

**THE FUNDED RETIREMENT PLAN OF THE
TOWN OF NEW CANAAN, CONNECTICUT**

Effective Date – July, 1962

Restated Effective – July 1, 2010

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Introduction

The Town of New Canaan, Connecticut hereby amends and restates The Funded Retirement Plan of the Town of New Canaan, Connecticut (the “Plan”) for the purposes of updating the Plan, incorporating federal law requirements with an effective date on or before July 1, 2010, and inclusion in the Plan of all prior amendments.

The Plan, as amended and restated, effective July 1, 2010, shall apply to all Employees who are in the service of the Town of New Canaan, Connecticut on or after July 1, 2010 (except as may be otherwise provided herein). The rights and obligations with respect to Employees who retired, died or terminated employment prior to July 1, 2010, shall be determined by the provisions of the Plan in effect at the time of such retirement, death or termination of employment, and shall not be changed by virtue of this amendment and restatement.

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ARTICLE I

DEFINITIONS

The following words and phrases as used herein have the following meanings, unless a different meaning is specified or plainly required by the context:

Section 1.1 “Actuarial Equivalent” shall mean a benefit of equal value to the Normal Retirement Date pension payable as a life annuity, such equivalent shall be computed based on the 1983 GA Mortality Table with a 7% interest rate. Any factor used to determine an amount of benefit, as the case may be, of equivalent value should not distinguish between classes of Employees on the basis of sex.

Section 1.2 “Average Annual Compensation” shall mean (unless provided otherwise in an Appendix) the highest annual rate of compensation within the ten (10) year period immediately preceding the date of computation.

For purposes of Section 1.17(i), in determining Average Annual Compensation, Compensation in any calendar year shall be limited to that portion which does not exceed the taxable wage base in effect on the first day of such calendar year.

Section 1.3 “Benefit Commencement Date” shall mean the first date a benefit is due to commence under any form of payment without regard to administrative delay in the computation of the pension. For purposes of determining the Benefit Commencement Date, the distribution of employee contributions shall be disregarded. A benefit which is due to commence on the first day of the month for which it is elected to commence or due to commence under the terms of the Plan shall be paid at the end of such month and at the end of each month thereafter.

Section 1.4 “Board” shall mean The Board of Finance of the Town.

Section 1.5 “Code” shall mean the Internal Revenue Code of 1986 as may be hereafter amended.

Section 1.6 “Committee” shall mean the Town’s Administrative Agents established by action of a Special Town Meeting held on March 13, 1962 and later amended which shall manage and administer the Plan, as provided for in Article IX. The Administrative Agents encompass the First Selectman, a member of the Board of Finance, the Chief Financial Officer, a member of the Police Department, and a member of the Fire Department.

Section 1.7 “Compensation” shall mean the basic salary being regularly paid by the Town to an Employee. Basic salary shall exclude any overtime pay, bonuses, gratuities, commissions, retainer fees, benefits, severance pay, allowance for expenses, or other special remuneration.

Effective January 1, 1989, Compensation shall be limited to \$200,000 indexed at the same time and same manner as under Section 415(d) of the Code for Plan Years beginning after July 1, 1989, provided that such Compensation limitation shall not have the effect of decreasing a Member's benefit under the Plan determined on July 1, 1989. Effective July 1, 1994, Compensation each Plan Year shall be limited to \$150,000 (as adjusted under Code Section 401(a)(17)). Any adjustment in the compensation limitation shall be effective only in the Plan Year in which such adjustment is effective under Code Section 401(a)(17).

Section 1.8 "Covered Compensation" shall mean the average (without indexing) of the taxable wage bases in effect for each calendar year during the 35-year period ending with the last day of the calendar year in which the Member attains (or will attain) social security retirement age (as defined in Section 415(b)(8) of the Code). In determining a Member's Covered Compensation for a calendar year, the taxable wage base for the current calendar year and any subsequent calendar year shall be assumed to be the same as the taxable wage base in effect as of the beginning of the calendar year for which the determination is being made. A Member's Covered Compensation for a calendar year after the 35-year period described above is the Member's Covered Compensation for the calendar year during which the Member attained social security retirement age. A Member's Covered Compensation for a calendar year before the 35-year period described above is the taxable wage base in effect as of the beginning of the calendar year. A Member's Covered Compensation shall automatically be adjusted for each calendar year.

Section 1.9 "Credited Interest" shall mean interest earned on the Member's Former Plan Allocation and Contributions, compounded annually at the rate of 3% for each completed month prior to July 1, 1982, 5% for each completed month after July 1, 1982 and before July 1, 1985 and 7% for each completed month thereafter on such Allocations and Contributions (or at such other greater or lesser rate as the Committee may from time to time prospectively determine) from the July 1 next after the date as of which such Former Plan Allocation or Contributions are paid to the Fund to the date to which Credited Interest is being calculated.

Section 1.10 "Credited Service" shall mean the period of a Member's Service, as defined in Section 1.22, prior to July 1, 1962 plus the period of a Member's membership in the Plan on and after such date measured in years and completed months except that, in no event, shall periods of membership during which a Member does not receive Compensation from the Town be included in the computation of Credited Service. Effective January 1, 2001, a Member shall be credited with a full month of Credited Service if his date of hire is the first working day in a month or the date of termination is the last working day of the month.

Notwithstanding the foregoing, with respect to a Member who is (i) employed by The Town in a non-bargained capacity, (ii) not a police officer, fireman-

engineer, firefighter, Board of Education or Library employee, and (iii) not a represented employee under the Department of Public Works Local 1303-013 of Connecticut #4 American Federation of State, County and Municipal Employees – (AFL-CIO), such Member shall be permitted to sell back to the Town unused paid sick days over one hundred ten (110) up to one hundred eighty (180) in blocks of ten (10), for a .5% increase (per each 10 day block) in the Member’s retirement benefit, and paid vacation days in blocks of ten (10), for a .5% increase (per each 10 day block) in the Member’s retirement benefit. At the time of the Member’s retirement, if the Member has the maximum accumulation of one hundred eighty (180) paid sick days and the maximum accumulation of paid vacation days which can be sold back to the Town for retirement benefit credit, the Town will add an additional .5% to the Member’s retirement benefit for a total increase of 5% to the Member’s retirement benefit based on the Member’s sold-back paid sick and vacation days.

Section 1.11 “Dependent or Dependents” shall mean the surviving child or children of a deceased Member under eighteen (18) years of age or under the age of twenty-four (24) if a full-time student at an institution of post-secondary education. The term Dependent shall include natural children of a legal marriage and adopted children of a legal marriage.

Section 1.12 “Effective Date” shall mean July 1, 1962.

Section 1.13 “Employee” shall mean any person regularly employed by the Town on a permanent basis or any elected officer of the Town, excluding (i) temporary employees who work less than 9 months during a Plan Year, (ii) part-time hourly paid employees who customarily work less than 20 hours of service in a regular work week, (iii) employees employed for a special job whose employment terminates upon completion of such job, (iv) employees who have attained the applicable normal retirement date by July 1, 1962, and (v) any teacher who is or has been eligible for membership in the Connecticut State Teacher’s Retirement System. The term Employee shall include the organized Employees of Department of Public Works, the Police Department and the Fire Department, the Employees of the Board of Education, and the Employees of the Town of New Canaan Library. Cafeteria Plan workers shall be deemed Employees for purposes of this Plan on the later of September 1, 1995 or the date of hire as an eligible Employee with the Town.

The term Employee shall not include an individual classified by the Town as an independent contractor even if, at a later date, a federal or state agency or a court of law, require reclassification of such individual as a common law Employee.

Section 1.14 “Former Plan” shall mean the Retirement Program of the Town prior to July 1, 1962 which had been funded under the Connecticut State Employees Retirement System.

Section 1.15 “Former Plan Allocation” shall mean a Participant’s interest in the Former Plan transferred to the Fund.

Section 1.16 “Fund” shall mean the Trust Fund provided under Article X.

Section 1.17 “Maximum Offset Allowance” shall mean the lesser of

- (i) .65% of Average Annual Compensation (up to Covered Compensation);
- (ii) 1.25% of Average Annual Compensation

Multiplied by the Member’s Credited Service up to a maximum of 30 years of Credited Service. For purposes of determining Average Annual Compensation under (i) above, Compensation for any year in excess of the taxable wage base in effect on the first day of such calendar year shall be disregarded.

Section 1.18 “Member” shall mean any Employee who qualifies and continues to be qualified under Article II.

Section 1.19 “Participant” shall mean an Employee as of June 30, 1962 covered under the Former Plan.

Section 1.20 “Plan” shall mean The Funded Retirement Plan of The Town of New Canaan, Connecticut, heretofore established and as amended and/or supplemented hereby and from time to time hereafter.

Section 1.21 “Plan Year” shall mean the fiscal year of the Plan, commencing on July 1 of a calendar year and ending on the next June 30 through and including June 30, 2006. There will be a short Plan Year beginning July 1, 2006 and ending December 31, 2006. Thereafter, the Plan Year shall be the calendar year.

Section 1.22 “Service” shall mean the period of employment as an Employee as shown on the payroll records of the Town commencing on the date of the Employee’s last employment and continuing until the earliest to occur of the date of his death, retirement or termination of such employment. Service shall include a period of time an Employee shall be or has been on a written authorized leave of absence, and the period or periods during which the employment of such Employee by the Town shall be or has been interrupted by Qualified Military Service or military or naval service with the State of Connecticut, or in any auxiliary or reserve corps serving therewith provided the Employee retains reemployment rights with respect to such service.

Notwithstanding the foregoing, if a Member’s employment with the Town is terminated when he or she has no vested right to a benefit under the Plan and the number of years between his or her dates of employment with the Town equals or exceeds five (5), the Member’s period of Service prior to the termination of employment will be disregarded.

Notwithstanding anything in the Plan to the contrary, a Member who is (i) employed by the Town in a non-bargained capacity, (ii) not a police officer, fireman-engineer, firefighter, Board of Education or Library employee, (iii) not a represented employee under the Department of Public Works Local 1303-013 of Connecticut #4 American Federation of State, County and Municipal Employees – (AFL-CIO) and (iv) permanently laid off may purchase, in accordance with procedures established by the Committee, up to one (1) year of Service for purposes of qualifying for Early Retirement. Any Service purchased pursuant to the foregoing shall not be taken into consideration for any purpose under the Plan other than for determining whether the Member is eligible for Early Retirement. The amount that the Member must pay in order to purchase Service hereunder shall be equal to the increase in the present value of the annual retirement benefit payable to the Member at his or her earliest Early Retirement Date (after reflecting such purchased Service), calculated on the basis of the following actuarial assumptions: 7% interest and the mortality table used by the Plan’s actuary in the last actuarial valuation report, but using a 50%/50% blend of male/female mortality.

Section 1.23

“Social Security Benefit” shall mean 50% of the primary insurance amount or the disability insurance benefit a Member is receiving or would be entitled to receive if he made application therefor under the provisions of the Social Security Act in effect as of the date of retirement or normal retirement date, whichever is the earlier. In the event a Member retires on other than a disability retirement date prior to the attainment of age 65, Social Security Benefit shall mean 50% of the primary insurance amount calculated as though he had attained his 65th birthday on his date of retirement and his Compensation as of the January 1 coinciding with or next preceding his date of retirement continues to his 65th birthday.

In the event that earnings prior to termination of employment or retirement are used in the computation of the Social Security Benefit, earnings shall include the actual Compensation for the three year period prior to such termination or retirement and a 4% salary scale for each proceeding year.

If within the 180 day period beginning on the later of the date the Member separates from service or the date the Member is notified of the benefit amount, such Member supplies actual salary history as determined by the Social Security Administration, the benefit to which the Member is entitled shall be adjusted based on any difference which shall occur through the use of an actual earnings history.

Section 1.24

“Spouse” shall mean the surviving spouse of a deceased Member as of the Benefit Commencement Date provided, however, that for purpose of determining the spouse for the pre-retirement survivor annuity provisions under Section 6.4(a) such surviving spouse must have been the legal spouse of such Member at least twelve (12) months prior to the date of death.

Section 1.25 “Qualified Military Service” shall mean any service in the uniformed services (as defined in Chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such Chapter with respect to such service.

Section 1.26 “Total and Permanent Disability” shall mean effective on and after January, 2001, the continuation of an active Employee’s physical or mental condition resulting from an injury or disease which is either:

- a) occupational and compensable under a Workers’ Compensation statute, or
- b) non-occupational in cause.

The determination of Total and Permanent Disability shall be based on medical evidence (or workers’ compensation awards) satisfactory to the Committee that the Employee included in the Plan cannot engage in his occupation with the Town and that such condition is permanent.

Total and Permanent Disability shall exclude a disability resulting from any of the following on the part of the Employee. (i) service in the Armed Forces of any country for which a government disability is payable; (ii) chronic alcoholism or addiction to narcotics; (iii) engaging in a felonious criminal act; or, (iv) an attempt to bring about injury or illness to himself or another person.

For purposes of Section 1.26(b), and applicable only to Employees hired by the Town prior to July 1, 1996, any condition or impairment of health caused by hypertension or heart disease resulting in total or partial disability or death to the Member who was a police officer, firefighter, or fireman-engineer and who had successfully passed a physical examination on entry into the employment of the Town as such and which examination failed to reveal any evidence of such condition, shall be presumed to result in Total and Permanent Disability under Section 1.26(b). The operation of this paragraph shall not preclude the Member’s disability under Section 1.26(a) provided the Member provides proof of a workers’ compensation award with respect to such conditions.

Section 1.27 “Town” shall mean The Town of New Canaan, Connecticut.

Section 1.28 “Trustee” shall mean the bank designated as Trustee under the Trust Agreement.

Section 1.29 “Trust Agreement” shall mean the agreement between the Town and the Trustee to hold the assets of the Trust Fund.

Wherever used in the Plan, the masculine pronoun includes the feminine pronoun and the singular includes the plural unless otherwise required by the text.

ARTICLE II

MEMBERSHIP IN THE PLAN

Section 2.1 Members on the Effective Date

Each Employee of the Town on June 30, 1962 who was a Participant in the Former Plan became a Member as of the Effective Date provided he transferred his Former Plan Allocation as of the Effective Date to the Fund for the use and ultimate disposition as provided herein.

Each other Employee of the Town on June 30, 1962 was eligible for membership in the Plan on the Effective Date provided he filed an application for membership with the Committee within such time as the Committee prescribed.

Section 2.2 Membership for Employees Engaged by the Town on or after July 1, 1962 but Prior to January 1, 1988

Except as may be otherwise provided in an Appendix, each Employee engaged by the Town on and after July 1, 1962 but prior to January 1, 1988 was eligible for membership in the Plan on the first day of the month following employment, provided that he filed an application for membership with the Committee within such time as the Committee prescribed and provided that he had not attained the age of fifty (50) on the date he was engaged by the Town.

Notwithstanding the foregoing, effective January 1, 1980, an Employee was eligible for membership in the Plan provided such Employee had not attained age sixty (60) on the date he was engaged by the Town on the later of:

- (a) the first day of the month following employment, or
- (b) January 1, 1980, and

further provided that an application for membership had been filed with the Committee within such time as the Committee prescribed.

Section 2.3 Membership on and after January 1, 1988

Except as may be otherwise provided in an Appendix, each other Employee shall be eligible for membership in the Plan on the first day of the month following employment, provided that he shall have filed an application for membership within such time as the Committee shall prescribe, except that an Employee who was not a Member of the Plan on January 1, 1988 because of a maximum age condition described in Section 2.2 or an Appendix shall commence membership in the Plan no earlier than January 1, 1988, provided that such Employee pays the required contributions under the Plan.

Notwithstanding the foregoing, except as otherwise provided in an Appendix, no Employee first employed by the Town in a non-bargained capacity on or after January 1, 2011 shall become a Member of the Plan.

Section 2.4 Membership Required

Every eligible Employee shall be required to join the Plan as a condition of employment except that Employees who are first eligible to enter the Plan on January 1, 1988 because of a maximum age limitation under Section 2.2 may elect not to become a Member during the period of election provided by the Committee.

Section 2.5 Information

Each eligible Employee shall file with the Committee such information as the Committee may prescribe.

Section 2.6 Withdrawal from Plan

Each Employee of the school cafeteria staff other than the director who was a Member of the Plan on December 31, 1968 was given the option to withdraw from the Plan within six months from the date of approval of the amendment by the Internal Revenue Service. Upon such withdrawal the Employee was entitled to receive his Member contributions and Former Plan allocation, with Credited Interest thereon, to the date of withdrawal and was not entitled to any further benefits under the Plan. An Employee who withdrew from the Plan shall not be eligible thereafter for membership in the Plan as an employee of the cafeteria staff other than the director.

ARTICLE III

RETIREMENT DATES

Section 3.1 Normal Retirement Dates

Unless provided otherwise in an Appendix, effective for Normal Retirement Dates occurring after March 1, 1999, the Normal Retirement Date of a Member shall be the later of the attainment of age 65 or the fifth anniversary of participation in the Plan.

In the event a Member has become fully vested because of a transfer under Code Section 420, Normal Retirement Date shall mean the first day of the month coincident with or next following the attainment of age 65.

Section 3.2 Earlier Retirement Date

Any Member, whether an active Employee or a terminated Member with a vested benefit, other than a Member described in an Appendix who has attained his 55th birthday and completed fifteen (15) years of Service may elect to retire prior to his Normal Retirement Date as of the first day of any month thereafter, hereinafter termed "Earlier Retirement Date", and, at his option, commence to receive his benefit commencing on such Earlier Retirement Date but not later than his Normal Retirement Date.

Section 3.3 Deferred Retirement Date

Effective July 1, 1988,

- (a) A Member other than a police officer or fireman-engineer or firefighter may remain in active employment after his Normal Retirement Date.
- (b) The Deferred Retirement Date of a Member who is a police officer or fireman-engineer or firefighter shall be determined under the applicable Appendix.

Section 3.4 Disability Retirement Date

In the event a Member retires because of Total and Permanent Disability, his Disability Retirement Date shall be the first day of the month following the date the Committee has determined that the Member is Totally and Permanently Disabled.

ARTICLE IV

AMOUNT OF BENEFIT

Section 4.1 Retirement at Normal or Deferred Retirement Date

The following provisions apply with respect to Members who are not covered by one of the Appendices attached hereto. Effective as of July 1, 2008, the Normal Retirement Benefit of a Member who retires on a Normal Retirement Date or Deferred Retirement Date shall be the greater of (a) and (b) below.

- (a) A benefit equal to (i) minus (ii) as follows, but not less than (iii):
 - (i) 2½% of his Average Annual Compensation immediately prior to his Normal Retirement Date or Deferred Retirement Date, if applicable, multiplied by his years of Credited Service (including 1/12th of a year for each completed month in excess of completed years) up to a maximum of 30 years of Credited Service; minus
 - (ii) his Maximum Offset Allowance
 - (iii) the amount computed under (i) based on Average Annual Compensation and Credited Service as of December 31, 1988.
- (b) A benefit equal to 2% of his Average Annual Compensation immediately prior to Normal Retirement Date or Deferred Retirement Date, whichever is applicable, multiplied by his years of Credited Service (including 1/12th of a year for each completed month in excess of completed years) up to a maximum of 30 years of Credited Service.
- (c) For Members Not Covered Under the Social Security Act

The Normal Retirement Benefit of Members who are not covered under the retirement benefit provisions of the Social Security Act shall be equal to 2½% of his Average Annual Compensation immediately prior to Normal Retirement Date or Deferred Retirement Date, if applicable, multiplied by his years of Credited Service (including 1/12 of a year for each completed month in excess of completed years) up to a maximum of 30 years of Credited Service.

Section 4.2 Amount of Benefit at an Early Retirement Date

- (a) The annual retirement benefit of a Member who retires on an Earlier Retirement Date and who elects to have retirement benefits commence on his Normal Retirement Date shall be computed in accordance with Section 4.1 as though such Earlier Retirement Date were his Normal Retirement Date but based on Average Annual Compensation and Credited Service at termination of employment.

- (b) The annual retirement benefit of a Member who retires on an Earlier Retirement Date and who elects to have retirement benefits commence on his Early Retirement Date shall be computed in accordance with Section 4.1 as though such Earlier Retirement Date were his Normal Retirement Date but based on Credited Service and Compensation as of his termination of employment and reduced as provided below.

Effective November 1, 1996 for Local 1303, and effective January 1, 2001, for each other Member who is not represented by a collective bargaining agreement, such Member who has attained an Early Retirement Date may elect to have retirement benefit payments commence prior to his Normal Retirement Date, and such retirement benefit shall be reduced under Section 4.2(i). The Early Retirement reduction for all other Members shall be as provided for in Section 4.2(ii). The reduction percentage for full years and completed months between the commencement of Early Retirement benefits and Normal Retirement Date shall be a straight-line interpolation of the applicable reduction percentage factors.

(i)

<u>Number of full years between the Commencement of Early Retirement Benefits and Normal Retirement Date</u>	<u>Percentage Payable</u>
1	94.1%
2	88.0
3	82.0
4	76.0
5	70.0
6	64.0
7	58.0
8	52.0
9	46.0
10	41.3

(ii)

<u>Number of full years between the Commencement of Early Retirement Benefits and Normal Retirement Date</u>	<u>Percentage Payable</u>
1	90.1%
2	81.6
3	74.1
4	67.5
5	61.8
6	56.7
7	52.2
8	48.1
9	44.5
10	41.3

Section 4.3 Retirement At Disability Retirement Date

Except as otherwise provided in an applicable Appendix, in the event a Member retires on a Disability Retirement Date within the first five (5) years of his employment, his annual disability retirement benefit, including his Social Security Benefit, will be equal to 50% (40% for Disability Retirement Dates occurring before July 1, 2001) of his Average Annual Compensation immediately prior to his Disability Retirement Date less any Workers' Compensation benefit which may be payable to such Member. In the event a Member retires on a Disability Retirement Date after he has completed five (5) years of Service, the disability retirement benefit (including his Social Security Benefit) of such Member shall be equal to 50% (40% for Disability Retirement Dates occurring before July 1, 2001) of his Average Annual Compensation immediately prior to his Disability Retirement Date. Provided, however, that in no event shall the Member's disability retirement benefit plus any Social Security Benefits and Workers' Compensation benefit he may be entitled to receive exceed his Compensation immediately prior to his Disability Retirement Date.

Section 4.4 Maximum Benefits Allowed under the Plan

When expressed as an annual benefit, a benefit (other than benefits described in Code Section 415(h) (1)) shall not exceed the lesser of (1) \$90,000 (the "Dollar Limitation"), or (2) 100% of the Participant's average annual compensation as defined in Section 1.415-2(d)(1)(i) of the Income Tax Regulations during the three consecutive calendar years when the total compensation paid to him was the highest (the "Compensation Limitation"), subject to the following:

- (a) The maximum shall apply to the benefit payable to the Member as a life annuity, but if the benefit is payable in a form other than the foregoing, the maximum shall apply to the benefit computed as a life annuity which is the Actuarial Equivalent (as defined in (c) below) of such benefit.
- (b) If benefits begin prior the Member's attainment of his 62nd birthday, the maximum Dollar Limitation shall be adjusted so Equivalent of \$90,000, multiplied by the cost-of-living adjustment factor, as prescribed by the Secretary of the Treasury under Section 415(d) of the Code for calendar years beginning after December 31, 1987, beginning at age 62. The adjustment provided for in the preceding sentence shall be made in such manner as the Secretary of the Treasury may prescribe which is consistent with the reduction for old-age insurance benefits commencing before the Social Security Retirement Age under the Social Security Act. The reduction under this subsection (b) shall not reduce the Dollar Limitation below (i) \$75,000 if the benefit begins at age 55, or (ii) if the benefit begins before age 55, the Actuarial Equivalent, based on the greater of the

interest rate assumption specified for early commencement in the Plan or on an assumption of 5% per year, of the \$75,000 limitation for age 55.

- (c) If benefits begin after the Member's attainment of age 65, the maximum Dollar Limitation shall be adjusted so that it is the Actuarial Equivalent of a \$90,000 benefit beginning at age 65, multiplied by the cost-of-living adjustment factor as prescribed by the Secretary of the Treasury under Section 415(d) of the Code for years beginning after December 31, 1987, based on the lesser of the interest rate assumption specified in the Plan, if any, or on an assumption of 5% per year.
- (d) If the Member has completed less than ten years of membership in the Plan, the limitations described in Sections 415(b)(1)(B) and 415(b)(4) of the Code shall be adjusted by multiplying such amounts by a fraction, the numerator of which is the Member's number of years of Membership (or part thereof), and the denominator of which is ten. In no event shall this subsection (d) reduce the limitations provided under Sections 415(b)(1) and (4) of the Code to an amount less than one-tenth of the application limitation. To the extent provided by the Secretary of the Treasury, this subsection (d) shall be applied separately with respect to each change in the benefit structure of the Plan.
- (e) For all purposes of this Plan, the maximum Dollar Limitation of \$90,000 shall be automatically increased as permitted by Treasury Department regulations to reflect cost-of-living adjustments. As a result of such an adjustment, a benefit which had been limited by the provisions of this Section 4.4 in a previous calendar year may be increased with respect to future payments to the lesser of the adjusted Dollar Limitation amount or the amount of benefit which would have been payable under this Plan without regard to the provisions of this Section 4.4.
- (f) The limitations of this Section 4.4 shall be deemed not to be exceeded if the amount of the Member's total annual benefit payable under the Plan does not exceed \$10,000 for the current calendar year or any other prior calendar year and the Town has not at any time maintained a defined contribution plan in which the Member participated.
- (g) For years prior to July 1, 2002 for police officers and firemen-engineers and firefighters who have at least 15 years of Credited Service and who are full time employees of a police department or fire department organized and operated by the Town, the reduction under subparagraph (b) shall not reduce the \$75,000 limitation of such subparagraph to an amount less than \$50,000 (as shall be adjusted in the same time and manner as adjustments are made under Code Section 415(d)).
- (h) If the Current Accrued Benefit of an individual who is a Member as of the first day of the calendar year beginning on or after January 1, 1987,

exceeds the benefit limitations under Section 415(b) of the Code then, for purposes of Code Section 415(b) and (e), the Dollar Limitation with respect to such individual shall be equal to such Current Accrued Benefit. "Current Accrued Benefit" shall mean a Member's Accrued Benefit under the Plan, determined as if the Member had separated from service as of the close of the last Plan Year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Section 415(b)(2) of the Code. In determining the amount of a Member's Current Accrued Benefit, the following shall be disregarded

- (i) any change in the terms and conditions for the Plan after May 5, 1986; and
- (ii) any cost-of-living adjustment occurring after May 5, 1986.

The above limitations are intended to comply with the provisions of Section 415 of the code so that the maximum permissible benefit provided by the Plan shall be exactly equal to the maximum benefit allowed under such Section. If there is any discrepancy between the provisions of this Section 4.4 and the provisions of Section 415 of the Code and the regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code.

Section 4.5

Retirement Benefit Increase

The annual benefit for each Member and beneficiary receiving payment as of January 1, 2001 shall be increased beginning January 1, 2001 by an amount equal to 2%, multiplied by the number of full years the Member, or in case of a beneficiary, the Member and beneficiary, have been receiving payments from the Plan since January 1, 1993 (not to exceed eight years).

Notwithstanding the foregoing, the annual benefit for each Member and beneficiary receiving payment as of January 1, 2004 shall be increased beginning January 1, 2004 by an amount equal to 2%, multiplied by the number of full years the Member, or in the case of a beneficiary, the Member and the beneficiary, have been receiving payments from the Plan since January 1, 2001 (not to exceed three years).

Notwithstanding the foregoing, the annual benefit for each Member and beneficiary receiving payment as of January 1, 2007 shall be increased beginning January 1, 2007 by an amount equal to 2%, multiplied by the number of full years the Member, or in the case of a beneficiary, the Member and the beneficiary, have been receiving payments from the Plan since January 1, 2004 (not to exceed three years).

Notwithstanding the foregoing, the annual benefit for each Member and beneficiary receiving payment as of January 1, 2008 shall be increased beginning January 1, 2008 by an amount equal to 1%, multiplied by the

number of full years the Member, or in the case of a beneficiary, the Member and the beneficiary, have been receiving payments from the Plan since January 1, 2007 (not to exceed one year).

ARTICLE V

PAYMENT OF BENEFITS

Section 5.1 Normal Form of Payment

Retirement benefit payments equal to 1/12th of the Member's annual retirement benefit shall be made monthly commencing on the Member's Benefit Commencement Date and continuing to the last day of the month in which the Member's death occurs. Unless the Member is permitted to and remains actively employed with the Town past his or her Normal Retirement Date, the Member's Benefit Commencement Date shall be his or her Normal Retirement Date.

Section 5.2 Disability Benefit

- (a) Disability benefit Payments equal to 1/12th of the Member's disability benefit shall be made monthly commencing on the Member's Disability Retirement Date and continuing to the earliest of his (i) Normal Retirement Date, (ii) date of recovery, or (iii) date of death.
- (b) Upon the death of a Member receiving payments of a monthly disability benefit, his beneficiary designated under Article VI hereof ("Beneficiary") or his surviving spouse or dependent children shall be entitled to receive the death benefit set forth in Section 6.3 or 6.5 (as applicable) hereof, except that, if the Member had commenced disability benefits thereunder as of the date of death, such benefit shall not be less than 50% of the monthly Disability Benefit the Member had been receiving.
- (c) Upon a Member's Normal Retirement Date, payment of a monthly disability benefit shall cease and the Member shall receive a monthly retirement benefit computed as though his Disability Retirement Date were his Normal Retirement Date in accordance with the provisions of Section 4.1 (except that such benefit shall not be less than the monthly Disability Benefit the Member had received prior to attaining Normal Retirement Date).
- (d) Upon recovery of a Member receiving payments of a monthly disability benefit, payment of such monthly disability benefit shall cease and the Member shall continue as a Member with restoration of the Credited Service for the period prior to Disability Retirement Date.

Section 5.3 Payment of Small Benefits

Notwithstanding any provision in this Plan, for the monthly payment of a normal or a disability benefit to a Member or a Beneficiary or Beneficiaries, if such monthly payment is less than \$20 the same may be made quarterly, or semi-annually, in adjusted amounts, or the commuted value of any such

benefit, be paid in one lump sum to the Member, if surviving, or to his Beneficiary or Beneficiaries.

Section 5.4 Restrictions on Payment of Benefits

- (a) If the distribution of a Member's interest has begun in accordance with a method selected in Section 5.1 or 5.2 and the Member dies, all payments shall cease, except that if Article VI shall apply, payments made thereafter shall be paid at least as rapidly as payments are made to the Member.
- (b) If a Member dies before he has begun to receive any distributions of his interest under the Plan, his death benefit shall be distributed to his Beneficiaries within five years after his death.
- (c) The five-year distribution requirement above shall not apply to any portion of the deceased Member's interest which is payable to or for the benefit of a designated Spouse or Dependent under Section 6.4. In such event, such portion may be distributed over the life of such designated Spouse or Dependent (or over a period not extending beyond the life expectancy of such designated Spouse or Dependent) provided such distribution begins not later than one year after the date of the Member's death (or such later date as may be prescribed by Treasury regulations).

Except, however, in the event the Member's Spouse is his Beneficiary, the requirement that distributions commence within one year of a Participant's death shall not apply. In lieu thereof, such distribution must commence no later than the date on which the deceased Member would have attained Normal Retirement Date. If the surviving Spouse dies before the distributions to such Spouse begins, then the five-year distribution requirement shall apply as if the Spouse were the Member.

- (d) For the purposes of this Section, the life expectancy of a Member and a Member's Spouse (other than in the case of a life annuity) may be redetermined, but not more frequently than annually, and in accordance with such rules as may be prescribed by Treasury regulations. Further, life expectancy and joint and last survivor expectancy shall be computed in accordance with Treasury regulations.

Section 5.5 Commencement of Payment

Payment shall commence under the Plan not later than the latest of:

- (a) the April 1st following the calendar year in which the Member has attained age 70-1/2, or
- (b) the April 1st following the calendar year in which the Member retires.

Section 5.6 Reemployment

- (a) In the event a retired Member is reemployed after a Benefit Commencement Date, retirement payments shall cease; except that if a Member is rehired on a part-time basis after Normal Retirement Date, such pension payments shall continue to the Member. For purposes of this Section, a Member will be considered rehired on a part-time basis if the Member is scheduled to work less than 30 hours a week (regardless of actual hours worked). A reemployed Member shall continue to participate in the Plan after reemployment and subsequent pension amounts will be based on Service credited under the Plan before and after the break in service and Average Annual Compensation on the date of final retirement or death, but reduced by the Actuarial Equivalent value of payments received.
- (b) In the event a Member is rehired after receiving a distribution of accumulated contributions under the Plan, then Service attributable to the distribution shall be disregarded in calculating any pension amount provided under the Plan; except that the Member who is rehired after July 1, 2001 within five (5) years of the date of his or her termination of employment may elect within the one year period following the date of rehire to restore Service attributable to the distribution by repaying to the Plan the exact amount of such distribution plus interest at the Plan's interest rate for crediting employee contributions (as determined in Section 1.9) until the date of repayment.

Section 5.7 Direct Rollover Rules

- (a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Town, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover; provided, however, that:
 - (i) no such transfer shall be made unless the Distributee shall first have provided such information relating to the recipient of such transfer as the Town may reasonably request, and
 - (ii) in the event a Distributee has not timely made an election to have such distribution so transferred in accordance with the procedures established by the Town, he shall be deemed to have elected payment of such distribution to him and not to have such distribution directly transferred to an Eligible Retirement Plan.
- (b) An Eligible Rollover Distribution is any distribution of all or any portion of any benefit due to the Distributee, except that an Eligible Rollover

Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution(s) that is reasonably expected to total less than \$200 during a Plan Year.

(c) An Eligible Retirement Plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust that is part of a defined contribution plan described in Section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity.

Effective for distributions made after December 31, 2001, an Eligible Retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by the state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order treated as a qualified domestic relations order, as defined in Section 414(p) of the Code.

Effective for distributions made after December 31, 2001, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

Effective for distributions made after December 31, 2007, an Eligible Retirement Plan shall also mean a Roth IRA described in Section 408A of

the Code (provided, however, that prior to 2010, a Roth IRA shall only be deemed to be an eligible retirement plan with respect to a distributee whose modified adjusted gross income for the year in which the eligible rollover distribution occurred does not exceed \$100,000 and, if such distributee is married, he or she files a joint tax return with his or her spouse).

- (d) A Distributee includes a Member or former Member. In addition, the Member's or former Member's surviving spouse and the Member's or former Member's spouse or former spouse who is the alternate payee under a domestic relations order treated as a qualified domestic relations order, as defined in Section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse.

Effective for distributions made after December 31, 2009, a Distributee shall also mean a Member's or former Member's non-spouse beneficiary with regard to the interest of such non-spouse beneficiary.

- (e) A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

ARTICLE VI

DEATH BENEFIT

Section 6.1 Designation of a Beneficiary

Each Member shall designate a Beneficiary or Beneficiaries on a form prescribed by the Committee to receive any payments which may become payable to any person in accordance with this Plan upon his death. The Member may change such designation by signing such form as may be furnished by the Committee.

Section 6.2 Failure of Beneficiary to Survive

In the event there is a death benefit payable under Section 6.3 or 6.5, and there is no Beneficiary surviving the Member, the death benefit shall be payable in a lump sum to one or more of the surviving persons designated by the Committee in order of preference names: (i) Spouse, (ii) children, (iii) grandchildren, (iv) parents, (v) brothers or sisters, (vi) executors and administrators.

Section 6.3 Death Prior to Retirement or Prior to a Benefit Commencement Date

The Beneficiary of a Member who has died after making contributions to the Plan but before a Benefit Commencement Date shall be entitled to receive, in the event of the death of such Member, a death benefit equal to the excess, if any, of the Member's contributions and former plan allocation with credited interest thereon to the date of the Member's death, over death benefits payable, if any, under Section 6.4.

Section 6.4 Benefit Payable Upon Death of a Member with Surviving Spouse or Surviving Dependent Children

- (a) Unless otherwise provided in an Appendix, in the event of the death of a Member after becoming fully vested in a retirement benefit because of the completion of five years of Service (ten years of Service prior to March 1, 1999) or if such Member's death is service connected whether or not he has completed five (5) or more years of Service, and if such Member is survived by a Spouse or if no surviving Spouse, such Member is survived by a Dependent or Dependents, then there shall be payable to such surviving Spouse or such surviving Dependent or Dependents an annual benefit, payable in equal monthly installments, equal to 50% of the Member's Average Annual Compensation as of his date of death or date of retirement, whichever is the earlier.

If such Member is a retired Member (i.e., was actively employed by the Town until either his or her Early Retirement Date or Normal Retirement Date) or a terminated Member with a deferred vested benefit, the annual

benefit set forth above shall not exceed the annual retirement benefit of the Member under the Plan. In the case of a terminated Member with a deferred vested benefit, the death benefit payable to the Spouse or Dependent child, if any, shall commence as of the Member's Normal Retirement Date. In no event shall a death benefit payable hereunder to an individual other than the Member's Spouse be permitted if the single sum value of the benefit payable to the Member is less than 51% of the single sum value of the amount of benefit the Member would have received if the benefit was payable for the Member's life only.

- (b) The death benefit provided under the Plan shall commence (except as otherwise specifically provided in (a) above) to be paid on the first day of the month next following the Member's death and shall cease on the first day of the month next preceding (i) the date of death or date of remarriage of the Spouse or (ii) the date of death of the Dependent or date such Dependent attains age eighteen (18) or age twenty-four (24) if a full-time student at an institution of post-secondary education.
- (c) In the event of the death or remarriage of a Spouse receiving benefits hereunder, the surviving Dependent or Dependents under eighteen (18) years of age or under twenty-four (24) years of age if a full-time student at an institution of post-secondary education of the deceased Member and such Spouse shall commence to receive the same benefit the Spouse had been receiving commencing on the first day of the month coinciding with or next following the date of such Spouse's death or remarriage.
- (d) In the event more than one Dependent child is entitled to benefits under this Section 6.4, upon the attainment of each Dependent child's eighteenth (18) birthday (or twenty-fourth (24) birthday if a full-time student at an institution of post-secondary education) or upon the death of any such Dependent child, the benefit shall be reapportioned to the surviving Dependent children.

Section 6.5

Death After Retirement and After Payments Have Commenced

In the event of the death of a Member who has retired and is receiving retirement benefit payments or disability benefit payments, the Beneficiary of such Member shall be entitled to receive, in a lump sum, the excess, if any, of his contributions and Former Plan Allocation, with credited interest thereon to his retirement date, over the retirement benefit payments or disability benefit payments made to the Member and any benefits payable under Section 6.4.

ARTICLE VII

TERMINATION OF EMPLOYMENT

Section 7.1 Termination Benefit

Subject to the provisions of Article XII and unless otherwise provided in an Appendix, a Member whose employment with the Town is terminated for any reason other than death or retirement shall be entitled to a benefit, hereinafter called "Termination Benefit", computed as though the date of such termination of employment were his Normal Retirement Date as follows:

- (a) If he shall have completed at least five (5) years of Service (ten (10) years of Service for terminations occurring prior to March 1, 1999 at the date of termination) or if he shall have been vested pursuant to the provisions of Section 13.8, he shall be entitled, at his election, either to: (i) his Termination Benefit payable to the Member, if living, beginning on the date the Member would have attained the requirements for Normal Retirement Date had the Member remained in the employ of the Town, or (ii) a lump sum payment as of the date of such termination of employment equal to his contributions and Former Plan Allocation with Credited Interest thereon to the date of such termination, payable within 90 days of such termination. Notwithstanding the foregoing, a Member (other than a Member covered by Appendix I or Appendix II) who terminates employment with fifteen (15) or more years of Service may elect to begin receiving his Termination Benefit as of the first day of any month coincident with or next following his attainment of age fifty-five (55), but not later than his Normal Retirement Date. In that case, such Member's Termination Benefit shall be reduced in accordance with the table described in Section 4.2(i) or Section 4.2(ii), as applicable.
- (b) If he shall not have completed five (5) years of Service (ten (10) years of Service for terminations occurring prior to March 1, 1999) at the date of such termination of employment or did not become vested under Section 13.8, he shall be entitled to a lump sum payment as of the date of such termination of employment equal to his contributions and Former Plan Allocation with Credited Interest thereon to the date of such termination, payable within 90 days after such termination, provided that no interest shall be paid to any Member who has not completed one year of Service prior to the date of such termination.
- (c) The Termination Benefit described in (a)(i) above shall be computed under the Normal Retirement formula under Section 4.1, based on the date of termination of employment and the Member's Average Annual Compensation and Years of Credited Service as of his date of termination, and payable as provided in Section 5.1.

- (d) Except as provided in this Section 7.1, a Member shall not be entitled to any benefits under the Plan upon termination of his employment for any reason other than death or retirement.

ARTICLE VIII
CONTRIBUTIONS

Section 8.1 Member's Contributions

- (a) Prior to September 1, 1972, the Member's annual contribution for each calendar year of membership was (i) for a Member who does not pay taxes on such Compensation under the Federal Insurance Contributions Act, 5% of his Compensation for such calendar year, and (ii) for a Member whose Compensation or a portion of whose Compensation is subject to tax for such calendar year under the Federal Insurance Contributions Act, 1-7/8% of such Compensation subject to tax under the Federal Insurance Contributions Act, plus 5% of such Compensation not subject to tax under the Federal Insurance Contributions Act.
- (b) On and after September 1, 1972, the Member's annual contribution for each calendar year of membership shall be, unless determined under an applicable Appendix or except as otherwise provided below, 2% of such Member's base salary.
- (c) For the period from July 1, 1962 to December 31, 1962, January 1, 1972 to August 31, 1972 and September 1, 1972 to December 31, 1972, and for any calendar year in which the Member does not accrue a full year of Credited Service, the Member's contribution for such year shall be equal to the contribution calculated in (a) above multiplied by the fraction in which the numerator is the number of completed months of accrued Credited Service in such period or such calendar year and the denominator is 12.
- (d) Except as otherwise provided in an Appendix, on and after July 1, 1998, the Member's annual contribution shall be 1% of base salary. On and after January 1, 2001, the Member's annual contribution shall be 1/4% of base salary.

Section 8.2 Town's Contributions

The Town shall contribute such additional amounts as may be required to provide the retirement benefits and other benefits provided under the Plan. Payments by the Town shall be entirely voluntary and the Town shall incur no liability to make such payments and shall not be under any liability to any person for failure to make any such payment or payments. The Town shall not directly or indirectly receive any refund of any contribution made by it, nor shall the Town directly or indirectly participate in the distribution by the Trustee, at any time prior to the satisfaction of all liabilities to Members and their Beneficiaries.

ARTICLE IX

ADMINISTRATION OF PLAN

Section 9.1 The general administration of the Plan and the responsibility for carrying out the provisions of the Plan shall be placed in the Town's Administrative Agent (the Committee) as established by action of a Special Town Meeting held on March 13, 1962.

ARTICLE X

MANAGEMENT OF THE FUND

Section 10.1 **Fund**

All contributions hereunder made by the Town and the Members shall be held and administered by the Trustee, or by a successor trustee appointed from time to time by the Board, in trust for use in accordance with the Plan, under a Trust Agreement in the form attached hereto, marked "Exhibit A". The Trust Agreement may from time to time be amended in the manner therein provided.

Section 10.2 **Disbursements from Fund**

Subject to the provisions of the Trust Agreement and the Town Charter, the Committee shall determine the manner in which disbursements shall be made from the Fund pursuant to the Plan, including the form of voucher or warrant to be used in making disbursements and the due qualification of persons authorized to approve and sign the same.

Section 10.3 **Expenses**

The Fund shall bear all brokerage costs and transfer taxes or other taxes of any kind whatsoever which may be levied or assessed under existing or future laws upon or in respect of the Fund, all expenses incurred in connection with the acquisition, holding or disposition of real property, any interest therein or mortgage thereon and all interest which may be payable or money borrowed by the Trustee for the purposes of the trust and all other administrative expenses of the Fund and the Plan.

Section 10.4 **Rights in Fund**

No part of the corpus or income of the Fund, shall be used for, or directed to, or diverted to, any purposes, subject to the payment of expenses, other than for the exclusive benefit of the Members and their Beneficiaries prior to the satisfaction of all liabilities for benefits under the Plan, and provided further, that no person shall have any interest in or right to any part of earnings or principal of the fund, or any rights in, to, or under the Trust Agreement, except as, and to the extent, expressly provided in the Plan and in the Trust Agreement.

ARTICLE XI

AMENDMENT OR TERMINATION OF THE PLAN

Section 11.1 Amendment

The Town shall have the right by action of the Town Council, upon recommendation by the Board of Finance, to amend the Plan at any time provided that no amendment shall; (i) cause or permit any portion of the Fund to become the property of the Town until liabilities to Members and Beneficiaries are satisfied, (ii) increase the duties or liabilities of the Trustee without its written consent, or (iii) deprive any Member or Beneficiary retroactively of rights already accrued under the Plan. The Committee may amend the Plan to adopt amendments required to preserve the status of the Plan as a tax-qualified Plan under Section 401(a) of the Code; provided that such amendment does not deprive any Member or Beneficiary retroactively of rights already accrued under the Plan.

Section 11.2 Termination

The Town shall have the right to terminate the Plan at any time subject to the following:

- (a) If the Plan is terminated in its entirety, or if the Town contributions are discontinued (not merely a suspension hereof), the Fund shall be used, subject to the payment of expenses, for the benefit of Members and Beneficiaries and for no other purpose until all liabilities to Members and Beneficiaries for benefits under the Plan to the date of termination or discontinuance of contributions have been satisfied. Any excess remaining in the Fund after satisfaction of all liabilities and expenses of the Plan shall be returned to the Town.
- (b) If the Fund is insufficient to satisfy all liabilities in full, then the assets of the Fund shall be applied in the following order:

First, to provide to each Member an amount equal to his contributions and Former Plan Allocation, with Credited Interest thereon, to the earliest of his Normal or Earlier Retirement Date, whichever is applicable, or the date of termination, reduced by the amount of any payments made to such Member, which amount shall reduce the amounts necessary to provide retirement benefit payments set forth in categories Second through Fourth below.

Second, to provide retirement benefit payments to retired Members and other Members who have attained Normal Retirement Date;

Third, to provide retirement benefit payments to Members who are eligible to retire at Earlier Retirement Date but have not retired;

Fourth, to provide retirement benefit payments to Members who have terminated employment with the Town, or could have terminated such employment, with a right to Termination Benefits for themselves or their Beneficiaries under Article VII hereof; and Fifth, to provide retirement benefit payments to all remaining Members.

Each of the foregoing four categories with the exception of the Second shall be determined as of the date of termination of the Plan, and such categories other than the First are hereinafter referred to as "Classes".

- (c) If upon the application of the assets of the Fund in the order of priority to provide payment in part of liabilities to Members and Beneficiaries in one of the four Classes, there are assets available for that Class but not sufficient to satisfy such liabilities in full, the assets available for that Class shall be applied ratably on the basis of the proportions which the available assets bear to the present values of the accrued retirement benefits of all Members and Beneficiaries in that Class.
- (d) Upon the termination of the Plan, the Fund may be continued in existence and the assets applied to the benefit of the several Classes above set forth, or the Fund may be distributed in the manner set forth in clauses 1 or 2 below, or a combination thereof:
 - 1. by the distribution to each Member or Beneficiary of the present value of what such member or Beneficiary is entitled to receive, either in one lump sum or in installments over a period of not more than five (5) years; or
 - 2. by the purchase annuity contracts of such type(s) as the Board shall determine for the Members and Beneficiaries from an insurance company or companies.
- (e) After the fulfillment of all obligations to Members Beneficiaries provided for in this Article XI, any portion of the Fund remaining as a result of actuarial error may be returned to the Town.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Minors and Incompetents

If any person to whom a benefit is payable from the Fund is a minor, or if the Committee determines that any person to whom such benefit is payable is incompetent by reason of physical or mental disability, any payment due (unless a proper claim therefor shall have been made by a duly appointed guardian, conservator or legal representative) may be made to the Spouse, a child, a parent or a brother or sister of such person, or to any person deemed by the Committee to have incurred expenses for such person otherwise entitled to payment. Any such payment shall be a complete discharge of any liability for such payment under the Plan.

Section 12.2 Fraud and Dishonesty

If any Member in the course of employment with the Town shall commit any act of fraud or dishonesty, in the discretion of the Committee, he shall forfeit to the Fund any and all payments and benefits due or becoming due to him from the Fund other than his contributions and Former Plan Allocation with Credited Interest; provided, however, that such Member may appeal the decision by the Committee by petition to the Board and shall have the right to be represented by counsel at such appeal. In such event the decision of the Board shall be conclusive. Any forfeitures under the provisions of this paragraph shall be forfeitures to the Town and treated thereafter as amounts contributed by the town in the current or next succeeding year.

Section 12.3 Non-Assignability of Benefits

Members and Beneficiaries shall be entitled to all the benefits specifically set out under the terms of the Plan, but, to the extent permitted by law, said benefits or any of the property rights therein shall not be assignable or distributable to any creditor or other claimant of such Member or his Beneficiary. No Member or his Beneficiary shall have the right to anticipate, assign, pledge, accelerate, or in any way dispose of any of the monies or benefits or other property which may be payable to him.

Section 12.4 Non-Liability of Town

All benefits under the Plan shall be paid or provided for solely from the Fund and the Town assumes no liabilities or responsibilities therefor.

Section 12.5 Tenure of Employment

Neither the action of the town in the establishing of this Plan nor any action taken by it or by the Committee hereunder shall be construed as giving any

Employee the right to be retained in the employ of the Town or any other right whatsoever except to the extent of the benefits provided by the Plan to be paid or made available from the Fund.

Section 12.6 Separability of Provisions

If any provisions of this Plan shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the Plan but the Plan shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein

Section 12.7 Unclaimed Benefits

Whenever reasonable efforts fail to locate any Member or Beneficiary entitled to benefits under the Plan within 4 years from the time notice is first received that he is not to be found at the address in the records of the Town, or the Trustee, the Committee may direct that any benefits to which he may be entitled shall thereupon be cancelled and no payment shall be made thereafter to anyone with respect to the benefits so cancelled.

Section 12.8 Applicable Law

The validity of the provisions of this Plan shall be determined under and said provisions shall be construed according to the laws of the State of Connecticut.

ARTICLE XIII

MEDICAL BENEFIT ACCOUNTS

Section 13.1 Establishment of Medical Benefits Account

The Committee shall cause the Trustee to establish a Medical Benefits Account for the purpose of providing for the payment of benefits to the Medical Benefits Account Beneficiaries as set forth in the Town's Medical Plan, which is incorporated herein by reference.

- (a) The medical benefits that will be available and the provisions for determining the amount that will be paid from the Medical Benefits Account are set forth in the Town's Medical Plan as it may be amended by the Town from time to time, or terminated.
- (b) Subject to the limitations of this paragraph, the Medical Benefits Account Beneficiaries shall be specified in the Town's Medical Plan. No benefits may be paid under the Town's Medical Plan from the Medical Benefits Account to any active Employees (or their spouses or dependents) of the Town. Benefits may be paid under the Town Medical Plan from the Medical Benefits Account only to Members and former Members (and their spouses and dependents, if applicable) of the Plan who have separated from service with the Town because of a Disability Retirement Date, a Normal Retirement Date, or an Early Retirement Date.
- (c) Benefits paid from the Medical Benefits Account, when added to any life insurance protection provided by the Plan, if any, shall be subordinate to retirement benefits, such that the aggregate actual contributions for medical benefits, when added to the actual contributions for life insurance protection provided by the Plan, do not exceed twenty-five percent (25%) of the total actual contributions to the Plan (other than contributions to fund past service credits) after the date that the Medical Benefits Account is established. The restrictions of this paragraph shall not apply to amounts added to the Medical Benefits Account pursuant to a Qualified Transfer of Excess Pension Assets.
- (d) The Trustee shall separately account for contributions to the Medical Benefits Account on behalf of each Key Employee. All benefits paid from the Medical Benefits Account to each such Key Employee (and such Key Employee's spouse or dependents) shall be paid solely from the separate account established for such Key Employee. The Trustee shall credit each such separate account with a pro rata share of the gains and losses of the Medical benefits Account, taking into account all contributions to and distributions from such separate account.
- (e) The Town shall, at the time the Town makes a contribution to the Plan, designate the portion of such contribution, if any, allocable to funding the

Medical Benefits Account. Such contributions shall be reasonable and ascertainable.

- (f) No amount of corpus or income may be paid from the Medical Benefits Account for any nonmedical purpose unless all liabilities to Medical Benefits Account Beneficiaries are satisfied. However, payment of necessary or appropriate administrative expenses applicable to the Plan or the Medical Benefits Account may be paid therefrom. In the case of Excess Pension Assets that were contributed to the Medical Benefits Account pursuant to a Qualified Transfer, upon satisfaction of all Medical Benefits Account liabilities, the remaining assets (and any income attributable thereto) shall be transferred back and added to the pension assets of the Plan.
- (g) Upon satisfaction of all Medical Benefits Account liabilities, any remaining assets credited to the Medical Benefits Account shall be paid to the Town. However, no amounts attributable to a Qualified Transfer of Excess Pension Assets shall revert to the Town. Such amounts (and any income attributable thereto) shall be transferred back and added to the pension assets of the Plan.
- (h) Any forfeiture of amounts credited to the Medical Benefits Account shall be applied as soon as possible to reduce future contributions to the Medical Benefits Account.
- (i) The assets allocated to the Medical Benefits Account shall be invested as part of the general Trust Fund.

Section 13.2 Qualified Transfers

No amounts may be transferred to the Medical Benefits Account from the pension assets of the Plan unless they qualify as Excess Pension Assets.

Section 13.3 Limit on Number of Qualified Transfers

Only one transfer of Excess Pension Assets may be made during any taxable year of the Town.

Section 13.4 Limit on Amount of Qualified Transfer

The amount of the Qualified Transfer of Excess Pension Assets in any taxable year shall not exceed the amount reasonably estimated to be paid for Qualified Current Retiree Health Liabilities.

Section 13.5 No Qualified Transfers After 2013

No transfer of Excess Pension Assets shall be made to the Medical Benefits Account after December 31, 2013.

Section 13.6 Limit on Use of Transferred Assets

Excess Pension Assets contributed to the Medical Benefits Account pursuant to a qualified transfer and the income attributable thereto shall be used only to pay Qualified Current Retiree Health Liabilities.

Section 13.7 Qualified Transfer Amounts Paid First

All benefits paid from the Medical Benefits Account shall be treated as paid first out of amounts attributable to Excess Pension Assets transferred to the Medical Benefits Account pursuant to a Qualified Transfer, and any income allocable thereto.

Section 13.8 Vesting Rules in the Event of Qualified Transfers

Notwithstanding any provision of the Plan to the contrary, in the event a Qualified transfer of Excess Pension Assets is made to the Medical Benefits Account, the accrued benefit on behalf of any Member shall be one-hundred percent (100%) vested. The accrued benefit on behalf of any Member who separated from service during the one (1) year period ending on the date of any Qualified Transfer shall be one-hundred percent (100%) vested as if the Plan terminated immediately before such Member's separation from service.

Section 13.9 Applicable Town Cost Restrictions

No transfer of Excess Pension Assets shall be made to the Medical Benefits Account unless the Town Medical Plan provides that the Applicable Town Costs during the Cost Maintenance Period shall be no less than the higher of the Applicable Employer Costs for each of the two (2) taxable years immediately before the taxable year of the transfer.

Section 13.10 No Transfers for Key Employees

No Excess Pension Assets that have been transferred to the Medical Benefits Account pursuant to a Qualified Transfer shall be allocated to the separate subaccounts of Key Employees established under paragraph 13.1(d).

Section 13.11 Definitions

For purposes of this Article, the following terms shall have the following meanings:

- (a) “*Applicable Town Costs*” means the Town’s Qualified Current Retiree Health Liabilities for the taxable year divided by the number of retirees (plus their covered spouses and dependents) to whom health benefits or coverage are provided who, immediately before a Qualified Transfer, are entitled to receive both the health benefits or coverage and also pension benefits under the Plan. For purposes of calculating Applicable Town Costs, Key Employees are not taken into account. In a taxable year in which there is no Qualified Transfer, the calculation of Applicable Town Costs is made as if there had been a transfer at the end of the taxable year. The Town may calculate the Applicable Town Cost separately for those individuals who, at any time during the taxable year, are eligible for benefits under Title XVIII of the Social Security Act and those not so eligible. If a taxable year is in two (2) or more overlapping Cost Maintenance Periods, then the highest Applicable Town cost for the taxable year is taken into account. Finally, in calculating Qualified Current Retiree Health Liabilities for purposes of determining Applicable Town Cost, no reduction shall be made for amounts previously contributed by the Town to the Medical Benefits Account or any welfare benefit fund to pay the Qualified Current Retiree Health Liabilities.
- (b) “*Cost Maintenance Period*” means the five (5) taxable year period beginning with the taxable year in which the Qualified Transfer occurs. A separate Cost Maintenance Period applies to each Qualified Transfer.
- (c) “*Town Medical Plan*” means the plan that sets forth the benefits provided by the Town to Members who are retirees (their spouses and dependents, if provided therein) for sickness, accident, hospitalization or medical expenses, which shall be incorporated herein by reference, that shall be funded in whole or in part by the Medical Benefits Account.
- (d) “*Excess Pension Assets*” means the excess of the fair market value of Plan assets (or, if less, the value for purposes of Code Sec. 412(c)(2) funding standards) over the greater of:
- (1) the amount determined under Code Section 412(c)(7)(a)(i), or the accrued liability under the Plan; and
 - (2) One-hundred-twenty-five percent (125%) of current liability. The determination of the amount of Excess Pension Assets shall be made as of the most recent Plan Valuation Date before a Qualified Transfer. The determination of Excess Pension Assets shall be made in the same manner as the calculation of the full funding limitation for the Plan.
- (e) “*Key Employee*” means any Employee, who at any time during the Plan Year or any preceding Plan Year during which contributions were made

on behalf of such Employee, is or was a Key Employee as defined in Code Section 416(i).

- (f) “*Medical Benefits Account*” means the separate account established under this Article that provides for the payment of benefits for sickness, accident, hospitalization and medical expenses of Medical Benefits Account Beneficiaries and that is intended to satisfy the requirements of Code Sec. 401(h).
- (g) “*Medical Benefits Account Beneficiaries*” means the retired Members, their spouses and dependents who are entitled to benefits pursuant to the terms of the Town Medical Plan.
- (h) “*Qualified Current Retiree Health Liabilities*” means the aggregate amounts (including administrative expenses) related to health benefits provided to retirees who are entitled to receive both health and pension benefits under the Plan (including their spouses and dependents, if applicable) during the taxable year, that would have been deductible for purposes of the Town’s federal income taxes for that taxable year if the benefits were provided directly by the Town and the Town used the cash receipts and disbursements method of accounting, and further assuming that the Town is a tax payer.
- (i) “*Qualified Transfer*” means a transfer of Excess Pension Assets of the Plan into the Medical Benefits Account that does not contravene any other provisions of law and with respect to which the requirements of paragraphs 13.2 through 13.10 of this Article are satisfied.

APPENDIX I

Provisions applicable to Members who are police officers:

1. Section 1.1 Average Annual Compensation

Shall mean, with respect to active Members commencing benefits before age 55, the average of the annual rates of compensation for the three (3) consecutive January 1's within the ten (10) year period immediately preceding the date of computation which will produce the highest such average. In the event the Employee has not completed three (3) years of service on the date of computation, his average annual compensation shall be the average of the annual rates of compensation on the January 1 of each year of employment.

Notwithstanding the foregoing, with respect to active Members commencing benefits on or after age 55, or upon attainment of age 55 for Members commencing benefits before age 55, the definition of Average Annual Compensation shall mean the highest annual rate of compensation as of January 1st within the ten (10) year period immediately preceding the date of computation.

2. Section 1.10 Credited Service

Shall mean the period of a Member's Service, as defined in Section 1.22 of the main document, prior to July 1, 1962 plus the period of a Member's membership in the Plan on and after such date measured in years and completed months except that, in no event, shall periods of membership during which a Member does not receive Compensation from the Town be included in the computation of Credited Service. Effective January 1, 2001, a Member shall be credited with a full month of Credited Service if his date of hire is the first working day in a month or the date of termination is the last working day of the month.

Notwithstanding the foregoing, a Member covered under this Appendix I shall be permitted to sell back to the Town unused paid sick days in excess of one hundred ten (110) days up to one hundred ninety (190) days, in blocks of ten (10), for a .5% increase (per each 10 day block) in the Member's retirement benefit, and up to forty-eight (48) paid vacation days, in blocks of ten (10), for a .5% increase (per each 10 day block) in the Member's retirement benefit. At the time of the Member's retirement, if the Member has the maximum accumulation of one hundred ninety (190) paid sick days and the maximum accumulation of forty-eight (48) paid vacation days which can be sold back to the Town for retirement benefit credit, the Town will add an additional .5% to the Member's retirement benefit for a total increase of 5% to the Member's retirement benefit based on the Member's sold-back paid sick and vacation days.

3. Section 2.2 Membership for Police Officers Engaged by the Town on or after July 1, 1962 but Prior to January 1, 1988

Each Employee who is a police officer and engaged by the Town after the Effective Date but prior to January 1, 1988 shall be eligible for membership in the Plan on the first day

of the month following employment provided he has filed an application for membership with the Committee within such time as the Committee may prescribe and provided he has not attained age forty-five (45).

3. Section 2.3 Membership on and after January 1, 1998

Notwithstanding anything contained in the Plan to the contrary, each Employee covered under this Appendix I shall be eligible for membership in the Plan on the first day of the month following employment, provided that he shall have filed an application for membership within such time as the Committee shall prescribe, except that an Employee who was not a Member of the Plan on January 1, 1988 because of a maximum age condition described in Section 2.2 of the main document shall commence membership in the Plan no earlier than January 1, 1988, provided that such Employee pays the required contributions under the Plan.

4. Section 3.1 Normal Retirement Date

The Normal Retirement Date of Members who are police officers shall be the first day of the month coinciding with or next following attainment of the Members 50th birthday or the completion of twenty (20) years of Service, whichever is the later.

5. Section 3.3 Deferred Retirement Date

A Member who is a police officer may remain in active employment after his Normal Retirement Date except that a Member who, because of mental or physical impairment, can no longer perform his or her normal duties may be retired by the Police Commission. With the approval of the Police Commission, a Member who is a police officer may remain in active employment after his Normal Retirement Date provided that such Member makes an annual request in writing at least 120 days prior to his birthday in each calendar year, and further provided that if such Member attained his 52nd birthday and completed at least 20 years of service on or before September 1, 1972 he may remain in active employment provided he had made a written request at least 120 days prior to September 1, 1972.

6. Section 4.1 Retirement at Normal or Deferred Retirement Date

Notwithstanding anything contained in the Plan to the contrary, a Member covered under this Appendix I shall have a retirement benefit equal to 2.5% of his Average Annual Compensation (as defined above) immediately prior to Normal Retirement Date or Deferred Retirement Date, whichever is applicable, multiplied by his years of Credited Service (including 1/12th of a year for each completed month in excess of completed years) up to a maximum of 30 years of Credited Service.

7. Section 4.3 Retirement At Disability Retirement Date

In the event a Member retires on a Disability Retirement Date within the first five (5) years of his employment, his annual disability retirement benefit, will be equal to 50% of his Average Annual Compensation immediately prior to his Disability Retirement Date

less any Workmen's Compensation benefit which may be payable to such Member. In the event a Member retires on a Disability Retirement Date after he has completed five (5) years of Service, the disability retirement benefit of such Member shall be equal to 50% of his Average Annual Compensation immediately prior to his Disability Retirement Date. Provided, however, that in no event shall the Member's disability retirement benefit plus any Workmen's Compensation benefit he may be entitled to receive exceed his Compensation immediately prior to his Disability Retirement Date.

8. Section 6.4 Benefit Payable Upon Death of a Member with Surviving Spouse or Surviving Dependent Children

(a) In the event of the death of a Member after becoming fully vested in a retirement benefit because of the completion of five years of Service (ten years of Service prior to March 1, 1999) or if such Member's death is service connected whether or not he has completed five (5) or more years of Service, and if such Member is survived by a Spouse or if no surviving Spouse, such Member is survived by a Dependent or Dependents, then there shall be payable to such surviving Spouse or such surviving Dependent or Dependents an annual benefit, payable in equal monthly installments, equal to 60% of the Member's Average Annual Compensation as of his date of death or date of retirement, whichever is the earlier.

If such Member is a retired Member (i.e., was actively employed by the Town until either his or her Early Retirement Date or Normal Retirement Date) or a terminated Member with a deferred vested benefit, the annual benefit set forth above shall not exceed the annual retirement benefit of the Member under the Plan. In the case of a terminated Member with a deferred vested benefit, the death benefit payable to the Spouse or Dependent child, if any, shall commence as of the Member's Normal Retirement Date. In no event shall a death benefit payable hereunder to an individual other than the Member's Spouse be permitted if the single sum value of the benefit payable to the Member is less than 51% of the single sum value of the amount of benefit the Member would have received if the benefit was payable for the Member's life only.

- (b) The death benefit provided under the Plan shall commence (except as otherwise specifically provided in (a) above) to be paid on the first day of the month next following the Member's death and shall cease on the first day of the month next preceding (i) the date of death or date of remarriage of the Spouse or (ii) the date of death of the Dependent or date such Dependent attains age eighteen (18) or age twenty-four (24) if a full-time student at an institution of post-secondary education.
- (c) In the event of the death or remarriage of a Spouse receiving benefits hereunder, the surviving Dependent or Dependents under eighteen (18) years of age or under twenty-four (24) years of age if a full-time student at

an institution of post-secondary education of the deceased Member and such Spouse shall commence to receive the same benefit the Spouse had been receiving commencing on the first day of the month coinciding with or next following the date of such Spouse's death or remarriage.

- (d) In the event more than one Dependent child is entitled to benefits under this Section 6.4, upon the attainment of each Dependent child's eighteenth (18) birthday (or twenty-fourth (24) birthday if a full-time student at an institution of post-secondary education) or upon the death of any such Dependent child, the benefit shall be reapportioned to the surviving Dependent children.

9. Section 7.1 Termination Benefit

Notwithstanding anything contained in the Plan to the contrary, the Termination Benefit of a Member covered by this Appendix I who terminates employment prior to eligibility for Normal Retirement Date (as defined above) shall be an amount determined under Section 7.1(b) of the main document regardless of years of Service completed; provided, however, that in lieu of a return of his contributions plus Credited Interest, a Member may elect a deferred vested benefit payable as of the first day of the month following his attainment of age sixty-five (65) and based on his Average Annual Compensation and Years of Credited Service as of his termination of employment.

10. Section 8.1 Member's Contributions

Notwithstanding anything contained in the Plan to the contrary, on and after September 1, 1972 but before July 1, 1989, a Member who is a police officer and who does not pay taxes on Compensation under the Federal Insurance Contributions Act, the Annual Contribution shall be 7% of such Compensation for each calendar year and on or before July 1, 1997. Thereafter, Annual Contributions shall be:

<u>Effective</u>	<u>Amount</u>
July 1, 1997	5 3/4%
July 1, 1998	5 1/2%
July 1, 1999	5 1/4%
July 1, 2000	3 3/4%
July 1, 2001	2 1/4%
July 1, 2002	3/4%

Effective on or after July 1, 2000, Members' who have completed 30 or more years of service shall not be required to make annual contributions under the Plan and no such contributions shall be accepted.

Employees hired on or after July 1, 2003 and before June 30, 2006 may elect to buy, during their first year of employment, active United States Military service time of up to four (4) years. Employees who elect to buy active military service time shall pay their "buy in" contribution either in a lump sum or in equal weekly installments over a period of no longer duration than the military service time to be bought. The amount of the "buy

in” contribution shall be based on the rate of pension contributions and compensation in effect at the time of the “buy in” or during any period such “buy in” payments are made.

Employees hired before July 1, 2003 may elect to buy, during their first year following such date, active United States Military service time of up to four (4) years. Employees who elect to buy active military service time shall submit their “buy in” contribution either in a lump sum or in equal weekly installments over a period of no longer duration than two (2) times the military service time to be bought. No employee shall be credited with active military service time in excess of that for which he/she has completed his/her “buy in” contribution. The amount of the “buy in” contribution shall be equal to an average of the employee’s pension contributions made during his/her employment from date of hire to payment in full of the “buy in” time. Such average pension contribution shall be calculated as of the date of such contributions begin and shall be recalculated on each January 1st and July 1st thereafter until payment in full of the “buy in” time.

The active military service time for which contributions are completed shall apply for the purposes of computing number of years of service for benefits, but will not be counted towards the years of active service needed to retire, or years of active service necessary to “vest” benefits.

The employee’s Military Discharge Form DD-214 shall be used to determine active military service time.

APPENDIX II

Provisions applicable to Member's who are firemen-engineers and firefighters:

1. Section 1.1 Average Annual Compensation

Shall mean the highest annual rate of compensation as of January 1st within the ten (10) year period immediately preceding the date of computation.

2. Section 1.10 Credited Service

Shall mean the period of a Member's Service, as defined in Section 1.22 of the main document, prior to July 1, 1962 plus the period of a Member's membership in the Plan on and after such date measured in years and completed months except that; in no event, shall periods of membership during which a Member does not receive Compensation from the Town be included in the computation of Credited Service. Effective January 1, 2001, a Member shall be credited with a full month of Credited Service if his date of hire is the first working day in a month or the date of termination is the last working day of the month.

Notwithstanding the foregoing, a Member covered under this Appendix II shall be permitted to sell back to the Town unused paid sick days in excess of one hundred ten (110) up to one hundred ninety (190), payable at 50%, in one-day increments at a credit of .05% for retirement benefit purposes, and up to forty-four (44) paid vacation days in one-day increments at a credit of .05% for retirement benefit purposes. At the time of the Member's retirement, if the Member has the maximum forty (40) paid sick days and the maximum forty (44) paid vacation days which can be sold back to the Town for retirement benefit credit, the Town will add an additional .8% to the Member's retirement benefit for a total increase of 5% to the Member's retirement benefit based on the Member's sold-back paid sick and vacation days.

3. Section 2.2 Membership for Fireman-Engineer and Firefighters Engaged by the Town on or after July 1, 1962 but Prior to January 1, 1988

Each Employee who is a fireman-engineer or firefighter and engaged by the Town after the Effective Date but prior to January 1, 1988 shall be eligible for membership in the Plan on the first day of the month following employment provided he has filed an application for membership with the Committee within such time as the Committee may proscribe and provided he has not attained age forty-five (45).

4. Section 2.3 Membership on and after January 1, 1998

Notwithstanding anything contained in the Plan to the contrary, each Employee covered under this Appendix II shall be eligible for membership in the Plan on the first day of the month following employment, provided that he shall have filed an application for membership within such time as the Committee shall prescribe, except that an Employee who was not a Member of the Plan on January 1, 1988 because of a maximum age condition described in Section 2.2 of the main document shall commence membership in

the Plan no earlier than January 1, 1988, provided that such Employee pays the required contributions under the Plan.

5. Section 3.1 Normal Retirement Date

The Normal Retirement of Members who are firemen-engineers or firefighters, effective on and after January 1, 1987, shall be the first day of the month coinciding with or next following attainment of the Member's 55th birthday, or the completion of twenty-five (25) years of Service, whichever is later; provided, however, that the following table shall apply in determining the Normal Retirement Date of a fireman-engineer or firefighter who is in active employment in the specified Plan Year:

Plan Year	
July 1, 2003 – June 30, 2004	Later of attainment of 54th birthday and completion of twenty-four (24) years of service
July 1, 2004 – June 30, 2005	Later of attainment of 53rd birthday and completion of twenty-three (23) years of service
July 1, 2005 – June 30, 2006	Later of attainment of 52nd birthday and completion of twenty-two (22) years of service
July 1, 2006 – June 30, 2007	Later of attainment of 51st birthday and completion of twenty-one (21) years of service
July 1, 2007 – June 30, 2008 and later Plan Years	Later of attainment of 50th birthday and completion of twenty (20) years of service

6. Section 3.3 Deferred Retirement Date

With the approval of the Fire Commission a Member who is a fireman-engineer or firefighter may remain in active employment after his Normal Retirement Date but in no event may a fireman-engineer or firefighter remain in active employment after his 65th birthday.

7. Section 4.1 Retirement at Normal or Deferred Retirement Date

Notwithstanding anything contained in the Plan to the contrary, a Member covered under this Appendix II shall have a retirement benefit equal to 2.5% of his Average Annual Compensation (as defined above) immediately prior to Normal Retirement Date or Deferred Retirement Date, whichever is applicable, multiplied by his years of Credited Service (including 1/12th of a year for each completed month in excess of completed years) up to a maximum of 30 years of Credited Service.

8. Section 4.3 Retirement At Disability Retirement Date

In the event a Member retires on a Disability Retirement Date within the first five (5) years of his employment, his annual disability retirement benefit, will be equal to 50% of

his Average Annual Compensation immediately prior to his Disability Retirement Date less any Workmen's Compensation benefit which may be payable to such Member. In the event a Member retires on a Disability Retirement date after he has completed five (5) years of Service, the disability retirement benefit of such Member shall be equal to 50% of his Average Annual Compensation immediately prior to his Disability Retirement Date. Provided, however, that in no event shall the Member's disability retirement benefit plus any Workmen's Compensation benefit he may be entitled to receive exceed his Compensation immediately prior to his Disability Retirement Date.

9. Section 6.4 Benefit Payable Upon Death of a Member with Surviving Spouse or Surviving Dependent Children

(a) In the event of the death of a Member after becoming fully vested in a retirement benefit because of the completion of five years of Service (ten years of Service prior to March 1, 1999) or if such Member's death is service connected whether or not he has completed five (5) or more years of Service, and if such Member is survived by a Spouse or if no surviving Spouse, such Member is survived by a Dependent or Dependents, then there shall be payable to such surviving Spouse or such surviving Dependent or Dependents an annual benefit, payable in equal monthly installments, equal to 60% of the Member's Average Annual Compensation as of his date of death or date of retirement, whichever is the earlier.

If such Member is a retired Member (i.e., was actively employed by the Town until either his or her Early Retirement Date or Normal Retirement Date) or a terminated Member with a deferred vested benefit, the annual benefit set forth above shall not exceed the annual retirement benefit of the Member under the Plan. In the case of a terminated Member with a deferred vested benefit, the death benefit payable to the Spouse or Dependent child, if any, shall commence as of the Member's Normal Retirement Date. In no event shall a death benefit payable hereunder to an individual other than the Member's Spouse be permitted if the single sum value of the benefit payable to the Member is less than 51% of the single sum value of the amount of benefit the Member would have received if the benefit was payable for the Member's life only.

(b) The death benefit provided under the Plan shall commence (except as otherwise specifically provided in (a) above) to be paid on the first day of the month next following the Member's death and shall cease on the first day of the month next preceding (i) the date of death or date of remarriage of the Spouse or (ii) the date of death of the Dependent or date such Dependent attains age eighteen (18) or age twenty-four (24) if a full-time student at an institution of post-secondary education.

- (c) In the event of the death or remarriage of a Spouse receiving benefits hereunder, the surviving Dependent or Dependents under eighteen (18) years of age or under twenty-four (24) years of age if a full-time student at an institution of post-secondary education of the deceased Member and such Spouse shall commence to receive the same benefit the Spouse had been receiving commencing on the first day of the month coinciding with or next following the date of such Spouse's death or remarriage.
- (d) In the event more than one Dependent child is entitled to benefits under this Section 6.4, upon the attainment of each Dependent child's eighteenth (18) birthday (or twenty-fourth (24) birthday if a full-time student at an institution of post-secondary education) or upon the death of any such Dependent child, the benefit shall be reapportioned to the surviving Dependent children.

10. Section 7.1 Termination Benefit

Notwithstanding anything contained in the Plan to the contrary, the Termination Benefit of a Member covered by this Appendix II who terminates employment prior to eligibility for Normal Retirement Date (as defined above) shall be an amount determined under Section 7.1(b) of the main document regardless of years of Service completed; provided, however, that in lieu of a return of his contributions plus Credited Interest, a Member may elect a deferred vested benefit payable as of the first day of the month following his attainment of age sixty-five (65) and based on his Average Annual Compensation and Years of Credited Service as of his termination of employment.

11. Section 8.1 Members' Contributions

Notwithstanding anything contained in the Plan to the contrary, on and after September 1, 1972, a Member who is a fireman-engineer or firefighter who does not pay taxes on such Compensation under the Federal Insurance Contributions Act, 5% of Compensation for each calendar year prior to January 1, 1987 and 6% of Compensation for each calendar year on or before July 1, 1997. Thereafter Annual Contributions shall be:

Effective Date	Amount
July 1, 1997	5 ¾%
July 1, 1998	5 ½%
July 1, 1999	5 ¼ %
July 1, 2000	3 ¾%
July 1, 2001	2 ¼ %
July 1, 2002	¾%

Effective on and after July 1, 2000, Members' who have completed 30 or more years of service shall not be required to make Annual Contributions under the Plan and no such contributions shall be accepted.

APPENDIX III

Provisions applicable to Members who are represented employees under the Department of Public Works Local 1303-013 of Connecticut #4 American Federation of State, County and Municipal Employees – (AFL-CIO):

1. Section 1.1 Average Annual Compensation

Shall mean the highest annual rate of compensation as of January 1st within the ten (10) year period immediately preceding the date of computation.

2. Section 1.10 Credited Service

Shall mean the period of a Member's Service, as defined in Section 1.22 of the main document, prior to July 1, 1962 plus the period of a Member's membership in the Plan on and after such date measured in years and completed months except that; in no event, shall periods of membership during which a Member does not receive Compensation from the Town be included in the computation of Credited Service. Effective January 1, 2001, a Member shall be credited with a full month of Credited Service if his date of hire is the first working day in a month or the date of termination is the last working day of the month.

Notwithstanding the foregoing, a Member covered under this Appendix III shall be permitted to sell back to the Town up to twenty-five (25) paid sick days in one-day increments for a .5% increase in the Member's retirement benefit, and up to fifty (50) paid vacation days in one-day increments for a .5% increase in the Member's retirement benefit. At the time of the Member's retirement, if the Member has sold back to the Town the maximum accumulation of 25 paid sick days and the maximum accumulation of 50 paid vacation days, the Town will add an additional .5% to the Member's retirement benefit for a total increase of 4.25% to the Member's retirement benefit based on the Member's sold-back paid sick and vacation days.

3. Section 2.3 Membership on and after January 1, 1988

An Employee not engaged by the Town prior to January 1, 1988 shall be eligible for membership in the Plan on the first day of the month following employment provided that he shall have filed an application for membership within such time as the Committee shall prescribe, except that an Employee who was not a Member of the Plan on January 1, 1988 because of a maximum age condition described in Section 2.2 or an Appendix shall commence membership in the Plan no earlier than January 1, 1988, provided that such Employee pays the required contributions under the Plan.

Notwithstanding the foregoing or anything contained in the Plan to the contrary, effective as of July 1, 2010, no person who is (i) a represented employee under the Department of Public Works Local 1303-013 of Connecticut #4 American Federation of State, County and Municipal Employees – (AFL-CIO) and (ii) first employed by the Town on or after July 1, 2010 shall become a Member of the Plan.

4. Section 4.1 Retirement at Normal or Deferred Retirement

Notwithstanding anything contained in the Plan to the contrary, a Member covered under this Appendix III shall have a retirement benefit equal to 2% of his Average Annual Compensation (as defined above) immediately prior to Normal Retirement Date or Deferred Retirement Date, whichever is applicable, multiplied by his years of Credited Service (including 1/12th of a year for each completed month in excess of completed years) up to a maximum of 30 years of Credited Service.

Notwithstanding the foregoing, effective as of January 1, 2010, a Member covered under this Appendix III shall have a retirement benefit equal to 2.25% of his Average Annual Compensation (as defined above) immediately prior to Normal Retirement Date or Deferred Retirement Date, whichever is applicable, multiplied by his years of Credited Service (including 1/12th of a year for each completed month in excess of completed years) up to a maximum of 30 years of Credited Service.

5. Section 4.2 Early Retirement

Notwithstanding anything contained in the Plan to the contrary, the annual retirement benefit of a Member who retires from active service on and after July 1, 1996 and on or after age sixty (60) with at least 25 years of Service will not be reduced for the purpose of early commencement under the Plan.

6. Section 4.3 Retirement at Disability Retirement Date

In the event a Member retires on a Disability Retirement Date within the first five (5) years of his employment, his annual disability retirement benefit, including his Social Security Benefit, will be equal to 40% of his Average Annual Compensation immediately prior to his Disability Retirement Date less any Workers' Compensation benefit which may be payable to such Member. In the event a Member retires on a Disability Retirement Date after he has completed five (5) years of Service, the disability retirement benefit (including his Social Security Benefit) of such Member shall be equal to 40% of his Average Annual Compensation immediately prior to his Disability Retirement Date. Provided, however, that in no event shall the Member's disability retirement benefit plus any Social Security Benefits and Workers' Compensation benefit he may be entitled to receive exceed his Compensation immediately prior to his Disability Retirement Date.

7. Section 8.1 Member's Contributions

Effective on and after January 1, 2001, the annual contribution rate for a Member covered by this Appendix shall be 1% of all compensation reportable on Form W-2. Effective on and after July 1, 2010, the annual contribution rate for a Member covered by this Appendix shall be 1.5% of all compensation reportable on Form W-2.

APPENDIX IV

Provisions applicable to Members who are Board of Education and Library employees.

1. Section 1.1 Average Annual Compensation

Shall mean the average of the annual rates of compensation for the three (3) consecutive January 1's within the ten (10) year period immediately preceding the date of computation which will produce the highest such average. In the event the Employee has not completed three (3) years of service on the date of computation, his average annual compensation shall be the average of the annual rates of compensation on the January 1 of each year of employment.

2. Section 1.7 Compensation

Shall mean the basic salary being regularly paid by the Town to an Employee. Basic salary shall exclude any overtime pay, bonuses, gratuities, commissions, retainer fees, benefits, severance pay, allowance for expenses, or other special remuneration.

Notwithstanding the foregoing, with respect to a Board of Education employee who is a represented employee in the New Canaan Educational Secretaries' Association Local 1303-281, Council 4, American Federation of State, County and Municipal Employees, AFL-CIO, Compensation shall include all longevity payments made to the employee.

Effective January 1, 1989, Compensation shall be limited to \$200,000 indexed at the same time and same manner as under Section 415(d) of the Code for Plan Years beginning after July 1, 1989, provided that such Compensation limitation shall not have the effect of decreasing a Member's benefit under the Plan determined on July 1, 1989. Effective July 1, 1994, Compensation each Plan Year shall be limited to \$150,000 (as adjusted under Code Section 401(a)(17)). Any adjustment in the compensation limitation shall be effective only in the Plan Year in which such adjustment is effective under Code Section 401(a)(17).

3. Section 1.10 Credited Service

Shall mean the period of a Member's Service, as defined in Section 1.22 of the main document, prior to July 1, 1962 plus the period of a Member's membership in the Plan on and after such date measured in years and completed months except that; in no event, shall periods of membership during which a Member does not receive Compensation from the Town be included in the computation of Credited Service. Effective January 1, 2001, a Member shall be credited with a full month of Credited Service if his date of hire is the first working day in a month or the date of termination is the last working day of the month.

Notwithstanding the foregoing, with respect to an Employee who is a Board of Education Institutional Aide, Board of Education Supervisory Aide or Board of Education Transportation Aide, such Employee shall be credited with Service (i) with respect to the one year of Service that such Employee was required to wait until commencing

participation in the Plan and (ii) during the months that school is not in session, provided that such Employee is still actively employed by the Town at the beginning of the subsequent school year. In the event that such an Employee terminates employment with the Town at any point during the period between school years, the Employee shall not receive any Service credit for any portion of such period.

4. Section 2.3 Membership on and after January 1, 1988

An Employee not engaged by the Town prior to January 1, 1988 shall be eligible for membership in the Plan on the first day of the month following employment provided that he shall have filed an application for membership within such time as the Committee shall prescribe, except that an Employee who was not a Member of the Plan on January 1, 1988 because of a maximum age condition described in Section 2.2 or an Appendix shall commence membership in the Plan no earlier than January 1, 1988, provided that such Employee pays the required contributions under the Plan.

Notwithstanding the foregoing, effective July 1, 2006, an Employee who is a Board of Education Institutional Aide, Board of Education Supervisory Aide or Board of Education Transportation Aide who is not a Member of the Plan as of June 30, 2006 shall become a Member of the Plan as of the first day of the month coincident with or next following one year of Service.

Notwithstanding the foregoing or anything contained in the Plan to the contrary, effective as of January 1, 2011, no person who is (i) a non-bargained Board of Education or Library employee and (ii) first employed by the Town on or after January 1, 2011 shall become a Member of the Plan.

5. Section 4.1 Retirement at Normal or Deferred Retirement Date

Notwithstanding anything contained in the Plan to the contrary, a Member covered under this Appendix IV shall have a benefit equal to (i) minus (ii) as follows, but not less than (iii):

- (i) 2½% of his Average Annual Compensation (as defined above) immediately prior to his Normal Retirement Date or Deferred Retirement Date, if applicable, multiplied by his years of Credited Service (including 1/12th of a year for each completed month in excess of completed years) up to a maximum of 30 years of Credited Service; minus
- (ii) his Maximum Offset Allowance;
- (iii) the amount computed under (i) based on Average Annual Compensation and Credited Service as of December 31, 1988.

6. Section 8.1 Member's Contributions

Effective on and after July 1, 1998, the annual contribution rate for a Member covered by this Appendix shall be 2% of base salary.