

**Article XX — Miscellaneous**

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## Article XX — Miscellaneous

### § 18-2001 Acquittance.

This Plan and Trust is purely voluntary on the part of the Employer. Except as provided in this Plan and Trust document, neither the establishment of the Trust, any modification thereof, the creation of any fund or account, nor the payment of any benefits shall be construed as giving to any Participant or any other person any legal or equitable right against the Employer, any officer or Employee of the Employer, the Trustees, or the Administrator. Neither the Trustees, the Administrator, nor the Employer in any way guarantees the Trust Fund from loss or depreciation, nor do they guarantee any payment to any person. The liability of such persons to make any payments hereunder is limited to the available assets of the Trust Fund.

[Ord. 415 10-29-2003]

### § 18-2002 Limitation of Liability.

Each Employee who becomes a Participant under this Plan expressly agrees and understands that neither the Employer, the members of the Administrator, the Trustees in their individual capacity, nor any of their officers and agents shall be subject in any way to any suit or litigation, or to any personal liability for any reason whatsoever in connection with this Plan and Trust or its operation, *except* for their willful neglect or fraud.

[Ord. 415 10-29-2003]

### § 18-2003 Legal Actions.

In any action or proceeding involving the Trust Fund, its administration, or any of its constituent property —

(a) **Necessary Parties.** The only necessary parties shall be the Employer, the Administrator, and the Trustees;

(b) **Notice.** No Employees or former Employees of the Employer, Alternate Payees, Beneficiaries, or any other person having or claiming to have an interest in the Trust Fund or under the Plan shall be entitled to any notice or process; **and**

(c) **Final Judgment.** Any final judgment which is either not appealed or appealable shall be binding and conclusive on all parties, the Administrator, and all persons having or claiming to have any interest in the Trust Fund or under the Plan.

[Ord. 415 10-29-2003]

### § 18-2004 Delegation of Authority by Employer.

Whenever any Employer is permitted or required to do or perform any act, matter, or thing under this Plan, it shall be done or performed by any officer duly authorized to perform same by the Employer.

[Ord. 415 10-29-2003]

### § 18-2005 Clerical Errors.

If the Administrator discovers that a person who should have received any contribution or allocation under this Plan for any Plan Year did not, or did not receive as large a contribution or allocation as he should have, the Employer shall make a contribution for such person in the amount erroneously omitted, plus the amount of Income which would have been earned by such contribution had it been timely made.

Conversely, if the Administrator discovers that a person received a contribution or allocation under this Plan for any Plan Year to which he was not entitled, the amount of such erroneous contribution or allocation shall be deducted from the person's account and transferred to the Forfeiture Account, to be distributed in accordance with the provisions of Article V. The amount shall **not** be returned to the Employer.

[Ord. 415 10-29-2003]

### § 18-2006 Effect of this Amendment on Accrued Benefits.

Notwithstanding anything to the contrary contained herein, the accrued benefit of every Participant, Alternate Payee, and Beneficiary hereunder as of the Conversion Date shall not be less than the accrued benefit of such person under the Provisions of the Defined Benefit Plan as of the day before such date, except as permitted by law.

[Ord. 415 10-29-2003]

### **§ 18-2007 Construction.**

This Plan and Trust Agreement shall be construed and administered according to the laws of the United States of America and the Commonwealth of Pennsylvania. Further, this Plan and Trust Agreement shall be construed and administered so as to conform to the applicable requirements for qualification under Code §§ 401(a) and 501(a) and shall be deemed amended automatically to conform to such legal requirements as in effect from time to time to the extent necessary.

[Ord. 415 10-29-2003]

### **§ 18-2008 Gender & Number.**

Whenever any words are used in this Plan and Trust in the masculine gender, they shall be construed as though they were also used in the feminine gender in all appropriate cases. Whenever any words are used in either the singular or plural form, they shall be construed as though they were also used in the other form in all appropriate cases.

[Ord. 415 10-29-2003]

### **§ 18-2009 Headings.**

Article, section, subsection, paragraph, subparagraph, clause, subclause, and other headings are included in this document for convenience only and shall in no manner be construed as a part of this Plan and Trust Agreement.

[Ord. 415 10-29-2003]

### **§ 18-2010 Severability.**

Any provision of this Plan which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating or rendering unenforceable the remaining provisions of this Plan. To the extent permitted by applicable law, the Employer and Trustees hereby waive any provision of law which renders any provision of this Plan prohibited or unenforceable in any respect.

[Ord. 415 10-29-2003]

### **§ 18-2011 Employment Rights.**

Nothing contained in this Plan and Trust shall be construed or interpreted as giving any employee of the Employer the right to be retained in the service of any Employer or shall affect or impair any terms of employment with any Employer, the right of any Employer to control its employees, and the right of any Employer to terminate the service of any employee at any time.

[Ord. 415 10-29-2003]

## § 18-2012 Communications.

(a) **To the Administrator or Trustees.** All elections, designations, requests, notices, instructions, or other communications made to the Administrator or the Trustees shall be in such form as may be prescribed by the Administrator or the Trustees and shall be mailed by first-class mail or delivered to such location as shall be specified by the Administrator or the Trustees. The communication shall be deemed to have been given and delivered only upon actual receipt thereof at such location.

(b) **By the Administrator, Trustees, or Employer.** All notices, statements, reports, or other communications from the Administrator, the Trustees, or the Employer to any person with an interest under this Plan shall be deemed to have been duly given when delivered to, or when mailed by first-class mail, postage prepaid and addressed to such person at his address last appearing on the records of the Administrator, the Trustees, or the Employer.

[Ord. 415 10-29-2003]

## § 18-2013 Type of Plan.

This Plan is a money purchase, defined contribution pension plan.

[Ord. 415 10-29-2003]

## § 18-2014 Public Employee Pension Forfeiture Act.

Notwithstanding anything to the contrary contained in this Chapter, all benefits with respect to a Participant under this Plan are subject to partial or complete forfeiture in accordance with the provisions of the Public Employee Pension Forfeiture Act, 43 PA. STAT. ANN. § 1311 *et seq.* Any amounts so forfeited which are subject to restitution to the Employer or another person or entity under the Act shall be so paid in accordance with the restitution order. Any amounts so forfeited which are not subject to restitution to the Employer or other person or entity under that Act shall, at such time as the Administrator reasonably determines that all proceedings related to the forfeiture and/or restitution under the Act have commenced and have concluded, be allocated among the accounts of persons who were Active Participants in this Plan as of the date of the forfeiture in proportion to their Compensation for the last Plan Year which ended before the date of the forfeiture.

[Ord. 561 01-29-2020]