

**VILLAGE OF VERNON HILLS
RESOLUTION 2021-028**

**A RESOLUTION APPROVING AN EMPLOYMENT SEPARATION AND RELEASE
AGREEMENT**

WHEREAS, the Village of Vernon Hills, Lake County, Illinois is a home rule unit of local government pursuant to Article 7, Section 6 of the Constitution of the State of Illinois; and

WHEREAS, the President and Board of Trustees have agreed to the terms of an Employment Separation and Release Agreement as contained in the Agreement attached hereto as EXHIBIT A.

NOW, THEREFORE BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE VERNON HILLS, LAKE COUNTY, ILLINOIS, that the Employment Separation and Release Agreement between the Village of Vernon Hills and Michael Kazenstein, attached hereto as EXHIBIT A, is hereby approved and the Village President is hereby authorized to execute the Employment Separation and Release Agreement.

BE IT FURTHER RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS, that the President and Board of Trustees shall make such appropriations as are necessary to carry out the terms of the Employment Separation and Release Agreement, attached hereto.

ADOPTED this 9th day of September, 2021 pursuant to a roll call vote as follows:

AYES: 6 – Marquardt, Forster, Oppenheim, Koch, Schenk, Byrne

NAYS: 0 - None

ABSENT AND NOT VOTING: 1 - Takaoka

APPROVED this 9th day of September , 2021, by the Village President of the Village of Vernon Hills, and attested by the Village Clerk on the same day.

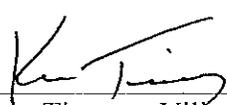


Roger L. Byrne, Village President

PASSED: 09/09/2021

APPROVED: 09/09/2021

ATTEST: 09/09/2021



Kevin Timony, Village Clerk



Exhibit "A"

EMPLOYMENT SEPARATION AND RELEASE AGREEMENT

(Attached hereto)

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

CLERK'S CERTIFICATE

I, Kevin Timony, Clerk of the Village of Vernon Hills, in the County of Lake and State of Illinois, certify that the attached document is a true and correct copy of that certain Resolution now on file in my Office, entitled:

RESOLUTION 2021-028

A RESOLUTION APPROVING AN EMPLOYMENT SEPARATION AND RELEASE AGREEMENT

which Resolution was passed by the Board of Trustees of the Village of Vernon Hills at a Regular Village Board Meeting on the 9th day of September, 2021 at which meeting a quorum was present, and approved by the President of the Village of Vernon Hills on the 9th day of September, 2021.

I further certify that the vote on the question of the passage of said Resolution by the Board of Trustees of the Village of Vernon Hills was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Vernon Hills, and that the result of said vote was as follows, to-wit:

AYES:

NAYS:

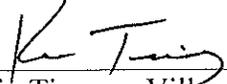
ABSENT AND NOT VOTING:

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Vernon Hills, this 9th day of September, 2021.

[SEAL]





Kevin Timony, Village Clerk

EMPLOYMENT SEPARATION AND RELEASE AGREEMENT

This EMPLOYMENT SEPARATION AND RELEASE AGREEMENT ("Agreement") is made this 13th day of August, 2021, by and between MICHAEL KATZENSTEIN (hereinafter referred to as "Employee") and the VILLAGE OF VERNON HILLS, an Illinois municipal corporation (hereinafter referred to as the "Village"). (Employee and the Village are hereinafter sometimes collectively referred to as "the Parties.")

WHEREAS, Employee has been an active member of the Police Department for the Village for over 26 years having reached the rank of sergeant and is eligible for retirement pursuant to the provisions of the Illinois Pension Code; and

WHEREAS, Employee has determined that it is in his best interest to separate from employment with the Village and to tender a Notice of Intent to Retire on September 2, 2021 ("Notice of Intent"); and

WHEREAS, the Village and Employee desire to mutually set forth the terms of Employee's separation from employment with the Village; and

WHEREAS, Employee acknowledges that he has consulted with an attorney prior to execution of this Separation and Release Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and their mutual promises set forth herein, the Village and Employee hereby agree as follows:

1. **Employee's Retirement.** The Village hereby acknowledges and accepts Employee's Notice of Intent and the Parties agree that such Notice is irrevocable. Employee's last date requiring him to report to or personally appear for duty at the Village's Police Department shall be September 2, 2021. Employee shall remain on paid administrative leave until the close of business on September 20, 2021 ("Separation Date") and shall remain subject to the orders regarding such paid administrative leave that have been issued by the Village's Chief of Police, or his designee. Employee may apply and interview for gainful employment but agrees not to start said employment no earlier than September 6, 2021. Insofar as Employee may start said employment on or after September 6, 2021, but before his Separation Date as defined herein, Employee hereby declares that as of his last date of active duty service for the Village on September 2, 2021, he has not suffered, sustained or received a work related injury attributable to his employment with the Village. Employee will remove all of his personal property from the Village premises as of September 2, 2021. At that time, Employee shall confirm that he has returned all of the Village's property, keys, identification badge(s), etc., that he had in his possession or under his control. The Employer shall cooperate with Employee concerning the issuance of an Illinois Retired Officer Concealed Carry ("IROCC") card, identification card, and retirement badge to the same extent as other retired police officers for whom the Employer does not object to the issuance of an IROCC card.

2. **Employment Separation Benefits.** It is agreed that in consideration of the payment of a paid administrative leave until Employee's Separation Date as well as the

adjustment of Employee's effective date of retirement from September 2, 2021 to September 20, 2021, which Employee acknowledges will increase Employee's final rate of compensation for purposes of Employee's pension benefits, Employee agrees to execute and agree to all the terms and provisions of this Agreement, including the release of certain rights in Paragraphs 7 and 8. It is also agreed that as of Employee's Separation Date, he will have accumulated certain employee benefits, including vacation leave, sick leave, floating holidays, and Roll Call Credit Time and that such employee benefits will remain accessible to Employee. Employee's administrative paid leave totaling Five Thousand One Hundred Ninety-two Dollars (\$5,192.00) and other separation benefits shall be subject to all federal and State taxes as applicable. Employee acknowledges and agrees that Employee is not entitled to any other separation payments or benefits.

3. Insurance Continuation. Employee's group health insurance with the Village will continue until end of business on September 30, 2021, with the Village and Employee having made their respective premium contributions for said month. Thereafter, Employee is entitled to elect to continue group health insurance coverage, pursuant to the terms of 215 ILCS 5/367g (Illinois Insurance Code), for which Employee would be responsible to pay 100% of the continued group health insurance premiums. In the alternative, if eligible, Employee may continue health insurance benefits under the Consolidated Omnibus Budget Reconciliation Act (COBRA) for 18 months following Employee's Separation Date. The Employee shall be required to pay 102% of the COBRA insurance premiums, so long as Employee is eligible for such coverage, according to COBRA and its attendant regulations.

4. Valid Consideration. Employee and Village acknowledge that certain separation payments and benefits identified in Paragraphs 1, 2 and elsewhere in this Agreement are not required by the Village's policies or procedures or any contractual obligation, and are offered by the Village solely as consideration for this Agreement, along with the other mutual promises contained herein, and the Parties acknowledge that these constitute good and adequate consideration.

5. Employer's Positive Reference. Employer will provide a positive reference to Employee for any prospective employer of Employee.

6. Declaration and Forbearance Regarding Application for Disability Pension Benefits. Employee agrees and hereby declares that he has not and does not intend to file an application for a disability pension, line of duty or not on duty, pursuant to 40 ILCS 5/3-114.1 and 114.2 respectively and that Employee is pursuing retirement from employment with the Village pursuant to 40 ILCS 5/3-111. Employee acknowledges that any subsequent application filed by Employee or on Employee's behalf for a disability pension pursuant to 40 ILCS 5/3-114.1 or 114.2 shall be considered to be a willful breach of this Agreement by Employee, and the Village's obligations shall cease, and shall entitle the Village to the relief as provided in Paragraph 13 of this Agreement.

7. Waiver of Rights under the Age Discrimination in Employment Act. In consideration of the Village's obligations contained in Paragraph 1, 2 and the other consideration recited in Paragraph 4 and elsewhere in this Agreement, Employee does hereby knowingly and

voluntarily waive, release, satisfy, and forever discharge the Village and all of its officers, board members, trustees, employees, insurers, reinsurers, predecessors, successors, assigns, agents, attorneys, and representatives (past, present and future) (hereinafter the "*Released Parties*"), of and from any and all claims, actions, causes of action, demands and liabilities of any kind or character whatsoever, in law or in equity, which Employee ever had or now has against said above-named persons and entities or any of them, for, upon or by reason of any rights arising prior to the date at this Agreement under the Age Discrimination in Employment Act (42 U.S.C. § 621 *et seq.*). It is the intent of the Village and Employee that this be a full, complete and general release of the Employee's rights arising prior to the date of this Agreement under the Age Discrimination in Employment Act.

8. General Release. In addition to the waiver of rights set forth above and as a material inducement for the Village to enter into this Agreement, Employee does hereby remise, release, acquit, satisfy, and forever discharge the Village and all of its officers, board members, trustees, employees, insurers, reinsurers, predecessors, successors, assigns, agents, attorneys, and representatives (past, present and future) (hereinafter the "*Released Parties*"), of and from any and all claims, actions, causes of action, demands and liabilities of any kind or character whatsoever, in law or in equity, which Employee ever had, now has, or which any personal representative, successor, heir or assign of Employee, hereafter can, shall or may have, against said Released Parties or any of them, for, upon or by reason of any matter, cause or thing arising out of Employee's employment with the Village from the beginning of Employee's employment until the date of execution of this Agreement. It is the intent of the Village and Employee that this be a full, complete and general release. It is also the intent of the Village and Employee that this Agreement releases all claims of Employee, including specifically, without limitation, any and all claims or causes of action for employment discrimination; any other claims or causes of action arising under, or any conduct which violates, the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended; Title VII of the Civil Rights Act of 1964, as amended; the Americans with Disabilities Act, as amended; the Rehabilitation Act of 1973, as amended; 42 U.S.C. §§ 1981, 1983 or 1985, as amended; the Civil Rights Act of 1991, as amended; the Family Medical Leave Act, as amended; the Illinois Human Rights Act, as amended; or any other provision of the Illinois Constitution or any provision of the Constitution of the United States, as amended; the Employee Retirement Income Security Act of 1974, as amended; the Illinois Insurance Code, as amended; the Fair Labor Standards Act, as amended; the Illinois Public Labor Relations Act, as amended; the Occupational Safety and Health Act of 1970, as amended; or any other statute, ordinance, rule or regulation of any state, federal, county, or municipal government regulating any aspect of the employment relationship; any and all claims or causes of action for breach of contract or breach of personnel policies or employee handbooks or the collective bargaining agreement governing Employee's employment by the Village; promissory estoppel; infliction of emotional distress; invasion of privacy; wrongful or retaliatory discharge; defamation; libel; slander; any act contrary to the public policy of Illinois; or any other violation of the common law of Illinois or of any other state; any and all claims or causes of action for wages, vacation pay, or benefits, including, but not limited to, all claims arising under, or based on any conduct which violates the Illinois Wage Payment and Collection Act, as amended; any and all claims or causes of action which were or could have been asserted as arising under the Illinois Personnel Records Review Act, as amended; and any claims which might be asserted in any way related to Employee's employment with the Village from the

beginning of Employee's employment until the date of execution of this Agreement.

9. Additional Representation. Employee hereby warrants and represents that Employee presently is not, nor has Employee ever been enrolled in Medicare Part A or Part B or applied for such benefits, and that Employee has no pending claim for Social Security Disability benefits nor is Employee appealing or re-filing for Social Security Disability benefits. Employee further warrants and represents that Employee did not incur any physical injuries or receive medical care arising from or related to any of the claims released by this Agreement. Employee also warrants and represents that Medicare has not made any payments to or on behalf of Employee, nor has Employee made any claims to Medicare for payments of any medical bills, invoices, fees or costs. Employee agrees to indemnify and hold the Village and the Released Parties harmless from (a) any claims of, or rights of recovery by Medicare and/or persons or entities acting on behalf of Medicare as a result of any undisclosed prior payment or any future payment by Medicare for or on behalf of Employee, and (b) all claims and demands for penalties based upon any failure to report the settlement payment, late reporting, or other alleged violation of Section 111 of the Medicare, Medicaid and SCHIP Extension Act that is based in whole or in part upon late, inaccurate, or inadequate information provided to the Village by Employee. Employee agrees to hold harmless the Village and the Released Parties from and/or for any loss of Medicare benefits or Social Security benefits (including Social Security Disability) Employee may sustain as a result of this Agreement.

10. Time to Review and Attorney Consultation. Employee agrees and acknowledges that the Village has advised Employee to consult with an attorney regarding this Agreement prior to signing below and further acknowledges that Employee has **twenty-one (21) days** after the date this Release is given to Employee and his representative to execute Employee's Release and deliver a copy to the Village (although Employee may choose to sign and deliver the Release sooner). Employee acknowledges that he has consulted with one or more attorneys regarding this Agreement prior to signing below and that he and/or his representative were first presented this Agreement on **August 13, 2021**.

11. Revocation and Effective Date. Employee agrees and understands that Employee may revoke this Agreement within **seven (7) days** after Employee signs this Agreement and that the Agreement shall not become effective or enforceable until eight (8) days after the date on which Employee signs below. If Employee wishes to revoke the Agreement, Employee should deliver written notice and revocation to the Village Manager. The Village Manager must actually receive it within the **seven (7) days** after the Employee signs this Agreement. If Employee does not revoke it, this Agreement shall become effective and enforceable on the date upon which the seven day revocation period expires (the "Effective Date").

12. No Reinstatement and Post-Employment Statements. Employee recognizes that his employment with the Village will have permanently ceased on the Separation Date. The Village shall have no obligation to rehire, reinstate, recall or hire Employee in the future. Employee shall refrain from making any statements or comments of a disparaging nature to any third party regarding the Village, any of the Released Parties, and the Village's personnel policies and regulations. The Village shall refrain from making any statements or comments of a

disparaging nature to any third parties regarding the Employee. However, it shall not be a violation for either party to make truthful statements when required to do so by a court of law, by any governmental agency having supervisory authority over the party, or by any administrative or legislative body with apparent jurisdiction to order the party to divulge, disclose or make accessible such information.

13. Covenant Not to Sue and Recourse for Employee Breach. The Employee promises never to file or participate in a lawsuit, arbitration or other legal proceeding asserting any claims that are released pursuant to this Agreement, except to enforce rights created by this Agreement. If the Employee breaches Employee's promise and files or participates in a legal proceeding based on any such released claim, or otherwise breaches this Agreement, the Village's obligations pursuant to this shall terminate immediately, and the Employee will (i) repay to the Village any payments provided as consideration pursuant to this Agreement; (ii) pay for all costs incurred by the Village, including reasonable attorneys' fees, in defending against Employee's claim; and (iii) pay all other damages awarded by a court of competent jurisdiction. Employee further understands that nothing in this release generally prevents Employee from filing a charge or complaint with or participating in an investigation or proceeding conducted by the EEOC, NLRB, or any other federal, state or local agency charged with the enforcement of any employment laws, although by signing this Employment Separation and Release Agreement, Employee acknowledges that Employee is waiving Employee's right to individual relief based on claims asserted in such a charge or complaint, including the right to recover any damages or attorneys' fees.

14. Neutral Construction. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against either of the parties regardless of the drafter.

15. Complete Agreement. The Employee understands this Agreement sets forth all of the terms and conditions of the agreement between the Parties and that, in signing this Agreement, the Employee cannot rely and has not relied upon any prior verbal statement regarding the subject matter, basis or effect of this Agreement, and that all clarifications and/or modifications of this Agreement must be in writing.

16. Enforcement. This Agreement shall be governed and interpreted pursuant to the laws of the State of Illinois and any action filed to enforce it shall be filed in the 19th Judicial Circuit, Lake County, Illinois.

17. Notices. All notices required under this Agreement shall be sent to the Village at:

Kevin Timony
Village Manager
Village of Vernon Hills
290 Evergreen Drive
Vernon Hills, Illinois 60061

and to the Employee at:

Michael Katzenstein

NOTICE TO EMPLOYEE: BY SIGNING THIS AGREEMENT YOU ARE WAIVING YOUR RIGHTS ARISING PRIOR TO THE DATE OF THIS AGREEMENT, IF ANY, UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT.

YOU ARE ALSO GENERALLY RELEASING THE VILLAGE FROM ANY AND ALL OTHER CLAIMS YOU MAY HAVE, IF ANY, ARISING PRIOR TO THE DATE OF THIS AGREEMENT, EXCEPT AS DESCRIBED IN THIS AGREEMENT.

EMPLOYEE HAS BEEN ADVISED TO CONSULT WITH A LAWYER PRIOR TO SIGNING THIS AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this EMPLOYMENT SEPARATION AND RELEASE AGREEMENT the day and year first above written.

EMPLOYEE:

By: *Michael Katzenstein*
Michael Katzenstein

VILLAGE OF VERNON HILLS:

By: *Kevin Timony*
Kevin Timony
Village Manager

Dated: 8/25/2021

Dated: 9/22/2021

Attest: *Elizabeth Koehl*

Acknowledged by:

Laura Scarry, Esq.

