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PC 17639

AGREEMENT

-between-

VILLAGE OF KENMORE

-and-

KENMORE CLUB, POLICE BENEVOLENT ASSOCIATION, INC.

June 1, 2007 - May 31, 2010

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**NYS PUBLIC EMPLOYMENT
RELATIONS BOARD**

90709.3 10/15/2007

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THIS AGREEMENT is entered into this 1st day of June, 2007, by and between the Village of Kenmore (hereinafter called the "Village") and the Kenmore Club, Police Benevolent Association, Inc. (hereinafter called the "KPBA").

WITNESSETH:

WHEREAS, the parties hereto desire to promote through this Agreement, harmonious relations between the parties; to establish procedures for orderly collective bargaining between the Village and the KPBA; to secure prompt and equitable resolution of any grievances that might arise; to establish wages and working conditions for the police officers in the Village of Kenmore; and to promote the highest degree of efficiency in providing orderly, continuous service to the public.

WHEREAS, this Agreement has been negotiated pursuant to the provisions of the Public Employees' Fair Employment Act, and is governed by the provisions of New York State law, and also, non-conflicting local laws of the Village.

WHEREAS, "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 BY PROVIDING THE ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL."

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Village and the KPBA, through their duly authorized representatives, agree as follows:

ARTICLE I
DEFINITIONS

1.01 The term "Police Officer" or its plural shall, as used herein, mean any member of the negotiating unit described in Article II.

1.02 The terms "Village" or "Board" shall refer to the Village of Kenmore, County of Erie, State of New York and the Board of Trustees thereof acting for said Village.

1.03 The term "days" shall, as used in the Grievance Procedure herein, mean business days; i.e., Monday through Friday.

1.04 The term "Chief" shall, as used herein, mean the Chief of Police.

1.05 The term "Department" shall, as used herein, mean the Village of Kenmore Police Department.

1.06 The term "fiscal year" shall, as used herein, mean the fiscal year of the Village of Kenmore, which is June 1 to May 31.

ARTICLE II **RECOGNITION**

2.01 The Village recognizes the KPBA as the exclusive representative and bargaining agent from and after October 1, 1968 for all members of the Kenmore Village Police in the ranks of: Police Officer, Detective, Youth Officer, Lieutenant and Captain, (except when the Captain is designated as and performs the duties of Assistant Chief, during which time the Captain shall not be part of the bargaining unit herein described). In the event new or additional positions are created during the term of this recognition, the inclusion or exclusion, or the creation of such positions shall be determined by negotiations between the parties.

ARTICLE III **DUES DEDUCTION**

3.01 The Village shall, if requested by the KPBA, deduct from the wages of the members of the bargaining unit and remit to the KPBA, regular membership dues in accordance with authorizations permitting such payroll deductions. Further, it is understood that each employee who is a member of the bargaining unit as hereinabove defined, but who is not a member of the KPBA, shall be liable to contribute to said KPBA an amount equivalent to such dues as from time to time are authorized, levied and collected from the general membership of the KPBA; and the Village agrees to deduct an amount equal to the regular dues from the wages of such non-member and to remit the same to the KPBA. The KPBA shall certify to the Village the amount of its dues.

ARTICLE IV
FAIR PRACTICES AND RIGHTS

4.01 The Village will not interfere with, restrain or coerce any employee because of membership or lawful activity in the KPBA; nor will the Village discriminate for such reasons in regard to hiring or promotion or tenure of employment, or discourage membership or activity in the lawful activities of the KPBA.

The KPBA and its members will not intimidate or coerce any employee in regard to his right to work and will respect the right of any public employee to join, participate in, or to refrain from joining or participating in any employee organization.

4.02 Management Rights - Except as specifically abridged or modified by any provision of the Agreement, the Village of Kenmore Board of Trustees will continue to have, whether exercised or not, all of the rights, powers and authority heretofore existing, including, but not limited to, the following: determine the standards of services to be offered by the Police Department; determine the standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or other legitimate reasons; issue rules and regulations; maintain the efficiency of governmental operations; determine the methods, means and personnel by which the Village's operations are to be conducted; determine the content of job classifications; exercise complete control and discretion over the Police Department Organization and the technology of performing its work; and fulfill all of its legal responsibilities. These rights, responsibilities and prerogatives are inherent in the Board of Trustees and the Mayor by virtue of statutory and corporation provisions and cannot be subject to any grievance or arbitration proceedings except as they affect the rights and obligations of the parties under this Agreement, but their effect upon terms and conditions of employment shall be proper subjects of negotiation between the parties.

ARTICLE V
GRIEVANCE PROCEDURE

5.01 The Village and the KPBA desire that all employees in the Unit be treated fairly and equitably. It is intended that this grievance procedure will provide a means of resolving complaints and grievances at the lowest possible level and that nothing in this Article should be interpreted as discouraging an employee or his representative from discussing any problem in an informal manner, with his immediate supervisor or department head. Such discussions shall not interfere with the right of any employee to process complaints through the grievance procedure.

5.02 1. Grievances of employees in the negotiating unit shall be processed in accordance with provisions in this Article.

2. The term "grievance" as used herein shall mean a complaint by an employee or employees in the bargaining unit or by the KPBA in his (or their) behalf that there has been a violation, misapplication, misinterpretation or inequitable application of this agreement or of the rules and regulations affecting the operation of the Kenmore Police Department, provided, however, that the term grievance shall not apply to any matter as to which:

- a) method of review is prescribed or provided by law or by any rule or regulations having the force and effect of law, or
- b) the Village is not empowered to act.

3. To encourage the resolution of grievances at the departmental level it shall be a fundamental responsibility of supervisors at all administrative levels to make prompt determinations respecting grievances in accordance with these procedures.

4. An employee in the negotiating unit shall have the right to present grievances in accordance with these procedures free from coercion, interference, restraint, discrimination and reprisal by any person or party to this agreement.

5. An employee may be represented at all steps of this grievance procedure by the KPBA or counsel or both.

6. All grievance meetings shall be mutually scheduled by the parties.

7. A record of all grievances filed pursuant to these procedures and the disposition made thereof shall be maintained by the Village Clerk for reference purposes.

8. The time limits specified herein shall be observed unless extended in writing by mutual agreement.

9. Grievances shall be filed within thirty (30) calendar days from the time the grievant became aware of the acts or omissions which gave rise to the grievance.

Step 1 – An employee who has a complaint shall first discuss the matter with his immediate supervisor. In this discussion the persons involved shall make an earnest effort to resolve the matter. If the matter is not resolved by discussion, the parties shall, within one day after the discussion, report the entire matter to the Chief of Police. The Chief of Police or his designee shall make whatever investigation that may be necessary and shall give his answer as soon as practicable, but in no event later than three (3) working days after the discussion. Most complaints should be settled at this step.

Step 2 – In the absence of, or upon the failure to achieve satisfactory disposition at Step 1, the grievant shall, within five (5) days, reduce his complaint to writing either in a standard form to be mutually agreed upon or in a letter. Such grievance must contain the following information:

1. A brief and plain statement of the facts and the nature of the grievance.
2. A statement indicating the decision to process his grievance through the negotiated grievance procedures rather than utilize any grievance procedure under the provisions of the General Municipal Law;
3. Reference to the clause or clauses of the agreement or rules and regulations which the grievant feels are involved;

4. A statement outlining the relief sought. Such form or letter shall be submitted to the Grievance Committee of the KPBA. The Grievance Committee of the KPBA shall consist of not more than three (3) members of the KPBA who shall be selected by KPBA. Within five (5) work days after receipt of a grievance hereunder, said Grievance Committee shall determine by majority vote whether to discontinue the grievance or request further review.

Step 3 – If the Grievance Committee of the KPBA determines to process the grievance further, it shall immediately submit the written grievance to the Chief of Police or his designee. This submission may be accompanied by oral or written evidence, and the Chief of Police shall meet with the grievant, his designee and the KPBA, if requested or if he so desires, to receive further evidence or to discuss the matter. The Chief of Police or his designee shall render his determination in writing to the KPBA Grievance Committee within five (5) work days of receipt of the submission or the hearing, whichever is later.

Step 4 – Failing satisfactory disposition of the grievance at Step 3, the Grievance Committee of the KPBA or its representative shall, within five (5) work days after the determination of the Chief of Police or his designee at Step 3, request a hearing with Grievance Committee of the Board of Trustees. Such hearing shall be held at a mutually agreed upon time but in no event later than ten (10) work days following the request for such hearing. The Grievance Committee of the Board of Trustees shall thoroughly investigate the grievance and shall afford the grievant, his designee and the KPBA an opportunity to present evidence, either documentary or by witnesses, and such hearing shall be confidential. The Grievance Committee of the Board of Trustees shall render a written determination of such grievance to the KPBA within ten (10) days after the close of the hearing.

Step 5 – If either party is dissatisfied with the determination of the grievance at Step 4 hereunder, it may submit such differences to arbitration by serving notice on the other within thirty (30) working days following completion of Step 4 of the grievance procedure.

The arbitration shall be conducted by an impartial arbitrator to be mutually agreed upon by the parties. In the event the parties are unable to agree upon an impartial arbitrator within ten (10) working days after the referral to arbitration, the New York State Public Employment Relations Board shall be requested to name an arbitrator under its rules and procedures.

The fees and expenses of the arbitration shall be borne equally by the parties. The Board or the KPBA shall bear the expenses of their respective witness and any other expenses they may incur.

The decision of the arbitrator shall be final and binding upon the parties, but the arbitrator shall have no jurisdiction, power or authority to amend, modify, supplement, vary or disregard any provision of this agreement.

1. When several members of the negotiating unit have an identical grievance, the KPBA may select one individual case for processing with the understanding that the decision in such case shall be applied to the other identical cases.

2. A grievance shall be considered settled upon the written request of the grievant, or when the grievant ceases to be a regular employee of the Village by his resignation, or when the time limit to appeal to the next step expires unless extended in writing by mutual agreement, unless the grievance is directly related to the termination of such grievant and he desires it to be processed, or unless the KPBA considers the grievance to reflect upon or affect other employees in the bargaining unit.

3. Individuals who are designated for the purpose of adjusting grievances or assisting in negotiations or administering this or future contracts will be permitted a reasonable amount of time from their regular duties to fulfill these obligations.

4. In no event shall either party reveal, other than to the KPBA and Board of Trustees, any statement made during Grievance Procedures for a period of five (5) days after the last procedural grievance step.

ARTICLE VI **SENIORITY**

6.01 In the event of a layoff due to a cutback in personnel, appointment date and position on the civil service lists shall be the means of determining the persons to be laid off, starting with the latest appointee in the title to be reduced.

6.02 Lists - Up-to-date employment lists showing employees in each rank by name, date of employment and position upon civil service lists will be made available to all police officers for their inspection.

6.03 Acquisition and Computation - Police officers shall acquire seniority upon completion of the probationary period. Seniority position shall be based upon position on civil service lists, date of appointment, and service. Supervisors and commanding officers of the Police Department shall have their seniority determined according to their date of promotion and position on the civil service lists.

Seniority is to be the basis for assignment of personnel in their daily duties.

6.04 Interrupted Service and Reacquisition - Interrupted service shall occur when a police officer has removed his name from the rolls of the Department for any period of time. Seniority shall be reinstated when a police officer has returned to the Department and has completed one (1) year of service. Upon completion of two (2) years of continuous service after reinstatement, the original date of employment shall again become effective, less the time the police officer was removed from the rolls of the Department. Nothing contained herein shall be construed to require the Village to rehire a police officer who has removed his name from the rolls of the Department.

6.05 Bumping - In accordance with the provisions of Section 80 of the Civil Service Law, a seniority employee who is displaced from his own classification shall have the following bumping rights within his department:

1. He may bump into a job held by another seniority employee with less seniority in the next lower occupied title in the direct line of promotion; or
2. He may bump another employee with less retention rights who is serving in a position formerly occupied on a permanent basis by the bumping employee.

ARTICLE VII
STANDARD WORK DAY AND WEEK

7.01 In accordance with present policy and practice, the standard work day shall be eight (8) hours, which will include at least a one-half (1/2) hour paid lunch time and the standard work week shall be forty (40) hours. Each police officer shall be guaranteed at least two (2) consecutive days off in every seven (7) day period. When any of the above is not possible, payment for such time worked at overtime rates shall be made as specified in this agreement, the daily rate shall be 1/250 of the annual pay, and the hourly rate shall be 1/8 of the daily rate.

Police officers alerted for duty from off-duty status shall be compensated as follows:

1. Home Alert - From the time called to the time removed from alert, an equal number of hours of compensatory time off shall be credited.
2. Alert Time - From the time called to report to the time removed from alert shall be compensated at the rate of one and one-half times the police officer's regular pay.

7.02 In addition to the above, the work day shall commence ten (10) minutes before the start of the shift. Said early starting time shall be for the purpose of briefing those police officers beginning their shifts of police matters for that day. Compensation for the briefing shall be as follows in lieu of any monetary compensation:

Five (5) days of compensatory time off, subject to the Chief's prior approval.

Police Officers will lose the above referenced compensatory time off if they are late for their briefing time as follows:

late 3 days	=	lose 1 day
late 6 days	=	lose 2 days
late 9 days	=	lose 3 days
late 12 days	=	lose 4 days
late 15 days	=	lose 5 days

This penalty schedule for tardiness regarding briefing time does not waive or replace any form of discipline the Chief may want to exercise under the agreement or the law.

**ARTICLE VIII
COMPENSATION**

8.01 The classification and the basic annual salary schedule shall be as follows:

(a)

<u>Classification</u>	<u>6/1/07-5/31/08</u>	<u>6/1/08-5/31/09</u>	<u>6/1/09-5/31/10</u>
PO 1 st yr.	45,320	46,680	48,080
PO 2 nd yr.	48,996	50,466	51,980
PO 3 rd yr.	52,086	53,649	55,258
PO 4 th yr.	55,751	57,423	59,146
PO 5 th yr.	60,809	62,633	64,512

This five-step schedule is applicable only to new hires from the Academy and those new hires who cannot be considered a lateral transfer under Civil Service Law.

(b) For the classifications of Police Officer**, Detective, Youth Officer, Lieutenant and Captain:

<u>Classification</u>	<u>6/1/07 – 5/31/08</u>		<u>6/1/08 – 5/31/09</u>		<u>6/1/09 – 5/31/10</u>	
	A	B*	A	B*	A	B*
**Police Officer	60,809	61,265	62,633	63,103	64,512	64,996
Police Detective	65,860		67,836		69,871	
Youth Officer	65,860		67,836		69,871	
Lieutenant	71,506	72,045	73,651	74,207	75,860	76,433
Captain	78,802		81,166		83,601	

*These wage rates are applicable to those employees who were affected by the grievance settlement, which provided a ¾ of 1% wage increase 12/1/87.

**For Police Officers hired prior to 6/1/07 and those hired after 6/1/07 as lateral transfers under the Civil Service Law.

For purposes of payment of wages, base salary shall be paid every two weeks in 26 equal payments. The daily rate will be 1/260 of the base salary for this purpose only.

8.02 Out of Rank Compensation - Whenever a police officer is temporarily assigned, by the Chief or person acting as the Chief, to the duties and responsibilities of a higher paid position, to replace a person who has left the duty roster or been placed on special assignment, he shall receive an additional amount equal to the full difference between his compensation and the compensation for such higher paid position. However, it is understood that if three (3) officers are scheduled on a shift, one of which is a captain, no out of rank compensation for lieutenant will be due.

8.03 Overtime Pay - Any assigned work to be performed prior to the commencement of the work day or after eight (8) hours in any one (1) day or beyond the normal five (5) day week shall be considered overtime and shall be compensated at the rate of one and one-half times the police officer's regular pay. A police officer must work a minimum of fifteen (15) minutes overtime to be entitled to such overtime pay. Overtime shall be equalized among employees in the department engaged in similar work or duty as far as practicable. For fifteen (15) minutes of overtime (up to thirty (30) minutes), the employee shall receive thirty (30) minutes overtime pay. For thirty-one (31) minutes, the employee shall receive sixty (60) minutes overtime pay. For sixty-one (61) minutes, the employee shall receive ninety (90) minutes overtime pay, and so forth.

Officers may be compensated for overtime work by either pay or compensatory time off, at the option of the officer, subject to approval by the Chief or his designated representative.

8.04 Court Appearances

1. Local Courts - Each police officer, who, in connection with his duties, appears in court as scheduled by the Chief within the Village of Kenmore at times outside his regularly scheduled work time shall be paid at his hourly rate for the actual time spent or for four (4) hours, whichever is greater, for each such daily appearance.

2. Other Jurisdiction - Each police officer, who, in connection with his duties, appears in court as scheduled by the Chief outside the Village of Kenmore at times outside his regularly scheduled work time shall be paid at his hourly rate for the actual time spent, plus one hour travel time, or for four (4) hours, whichever is greater.

3. Officers will be reimbursed for all reasonable expenses incurred in (1) and (2) above. Requests with appropriate substantiation will be submitted to the Chief for approval. Such expenses will be reimbursed only if in excess of \$10.00 per event.

4. Officers may be compensated for overtime work required in (1) and (2) above by either pay or compensatory time off, at the option of the officer, subject to approval by the Chief or his designated representative. Such expenses will be reimbursed only if in excess of \$10.00 per event.

8.05 Longevity Pay - On the anniversary date of his employment, each police officer shall be entitled to longevity pay in accordance with the following schedule of years of service completed and amount of longevity pay:

Completion of 5 years of service	\$ 800.00
Completion of 7 years of service	850.00
Completion of 10 years of service	950.00
Completion of 15 years of service	1,050.00
Completion of 20 years of service	1,150.00
Completion of 25 years of service	1,250.00

Payment shall be made in the last pay day in November, to those who have completed the appropriate years of service by December 1, according to the above schedule. Police officers with less than five (5) years of service will be paid \$250.00. All employees will receive an additional longevity payment equivalent to $\frac{1}{4}$ of 1% of their base salary.

Each police officer who has an anniversary date of employment in the fiscal year prior to the first day in December shall be paid on such day the longevity pay to which he is entitled according to the above schedule, provided, however, if a police officer who becomes entitled to such longevity pay terminates his employment prior to the first of December, such longevity pay shall be included in his final regular paycheck. If the anniversary date of his employment occurs in the fiscal year on or after the first day in December, his longevity pay shall be paid the first payday in June of the following fiscal year, provided however, if the police officer who becomes entitled to such longevity pay on or after the first day in December terminates his employment

prior to such first payday in June, such longevity pay shall be included in his final regular paycheck.

8.06 Holiday Pay - Each police officer shall receive a regular day's pay for each of the following holidays:

New Year's Day
Lincoln's Birthday
Washington's Birthday
Good Friday
Easter
Memorial Day
Flag Day

Independence Day
Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
Christmas Day

Payment for six (6) holidays in the fiscal year shall be made on the last payday in November and for seven (7) holidays on the first payday in June. Said holiday payment shall be made at one and one-half times the daily rate as set forth in 7.01.

If an officer terminates his employment prior to the occurrence of any such holiday, there shall be added to this last regular paycheck payment for those holidays which occurred prior to such termination, and he shall not be entitled to any pay for holidays which occur after such termination.

8.07 Promotion Pay - Whenever any police officer is promoted from one position in the bargaining unit to another, he or she shall commence to receive the higher pay immediately without a probationary period.

8.08 Uniforms

1. The Village shall continue to provide, repair and replace all uniforms and equipment except for any footwear. The police officers will pay for their own footwear subject to the Chief's approval prior to being used. The KPBA may meet with the Chief to make recommendations concerning uniforms and equipment. Officers who are assigned to detective duties shall be provided with designated appropriate civilian attire as determined by the Chief.

2. Cleaning Allowance - Each officer in the Department will receive an annual allowance for the cost of cleaning of his uniforms. This allowance of eleven hundred dollars (\$1,100.00) shall be paid on the last pay of November.

8.09 Compensatory Time

1. In-Service Training - Any police officer required to attend in-service training during off-duty time shall receive compensatory time as follows:

- a. The "standard work week" is defined as forty (40) hours worked from Monday through Sunday. Training hours that exceed the standard workweek will be compensated as time at time and one half. Training time calculation will be done after the end of the standard workweek. No travel time will be included for local training venues.
- b. Multiple days of training. If there is no means for an officer to take off his or her regularly scheduled tour, due to no hours available in the contractual overtime bank, the Department will consider ways to facilitate changing the officers work hours (by mutual consent) to accommodate that training.

The present policy of the Village whereby the cost of all equipment to be used in in-service training and other approved expenses is assumed by the Village shall be continued.

The Village agrees to post vacancies for training opportunities so that officers may indicate their interest. The selection of the officer who is to attend remains the sole prerogative of the police chief. Such opportunities will be posted at the time the police chief decides to provide the training.

2. Departmental Meetings - Any police officer required to attend Village Board meetings, departmental meetings, conferences and inspections during his/her (their) off-duty time shall be given compensatory time off or pay equivalent to the actual time so spent, plus an additional hour for travel.

8.10 Tuition and Fees - The Village will provide books for and pay for the cost of tuition and fees of all police officers who, when designated by the chief and with the approval of the Village Board, attend and complete successfully college accredited courses leading to a degree in a police-related field, according to the following payment schedule.

1. If a police officer attends a public institution:
 - a. All expenses mentioned upon presentation of evidence of successful completion of individual courses; and
 - b. All expenses previously unreimbursed to be paid in a lump sum upon completion and receipt of a police-related degree (prior approval must be obtained).
2. If a police officer attends a private institution:
 - a. 75% of the expenses noted in paragraph 1, above.

3. Police officers who had been attending college accredited courses as of May 31, 2002, will continue to be reimbursed under paragraph 1, above, while continuing to complete the curriculum which had been approved, regardless of whether such officers attend a public or private institution.

4. It is understood that, upon completion of such course, a police officer is expected to remain in the service of the Village for one (1) year. In the event the officer leaves before completion of such year, the said officer is obligated to reimburse the Village such expenses, and the Village may withhold such amount from their pay and entitlement.

8.11 Range Officer and Firearms Training - The Village will provide a program of firearms training for all police officers. Such program will include a Range Officer to be appointed by the Village and who shall receive the sum of Nine Hundred Dollars (\$900.00) in addition to his regular pay as a police officer.

8.12 When a police officer is appointed to the title of Youth Officer by the Village, he shall receive the basic annual salary of police detective.

8.13 Shift Premium - In addition to the regular daily rate of pay, police officers shall be paid a shift premium as follows:

1. Afternoon Shift - Forty-five (45) cents per hour for each hour worked.
2. Night Shift - Fifty (50) cents per hour for each hour worked.

A police officer assigned to work a split shift in which four (4) or more hours are worked during a premium shift shall be paid a shift premium for all hours worked at the premium rate applicable.

ARTICLE VIII **OVERTIME POOL**

8.14 There shall be available overtime hours as designated by the formula below to allow employees to schedule contractual time off (full or half day increments only). The overtime will also be used in situations involving absenteeism; however, it is agreed that this benefit is not intended for unscheduled daily absenteeism, and the parties agree to meet to modify this agreement should abuse occur.

The actual assignment of overtime to an individual will be on a mutually agreed upon basis. To be granted, a request for time off necessitating the use of the overtime pool must be received a minimum of 3 days (72 hours) before the beginning of the shift requested off. It is agreed, however, that double work schedules are to be discouraged, and employees should not work in excess of 12 consecutive hours.

It is understood that this provision is to allow greater flexibility in allowing employees time off. It does not create a financial obligation to the Village should there not be the necessity to use such overtime hours. In addition, it is understood that, should there be a lack of personnel to replace an officer desiring time off, the request may be denied.

Overtime Formula

Based upon a total of 19-20 police officers, lieutenants or captains, excluding detectives and youth officers, the total maximum overtime hours shall be 720 hours.

Upon a reduction to a total of 18 police officers, lieutenants or captains (without replacements being hired), the total maximum overtime hours shall be increased by 60 hours for each month that the employee complement remains at 18, for a total maximum of 1440 hours for 12 months of a fiscal year. However, if the Village has hired a police officer, but he/she is not eligible to ride in a patrol car alone because of either, but not limited to, training, State law, or Village policy; then the aforementioned 60 hour overtime allotment shall be reduced to 20 hours. Similarly, if the employee complement reduces to 17, with no replacements being hired, the total maximum hours shall increase an additional 720 hours on an annual basis, to be prorated on a monthly basis.

Nothing contained herein shall preclude the parties from negotiating different overtime hours. Such provision shall not be subject to binding arbitration following expiration of this agreement.

ARTICLE IX **LEAVES**

9.01 Funeral Leave - Leave not to exceed five (5) days for death in the immediate family shall be granted to all police officers beginning with the day of death and ending on the day following the funeral. The immediate family shall mean spouse, parent, brother, sister, child, father-in-law, mother-in-law, or grandparents.

Leave on the day of a funeral for relatives other than those in the immediate family as defined above may be granted at the discretion of the Chief of Police.

9.02 A. Sick Leave - Sick leave with pay shall be based upon duration of employment as a policeman by the Village of Kenmore and shall be determined as follows:

Commencing June 1, 1977, each police officer shall have available to him fourteen (14) days' paid sick leave and each fiscal year thereafter, plus sick leave accumulated from prior years, and said sick leave may be used after retirement or death in service as set forth in Article XII. Injuries sustained in the performance of duty shall not be charged against paid sick time.

9.02 B. Sick Time Incentive - Whenever a police officer has six (6) months of continuous service without having any sick time off, such officer shall be awarded eight (8) hours of compensatory time.

If said police officer continues for an unbroken period of twelve (12) months, such officer shall be awarded an additional sixteen (16) hours of compensatory time.

If the string remains unbroken for eighteen (18) months, the police officer will be granted an additional eight (8) hours.

At the continuous twenty-four (24) month mark, the police officer is awarded thirty-two (32) hours.

At the continuous thirty (30) month mark the police officer is awarded eight (8) hours.

At the continuous thirty-six (36) month mark, the award is for forty-eight (48) hours.

A police officer continues to draw eight (8) hours at the six (6) month mark and forty-eight (48) hours at the end of each twelve (12) month period, providing that the police officer's attendance remains unbroken for sickness. Should the string be broken, the police officer starts all over at the beginning, as above.

For the purpose of computing the aforementioned periods, the Village fiscal year (June 1, to May 31) will be used in all cases.

The Chief of Police has the absolute discretion, and not subject to the grievance procedure, to waive the unbroken string requirement, or a portion thereof, if, in his opinion, the police officer takes sick leave for a major medical reason.

9.03 Organization Leave

1. Two police officers designated by KPBA to represent the KPBA shall be allowed to attend a statewide convention and meetings of the police conferences to which they belong without loss of pay. The Chief may approve the attendance of additional representatives at such

conventions or conferences. KPBA shall, insofar as possible, give the Chief at least 30 days prior to such convention, meeting or conference, the name or names of those who will attend.

2. The present practice of allowing members of the KPBA to attend regular monthly meetings of the KPBA shall continue. The KPBA may use all official bulletin boards for the purpose of posting KPBA notices, including notices of meetings, provided that such notices shall be clearly identified as KPBA notices.

9.04 Personal Leave

1. Each police officer shall be entitled to take six (6) personal days leave with pay in each fiscal year. While the Village maintains the authority to deny a requested personal leave day due to staffing requirements, there are cases of an "emergency nature" which will not be denied. Emergency is defined, for example, as required, unscheduled need for emergency hospital attention of the employee or his dependents, or fires or flood at the employee's residence. The Village may require documentation of the emergency.

2. As of May 31 of each year, each officer may carry over unused but accrued personal leave as part of the maximum of 60 hours per year, which is allowable for unused but accrued vacation and compensatory time. Thus a maximum total of 60 hours per year of either unused but accrued vacation, compensatory or personal leave time may be carried over.

9.05 Jury Duty - All police officers who are summoned and are actually required to attend and serve as a juror will be paid the difference between the juror's fee and up to seven and one-half (7½) hours straight-time pay per day (or eight (8) hours, if applicable) for time actually lost from work due to such jury duty. The employee shall be required to:

1. Notify his immediate supervisor as soon as possible before the day the employee is required to report for jury service.
2. Return to his/her immediate supervisor a completed form certified by the Court Clerk.
3. Cooperate with the Village in requesting an excuse or delay from jury service where the employee's absence will adversely affect the Village's operation.

It is understood that employees will report back for work at any time when they are free from the responsibilities of jury duty. The Village and the Union agree to continue existing practice regarding jury duty.

ARTICLE X
DISCIPLINE AND RIGHTS

10.01 Just Cause - No police officer shall be disciplined, reduced in rank or compensation, or deprived of any professional benefits without just cause. When a police officer is ordered to report for an interview regarding disciplinary matters which may lead to the institution of charges against him, he shall be informed of such latter fact by the person conducting the interview and shall be allowed to have, if he so desires, a member of the KPBA or counsel, or both, present with him to advise or represent him during such interview. In addition, all police officers shall have the right to representation by counsel at any and all departmental hearings, investigations or interrogations.

10.02 Personnel Records - Each police officer shall be notified whenever any record of disciplinary action is entered in his personnel record within three (3) days after such entry. Each police officer shall have the right, upon request, to view the contents of his personnel record.

If, after investigation of any complaint lodged against any police officer it shall be determined that the complaints or charges are unfounded, then no record of reference to such charge or complaint shall be entered in his personnel record.

ARTICLE XI
VACATIONS

11.01 Each police officer shall be granted an annual vacation with pay on a fiscal year basis as follows: (The amount of vacation time shall be prorated at the start of the fiscal year for new employees hired after June 1, 1983.)

More than 1 year, but less than 5 years of service	—	10 working days
More than 5 years, but less than 10 years of service	—	15 working days
More than 10 years, but less than 15 years of service	—	20 working days
More than 15 years, but less than 25 years of service	—	25 working days
More than 25 years of service	—	27 working days

Police officers with less than one (1) year of service shall have vacation with pay prorated.

11.02 A police officer entitled to vacation may apply to the Chief of Police and be granted an opportunity to work up to five (5) days of his vacation period and be paid therefore in addition to his vacation pay. Said application must be filed with the Chief of Police prior to its desired effective dates and will be processed with the next regular payroll following completion of those worked dates. A police officer who elects to work five (5) days of vacation may apply to the Chief of Police and Village board to work additional days of his/her vacation allowance, but the Chief of Police and Village Board shall have absolute discretion in either granting or denying said application, and no grievance or arbitration may be filed by the employee or the Association seeking to vacate or set aside the decision made by the Chief of Police and Village Board on the application so made.

11.03 Notwithstanding any other provision of law, a police officer shall be entitled to be paid at the time of his retirement from the service of the Village, the monetary value of unused vacation time standing to his credit at the date of his retirement. In the case of his death in service, such payment shall be made to his beneficiaries.

11.04 Vacation Schedule – Requests for vacation entitlement will be considered as follows:

a. All vacation requests will be submitted to the captain through the employee's immediate supervisor and awarded on a seniority basis provided that the request is received by the captain no later than April 1st of the fiscal year preceding the request.

1. For purposes of vacation schedules, relief duty personnel are deemed to have seniority. If there is more than one officer in relief duty assignments, departmental seniority determines the order of their vacation preference within the relief duty structure.

2. Employees are entitled to indicate an order of preference on their full work week requests (five consecutive calendar days) and will receive seniority consideration on the first two preferences. After all members have been awarded their first two weeks vacation, then seniority

will again prevail for the scheduling of additional vacation time. If no preference is noted on a request and a junior member requests the same time off indicating it is their first or second preference, it will be deemed that the time off request without preference noted is not a first or second preference of the senior employee and the time off will be awarded to the junior member.

3. Once granted, portions of a 5 consecutive day vacation request can only be withdrawn in accordance with the rules governing the use of contractual overtime and if no other member was denied time off, due to staffing mandates, on the effected shift on any of those days.

b. Vacation requests received by the April 1st cutoff that are for five consecutive calendar days, will receive preference over other multiple or single day requests.

c. Requests for other types of time off received prior to the annual April 1st cutoff will be secondary to requests for five (5) consecutive vacation days off.

d. Any time off request for the upcoming fiscal year that are received after April 1st will be awarded on a first received, first awarded basis, as will any time off request received for time off within the same fiscal year.

1. Withdrawal of any portion of a time off request will render the entire request void for purposes of determining its place in the award system and will be considered to have been received at the time the altering of the request is received.

e. It is the responsibility of the individual officer to keep track of their own time off entitlements and specify the type of benefit they are utilizing when their request is made.

1. Conversion of vacation days to compensatory time is allowed at any time, upon request to the Assistant Chief of Police. Conversion of other time off entitlement is not allowed except in accordance with Article 9, Section 9.04, subparagraph 2 of the collective bargaining agreement.

2. Compensatory time cannot be converted to other time off entitlements.

f. No request for time off will be considered to be valid if the employee does not currently have the time off available to him or her.

1. If a time off request is valid when received, and the employee subsequently uses that type of time off, leaving him or her without adequate time off (of the type requested) available for the future date(s), the pending request is deemed to be void. If the employee then earns additional time off that ultimately enables him or her to have the time off, their request will be deemed to be received on the date the officer has adequate time off available.

g. The captain can delegate the authority to grant time off in certain circumstances with the approval of the Chief of Police.

h. When applicable, time off approval will be consistent with the Article VIII, Section 8.14 of this agreement and established departmental procedures regulating the Overtime Pool.

i. Approval of time off remains subject to minimum staffing policy and the determination of the Chief regarding the needs of the Department.

ARTICLE XII INSURANCE

12.01 Health Insurance

- a. Effective June 1, 2007, the Village will continue to offer Independent Health Encompass Plus B. Appendix A sets forth the in-network and out-of-network co-payment schedules. Each officer shall pay \$30.00 per pay period toward the premiums for such insurance. Those officers who receive payment in lieu of benefits shall receive \$390.00 less per semi-annual payment.
- b. Effective November 1, 2007, the Village will discontinue offering Independent Health Encompass Plus B and instead offer Blue Cross/Blue Shield POS. Appendix B sets forth the in-network and out-of-network co-payment schedules. Each officer shall pay \$30.00 per pay period toward the premiums for such insurance. Those officers who receive payment in lieu of benefits shall receive \$390.00 less per semi-annual payment.
- c. The Village will continue to provide this coverage unless the carrier unilaterally ceases to provide the plan of coverage or otherwise unilaterally changes the

coverage offered. If the health insurance carrier unilaterally ceases to provide the plan of coverage or otherwise unilaterally changes the coverage offered, the Village will be required to maintain the most comparable coverage offered by that health insurance carrier and the following procedure will apply.

- d. The Village will give notice to the Association immediately upon being advised by the carrier that it intends to unilaterally implement the changes in the coverage currently being offered. In this notice, the Village will provide all available information that has been provided by the carrier including such things as the effective date of the change and the alternative plans being offered by the carrier in lieu of the plan currently being offered.
- e. An appropriate representative of the Village will meet with designated representatives of the Association and the Carrier, if available, to discuss and explore the various alternative plans that might be implemented to amend or replace the plan currently being offered by the carrier. As soon as possible after this meeting, appropriate representatives of the Village and the Association will meet to negotiate concerning the options presented and attempt to reach agreement on the most comparable coverage offered by that health insurance carrier to the coverage currently being provided.
- f. If the parties are able to reach agreement, that coverage will be implemented on the effective date of the change as established by the carrier. If the parties are not able to reach agreement, then on the effective date of the change as established by the carrier, the Village will implement the alternative plan or coverage that, in its view, is the most comparable coverage to the coverage currently being offered by the carrier. The plans to be considered by either party must be one of those that are formally published and made available to the general public by such carrier.
- g. The Association may file a grievance challenging this determination under the grievance and arbitration provisions of this collective bargaining agreement. If the Arbitrator determines that the Village did not select and implement the most comparable coverage, the Arbitrator will direct the Village to implement the most

comparable coverage within a reasonable period of time. The Arbitrator will also direct the Village to compensate the affected employees for any losses due to differences in benefit coverage or increases in co-pays. In no event will the Village self-insure any health insurance/prescription coverage, nor may an Arbitrator order the Village to do so.

- h. An employee who is covered under a spouse's health insurance coverage and elects not to receive health insurance coverage provided by the Village, may instead elect to receive one-half (½) the cost of the applicable coverage (Independent Health Encompass Plus B or Blue Cross/Blue Shield POS), the cost of the single or family plan, depending upon which coverage he had at the time of election. Payment shall be made on a bi-annual basis, prorated on the first payday after July 1st and on the first payday after January 1st.

12.02 Health Insurance After Retirement or After Death in Service - Each police officer may accumulate unlimited sick days, the value of which may be used by a pensioned officer toward payment of premiums for health insurance for himself/herself and family. These accumulated days shall be acquired as follows:

1. In order to start this benefit, effective June 1, 1985, each police officer in the bargaining unit shall be credited with the number of days he/she has accumulated for sick leave as of June 1, 1985, and it is agreed that the number of days a police officer has accumulated for purposes of this section 12.02 shall never be less than the number of days he/she had accumulated as of said June 1, 1985.

2. Upon retirement or death in service, each day accumulated shall be worth the value of the daily rate of the employee at the time of retirement. The payment of health insurance premiums for a retired police officer shall only be made on behalf of a retired police officer who is not employed where similar health insurance is available to him/her without cost, except that when such employment terminates, his/her rights shall be reinstated. Premiums are to be paid only during the life of the pensioned officer or to his/her widow/widower upon death, but only until he/she remarries or until the value of his/her accumulated days have been

exhausted.

3. (a) After twenty (20) years of employment, an officer who has accumulated two hundred seventy-five (275) sick days may "turn in" such days and lock-in his entitlement to health insurance following retirement. The officer may or may not elect to retire at this time. Should the officer elect to continue working beyond his twentieth (20th) year of service, he will have no further obligation to accrue sick days for purposes of receiving health insurance during retirement.

(b) After twenty (20) years of employment, an officer who has accumulated two hundred thirty (230) sick days may elect to retire and will be entitled to health insurance following retirement. Should the officer elect to continue working beyond his twentieth (20th) year of service, he will be required to accrue the following additional sick days for purposes of receiving health insurance during retirement. If he retires:

- (1) After completion of twenty-first (21st) year, ten (10) days.
- (2) After completion of twenty-second (22nd) year, ten (10) days.
- (3) After completion of twenty-third (23rd) year, ten (10) days.
- (4) After completion of twenty-fourth (24th) year, ten (10) days.
- (5) Or at least forty-five (45) additional days by completion of the twenty-fifth (25th) year.

Should an employee suffer a catastrophic illness, the employee may petition the Police Chief at the time of retirement for the right to have the consecutive number of sick days paid for the catastrophic illness, not excluded from the sick bank for purposes of ultimately determining whether the employee has achieved the required number of unused sick days at the time of retirement for purposes of receiving health insurance during retirement. The Police Chief shall, in good faith, determine whether it is appropriate in view of the police officer's employment history and total attendance to grant such petition.

4. In the event a national insurance be enacted, whether or not comparable, the parties agree to reopen negotiations as to health insurance only. If such program be enacted, then the Village may secure health insurance coverage through such program, in whole or in part, as

long as health insurance coverage comparable to that provided for under this agreement is at all times maintained. In the event the national health insurance program thereafter be eliminated, then the parties shall revert back to the health insurance currently in effect or, if necessary, to comparable health insurance. The parties agree that the issue concerning application of the value of accumulated sick days toward health insurance coverage following retirement should be negotiated upon such reopening of the contract for the reasons noted above. It is the intent of the parties that the value of the accumulated sick days toward health insurance coverage should not be lost or increased as a result of an adoption of a national health insurance plan by the Village. It is understood, however, that there is no financial obligation of the Village to pay the employee the financial equivalent of such value.

12.03 False Arrest and False Imprisonment Insurance - The Village will provide false arrest and imprisonment insurance protection for all police officers.

12.04 Dental Plan - The Village agrees to contribute two hundred twenty-five dollars (\$225.00) per unit member, per year. Any additional amount over two hundred twenty-five dollars (\$225.00) will be paid by the employee.

ARTICLE XIII **RETIREMENT BENEFITS**

13.01 Pension Benefits - The Village agrees to provide and maintain a non-contributory retirement plan for policemen in accordance with Sections 384 d (½ pay 20 Year Plan), 384 e, 384 f, g and h (½ pay 25 Year Plan) and 375 g (½ pay 25 Year Plan with minimum 55 age) of the New York State Retirement and Social Security Law, and to maintain and provide those present benefits now in effect.

Also, it agrees to provide the guaranteed ordinary death benefit authorized by Section 360 b of the Retirement and Social Security Law and also an additional service credit for retirement purposes of one additional day for each day of accumulated and unused sick leave, up to a maximum of 165 days as provided in Section 341 j of the Law.

The retirement benefits enumerated above have been created by statute and are dependent for their continued existence upon maintenance of such statutes. Retirement and

guaranteed death benefits for new employees will be dependent upon the provisions of the Retirement and Social Security Law as it has been or may hereafter be amended.

ARTICLE XIV
PROMOTIONS AND TRANSFERS

14.01 Promotions - The Village agrees to call for examinations for promotions, each time that the County conducts such tests, but in no case at a more than two year interval in each category. The Village agrees not to extend the life of any list past its usual expiration time. The Village agrees not to make temporary promotions except in emergencies and that personal ratings of individual members shall not be used to affect competitive ranking or rating.

The Village agrees that all eligible members will have the opportunity to compete in each examination for which they are qualified with any necessary time off to be provided without loss of pay or time. Staffing, during examinations, to be done with non-competing ranks if necessary. The KPBA agrees that no members will receive compensation for taking examinations while not on duty and that members taking exams during working hours will be granted time off equal to the time necessary to take the examination plus travel time.

14.02 Duty Assignments of Police Officers - Duty assignments of police officers is the sole responsibility of the Village or its designee, subject to the following:

1. Whenever a police officer vacates a duty assignment for any reason whatever or gives notice of his intention to do so, notice of availability of that assignment shall be posted on all bulletin boards for a period of ten (10) days and any member of proper rank may affix his name to said notice indicating his desire to fill the vacancy.

2. All qualified members who have affixed their names to the notice as provided in paragraph (1) above shall be considered for such assignment. The most senior police officer, so qualified, shall be given the assignment. Notwithstanding the above, the Village may select any one of the top three (3) senior candidates for the position of detective, youth officer or court officer. For the position of detective lieutenant, the Village may select from any of the four (4) road patrol lieutenants. Any officer not selected will be entitled to meet with the Chief and/or

selection committee to discuss possible future opportunities. Such discussion and the reason given for the selection are not subject to the grievance/arbitration provision of the agreement.

3. In assignments to specialized units or divisions, the notice referred to in paragraph (1) shall set forth the job requirements necessary for performance of duties assigned.

ARTICLE XV
GENERAL

15.01 At the expiration of this contract, and in the event no new contract is agreed upon, the provisions of this contract as may be applicable will be in effect.

15.02 Rules and Regulations - Whenever rules and regulations governing working conditions or terms and conditions of employment are contemplated, they shall be presented to the KPBA for discussion prior to enactment.

The rules and regulations shall not infringe on the personal life or position or civil liberties of any policeman.

The Union may meet with the Chief to review this article. Any changes mutually agreed to will be submitted to the Village Board for approval.

15.03 Police Officer's Ball

1. The KPBA may sponsor an Annual Police Officer's Ball.

2. It is understood that this function is not to be either publicized or solicitations requested which indicate in any manner that the Ball is an official function of the Village of Kenmore Police Department.

15.04 The Village agrees to provide air conditioning and AM radios in police vehicles.

15.05 Personal Items - Upon submission of a request by the officer involved, and verification by the Chief of Police or his designated representative, the Village Board will consider for

approval the replacement of personal clothing, eyeglasses and watches not to exceed the actual case value of such items that are damaged or destroyed while in the line of duty.

15.06 Life Insurance - The Village shall pay for the cost of a \$20,000.00 Term Life Insurance Policy on each police officer. Said policies to be paid for by the Village until said police officer retires or terminates his employment with the Village for any reason.

ARTICLE XVI
SAVINGS CLAUSE

16.01 The terms of this Agreement shall not apply where inconsistent with constitutional, statutory or other legal provisions. If any provision of the Agreement is found to be contrary to law by the Supreme Court of the United States, or by any court of competent jurisdiction from whose judgment or decree no appeal has been taken within the time provided for doing so, such provision shall be modified forthwith by the parties hereto to the extent necessary to conform thereto. In such case, all other provisions to this Agreement shall remain in effect.

ARTICLE XVII
TERM OF AGREEMENT

17.01 THIS AGREEMENT shall take effect upon the first day of June 2007, and remain in force and effect until May 31, 2010.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, each by its duly authorized officials and representatives, the day and year first above written.

VILLAGE OF KENMORE, NEW YORK

KENMORE CLUB, POLICE BENEVOLENT ASSOCIATION

By: John W. Beach
Title Mayor

By: David R. Leonard
Title KENMORE CLUB PBA - PRESIDENT

DATE EXECUTED: October 16, 2007.

Memorandum of Understanding

The Village will provide one (1) phone line within the police station for personal use, which is not recorded. The system will record the number telephoned and the duration of the call. Only the police chief, assistant chief and captain will have access to such information. The police chief may set reasonable rules regarding the use of such phone.

VILLAGE OF KENMORE, NEW YORK

KENMORE CLUB, POLICE
BENEVOLENT ASSOCIATION

By John W. Beaumont
Title MAYOR

By [Signature]
Title PRESIDENT

DATE EXECUTED: 11-26, 2002.