

Final

VILLAGE OF HERKIMER FIRE DEPARTMENT

PUBLIC EMPLOYMENT CONTRACT

June 1, 2005 – May 31, 2007

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**VILLAGE OF HERKIMER FIRE DEPARTMENT**

**PUBLIC EMPLOYMENT CONTRACT**

**ARTICLE I**

**GOVERNING LAWS**

Section 1. The Law governing the Agreement shall be the Public Employees Fair Employment Act and such provisions of the Civil Service Law and Local Village Laws which are not inconsistent with the said Act.

**ARTICLE II**

**RECOGNITION**

Section 1. The employer recognizes the Permanent Firemen's Benevolent Association, Inc. as the sole and exclusive representative for all the employees described in Article III, except the Fire Chief.

Section 2. The employer agrees that the Permanent Firemen's Benevolent Association, Inc. shall be the sole and exclusive representative for all of this unit's bargaining and grievances until May 31, 2007.

Section 3. The members of this bargaining unit affirm that they do not assert the right to strike against the employer, to assist or participate in any such strike, or to impose an obligation upon its members to conduct, assist, or to participate in such a strike.

Section 4. All employees of the Village of Herkimer Fire Department shall have deducted from their wage of salary an amount equivalent to the union dues levied by said Union, whether they are members of the Union or not. Said deduction or check-off shall be the responsibility of the Village, and any and all deductions shall be transmitted from the Village to the Union immediately upon receipt by the Village.

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### ARTICLE III

#### RECIPROCAL RIGHTS

Section 1. The Employer recognizes the right of its employees to designate representatives of their respective bargaining unit to appear on their behalf to discuss salaries, working conditions, grievances and disputes as to the terms and conditions of this contract and to visit their employees during working hours. Such unit representatives shall also be permitted to appear at public hearings before the Board of Trustees upon the request of the employees.

Section 2. The employee representative group shall consist of three (3) members and no more.

Section 3. The employer shall notify the unit representative in writing of any violation by its members of this contract and/or grievances and it shall be the representative's duty to enforce the same.

Section 4. The employer agrees to defend and indemnify any employee of the Herkimer Fire Department for any loss arising from ordinary negligence during the performance of his duty and which has resulted from any lawsuit, action, or in any manner whatsoever which involved the employee.

### ARTICLE IV

#### COLLECTIVE BARGAINING UNITS

Section 1. "Schedule A & B" hereto annexed contains the title and respective salary ranges for each title to be included in this agreement.

Section 2. Any new employees must serve a probationary period of one year, and before their permanent appointment, said employees must complete the New York State minimum standards. During this period of time, said employee will be entitled to receive recruit's pay and will be entitled to any and all benefits available under this contract.

Upon the completion of the probationary period, the employee will become a permanent employee, at which time he will receive payment as a second grade firefighter for a period of one year at the appropriate pay. Said firefighter will then be appointed to the position of first grade firefighter.

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Any permanent First Grade firefighter who receives a promotional appointment will serve a probationary period of six months before permanent appointment to the new position is considered. During that period said firefighter will be paid at the same rate as if he were a permanent appointment.

Section 3. Any position in the compliment which become vacant for any reason, or any new positions that may be created during the term of this agreement must be filled from the appropriate Civil Service List. If, at the time of the vacancy, there is no Civil Service List, then the Chief will post the position as vacant, and any eligible candidates can apply for said position on a provisional basis until a Civil Service List is established. Any candidate filling the provisional position will be paid as if he were a permanent appointee. The position of acting Deputy Chief will be appointed by the Chief from any member of the compliment that he deems best qualified. The position of Deputy Chief will be appointed by the Board of Trustees with a recommendation from the Fire Chief, and he has to qualify for the position under Civil Service Law examination procedure.

Section 4. Any provisional employees will be entitled to the same benefits as the permanent members enjoy, pursuant to the appropriate sections of the Civil Service Law.

Section 5. Temporary employees shall receive benefits after six months continuous service with the Village. Retirement benefits shall be retroactive to the first day of employment.

Section 6. All new employees hired after May 31, 2006 will be sent to the State Fire Academy, in Utica N.Y. or Montour Falls, N.Y. at the discretion of the Fire Chief, to take the N.Y.S. Minimum Standards Course, and such training shall be paid for by the Village. Training expenses will include transportation to and from the Academy on week-ends and also for the cost of the course. The recruit will receive his weekly salary while attending the course. If the employee fails to complete the course, all accrued expenses will be deducted from employees final salary check.

## ARTICLE V

### **WORK DAY AND WORK WEEK**

Section 1. The Department Head shall be responsible for setting up the weekly work schedule pertaining to the various shifts.

Section 2. Overtime pay (time and a half) will be computed as follows:

(a) Hourly rate (annual base salary divided by normal work hours in year - 2080 hours) based on a 40-hour week.

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Section 3. Time and one-half based upon the then current hourly rate shall be paid to all employees who are called back for duty for any reason (including drills).

Section 4. Fire fighters who are called for any reason when off duty shall be paid for such time as if performing emergency work; however, a minimum of pay for two hours shall be allowed for each call-back, based on time and a half of the then current hourly rate.

Section 5. Any employee under this contract may have the right to exchange shifts with any other employee when said change does not interfere with the operation of the Fire Department and approval of the Chief.

Section 6. The employer agrees to deduct from the wages of any employee his contributions to the Christmas Club, Credit Union, or any other deduction that the Union might so designate during the term of this agreement.

Section 7. Fire Department shall consist of four (4) shifts with a minimum of four (4) men and no less than three (3) men will be on duty at any time.

Section 8. The workday will consist of twenty-four (24) hours and all fireman will be hourly employees.

Section 9. The Fire Chief may adjust work schedules for training purposes consistent with the current procedure.

## ARTICLE VI

### COMPENSATION

Section 1. "Appendix A & B" hereto annexed contains the Fire Department annual base salary to be paid during the fiscal years from June 1, 2005 to May 31, 2007.

The schedules reflect the following agreed upon salary modifications:

Effective June 1,2005	All employees in the bargaining unit shall receive a 3 percent wage increase.
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Effective June 1,2006	All employees in the bargaining unit shall receive a 2 percent wage increase.
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"Appendix A and B" on last pages.

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Section 1A. Acting Deputy Chief's stipend will be increased 3 percent (3%) effective June 1, 2005 and two percent (2%) effective June 1, 2006 . The Stipend shall be paid semi-annually in June and December.

Section 1B. Employees shall be paid on a biweekly basis.

Section 1C. Employees may elect to receive their paychecks by direct deposit to any financial institution.

Section 2. Negotiations to revise or add to this agreement by either party hereto must be submitted to the other party in writing on or before December 1, 2006 Negotiations however, may begin at a latter date if mutually agreed upon in writing to suit the convenience of either party hereto.

Section 3. Inspections of buildings will be carried out on a semi-annual basis by officers and drivers as teams on their off-duty days. Time and a half at the then current hourly rate will be paid. Four - 6 hour days in Spring and four - 6 hour days in Fall.

Section 4. The New York State Professional Fire Fighters Association, Inc. hold four (4) district meetings each year, and a two (2) man delegation is appointed each year to attend such meetings. The possibility of the meetings falling on a maximum of four (4) of the eight (8) duty days arises. If this occurs, the duty man shall be permitted to attend all four (4) meetings, and if any fall on a duty day, this man shall be replaced for duty by an off-duty man who will be paid time and one-half for the hours worked, if complement falls below three (3) people.

Section 5. The union President and his designee is hereby allowed to attend the New York State Professional Fire Fighters Convention and the New York State Legislative Conference once each calendar year. The employer agrees to reimburse the union President and his designee for any and all expenses incurred for attending both of these meetings. If the conference and/or convention falls on a duty day, and there are less than three (3) men on duty, the President and his designee will be replaced by an off-duty fireman who will be compensated for this time at time and one-half rate.

Section 6. The Village will reimburse all four (4) District Meetings, the Convention and the Legislative Conference to a maximum of \$1,200.00 for both people each year. The Village shall not reimburse for overnight accommodations where the meeting, convention or conference is less than 50 miles from the Village of Herkimer.

A brief memo will be sent to the Board of Trustees within 15 days outlining pertinent information that may prove helpful to the Board, after attendance at the meetings.

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Section 7. The Union President or his designee may attend any meeting that pertains to grievances and disciplinary hearings upon prior approval of the Fire Chief or his designee. When any of these meetings fall on a duty day, and the shift is running with less than three (3) men, replacement will be made by an off-duty man who will be compensated at time and one-half.

Section 8. Any day the Union President and his designee have Union leave on their schedule vacations and Kelly Days they will not be charged for such days and said vacations and Kelly Days may be taken anytime during the contract year.

Section 9. The Municipal Training Officer will be paid an additional \$600.00 per year upon Certification of Title. Payment to be made twice a year when the Call Checks are issued (December and May).

Section 10. The Municipal Fire Instructor will be paid an additional \$300.00 per year upon Certification of Title. Payment will be made twice a year when the Call Checks are issued (December and May).

Section 11. Firefighters who obtain and retain EMT certification shall receive \$500.00 annually. In order to receive the EMT stipend, the firefighter must satisfy the minimum number of thirty (30) call-out procedures and must have retained the certification for the full fiscal year.

Firefighters who obtain and retain CFR certification shall receive \$100.00 annually. The above-referenced payments shall be made in June of each fiscal year. In order to receive the stipend, the firefighter must satisfy the minimum number of call-out procedures and must have retained the certification for the full fiscal year.

All firefighters hired after June 1, 1996, will be required to maintain Emergency Medical Technician/Defibrillator certification and training. These certifications shall be maintained for the duration of the employee's employment. Failure to maintain the required certifications may result in disciplinary action. A firefighter who fails the appropriate certification tests will be permitted to take a refresher course. If the firefighter fails the refresher course, the firefighter may take the course and refresher course one additional time. Failure of the examination after participating in the second course and second refresher course may result in disciplinary action.

Section 12. Three (3) Firefighters shall be designated as Air Pack Technicians and shall receive an annual stipend of \$200.00 per year.

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ARTICLE VII

LONGEVITY

Section 1. Effective June 1, 2006 all members of the Bargaining Unit shall receive longevity as follows, which shall remain at these amounts thereafter:

After four (4) years	\$1,361.00
After eight (8) years	\$1,750.00
After twelve (12) years	\$2,139.00
After sixteen (16) years	\$2,528.00
After twenty (20) years	\$2,917.00

Section 2. The provisions of Section 1 herein shall in no way operate to reduce the Longevity payments presently received by those members with more than twenty (20) years of service as of July 1, 1976.

ARTICLE VIII

HOLIDAYS

Section 1. The following days, and any day designated by the President of the United States or the Governor of the State of New York as a National or State Holiday, are hereby designated as paid Holidays:

New Year's Day	Labor Day
Martin Luther King's Birthday	Columbus Day
Presidents' Birthday in February	Veteran's Day
Good Friday	Thanksgiving Day
Memorial Day	Friday after Thanksgiving Day
Independence Day	Christmas

Note: Veteran's Day is a paid holiday for all employees, both veterans and non-veterans.

Section 2. All personnel will receive one extra days pay per Holiday based on a forty-hour week.

ARTICLE IX

PERSONAL DAYS

Section 1. In addition to paid Holidays, all personnel shall be entitled to three (3) twenty-four (24) hour days, one (1) of which may be used in four (4) hour increments. Up to three

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(3) unused Personal Days may be applied toward the accumulated unused Sick Leave Days to the maximum of Sick Days allowed. (Based on 8 hours. Maximum is 9 days.)

Section 2. Personal Leave may be taken any time provided twelve (12) hours prior written notice is given to the Fire Chief. In an emergency the Fire Chief may allow less time to be required. Employees may use only one (1) twenty-four (24) hour personal leave day on a work day immediately before or after vacation or Kelly Day unless approved by the Chief.

Section 3. In the event of a death in the family of an employee, he shall be permitted three (3) days (total of 24 hours) paid leave for attending the wake and funeral and must return to work on the next scheduled duty day following the funeral, or use of Personal Day or an accumulated Sick or Vacation Day(s) for additional time. Family shall be defined as follows: Spouse, Mother, Father, Mother-In-Law, Father-In-Law, Sister, Brother, Children, anyone who resides in the employees household (Foster Child, Ward of the County), Grandmother, Grandfather, Grandchild, Step-Mother, Step-Father, Step-Child, Sister-In-Law, Brother-In-Law, Aunt, Uncle, Niece or Nephew.

Section 4. Leaves of absence shall be granted only at the discretion of the Board of Trustees.

## ARTICLE X

### VACATIONS

Section 1. Vacations are determined on anniversary date which commences June 1 for all departments.

A. Employees hired prior to May 21, 1996, shall earn vacation as follows:

<u>Employment Period</u>	<u>Vacation Period</u>
After 1 year and after 2 years	Two (2) weeks
After 3 years and after 4, 5, 6, and 7 years	Three (3) weeks
After 8 years and after 9 years	Three (3) weeks + 1-24 hour day
After 10 years and after 11 and 12 years	Four (4) weeks
After 13 years and after 14 years	Four (4) weeks + 1-24 hour day
After 15 years and after 16 and 17 years	Five (5) weeks
After 18 years and after 19 years	Five (5) weeks + 1-24 hour day
After 20 years	Six (6) weeks

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B. Employees hired on or after May 21, 1996, shall earn vacation as follows:

<u>Employment Period</u>	<u>Vacation Period</u>
1 Year	2 weeks
2 Years	2 weeks
3 Years	3 weeks
4 Years	3 weeks
5 Years	3 weeks
6 Years	3 weeks plus (1) 24-hour day
7 Years	3 weeks plus (1) 24-hour day
8 Years	3 weeks plus (1) 24-hour day
9 Years	4 weeks
10 Years – 12 Years	4 weeks, plus one (1) 24-hour day
13 Years – 16 Years	5 weeks
17 Years +	

C. Effective June 1, 2005, and subject to the provisions of Article X, Section 3, employees may reschedule one (1) week of their June vacation throughout the contract year.

Section 2. No one shall take more than three (3) consecutive weeks vacation during July and August.

Section 3. All vacations are subject to prior approval of the Department Head.

Section 4. All employees will be allowed to carry over one week vacation from one fiscal year to the next, but said carry over vacation will not be allowed to accumulate.

Section 5. After three years an employee may sell back one (1) week vacation. After four (4) years or more an employee may sell back two (2) weeks vacation.

Section 6. Up to three (3) vacation days not used, sold back or carried over may be applied toward the accumulated unused Sick Leave day to the maximum number of sick days allowed. (Based on 8 hours. Maximum 9 days.)

Section 7. Upon retirement, employees shall only receive payment for pro rated vacation.

ARTICLE XI

SICK LEAVE

Section 1. Sick Leave is accumulated by all employees as stated herein.

Section 2. To be eligible for sick pay, the employee must give notice of his inability to work because of his illness to his Department Head prior to the commencement of the work day.

Section 3.

A. The balance of any accumulated and unused sick leave not otherwise set aside for insurance purposes, shall be paid by the Village to the member or his estate at 65% of his then current daily pay rate, said payment to be made within sixty (60) days of his death or retirement. (Daily pay rate shall be calculated by dividing 260 into the individual's annual salary).

B. In the event of the death of a firefighter or Deputy Chief during the term of this agreement, any and all accumulated salary, compensatory time, Kelly Days, vacation days and holiday pay will be paid to his estate.

Section 4. All employees of the Fire Department will accumulate 1 1/2 days of Sick Leave per month or 18 days per year for unlimited accumulation.

Section 5.

A. Except as provided in paragraph B below, the maximum number of unused sick days that can be used for hospital insurance payments or sell back at retirement or death is 192.

B. Effective June 1, 2001, the maximum number of sick days that can be used for hospital insurance payments or sell-back at retirement shall be increased to 194 days, and effective June 1, 2002, 196 days. The provision shall apply only to the following officers:

John Spanfelner  
Alan Richard  
Erich Neagele  
Joe Brown  
Dave Kuehnle  
Mike Edwards  
Rick Macri  
Ed View

Section 6. Personnel are charged 1 day of sick leave for each scheduled work day missed because of illness, based on an eight hour day.

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Section 7. Anyone absent from work because of sickness more than one (1) twenty-four (24) hour day shall furnish to the Department Head a note from a doctor confirming the reported illness. Failure to do so will result in a forfeiture of pay for the period lost from work.

Section 8. The Village shall furnish annually to each employee a statement of his accumulated sick leave.

Section 9. All personnel with accumulated sick leave may take up to fifteen (15) days (based on an eight (8) hour day) sick leave per year for family illness. Family shall be defined as Spouse, Mother, Father, Son, Daughter, or anyone residing in the same household. Family sick leave may only be used for non-scheduled emergency illnesses, injuries and prescheduled medical operations.

Section 10. The Village shall pay on the last day of each fiscal year to within ten (10) days of the new fiscal year for the previous year (a) the sum of \$300.00 to each employee that uses less than five (5) days sick leave during such fiscal year; or (b) the sum of \$200.00 to each employee that uses only five (5) to less than eight (8) such days during such fiscal year. Said days to be based upon eight (8) hour days.

## ARTICLE XIA

### SICK LEAVE POLICY

Sick leave will be used only for sickness or injury as described in these paragraphs.

Any misuse of sick leave or attempted misuse of sick leave will be cause for immediate disciplinary action.

Employees must remain at home while on sick leave, except for physician visits, pharmacy visits, or other reasonable justification. The Fire Chief reserves the right to have himself or his designee (Officer-in-Charge from Fire Department and/or the Village Administrator or the designated physician) visit the employee's home on the initial day of sick leave or any time thereafter.

Any employee out on sick leave for thirty (30) calendar days or more will present evidence of physical capability from a physician prior to reporting back to employment.

## ARTICLE XII

### LAYOFF

Section 1. Layoffs shall be governed by Civil Service Rules with no differentiation between Union Members and Non-Union Members.

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Section 2. Any employee who retires or is laid off during the term of this agreement is eligible for and shall receive compensation accordingly for all his accumulated overtime, vacation days, kelly days and holiday pay up to and including the time of his retirement/departure.

Section 3. Any member who is laid off shall be allowed to either receive compensation or be entitled to use his unused sick leave days for hospital and medical insurance as provided for in the Contract.

### ARTICLE XIII

#### MEDICAL, HOSPITAL AND DENTAL INSURANCE

Section 1. The employer shall provide to all full-time employees, their spouses and dependent children to age twenty-three (23), hospital, dental and medical insurance, which plans currently are Blue Cross/Blue Shield HMO Preferred and SU-44. Effective January 1, 1999, the Village shall no longer reimburse employees for major medical deductible costs.

Employees hired after June 11, 1992 shall contribute 20% towards the health insurance premium during their first five years of employment, which shall be by payroll deduction from gross pay. After the first five years, the employee shall contribute 15% towards the health insurance premium, for the duration of employment.

Section 2. For employees of the Fire Department with ten (10) or more years of service with the Herkimer Fire Department as of May 21, 1996, the employer will provide one (1) months' paid hospitalization for each day of unused sick leave until age sixty (60) or at the age Federal Medicare may take over, up to a maximum of 170 days, after which the provisions of Section 3 of this Article shall apply. If such retired employee passes away before his unused sick leave is used up, his surviving spouse/dependents shall have the option to be covered for the remaining unused sick leave days left or receive 65 percent of the then current daily rate of pay (8 hours) for the days remaining.

Members of the Fire Department with less than ten (10) years of service with the Herkimer Fire Department as of May 21, 1996, shall convert two (2) days of unused sick leave for one (1) month of health insurance premium up to age 60, or the age that Federal Medicare may take over, after which the provisions of Section 3 of this Article shall apply.

Subject to the provisions of Article XI, Section 5, employees hired after May 21, 1996, may convert unused sick leave to a cash bank at the rate of pay at the time of retirement which may be applied to health insurance premium cost at retirement, if the retiree so elects. If the retiree elects not to utilize payment for unused sick leave for health insurance purposes, the retiree may convert said unused sick leave to cash as provided in Article XI, Section 3 of this Agreement. Article XIII, Section 3 shall not apply to employees hired after May 21, 1996.

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Section 3. The employer shall provide to all retired employees hired before May 21, 1996, between the ages of sixty (60) and sixty-five (65), their spouses, dependent children to age twenty-three (23) the full cost of hospital and medical insurance.

Section 4. If a retiring member chooses not to have hospital and medical insurance coverage for himself and dependents between the ages of 60-65, he can sell back the coverage at one sick day for every month of hospitalization (60) days during that period at the then daily percentage rate.

Section 5. Retirees who do not have enough sick days to carry them to age 60, Village will purchase the coverage and the retiree will pay the Village if he wants the coverage. Example: If the premium payment by the Village to the carrier is due on the 10th of the month it will be necessary for the retired employee to have his monthly payment in the Village Clerk's possession no later than three days prior or the 7th.

Section 6. That any insurance referred to hereunder shall be the same hospital, medical and insurance coverage as is provided to full-time members.

Section 8. The employer shall provide as soon after June 1, 1988 as possible the following Dental Plan to the Employee, their spouses and dependent children.

Blue Shield Prime Blue Dental

100% Maximum Amount Paid Preventive	\$0 Deductible
100% Maximum Amount Paid Basic Services	\$0 Deductible
80% Maximum Amount Paid Major Services	\$50 Deductible
80% Maximum Amount Paid Orthodontics Student to age 25	\$50 Deductible

\$1,250.00 Calendar year maximum

Section 9.

A. Employees who are covered by health insurance from another source may elect not to receive Village health insurance. The employee must make the election in April for the following fiscal year. The employee shall receive fifty percent (50%) of the health insurance premium in June for the year in which the employee did not receive health insurance. During the year, the employee may not reenter the Village's health insurance plan, unless the employee is no longer covered by health insurance from the other source. If it is necessary for the employee to re-enroll in the Village's health insurance plan, the employee shall receive pro rata payment.

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B. Except for current members of the bargaining unit whose spouse is employed by the Village, if a member and spouse are employed by the Village, the Village shall provide either one family plan or two individual plans. The members shall not be required to co-contribute for health insurance as provided in the Agreement. These employees shall not be entitled to the buy-out as provided in Section 9A of Article XIII.

Section 10. The Village may change health insurance plans or carriers, upon sixty days notice and consultation with the Union, so long as benefits are comparable to the existing plan. The sixty (60) day notice shall commence from the day that the Union receives the new health insurance plan(s). If the Union does not agree that the new plan is comparable to the existing plan, it may file a grievance directly to arbitration.

Section 11. The parties agree to establish a joint Labor Management committee to review health insurance alternatives.

#### ARTICLE XIV

#### LIFE AND ACCIDENT INSURANCE

Section 1. The employer shall provide, at no cost to all full-time, active employees, the following:

##### FOR EMPLOYEES:

TERM LIFE INSURANCE*	\$10,000.00
ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE	\$10,000.00

\* The amounts of Life and Accidental Death and Dismemberment Insurance for employees age 65 and over will be \$1,000.00.

##### FOR DEPENDENTS:

##### TERM LIFE INSURANCE

Covered Spouse	\$5,000.00**
Covered Children	
14 days to 6 months	\$ 200.00
6 months and over	\$2,000.00**

\*\* With respect to an Employee over age 65 or over, the amount of Term Life Insurance for a covered spouse or a covered child will not exceed 50% of the amount of Term Life Insurance for which the Employee is insured.

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See Attachment A.

## ARTICLE XV

### PENSIONS

Section 1. All pension rights shall be governed by the appropriate sections of the New York State Retirement laws and in accordance with the members' individual selected option.

Section 2. The Village shall maintain a twenty (20) year Non-contributory Retirement Plan under Section 384-d of the Retirement and Social Security Law of the State of New York and pursuant to such law, the employer agrees to provide such benefits by adopting a resolution to such effect and to file a certified copy thereof with the Comptroller of the State of New York pursuant to said Law.

Section 3. The Village agrees to implement the improved career retirement plan for employees pursuant to Section 375-i of the Retirement and Social Security Law of the State of New York and to pass and file those resolutions required by the State of New York necessary to implement said Section.

Section 4. All employees hired will have one (1) year to choose any retirement plan offered by the Village. During the first year of employment the Board of Trustees will authorize payment on the twenty-five (25) year NYS Retirement Plan under Section 384.

At the end of the first year of employment, the employee may opt for the twenty (20) year Retirement Plan under Section 384D.

If any employee at the end of his first year of employment chooses not to opt into the twenty (20) year Retirement Plan Section 384D for the term of employment, a cash payment of \$2,500.00 will be made to said employee fourteen (14) months after his employment date.

All newly hired employees who opt for the twenty-five year retirement plan when accepting the cash payment of \$2,500.00 agree to remain on the payroll in the Fire Department for a minimum period of three (3) years following acceptance of the payment or reimburse the Village on a pro rata basis if the employee resigns from the position in the Fire Department. The employee will sign a statement of intent to reimburse the Village if a resignation takes place.

Section 5. An employee who retires after his twentieth (20th) year, but before his twenty-first (21st) year, and who has notified the Village Board in writing between January 1st and March 31st of the fiscal year prior to retirement shall receive a \$4,000.00 retirement incentive upon retirement. Firefighter Richards shall be eligible for the \$4,000.00 retirement incentive if he retires between 25 and 26 years of employment.

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Section 6. The employer shall provide and maintain from New York State Retirement System the final year salary option #302(9)(10) for all employees in Tier 1.

If subsequent legislation is passed allowing Tier II employees the same option they will also enjoy the same privileges.

## ARTICLE XVI

### UNIFORMS

Section 1. The Village shall provide three (3) uniforms and one (1) winter jacket issue and four (4) uniform issues during all subsequent years. The cleaning allowance will be \$250.00 per year and will be paid as follows:

One-half (1/2) by June 15th of each year, and one-half (1/2) by December 15th of each year. For firefighters working less than a year, cleaning allowance will be prorated by the month.

If all uniforms issued during the year become ruined while in the performance of duty, the Chief will issue one new set.

Section 2. Any winter jacket previously issued by the Village to any firefighter shall be replaced if damaged in the line of duty or after reasonable wear and tear. Issuance of a replacement winter jacket shall be authorized by the Department Head.

Section 3. Any man hired during the contract period shall be issued uniforms and any other wearing apparel issued to present Fire Department employees.

Section 4. Bunker pants will be provided for each firefighter, OSHA approved.

Section 5. Department issued shorts may be worn as part as the uniform.

## ARTICLE XVII

### GRIEVANCE PROCEDURE

Section 1. (Grievance Steps): In the event of a dispute between the parties to this Agreement involving the interpretation or application of any provisions of this Agreement, either party shall have the right to resolve the dispute in the following manner:

Step 1: The dispute shall be presented within ten (10) calendar days of its occurrence and discussed by the division head or his representative and the representatives of the Union.

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Step 2: If, within five (5) calendar days following the presentation of the dispute, a satisfactory agreement has not been reached or no discussions have taken place, the dispute shall thereupon be discussed with the Fire Chief and a representative of the Union.

Step 3: If such discussions fail to produce satisfactory agreement within five (5) calendar days, a written record shall be made and such written record shall be forwarded within five (5) calendar days to the Mayor and the Board of Trustees. If the dispute is not settled within (10) working days, either party may take the dispute to arbitration upon the service of written notice to the other party of his intention to do so. Notice shall be served within ten (10) working days following, otherwise the right of arbitration as such dispute shall be deemed waived.

Section 2. (Arbitration Procedure)

A. The arbitration proceedings for the grievance shall be conducted by an arbitrator to be selected by the employer and the Union within seven (7) working days after notice requesting arbitration has been given. If the parties fail to mutually agree upon an arbitrator, either party may request PERB to render such assistance as is provided in PERB's rules and regulations, and the parties will be bound by these rules and regulations.

B. The decision of the arbitrator shall be final and binding on the parties, and the arbitrator shall be requested to issue his decision within fifteen (15) working days after the conclusion of the testimony and argument.

C. No arbitrator functioning under this step of the grievance procedure shall have any power to amend, modify or delete any provision of this Agreement.

D. Expenses for the arbitrator's service and the proceedings shall be borne equally by the employer and the Union. However, each party shall be responsible for compensating its own witnesses. If either party desires a transcript of the proceedings, it may cause the transcript to be made, providing it pays for transcript and makes a copy available without charge to the arbitrator.

ARTICLE XVIII

PREVAILING RIGHTS

Section 1. All rights, privileges, and working conditions enjoyed by the employees at the present time, which are not included in this Agreement shall remain in full force, unchanged and unaffected in any manner, during the term of this Agreement unless changed by mutual consent.

Section 2. STATUTORY PROVISION - IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT IT'S IMPLEMENTATION BY AMENDMENT OF LAW OR BY

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PROVIDING ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY (VILLAGE BOARD OF TRUSTEES) HAS GIVEN APPROVAL.

### ARTICLE XIX

#### ORDERS, PROCEDURES, RULES

Section 1. All new Orders, Procedures and Rule Changes issued by the Chief will be written, posted and copies given to Deputy Chiefs, and to Union President for their files.

Section 2. Employees shall be required to pass a yearly physical and agility test in accordance with Herkimer Fire Department Policy and Procedures and OFPC standards.

### ARTICLE XX

#### SAVING CLAUSE

Section 1. In any provision of this Agreement or the application of such provision, should be rendered or declared invalid by any Court, action, or be reason of any existing or subsequently enacted legislation, the remaining parts or portion of this Agreement shall remain in full force and effect.

### ARTICLE XXI

#### PERSONNEL FILES

Section 1. Any member of the Fire Department may have the opportunity to examine his Personnel File once each year upon written request to the Fire Chief. Said Personnel File shall be made available within five (5) work days following the request to the Chief.

### ARTICLE XXII

#### LABOR/MANAGEMENT COMMITTEE

Section 1. Establish a Labor/Management Committee to consist of two (2) Board Members and two (2) Union Members.

ARTICLE XXIII

JURY DUTY

All employees who are subpoenaed to serve on a jury will be granted jury duty leave at their regular rate of pay. Employees shall reimburse the Village any jury duty fees which are received. Employees shall be required to return to work within a reasonable period of time, not to exceed one (1) hour, for that portion of the work day after being released from jury duty.

In the event a work day shift falls short of the minimal compliment due to jury duty call, it shall be addressed pursuant to Article V, Section 7 of this Agreement.

ARTICLE XXIV

DURATION

This Agreement shall be effective from June 1, 2005 to May 31, 2007. If on May 31, 2007 no new Agreement has been executed between the Village and the Association, the Village agrees that all the terms, provisions and benefits of this Agreement shall remain in effect until the new Agreement has been executed.

Negotiations are to start as per Article VI, Section 2.

ARTICLE XXV

AMERICANS WITH DISABILITIES ACT (ADA)

With respect to compliance by the employer with the provisions of the ADA and regulations issued pursuant to the Act, the Union agrees that it shall have the same obligations as the employer with respect to reasonable accommodation.

With respect to an employer attempt to provide a reasonable accommodation in accordance with the provisions of the Act and regulations issued pursuant to the Act, the Union shall have an affirmative obligation to assist the employer in achieving any such accommodation.

ARTICLE XXVI

FAMILY MEDIAL LEAVE ACT (FMLA)

Family leave shall be granted to an eligible employee to a total of twelve work weeks of leave during any twelve month period for the following:

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A. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter;

B. Because of the placement of a son or daughter with the employee for adoption or foster care;

C. In order to care for the spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition;

D. Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee;

An eligible employee shall be required to use accrued paid vacation, personal leave, or family leave of the employee for the leave provided under paragraph A, B, or C above. An eligible employee may be required to use accrued paid vacation leave, personal leave or sick leave for leave provided under paragraph C or D above for any part of the twelve week period of such leave.

Village shall maintain coverage for health and dental insurance to an employee on leave pursuant to this section for the duration of the twelve week period, and under the conditions coverage would have been provided if the employee had continued in the employment continuously for the duration of such leave. The Village may recover the premium that the Village paid for maintaining coverage of the employee under such group health plan during any period of unpaid leave if the employee fails to return from leave after the twelve month period and (1) the employee fails to return for a reason other than continuation, recurrence, or (2) onset of a serious health condition that entitles the employee to leave under subparagraph C or D above, or, other circumstances beyond the control of the employee.

Nothing contained in this provision shall otherwise limit the obligations of the employer or the employee under the provision of the Family Medical Leave Act.

## ARTICLE XXVII

### GENERAL MUNICIPAL LAW SECTION 207-a PROCEDURE

See Appendix E.

## ARTICLE XXVIII

### DISCIPLINARY PROCEDURE

The Village agrees that the Hearing Officer in a Section 75 hearing shall be a fair and impartial neutral acceptable to both the Village and the Union. If the parties cannot agree on a mutual Hearing Officer, one shall be selected from a list provided by the American Arbitration Association.

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**ARTICLE XXIX**

**CODE ENFORCEMENT REOPENER**

The parties agree to reopen negotiations upon request of the Village with respect to code enforcement.

**ARTICLE XXX**

**APPLICABILITY**

It is understood that all of the aforesaid terms and conditions of employment, unless specifically stated to the contrary, are to be applicable to all employees who were on the payroll on June 1, 2005.

(SEAL)

**HERKIMER PERMANENT FIREMEN'S  
BENEVOLENT ASSOCIATION, INC.**

BY: Robert A. Papaleo

**VILLAGE OF HERKIMER**

BY: Mark A. Smith

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

MARY C. PAPALEO  
Notary Public, State of New York  
Registration No. 01PA5044219  
Qualified in Herkimer County  
Commission Expires May 22, 2007

*Mary C. Papaleo*

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APPENDIX A  
FIREMEN'S PAY RATE SCHEDULE  
2005 - 2006

<u>Rank</u>	
Recruit	\$13.40 hr.
Firefighter 2nd Grade	\$16.83 hr.
Firefighter 1st Grade	\$17.56 hr.
Deputy Chief	\$19.28 hr.
Firefighter Mechanic	\$17.56 hr.
Acting Deputy	\$430.53

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**APPENDIX B**  
**FIREMEN'S PAY RATE SCHEDULE**

**2006 - 2007**

**Rank**

Recruit	\$13.67 hr.
Firefighter 2nd Grade	\$17.17 hr.
Firefighter 1st Grade	\$17.91 hr.
Deputy Chief	\$19.67 hr.
Firefighter Mechanic	\$17.91 hr.
Acting Deputy	\$439.14

**APPENDIX C**

**VILLAGE OF HERKIMER FIRE DEPARTMENT  
GENERAL MUNICIPAL LAW SECTION 207-a POLICY  
Payment of Salary, Wages, Medical and Hospital Expenses:**

**Injuries or Illness in the Performance of Duty**

**Section 1. Definitions**

The term "Fireman" as used herein, shall include any member of the Fire Department of the Village of Herkimer.

The term "Chief" as used herein, shall also include the term "or the Chief's designee."

**Section 2. Notice of Disability or Need for Medical or Hospital Treatment**

A fireman who alleges to be injured in the performance of duties or who alleges to be taken sick as a result of the performance of duties and who seeks any benefit afforded by Section 207-a, shall give written notice to the Chief within forty-eight (48) hours of (1) an incident causing such an injury or sickness which prevents the performance of duties or (2) an incident causing such injury or sickness which gives rise to a need for medical or hospital care or, (3) a claim of recurrence of either (1) or (2), above, or (4) shall provide notice as soon as possible after the officer believes that an injury was sustained as a result of an incident in the performance of duty or the sickness is the result of the performance of duty.

In the event of a personal inability to give notice, such notice may be made by another acting on behalf of such fireman. The notice shall also describe the nature of the injury or sickness and the name of the treating physician.

In the event of a recurrence, as detailed above, the fireman must detail which injury or sickness gave rise to the recurrence and provide the date of the initial injury or illness, to the best of the fireman's knowledge. In addition, the fireman must provide verifying medical report(s), if any available, detailing the recurrence. In the event further medical verification is deemed necessary, the fireman will submit to medical examination as directed by the Fire Chief and as detailed in this procedure, including those detailed in paragraph 4, below.

To aid in the administration of the provision of this subdivision, an application form shall be completed either by a fireman seeking benefits or, in the event of an inability to do so, by another acting on the officer's behalf. Such form shall be filed with the Chief. Such form shall be completed and filed by a fireman or the officer's representative, consistent with the above

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provisions. If filed by someone other than the fireman, the fireman shall countersign the form when able to do so. The information on the form shall be sworn to by the fireman or person filing the form and contain a statement that its content is true and subject to the penalties of perjury.

The failure to satisfy any time limits specified above, shall render a notice or filing untimely and shall preclude an award of any benefits pursuant to Section 207-a of the General Municipal Law; provided, however, that the Chief shall have the discretionary authority to excuse a failure to provide notice or file a report upon good cause shown.

### **Section 3. Status Pending Determination of Eligibility for Benefits**

In the event a fireman asserts an inability to perform duties, he or she shall be placed on sick leave until such time as it is determined that he or she is eligible for the benefits of Section 207-a.

If it is determined that the fireman is entitled to benefits under Section 207-a, any contractual sick leave benefits which have been used will be returned to the fireman and the fireman made whole for any days or portions thereof for which the fireman was not paid while on sick leave.

In the event the fireman is found ineligible for 207-a benefits, the fireman shall reimburse the Village of Herkimer, in time or money, for any sick leave credit advanced.

### **Section 4. Benefits Determinations**

An application for the benefits of Section 207-a of the General Municipal Law shall be processed in the following manner:

The Chief shall promptly review the fireman's application form and any other pertinent documents or evidence available. Should the Chief determine that the fireman was injured in the performance of duty or that the fireman was taken sick as a result of the performance of duty so as to necessitate medical or other lawful treatment, the Chief shall direct payment of the full amount of the regular salary or wages until the disability arising therefrom has ceased and shall ensure that the Village of Herkimer, through the health insurance provided to the fireman, will be responsible for the cost of medical or other lawful treatment and for any hospital care associated with such injury or illness. (It is understood that any amounts not otherwise covered by the health insurance will be paid or reimbursed by the Village.)

A written notice of such determination by the Chief shall be provided to the fireman, placed in the officer's personnel file and provided to the Village's claims investigator within fifteen (15) calendar days of the submission of the 207-a application form from the fireman.

Any review of eligibility for the continuation of benefits may only occur after an assessment of the medical condition of a fireman or other information raises a question as to whether a

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disability may have ceased or whether the extent of a disability may have diminished so as to permit a light duty assignment, as the case may be.

In the event a question arises as to either initial eligibility for benefits or the continuation of benefits once awarded, the following procedure shall apply:

The Chief shall promptly inquire into the fact(s) surrounding the matter at issue. A fireman may be required to submit to one or more medical examinations as may reasonably be necessary to determine the existence of a disability or illness and its extent.

To resolve a question of initial or continued eligibility for benefits, the Chief shall make a decision on the basis of medical evaluations and other information as may be available or as may be provided by a fireman. A fireman or the fireman's representative may produce any document, sworn statement, or other record relating to the alleged injury or illness or the incident alleged to have caused such. The Chief shall have the authority to employ medical specialists and other appropriate individuals; may at reasonable times and at reasonable notice, require the attendance of a fireman or any witness to an incident to secure information; may require the fireman to sign a release or waiver for information of the officer's medical history; and may undertake any other reasonable act necessary for making a determination pursuant to this procedure.

The Chief shall make a determination as to initial or continued eligibility for benefits based upon information obtained within fifteen (15) calendar days of the submission of the notice of disability regarding initial eligibility, and as promptly as possible regarding continued eligibility pursuant to this process. A fireman shall be notified in writing of the final determination. The basis for the determination shall be specified. Upon the request of a fireman or the fireman's representative, a copy of any document used by the Chief to determine initial or continued eligibility for any benefits afforded by Section 207-a shall be made available. In the event a fireman is adversely affected by a determination, he or she may request a hearing in accordance with the procedure set forth in Section 6 of this procedure.

Any injured or sick/ill fireman who shall refuse to accept medical treatment or hospital care or who shall refuse to permit medical examinations as authorized by statute and this Article, including examinations in connection with Section 7, below, shall be deemed to have waived all rights under this Article with respect to expenses for medical treatment or hospital care rendered and for salary or wages payable after such refusal.

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## **Section 5. Assignment to Light Duty**

If in the opinion of the Village's health authorities or physicians, the fireman is unable to perform regular duties as a result of such injury or sickness but is able, in their opinion, to perform specified light duty, the fireman may be assigned specified light duties if such light duty assignments are available within the Department. Such assignments shall be consistent with the fireman's status as a fireman and shall enable the fireman to continue to be entitled to regular salary or wages including increases thereof and fringe benefits to which the fireman would have been entitled if able to perform regular duties.

The Chief, prior to making a light duty assignment, shall advise the fireman that the fireman's ability to perform a light duty assignment is being reviewed. The fireman may submit to the Chief any document or other evidence in regard to the extent of the disability. Necessary medical examination or examinations of the fireman may be scheduled and, if conducted, will be at the expense of the Village. The physician selected shall be provided with the list of types of duties and activities associated with a proposed light duty assignment and shall make an evaluation as to the ability of the disabled fireman to perform certain duties or activities, given the nature and extent of the disability.

Upon review of the medical assessment of the fireman's ability to perform a proposed light duty assignment and other pertinent information, the Chief may make a light duty assignment consistent with the medical opinion and such other information as the Chief possesses.

If the fireman wishes to challenge the light duty assignment, the fireman may do so pursuant to Section 6, below. In the event of a challenge to the light duty assignment, and pending a final determination in accordance with Section 6, the fireman will be placed on sick leave.

If it is determined that the fireman was entitled to remain on leave pursuant to General Municipal Law, Section 207-a, any contractual sick leave benefits which have been used will be returned to the fireman and the fireman made whole for any days or portions of days for which the fireman was not paid while on sick leave.

In the event the fireman is found to have been eligible for a light duty assignment, the fireman shall reimburse the Village, in time or money, for any sick leave credit advanced.

Further, if it is determined that the fireman is able to perform specified types of light duty, payment of the full amount of regular salary or wages shall be discontinued if the fireman shall refuse to perform such light duty assignment, if the same is available, offered and is consistent with the fireman's status as a fireman.

Nothing in this Section 5 shall require the Department to develop or design light duty assignments.

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**Section 5A. Transfer of Assignment**

The fireman may also be transferred to a position in another agency or department pursuant to applicable civil service requirements and provided the fireman shall consent to such transfer.

**Section 6. Appeal of Adverse Final Determinations**

In the event that a fireman disagrees with any final determination regarding a proposed light duty assignment or the initial or continued eligibility for benefits, the fireman, within ten (10) calendar days of the receipt of the determination, shall present to the Chief a written Demand for Arbitration specifying any exceptions to the determination. Within thirty (30) calendar days after receiving such a Demand for Arbitration, the Village or its representative and the fireman or the fireman's representative shall meet and agree upon an arbitrator. In the event the parties are unable to agree, PERB will be asked to assist in the arbitration selection process.

The fees and expenses of the arbitrator are to be shared equally by the parties. The parties shall bear the costs of their own witnesses and any other expenses the parties may incur. The decision of the arbitrator is final and binding.

A determination made by any officer, agency, board or court regarding the existence of a disability or its extent or regarding an entitlement to any other statutory benefit because of a fireman's disability, may be noticed by, but shall not be controlling upon the Arbitrator.

**Section 7. Disability Retirement: Discontinuance of Benefits**

Payment of the full amount of regular salary or wages, shall be discontinued with respect to any fireman who is permanently disabled as a result of an injury or sickness incurred or resulting from the performance of his duties if such fireman is granted an accidental disability retirement allowance pursuant to section three hundred sixty-three of the retirement and social security law, a retirement for disability incurred in performance of duty allowance and social security law, a retirement for disability incurred in performance of duty allowance pursuant to section three hundred sixty-three-c of the retirement and social security law or similar accidental disability pension provided by the pension fund of which the fireman is a member. If the application for such retirement allowance or pension is not made by such fireman, application therefor may be made by the head of the fire force or as otherwise provided by the chief executive officer or local legislative body of the municipality by which such fireman is employed. Any fireman who is granted a disability retirement as set forth above shall be entitled to receive the benefits set forth in Section 207-a(2) of the General Municipal Law.

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**Section 8. Continuation of Contract Benefits**

While on leave pursuant to Section 207-a, a fireman shall not accrue any contractual economic benefit except for wages and longevity increments. However, in the event that the fireman is assigned to specific light duties (pursuant to Section 5, above) the fireman will be entitled to all contractually negotiated benefits with respect to holiday, clothing, vacation, and sick leave.

**Section 9. Outside Employment**

Any Firefighter receiving benefits and/or payments pursuant to this 207-a procedure, who engages in any outside employment, shall on the commencement of such employment, forfeit his or her entitlement to any 207-a payments and/or benefits. Furthermore, any such payment or benefit unlawfully received by such firefighter shall be refunded to and may be recovered by the City in a civil action.

Proof may be requested in the form of a 207-a benefit recipient being required to submit a W-2 or tax form.

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Medical Release

I do hereby authorize any physician, nurse, or other health care provider who has attended, examined or treated me, or any hospital at which I have been examined or treated, to furnish the Village of Herkimer, New York, or its duly authorized representative, with any and all medical and billing information which may be requested regarding my past or present physical condition and treatment rendered therefor.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Printed name of Officer

\_\_\_\_\_  
Date



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**Appendix A**

**Village of Herkimer Fire Department**

**General Municipal Law Section 207-a**

**Application**

1. \_\_\_\_\_  
Name of officer

2. \_\_\_\_\_  
Address

3. \_\_\_\_\_  
Telephone number

4. \_\_\_\_\_  
Age

5. \_\_\_\_\_  
Name of supervisor

6. \_\_\_\_\_  
Current job title

7. \_\_\_\_\_  
Occupation at time of injury/illness

8. \_\_\_\_\_  
Length of employment

9. \_\_\_\_\_  
Date of incident

10. \_\_\_\_\_  
Day of Week

11. \_\_\_\_\_  
Time

12.a. \_\_\_\_\_  
Name of witness(es)

b. \_\_\_\_\_

c. \_\_\_\_\_

13.a. \_\_\_\_\_  
Names of co-employees at the incident site

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b. \_\_\_\_\_

c. \_\_\_\_\_

14. Describe what the officer was doing when the incident occurred. (Provide as many details as possible. Use additional sheets if necessary.) \_\_\_\_\_

\_\_\_\_\_

15. Where did the incident occur? Specify. \_\_\_\_\_

\_\_\_\_\_

16. How was the claimed injury or illness sustained? (Describe fully, stating whether injured person slipped, fell, was struck, etc., and what factors led up to or contributed. Use additional sheets if necessary.) \_\_\_\_\_

\_\_\_\_\_

17. When was the incident first reported? \_\_\_\_\_

To whom? \_\_\_\_\_ Time \_\_\_\_\_

Witness (if any) \_\_\_\_\_

18. Was first aid or medical treatment authorized? \_\_\_\_\_

By whom? \_\_\_\_\_ Time \_\_\_\_\_

19. Name and address of attending physician \_\_\_\_\_

\_\_\_\_\_

20. Name of hospital \_\_\_\_\_

21. State nature of injury and part or parts of body affected \_\_\_\_\_

\_\_\_\_\_

22. Will the officer be returning to duty? \_\_\_\_\_

When? \_\_\_\_\_

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\_\_\_\_\_  
Date of report

\_\_\_\_\_, New York

\_\_\_\_\_  
Signature of injured officer

State of New York )

) ss.:

Village of Herkimer )

\_\_\_\_\_, being duly sworn, deposes and says that he/she has read the foregoing notice and knows the contents thereof; that the same is true to the knowledge of deponent except as the matters therein stated to be alleged upon information and belief; and that as to those matters he/she believes to be true; any false statements herein may subject the deponent to the penalties of perjury.

Sworn to before me this \_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
NOTARY PUBLIC-COMMISSIONER OF DEEDS