

SAN FRANCISCO RETIREE HEALTH CARE TRUST FUND AGREEMENT

Adopted by the Board: ~~Effective: July 1, 2010~~
~~August~~September 30~~15~~, 20140

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SAN FRANCISCO RETIREE HEALTH CARE TRUST FUND

THIS TRUST AGREEMENT is ~~amended~~~~executed~~ as of this ~~30~~¹⁵th day of ~~September~~~~August~~, 201~~4~~⁰, by the Retiree Health Trust Fund Board of the City and County of San Francisco (hereinafter referred to as the "Board").

WITNESSETH:

WHEREAS, pursuant to Charter Sections 12.204 and A8.432, an irrevocable trust has been established to receive contributions for the purpose of providing a funding source for certain post-employment benefits other than pensions and to make distributions from the Trust for certain post-employment benefits other than pensions, in conjunction with the City's health plans, which trust shall be known as the San Francisco Retiree Health Care Trust Fund (the "Trust");

WHEREAS, pursuant to Governmental Accounting Standards Board Statements No. 43 ("GASB 43") and No. 45 ("GASB 45"), a non-federal governmental plan and employer must take steps to define and disclose the post-employment benefits, other than pension benefits, provided for retirees and their eligible spouses, registered domestic partners, and dependents entitled to health coverage, and to actuarially determine its liability for such benefits;

WHEREAS, a governmental plan or employer may reduce or eliminate its net OPEB obligation, as defined in GASB 43 or GASB 45, by making contributions to an irrevocable trust in relation to such anticipated benefits;

WHEREAS, the City and County of San Francisco ("City") maintains health plans in which retired members of the City or a Participating Employer may participate in order to obtain medical care pursuant to City and County of San Francisco Charter ("Charter") Section A8.428;

WHEREAS, the Board may establish separate sub-trusts and accounts within the Trust to accept contributions and make distributions for the medical benefits under the Plan described in Charter Section A8.428;

WHEREAS, participation in, and any coverage under, the Trust shall not constitute nor be construed as a commitment to provide a specific type or level of benefit; nor shall the Trust constitute a specific, accrued or vested benefit for any specific employee, retiree, eligible spouse or registered domestic partner, or dependent;

WHEREAS, the Board is authorized to receive, hold and manage the funds in the Trust, and such funds, when received by the Board, or its delegate, will constitute the Trust Fund;

WHEREAS, the Board agrees to accept this Trust and to perform the duties of the Trustees prescribed hereunder;

WHEREAS, contributions to the Trust shall be used solely for benefits, expenses and other charges properly allocable to the Plan, payable through the Employer, the Employer's

health plan or providers of such plan, and shall not be used for the payment of benefits, expenses, or other charges properly allocable to any other purpose;

WHEREAS, the City intends that the income accruing to the Trust shall be excluded from income for tax purposes, as such trust income accrues to Employers including the City, a political subdivision of the City, or an entity the income of which is excluded from taxation under Section 115 of the Code, and as such trust income is derived from the exercise of an essential governmental function as provided for under section 115(1) of the Code, Revenue Rulings 77-261 and 90-74, and other relevant guidance;

NOW, THEREFORE, the Trustees hereby establish a Trust to provide as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01 Definitions. When the initial letter of a word or phrase is capitalized, it shall have the following meaning:

- (a) "Administrator" means one or more persons or entities appointed by the Board to perform administrative services under this Trust.
- (b) "Board" means the San Francisco Retiree Health Trust Fund Board of Trustees.
- (c) "Charter" means the City and County of San Francisco Charter as amended.
- (d) "City" means the City and County of San Francisco.
- (e) "Code" means the Internal Revenue Code of 1986, as amended.
- (f) "Custodian" means a bank, mutual fund, savings and loan association, insurance company or other qualified entity selected by the Board, to hold and administer the assets of the Trust Fund.
- (g) "Dependent" means a dependent, as defined in Section 152 of the Code, determined without regard to subsections (b)(1), (b)(2) and (d)(1)(B) thereof, of a Retiree, a Retiree's spouse, a child (as defined in Code Section 152(f)(1)) of the Retiree who is younger than 27 at the end of the year, subject to the eligibility requirements of the Plan, and includes the eligible spouse and survivors or dependents of a Retiree who are entitled to health coverage under Section A8.428 of the Charter.
- (h) "Employer" means the City and any Participating Employer.
- (i) "GASB Actuaries" means the actuarial firm(s) hired by the Employer(s) to provide estimates of each Employers' respective total liability and annual required contribution for post retirement health benefits under GASB No. 45.

(j) "Health and Welfare Benefit" means a medical or prescription drug benefit considered a post-retirement benefit other than pension under GASB 43 or GASB 45. Such a benefit is limited to medical care expenses as defined by Code Section 213(d).

(k) "Investment Fund" means an investment fund that forms part of the Trust Fund as established by the Board.

(l) "Investment Manager" means an investment manager selected by the Board.

(m) "OPEB Obligation" means the Employers' net obligation for post-employment benefits other than pension benefits under GASB 43 or GASB 45, *i.e.*, the cumulative difference between annual OPEB cost (normal cost plus amortized unfunded actuarial accrued liabilities) and contributions to date for Health and Welfare Benefits.

(n) "Participating Employer" means the San Francisco Unified School District and the San Francisco Community College District, following a resolution by each entity's respective governing board to participate in the Trust.

(o) "Plan" means the health plan or plans maintained by the City in which Retirees, and their eligible spouse or registered domestic partner and Dependents, may participate in order to obtain medical care pursuant to Charter Section A8.428.

(p) "Property" refers to any property, real or personal, or partial interests therein, wherever situated, including, but not limited to, preferred and common stocks, shares of investment companies, bonds, notes, debentures and mortgages, equipment trust certificates, investment trust certificates, interests in limited liability companies, in partnerships whether limited or general or in any insurance contract, policy, annuity, or other investment media offered by an insurance company, in which trust assets may be invested pursuant to California law.

(q) "Regulation" means a policy, procedure, rule or regulation adopted by the Trustees, establishing administrative procedures or interpretations affecting the Trust.

(r) "Retiree" means a former employee of an Employer who is retired and is entitled to health coverage under Charter Section A8.428.

(s) "Trust" means the trust created and established hereunder.

(t) "Trust Fund" means all such money, Property, and all investments made therewith and proceeds thereof and all earnings and profits thereon, less payments made by the Board as authorized herein.

(u) "Trust Year" means the twelve (12) month period beginning each July 1 and ending the following June 30 on which the books and records of the Trust are maintained.

(v) "Trustees" means the individual members of the Board. The Trustees collectively constitute the Board as set forth in Section 5.01.

Section 1.02 Rules of Construction. Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate. Accounting terms and principles used herein or applicable hereto shall be as defined and described from time to time by pronouncements and other guidance of the Governmental Accounting Standards Board ("GASB"), or any successor organization.

ARTICLE II

TRUST

Section 2.01 Trust Fund.

The Board shall have exclusive authority and control over the administration and management of the Trust, the investment of trust assets, and disbursements from the Trust, pursuant to Charter Sections 12.204 and A8.432 and Section 4.02. The Board shall receive and accept for the purposes hereof all contributions described herein and shall hold, invest, reinvest, manage, administer, and distribute Property and the increments, proceeds, earnings, and income solely to meet OPEB Obligations and to fund Health and Welfare Benefits under the Plan as described herein.

Section 2.02 Exclusive Benefit.

(a) This Trust is created for the sole and exclusive purpose of funding the Employers' obligations to provide Health and Welfare Benefits for Retirees, their eligible spouse or registered domestic partner and their Dependents under the Plan. No portion of the principal or income of this Trust shall revert to an Employer or to the City except in a manner consistent with the irrevocability of contributions under the Code and GASB 43 or GASB 45, or shall be used for or diverted to any purpose other than meeting the Employers' obligations to provide Health and Welfare Benefits and the payment of reasonable expenses of the Plan and the Trust, including but not limited to educational, actuarial, legal, consulting, administrative support and accounting expenses associated with the Trust. Administrative costs, including but not limited to educational, actuarial, legal, investment and consulting expenses associated with the Trust, as adopted by the San Francisco Board of Supervisors in the annual budget, shall be paid from the Retiree Health Care Trust Fund, but only upon adoption of a resolution by the Retiree Health Trust Fund Board approving such expenses. Trust assets shall not be used to satisfy the claims of any creditor of any Employer or the Board.

(b) All investments, receipts, disbursements, and other transactions thereunder may be maintained in a common account, which contributions shall be used solely for the payment of benefits, expenses and other charges properly allocable to the Trust, subject to the provisions of Articles III and IV.

(c) At no time shall any part of the Trust Fund be used for, or diverted to, purposes other than for the exclusive purpose of funding Health and Welfare Benefits for Retirees, their eligible spouse or registered domestic partner and their Dependents, as applicable, as provided herein and under the Plan and for defraying the reasonable expenses of administering the Trust

and the Plan. No part of the Trust's net earnings may inure to the benefit of a private person. Private parties do not participate in, or benefit from, the operation of the Trust.

Section 2.03 Taxation. The Trust provides no guaranty that payments or reimbursements to employees, former employees, retirees, spouses or beneficiaries will be tax-free. The Board may obtain a ruling from the Internal Revenue Service concerning only the federal tax treatment of the Trust's income. That ruling may not be cited or relied upon by the City and County of San Francisco whatsoever as precedent concerning any matter relating to the City and County of San Francisco's health plan(s) (including post-retirement health plans). In particular, that ruling has no effect on whether contributions to the City and County of San Francisco's health plan(s) or payments from the City and County of San Francisco's health plan(s) (including reimbursements of medical expenses) are excludable from the gross income of employees, former employees or retirees, under the Internal Revenue Code. The federal income tax consequences to employees, former employees and retirees depend on the terms and operation of the City and County of San Francisco's health plan(s).

ARTICLE III

DEPOSITS AND DISBURSEMENTS FROM THE TRUST FUND

Section 3.01 Trust Deposits.

(a) The Board hereby delegates to the Administrator the responsibility for accepting contributions to the Trust and remitting said contributions to the Custodian. The Administrator is also responsible for crediting the deposits to the appropriate sub-trust, if sub-trusts have been established. In all cases, deposits of contributions shall be treated as actually made only as of the date the funds are accepted as in good order by the Administrator.

(b) The Board shall: (i) hold, invest, and reinvest the Trust Fund, and (ii) pay benefits as described herein from the Trust Fund. The Administrator shall account for contributions, income, and payments made to or from the Trust. The Board, Custodian and Administrator shall not be responsible for the adequacy of the Trust Fund to meet and discharge any liabilities of the Employers.

(c) Contributions to fund the benefits under the Trust shall consist of amounts determined pursuant to Charter Section A8.432. Contributions from each Employer, and their officers and employees, shall be segregated from each other and only used as a funding source to defray each Employer's obligation to pay for retiree health care and each Employer's share of administrative expenses. The funds may be pooled for investment purposes only.

Section 3.02 Sub-Trusts and Accounts. Separate sub-trusts or accounts in the Trust Fund may be maintained by the Board for appropriate categories of Retirees or Employers. The Board shall not be required to maintain separate investments for any sub-trust or account. Interest may be credited to each sub-trust or account by the Board from time to time.

Section 3.03 Trust Payments.

(a) ~~Except as otherwise set forth in Charter Section A8.423(d)(2) and (d)(3), the Board may authorize disbursements from the City's sub-trust, other than disbursements to defray the reasonable expenses of administering the RHCTF, only during periods when the City's GASB Actuary has determined that the City's sub-trust is Fully Funded. When the City's sub-trust is Fully Funded, the Board may disburse sub-trust assets to defray the cost of the City's obligation to pay for health coverage for its retired persons, Dependents and their survivors entitled to health care coverage under Section A8.428, and for reasonable expenses, fees and allocated administrative fees and expenses. The Board shall determine the amount and frequency of such disbursements in consultation with the City's GASB Actuary. Prior to January 1, 2015, no disbursements, other than to defray reasonable expenses of administering the Trust Fund, may be made from the Trust.~~

(b) ~~For Participating Employers other than the City and County of San Francisco, the Board may not make any disbursements from a Participating Employer's sub-trust until the Participating Employer's governing body, after consultation with the Participating Employer's GASB Actuary, has recommended to the Board by a two-thirds vote, and the Board has approved, disbursement limitations that effectively balance the Participating Employer's goal of attaining and maintaining a Fully-Funded trust against the Participating Employer's overall financial obligations. Commencing January 7, 2015, Trust assets may be used to defray the cost of the Employers' obligations to pay for Health and Welfare Benefits for Retirees, their eligible spouse or registered domestic partner, and their Dependents entitled to health care coverage under Charter Section A8.428, and for reasonable expenses, fees and allocated administrative fees and expenses. The amount and frequency of such disbursements shall be determined by the Board in consultation with the Employers' respective GASB Actuaries.~~

(c) Any amounts remaining in the Trust Fund after all Health and Welfare Benefits, fees and expenses have been paid shall be retained for payment of future Health and Welfare Benefits until all Employer liabilities for such benefits and expenses have been satisfied.

ARTICLE IV

ACCOUNTS AND INVESTMENTS

Section 4.01 Accounts. Except to the extent prohibited by applicable law, the Board or Custodian may commingle the assets of all Employers held by the Trust for investment purposes. The Board shall maintain such accounts as appropriate to distinguish the City assets and liabilities from each Participating Employers' individual assets and liabilities.

Section 4.02 Investment of Trust Fund.

(a) Except as otherwise provided by Regulation, or as delegated to the Custodian or an Investment Manager, the Board shall have complete control of the management and investment of the Trust Fund, and shall have all powers necessary or convenient to enable it to exercise such control.

(b) The Board may invest and reinvest funds held by the Fund in any investments which are legal investments under California law, and shall have the discretion to decide the allocation of funds among such investments. The Board may purchase, acquire, hold, lease, sell, and convey real and personal Property, and place funds held herein with banks or trust companies which have corporate trust powers, with insurance companies authorized to do business within the State of California, and do all such other acts permitted by law.

ARTICLE V

COMPOSITION, POWERS AND DUTIES OF THE TRUSTEES

Section 5.01 **Composition of Board of Trustees.** The San Francisco Retiree Health Care Trust Fund Board shall serve as the Board of Trustees of this Trust. The appointment and term of members of the Board of Trustees shall be made pursuant to Charter Section 12.204. ~~The Board of Trustees shall consist of the following five trustees: the City Controller, the City Treasurer, and the Executive Director of the San Francisco Employees' Retirement System, or their respective designees; and two trustees elected from among active employee and retired members of the City's Health Service System. The Board shall consist of five Trustees, one of whom shall be appointed by the City Controller, one of whom shall be appointed by the City Treasurer, one of whom shall be appointed by the Executive Director of the San Francisco Employees Retirement System ("SFERS"), and two of whom shall be elected from among active employee and retired members of the City's Health Service System.~~ One of the elected Trustees shall be an active employee member and one shall be a retired member as of the date of their respective elections. Each elected Trustee shall serve for a term of five years. No person may serve simultaneously as a Trustee on the Board and as an elected or appointed member of the San Francisco Employees Retirement System Board or the Health Service System Board.

Section 5.02 **Powers and Duties.** In administering the Trust, Board shall have such power and authority, including discretion with respect to the exercise of that power and authority, as may be necessary, advisable, desirable, or convenient to the Board, in its sole discretion as a fiduciary subject to the provisions of this Trust Agreement, and consistent with Charter Sections 12.204 and A8.432, including the power and authority:

- (a) To make Regulations with respect to the Trust not inconsistent with the Trust, GASB 43 or 45, Code Section 115 or applicable law, and to amend or rescind such Regulations;
- (b) To determine, consistent with the applicable laws, rules or regulations, all questions of law or fact that may arise as to any person or entity claiming rights under the Trust;
- (c) Subject to and consistent with GASB 43 and 45, Code Section 115 and applicable law, to construe and interpret the Trust and to correct any defect, supply any omission, or reconcile any inconsistency in the Trust;
- (d) To adopt and amend investment policies, guidelines, restrictions, and requirements;

(e) To utilize Trust assets for the provision of Health and Welfare Benefits in accordance with this Trust Agreement, for Retirees, their eligible spouse or registered domestic partner, and their Dependents who are eligible for a benefit as determined under Charter Sections 12.204 and A8.432;

(f) To provide for termination of trusteeship and transfer of assets to successor trustees as permitted by law;

(g) To employ legal counsel;

(h) To employ and contract with actuaries, auditors, accountants, investment advisers, investment brokers, consultants, medical personnel, and other agents and employees;

(i) To collect and disburse all investment proceeds under the Trust;

(j) To provide for and promulgate all the rules, regulations, and forms that are deemed as necessary or desirable in fulfilling its purposes of assisting in funding Health and Welfare Benefits and in maintaining proper records and accountings consistent with GASB Statement 43 and 45 and Internal Revenue Service standards;

(k) To bring and defend actions, sue and be sued, and plead and be impleaded;

(l) To expend funds for the reasonable expenses of the Trustees while engaged in the performance of their duties;

(m) To employ insurance companies, banks, trust companies, and/or investment brokers as agents for the keeping of records and the receipt and disbursement of funds held by or due the Trustees;

(n) To exercise generally any of the powers of an owner with respect to all or any part of the Trust Fund; and

(o) To take all actions consistent with this Trust Agreement necessary or appropriate to administer or carry out the purposes of the Trust; provided, however, the Board need not take any action unless in its opinion there are sufficient Trust assets available for the expense thereof.

Section 5.03 Delegation by Board. In addition to the powers stated in Section 5.02, the Board may from time to time delegate to an individual, committee, or organization certain of its fiduciary responsibilities under the Trust. Any such individual, committee, or organization shall remain a fiduciary until such delegation is revoked by the Board, which revocation may be without cause and without advance notice. Such individual, committee, or organization shall have such power and authority with respect to such delegated fiduciary responsibilities as the Board have under the Trust.

ARTICLE VI

LIMITATIONS OF TRUSTEES' RESPONSIBILITY

Section 6.01 **Limitations of Trustees' Responsibility.** The Trustees' responsibilities and liabilities shall be subject to the following limitations:

- (a) The Trustees shall have no duties other than those expressly set forth in this Trust Agreement and those imposed on the Trustees by applicable laws.
- (b) The Trustees and Custodian shall be under no duty to determine the amount of contributions paid to the Trust, whether such contributions are adequate to meet the Employers' obligations for Health and Welfare Benefits, or to collect or enforce payment of any Employers' contributions.
- (c) The Trustees shall be responsible only for money and Property actually received by the Trust, and then to the extent described in this Trust Agreement.
- (d) The Trustees individually and the Board shall have no responsibility or duty to define the specific design of the Health and Welfare Benefits, including but not limited to, selecting providers; nor shall the Trustees individually or the Board be responsible for establishing, providing, administering or accounting for the Health and Welfare Benefits.
- (e) The Trustees individually and the Board shall not be responsible for any particular Federal, state or local income, payroll or other tax consequence to an Employer or a Retiree, spouse, or Dependent, and shall not be responsible for any tax-reporting obligation relating to payments or disbursements to such persons.
- (f) The Trustees individually and the Board shall not be responsible for the correctness of any determination of payments to, or disbursements from, the Trust Fund.
- (g) No Trustee shall have any liability for the acts or omissions of any predecessor or successor in office.
- (h) The Trustees individually and the Board shall have no liability for: (i) the acts or omissions of any Investment Manager or Managers; (ii) the acts or omissions of any insurance company; (iii) the acts or omissions of any Investment Fund; (iv) the acts or omissions of any Custodian; or (vi) the acts or omissions of any contractor, vendor, actuary or other service provider.

ARTICLE VII

ACCOUNTS AND RECORDKEEPING

Section 7.01 **Maintenance of Records.** The Board shall maintain or cause to be maintained suitable records, data, and information relating to its responsibilities hereunder. The Trust's books and records relating thereto shall be open to inspection and audit at reasonable

times, subject to applicable law. Separate accounts may be maintained for the contributions of each Participating Employer.

Section 7.02 Independent Audit. The Board shall cause an independent audit of the Trust Fund to be performed annually, with results reported to the Board.

Section 7.03 Annual Report. Each year, the Board shall publish an annual consolidated report for each Employer that includes:

- (a) The fiscal transactions of the Trust Fund for the preceding Trust Year; and
- (b) The amount of the accumulated cash, securities, and other assets of the Trust Fund.

ARTICLE VIII

RELIANCE ON COMMUNICATIONS

Section 8.01 Certification to Board. The Board may rely upon a certification of the Administrator with respect to any instruction, direction, or approval of such Administrator and may continue to rely upon such certification until a subsequent certification is filed with the Board. The Board shall have no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as fully authorized.

Section 8.02 Certification of Other Providers. The Board shall be protected further in relying upon a written certification that purports to be from any Custodian, Investment Manager, insurance company, or mutual fund as to the person or persons authorized to give instructions or directions on behalf of such Custodian, Investment Manager or insurance company and continue to rely upon such certification until a subsequent written certification is filed with the Board.

ARTICLE IX

AMENDMENT AND TERMINATION

Section 9.01 Amendment. This Trust Agreement may be amended by the Board at any time and in any manner permitted by applicable California law and not inconsistent with GASB 43 and 45 or Code Section 115. Notice of such Amendment shall be promptly provided to the Employers, Administrator, and Custodian.

Section 9.02 Irrevocability. This Trust Agreement and the Trust created hereby is irrevocable.

Section 9.03 Termination. The Trust shall have perpetual existence, except if dissolved as to an Employer by that Employer. Following any such dissolution, the Board shall proceed to wind up the affairs of the Trust as to that respective Employer in an orderly manner and within a reasonable period of time considering relevant circumstances. After paying or making reasonable provision for the payment of all liabilities of the Trust with respect to such

Employer, and upon receipt of such releases, indemnities or like documentation as the Board may reasonably deem necessary for the protection of the Trustees, the Board shall distribute the remaining Property of the Trust to such Employer, in cash or in kind or partly each. This distribution shall be made for the sole purpose of assisting the Employer in the payment of Health and Welfare Benefits for Retirees, their eligible spouse or registered domestic partner, and their Dependents with respect to such Employer. In making the distribution, the Board may retain an amount for reasonable, allocated administrative fees and expenses, taking into account the Employer's respective funding. In no event will Trust assets be distributed to or revert to any entity that is not a political subdivision of the State or an entity whose income is excluded from gross income under Code Section 115.

ARTICLE X

MISCELLANEOUS

Section 10.01 Construction and Governing Law.

(a) This Trust Agreement shall be construed, enforced and administered and the validity thereof determined in accordance with the Code and the laws of the City and County of San Francisco and the State of California. If any provision of the Trust Agreement is held to violate the Code or State law, or local law, or to be illegal or invalid for any other reason, that provision shall be deemed to be null and void, but the invalidation of that provision shall not otherwise affect the Trust.

(b) The headings and subheadings in this Trust Agreement are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Trust Agreement.

(c) In resolving any conflict among provisions of this Trust Agreement and in resolving any other uncertainty as to the meaning or intention of any provision of this Trust Agreement, the interpretation that: (i) causes the Trust to be exempt from tax as a governmental instrumentality under Code Section 115; and (ii) causes the Trust to comply with all applicable requirements of the Code and the laws of the City and County of San Francisco and the State of California, shall prevail over any different interpretation.

Section 10.02 Parties Bound. This Trust Agreement shall be binding upon the Board, the Administrator and all Employers and, as the case may be, the delegates, successors, and assigns of each of them.

Section 10.03 Necessary Parties to Disputes. Necessary parties to any accounting, litigation, or other proceedings relating to the Trust Agreement shall include only the Board. The settlement or judgment in any such case in which the Board are duly served or cited shall be binding on the Board, the Employers, and all beneficiaries of the Trust.

Section 10.04 Severability. If any provisions of the Trust Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Trust Agreement shall continue to be fully effective.

Section 10.05 Supersession. The terms of the Trust Agreement shall supersede any previous oral or written agreement between the parties to this Trust pertaining to matters that are the subject of the Trust.

Section 10.06 Nonassignment. No Employer may commute, sell, assign, transfer, or otherwise convey any right to assets it may have under the Trust. The assets held under this Trust shall not be subject to the rights of the creditors of the Employers, the Board, the Custodian, or the Administrator, and shall be exempt from execution, attachment, prior assignment or any other judicial relief or order for the benefit of creditors or other third person.

Section 10.07 Erroneous Payments. If the Board or the Administrator make any payment that, according to the terms of the Trust, and the benefits provided hereunder, should not have been made, the Board or Administrator may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Board or Administrator, from the person to whom it was made or from any other appropriate party. For example, the Board or Administrator may deduct the amount of the incorrect payment when making any future payments to the recipient of the incorrect payment.

Section 10.08 Release. Any payment to any Employer, insurance company, or its designee, shall, to the extent thereof, be in full satisfaction of the claim of such entity being paid thereby and the Board or Administrator may condition payment thereof on the delivery by the Employer, insurance company, or its designee, of a duly executed receipt and release in such form as may be determined by the Board.