

Article VI — Administration

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Article VI — Administration

§ 20-601 In General.

The Plan Administrator of this Plan shall be the Borough Council of the Borough of Alburdis.

§ 20-602 Powers and Duties.

(a) **In General.** The Administrator shall administer the Plan in accordance with its terms, and shall have all powers necessary to carry out the provisions of the Plan. The Administrator shall have absolute and exclusive discretion to decide all issues arising in the administration, interpretation, and application of the Plan. The Administrator may from time to time set forth rules of interpretation and administration, subject to modification as appropriate in the light of experience. Decisions and rules established by the Administrator shall be conclusive and binding on all persons. The Administrator shall act without discrimination among persons similarly situated at any given time, although it may change its policies from time to time, and shall always act in the exclusive interest of Plan Participants and their beneficiaries. However, the Administrator's authority under this Article VI shall not extend to any matter as to which the Administrator of the Cafeteria Plan is empowered to make determinations under the Cafeteria Plan.

(b) **Delegation.** The Administrator may delegate to any person or group of persons its authority to perform any act under this Plan, including those matters involving the exercise of discretion, *provided* that such delegation shall be in writing and subject to revocation at any time at the Administrator's discretion.

(c) **Employment of Professionals and Others.** The Administrator may appoint such accountants, counsel, specialists, consultants, and other persons as it may deem necessary or desirable in connection with the administration of this Plan, including persons who may also be engaged by the Employer. The Administrator shall be entitled to rely exclusively upon, and shall be fully protected in any action taken in good faith by it in relying upon, any opinions or reports which shall be furnished to it by any such accountant, counsel, specialist, or other consultant, or by any such person employed or engaged by the administrator of the Cafeteria Plan. The Administrator shall also be entitled to rely exclusively upon, and shall be fully protected in any action taken in good faith by it in relying upon, any instruction or report furnished by the administrator of the Cafeteria Plan.

(d) **Records.** The Administrator shall keep a record of all its proceedings and acts, and shall keep all such books of account, records, and other data as may be necessary for the proper administration of the Plan in accordance with applicable law.

(e) **Reports, Documents, and Communications.** The Administrator shall prepare and file all reports and documents required to be filed with a governmental agency, shall prepare and provide or make available all reports and documents required to be provided or made available to Participants or persons with an interest under the Plan, and shall communicate with employees and other persons with respect to all matters relating to the Plan, including rights and benefits under this Plan.

(f) **HIPAA.** Under current law, the HIPAA requirements of Code § 9801 *et seq.* do not apply to this Plan pursuant to Code § 9831(a), and the HIPAA privacy rules do not apply to this Plan because it is a self-administered group health plan with fewer than fifty participants.

§ 20-603 Indemnification.

The Employer hereby agrees to indemnify any officer, director, or employee of the Employer for any expenses, penalties, damages, or other pecuniary losses (including attorneys' fees and amounts paid in settlement of any claims approved by the Employer) which such person may suffer as a result of the good faith exercise of his responsibilities, obligations, or duties in connection with the Plan or fiduciary activities actually performed in connection with the Plan, *but only* to the extent permitted by law and fiduciary liability insurance or bond is not available to cover the payment of such item.

§ 20-604 Benefits Solely From General Assets.

Except as may otherwise be required by law—

(a) any amount by which a Participant's compensation is reduced under the Cafeteria Plan or this Plan to provide coverage under this Plan or which is paid to this Plan under § 20-205 (relating to continuation of coverage) will remain part of the general assets of the Employer;

(b) nothing herein will be construed to require the Employer or the Administrator to maintain any fund or segregate any amount for the benefit of any Participant; and

(c) no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account, or asset of the Employer for which any payment under the Plan may be made.

§ 20-605 Spendthrift Provisions.

Benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, change, garnishment, execution, or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for support of a spouse, former spouse, or any other relative or

dependent of the Participant before actually being received by the Participant or his representative or beneficiary under the terms of this Plan. Any attempt to anticipate, alienate, transfer, assign, pledge, encumber, change, or otherwise dispose of any right to benefits payable under this Plan shall be void. The Administrator and the Employer shall not be liable for or subject to, in any manner, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits under this Plan.

§ 20-606 Facility of Payment.

Whenever the Administrator determines that a person entitled to receive any payment of a benefit or installment is under a legal disability or is incapacitated in any way so as to be unable to manage his financial affairs, the Administrator may make payments to such person, to his legal representative, to a relative, or to a friend of such person for his benefit. Any payment of a benefit or installment in accordance with the provisions of this Section shall be a complete discharge from any liability for the making of such payment under the provisions of the Plan.