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Union: **Town of Ossining Police Association**

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PREAMBLE

This Agreement is made and entered into this 2 day of Nov, 2006 by and between the Town of Ossining, a municipal corporation (hereinafter called the "Town") and the Town of Ossining Police Association, Inc. (hereinafter called the "Association"), collectively referred to as the "parties".

ARTICLE 1

1/1/06 - 12/31/09

RECOGNITION

Section 1: The Town recognizes the Association as the exclusive negotiating representative and bargaining agent for all police employees. For the purposes of this Agreement, an "employee" shall be defined as a sworn police officer in the Town Police Department, except the Chief of Police.

Section 2: The Town agrees to deduct from the employees and remit to the Association regular membership dues for those employees who are members of the Association and who gave signed authorizations permitting such payroll deductions. The Association, on its own behalf and on the behalf of each employee authorizing dues deductions, hereby releases the Town, its officers, agents and employees, from any and all liability whatsoever for the use or application of dues or agency fees after such monies have been deducted and remitted to the Association at their business address. The Association agrees to save and hold harmless the Town from all loss, expense, damage, cost and attorney's fees that may accrue following receipt by the Association of such payroll deductions from the Town.

RECEIVED

ARTICLE 2

RECIPROCAL RIGHTS

Section 1: The Association recognizes the right of the Town to manage the work force but not to conflict with the terms and conditions of this Agreement; the Town recognizes its responsibility to direct the work force so that the dignity of labor of the individual employees shall be protected. The Town and the Association shall each so administer its responsibilities as to be impartial and fair to all employees and shall not discriminate by reason of nationality, creed or race.

Section 2: The Town recognizes the right of the employees who are members of the Association to designate representatives to appear on their behalf to discuss salaries, working conditions, grievances and disputes as to the meaning or effect of any term or condition of this Agreement and to visit employees during working hours, in accordance with the established existing approved rules, regulations and procedures of the Town.

Section 3: The Association shall have the right to post notices and communications of a non-controversial nature on the bulletin boards maintained on the premises and facilities of the Town.

NYS PUBLIC EMPLOYMENT
RELATIONS BOARD

The officers and agents of the Association shall have the right to visit the Town's facilities for the purpose of adjusting grievances and administering the terms and conditions of this Agreement by first conferring with the Chief of Police and then with the Supervisor of the Town and the Town Board in executive session if necessary.

Section 4: Employees who are designated or elected by the members of the Association to adjust grievances or assist in the administration of this Agreement shall be permitted a reasonable amount of time from their regular duties to fulfill these obligations, which have as their aim the maintenance of harmonious and cooperative relations between the Town and the employees and the uninterrupted operation of the Police Department of the Town.

Section 5: Employees who are designated or elected by the members of the Association to represent the employees shall have the right to attend state and county-wide conventions and meetings of the respective police organizations and, pursuant to their obligation as officers or delegates of the bargaining unit therein, shall be permitted a reasonable amount of time free from their regular duties to exercise those rights.

ARTICLE 3

BASE WAGE

Section 1: The Base Wage schedules for 2006, 2007, and 2008 are as follows:

	<u>1/1/2006</u>	<u>1/1/2007</u>	<u>1/1/2008</u>
Patrolman Recruit/Academy Grade*	\$36,350	\$37,895	\$39,506
Patrolman 5 th Grade	\$45,437	\$47,368	\$49,381
Patrolman 4 th Grade	\$53,722	\$56,005	\$58,385
Patrolman 3 rd Grade	\$63,996	\$66,716	\$69,551
Patrolman 2 nd Grade	\$69,968	\$72,941	\$76,041
Patrolman 1 st Grade	\$75,520	\$78,730	\$82,076
Detective(s)**	\$81,184	\$84,634	\$88,231
Sergeant(s)***	\$86,093	\$89,752	\$93,566
Detective Sergeant****	\$92,135	\$96,051	\$100,133
Lieutenant(s)*****	\$96,666	\$100,774	\$105,057

* The Patrolman Recruit/Academy Grade shall be paid at 80% of the Patrolman 5th Grade Base Wage. The parties agree that no Recruit shall be paid for more than the period of time in which that employee is required to attend the Municipal Police Training Council Academy (MPTC). (Example: A Patrolman Recruit is hired on May 1st and commences MPTC on September 1st. The MPTC training is 17 weeks. Based on the foregoing, that employee would continue to be paid Patrolman Recruit/Academy Grade until August 28th (17 weeks). On August 29th, that employee moves to Patrolman 5th Grade).

- ** The Detective(s) Base Wage shall be a 7% differential over and above Patrolman 1st Grade. Effective January 1, 2005 the Detective Base Wage shall be a 7.50% differential over and above Patrolman 1st Grade.
- *** The Sergeant(s) Base Wage shall be a 13.5% differential over and above Patrolman 1st Grade. Effective January 1, 2005 the Sergeant(s) Base Wage shall be a 14% differential over and above Patrolman 1st Grade.
- **** The Detective Sergeant(s) Base Wage shall be a 15.5% differential over and above Patrolman 1st Grade. Effective January 1, 2005, the Detective Sergeant(s) Base Wage shall be a 22% differential over and above Patrolman 1st Grade.
- ***** The Lieutenant(s) Base Wage shall be a 21% differential over and above Patrolman 1st Grade. Effective January 1, 2005, the Lieutenant(s) Base Wage shall be a 28% differential over and above Patrolman 1st Grade.

Section 2: For purposes of calculating overtime pay and holiday pay only, the following definitions are agreed upon:

Hourly rate is equal to the annual Base Wage divided by 1,950.
 Daily rate is equal to the hourly rate multiplied by 8.
 Effective January 1, 2005, the hourly rate for Detective Sergeant(s) and Lieutenant(s) shall be equal to the annual Base Wage divided by 2,080.
 For all other calculations, unless specifically stated in this Agreement, the yearly Base Wage shall be controlling.

ARTICLE 4

SHIFT DIFFERENTIAL

A shift differential shall be paid to each employee who is regularly scheduled to work the "A" line (11:00 p.m. to 7:00 a.m.) or the "C" line (3:00 p.m. to 11:00 p.m.) in addition to their Base Wage and longevity as follows:

"A" Line	\$0.60/hr
"C" Line	\$0.30/hr

The shift differential shall be paid to each employee while on any paid leave (such as, but not limited to, vacation, sick, personal, 207-c of the GML, etc.) in the same manner as his/her regular salary.

ARTICLE 5

LONGEVITY

Section 1: The longevity benefit shall be computed and paid each year as follows:

Starting 5 th year through 7 th year	\$ 475.00
Starting 8 th year through 9 th year	\$ 675.00
Starting 10 th year through 11 th year	\$ 875.00
Starting 12 th year through 13 th year	\$1,075.00
Starting 14 th year through 15 th year	\$1,275.00
Starting 16 th year through 17 th year	\$1,475.00
Starting 18 th year and above	\$1,675.00

Section 2: Payment of the longevity benefit shall be computed according to this Article and shall be paid to each employee as a separate check on the payday most immediately preceding the anniversary date of the employee's hiring by the Town.

ARTICLE 6

WORK DAY, WORK WEEK AND WORK YEAR

Section 1: The average working hours per week shall not exceed thirty-seven and one-half (37.5) hours, seven (7) days a week. The pay year is between January 1 and December 31.

Section 2: Effective January, 1, 2005, the Detective Sergeant(s) and Lieutenant(s) shall work an average of forty (40) hours, seven (7) days a week without additional compensation (the equivalent of 260 work days).

Section 3: Effective January 1, 2005, each employee shall, upon no less than seven (7) days' notice, provide up to eight (8) hours of in service training per year, as directed by the Chief, in addition to their regularly scheduled work without additional compensation. In the event such training does not require all 8 hours, the employees shall be relieved for the balance of time.

ARTICLE 7

PREMIUM TIME AND HOLIDAY PAY

Section 1: Time and one-half (1 ½) shall be paid for:

- A. Hours actually worked either before or after a scheduled work tour;

- B. Court or other like appearances when performed for the Town on an employee's time off, with a minimum of four (4) hours time. (Time off: time off between tours of duty, excluding days off.)
- C. Work performed on an employee's day off shall be paid at time-and-one-half (1 ½) rate for a minimum of four (4) hours, except work performed on an employee's day off which exceeds four (4) hours shall be paid at a minimum of eight (8) hours pay at time-and-one-half (1 ½) rate.

Section 2: Holiday pay shall be paid at the rate of one (1) day, worked or not. Work performed on a holiday shall be paid for at the rate of one (1) day in addition to the holiday pay. Work performed on Thanksgiving, Christmas, New Year's Day and Easter shall be paid at the rate of one-and one-half (1 ½) days in addition to the holiday pay.

Section 3: Time off, in lieu of overtime at the same ratio, may be taken subject to the needs of the Department, at the option of the employee, provided, however, that effective January 1, 2005, time off in lieu of overtime shall not be granted if it necessitates the payment of overtime for a replacement.

Section 4: Effective January 1, 2005, employees may accumulate up to a maximum of 240 hours of time off in lieu of overtime ("comp time"). Any comp time hours in excess of 240 hours shall be paid to the employee in the second pay period in December.

ARTICLE 8

HOLIDAYS

Section 1: For the purposes of this Agreement, the following days shall be paid holidays, worked or not:

1. New Year's Day
2. Martin Luther King, Jr.'s Birthday
3. President's Day
4. Good Friday
5. Easter Sunday
6. Memorial Day
7. Independence Day
8. Labor Day
9. Columbus Day
10. Election Day
11. Veteran's Day
12. Thanksgiving Day
13. Christmas Day

Section 2: Time off, in lieu of cash payment for holiday pay, may be taken at the option of the employee, subject to the prior approval of the Chief of Police and the manpower needs of the Department.

Section 3: Any holiday time that has not been taken by November 15 shall be paid in the last payroll date of November of such year.

ARTICLE 9

VACATIONS

Section 1: Each employee shall be granted vacation leave, with pay, after completion of six (6) months of service to the Town as follows:

<u>Years of Service</u>	<u>Working Days Vacation</u>
During 1 st year	½ day per month of service (max. 6 days)
During 2 nd year	10 days
During 3 rd through 5 th years	15 days
During 6 th through 14 th years	20 days
During 15 th year	21 days
During 16 th year	22 days
During 17 th year	23 days
During 18 th year	24 days
During 19 th year and thereafter	25 days

Section 2: Choice of vacation periods shall be according to seniority, as far as compatible with the proper operation of the Department.

Section 3: Vacations shall be selected in each rank by division, independent of vacations scheduled for other ranks, subject to the prior approval of the Chief of Police, which will not be unreasonably withheld. Notwithstanding the above, the Detective(s) and Detective Sergeant(s) may not be scheduled for vacation at the same time.

Section 4: Vacation, not used by March of the year following the year of entitlement, shall be paid in cash, at the employee's rate of pay on December 31 of the year of entitlement, by separate check.

ARTICLE 10

JOB DESCRIPTIONS

The job descriptions for Patrolman, Sergeants and Lieutenants are as defined by the County of Westchester, Civil Service Job Descriptions for Towns in Westchester County.

ARTICLE 11

TRANSFER CREDITS

Employees shall receive credit for time served as a police officer on any Police Department in New York State, provided such prior service is credited to said employee as police service by the New York State and Local Police and Fire Retirement System as creditable police service time.

ARTICLE 12

TRANSPORTATION EXPENSE

When an employee is required to provide transportation in the service of the Town, miles of travel shall be reimbursed at the same rate paid to other Town Employees.

ARTICLE 13

CLOTHING ALLOWANCE

Section 1: Each employee shall receive a clothing allowance to purchase uniforms and equipment. The purchase of uniforms and equipment shall be subject to approval of the Town, but such approval shall not be unreasonably or arbitrarily withheld. Each employee shall submit receipts to the Town for all such expenses incurred, before reimbursement shall be made. The clothing allowance is as follows:

	<u>1/1/04</u>	<u>1/1/05</u>	<u>1/1/06</u>
Patrol, Sgts., Lt.	\$650.00	\$700.00	\$750.00
Det., Det.Sgts.	\$650.00	\$800.00	\$850.00

Section 2: Each employee shall receive a cleaning allowance, paid in a lump sum on the first (1st) payday each June, as follows:

	<u>1/1/04</u>	<u>1/1/05</u>	<u>1/1/06</u>
	\$560.00	\$610.00	\$660.00

ARTICLE 14

SWAPPING OF HOURS

Employees shall be free to swap hours as long as reasonable notice is given and subject to the needs of the Department.

ARTICLE 15

EDUCATION ALLOWANCE

Section 1: The Town shall pay the full cost of tuition and books for courses in Police Science, Criminal Justice, and related courses, provided that the employee receives prior written approval for such course(s) from the Chief of Police, whose approval shall not unreasonably be withheld.

Section 2: The Town shall pay the full cost of tuition of those designated courses upon enrollment of the employee, provided however, that the maximum annual reimbursement by the Town pursuant to this Article shall not exceed \$4500.00 for the entire unit.

Section 3: Upon completion of the course(s) with a grade of pass, or "C" or 70% or better, the Town shall reimburse the employee for the cost of any books that were required for those courses taken and passed.

Section 4: In the event that the employee fails to obtain a grade of pass, or "C" or 70% or better, the employee shall (by payroll deduction or other means agreeable to the Town and the Association) reimburse the cost of tuition for those courses not passed.

Section 5: The liability of the Town for the payment of the cost of tuition and books shall be limited to a baccalaureate degree.

ARTICLE 16

FALSE ARREST INSURANCE

The Town shall maintain false arrest insurance for the protection of police officers.

ARTICLE 17

SICK LEAVE

The Town shall continue the present unlimited sick leave practice.

ARTICLE 18

SAFETY AND EQUIPMENT

The Town shall maintain all equipment so that it shall not be a danger to the safety or health of the employees.

ARTICLE 19

PREVIOUS PRACTICE

All conditions presently enjoyed, more beneficial to the employee than set forth herein, shall be maintained for the life of the Agreement, except as specifically set forth to the contrary herein.

ARTICLE 20

HEALTH AND WELFARE

Section 1: The Town shall provide, at no cost to the employee, Hospitalization and Major Medical coverage for employees and their eligible dependents and a Non-contributory Dental Plan for employees and their eligible dependents. Each employee shall be entitled to fully-paid individual and/or eligible dependent Hospitalization and Major Medical coverage as provided in this section, if the employee accepts the Town's base plan, which is the State of New York's mandated plan. If the employee elects a different plan, the employee shall pay, through payroll deduction, the difference in cost over this base plan, if any. Employees hired on or after January 1, 2005 shall be required to pay \$750.00 for individual coverage and \$1500.00 for family coverage until such time as they reach the rank of Patrolman 1st Grade.

Section 2: The Town shall pay the full cost of life insurance on all employees and the life insurance for eligible dependents.

Section 3: The Town shall pay the full cost of \$10,000.00 life insurance on retired police officers.

Section 4: The Insurance referred to in Section 2 and 3 of the Article shall be purchased by the Town through Keep Insurance, or such other carrier, as the Association shall designate. The premiums for these coverages shall not exceed the following amounts:

- a) \$270.00 per employee per year with eligible dependents;
- b) \$210.00 per employee per year without eligible dependents;
- c) \$200.00 per retired Police Officer per year

Section 5: Upon retirement, the Town shall pay one hundred percent (100%) of the premium or cost of an individual hospitalization and major medical coverage as provided in Section 1 above. Effective January 1, 2003, if upon retirement, the employee elects dependent coverage, the Town shall pay one hundred percent (100%) of the cost of individual coverage plus an amount equal to fifty (50%) of the difference in cost between dependent coverage and individual coverage. Example: If individual coverage costs \$3,000 and dependent coverage costs \$10,000, the Town will pay \$5,450 towards dependent coverage $\$3,000 + (35\% \text{ of } \$10,000 - \$3,000) = \$3,000 + (35\% \text{ of } \$7,000) = \$3,000 + \$2,450 = \$5,450$. Effective January 1, 2005, if, upon retirement, the employee elects dependent coverage, the Town shall pay one hundred percent (100%) of the cost of individual coverage plus an amount equal to seventy percent (70%) of the

difference in cost between dependent coverage and individual coverage. Effective for those members of the unit who retire on or after January 1, 2006, if, upon retirement, the employee elects dependent coverage, the Town shall pay one hundred percent (100%) of the cost of individual coverage plus an amount equal to eighty percent (80%) of the difference in cost between dependent coverage and individual coverage.

Section 6: The Town shall make a Flex § 125 Plan available to employees effective January 1, 2005.

ARTICLE 21

TERMINAL LEAVE

Section 1: Upon retirement, an employee shall receive thirty (30) days terminal leave pay.

Section 2: The Town reserves the right to withhold the terminal leave pay if an employee retires with disciplinary charges pending against said employee, in which event such terminal leave pay shall be paid to the retired employee only if, as, and when the employee is adjudged not to be guilty of such disciplinary charges.

ARTICLE 22

ACCUMULATED BENEFITS

Section 1: Upon retirement, an employee at the employee's sole option shall be entitled to cash payment for all accumulated benefits due under the terms of this Agreement.

Section 2: The employee shall notify the Town, in writing, of the employee's decision to receive the cash payment for accumulated benefits at the time the employee files for retirement.

Section 3: An employee who does not elect cash payment shall receive such accumulated benefits in compensatory time off prior to the retirement date.

ARTICLE 23

RETIREMENT

Section 1: The Town shall provide a Retirement Program to permit a police officer with twenty (20) years of service to retire at one-half (1/2) pay.

Section 2: The Town shall provide for the pension of those members of the unit enrolled in Tier 1 (defined for purposes of this Article as being enrolled prior to June 30, 1973) of the New York State Police & Fire Retirement System to be premised on the basis of the one year final average salary pursuant to Section 302(9)(d) of the Retirement & Social Security Law.

ARTICLE 24

LOSS OF PERSONAL PROPERTY

An employee shall be compensated for the loss or damage to personal property (i.e., watch, sunglasses, automobile, etc.) provided such loss or damage occurred in the lawful exercise of police authority and further if reimbursement is approved by the Chief of Police.

ARTICLE 25

DEATH BENEFIT

Each employee shall furnish the Town with the name of a beneficiary to whom the Town shall, in the event the employee dies while employed by the Town, pay all unused or accrued vacation time, overtime, holiday pay and all other payments that may be due under this Agreement. Lacking such named beneficiary said payments shall be made to the deceased employee's estate or legal representative.

ARTICLE 26

FUNERAL EXPENSES

The Town shall pay all funeral expenses incurred by the family of an employee who is killed in the line of duty up to \$9,000.

ARTICLE 27

COMPENSATION AFTER SEPARATION FROM SERVICE

After separation from service, a separated employee who is required to return for service due to departmental necessity shall be compensated at one-and-one-half times (1 ½) the daily current rate of pay in the last grade achieved.

ARTICLE 28

GRIEVANCES AND ARBITRATION

Any dispute arising concerning the interpretation or application of the terms of this Agreement shall be processed according to the following procedure.

- A. Step 1- All grievances shall be filed in writing with the Chief of Police or, in the Chief's absence, the acting Chief, within thirty (30) days after the employee knew or should have known of the occurrence that caused the

grievance. The Chief shall issue a written determination within ten (10) working days from the receipt of the grievance.

- B. Step 2: In the event such dispute is not thereafter resolved or adjusted by the Chief of Police, the grievance may be presented in writing within ten (10) working days of the Chief's determination or the passage of the ten (10) working days mentioned in Step 1 above to a Grievance Committee consisting of the Chief of Police, the Town Supervisor, a representative of the Town Board and a member of the Association's grievance committee. The Grievance Committee shall issue a written determination within twenty (20) days of their meeting.
- C. Step 3: If the dispute is not resolved at Step 2, only the Association may refer the matter to arbitration. If the grievance is submitted to arbitration, a demand for arbitration shall be filed with the American Arbitration Association within thirty (30) days following receipt of the Grievance Committee's decision by the Association.
- D. Step 4: Arbitration shall be according to the Voluntary Labor Rules/List Only Service of the AAA. The parties shall split equally the cost of the arbitrator selected through the AAA. The decision of the arbitrator shall be accepted by both parties as final and binding.
- E. Step 5: The parties may, in writing, agree to an extension of the time limits set forth in this grievance procedure.
- F. Step 6: The arbitrator shall have no jurisdiction, power, or authority to amend, modify, supplement, vary or disregard any provision of this Agreement.

ARTICLE 29

EVALUATIONS

Section 1: At the sole discretion of the Town, each employee may be evaluated at least yearly to improve job performance. The evaluations are to be kept confidential and may not be used for disciplinary purposes.

Section 2: Evaluations are to be made by the Chief of Police or, if there is no current Chief of Police, then by the person acting in this capacity. No person other than the employee, the Chief of Police and/or members of the Town Board shall be entitled to view the evaluations, except by the written permission of the employee.

ARTICLE 30

PERSONAL LEAVE

Section 1: Each employee shall be given four (4) personal days per calendar year. Effective January 1, 2005, each employee shall be given five (5) personal days per calendar year.

Section 2: All requests for personal leave shall be submitted in writing at least seventy-two (72) hours prior to the requested day, except in cases of emergency where the need for personal leave is not known seventy-two (72) hours in advance. In such cases, the request shall be submitted as soon as possible.

Section 3: Said requests shall not be unreasonably denied and will be granted whenever possible, subject to the operational needs of the Department. Effective January 1, 2005 such requests shall be granted regardless of whether granting such request necessitates the payment of overtime for a replacement and regardless of whether granting such request necessitates the assignment of involuntary overtime, provided however, that no involuntary overtime shall be assigned on the holidays listed in Article 8, in which case the personal day may be denied.

ARTICLE 31

GENERAL PROVISIONS

Section 1: If a weather emergency situation exists, and an employee is unable to report for duty, and so notifies the Department by telephone, he/she shall be permitted to use personal, compensatory and/or vacation time in order to receive pay for that day and shall not be penalized for so doing.

Section 2: After giving preference to the employee's request, and subject to the operational needs of the Department, the Chief of Police shall determine which leave time bank shall be credited.

Section 3: Notwithstanding the above, this shall not affect any previously scheduled leave time.

ARTICLE 32

JURY DUTY LEAVE

- A. An employee who is noticed and required to appear for any Jury Duty service, shall be released with pay from his/her regularly scheduled tour of duty that calendar day without charge to any other paid leave (i.e., vacation, holiday, compensatory time and personal leave). This release shall not include a mutual tour of duty switch between employees.
- B. The employee shall provide a copy of the appearance notice upon receipt to the Chief of Police or his/her designee.

- C. The employee whose regularly scheduled tour of duty, while serving on Jury Duty, is the "B" line (7:00 a.m. to 3:00 p.m.) is released from service from within Westchester County by 1:00 p.m. shall contact the Chief of Police or designee who shall advise the employee whether or not to report for the remainder of the tour of duty.
- D. The employee shall use the night before "call in" system, if available. The employee shall notify the Chief of Police or designee on whether or not they have to appear for Jury Duty for the following day or are selected for jury service. In the event the employee is not required to report for Jury Duty, he/she shall report to his/her regularly scheduled tour of duty.
- E. All fees paid to the employee for Jury Duty service, when released from his/her regularly scheduled tour of duty, shall be either endorsed over to or paid by the employee to the Town.
- F. Reimbursement from the court for mileage, tolls, parking and/or meals paid for while on Jury Duty service, shall be retained by the employee.
- G. At the completion of Jury Duty service the employee shall provide from the court, if made available, a record of attendance to the Chief of Police or designee.

ARTICLE 33

BEREAVEMENT LEAVE

Section 1: In the event of a death within the employee's immediate family as defined herein, each employee shall be granted four (4) work days, per occurrence, without charge to any other paid leave credits or accruals. The immediate family is defined to mean: spouse, son, daughter, father, mother, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandchildren, son-in-law and daughter-in-law.

Section 2: In the event additional bereavement leave may be required concerning the death of an immediate family member as defined above, the affected employee shall make the request to the Chief of Police or designee for review, consideration and final determination.

ARTICLE 34

DRUG AND ALCOHOL POLICY

Effective June 10, 2003, the following is the Town's Drug and Alcohol Policy:

- 1. The use of illegal controlled substances or alcohol by employees adversely affects the Town's ability to safely deliver services, impairs the efficiency of the work force, endangers the safety of employees and the public, and undermines public trust. The Town and the Association therefore agree that the use, sale, distribution or possession of illegal

controlled substances or alcohol by any employee while on duty is prohibited. The Town and the Association also agree that employees are prohibited from being under the influence of illegal controlled substances or alcohol while on duty. Employees in violation of this policy are subject to disciplinary action, up to and including discharge.

2. Unless otherwise noted, all discipline under this policy shall be in accordance with applicable provisions of the collective bargaining agreement and applicable law.

3. **Definitions**

A. **Adulterated specimen** means a specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

B. **Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

C. **Alcohol concentration** (or content) means alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath.

D. **Alcohol use** means the consumption of any beverage, mixture or penetration, including any medication, containing alcohol.

E. **Confirmation test** for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing it means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines and phencyclidine.)

F. **Controlled Substance** means:

(i) any substance listed on Schedule I of Appendix D to Subchapter B of Title 49 of the code of Federal Regulations or other substance identified in Schedule I;

(ii) an amphetamine or any formulation thereof (including, but not limited to "pep pills" and "beanies");

(iii) a narcotic drug or any derivative thereof; or

(iv) any other substance, to a degree which renders the employee incapable of safely operating a motor vehicle.

- G. **Medical Review Officer (MRO)** – A licensed physician responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information.
 - H. **On duty time** means all time from the time an employee begins to work or is required to be in readiness to work until he/she is relieved from work and all responsibility for performing work. On duty time shall also include all time spent traveling to and participating in either a drug or alcohol test when it is pursuant to random, reasonable suspicion or follow-up test as directed by or on behalf of the Town.
 - I. **Refuse to submit** (to an alcohol or controlled substance test) means that an employee: (i) fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing in accordance with the provisions of the Town’s Policy or (ii) engages in conduct that clearly obstructs the testing process. Conduct that obstructs the testing process includes, but is not limited to, tampering with or attempting to adulterate the specimen, failing to report directly to the collection site after notification and/or intentionally delaying the collection and testing process.
 - J. **Screening test** (also known as initial test). In alcohol testing, it means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate “negative” urine specimens from further consideration.
- 4. **Random Testing** – All employees shall be subject to random drug and alcohol testing. Candidates for random testing shall be determined in the same manner and with the same frequency as currently used by the Town to determine candidates for random testing pursuant to the policy adopted by the Town in accordance with the driver alcohol and drug testing regulations of the United States Department of Transportation. No advance notice to employees selected shall be required to be given.
 - 5. **Reasonable Suspicion Testing** -In addition to random testing, employees shall, based on reasonable suspicion, also be subject to urinalysis or radioimmunoassay (hair) testing for illegal controlled substance use or breath testing for alcohol use. Any employee who refuses to submit to testing or who refuses to cooperate with testing procedures may be subject to discipline, including discharge. Attempts to alter or substitute the testing specimen will be deemed a refusal to take the test.
 - A. The order to submit to testing must be justified by a reasonable suspicion that the employee is or may be under the influence of illegal controlled substances or

alcohol while on duty, or is engaging in the use, sale, distribution, or possession of illegal controlled substances or alcohol while on duty.

- B. While the “reasonable suspicion” standard does not lend itself to precise definition or mechanical application, vague or unparticularized or unspecified or rudimentary hunches or intuitive feelings do not meet the standard.
- C. Reasonable suspicion is the quantum of knowledge sufficient to induce an ordinarily prudent and cautious person to act under the circumstances. Reasonable suspicion must be directed at a specific person and be based on specific and articulated facts and the logical inferences and deductions that can be drawn from those facts.
- D. Reasonable suspicion may be based among other things, on the following:
 - (i) Observable phenomena, such as direct observation of drug or alcohol use or possession and/or physical symptoms of being under the influence of drugs or alcohol; or
 - (ii) A pattern of unusual or abnormal conduct or erratic behavior (e.g., unexplained excessive absenteeism, lateness, or early leaves); or
 - (iii) Arrest or conviction for drug-related offense, or the identification by law enforcement personnel of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking; or
 - (iv) Information provided by a reliable and credible source; or
 - (v) Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.
- E. Disputes concerning the matter of reasonable suspicion to order a test shall be subject to review by way of the grievance procedure. Such dispute shall be incorporated with any grievance filed concerning discipline resulting from such testing.
- F. The decision to test an employee shall be made by the Town Supervisor or his/her designee, in accordance with the standard discussed above.
- G. It is intended that where a decision is made to test, the employee will be given a direct order to submit to the test and advised of his/her right to have an Association representative present for such testing, but the test shall not be delayed more than one (1) hour to accommodate the presence of an Association official, and the Association shall be notified of such order. The test shall be conducted immediately thereafter. The employee shall be given a brief verbal statement of the basis for reasonable suspicion.

- H. For purposes of reasonable suspicion only, where reasonable suspicion is based on information provided by a confidential informant, defined as an employee or agent of a governmental law enforcement agency or the employee's department, the identity of the source need not be disclosed at the time of the test, except for the name of the governmental law enforcement agency involved, if any.
6. Drug testing will be done by means of either urinalysis or radioimmunoassay (hair) testing. Insofar as practical, the sample collection process shall be confidential with due regard for the dignity and privacy of the employee. There shall be no direct observation of giving of urine specimens, unless there is a reason to believe that the specimen may be tampered with, in which event direct observation shall be made by a person of the same gender as the employee giving the specimen. The employee shall cooperate with requests for information concerning use of medications and acknowledgement of giving the specimen.
 7. If urine testing is utilized, specimens shall be collected under the supervision of a monitor designated by the Town. The sample shall be divided into two (2) aliquots. The employee shall provide a sufficient amount of the sample to allow for an initial screening, a confirmatory test, and for later testing if requested by the employee. In the event an insufficient sample is produced, the employee's ability to have a second test performed may be adversely impacted. The monitor shall mark and seal the specimen to preserve its chain of custody. Thereafter, the specimen shall be transported to the testing laboratory in a manner which shall insure its integrity and chain of custody. The laboratory selected to perform testing shall be certified by the National Institute on Drug Abuse (NIDA) of the Department of Health and Human Services. One sample shall be used for purposes of testing by the laboratory and the second sample shall be maintained by the laboratory in accordance with recognized procedures for purposes hereinafter described.
 8. If hair testing is utilized, two samples of hair will be taken, cut as close to the scalp as possible. If the employee does not have adequate scalp hair, hair from the body shall be used instead. Each sample will be taped to a separate index card. The tester will indicate the root end of the specimen. Affixed to each index card will be a label indicating the code number of the test. Both the employee being tested and the tester will initial these labels after the hair specimen has been taken and affixed to the cards. These cards will be sealed in a plastic evidence bag in the employee's presence. The employee being tested and the witness will then initial the plastic evidence bag. The employee must identify any medications that (s)he is taking and this information will be recorded on a form supplied by the testing lab.
 9. For drug testing, initial urinalysis testing shall be conducted by means of an enzyme multiplies immunoassay test (EMI). Initial hair testing shall be by means of radioimmunoassay. All specimens identified as positive on the initial test shall be confirmed using a gas chromatography/mass spectrometry test (GC/MS). For those drugs for which NIDA standards exist, a test shall be deemed positive for the presence of drugs in accordance with such NIDA standards. The laboratory shall report as negative all

specimens which are negative on either the initial test or the confirmatory test. Only specimens which test positive on both the initial test and the confirmatory test shall be reported as positive. All tests conducted pursuant to this procedure will be paid for by the Town.

10. For alcohol testing, the employee shall submit to a breath test to be administered by an agent designated by the Town. Tests for alcohol shall only be conducted by a breath alcohol technician using an evidential breath-testing device. Such device shall be approved by the National Highway Traffic Safety Administration and be placed on the Conforming Products List of Evidential Breath Measurement Devices (e.g., Datamaster). Such test results shall be given the same weight as provided under applicable provisions of the New York State Vehicle and Traffic Law.
11. If an individual fails to provide an adequate amount of urine (or breath for an alcohol collection) at a collection site, the collector will note that fact in the remarks section. After notification of this event to the Supervisor or his/her designee, the Supervisor or his/her designee shall direct the individual to obtain, as soon as practical after the attempted provision of urine or breath, an evaluation from a licensed physician who is acceptable to the Town concerning the employee's medical inability to provide an adequate amount of urine or breath. If the physician determines that there was a reasonable reason for the shy lung or bladder, it shall be provided to the Supervisor or his/her designee, in writing, and the test canceled. Otherwise, the test will be recorded as a "refusal to submit".
12.
 - A. Drug test results shall be forwarded from the testing laboratory to a Medical Review Officer (MRO) or the staff of the MRO. The MRO shall be designated by the Town and must be a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate test results.
 - B. The Federal Workplace Drug Testing Program standards shall be applied to the results.
13. The MRO shall analyze the test results. If the MRO receives a positive test result, he/she shall interview the individual in question, review the individual's medical history, and review other relevant biomedical information. The MRO will evaluate these factors to determine whether a justification exists for the positive test result. Evidence to justify a positive test result may include, but is not limited to, a valid prescription or verification from the individual's physician verifying a valid prescription. If the MRO determines that justification exists, the test result will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. The MRO shall then forward all test results to the Town Supervisor.
14. Upon receiving a laboratory report indicating the urine specimen was diluted, substituted or adulterated, the MRO must treat the report in the same manner as a laboratory's report of a confirmed positive test for a drug or drug metabolite. The MRO must then conduct a

verification interview, during which the employee will have the opportunity to present evidence of a legitimate medical explanation for the substituted or adulterated specimen. For the employee to meet this burden, the employee must produce evidence that he/she did produce or could have produced the urine through physiological means. Medical evidence must be medically valid, i.e., gathered using appropriate methodology and controls. An employee's assertion that a personal characteristic or condition was responsible for the result is insufficient. The employee must demonstrate that the cited characteristic or condition actually results in the physiological production of urine having the identified creatinine and specific gravity levels.

- A. Neither the MRO nor the Town is responsible for arranging, conducting, or paying for any studies, examinations or analyses to determine whether the employee has established a legitimate medical explanation.
 - B. If the MRO determines that the employee's explanation does not present a reasonable basis for concluding that there may be a legitimate medical explanation, the MRO must report the test to the Supervisor or his/her designee as a verified refusal to test because of adulteration or substitutions, as applicable.
 - C. If the MRO determines that the employee's explanation may present a reasonable basis for concluding that there is a legitimate medical explanation, the MRO must direct the employee to obtain, within seven (7) calendar days, a further medical evaluation performed by a licensed physician ("referral physician"), acceptable to the MRO, with expertise in the medical issues raised by the employee's explanation. The MRO may perform the evaluation if the MRO has the appropriate expertise. The referral physician must make a written recommendation to the MRO regarding whether the MRO should determine that there is a legitimate medical explanation.
 - D. Upon consideration of the written recommendation, the MRO must determine whether the employee has a legitimate medical explanation. If the MRO determines the employee does not have a legitimate medical explanation, the MRO must report the test to the Supervisor or his/her designee as a verified refusal to test because of adulteration or substitution. On the other hand, if the MRO determined the employee has a legitimate medical explanation, the MRO must void the test.
15. Urine and hair samples shall be maintained by the Town's designated laboratory in accordance with appropriate procedures for a period of six (6) months.
16. After an employee receives notice from the Town of a positive test result, the employee may make a written request to the Town Supervisor within seven (7) calendar days to have the second sample tested at a different laboratory duly licensed by NIDA. The employee shall be responsible for all costs related to transportation and testing and for the preservation of the chain of custody. The test results shall be delivered by the laboratory

to the employee and the Town Supervisor. Testing and positive results will be in accordance with paragraphs 6 through 14 above.

17. In the event the test procedures reveal the presence of illegal controlled substances or their metabolites or alcohol, such employee may be subject to discipline, including discharge. During any period of suspension pending the outcome of disciplinary charges, the Chief of Police may, in his sole, nongrievable discretion, permit such employee to utilize accumulated and unused leave time. Moreover, in the first instance of such positive drug or alcohol test, any disciplinary charges may be suspended in the Town's sole discretion if the employee agrees in writing to complete counseling and treatment on his/her own time for such illegal controlled substance use or alcohol use in a program jointly agreed to by the Town and the Association. The employee shall agree, as a condition to the suspension of the disciplinary charges, that if he/she fails to attend or complete the program, he/she shall be deemed to have resigned from employment. The employee shall also agree, as a condition to the suspension of the disciplinary charges or penalty, that for a period of one (1) year following the completion of treatment, he/she shall be subject to periodic random testing for illegal controlled substances and/or alcohol, and that if he/she completes counseling and treatment but tests positive for illegal controlled substances or alcohol during such one (1) year period, the Town may reinstitute the suspended charges, in addition to preferring new charges. Upon completion of treatment, as outlined above, and the one (1) year period, the original disciplinary charges or penalty shall be considered resolved. The record of such charges and their resolution (the charges, the answer, and the stipulation) shall remain in the employee's file unless the parties otherwise agree.
18. Each employee will be provided with the Town's Drug and Alcohol Testing Educational Material and information concerning:
 - (i) The effects of drugs and alcohol on an individual's health, work and personal life;
 - (ii) The signs and symptoms of a drug or alcohol problem; and
 - (iii) The available methods of intervention and treatment when a problem does exist.
19. The results of all individual drug and alcohol tests will be kept in a secure location with controlled access.
20. All individual test results will be considered confidential. The release of an individual employee's results will only be given in accordance with an individual employee's written authorization, or as is otherwise required by applicable federal or state law.

ARTICLE 35

SEPARABILITY

Should any part or provision of this Agreement be rendered or declared illegal or an unfair labor practice because of any existing or subsequently enacted legislation or by decree of a court of competent jurisdiction or by the decision of any authorized government agency, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions thereof, provided, however, upon such invalidation, the parties agree immediately to meet and negotiate substitute provisions for such parts or provisions rendered or declaring illegal or unfair labor practice. The remaining parts or provisions shall remain in full force and effect.

ARTICLE 36

LEGISLATIVE APPROVAL

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR PROVIDING THE ADDITIONAL FUNDS THEREFOR, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

ARTICLE 37

TERM OF AGREEMENT

This Agreement shall be for a three (3) year term, beginning January 1, 2006 and expiring on December 31, 2008. In the event that a successor agreement has not been agreed to, all terms and conditions of employment herein contained shall remain in full force and effect.

**TOWN OF OSSINING POLICE
ASSOCIATION, INC.**

TOWN OF OSSINING

By: 
William Thomas, President

By: 
John Chervokas, Town Supervisor

Dated: 11/2/06

Dated: 11/2/06