qualifying Medical Care Expenses” means expenses incurred by a Participant, his/her spouse, or Dependent, for Medical Care of the Participant, his spouse, or Dependent. Qualifying Medical Care Expenses shall be deemed to be incurred at the time the services to which the expenses relate are rendered.

(b) **Medical Care.** For purposes of this § 20-116, the term “Medical Care” shall mean amounts paid (within the meaning of Code § 213(d) and the regulations and rulings thereunder):

(1) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body;

(2) for transportation primarily for and essential to medical care referred to in paragraph (1); *or*

(3) amounts paid for lodging (not lavish or extravagant under the circumstances, and not more than \$50 per night per individual) while away from home primarily for and essential to medical care referred to in paragraph (1) if the medical care referred to in paragraph (1) is provided by a physician (as defined in section 1861(r) of the Social Security Act, 42 U.S.C. § 1395x(r)) in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

(c) **Exceptions.** Notwithstanding anything to the contrary in this section, “Qualifying Medical Care Expenses” shall *not* include—

(1) any expenses to the extent that the Participant or other person incurring them is reimbursed or entitled to reimbursement for the expense through insurance or otherwise (other than under this Plan), including but not limited to reimbursements available under the health/medical/hospitalization plan of the Employer under § 12-403, the dental and vision plans under § 12-405, and the health reimbursement arrangements under Chapters 20A, 20B, and 20C. Any deductibles under these health reimbursement arrangements that are not reimbursed or entitled to reimbursement through insurance or otherwise (other than under this Plan) are not excluded under this paragraph (1); *or*

(2) any premium paid for other health coverage, including but not limited to employee contributions toward the coverage provided under a health/medical/hospitalization

plan of the Employer, such as the payments required under § 12-403(b.1) (relating to Personal Policies—Benefits—Health & Hospitalization—Employee Contributions to Premiums);

(3) any expenses for qualified long-term care services (as defined in Code § 7702B(c));

(4) any expenses for cosmetic surgery (any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease) or other similar procedure, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease; *or*

(5) any expenses for a medicine or drug, unless the medicine or drug is a prescribed drug (determined without regard to whether such drug is available without a prescription) or is insulin.

### **§ 20-117 Related Employee.**

The term “Related Employer” shall mean any—

(a) corporation which is a member of a controlled group of corporations (as defined in Code § 414(b)) which includes the Sponsor;

(b) trade or business (whether or not incorporated) which is under common control (as defined in Code § 414(c)) with the Sponsor;

(c) member of an affiliated service group (as defined in Code § 414(m)) which includes the Sponsor; and

(d) any other entity required to be aggregated with the Sponsor pursuant to Code § 414(o) and the regulations thereunder.

### **§ 20-118 Sponsor.**

The term “Sponsor” shall mean the **Borough of Alburtis**, Lehigh County, Pennsylvania, a Pennsylvania borough and municipal corporation, and its predecessors and successors.