

STATE OF NEW YORK

AND

THE POLICE BENEVOLENT ASSOCIATION

OF THE

NEW YORK STATE TROOPERS, INC.

TROOPERS UNIT

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Preamble

WHEREAS, the Executive Branch of the State of New York ("State") and the Police Benevolent Association of New York State Troopers, Inc. (PBA) desire to enter into a constructive, cooperative and harmonious relationship; to negotiate salaries, wages, hours of work, and other terms and conditions of employment; to establish an equitable and peaceful procedure for the resolution of differences; to provide a procedure for the amicable discussion of matters of mutual interest; and to promote effective service by the members towards the accomplishment of the mission of the Division of State Police and the orderly and uninterrupted operations of the government;

THEREFORE, this Agreement by and between the parties is entered into on August 6, 2008.

ARTICLE 1

PBA Recognition

1.1 The State pursuant to the Certification of Representative and Order to Negotiate issued on December 18, 1990, by the Public Employment Relations Board (Case C-3735) recognizes the PBA as the sole and exclusive representative with rights granted by Section 208 of the Civil Service Law for collective negotiations with respect to salaries, wages, hours and other terms and conditions of employment and in the administration of grievances of employees serving in positions in the Unit consisting of Troopers in the Division of State Police.

1.2 For the purpose of this Agreement the terms "member" and "members" refer to all members of the Division of State Police in the title of Trooper.

1.3 In the event that new titles are established and their inclusion in or exclusion from this Unit becomes a dispute between the parties, either party to this Agreement may apply to the Public Employment Relations Board for resolution of the dispute.

1.4A The State will not negotiate terms and conditions of employment of members with any other employee organization, member or group of members. If and when such an organization, member or group of members request such a meeting for negotiations, the State will refer it to the PBA as the certified representative organization.

1.4B Nothing in this Article shall affect or impair the right of the State to consult or meet with individual members or groups of members concerning the exercise of their rights under any law or Rules or Regulations of the Division provided that PBA's sole and exclusive representation rights are fully protected and preserved.

ARTICLE 2

Bill of Rights

The State and the PBA agree that members of the Division of State Police covered by this Agreement possess the following rights to be exercised in accordance with the provisions of this Agreement:

- a member shall be entitled to present grievances pursuant to the grievance procedure set forth in this Agreement;
- a member shall be entitled to PBA representation at each and every step of the grievance procedure as set forth in this Agreement;
- a member shall be entitled to the rights enumerated in the Member's Rights Article 16 of this Agreement in administrative investigation and interrogation conducted by the Division as described in such Article;
- in a disciplinary proceeding instituted pursuant to Rule 3 (Disciplinary Action) of the NYSP Administrative Manual, a member shall be entitled to PBA representation and/or counsel of the member's choice, as provided for in that Rule;
- a member shall not be coerced or intimidated or suffer any reprisals either directly or indirectly which may adversely affect the member's hours, wages or working conditions as a result of the exercise of his rights under this Agreement;
- a member is entitled to exercise applicable rights under Article 14 of the Civil Service Law free from coercion, intimidation or reprisal from the State and the PBA;
- as provided for in Rule 3 (Disciplinary Action) of the NYSP Administrative Manual, the State shall bear the burden of proof in disciplinary hearings.

ARTICLE 3

Term of Agreement

The term of this Agreement shall be from April 1, 2007 through March 31, 2011.

ARTICLE 4

Non-Discrimination

4.1 The State agrees to continue its established policy against all forms of illegal discrimination including discrimination with regard to race, creed, color, national origin, sex or age.

4.2 The PBA agrees to continue its policy to admit all members to membership and to represent all members without regard to race, creed, color, national origin, age or sex.

4.3 The State agrees not to interfere with the rights of members guaranteed by Article 14 of the Civil Service Law, as amended (Taylor Law). There shall be no discrimination, interference, restraint, or coercion by the State or any State representative against any member because of PBA membership or because of any activity permissible under the Taylor Law and this Agreement.

4.4 The PBA acknowledges its obligation to represent the interests of all members in the Unit with respect to collective negotiations, the administration of this Agreement, the resolution of grievances and all other matters concerning terms and conditions of employment subject to the limitations set forth elsewhere in this Agreement.

4.5 All references to members in this Agreement designate both sexes and, wherever the male gender is used, it shall be construed to include male and female members as appropriate.

ARTICLE 5

Management Rights

Except as expressly limited by the provisions of this Agreement, all of the authority, rights, and responsibilities of the State are retained by it including the sole right to conduct the business of and carry out the mission of the Division of State Police. Such rights are subject to such conditions, requirements and limitations as may be applicable under law, and must be exercised consistently with the other provisions of this Agreement. Such rights include but are not limited to the following:

1. To determine the mission and policies of the State.
2. To determine the facilities, methods, means and number of personnel; to designate the members needed to carry out the State's mission; and to introduce new or improved methods or facilities.
3. To administer the merit system, including the classification, examination, selection, hiring, retention, promotion, assignment, or transfer of members pursuant to law and the Rules and Regulations of the Division.
4. To discipline or discharge members in accordance with the Rules and Regulations of the Division.
5. To direct the work of the members.
6. To make Rules, Regulations and policies concerning personnel procedures and practices, subject however, to the procedures described in Article 28 of this Agreement.

ARTICLE 6

Protection of Members

6.1 The State shall not contract out for goods and services performed by members which will result in any member being reduced or laid off without prior consultation with the PBA concerning any possible effect on the terms and conditions of employment of members covered by this Agreement.

6.2 In the event that layoffs occur among members of this Unit of the Division, they shall be made first in order of reverse seniority by E.O.D. E.O.D. is to be adjusted by any interruption of continuous service of a year or more or any period of disciplinary suspension.

ARTICLE 7

PBA Organizational Rights

7.1 *Bulletin Boards*

A. The State agrees to furnish reasonable space on bulletin boards presently maintained at stations and work areas principally occupied by uniformed personnel for exclusive use of the PBA. There shall be no such bulletin board space reserved exclusively for the use of any other employee organization except an employee organization which has been certified as the representative of other State employees at such stations.

B. The PBA agrees to limit its posting of notices and bulletins to such bulletin board space.

C. The PBA agrees that it will not post material which may be profane or derogatory to any individual, the State or the Division or which constitutes campaign material for or against any person, organization or faction thereof. All bulletins or notices shall be signed by the PBA's President, or one of the PBA's Executive Board Members.

D. Copies of any material to be posted shall be furnished to the appropriate Troop Commander and, when the subject matter concerns all members represented by the PBA, to Division headquarters.

E. Any material which the State alleges to be in violation of this Agreement may be removed by the State and the PBA informed. The matter may then be referred to Step 3 of the grievance procedure for resolution. In stations where there have been repeated violations, advance approval of the Division of all future material to be posted may be required.

7.2 Access to Employees and Meeting Space

A. PBA representatives shall have exclusive visitation rights at stations for the purpose of administering this Agreement and the PBA shall exercise this right in a manner so as not to interfere with Division operations.

B. PBA representatives who are members shall have visitation rights at stations for the purpose of explaining PBA membership, services and programs, provided that such activities shall take place during members' non-duty hours and shall not interfere with Division operations.

C. PBA representatives shall have the right to visit the State Police Academy during non-training hours for the purpose of explaining PBA membership, services and programs. Such right of access for any other employee organization shall be restricted to those individuals for whom such organization is the negotiating representative. Recruit attendance at any presentation made during such visit shall be voluntary. Arrangements for such visits shall be made with the prior approval of the Academy Director.

D. The Division may provide meeting space to the PBA upon written request from the President or his official designee in buildings owned or leased by the State. Meeting space shall be provided, subject to the following conditions:

- (1) Suitable space is not reasonably available elsewhere in the area;
- (2) The PBA agrees to reimburse the State for any additional expenses incurred by the State, including furnishing janitorial services, and any other expense which would not have been incurred had the space not been available to the PBA;
- (3) The request for the use of such space is made in advance;
- (4) Such use will not interfere with Division operations.

7.3 Employee Organization Leave

Employee Organization Leave is released time without charge to the member's leave credits. Employee Organization Leave is subject to prior approval as set forth herein and shall be granted provided the leave is requested with proper notice and the resulting absence will not interfere with the proper conduct of Division functions. Time spent by members on Employee Organization Leave, during scheduled duty tours, shall be considered time worked for overtime purposes. However, in no event shall Employee Organization Leave that extends beyond the scheduled duty tour, or that is used on pass days, be considered as time worked for the purpose of computing overtime pay or for the accrual of equivalent time off. Members shall not be permitted to change their pass days in order to facilitate using Employee Organization Leave during their regularly scheduled duty tours. Employee Organization Leave shall be categorized as either Banked Leave or Non-Banked Leave.

A. Banked Leave

- (1) PBA Board of Directors members, including the President, shall be provided with a total of 325 days (one day being one duty tour) of Banked Leave credit during each year of the Agreement. Leave under this paragraph may be used for the following purposes:
 - (a) attending PBA Board of Directors Meetings;

- (b) attending Board of Directors Committee Meetings;
 - (c) attending Troop and Station Meetings;
 - (d) attending PERB conferences and hearings (for time in addition to that set forth in paragraph 7.3 B[1][i]); and
 - (e) Other necessary organizational purposes. In such event, the Deputy Superintendent – Employee Relations, or his/her designee, shall be advised of the name, general reason and general location of the individual on Banked Leave.
- (2) The PBA Board of Directors members, including the President, shall also be provided with a total of 44 days (one day being one duty tour) of Banked Leave which may only be used for necessary travel time in conjunction with the events set forth in paragraph 7.3(A)(1). Travel time shall be defined as time during regularly scheduled work hours spent in actual and necessary travel to attend a meeting or series of meetings on consecutive days. Travel time shall be used in a minimum of four (4) hour blocks. In the event that the 44 days for the travel time are exhausted by the PBA prior to the end of a given year, the PBA can use the Banked Leave provided in paragraph 7.3(A)(1) for necessary travel time.
- (3) In addition to using Banked Leave, PBA Board of Directors members, including the President, can choose to use their own off duty time or, when approved by a supervisor, their own leave accruals for the purposes set forth in paragraph 7.3(A)(1) and (2). Except as provided in Paragraph 7.3(B)(1)(i), Non-Banked Leave shall not be used for any of the purposes set forth in paragraphs 7.3(A)(1) and (2).

- (4) The allocation of Banked Leave among individuals on the Board of Directors shall be the sole prerogative of the PBA.
- (5) All requests for Banked Leave must be made to the Deputy Superintendent - Employee Relations, or his/her designee. Absent circumstances beyond the PBA's control, the PBA must request permission to use Banked Leave at least 48 hours in advance of the leave. Absent circumstances beyond the PBA's control which prevent giving such notice, failure to provide such notice shall result in the denial of the request for Banked Leave. In the event that the request for Banked Leave is denied based on failure to give proper notice, but where such leave would otherwise be approved, the member shall be allowed to use his/her leave accruals to cover the period of absence.
- (6) The Deputy Superintendent - Employee Relations, or his/her designee, shall send the PBA a statement at the end of each month detailing the Banked Leave used under paragraphs 7.3(A)(1) and (2). This statement shall be presumed correct unless the PBA, within five (5) working days of their receipt of the statement, advises the Deputy Superintendent - Employee Relations, or his/her designee, of any errors.

B. Non-Banked Leave

- (1) Non-Banked Leave, which shall include reasonable preparation time, shall be used for the following purposes:
 - (a) Grievance investigation and administration, including but not limited to attendance at hearings at Steps 1, 2 and 3 of the grievance process.

- (b) Attendance at grievance arbitration hearings and Step 4 non-contract meetings with the Director of the Governor's Office of Employee Relations or his/her designee;
- (c) Representation during disciplinary investigations and hearings;
- (d) Attendance at labor/management meetings;
- (e) Negotiations for the renewal or extension of an existing Agreement;
- (f) Negotiations for a successor Agreement;
- (g) Representation during critical incidents and administrative investigations;
- (h) Interest arbitration proceedings;
- (i) PERB conferences and hearings limited to one (1) PBA Officer and one Delegate; and
- (j) Other occasions as approved by the Deputy Superintendent – Employee Relations, or his/her designee.

(2) Notice Requirements:

- (a) Requests for Non-Banked Leave as set forth in paragraph 7.3(B)(1)(a), (c) and (g) must be made to a Commissioned Officer or his/her designee. Absent circumstances beyond the PBA's control, the PBA must request permission to use such Non-Banked Leave at least 48 hours in advance of the leave. Absent circumstances beyond the PBA's control which prevent giving such notice, failure to provide this notice shall result in the denial of the request for Non-Banked Leave. In the event that the request for Non-Banked Leave is denied based on failure to give proper notice, but where such leave

would otherwise be approved, the member shall be allowed to use Banked Leave, if he/she is a PBA Board Member, including the President, or if he/she chooses, his/her leave accruals to cover the period of absence.

(b) Requests for Non-Banked Leave under paragraph 7.3(B)(1)(b), (d), (i) and (j) must be made to the Deputy Superintendent - Employee Relations or his/her designee. Absent circumstances beyond the PBA's control, the PBA must request permission to use Non-Banked Leave at least 48 hours in advance of the leave. Absent circumstances beyond the PBA's control which prevent giving such notice, failure to provide such notice shall result in the denial of the request for Non-Banked Leave. In the event that the request for Non-Banked Leave is denied based on failure to give proper notice, but where such leave would otherwise be approved, the member shall be allowed to use Banked Leave, if he/she is a PBA Board Member, including the President, or if he/she chooses, his/her leave accruals to cover the period of absence.

(c) Requests for leave under paragraph 7.3(B)(1)(e), (f) and (h) shall be made to the Director of the Governor's Office of Employee Relations, or his/her designee, and to the Deputy Superintendent - Employee Relations, or his/her designee. Absent circumstances beyond the PBA's control, the PBA must request permission to use Non-Banked Leave at least 48 hours in advance of the leave. Absent circumstances beyond the PBA's control which prevent giving such

notice, failure to provide such notice shall result in the denial of the request for Non-Banked Leave. In the event that the request for Non-Banked Leave is denied based on failure to give proper notice, but where such leave would otherwise be approved, the member shall be allowed to use Banked Leave, if he/she is a PBA Board Member, including the President, or if he/she chooses, his/her leave accruals to cover the period of absence.

- (3) Upon approval, leave under paragraph 7.3(B)(1)(e), (f) and (h) shall be granted to the members of the PBA negotiating committee, whose numbers shall not exceed the number of members on the existing Board of Directors. The PBA shall provide the State and the Division with the names of the PBA negotiating committee members prior to the start of negotiations.

(4) Travel Time

Travel time used in conjunction with an event set forth in paragraph 7.3(B)(1) shall not exceed the reasonable and customary time necessary for travel each way in connection with any meeting or series of meetings.

C. Absent circumstances beyond the PBA's control, no approved Banked Leave shall be modified subsequent to 12:00 p.m. on the day preceding the date leave is to be taken, or subsequent to the time of the leave.

D. Absent circumstances beyond the PBA's control, Non-Banked Leave which was approved pursuant to paragraph 7.3(B)(1)(b), (d), (e), (f), (h), (i) or (j) shall not be modified subsequent to 12:00 p.m. on the day preceding the date leave is to be taken, or subsequent to the time of the leave.

E. Absent circumstances beyond the PBA's control, Non-Banked Leave which was approved pursuant to paragraph 7.3 (B)(1), (a), (c) or (g) shall not be modified subsequent to the time of the leave.

F. Under special circumstances and upon advance request, additional Employee Organization Leave for additional meetings may be granted by the Director of the Governor's Office of Employee Relations or his/her designee.

G. The PBA shall provide the State and the Division with the names and PBA designation of all Board of Directors members and shall notify the State and the Division of any changes.

H. Nothing herein shall prevent the Division from canceling approved Banked Leave and/or Non-Banked Leave under this paragraph 7.3, due to unforeseen circumstances which would interfere with the proper conduct of Division functions.

I. In the event of any disagreement regarding the interpretation or application of paragraph 7.3, or any modification thereof, prior to filing a contract grievance, the PBA shall request a Labor Management meeting with Division. In the event that any such disagreement is not satisfactorily resolved within twenty (20) working days of the PBA's request for a Labor Management meeting, the PBA can file a contract grievance which shall be processed directly at Step 3 (Contract Grievance) not later than thirty (30) working days following the date of the PBA's request for a Labor Management meeting.

7.4 Unchallenged Representation

The State and the PBA agree pursuant to Section 208 of the Civil Service Law that the PBA shall have unchallenged representation status for the maximum period permitted by law on the date of execution of this Agreement.

7.5 *PBA Leave*

A permanent member or members nominated by the PBA may be granted leave of absence with full salary from the member's or members' regular position or positions for the purpose of serving with the employee organization, subject to the conditions of this section. Each such leave, its term and renewal, shall be subject to the discretionary approval of the Director of the Governor's Office of Employee Relations, or his/her designee. The PBA shall periodically, as specified by the Director of the Governor's Office of Employee Relations, or his/her designee, reimburse the State for the salary or wages paid to each such member by the State during such leave of absence, together with the cost of fringe benefits at the percentage of salary or wages as determined by the Comptroller. The PBA shall purchase an insurance policy in the form and amount satisfactory to the Director of the Governor's Office of Employee Relations, or his/her designee to protect the State in the event the State is held liable for any damages or suffers any loss by reason of any act or omission by such employee during the period of such leave of absence with full salary.

7.6 *Agency Shop*

The PBA has the right to invoke Agency Shop during the term of this Agreement, as permitted by law.

7.7 *Exchange of Information*

The State will furnish the PBA an alphabetical listing of the names and addresses of all members of this Unit as soon as practicable and update said list on a quarterly basis. Such list shall also include the member's date of enlistment, date of birth, and rank. The State shall also supply the PBA with a copy of the Troop and Station Roster on a quarterly basis. The PBA shall supply the Superintendent and the Director of Employee Relations with a list of names and

addresses of all duly appointed or elected representatives who will represent the PBA in the administration of this Agreement.

7.8 *Indemnification of State*

The PBA shall indemnify and save the State harmless against any and all claims, demands, suits or other forms of liability which may arise out of, or by reason of, action taken by any member who is at the time acting in his/her capacity as a PBA representative or other official of the PBA.

ARTICLE 8

Checkoff

8.1 The PBA shall have exclusive payroll deduction of membership dues and premiums for group insurance and mass-merchandising automobile and homeowners' insurance policies sponsored by the PBA and no other employee organization or group shall be accorded any such payroll deduction privilege except by express written concurrence of the PBA.

8.2 The amount to be deducted for PBA dues shall be certified to the State by the PBA and the aggregate deductions together with a list of members for whom deductions were made shall be remitted forthwith to the PBA.

8.3 The PBA shall indemnify and save the State harmless against any and all claims, demands, suits or other forms of liability which may arise out of, or by reason of, action taken by the State for the purpose of complying with any of the provisions of this Article.

8.4 The State and PBA shall prepare, secure introduction and recommend passage by the Legislature of such legislation as may be appropriate and necessary to provide for the following:

The State agrees that, for the term of this Agreement, voluntary deductions for PBA dues and insurance will be made available to retirees who retired on or after January 1, 1987. Such deductions will be subject to procedures developed by the NYSPFRS.

ARTICLE 9

Credit Union Deduction

The State agrees to deduct from the salary of a member an amount authorized in writing by the member which shall be within the minimum and maximum amounts specified by the Comptroller and to transmit such funds to a bona fide credit union. The sums transmitted shall be used for appropriate purposes and their specific allocation shall be determined by an arrangement between the member and the member's credit union. The authorization for such deductions may be withdrawn by a member at any time upon filing of a written notice of such withdrawal with the State Comptroller. The deductions shall be in accordance with reasonable rules and regulations of the Comptroller not inconsistent with law which may be necessary for the exercise of this authority under this Article.

ARTICLE 10

Salaries

10.1 The State shall prepare, secure introduction and recommend passage by the Legislature of appropriate and necessary legislation in order to provide benefits described in this Article.

10.2 *General Salary Increase*

A. There shall be a new salary schedule effective 4/1/07 that shall reflect a 3% raise effective on April 1, 2007 and rounded to the nearest whole dollar. This shall be applicable for Trainee 2 step and above. There shall be no increase to the Trainee 1 rate. (See Appendix A).

B. Effective April 1, 2008, the April 1, 2007 salary schedule shall be increased by 3% and rounded to the nearest whole dollar. This increase shall not be applicable to the Trainee 1 rate. (See Appendix A).

C. Effective April 1, 2009, the April 1, 2008 salary schedule shall be increased by 3% and rounded to the nearest whole dollar. This increase shall not be applicable to the Trainee 1 rate. (See Appendix A).

D. Effective April 1, 2010, the April 1, 2009 salary schedule shall be increased by 4% and rounded to the nearest whole dollar. This increase shall not be applicable to the Trainee 1 rate. (See Appendix A).

E. As agreed between the parties in 1985, the one payroll period (two weeks) lag payroll shall continue during the term of the Agreement. Further, the salary deferral program instituted by legislative action in 1990, and implemented in 1991, shall remain in effect. Members shall recover monies deferred under this program at the time they leave State service, pursuant to the provisions of Chapter 947 of the Laws of 1990, as amended by Chapter 782 of the Laws of 1991. Members newly added to the payroll shall have five days of salary deferred pursuant to the provisions of Chapter 947 of the Laws of 1990, as amended by Chapter 782 of the Laws of 1991.

10.3 *Physical Fitness Program*¹

A. There shall continue to be a Labor Management Committee (Joint Committee) consisting of representatives of the Division of State Police and the PBA for the purpose of evaluating the assessment, study and testing of Members of this Unit in relation to the Physical Fitness Program. The annual amount available to fund the Physical Fitness Program shall be one million two hundred and eighty-five

¹ See Appendix F with respect to the issue of arbitrability of Article 10.3.

thousand four hundred and forty (\$1,285,440.00) dollars. Members of this Unit who satisfy certain agreed upon standards shall continue to be entitled to a fitness stipend, the individual amount of which shall continue to be determined by the aforementioned Joint Committee. The fitness stipend shall be paid in a lump sum to each qualifying Member on or about December 1 of each fiscal year or as otherwise determined by the Joint Committee.

- B. The fitness stipend shall be in addition to and shall not be part of a Member's annual basic salary, and shall not affect nor impair any increments or other rights or benefits to which the Member may be entitled; provided, however, that the amount of any fitness stipend shall be included as compensation for overtime and retirement purposes.
- C. During the term of this contract, the parties agreed that monies from the physical fitness fund shall be transferred to the PBA's Employee Benefit Fund as follows:
 - a. Effective April 1, 2007— \$100 per member.
 - b. Effective April 1, 2008 —\$100 per member.
 - c. Effective April 1, 2009 —\$100 per member.
 - d. Effective April 1, 2010 —\$110 per member.
 - e. Effective in the fiscal year beginning April 1, 2011, the physical fitness fund shall return to its level as of March 31, 2007.
- D. The parties may convene the Joint Committee to discuss and agree to expending physical fitness monies, including the amounts referenced in Article 10.3C for a mutually agreeable purpose. If the parties fail to agree, the monies shall be used to run the physical fitness program in existence as of March 31, 2007.

10.4 *Expanded Duty Pay*

Effective April 1, 2007, all Troopers at the Trainee 2 rate and higher shall receive expanded duty pay in the amount of three thousand eight hundred fifty-two dollars (\$3,852). Effective April 1, 2008 this amount shall be increased to five thousand fifty-two dollars (\$5,052). Effective April 1, 2009, this amount shall be increased to six thousand two hundred fifty-two dollars (\$6,252). Effective April 1, 2010, this amount shall be increased to seven thousand four hundred fifty-two dollars (\$7,452).

Expanded duty pay shall not be paid to unit members who are at Trainee 1 rate. Expanded duty pay shall be annualized and paid in the member's regular bi-weekly paycheck. Expanded duty pay shall be in addition to and shall not be a part of the member's annual basic salary, and shall not affect or impair any rights or benefits to which the member may be entitled; provided, however, that such expanded duty pay shall be included as compensation for purposes of computation of overtime pay and retirement.

10.5 *Location Compensation and Supplemental Location Compensation*

A. Location Compensation (Regular)

Notwithstanding any other provision of law to the contrary, members whose principal place of employment, or, in the case of a field employee, whose official station as determined in accordance with the regulations of the state comptroller, is located in the City of New York, or in the County of Rockland, Westchester, Nassau or Suffolk shall receive location pay in accordance with the following schedule:

Effective April 1, 2007	\$1393
Effective April 1, 2008	\$1434
Effective April 1, 2009	\$1477
Effective April 1, 2010	\$1536

Such location pay shall continue to be annualized and paid during regular bi-weekly periods. Such location pay shall be in addition to, and shall not be a part of, a member's annual basic salary, and shall not affect or impair any increments or other rights or benefits to which the member may be entitled; provided, however, that the location pay shall be included as compensation for purposes of compensation of overtime pay and for retirement purposes.

B. Location Compensation (Supplemental)

Notwithstanding any other provision of law to the contrary, and in addition to any applicable location compensation (regular) set forth in Paragraph A above, effective April 1, 2007, members whose principal place of employment, or, in the case of a field employee, whose official station as determined in accordance with the regulations of the state comptroller, is in the City of New York, or in the County of Rockland, Westchester, Putnam, Orange, Dutchess, Nassau or Suffolk, shall receive supplemental location compensation as follows:

Putnam, Orange and Dutchess	\$1160
New York City, Rockland and Westchester	\$1739
Nassau and Suffolk	\$2029

Effective April 1, 2008, supplemental location compensation shall be increased as follows:

Putnam, Orange and Dutchess	\$1195
New York City, Rockland and Westchester	\$1791
Nassau and Suffolk	\$2090

Effective April 1, 2009, supplemental location compensation shall be increased as follows:

Putnam, Orange and Dutchess	\$1230
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New York City, Rockland and Westchester	\$1845
Nassau and Suffolk	\$2153

Effective April 1, 2010, supplemental location compensation shall be increased as follows:

Putnam, Orange and Dutchess	\$1280
New York City, Rockland and Westchester	\$1918
Nassau and Suffolk	\$2239

Such supplemental location pay shall continue to be annualized and paid during regular bi-weekly periods. Such supplemental location compensation shall be in addition to, and shall not be part of, a member's annual basic salary, and shall not affect or impair any increments or other rights or benefits to which a member may be entitled; provided, however, that such compensation shall be included as compensation for purposes of computation of overtime pay and for retirement purposes.

C. Location Compensation (Monroe County)

Members whose principal place of employment, or, in the case of a field employee whose official station as determined in accordance with the regulations of the state comptroller, is located in the County of Monroe and who were on the payroll on March 31, 1985, and who have received this location compensation continually since then, shall continue to receive location pay at the rate of two hundred dollars (\$200) per year, provided the member continues to be otherwise eligible. Such location pay shall continue to be annualized and paid during the regular bi-weekly periods.

Such location pay shall be in addition to, and shall not be a part of, a member's annual basic salary, and shall not affect or impair any increments or other rights or benefits to which

the member may be entitled; provided, however, that the location pay shall be included as compensation for purposes of computation of overtime pay and for retirement purposes.

10.6 *Member in Charge of Satellite Station*

A member in charge of a satellite station shall be paid a four hundred and thirty-five dollar (\$435.00) per year stipend. This stipend shall be paid on a bi-weekly basis. The stipend provided by this paragraph shall be in addition to, and shall not be a part of, a member's annual basic salary, and shall not impair any increments or other rights or benefits to which a member may be entitled; provided, however, that this stipend shall be included as compensation for purposes of computation of overtime pay and for retirement purposes.

10.7 *Longevity*

A. (1) Effective April 1, 2007, the longevity schedule for all members of the bargaining unit shall be as follows:

6 to 10 years of service = \$430 per year

11 to 15 years of service = \$480 per year

16 to 25 years of service = \$530 per year

(2) Effective April 1, 2008, the longevity schedule for all members of the bargaining unit shall be as follows:

6 to 10 years of service = \$460 per year

11 to 15 years of service = \$510 per year

16 to 25 years of service = \$560 per year

(3) Effective April 1, 2009, the longevity schedule for all members of the bargaining unit shall be as follows:

6 to 10 years of service = \$500 per year

11 to 15 years of service = \$550 per year

16 to 25 years of service = \$600 per year

(4) Effective April 1, 2010, the longevity schedule for all members of the bargaining unit shall be as follows:

6 to 10 years of service = \$540 per year

11 to 15 years of service = \$590 per year

16 to 25 years of service = \$640 per year

The longevity amount is capped at the twenty-five (25) years of service level for those with those with twenty-six (26) years of service and above. Individuals with greater than twenty-five (25) years of service shall continue to receive the longevity benefit at the twenty-five (25) year amount.

B. For purposes of this paragraph, the term “years of service” shall mean the number of years an individual has as a sworn member within the Division of State Police, regardless of bargaining unit. In calculating an individual’s longevity, all years of service are multiplied by the yearly amount applicable to the range of years that the individual’s years of service falls into.

C. Such payment shall commence in the pay period following such anniversary date. Longevity shall be annualized and paid in the member’s regular bi-weekly paycheck. The longevity benefit provided by this paragraph shall be in addition to, and shall not be a part of, a member’s annual basic salary, and shall not impair any increments or other rights or benefits to which a member may be entitled; provided, however, that longevity benefits shall be included as compensation for purposes of computation of overtime pay and for retirement purposes.

10.8 *Uniformed Members Hazardous Duty Pay.*

A. Effective April 1, 2010, all unit members shall receive Uniformed Members Hazardous Duty Pay in the amount of twelve hundred dollars (\$1,200) annually.

B. Such Uniformed Members Hazardous Duty Pay shall be paid on an annual basis during the pay period that includes December first for those members who were on the payroll on November first of such year. Such additional compensation as provided in this section shall be in addition to, and shall not be part of, the member's annual basic salary, and shall not affect or impair any rights or benefits to which the member may be entitled; provided, however, that such additional compensation shall be included as compensation for purposes of computation of overtime pay and retirement.

10.9 Members of this Unit shall continue to be entitled to payroll deductions for an individual retirement account (IRA) established either by the State of New York or effective April 1, 1985, by the PBA of the New York State Troopers, Inc.

ARTICLE 11

Health, Dental and Prescription Drug Insurance

11.1 The State shall continue to provide all the forms and extent of coverage as defined by the contracts in force on March 31, 1995, or as modified by the Tripartite Arbitration Panel Awards covering the periods 1995-1999, 1999-2001, 2001-2003, and the 2003-2007 Collective Bargaining Agreement unless specifically modified or replaced pursuant to this Agreement.

Eligibility

11.2(a)(1) A permanent full-time employee who loses employment as a result of the abolition of a position shall continue to be covered under the State Health Insurance Plan for one year following such layoff or until re-employment by the State or employment by another employer, in a benefits eligible position, whichever occurs first. The premium contribution

required of preferred list eligibles for such continuation shall be the same as the premium contribution required of an active employee.

11.2(a)(2) Covered dependents of employees who are activated for military duty as a result of an action declared by the President of the United States or Congress shall continue health insurance coverage with no employee contribution for a period not to exceed 12 months from the date of activation, less any period the employee remains in full pay status. Contribution free health insurance coverage will end at such time as the employee's active duty is terminated, 12 months have expired, or the employee returns to State employment whichever occurs first.

11.2(a)(3) Covered dependent students shall be provided with a three month extended benefit period upon graduation from a qualified course of study. Effective January 1, 2009, covered dependent students shall be provided with a three-month extended benefit upon completion of each semester. The benefit extension will begin on the first day of the month in which dependent student coverage would otherwise end and will last for three months or until such time as eligibility would otherwise be lost under existing plan rules.

11.2(a)(4) Domestic Partners who meet the definition of a domestic partner and can provide acceptable proofs of financial interdependence, as outlined in the Affidavit of Domestic Partnership and Affidavit of Financial Interdependency shall be eligible for health care coverage.

11.2(a)(5) Unmarried dependent children under the age of 21 (or 19 if enrolled in an HMO) are eligible for dependent coverage.

11.2(a)(6) Unmarried dependent children who are 21 or over (or 19 years if enrolled in an HMO) but under the age of 25 are eligible for dependent coverage if they are full-time students.

11.2(b) There shall be a waiting period of fifty-six (56) days after employment before a new employee shall be eligible for enrollment under the State's Health Insurance Programs, Dental Program and Vision Care Program.

Benefits Management Program

11.3(a)(1) Pre-certification will be required for all elective inpatient confinements for appropriateness of setting and effectiveness of treatment alternatives.

11.3(a)(2) Pre-certification will be required prior to maternity admissions in order to highlight appropriate prenatal services and reduce costly and traumatic birthing complications.

11.3(a)(3) A call to the Benefits Management Program will be required within 48 hours of admission for all emergency or urgent admissions to permit early identification of potential "case management" situations.

11.3(a)(4) Pre-certification will be required prior to an admission to a Skilled Nursing Facility (SNF).

11.3(a)(5) The hospital deductible amount imposed for non-compliance with pre-certification requirements will be \$200. This deductible will be fully waived in instances where the medical record indicates that the patient was unable to make the call. In instances of non-compliance, a retroactive review of the necessity of services received shall be performed.

11.3(a)(6) Any day deemed inappropriate for an inpatient setting and/or not medically necessary after exhausting the internal and external appeal processes will be excluded from coverage under the Empire Plan.

11.3(a)(7) The Prospective Procedure Review Program (PPR) will screen for the medical necessity of certain listed diagnostic procedures which, based on Empire Plan experience, have been identified as potentially unnecessary or over-utilized.

11.3(a)(8) The Empire Plan Benefits Management Program Prospective Procedure Review requirement includes Magnetic Resonance Imaging (MRI). Effective January 1, 2009, Computerized Axial Tomography (CAT Scans), Positron Emission Tomography (PET scans), Magnetic Resonance Angiography (MRAs) and Nuclear Medicine will be added to the Prospective Procedure Review Program.

- Enrollees will be required to call the Benefits Management Program for Pre-certification when a listed elective, outpatient procedure is recommended, Enrollees will be requested to call two weeks before the date of the procedure.
- Current co-insurance levels will apply for failure to comply with the requirements of the Prospective Procedure Review Program.

Hospital Services

11.4(a)(1) The copayment for emergency room services is \$60. Effective January 1, 2010 the Hospital Emergency Room copayment will increase to \$70. The copayment for outpatient services covered by the hospital contract is \$35 per outpatient visit. Effective January 1, 2010, the copayment for outpatient services covered by the hospital contract, except for outpatient surgery, will be \$40. Effective January 1, 2010, the copayment for hospital outpatient surgery will be \$60. The Emergency room and hospital outpatient copayment will be waived for persons admitted to the hospital as an inpatient directly from the outpatient setting, for pre-admission testing/pre-surgical testing prior to inpatient admission or for the following covered chronic care outpatient services: chemotherapy, radiation therapy, or hemodialysis or any other services that require long-term outpatient visits approved by the Joint Committee.

11.4(a)(2) Coverage for services provided in the outpatient department of a hospital include services provided in a remote location of the hospital (hospital owned and operated extension clinics). Emergency care provided in such remote location of the hospital will be subject to the \$60 emergency room copayment effective January 1, 2007. Outpatient services provided in such remote location of the hospital will be subject to the \$35 outpatient hospital copayment. Effective January 1, 2010, the copayment for outpatient services covered by the hospital contract, except for outpatient surgery, will be \$40. Effective January 1, 2010, the copayment for hospital outpatient surgery will be \$60. These copayments will be waived for persons admitted to the hospital as an inpatient directly from the outpatient setting.

11.4(a)(3) The copayment for all pre-admission testing/pre-surgical testing prior to an inpatient admission will be waived.

11.4(a)(4) The Hospital component (inpatient and outpatient services) of the Empire Plan includes the following:

- The Hospital carrier will continue to provide a network of hospitals (acute care general hospitals, skilled nursing facilities and hospices) throughout the United States.
- Any hospital that does not enter into a participating agreement with the hospital carrier will be considered to be a non-network facility.
- Covered inpatient services received at a network hospital will be paid-in-full. Covered outpatient services (outpatient lab, x-ray, etc. and emergency room) received at a network hospital will be subject to the appropriate copayment.

- Covered inpatient services received at a non-network hospital will be reimbursed at 90% of charges. There will be a separate \$1500 annual Hospital coinsurance maximum per enrollee, enrolled spouse/domestic partner and all dependent children combined established for non-network hospital out-of-pocket expenses.
- The \$1500 Hospital coinsurance maximum is for non-network hospital expenses only and cannot be combined with any coinsurance maximums for other Empire Plan components.
- Covered outpatient services received at a non-network hospital will be reimbursed at 90% of charges or subject to a \$75 copayment whichever is greater. The non-network outpatient coinsurance will be applied toward the \$1500 annual coinsurance maximum.
- Once the enrollee, enrolled spouse/domestic partner or all dependent children combined have incurred \$500 in non-network expenses, a claim may be filed with the medical carrier for reimbursement of out-of-pocket non-network expenses incurred above the \$500 and up to the balance of the coinsurance maximum. Effective January 1, 2009, once the enrollee, enrolled spouse or domestic partner, or all dependent children combined have incurred \$500 in annual non-network hospital expenses, a claim may be filed with the Empire Plan medical carrier for reimbursement of out-of-pocket non-network hospital expenses incurred above the \$500 and up to \$1,000. Effective January 1, 2011, the Empire Plan medical carrier will no longer reimburse out-of-pocket non-network hospital expenses.

- Services received at a non-network hospital will be reimbursed at the network level of benefits under the following situations:
 - Emergency outpatient/inpatient treatment;
 - Inpatient/outpatient treatment only offered by a non-network hospital;
 - Inpatient/outpatient treatment in geographic areas where access to a network hospital exceeds 30 miles or does not exist; and
 - Care received outside of the US
- Anesthesiology, pathology and radiology services received at a network hospital will be paid-in-full less any appropriate copayment even if the provider is not participating in the Empire Plan participating provider network under the medical component.

Medical Services

11.5 The Empire Plan shall include medical/surgical coverage through use of participating providers who will accept the Plan's schedule of allowances as payment in full for covered services. Except as noted below, benefits will be paid directly to the provider at 100 percent of the Plan's schedule not subject to deductible, coinsurance, or annual and lifetime maximums.

11.5(a)(1) Office visit charges by participating providers will be subject to an \$18 copayment per covered individual. Covered surgical procedures rendered by participating providers will be subject to an \$18 copayment. Effective July 1, 2009, the participating provider office visit and office surgery charges will be subject to a \$20 copayment. In the event that

there is both an office visit charge and an office surgery charge by a participating provider in any single visit, the covered individual will be subject to a single copayment.

11.5(a)(2) All covered radiology services rendered by participating providers will be subject to an \$18 copayment per covered individual. All covered outpatient diagnostic/laboratory services rendered by participating providers will be subject to an \$18 copayment per covered individual. Effective July 1, 2009, the participating provider radiology and outpatient diagnostic/laboratory charges will be subject to a \$20 copayment. Outpatient radiology services and diagnostic/laboratory services rendered during a single visit by the same participating provider will be subject to a single copayment. The office visit, office surgery, outpatient radiology and laboratory copayment amounts may be applied against the basic medical coinsurance maximum, however, they will not be considered covered expenses for basic medical payment.

11.5(a)(3) All covered services provided at a participating ambulatory surgery center are subject to a \$15 copayment by the enrollee. Effective January 1, 2009, services provided at a participating ambulatory surgery center will be subject to a \$30 copayment. All anesthesiology, radiology and laboratory test performed on-site on the day of the surgery shall be included in this single copayment.

11.5(b) The State shall require the insurance carriers to continue to actively seek new participating providers in regions that are deficient in the number of participating providers, as determined by the Joint Committee on Health and Dental Benefits.

11.5(c) Periodic evaluation and adjustment of basic medical Reasonable and Customary charges will be performed according to guidelines established by the basic medical plan provider.

11.5(d) Covered charges for medically appropriate local professional ambulance transportation will be a covered basic medical expense subject only to a \$35 copayment. Volunteer ambulance transportation will continue to be reimbursed for donations at the current rate of \$50 for under 50 miles and \$75 for 50 miles or over. These amounts are not subject to deductible or coinsurance.

11.5(e) Effective January 1, 2007 the basic medical component deductible shall be \$335 per enrollee; \$335 per enrolled spouse; and \$335 per all dependent children combined. On each successive January 1, the basic medical component deductible will increase by a percentage amount equal to the percentage increases in the medical care component of the CPI for Urban Wage Earners and Clerical Workers, All Cities (CPI-W) for the period July 1 through June 30 of the preceding year. Covered expenses for mental health and/or substance abuse treatment or physical medicine services are excluded in determining the basic medical component deductible.

11.5(f) Effective January 1, 2007 the maximum annual coinsurance under the basic medical component is \$1,241. The basic medical component reimbursement shall be 80 percent of reasonable and customary charges after the deductible is met for the first \$1,241 of covered expenses in a calendar year, then 100 percent of reasonable and customary covered expenses. Effective January 1, 2009, the maximum annual coinsurance out-of-pocket expense under the basic medical component is \$800 per enrollee; \$800 per enrolled spouse or domestic

partner; and \$800 per all dependent children. On each successive January 1, the maximum annual coinsurance out-of-pocket expense will increase by a percentage amount equal to the percentage increase in the medical care component of the CPI for Urban Wage Earners and Clerical Workers, All Cities (CPI-W) for the period July 1 through June 30 of the preceding year. Covered expenses for mental health and/or substance abuse treatment or physical medicine services are excluded in determining the maximum annual coinsurance limit.

11.6 Empire Plan Disease Management Program

The Empire Plan medical component shall include a voluntary disease management program. Disease Management covers those illnesses identified to be chronic, high cost, impact quality of life, and rely considerably on the patient's compliance with treatment protocols. Current programs include Cardiovascular Risk Reduction, Asthma and Diabetes. The Empire Plan Disease Management Program shall include the following: Congestive Heart Failure, Sleep Apnea, Depression, Chronic Obstructive Pulmonary Disease. Effective January 1, 2009 Chronic Kidney Disease, Eating Disorders and Attention Deficit Hyperactivity Disorder will be added to the Empire Plan Disease Management Program. As soon as practicable thereafter nutritional services will be covered for those Disease Management Programs identified when clinically appropriate.

11.7 Empire Plan Managed Physical Medicine Program (MPN)

The Empire Plan's medical care component will continue to offer a comprehensive managed care network benefit for the provision of medically necessary physical medicine services, including physical therapy and chiropractic treatments as follows:

- Authorized network care will be available, subject only to the Plan's participating provider office visit copayment(s).
- Unauthorized medically necessary care, at enrollee choice, will also be available, subject to an annual deductible of \$250 per enrollee, \$250 per spouse/domestic partner and \$250 for one or all dependent children and a maximum payment of 50% of the network allowance for the service(s) provided. Maximum benefits for non-network care will be limited to \$1,500 in payments per person per calendar year. Deductible/coinsurance payments will not be applicable to the Plan's annual basic medical deductible/coinsurance maximums.

11.8 PBA Trooper Unit Empire Plan Enhancements

In addition to the basic Empire Plan benefits, the Empire Plan for PBA Trooper Unit enrollees shall include:

- (a) The State agrees to provide alternative Health Maintenance Organization (HMO) coverage.
- (b) The annual and lifetime maximum for each covered person under the basic medical component shall be unlimited.
- (c) Routine pediatric care including all preventive pediatric immunizations, both oral and injectable, shall be considered a covered medical expense under the participating provider component and the basic medical component. Influenza vaccine will be on the list of pediatric immunizations, subject to appropriate protocols, under the participating provider and basic medical components of the Empire Plan.

(d) The newborn care allowance under the basic medical component shall be \$150 not subject to deductible or coinsurance.

(e) The Pre-Tax Contribution Program will continue unless modified or exempted by the Federal Tax Code.

(f) An employee retiring from State service may delay commencement or suspend his/her retiree health coverage and the use of the employee's sick leave conversion credits indefinitely, provided that the employee applies for the delay or suspension, and furnishes proof of continued coverage under the health care plan of the employee's spouse, or from post-retirement employment. The surviving spouse of a retiree who dies while under a delay or suspension may transfer back to the State Health Insurance Plan on the first of any month coinciding with or following the retiree's death.

(g) Office visit charges by participating providers for well childcare will be excluded from the office visit copayment.

(h) Charges by participating providers for professional services for allergen immunotherapy in the prescribing physician's office or institution and chronic care services for chemotherapy, radiation therapy, hemodialysis and any major injuries or diseases that require long-term doctor visits approved by the Joint Committee on Health Benefits will be excluded from the office visit copayment.

(i) In the event that there is both an office visit charge and office surgery charge by a participating provider in any single visit, the covered individual will be subject to a single copayment.

(j) Outpatient radiology services and laboratory services rendered during a single visit by the same participating provider will be subject to a single copayment.

(k) Dual Annuitant Sick Leave Credit

- An employee who is eligible to continue health insurance coverage upon retirement and who is entitled to a sick leave credit to be used to defray any employee contribution toward the cost of the premium, may elect an alternative method of applying the basic monthly value of the sick leave credit.
- Employees selecting the basic sick leave credit may elect to apply up to 100 percent of the calculated basic monthly value of the credit toward defraying the required contribution to the monthly premium during their own lifetime. If employees who elect that method predecease their eligible covered dependents, the dependents may, if eligible, continue to be covered, but must pay the applicable dependent survivor share of the premium.
- Employees selecting the alternative method may elect to apply only up to 70 percent of the calculated basic monthly value of the credit toward the monthly premium during their own lifetime. Upon the death of the employee, however, any eligible surviving dependents may also apply up to 70 percent of the basic monthly value of the sick leave credit toward the dependent survivor share of the monthly premium for the duration of the dependents' eligibility. The State has the right to make prospective changes to the percentage of credit to be available under this alternative method for future retirees as required to maintain the cost neutrality of this feature of the plan.

- The selection of the method of sick leave credit application must be made at the time of retirement, and is irrevocable. In the absence of a selection by the employee, the basic method shall be applied.

(I) The Home Care Advocacy Program (HCAP) will provide paid-in-full network services in the home for medically necessary private duty nursing, home infusion therapy and durable medical equipment.

The Home Care Advocacy Program (HCAP) non-network benefit for individuals who fail to have medically necessary designated HCAP services and supplies pre-certified by calling HCAP and/or individuals who use a non-network provider will be subject to the following provisions:

- Where nursing services are rendered, the first 48 hours of nursing care will not be a covered expense.
- Services (including nursing services), equipment and supplies will be subject to the annual basic medical deductible and reimbursed at 50 percent of the HCAP network allowances.
- The basic medical out-of-pocket maximum will not apply to HCAP designated services, equipment and supplies.
- Effective January 1, 2009, the HCAP program will provide coverage for one pair of diabetic shoes per year. Coverage will be provided as follows:
 - individuals who use a network provider will receive a paid in full benefit up to a maximum of \$500 per year;
 - individuals who use a non-network provider will receive reimbursement under the Basic Medical Component of the Empire Plan, subject to deductible with the

remainder paid at 75 percent of the HCAP network allowance up to a maximum of \$500 per year.

(m) All professional component charges associated with ancillary services billed by the outpatient department of a hospital for emergency care for an accident or for sudden onset of an illness (medical emergency) will be a covered expense under the participating provider or the basic medical component of the Empire Plan not subject to deductible or coinsurance, when such services are not otherwise included in the hospital facility charge covered by the hospital carrier.

(n) Effective January 1, 2007 Employees and their covered spouses 50 years of age and older shall be allowed reimbursement up to \$250 per calendar year towards the cost of a routine physical examination. These benefits shall not be subject to a deductible or coinsurance.

(o) Services for examinations and/or purchase of hearing aids shall be a covered basic medical benefit not subject to deductible or coinsurance. The hearing aid reimbursement will not be subject to deductible or coinsurance. Effective January 1, 2006 the hearing aid reimbursement is a maximum of \$1,500, per hearing aid, per ear, once every four years, not subject to deductible or coinsurance. For children 12 and under the same benefits can be available after 24 months, when it is demonstrated that a covered child's hearing has changed significantly and the existing hearing aid(s) can no longer compensate for the child's hearing impairment. Coincident with the implementation of the new hearing aid allowance, If a significant change in hearing occurs and the existing hearing aid(s) can no longer compensate for the hearing impairment, eligible enrollees over the age of 12 may be eligible to receive the benefit prior to 4 years.

(p) The Empire Plan participating provider and basic medical coverage for the treatment of infertility will be modified as follows:

- Access to designated “Centers of Excellence” including a travel benefit;
- Treatment of “couples” as long as both partners are covered either as enrollee or dependent under the Empire Plan;
- Lifetime coverage limit per individual of \$50,000;
- Prior authorization required for certain procedures.

(q) The medical component of the Empire Plan shall include a voluntary nurse-line feature to provide both clinical and benefit information through a toll-free phone number.

(r) (1) Mastectomy Brassieres prescribed by a physician, including replacements when it is functionally necessary to do so, shall be a covered benefit under the basic medical component of the Empire Plan.

(2) External mastectomy prostheses are a covered in full benefit, not subject to deductible or coinsurance. Coverage will be provided by the medical carrier as follows:

- Benefits are available for one single/double mastectomy prosthesis in a calendar year.
- Pre-certification through the Home Care Advocacy Program is required for any single external prosthesis costing \$1,000 or more. If a less expensive prosthesis can meet the individual’s functional needs, benefits will be available for the most cost-effective alternative.

(s) The cost of certain injectable adult immunizations shall be a covered expense, subject to copayments, under the participating provider portion of the Empire Plan. The list of immunizations shall include Influenza, Pneumococcal Pneumonia, Measles, Mumps, Rubella, Varicella and Tetanus Toxoid, Human Papilloma Virus (HPV) and Meningococcal Meningitis.

Effective January 1, 2009 Herpes Zoster has been added to the list of immunizations currently covered. All adult immunizations are subject to protocols developed by the medical program insurer.

(t) A Medical Flexible Spending Account (MFSA) shall be available to eligible employees. Eligible expenses under the Medical Flexible Spending Account include over-the-counter medications according to guidelines developed by the Medical Flexible Spending Account Administrator.

(u) The Empire Plan hospital program will include a voluntary "Centers of Excellence" program for organ and tissue transplants. The Centers will be required to provide pre-transplant evaluation, hospital and physician service (inpatient and outpatient), transplant procedures, follow-up care for transplant related services and any other services as identified during implementation as part of an all inclusive global rate. A travel allowance for transportation and lodging will be included as part of the Centers of Excellence program. Effective January 1, 2009, the provisions regarding the Empire Plan "Centers of Excellence" programs shall be modified to include the following: The travel allowance for mileage will be consistent with the maximum mileage allowance permitted by the Internal Revenue Service. The meal and lodging allowance in each location will be equal to the rate provided by the Federal government to its employees in such locations.

(v) The Empire Plan Centers of Excellence Programs include Cancer Resource Services. The Cancer Resource Program will provide:

- Direct telephonic nurse consultations;
- Information and assistance in locating appropriate care centers;
- Connection with cancer experts at Cancer Resource Services network facilities;

- Effective January 1, 2009 the lifetime maximum for travel and lodging expenses related to the Empire Plan “Centers of Excellence” for “Cancer Resource Services Program” will be eliminated and there shall be an unlimited allowance for travel and lodging expenses, so long as the covered member remains enrolled in the Program; and
- Paid-in-full reimbursement for all services provided at a Cancer Resource Services network facility when the care is pre-certified.

(w) The Empire Plan medical component includes a network of prosthetic and orthotic providers. Prostheses or orthotics obtained through an approved prosthetic/orthotic network provider will be paid in full under the participating provider component of the Empire Plan, not subject to copayment. For prostheses or orthotics obtained other than through an approved prosthetic/orthotic network provider, reimbursement will be made under the basic medical component of the Empire Plan, subject to deductible and coinsurance.

If more than one prosthetic or orthotic device can meet the individual’s functional needs, benefits will be available for the most cost-effective piece of equipment. Benefits are provided for a single-unit prosthetic or orthotic device except when appropriate repair and/or replacement of devices are needed.

(x) The Empire Plan Basic Medical component includes the Basic Medical Provider Discount Program. This program offers discounts from certain physicians and other providers who are not part of the Empire Plan participating provider network but are an Empire Plan Multiplan provider. To be eligible to receive the Basic Medical Provider Discount Program the following conditions must be met:

- The Empire Plan is the primary coverage;

- Basic Medical services were received from a non-participating provider;
- The non-participating provider is in the Multiplan network;
- The Multiplan provider discounted fee is lower than the Basic Medical reasonable and customary allowance; and
- The annual Basic Medical deductible has been met.

Payment will be made by the Plan directly to the discount providers, no balance billing of discounted rate will be permitted. This program is offered as a pilot program and will terminate on December 31, 2011, unless extended by agreement of both parties; (26)

(y) Effective January 1, 2009, the basic medical program will provide paid in full benefits for prosthetic wigs subject to a lifetime maximum of \$1,500.

(z) Effective January 1, 2009, the Empire Plan medical carrier shall contract with Diabetes Education Centers accredited by the American Diabetes Education Recognition Program.

(aa) Effective January 1, 2009, the Complementary and Alternative Medicine Program will be discontinued.

11.9 Prescription Drug Services

11.9(a) The Prescription Drug Program will cover medically necessary drugs requiring a physician's prescription and dispensed by a licensed pharmacist. Coverage will be provided under the Empire Plan Prescription Drug Program for prescription vitamins and contraceptives.

11.9(b) On a case-by-case basis, when a physician provides sufficient medical justification of the need for a brand-name drug where a generic equivalent is available, the Program administrator will review the physician's request and rule on the appropriateness of a waiver of the mandatory generic substitution.

11.9(b)(1) A third level of prescription drugs and prescription copayments was created to differentiate between preferred brand-name and non-preferred brand-name drugs. The copayment for prescription drugs purchased at a retail pharmacy or the mail service pharmacy for up to a 30-day supply shall be as follows:

- \$5 Generic
- \$15 Preferred-Brand
- \$30 Non-Preferred Brand. Effective January 1, 2009, the copayment for up to a 30-day supply of non-preferred brand name drugs will be \$40.

When a brand-name prescription drug is dispensed and an FDA-approved generic equivalent is available, the member will be responsible for the difference in cost between the generic drug and the non-preferred brand-name drug, plus the non-preferred brand-name copayment not to exceed the cost of the drug.

11.9(b)(2) The copayment for prescription drugs purchased at a retail pharmacy for a 31-90 day supply shall be as follows:

- \$10 Generic
- \$30 Preferred Brand
- \$60 Non-Preferred Brand. Effective January 1, 2009, the copayment for a 31-90 day supply of non-preferred brand name drugs at a retail pharmacy will be \$70.

When a brand-name prescription drug is dispensed and an FDA-approved generic equivalent is available, the member will be responsible for the difference in cost between the generic drug and the non-preferred brand-name drug, plus the non-preferred brand-name copayment not to exceed the cost of the drug.

11.9(b)(3) The copayment for prescription drugs purchased through the mail service pharmacy for a 31-90 day supply will be as follows:

- \$5 Generic
- \$20 Preferred Brand
- \$55 Non-Preferred Brand. Effective January 1, 2009, the copayment for a 31-90 day supply of a non-preferred brand drug at the mail service pharmacy will be \$65.

When a brand-name prescription drug is dispensed and an FDA-approved generic equivalent is available, the member will be responsible for the difference in cost between the generic drug and the non-preferred brand-name drug, plus the non-preferred brand-name copayment; not to exceed the cost of the drug.

11.10 Premium Contribution

11.10(a) The State agrees to pay 90 percent of the cost of individual coverage and 75 percent of the cost of dependent coverage, provided under the Empire Plan. The State shall pay 90 percent for individual prescription drug coverage and 75 percent for dependent prescription drug coverage under the Empire Plan.

11.10(b) The State agrees to pay 90 percent of the cost of individual coverage and 75 percent of the cost of dependent coverage, toward the hospital/medical/mental health and substance abuse components of each HMO, not to exceed, 100 percent of its dollar contribution for those components under the Empire Plan. The State will pay 90 percent of the cost of individual prescription drug coverage and 75 percent of the cost of dependent prescription drug coverage under the Health Maintenance Organizations.

11.10(c) The unremarried spouse of an employee, who retires after April 1, 1988, with ten or more years of active State service and subsequently dies, shall be permitted to continue

coverage in the health insurance program with payment at the same contribution rates as required of active employees.

11.10(d) The unremarried spouse of an active employee, who dies after April 1, 1988 and who, at the date of death, had at least 10 years of benefits eligible service and within ten years of his/her first date of eligibility for retirement shall be permitted to continue coverage in the health insurance program with payment at the same contribution rates as required of active employees.

11.10(e) Any employee who is a member of the New York State Policemen's and Firemen's Retirement System and eligible to continue health insurance coverage upon retirement and who is entitled to a sick leave credit to be used to defray his/her contribution toward the cost of the premium shall have the value of his/her sick leave credit calculated based upon the actuarial life expectancies chart used by the New York State Policemen's and Firemen's Retirement System.

11.11 Option Transfer

11.11(a) Eligible employees in the State Health Insurance Plan may elect to participate in a federally qualified or State certified Health Maintenance Organization (HMO) which has been approved to participate in the State Health Insurance Program by the Joint Committee on Health and Dental Benefits. Employees may change their health insurance option each year throughout the month of November unless another period is mutually agreed upon by the State and the Joint Committee on Health and Dental Benefits.

11.11(a)(1) If the rate renewals are not available by the time of the option transfer period, then the option transfer period shall be extended to assure ample time for employees to transfer.

11.12 Joint Committees on Health and Dental Benefits

(a) The State and Troopers Unit agree to continue a Joint Committee on Health and Dental Benefits. The Committee shall consist of at least three representatives selected by the Troopers Unit and three representatives selected by the State.

(b) The State shall seek the appropriation of funds by the Legislature to support committee initiatives and to carry out the administrative responsibilities of the Joint Committee in the amount of \$12,500 for the period April 1, 2007 to March 31, 2008; \$12,500 for the period April 1, 2008 to March 31, 2009; \$12,500 for the period April 1, 2009 to March 31, 2010; and \$12,500 for the period April 1, 2010 to March 31, 2011.

(c) The Joint Committee on Health and Dental Benefits shall meet within 14 days after a request to meet has been made by either side.

(d) The Joint Committee shall work with appropriate State agencies to review and oversee the various health plans available to employees represented by PBA (Troopers Unit).

(e) The Joint Committee on Health and Dental Benefits shall work with appropriate State agencies to monitor future employer and employee health plan cost adjustments.

(f) The Joint Committee shall be provided with each carrier rate renewal request upon submission and be briefed in detail periodically on the status of the development of each rate renewal.

(g) The State shall require that the insurance carriers for the State Health Insurance Plan submit claims and experience data reports directly to the Joint Committee on Health and Dental Benefits in the format and with such frequency as the Committee shall determine.

(h) The Joint Committee on Health and Dental Benefits shall work with appropriate State agencies to make mutually agreed upon changes in the Plan benefit structure through such initiatives as: (1) HMO Workgroup; (2) Ambulatory Surgery Center development; (3) HCAP/ER benefit-review; (4) The ongoing review of the Managed Physical Medicine Program; (5) Review the appropriateness of additional chronic copayment waivers; (6) Work with the dental carrier to increase access to participating dental specialists such as orthodontists; (7) Explore the addition of a Lyme Vaccine to the list of injectable adult immunizations should one become available (8) Work with the State to monitor and oversee a voluntary disease management program under the medical component of the Empire Plan; (9) Work with the State to develop and implement 2 to 3 additional disease management programs; (10) The ongoing review of a Medical Flexible Spending Account; (11) Work with the State to monitor and oversee the voluntary “Centers of Excellence” program for organ and tissue transplants within the hospital component of the Empire Plan; (12) Work with the State and medical carrier to develop an enhanced network of urgent care facilities; (13) Work with the State to implement a direct debit vehicle to be utilized under the Medical flexible Spending Account;

(j) Effective January 1, 2009, the provisions relating to the Joint Committee on Health and Dental Benefits shall be modified to include the following:

1. The Joint Committee on Health and Dental Benefits will review the utilization of durable medical equipment provided by the Homecare Advocacy Program.
2. The Joint Committee on Health and Dental Benefits will work with the State and medical carrier to monitor a network of hearing aid providers.

3. The Joint Committee on Health and Dental Benefits will work with the State and medical carrier to determine the feasibility of developing a network of providers for Electron Beam Tomography (“EBT”) providers and other similar diagnostic procedures.
4. The Joint Committee on Health and Dental Benefits will work with the State to explore the implementation of additional Centers of Excellence Programs to include, but not be limited to, Centers of Excellence for Bariatric Surgery to include nutritional and psychological counseling when clinically appropriate.
5. The Joint Committee on Health and Dental Benefits will explore the possibility of copayment waiver program for office visits and prescription drugs when related to chronic conditions.
6. The Joint Committee on Health and Dental Benefits will explore the concept of limiting prescription drugs to a 30-day initial supply for “new to you” prescriptions.

11.13 Vision Care Benefits

The State shall provide for and pay the full cost for the vision care plan in effect as of March 31, 2007.

(a) There is a 56 day waiting period before eligibility for vision care coverage begins.

(b) The Plan shall provide the complete selection of frames available to other participants in the Plan including the frame selections designated as standard, supplemental and designer/metal. Effective January 1, 2009 coverage related to Frames: Standard and Occupational benefits shall be modified as follows:

Network: \$130 retail allowance and a Member cost of 80% of balance over \$130

Out-of-Network: Reimbursement increased from \$14 to \$22

(c) The State shall provide toll-free telephone service for insurance information and assistance to employees and dependents on vision care insurance matters.

(d) Dependents under 19 years of age will be eligible to receive vision care benefits every 12 months.

(e) Covered Plan eye glasses (frames and lenses) and/or contact lenses may be obtained within (90) ninety days after a vision examination by a participating Vision Care Plan Provider.

(f) The occupational benefit provides the enrollee, through a participating provider, job-related eyeglasses (VDT or sunglass, depending on their job description).

(g) A \$125 allowance is provided towards the cost of the eye examination, contact lenses and contact lens services in lieu of eyeglasses.

(h) Payment for services received from a non-par provider must be paid directly to the provider by the enrollee. Reimbursement will be made up to the maximums according to the Schedule of Allowances.

(i) Respirator Lens Inserts shall be available to eligible employees through the Vision Care Plan.

(j) Effective January 1, 2009, enrollees and dependents will be eligible to obtain Laser Vision Correction services at discounted enrollee-pay-all fees through a network of providers.

(k) Effective January 1, 2009, the coverage for Lenses shall be modified as follows:

In Network: Standard and Occupational benefits:

Standard Polycarbonate (19+): \$0 co-pay

Photochromatic SV glass: \$0 co-pay

Out-of-Network: Standard benefit only:

Single vision - \$22

Bifocal - \$30

Trifocal- \$40

(l) Effective January 1, 2009, the coverage for eye examinations shall be modified as follows: Out-of-Network reimbursement increase from \$16 to \$20

(m) Effective January 1, 2009, the following shall be added to the medical exception program: An enrollee with a qualifying medical condition and referral from a physician is eligible to receive an eye examination annually, and if there is a change in vision due to the medical condition, is eligible for new lenses and, if necessary, new frames.

11.14 Dental Care Benefits

The State shall provide dental benefits at the same level as were in effect March 31, 1999, except as modified as follows:

(a) The allowances paid shall be at a level sufficient to retain or add participating dentists and specialists. The State shall continue to pay the full premium of the dental insurance plan.

(b) The Plan shall include coverage for the application of sealants to the primary teeth of dependent children age 13 and under.

(c) The nonparticipating provider reimbursement will be increased to an amount equal to 100 percent of the schedule for basic and prosthetic services.

(d) The maximum annual benefit for covered participating and nonparticipating services is \$2300 per person.

(e) The maximum lifetime benefit for orthodontic treatment is \$2300.

(f) Anesthesia administered in a dentist office shall be a covered benefit under the participating and nonparticipating components of the dental plan.

(g) There is a 56 day waiting period before eligibility for dental coverage begins.

11.15 Mental Health and Substance Abuse Treatment

The Empire Plan shall continue to provide comprehensive coverage for medically necessary mental health and substance abuse treatment services through a managed care network of preferred mental health and substance abuse care providers. In addition to the in-network care, limited non-network care will be available. Benefits shall be as follows:

11.15(a) NETWORK BENEFIT

- Mental Health Coverage

- Paid-in-full medically necessary hospitalization services and inpatient physician charges when provided by, or arranged through, the network;
- Outpatient care provided by, or arranged through, the network will be covered subject to a \$18 per visit copayment. Effective July 1, 2009, the outpatient per visit copayment will increase to \$20.
- Up to three visits for crisis intervention provided by, or arranged through, the network will be covered without copay.

- Alcohol and Other Substance Abuse Coverage

- Paid in full medically necessary care for hospitalization or alcohol/substance abuse facilities when provided by, or arranged through, the network;
- Outpatient care provided by, or arranged through, the network will be subject to the participating provider \$18 office visit copayment. Effective July 1, 2009, the outpatient per visit copayment will increase to \$20.

- Benefit Maximums

- Effective January 1, 2010 medically necessary inpatient alcohol and substance abuse treatment shall be unlimited.

11.15(b) NON-NETWORK BENEFIT

- Mental Health Treatment:

- Medically necessary non-network coverage for mental health treatment is subject to the same deductible and coinsurance maximums as the non-network Hospital and Medical benefits.

- Substance Abuse Treatment

- Effective January 1, 2010 the maximum lifetime benefit for non-network substance abuse services will be unlimited.
- Medically necessary inpatient alcohol and substance abuse treatment will be unlimited.
- Effective January 1, 2010 the maximum of 30 outpatient visits approved per calendar year will be eliminated.
- Effective January 1, 2010 medically necessary non-network coverage for mental health treatment is subject to the same deductible and coinsurance maximums as the non-network Hospital and Medical benefits.

- Expenses applied against the deductible and coinsurance levels indicated above will not apply against any deductible or coinsurance maximums under the basic medical portion of the Plan.

ARTICLE 12

Hours and Overtime

8 AND 12-HOUR WORK SCHEDULES

12.1 Effective on March 27, 2003, the 207-k exemption to the Fair Labor Standards Act shall be implemented to reflect that Troopers in the unit shall be available for 168 hours of work per 28-day work period prior to overtime being incurred.

12.2 Effective March 27, 2003, there shall be two work schedules for Troopers. There shall be an 8-hour work schedule and a 12-hour work schedule. All work schedules should be prepared and posted 21 days in advance of the start of the schedule and must be approved as final at least 14 days before the expiration of the then current work schedule.

12.3 The denominator for the overtime calculation shall be 2000 hours.

12.4 For purposes of this Article "court" shall be defined as an appearance by a Trooper in his/her official capacity in court or in an administrative proceeding. It shall not include an appearance by a Trooper in a proceeding brought by or on behalf of a Trooper, NCO, CO, or the collective bargaining representative.

12.5 Payment of overtime compensation shall be made by the close of the third bi-weekly payroll period (inclusive of the two (2) week payroll lag) following the bi-weekly payroll period in which the member properly completes and submits an overtime slip to his/her first line supervisor.

12.6 Troopers shall not be scheduled to work in excess of 12 hours in one tour of

duty.

12.7 It is understood that a Trooper shall report for duty for the start of the Trooper's tour of duty in proper uniform and shall conclude the tour in uniform.

12.8 Time during which a Trooper is excused from work because of vacation, holidays and/or extra pass days in lieu of holidays, personal leave, sick leave at full pay, military leave at full pay, or other leave at full pay shall be considered hours of work for the purpose of computing overtime.

12.9 A Trooper who is in off-duty status and is directed to remain at or report to a designated location, including but not limited to the Trooper's residence, to await further orders, shall be considered to be on-duty while awaiting such further orders.

12.10A. Recall shall be defined as any time a Trooper has signed out of duty and is subsequently notified to report for duty prior to the start of his/her next scheduled duty tour.

12.10B. Any overtime earned pursuant to Recall shall be referred to herein as Recall Overtime. Recall Overtime is not time credited toward the 168 hours of work in that 28-day work schedule and is overtime earned upon completion of the work assignment.

12.10C. Except as provided in Paragraph 12.10F, Troopers working the 12-hour schedule who are recalled to duty pursuant to paragraph 12.10A shall receive Recall Overtime as an automatic minimum six (6) hour overtime payment. If the Trooper works more than six (6) hours, he/she shall be paid Recall Overtime for the total amount of time worked.

12.10D. With the exception of Recall, Troopers working the 12-hour schedule who are called in or ordered to work outside their regular work schedule shall be credited with a minimum of six (6) hours of work in that 28-day work schedule. However, instances where

Troopers work additional hours contiguous to a shift shall not result in a minimum credit of six (6) hours of work and only the actual hours worked will be credited as hours of work.

12.10E. Except as provided in Paragraph 12.10F, Troopers working the 8-hour schedule who are recalled to duty pursuant to paragraph 12.10A shall receive Recall Overtime as an automatic minimum four (4) hour overtime payment. If the Trooper works more than four (4) hours, he/she shall be paid Recall Overtime for the total amount of time worked.

12.10F. If the Recall Overtime extends into the Trooper's next regularly scheduled duty tour, the Trooper shall only be entitled to an automatic overtime payment for the time between the start of the recall duty and the start of the scheduled duty tour.

12.10G. With the exception of Recall, Troopers working the 8-hour schedule who are called in or ordered to work outside their regular work schedule shall:

1. Absent emergency circumstances, if the Trooper receives less than 72 hours notice that he/she is being called in or ordered to work, or if his/her flex time is exhausted, he/she shall receive a credit of a minimum of four (4) hours of work in that 28-day work schedule.
2. Instances as described in paragraph 12.10G1 above which result in a Trooper working additional hours contiguous to a shift will not result in a minimum credit of four (4) hours of work and flex time shall be used unless already exhausted.
3. Absent a suspension without pay or time spent on leave at less than full pay status that prevents the Trooper from being credited with 160 hours of work in that 28-day work schedule, the time as credited in paragraph 12.10G1 shall be paid as overtime at the end of the 28-day work

schedule. Time credited pursuant to paragraph 12.10G1 above shall not be flex time. Nothing herein shall prevent the Division from scheduling a Trooper for eight (8) hours of flex time in each 28-day work schedule.

4. Troopers who are scheduled to work on a pass day with at least 72 hours notice or in the event of an emergency shall follow the flex rules as articulated in the December 13, 2002 award.

12.11 There shall be no “make work” as related to Recall, court, TSA airport, construction or escort details, or any other programs/details with established minimums.

12.12 Annual Leave. The provisions of Article 13.1 shall continue except that leave credits shall be converted to hours at a rate of eight (8) hours per each credited day. Leave shall be utilized in hours based upon the length of the work day in the schedule being worked.

12.13 Personal Leave. The provisions of Article 13.3 shall continue except that leave credits shall be converted to hours at the rate of eight (8) hours per each credited day. Leave shall be utilized in hours based upon the length of the work day in the schedule being worked.

12.14 Sick Leave.

A. The provisions of Article 13.2 shall continue except that leave credits shall be converted to hours at the rate of eight (8) hours per each credited day. Leave shall be utilized in hours based upon the length of the workday in the schedule being worked.

B. Troopers must provide two (2) hours advance notice of inability to work a duty tour or inability to work scheduled overtime on a pass day because of illness/injury (personal or family) unless otherwise excused for good cause. If a Trooper fails to give notice, he/she shall be ineligible to charge leave credits for the absence resulting therefrom, where appropriate. Nothing in this paragraph shall be considered discipline pursuant to Rule 3

(Disciplinary Action) of the NYSP Administrative Manual.

12.15 Bereavement Leave. For purposes of this Agreement, the 15-day maximum allowance for bereavement leave shall be converted to hours, producing a maximum of 120 hours in any one calendar year.

12.16 No member's duty tour shall be rescheduled for the purpose of avoiding the payment of overtime unless the member has been notified of such change 48 hours in advance of the time when the rescheduled duty tour is to begin. This provision shall not prevent the Division from reverting to an original schedule upon cessation of the operational need for which schedule changes have been made. However, in no case shall a member's duty tour be rescheduled for the purpose of avoiding the payment of overtime for the appearance by the member in court.

12.17A. Troopers working the 12-hour schedule that are temporarily assigned to an 8-hour work schedule for a period that consists of one full 28-day work schedule or more will use the 8-hour schedule rules and flex time during the period of assignment. Troopers working the 8-hour schedule that are temporarily assigned to a 12-hour work schedule for a period that consists of one full 28-day work schedule or more will use the 12-hour schedule rules during the period of assignment. Troopers temporarily assigned to an 8-hour work schedule for a period that is less than one full 28-day work schedule will continue to follow the rules of their permanent work schedule.

12.17B. A Trooper working a combination of 8 and 12-hour work schedules in a 28-day work schedule, must work or be credited with 168 hours of work in that 28-day work schedule before overtime will be paid. When a Trooper works a combination of 8 and 12-hour work schedules in a 28-day work schedule there is a potential that, due to the switch in

schedule, he/she may be scheduled to work or be credited with less than 168 hours of work during that 28-day work schedule. Recognizing this, and in order to ensure that a Trooper will not lose any hours of work as a result of the switch in schedule, he/she will be scheduled to work those hours during his/her assignment to the 8-hour schedule. However, if the Trooper is not scheduled to work all of those hours during his/her assignment to the 8-hour schedule, the Trooper will automatically be credited with the same number of hours he/she would have worked had he/she remained on the 12-hour schedule exclusively during that 28-day work schedule.

12.18A. A Trooper eligible to earn overtime will be considered to have worked a minimum of three hours each time the Trooper is scheduled and authorized to return and returns to duty to work overtime for the purpose of making an appearance in court where the time when the Trooper signs off duty from the court appearance does not attach to the Trooper's next regularly scheduled tour of duty. For purposes of pre-shift court, a Trooper eligible to earn overtime will be considered to have worked a minimum of three (3) hours each time the Trooper is scheduled and authorized to return and returns to duty to work overtime for the purpose of making an appearance in court where the time when the Trooper signs off duty from the court appearance does not attach to the Trooper's next regularly-scheduled tour of duty (e.g. a Trooper is scheduled to begin his/her regular tour of duty at 7:00 p.m. The Trooper returns to duty to attend a scheduled court appearance at 5:00 p.m. If the Trooper completes the court appearance and signs out of duty prior to 7:00 p.m. then he/she shall be entitled to the three (3) hour overtime minimum for that court appearance. However, if the court appearance runs into the Trooper's next regularly-scheduled tour of duty, then the Trooper would only be entitled to two (2) hours of overtime for the time between when he/she

signed in for the court appearance [5:00 p.m.] and the starting time of his/her regular tour of duty [7:00 p.m.]).

12.18B. A Trooper recalled to attend court while on vacation will, if court is scheduled during the Trooper's normal scheduled tour at that time, have the option of returning to duty for the full day or return to duty only for the period of court time and return to vacation status for the balance. If the former option is selected, the Trooper will report to the Trooper's station for any time the Trooper is not in court. A Trooper recalled to attend court while on vacation will, if court is scheduled at a time other than during the Trooper's normally scheduled tour, be paid at the overtime rate.

12.19 Troopers may be temporarily assigned to the 8-hour schedule when necessitated by an operational need. The duration of the temporary assignment shall not exceed 60 calendar days. In the event that the operational need continues beyond this period, this assignment may only be continued with approval of the Superintendent.

12-HOUR WORK SCHEDULE

12.20 The basic work schedule shall consist of seven workdays every fourteen calendar days as shown in Article 12.41. All seven scheduled workdays shall consist of 12-hour tours.

12.21 Troopers in the unit, except those in assignments listed in Article 12.42 to this Agreement (permanent assignments) and paragraph 12.19 (temporary assignments) shall be placed on a schedule consisting of 12-hour days, consistent with paragraph 12.20 above. Generally, Troopers assigned to the 12-hour work schedule shall work seven out of every fourteen days with fixed days off, including Friday, Saturday and Sunday off every other week, in blocks of work days and pass as set forth in Article 12.41.

12.22 Only those Troopers working the 12-hour schedule all year without deviation should be provided with a minimum of 182 pass days each year. Nothing contained in this paragraph however, shall be considered to require that a Trooper be granted time off when the Trooper is required to work on a day the Trooper was scheduled to be off and is compensated for such work at the overtime rate. Troopers working Recall, court, TSA airport, construction or escort details, or any other programs/details with established minimums will receive the established minimum recall amounts specific to Recall, court and each program/detail as an automatic overtime payment which is earned upon completion of the work assignment, but these hours shall not be credited towards the 168 hours of work in a 28-day work schedule.

12.23 The starting times for patrol duty tours for Troopers working the 12-hour schedule shall be between 5:00AM and 9:00AM for the "1" shift, and between 5:00PM and 9:00PM for the "2" shift. Generally, the starting time for the "1" shift will be 7:00 A.M. and the starting time for the "2" shift will be 7:00 P.M. Flex shifts may be scheduled with starting times between 11:00 AM and 3:00PM. The starting times of such duty tours shall not be changed without consent of the employees affected, except in an emergency, without reasonable advance notice and consultation. Troopers will not be scheduled to work successive tours of duty without a minimum of ten (10) hours off between shifts. A reasonable effort will be made to assign Troopers working the 12-hour work schedule to the same shift for a 14-day period with the shifts rotating each 14-day period between the "1" shift and the "2" shift and if applicable the flex shift.

12.24 With respect to those Troopers in the unit on 12-hour schedules, the following shall apply:

- A. There shall be a rotating voluntary recall list, consisting of Troopers within a Zone, which shall be used for coverage for an absence due to another Trooper's unscheduled absence from a duty tour or another Trooper's failure to report for overtime scheduled on the other Trooper's pass day. The voluntary recall list shall be utilized in order of seniority of Troopers that volunteer within a Zone.
- B. There shall also be a rotating mandatory recall list. This list shall be utilized to secure coverage, in the situations referenced in paragraph 12.24A, in the event that no volunteers are secured after the voluntary recall list is canvassed. This mandatory recall list shall be utilized in inverse order of seniority of Troopers within a Zone.
- C. Troopers shall be exempt from the mandatory recall list while on pre-approved leave. Troopers shall also be exempt from the mandatory recall list while on pass days contiguous to annual leave.
- D. It is a Trooper's responsibility to provide accurate and complete contact information to Zone supervisory personnel for use in the canvas of the mandatory recall list.
- E. If Division is unable to contact a Trooper for mandatory recall due to a failure to comply with sub-paragraph 12.24D above or if a Trooper fails to respond to a canvas from the mandatory recall list after being contacted by Zone supervisory personnel, the Trooper shall be subject to appropriate administrative action up to and including discipline under Rule 3.
- F. Troopers being recalled to duty pursuant to paragraph 12.24A and B above will not be recalled to duty less than 10 hours after the end of their last tour of duty.

12.25 Troopers in the unit assigned to work overtime on a regularly scheduled pass day who fail to report for such overtime, unless otherwise excused for good cause, shall be precluded from participation in all voluntary overtime opportunities for the remainder of the current 28-day schedule and the next 28-day schedule. This shall not preclude the Division from assigning the individual to overtime if operationally necessary nor preclude the Division from pursuing appropriate administrative action up to and including discipline under Rule 3, where appropriate.

12.26 A Trooper who is suspended without pay shall serve his/her suspension on his/her permanent schedule and the suspension shall be served in full calendar day increments. For each regularly scheduled day of work while on suspension a Trooper shall lose 12 hours of work towards the 168 hours of work in a 28-day work period and 8 hours of pay. Hours spent on suspension without pay, will not count towards the 168 hours that are necessary before a Trooper begins to earn overtime in each 28-day work schedule.

12.27 Mutual Shift Exchanges. A Trooper desiring to exchange shifts with another Trooper in the same "platoon" (i.e., a Trooper working a different tour on the same day) must exchange the full two or three-day work period contiguous to the day or days for which the exchange is desired. An exchange of shifts between a Trooper not scheduled to work on a particular day and a Trooper who is scheduled to work on such day must be repaid by the end of the next bi-weekly work period. In no event will mutual shift exchanges result in a Trooper being scheduled to work or to be on pass for more than four (4) consecutive days. No overtime will be paid as a result of a mutual shift exchange with the exception of overtime incurred as a result of incidents that require the Trooper to remain on duty past the scheduled end of that tour. In no event shall overtime be paid for pre-scheduled court if such overtime is incurred

solely as a result of the mutual shift exchange. All mutual shift exchanges will require specific approval by the appropriate supervisor prior to either shift being worked by the Troopers involved.

12.28 Except as limited by paragraph 12.27, nothing in this Article shall prevent Troopers from mutually agreeing to exchange hours of work with other Troopers in the same title doing the same type of work at the same location pursuant to the provisions of the Regulations of the Budget Director (9 NYCRR 135.5) provided that:

- A. No Trooper shall be allowed to make such mutual agreement if:
 - 1. The operational needs of the Division preclude same.
 - 2. The Trooper's performance is such that being permitted to make such mutual agreement would not be in the best interest of the Trooper or Division as articulated in written documentation.
 - 3. The member is on probation.
- B. Any Trooper who is denied the opportunity to make a mutual agreement to exchange hours of work with other Troopers shall be advised in writing the reason for the denial and have the opportunity to grieve the action at the Step 3 level forthwith. The Superintendent, or designee, shall meet with the PBA and the Trooper within five (5) working days from receipt of the written grievance for a Step 3 review, and shall issue a written decision within five (5) working days from the day of the Step 3 meeting.
- C. For the purpose of computing overtime, all hours worked pursuant to this section shall be considered as hours worked by the Trooper originally scheduled to work such hours; and

- D. The Trooper actually performing the hours worked in exchange waives any consideration of such hours for overtime compensation; and
- E. The Troopers acknowledge that the exchange of hours is voluntary and that no employer obligation is incurred.
- F. Such exchanges shall not be approved if they will result in a Trooper working 24 consecutive hours.

12.29 Meal Periods. Two meal periods not to exceed a total of 45 minutes shall be included in each scheduled 12-hour tour of duty. All Troopers will be eligible for an overtime meal allowance of \$5.00 in accordance with the Rules and Regulations of the Comptroller (2 NYCRR 6.14). A Trooper working a 12-hour schedule shall not be entitled to an overtime meal when working his/her regularly scheduled 12-hour tour. However, a Trooper working a 12-hour schedule shall be entitled to an overtime meal when working outside his/her regularly scheduled tour.

8-HOUR WORK SCHEDULE

12.30 Troopers in the unit that have the assignments listed in Article 12.42 to this Article and Article 12.19 shall be placed on a schedule consisting of 8-hour tours of duty. Consistent with section 207-k of the Fair Labor Standards Act, the Division of State Police has adopted a 28-day work schedule for overtime eligibility.

12.31 Consequently, Troopers assigned to work eight (8) hour tours will be scheduled to work a total of 160 hours of work during a 28-day work schedule (40 hours each week). There shall be no change in the present method of work scheduling. The Division may schedule each Trooper to work up to 168 hours during each 28-day work schedule, without additional compensation, in furtherance of its operational needs. This additional time is called flex time.

12.32 Regarding the usage of flex time, absent emergency circumstances, Troopers shall be afforded 72 hours notice when assigned to work on a pass day. When a Trooper works flex hours on a pass day, the pass day will be returned to the Trooper within 90 days, and only actual hours worked will be counted as flex hours. However, when a Trooper works a combination of flex and overtime hours on a pass day, the pass day will not be returned to the Trooper if he/she works 6 hours or more of overtime on that day. When a Trooper works flex hours on a pass day and fewer than 6 hours of overtime on that day, that day shall not count as a pass day for purposes of the guaranteed minimum of 116 days off set forth in paragraph 12.34 below. Upon return of the pass day to the Trooper as set forth above, the rescheduled pass day shall count as a pass day for purposes of the guaranteed minimum of 116 days off set forth in paragraph 12.34 below but those hours will be credited as hours of work within the 28-day work schedule in which the pass day is rescheduled.

12.33 Flex time will not be used for any overtime for Recall, an appearance in court or construction, TSA airport or escort details or any other programs/details with established minimums for Troopers on the eight hour schedule. Instead, those hours shall be paid as an automatic overtime payment which is earned upon completion of the work assignment, but shall not be credited towards the 168 hours of work in a 28-day work schedule. The Division recognizes that time off is a quality of life issue and shall, therefore, avoid routinely scheduling Troopers to work when they would normally be off duty.

12.34 Troopers who work the eight hour schedule shall not be scheduled to work successive duty tours without at least a minimum of 8 hours off between tours. Troopers who work an 8 hour schedule will continue to be guaranteed a minimum of 116 days off each year - which is equivalent to two pass days off per week plus 12 days off for holidays or in lieu of

holidays. In lieu of holiday pass days will be attached to the normally scheduled two day pass, unless otherwise requested by the Trooper and approved by the supervisor, and shall count as a day worked for purposes of calculating the 160 hours of work. Nothing precludes the Division from having the Troopers assigned to the eight hour schedule work the additional 8 hours of flex time in a 28-day schedule except as noted in paragraph 12.33 above.

12.35 The normal starting times for patrol duty tours shall be between 5:00 A.M. and 9:00 A.M.; 1:00 P.M. and 5:00 P.M.; and 8:00 P.M. and 1:00 A.M. The starting times of such duty tours shall not be changed without consent of the employees affected, except in an emergency, without reasonable advance notice and consultation.

12.36 Troopers who are required to work short swings shall be compensated at a rate of \$30 per occurrence. On 8 hour schedules, Troopers shall be paid short swing pay when they rotate B to A or C to B on consecutive tours.

12.37 Meal Periods. All Troopers will be eligible for an overtime meal allowance of \$5.00 in accordance with the Rules and Regulations of the Comptroller (2 NYCRR 6.14). A Trooper working an 8-hour schedule is entitled to an overtime meal allowance when working flex time.

12.38 One meal period of not to exceed one-half hour shall be included in each regular tour of duty except that a one-half hour meal period shall be excluded from the tour of duty worked by uniform members who are assigned to and work in non-patrol status on a non-rotating duty tour scheduled at:

- A. Division Headquarters (other than Members assigned to COMMSEC), or
- B. Troop Headquarters, if they do not consume meals at the installation.

12.39 All Troopers assigned to the 8 hour work schedule and who are suspended

without pay shall be suspended in full calendar day increments. Hours spent on suspension without pay, will not count towards the 168 hours of work that are necessary before a Trooper begins to earn overtime in each 28-day work schedule.

12.40 Nothing in this Article shall prevent Troopers from mutually agreeing to exchange hours of work with other Troopers in the same title doing the same type of work at the same location pursuant to the provisions of the Regulations of the Budget Director (9 NYCRR 135.5) provided that:

- A. No Trooper shall be allowed to make such mutual agreement if:
 - 1. The operational needs of the Division preclude same.
 - 2. The Trooper's performance is such that being permitted to make such mutual agreement would not be in the best interest of the Trooper or Division as articulated in written documentation.
 - 3. The member is on probation.
- B. Any Trooper who is denied the opportunity to make a mutual agreement to exchange hours of work with other Troopers shall be advised in writing the reason for the denial and have the opportunity to grieve the action at the Step 3 level forthwith. The Superintendent, or designee, shall meet with the PBA and the Trooper within five (5) working days from receipt of the written grievance for a Step 3 review, and shall issue a written decision within five (5) working days from the day of the Step 3 meeting.
- C. No overtime will be paid as a result of a mutual shift exchange with the exception of overtime incurred as a result of incidents that require the Trooper to remain on duty past the scheduled end of that tour. In no event shall

overtime be paid for pre-scheduled court if such overtime is incurred solely as a result of the mutual shift exchange. All mutual shift exchanges will require specific approval by the appropriate supervisor prior to either shift being worked by the Troopers involved.

- D. For the purpose of computing overtime, all hours worked pursuant to this section shall be considered as hours worked by the Trooper originally scheduled to work such hours; and
- E. The Trooper actually performing the hours worked in exchange waives any consideration of such hours for overtime compensation; and
- F. The Troopers acknowledge that the exchange of hours is voluntary and that no employer obligation is incurred.
- G. Such exchanges shall not be approved if they will result in a Trooper working 16 consecutive hours.

12.41 12-Hour Workday Monthly Schedule

Platoon "1"

Week	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1	Work	Work	Pass	Pass	Work	Work	Work
2	Pass	Pass	Work	Work	Pass	Pass	Pass
3	Work	Work	Pass	Pass	Work	Work	Work
4	Pass	Pass	Work	Work	Pass	Pass	Pass

Platoon "2"

Week	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1	Pass	Pass	Work	Work	Pass	Pass	Pass

2	Work	Work	Pass	Pass	Work	Work	Work
3	Pass	Pass	Work	Work	Pass	Pass	Pass
4	Work	Work	Pass	Pass	Work	Work	Work

12.42 Troopers Assigned to Permanent Eight-Hour Schedule

- Troop Safety Officer
- Recruiter
- Permanent Collision Reconstructionist
- Commercial Vehicle Enforcement Unit Members (CVEU)
- Academy Staff, Instructors and Students (including Members assigned to the State Police Summer Program (SPSP)).
- Union Delegates
- Community Narcotics Enforcement Team Members (CNET)
- School Resource Officers (SRO)
- Forensic Investigation Unit (FIU)
- Members permanently assigned to Troop Headquarters Communications except where operationally feasible and mutually agreed to by the parties.
- Troopers who normally work an eight-hour schedule in permanent non-patrol assignments
- ESD Capital Detail

ARTICLE 13

Attendance and Leave

13.1 *Vacation*

A. In addition to the 20 days of annual vacation credited to members pursuant to Division regulations on Hours of Duty and Time Allowances, members shall receive additional

vacation at the rate of one-half day for each year of service in excess of 10 years to a maximum of five additional days after 20 years of service. Vacation credits earned and scheduled as of the close of business on the last day of any 12-month vacation period shall not exceed 40 days; provided, however, that a member compensated in cash for accrued and unused vacation may only be compensated for a maximum of 30 days.

B. Members of this Unit hired after April 1, 1988 shall be credited with annual vacation according to the following schedule pursuant to Division regulations.

<u>Years of Service</u>	<u>Days</u>
0 - 1	15
1 - 2	16
2 - 3	17
3 - 4	18
4 - 5	19
5 - 10	20

Members shall receive additional vacation at the rate of one-half day for each year of service in excess of 10 years to a maximum of five additional days after 20 years of service. Vacation credits earned and scheduled as of the close of business on the last day of any 12-month vacation period shall not exceed 40 days; provided, however, that a member compensated in cash for accrued and unused vacation may only be compensated for a maximum of 30 days.

Effective April 1, 1989 members of this Unit shall receive additional vacation at the rate of one-half day for each year of service in excess of ten years and at the rate of one day for each year of service after 16 years to a maximum of 28 days after 21 years.

C. Seniority as defined in Article 18 of this Agreement shall be the determining factor in selection of vacations and in the preparation of vacation schedules consistent with

existing Instructions and this Article. The general policy of allowing up to 10 percent of the members to schedule vacations at one time shall be applied by station or detail among uniformed Troopers.

When determining the number of members permitted on vacation under the 10 percent policy, a fraction of a percentage of .4 or less shall be rounded down to the next whole number and .5 or more shall be rounded up to the next whole number. The Division may exercise its discretion to exceed the 10 percent limit in special circumstances.

D. Effective September 1, 1988, members shall exercise their seniority in selecting up to two weeks vacation until all uniformed Troopers within the station or detail have selected two weeks vacation. Once all uniformed Troopers have exercised their seniority in scheduling two weeks of their vacation, the selection process starting with the most senior uniform Trooper will then again commence.

In stations where 14, 13, or 12 Troopers are assigned, Troopers shall select vacations according to procedure in paragraph C, however, the senior member in a 12-member station, the two senior members in a 13-member station and the three senior members in a 14-member station may select their second two weeks in any weeks not previously selected, or in the months of September through May. Nothing in this paragraph is to be construed to allow four consecutive weeks off by any member without proper authorization, or to permit more than one member off on vacation during June, July and August, nor more than two members off during the months of September through May. The above would also apply in stations where 24, 23 or 22 or similar multiples occur.

E. Effective April 1, 2000, the "vacation year" for members of this unit shall begin on April 1 instead of September 1.

13.2 *Sick Leave Accumulation*

A. Members of this Unit who are entitled to earn and accumulate sick leave credits may accumulate such credits up to a total of 300 days, provided, however, no more than 165 days of such credits may be used to pay for health insurance in retirement.

B. At the time of retirement, members of this Unit will receive a lump sum cash payment in an amount equivalent to their daily rate of pay at the time, times the number of days of sick leave obtained by subtracting 165 from the member's total accumulation of days up to the maximum permitted by this section, and dividing that amount by five.

Such lump sum payment shall be included in computation of FAS for retirement purposes.

13.3 *Personal Leave*

A. Members may be allowed leave with pay for the purpose of personal business and religious observance subject to the provisions of this Article as follows:

<u>Years of Service</u>	<u>Days</u>
0 -1	0
1 - 4	3
4 - 5	4
After 5 Years	5

B. The State shall not require a member to give a reason as a condition for approving the use of personal leave credits, provided, however, that prior approval for the requested leave must be obtained, that the resulting absence will not interfere with the proper conduct of Division functions, and that a member who has exhausted the member's personal leave credits shall charge approved absences from work necessitated by personal business or religious observance to accumulated vacation or other credits, excluding sick leave.

C. Personal leave shall not be carried over from year to year.

D. A member who announces his/her intention to resign shall not be allowed to use personal leave credits during the 30-day period immediately preceding the effective date of the member's resignation or the member's last day of work, whichever comes first.

13.4 *Bereavement Leave*

A. Members shall be allowed to charge absences from work in the event of death or illness in the member's immediate family against accrued sick leave credits up to a maximum of 120 hours in any one calendar year.

B. For the purposes of this paragraph, immediate family shall mean a member's spouse, parent, sibling, child, in-laws, or grandparent. In extenuating circumstances, the definition of family may be extended beyond the relationships cited above.

13.5 *Attendance*

Members are required to report for their assigned tours of duty on time, and unauthorized absence or tardiness may be the cause for disciplinary action. Any member absent from work without authorization for ten consecutive work days shall be deemed to have resigned from the member's position if the member has not provided a satisfactory explanation for such absence on or before the eleventh work day following the commencement of such unauthorized absence.

13.6 *Other Leaves*

The Division shall continue the present benefits as provided in the Regulations with respect to Leave for Quarantines and Leaves Required by Law.

ARTICLE 14

Travel Allowances

14.1 *Per Diem, Meal and Lodging Expenses*

During the term of this Agreement the State agrees to reimburse, on a per diem basis at rates generally available to State employees as established by Rules and Regulations of the Comptroller, members who are eligible for travel expenses, for their actual and necessary expenses incurred while in travel status in the performance of their official duties for hotel lodging, meals and incidental expenses related thereto (hotel tips, etc.), for a full day at either of the following schedules and the rates set out therein at their option:

A. Unreceipted Expenses

- (1) In the City of New York and the counties of Nassau, Suffolk, Rockland and Westchester, not to exceed \$50, except as specified by the Comptroller in accordance with law.
- (2) In the cities of Albany, Rochester, Buffalo, Syracuse and Binghamton and their respective surrounding metropolitan areas, not to exceed \$40, except as specified by the Comptroller in accordance with law.
- (3) In places elsewhere within the State of New York not to exceed \$35, except as specified by the Comptroller in accordance with law.
- (4) In places outside the State of New York, at least \$50 per day except as specified by the Comptroller in accordance with law.

B. Receipted Expenses

- (1) Receipted lodging and meal expenses for authorized overnight travel in locations within and outside of New York State shall be reimbursed to a maximum of

published per diem rates as specified by the Comptroller. Said rates shall be equal to the combined per diem lodging and meal reimbursement rate provided by the Federal government to its employees in such locations, and are understood to include an allowance for incidentals and any applicable taxes.

- (2) In locations for which no specific rate is published, receipted lodging and meal expenses for authorized overnight travel in locations within and outside of New York State shall be reimbursed to a maximum of the combined per diem lodging and meal reimbursement rate provided by the Federal government to its employees for such locations.
 - (3) The rates in (1) and (2) above shall be revised prospectively in accordance with any revision made in the per diem rates provided by the Federal government to its employees.
 - (4) Notwithstanding (1) through (3) above, the State shall retain the right to establish a centralized reservation system for employee lodging and transportation arrangements, and to designate specific lodging facilities and transportation modes for locations within and outside of New York State.
- C. When the employee is in travel status for less than a full day, and incurs no lodging charges, reasonable and necessary receipted expenses will be allowed for breakfast and dinner as determined by the Comptroller.

14.2 *Mileage Allowance*

The State agrees to establish and provide, subject to rules and regulations of the Comptroller, a mileage allowance rate equal to the Internal Revenue Service maximum allowable rate per mile for the first 15,000 reimbursable miles in any calendar year and the

Internal Revenue Service maximum allowable rate thereafter, for the use of personal vehicles for those persons eligible for such allowance in connection with official travel. Said rates shall be revised prospectively in accordance with any Internal Revenue Service rate revisions.

14.3 Expenses on Involuntary Transfer

Members of this Unit who are involuntarily transferred to a new duty station which is 20 or more road miles one way from their current duty station and which transfer results in an increase in personal car mileage for home to work travel and back will be reimbursed for the increase in personal car mileage actually traveled at the rate of 20.5 cents per mile for a period of time up to 30 working days from the effective date of reporting to the new station, for each such transfer.

Where an involuntary transfer is made within one year of a previous involuntary transfer and where no reimbursement was provided for the first such transfer, pursuant to this section, then eligibility for reimbursement shall be calculated as if the current involuntary transfer was from the previous duty assignment.

This section is not to be construed to constitute a waiver on the part of the PBA relative to transfers pursuant to the Disciplinary Procedure applicable to members of this Unit.

14.4 Moving Expense Reimbursement

Members of this Unit who qualify for moving allowances shall be eligible for reimbursement at the rates generally available to managerial/confidential employees pursuant to Section 202 of the State Finance Law.

ARTICLE 15

Grievances and Arbitration

15.1 *Grievance Policy*

A. Members shall have the right to present grievances in accordance with the procedures prescribed in this Article free from interference, coercion, restraint, discrimination or reprisal. Officers and Non-Commissioned Officers of the Division shall take prompt and fair action upon grievances of members within the authority delegated by the Superintendent and according to the provisions of this Article.

B. The informal resolution of differences prior to the initiation of actions under formal grievance procedure is encouraged and desired by the State and the PBA.

15.2 *Definitions*

For the purposes of this Agreement, grievances as defined herein shall be subject to the grievance procedure as outlined below:

A. Any disagreement submitted by a member, or the PBA on behalf of an aggrieved member over the interpretation or application of a term of this Agreement is subject to the grievance procedure outlined below and shall hereinafter be referred to as a "contract grievance." In all cases, the aggrieved member or members must be identified.

B. Any disagreement submitted by a member other than a contract grievance over conditions which are in whole or in part subject to the control of the Superintendent or for which there is currently no other review procedure provided shall be processed up to and including the Governor's Office of Employee Relations, unless specifically excluded, and shall hereinafter be referred to as a "non-contract grievance." Disagreements arising out of matters involving discipline pursuant to Rule 3 (Disciplinary Action) of the NYSP Administrative Manual,

retirement, competitive promotional examinations, performance ratings, and probationary Trooper terminations shall not be considered grievances for the purpose of this Agreement.

C. A member or the PBA acting on behalf of an aggrieved member(s) may not file both a non-contract grievance and a contract grievance involving the same disagreement or dispute. However, should it be determined at Step 3 that the grievance filed as a non-contract grievance should be a contract grievance or vice versa, PBA shall have the right to request of the Superintendent or designee that the grievance category be amended to reflect the correct type of grievance. Such requests shall not be unreasonably denied.

15.3 *Procedure*

Step 1. A member shall present the member's grievance through channels to the Zone Commander or equivalent in writing on a form provided by the State within 20 working days of the event which gave rise to the grievance or the date when the grievant should reasonably have been expected to become aware of the event which gave rise to the grievance. The Zone Commander or equivalent shall meet with the grievant within five working days from receipt of the written grievance for a review, and shall issue a written decision within five working days from the day of the meeting.

Step 2. In the event that the grievance has not been satisfactorily resolved at Step 1, then an appeal may be taken by the grievant, in writing, to the Troop or Detail Commander within 10 working days from receipt of the Step 1 decision. The Troop or Detail Commander, or designee, shall meet with the member for a review of the grievance within 10 working days from receipt of the Step 2 written appeal and shall issue a written decision within 10 working days from the day of the Step 2 meeting.

Step 3. (Contract Grievance) In the event that the grievance has not been satisfactorily resolved at Step 2, then an appeal may be taken only by the President of the PBA, or designee, in writing, to the Superintendent within 10 working days from the receipt of the Step 2 decision. Such appeal shall contain copies of the Step 2 decision and all of the material submitted at prior steps. The Superintendent, or designee, shall meet with the PBA and/or the employee within 20 working days from receipt of the appeal. The Superintendent, or designee, shall take appropriate action, including remanding the grievance to Step 2 for further consideration, and shall issue a written determination within 10 working days of the Step 3 review.

Step 3. (Non-Contract Grievance) In the event the grievance has not been resolved at Step 2, then an appeal may be taken, in writing, to the Superintendent within 10 working days after receipt of the Step 2 determination for a review of such determination. The Superintendent, or designee, shall meet with the grievant to review the member's grievance within 20 working days of the receipt of the appeal. The Superintendent, or designee, shall take appropriate action, including remanding the grievance to Step 2 for further consideration, and shall issue a written determination within 10 working days of the Step 3 review.

Step 4. (Contract Grievance) In the event that the grievance has not been satisfactorily resolved at Step 3, then the President of the PBA or designee shall have the exclusive right to refer to arbitration any unresolved contract grievance concerning the interpretation or application of any term of this Agreement by serving written notices on the Director of Employee Relations not later than 10 working days following receipt of the Step 3 determination. Such notice shall identify the provisions of the Agreement, the member or members involved, and include a copy of the grievance.

Step 4. (Non-Contract Grievance)

A. Any non-contract grievance unresolved at Step 3, to the extent that the grievance does not involve appointment, promotion or assignment of a member for a non-competitive position, may be appealed in writing on forms to be provided by the State to the Director of Employee Relations within 10 working days of receipt of the Step 3 determination.

B. The Director of Employee Relations, or designee, shall schedule a meeting to review the grievance with the grievant within 20 working days of the receipt of an appeal from Step 3 and shall issue a determination in writing within twenty working days of such meeting. Witnesses may be called at this step as either party deems necessary.

15.4 *Arbitration--General*

A. Within a reasonable time after the effective date of this Agreement the Director of Employee Relations and the President of the PBA, or their designees, shall meet to agree upon a permanent panel of 10 arbitrators selected from lists submitted by the parties. Arbitrators for each individual arbitration will be assigned from this panel on a rotating basis. Initial assignments shall be determined by lot.

B. At least 10 working days prior to the arbitration hearing the State and the PBA shall meet to frame the issues to be submitted to the arbitrator and to stipulate the facts of the matter in an effort to expedite the hearing.

C. The arbitrator shall not have the power to add to, subtract from or modify the provisions of this Agreement and shall confine the decision solely to the interpretation and application of this Agreement. The arbitrator shall be confined to the precise issue submitted for arbitration and shall have no authority to determine any other issues not so submitted to

the arbitrator nor shall the arbitrator submit observations or declarations of opinion which are not essential in reaching the determination.

D. The decision or award of the arbitrator shall be final and binding upon the State, the PBA and the grievant or grievants to the extent permitted by and in accordance with applicable law and this Agreement.

E. All fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall bear the costs of preparing and presenting its own case.

F. The arbitrator shall hold a hearing at a time and place convenient to the parties as expeditiously as possible after the arbitrator's selection and shall issue a decision as soon as possible after the close of the hearing. The arbitrator shall be bound by the then effective rules of the American Arbitration Association which are applicable to a labor arbitration, except where they conflict with a specific provision of this Agreement.

G. The parties agree that the interpretation and application of a term of this agreement by an arbitrator shall be the manner in which that term is interpreted or applied for the duration of this agreement.

15.5 *Representation*

A. A member is entitled to PBA representation at grievance and arbitration meetings. The PBA shall have the exclusive right to represent members in any grievance; provided, however, that any member or group of members shall have the right to present the member's or members own grievance at Steps 1 through 3 of the non-contract procedure without representation of any kind; provided further that no resolution of a grievance shall be inconsistent with the provisions of this Agreement. The PBA shall receive copies of written

determinations at all steps and shall have the right to be present at any grievance step meeting involving a contract grievance.

15.6 *Special Provisions*

A. All time limits contained in this Article may be extended by mutual agreement, except that extending the time for filing a grievance shall require the agreement of the President of the PBA or designee and the Director of Employee Relations or designee.

B. The parties may mutually agree when circumstances warrant to bypass steps of the grievance procedure.

C. The failure by the State to meet a deadline specified herein shall permit advancing the matter to the next step. The failure of the grievant or the PBA to file an appeal within the time limit specified shall be deemed to be a settlement of the grievance.

D. The New York State Police is a para-military organization and it is the duty of every member to obey every lawful command or order issued orally or in writing and failure to do so may result in a breakdown in discipline and serious consequences. Orders must be obeyed and grievance procedures invoked later. Any member of the New York State Police who fails to carry out orders or comply with rules, regulations or instructions is subject to disciplinary action.

E. Determinations at Step 1 and subsequent steps, shall be in writing and shall contain a review of the contentions, evidence presented and the reasons for the determination.

F. The settlement or an award upon a grievance may or may not be retroactive as the equities of each case demand, but in no event shall such resolution be retroactive to a date earlier than 20 working days prior to the date the grievance was first presented or the date the grievance occurred, whichever is the later date.

G. Grievance resolutions or decisions at Steps 1, 2 and 3 shall not constitute a precedent in any arbitration or other proceeding.

H. The PBA and the State may agree to the initiation of grievances involving members in more than one troop or class grievances directly at Step 3.

I. The PBA may initiate non-contract grievances concerning alleged safety or health hazards, unsatisfactory physical facilities, materials or equipment at the appropriate step of this grievance procedure.

J. If grievances are initiated at Step 3, necessary witnesses and evidence shall be presented and considered at Step 3.

K. The term "day" as used in the grievance procedure means a working day. For this purpose a working day is defined as Monday through Friday, regardless of the actual schedule of the grievant, excluding holidays recognized by the State as an employer.

ARTICLE 16

Members' Rights

16.1 Policy

A. The security of the State, its citizens and its several communities depends to a great extent upon the manner in which New York State Police members perform their manifold duties. Members of the Division are public officers and the performance of their duties involves the exercise of a portion of the police power of the State. The performance of such duties involves those members in all manner of contacts and relationships with the public.

B. Out of such contacts and relationships may arise questions concerning the actions of members of the force. The integrity of the Division and its members must be preserved if the obligation to the State and its citizens is to be fulfilled. Conduct by a member

which raises questions about the member's integrity or the propriety of the member's performance may call into public question the integrity of every member of the Division. It is, therefore, the responsibility of the Superintendent to investigate promptly and thoroughly every complaint and accusation made against a member in order to protect that member, the Division and the people of the State.

C. It is the responsibility of the Superintendent and of those officers designated by the Superintendent to conduct such investigations and to do so in a manner conducive to good order and discipline. It is the responsibility of all members involved or participating to assure that all such investigations are conducted fairly and impartially. It is the responsibility of all members to assist and expedite such investigations and, when requested by investigating officers, to furnish information or to give statements as witnesses. It is the responsibility of any member who is the subject of the investigation to give a responsive accounting of the member's public trust. To fulfill each of such responsibilities, investigations are to be conducted according to the following procedure, Section 16.2 below.

16.2 Procedure for Administrative Investigations

A. When an investigating officer requests further written statement or affidavit from a member either as a principal or as a witness, procedural requirements as set forth below shall be followed:

(1) If a member is under arrest or is likely to be, that is, if the member is a suspect or the target of a criminal investigation, the member shall be advised of the member's constitutional rights.

(2) The interrogation of any Division member shall be at a reasonable hour, preferably when the member is on duty, and during daylight hours, unless the exigencies of the

investigation dictate otherwise. A member's tour may be changed without penalty in order to comply with this paragraph.

(3) The interrogation shall take place at a location designated by the investigating officer and shall usually take place at a State Police installation.

(4) The member of the Division shall be informed of the rank, name and command of the officer in charge of the investigation, as well as the rank, name and command of the officer who is conducting the interrogation and the identity of all persons present during the interrogation. If a member of the Division is directed to leave the member's post and report for interrogation to another command, the member's command shall be promptly notified of the member's whereabouts.

(5) The member of the Division shall be informed of the nature of the investigation before any interrogation commences. Sufficient information to reasonably apprise the members of the allegations should be provided. If it is known that the member of the Division being interrogated is a witness only, the member shall be so informed. If during an interview of a witness in a complaint against personnel investigation, information is developed which could be used against the witness in a disciplinary action, that witness shall not be further questioned about that specific information without first offering that member a reasonable opportunity to contact and consult with an attorney and/or a PBA troop representative.

(6) The interrogation shall be completed with reasonable dispatch. Reasonable respites shall be allowed. Time shall be provided also for personal necessities, meals, telephone calls and rest periods as are reasonably necessary.

(7) The member shall not be subjected to any offensive language, nor shall the member be threatened with transfer, dismissal or other disciplinary punishment. No promise of

reward shall be made as an inducement to answering questions. Nothing herein is to be construed as to prohibit the investigating officer from informing the member that the member's conduct can become the subject of disciplinary action resulting in disciplinary punishment.

(8) In all cases wherein a member is to be interrogated concerning an alleged violation of the Division Rules and Regulations which, if proven, may result in the member's dismissal from the service or the infliction of other disciplinary punishment upon the member, the member shall be afforded a reasonable opportunity and facilities to contact and consult privately with an attorney of the member's own choosing and/or a PBA troop representative before being interrogated. An attorney of the member's own choosing and/or a PBA troop representative may be present during the interrogation, but may not participate in the interrogation except to counsel the member. In such cases, the interrogation may be postponed for the purpose of obtaining counsel and/or a PBA troop representative up to the afternoon of the day following the notification of interrogation. In cases where a member seeks to obtain counsel and/or a troop representative and cannot do so by the afternoon of the day following the notification of interrogation, the member shall be allowed a reasonable time, commencing from the time of notification of interrogation, within which to obtain such representation

(9) The complete interrogation of the member shall be recorded mechanically or by a stenographer. There will be no "off-the-record" questions. All recesses called during the questioning shall be noted in the record. The requirement to record may be waived by mutual agreement.

(10) Under the circumstances described in paragraphs (5) and (8), the member shall be given an exact copy of any written statement the member may execute, or if the questioning is mechanically or stenographically recorded, the member shall be given a copy of such recording or transcript.

(11) The refusal by a member of the Division to answer pertinent questions concerning any non-criminal matter may result in disciplinary action.

(12) No member shall be ordered or asked to submit to a Polygraph (lie detector) test, blood test, a Breathalyzer test or any other test or procedure which would violate the member's rights under the United States or New York State Constitutions for any reason. Such test may be given if requested by the member.

(13) A member who is advised that he or she is alleged to have been guilty of misconduct or incompetency, and who is, as a result, given the option of resigning, shall be provided a resignation form stating that:

- A. He or she is submitting the resignation voluntarily.
- B. He or she may decline to resign and instead demand that Division formally serve the member with any charges of alleged misconduct.
- C. He or she may request a hearing pursuant to Rule 3 of the New York State Police Rules and Regulations.
- D. He or she was not denied an opportunity to consult with a PBA troop representative.
- E. Grievances hereunder will be filed at Step three of the grievance procedure outlined in Article 15. Such grievances are not arbitrable.

16.3 The procedural requirements spelled out in paragraphs A (1) through A (13) are not applicable in circumstances relating to ordinary supervisory inquiries into the official duties and responsibilities of members.

16.4 A member will be informed in writing when an investigation is complete and of the determination and a copy of such memorandum shall be placed in the member's personnel record. However, personnel complaints, arising after April 1, 1974 determined to be unfounded after investigation shall not be retained in the member's personnel file.

ARTICLE 17

Critical Incident Policy

17.1 *Policy.* Occasions will arise when there is a need for inquiry into a member's official actions or activities either as a principal or as a witness so that there will be a recording of facts, for the protection of the member or of the Division, or to rebut, explain or clarify any allegations, criticism or complaints made against a member of the Division. Under such circumstances members must, when questioned by a superior officer conducting an inquiry, properly respond, and if requested, provide memoranda concerning their official activities that detail the facts regarding the incident. Such memoranda will not be considered as admissions against self-interest in evidence submitted in a disciplinary proceeding under Rule 3 of the Rules, unless the member was offered the representation to which the member is entitled in an interrogation pursuant to Article 16.2A(8). In those instances where such inquiry has been completed, members clearly identified as principals shall be entitled to consult with a PBA representative before submitting any additional written memoranda or statements.

17.2 Terms of the Critical Incident Policy as agreed to during the 2007-2011 collective bargaining:

- A. The purpose of the critical incident inquiry is to provide basic facts to the Superintendent. The critical incident inquiry shall consist of an oral interview by the Field Supervisor and shall be limited in scope to questions as to who was involved; what happened and where and when did the actions occur.
- B. Generally, a Member will not be ordered to submit a memorandum or other written statement during the critical incident inquiry.
- C. The questioning of the Member shall not be recorded mechanically or by a stenographer. The inquiring Field Supervisor can take notes during the interview for preparation of his/her notification to the Superintendent.
- D. No oral or written statement taken during the critical incident inquiry shall be utilized against the Member in a subsequent disciplinary proceeding.
- E. Information received during the critical incident interview shall be considered compelled. The Member shall be advised prior to any questioning, that his/her cooperation in the interview is compelled and that the Division will consider his/her failure to cooperate to be insubordination subjecting the Member to disciplinary action up to and including dismissal from employment.
- F. An attorney of the Member's choosing and/or a PBA representative may be present during the critical incident inquiry, however, they may not consult with the member prior to or during the interview and may not participate during the interview,
- G. In those instances where a Member is emotionally or physically unable to participate, consideration will be given to delaying the interview until he/she is stabilized. The services of EAP will be utilized as needed.

17.3 Grievances alleging a violation of this Article may be processed up to and including Article 15.3A Step 4 (Non-Contract Grievance).

ARTICLE 18

Inspection of Personnel Record

18.1 A member may review his/her personnel record which is maintained at Division headquarters or at Troop headquarters within 15 days of the submission of a request for sufficient cause. Such review shall take place in the presence of an appropriate official of the Division and shall take place during the member's off-duty time. The personnel record shall include the member's employment application, performance appraisal forms, all letters of commendation, reprimand, suspension, fines, promotions and demotions. Such review shall not include pre-employment investigation reports nor shall the identity of an informant or complainant be revealed when the information furnished or allegation made against a member was supplied on a confidential basis, is contained in written reports, and was not used as evidentiary proof in a disciplinary action. A member shall be allowed to place in his/her file a response of reasonable length to anything contained therein which such member deems to be adverse.

18.2 Any member denied such inspection may grieve such denial pursuant to Article 15, Grievances and Arbitration.

ARTICLE 19

Seniority

19.1 For the purposes of this Agreement seniority shall be determined first by rank and second by service in rank. Such service shall not be deemed interrupted by approved periods of sick leave, military leaves of absences not to exceed four years, or workers'

compensation leave. When more than one appointment is made in any rank on any one day, seniority will be determined by the order of appointment.

19.2 Seniority as defined in this Article shall in no way conflict or interfere with the designation of any member as senior for command purposes on a detail or case as provided for in the Regulations of the Division.

19.3 A. Members may submit a memorandum through the appropriate channels, requesting assignment to any of the following details: Scales Detail, Radar Detail or Communications.

B. When a vacancy occurs within a Troop in any of the above details or assignments, such vacancy when filled, shall be filled on the basis of the best interests of the Division, the general ability of the member requesting such assignment, and seniority. Where all other factors are equal, seniority shall be the basis for making such assignment.

C. If there is no request on file and time permits, notice of vacancies in any of the above assignments or details, shall be communicated by appropriate means to all members of the Troop in which the vacancy exists.

D. Any grievance arising under this paragraph may be processed up through Step 3 of the grievance procedure.

19.4 Nothing contained in this Article shall prevent employees from mutually agreeing to local arrangements regarding the working of each other's shifts pursuant to Article 12.27 or Article 12.40 of this Agreement.

ARTICLE 20

Transfers

20.1 *Voluntary Transfers*

A. The State shall continue its policy of transferring members based on the best interests of the Division, including consideration of special qualifications, and where those factors are relatively equal, then seniority shall be the basis for the granting of requests for inter-troop transfers only.

B. A member desiring a transfer shall submit a request for transfer to the member's Troop or Detail Commander. All such transfer requests, with appropriate endorsements, shall be forwarded to Division Headquarters where they will be maintained in a "Request for Transfer" file.

C. When the most senior member's transfer request on file at Division Headquarters is not honored in the filling of a vacancy, that member shall, within a reasonable time after the vacancy is filled, be advised in writing of the reasons why the member's request was not granted.

D. If the reasons for denying the transfer request are not satisfactory to the member making the request, the matter shall then be a proper subject for the grievance procedure and a grievance may be instituted at Step 3.

20.2 *Involuntary Transfers*

A. The best interest of the Division may necessitate the involuntary transfer of a member based on a legitimate operating need, including but not limited to, the need for increased supervision of a member. Absent such legitimate operational need, involuntary transfers shall be made as follows:

1. Inter-troop transfers: The least senior member among those eligible for transfer within the Troop or Detail from which the transfer is to be made shall be transferred.
2. Intra-troop transfers: Where the involuntary transfer does not involve a probationary assignment or the resolution of a disciplinary matter, the least senior member eligible for transfer shall be transferred.
3. Troop T Involuntary transfers: For involuntary transfer purposes, the five (5) zones of Troop T are treated as separate Troops. Involuntary transfers to the various zones of Troop T shall be based on geographical proximity to avoid undue hardships on the members. Members in initial employment probationary status will not be involuntarily transferred to Troop T until after they successfully complete their probationary period.

20.3 *Reciprocal Transfers*

Reciprocal transfers between members of the same rank in similar assignments who have completed their probationary period may be made consistent with the Division transfer policy and with appropriate prior approval, provided that no such transfer shall negate or prevent any transfer which would otherwise be made pursuant to the voluntary transfer provisions.

20.4 *Special and Extenuating Circumstances*

The State shall continue to effect transfers arising out of special and extenuating circumstances of a personal nature consistent with its transfer policy. The PBA shall be given advance notice, with due respect to a member's right to privacy, of the circumstances surrounding any transfer for special and extenuating circumstances.

20.5 *Return from Military Service*

The Division will make a reasonable effort, if desired by the member to assign a member returning from military service to the station from which the member departed or, if that is not reasonably practicable, then to a station near to such station. It is the Division's intention, if desired by the member, ultimately to assign the member to the station to which the member was assigned at the time of the member's departure for military service.

20.6 *Twenty Days Notice on Transfers*

Members will be given a minimum of 20 days prior notice of pending transfers, unless there are emergency reasons for the transfer, or the transfer is being made at the member's request.

20.7 *Divulging Information*

Nothing in this Article shall be construed to require the State to divulge the nature of circumstances that are confidential to any member.

ARTICLE 21

Promotion

21.1 Notices of competitive examinations for permanent positions for which members are eligible to compete shall be distributed to Troop and Detail Commanders at least 60 days in advance of their schedule date. Copies of each such notice shall be posted promptly in a conspicuous place in each Division installation. A copy of such notice shall be sent simultaneously to the PBA. However, the failure of any member to see or receive such notice shall not require the rescheduling of any examination or the scheduling of any "make-up" examination.

21.2 The Division will continue its policy of making reasonable efforts consistent with operating needs so that members who will be taking such examinations will be afforded a respite if the member is scheduled on a shift which ends less than eight hours before the starting time of the examination. Time spent in such examination shall be considered duty time only insofar as the examination or portion thereof was scheduled during the member's regular tour of duty.

ARTICLE 22

Bureau of Criminal Investigation

22.1 A member who has the basic requirements and desires an assignment to the BCI shall submit a request for consideration, by memorandum, to the Troop or Detail Commander through the member's Zone Commander.

22.2 Any member initiating such a request for consideration for appointment to the BCI, whose candidacy is not endorsed by the member's Zone or Troop Commander, shall be informed in writing of the reasons for not being recommended. The Zone or Troop Commander shall counsel the member regarding the needed improvements which are necessary for future consideration. Copies of any memorandum will be filed in the member's Troop and Division Headquarters personnel records.

ARTICLE 23

Outside Employment

23.1 The Division shall continue its policy of permitting outside employment of members by one or more employers and will consider all requests submitted, subject to such limitations and requirements as the Division may deem necessary for the best interests of the Division and the State.

23.2 Requests for outside employment shall be submitted through channels to the Troop Commander, with a copy to the First Deputy Superintendent sent via Groupwise, at least two weeks before the employment is to begin. Members should note in their request whether their employment opportunity is time-sensitive and in need of immediate action.

ARTICLE 24

Indemnification Against Liability

24.1 The State will continue to provide for indemnification of members of the Division against losses arising out of any judgments or claims for acts committed by them in the discharge of their duties and in the course of their employment, provided that such losses do not result from the willful and wrongful act or gross negligence of such members.

24.2 The State agrees to provide the coverage of Section 19 of the Public Officers' Law to the members of this Unit.

ARTICLE 25

Reimbursement for Property Damage

The State agrees to continue to provide for the uniform administration of the procedure for reimbursement to employees for personal property damage or destruction as provided for by subdivision 12 of Section 8 of the State Finance Law and Division instructions.

ARTICLE 26

Uniforms

26.1 The State shall issue such uniforms and accessory equipment as it may require members to use in the performance of their duties, including any such replacement parts thereof as may reasonably be necessary, provided, however, that nothing in this Article shall

excuse a member from being accountable for such uniforms and equipment as required by the Rules, Regulations and Instructions of the Division.

26.2 The State shall continue its policies of cleaning and maintaining uniforms and equipment as they were in effect upon the execution of this Agreement.

ARTICLE 27

Labor-Management Committees

27.1 The State and the PBA agree to establish a labor-management committee at the Division level. This committee may establish such other committees or subcommittees at appropriate levels as it may deem necessary.

27.2 The function of this committee shall be to facilitate communication between the parties to promote a climate conducive to constructive employee relations, to recommend resolutions of employee relations problems which may arise in the administration of this Agreement and to discuss other matters of mutual interest. Such committee or special technical subcommittees may discuss and explore ideas for improvement and exchange information concerning developments and improvements in such areas as uniforms, equipment, physical examinations, performance ratings and safety and health hazards.

27.3 The committee will meet as circumstances require with either party having the right to request a meeting. Requests for meetings should normally be made at least a week in advance with the requesting party submitting an agenda of the topics for discussion; however, if the situation warrants immediate action, the week advance notice may be waived. The size of the committee may vary according to the topics to be discussed; however, the PBA representatives shall not exceed the 10 members of the PBA Executive Board who are members of this Unit and the PBA President. Such members may attend provided, however, that the

absence of such members from duty shall not interfere with Division operational needs. Such full attendance meetings shall not occur more frequently than four times per year.

27.4 Management shall make every reasonable effort to schedule committee meetings during the normal working hours of participants provided, however, that any necessary changes in shift schedules shall not result in the earning of overtime credits by the participants pursuant to any provisions of this Agreement or other rules or regulations concerning overtime.

27.5 Staff representatives of the Office of Employee Relations and the PBA may render assistance and may participate in such meetings upon request to help accomplish the objectives of these committees as set forth in this Article.

27.6 Nothing contained in this Article is intended to restrict in any way the normal, informal discussion and resolution of problems by and between the management of the Division, members, and PBA representatives.

ARTICLE 28

Professional Development

28.1 Both the State and PBA recognize the importance of continuing education and training in various aspects of a member's professional association with the Division. Therefore, in order to maintain the high standards of excellence in the Division, there shall continue to be a joint committee consisting of three representatives of the PBA and three representatives of the State for the purpose of studying issues concerning professional development, quality of working life, continuing education, and training. For the term of this Agreement, the State and PBA shall prepare, secure introduction and recommend passage by the Legislature of \$92,400.00 in each year of the Agreement for the establishment and administration of the

committee. The unexpended portion of each year's appropriation shall be carried over into the succeeding year and added to the appropriation for the succeeding year. Such fund shall be used for, but not limited to, the following:

A. The continuation, as may be modified by the Joint Committee, of a Professional Development Program which will provide tuition reimbursement to a member upon successful completion of an approved academic course or program taken during off-duty hours which is directly related to the member's duties as a member of the Division and which will significantly improve the performance of the member's professional duties.

B. A member desiring to enroll in a course of program study at an accredited academic institution for which the member intends to seek reimbursement pursuant to this Article shall so state in a written memorandum to the Superintendent. Upon approval of a member's request and upon successful completion of the course or program which is the subject of that request, the member shall be reimbursed by the Division in an amount equal to 75 percent of the applicable tuition cost unless modified by the Joint Committee established by this section. As used in this Article, the term "tuition cost" does not include such ancillary expenses as registration fees, books, supplies or travel expenses. Tuition support will be considered for a maximum of either two courses or six credit hours per term or semester (limited to three terms or semesters per academic year) provided that course attendance does not unduly interfere with the member's normal job duties.

C. From each year's \$92,400.00 appropriation, the Joint Committee each year shall encumber an amount to be determined by the committee for the implementation of this paragraph.

D. The continuation, as may be modified by the Joint Committee of the Advanced Degree Educational Opportunity Program. The Program will provide two or three members of this Unit with the opportunity to obtain an advanced degree in each of the four years of the Agreement. An amount to be determined by the Joint Committee shall be encumbered from each year's appropriation to fund the Program.

E. The continuation of the Employee Assistance Program for members of this unit. An amount to be determined by the Joint Committee shall be encumbered from each year's appropriation to fund this Program.

F. The joint committee will investigate the feasibility of developing a financial counseling program.

28.2. Members who possess or obtain a recognized degree from an accredited and recognized college or university shall receive a lump sum payment of two hundred fifty dollars for such associate degree, five hundred dollars for such bachelor's degree, and seven hundred fifty dollars for such graduate degree. Payment of such degree shall occur annually in June of each year, and shall be for one degree only. When such degree is obtained in a fiscal year, such payment shall be made as soon as practicable after conferral of the degree.

28.3 The State shall continue to provide to members of this Unit a survivor's benefit in the amount of \$140,000.00 in the event that such employee dies subsequent to, March 31, 1999 as the result of an accidental on-the-job injury and that a death benefit is paid pursuant to the New York Workers' Compensation Law, and that such employee or employee's family is

ineligible to receive such benefit provided by the Federal Public Safety Officers Benefits Act (42 USC 3796, et seq.).

28.4 The State shall continue the program which provides children of members of this Unit killed in the line of duty after April 1, 1985 with free tuition (based at the SUNY rate) to attend an accredited institution of higher education, provided, however, they meet the institution's entrance requirements.

28.5 The State and PBA will work together to identify ways to support the Quality through Participation (QtP) initiative, which seeks to improve quality of services and productivity; enable employees to participate more fully in designing work practices and making decisions; and increase employee satisfaction.

ARTICLE 29

Out of Title Work

- A.
 - 1. In the event of an existing vacancy, the Field Commander may designate a member to serve in an "Acting" capacity. A member so designated shall be entitled to the difference in pay between the salary of the "Acting" rank and their current rank from the first day of the "Acting" assignment.
 - 2. The assignment of a member to the duties of another member who is absent due to leave of fifteen (15) working days or less shall not be considered out-of-title work under any circumstances. In no event shall this provision serve as an admission that any other assignments constitute out-of-title work.
- B. Grievances alleging out-of-title work in violation of these provisions shall be non-contract, shall be filed directly at Step 3 of the non-contract grievance procedure and

shall be processed in accord with the non-contract grievance procedure set forth in Article 15 of the collective bargaining agreement.

C. In the event that the Division or GOER determines that the member is performing out-of-title work:

1. For purposes of these provisions, out-of-title compensation shall be the difference between the affected member's regular salary at the time he/she performed such work and what he/she would have earned in the higher rank title.
2. A member receiving out-of-title compensation pursuant to these provisions shall be subject to the overtime rules of the higher position for the period during which he/she is receiving such out-of-title compensation.
3. With the exception of any grievance pending as of June 16, 2005, there shall be no monies due for any claim of out-of-title work and/or for the assumption, or claimed assumption, of out-of-title duties by any member of this unit prior to the implementation of these provisions. All grievances thereafter filed shall be subject to the time limit on the amount of back pay due in paragraph 4 below.
4. In no event shall such monetary award be retroactive to a date earlier than fifteen (15) calendar days prior to the date the grievance was initially filed at Step 3.

ARTICLE 30

Rules and Regulations of the Division

The Superintendent of State Police will consult with the PBA prior to promulgation of changes in the Rules and Regulations of the Division affecting the terms and conditions of employment.

ARTICLE 31

No Strike Clause

31.1 No lockout of employees shall be instituted by the State during the term of this Agreement.

31.2 No strike or work stoppage of any kind shall be instigated, encouraged, condoned or caused by the PBA during the term of this Agreement. This Article shall not be construed to limit the rights of employees under State Law.

ARTICLE 32

Printing of Agreement

The State shall cause this Agreement to be printed and shall deliver to the PBA 3000 copies of this Agreement for distribution to members by the PBA.

ARTICLE 33

Approval of the Legislature

33.1 The State agrees to provide, or where appropriate, prepare, secure introduction of and recommend passage by the Legislature of appropriate legislation, in order to provide the benefits agreed to between the parties, as specified in this Agreement.

33.2 The parties agree jointly to support any such legislation.

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

33.4 In the event that the Legislature should fail to enact any such required legislation or fail to provide such funds, the State shall submit or resubmit such legislation (or such amended legislation as the parties may agree to) to the Legislature during any subsequent sessions during the term of this Agreement.

33.5 In the event that funds sufficient to implement any provision of this Agreement are not provided, the parties shall reopen negotiations solely for the purpose of negotiating a substitute for any such provision.

ARTICLE 34

Savings Clause

In the event that any article, section or portion of this Agreement is found to be invalid or unenforceable by final decision of a tribunal of competent jurisdiction, or shall have the effect of a loss to the State of funds or property or services made available through Federal Law, then such specific article, section or portion specified in such decision or which is in such conflict or having such effect shall be of no force and effect but the remainder of this Agreement shall continue in full force and effect. In such an event, either party shall have the right to immediately reopen negotiations with respect to the article, section or portion of this Agreement involved.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed in their respective names by their respective representatives thereunto duly authorized:

Dated: February __, 2010

New York State Governor's Office of Employee Relations

Gary Johnson
Director

John V. Currier, Deputy Director for Contract Negotiation and Administration
Michael N. Volforte, Acting General Counsel and Chief Negotiator
Priscilla E. Feinberg, Associate Director - Employee Benefits Management
Darryl Decker, Assitant Director - Employee Benefits Management
Linda J. Boettner, Employee Relations Associate - Employee Benefits Management
Peter Sennett, Associate Director Director - Research
Abbie Ferreria, Employee Relations Associate - Research
Edward Cottrell, Employee Relations Associate - Research

New York State Division of State Police

Harry J. Corbitt, Superintendent
Francis P. Christensen, Deputy Superintendent for Employee Relations
W. Bruce Wascho, Assistant Deputy Superintendent for Employee Relations
Gerald E. Meyer, Staff Inspector – Employee Relations
Ross M. Piscitelli, Esq., Special Assistant for Labor Relations
Julie Santiago, Esq., Assistant Counsel

Police Benevolent Association of the New York State Troopers, Inc.

Thomas H. Mungeer
President and Chairman of Negotiating Committee

Mark D. Robillard, 1st Vice President
Daniel F. Sisto, 2nd Vice President
John P. Moretti, Jr., Secretary & Troop A Delegate
William R. Staviski, Treasurer & Troop K Delegate
Rodger L. Aldridge, Jr., Troop B Delegate
Edward T. Kiluk, Troop C Delegate
Gary N. Oelkers, Troop D Delegate
Gary D. Nuessle, Troop E Delegate
Paul S. Meyer, Troop F Delegate
Charles A. Di Santo, Troop G & H Delegate
Peter M. Nunziata, Troop L Delegate
Ricky D. Palacios, Troop T Delegate
Daniel K. Shea, NCO-East Delegate
Michael A. Walser, NCO-West Delegate
Frank A. Pace, Officers Delegate
Michael DiSilvio, Retiree Delegate
Richard E. Mulvaney, Esq., General Counsel
Michael P. Ravalli, Esq, Counsel
Richard D. Loccke, Esq., Counsel
Gordon D. Warnock, Consultant
Maria B. Morris, Esq., Associate General Counsel
Demitria Raynor, Paralegal

APPENDIX A

Annual Basic Salary Levels (Effective April 1, 2007)*

	Orange, Putnam and Dutchess Counties	City of New York, Rockland and Westchester Counties	Nassau and Suffolk Counties	All Other Locations
Trainee 1	Not Applicable	Not Applicable	Not Applicable	\$50,374
Trainee 2	\$60,820	\$61,785	\$62,037	\$60,639
Step 1	\$64,766	\$65,732	\$65,985	\$64,586
Step 2	\$68,710	\$69,675	\$69,929	\$68,530
Step 3	\$71,072	\$72,037	\$72,290	\$70,891
Step 4	\$73,872	\$74,837	\$75,090	\$73,690
Step 5	\$76,983	\$77,948	\$78,201	\$76,803

Annual Basic Salary Levels (Effective April 1, 2008)*

	Orange, Putnam and Dutchess Counties	City of New York, Rockland and Westchester Counties	Nassau and Suffolk Counties	All Other Locations
Trainee 1	Not Applicable	Not Applicable	Not Applicable	\$50,374
Trainee 2	\$62,645	\$63,639	\$63,898	\$62,458
Step 1	\$66,709	\$67,704	\$67,965	\$66,524
Step 2	\$70,771	\$71,765	\$72,027	\$70,586
Step 3	\$73,204	\$74,198	\$74,459	\$73,018
Step 4	\$76,088	\$77,082	\$77,343	\$75,901
Step 5	\$79,292	\$80,286	\$80,547	\$79,107

Annual Basic Salary Levels (Effective April 1, 2009)*

	Orange, Putnam and Dutchess Counties	City of New York, Rockland and Westchester Counties	Nassau and Suffolk Counties	All Other Locations
Trainee 1	Not Applicable	Not Applicable	Not Applicable	\$50,374
Trainee 2	\$64,524	\$65,548	\$65,815	\$64,332
Step 1	\$68,710	\$69,735	\$70,004	\$68,520
Step 2	\$72,894	\$73,918	\$74,188	\$72,704

Step 3	\$75,400	\$76,424	\$76,693	\$75,209
Step 4	\$78,371	\$79,394	\$79,663	\$78,178
Step 5	\$81,671	\$82,695	\$82,963	\$81,480

Annual Basic Salary Levels (Effective April 1, 2010)*

	Orange, Putnam and Dutchess Counties	City of New York, Rockland and Westchester Counties	Nassau and Suffolk Counties	All Other Locations
Trainee 1	Not Applicable	Not Applicable	Not Applicable	\$50,374
Trainee 2	\$67,105	\$68,170	\$68,448	\$66,905
Step 1	\$71,458	\$72,524	\$72,804	\$71,261
Step 2	\$75,810	\$76,875	\$77,156	\$75,612
Step 3	\$78,416	\$79,481	\$79,761	\$78,217
Step 4	\$81,506	\$82,570	\$82,850	\$81,305
Step 5	\$84,938	\$86,003	\$86,282	\$84,739

*NOTE: Members who are undergoing their initial training at the New York State Police Academy shall receive the Trainee I salary and effective upon graduation from said Academy shall advance to Trainee II and such members shall advance to Step I effective on the first day of the payroll period immediately following their completion of one (1) year of service to the Division, and further advancement of such members to subsequent steps shall be by means of an annual increment to be effective on the first day of the payroll period following their completion of each additional year of service.

APPENDIX B

The following letter as contained in Appendix B is not part of the Agreement and is appended for information purposes only.

June 1, 1985

Mr. John R. Canfield
President
PBA of the NYS Troopers, Inc.
112 State Street
Albany, New York 12207

Dear Mr. Canfield:

If because of an operational need, as determined by the Superintendent, a member of the Troopers' Unit or Supervisors' Unit would have a vacation credit balance in excess of the 40 days permitted by the Agreement and the NYS Police Regulations, such member will be permitted to carry such excess balance until such time as it may be scheduled and used with the advance approval of the appropriate Troop or detail Commander. In no event shall such excess be carried longer than one year from the cessation of the period of operational need. The application of this policy shall not be reviewable in any forum.

Very truly yours,

Ronald J. Kurach
Assistant Director

APPENDIX C

The following letter as contained in Appendix C is not part of the Agreement and is appended for information purposes only.

April 28, 1988

Mr. John R. Canfield
President
Police Benevolent Association of the NYS Troopers, Inc.
112 State Street
Albany, New York 12207

Dear John:

It is understood that effective April 1, 1989, members of this Unit will receive additional vacation credit based on their then number of years of service. For example, a member who has completed twenty-one years of service on April 1, 1989 would be credited with three additional days at the start of the September 1989 vacation schedule.

Sincerely,

Ronald J. Kurach
Associate Director

APPENDIX D

The following letter as contained in Appendix D is not part of the Agreement and is appended for information purposes only.

June 25, 1992

Mr. John R. Canfield
President
PBA of the NYS Troopers, Inc.
112 State Street
Albany, New York 12207

Dear Mr. Canfield:

This will confirm that members of the Division of State Police, as State employees, are eligible to apply for slots at worksite Day Care Centers developed by the New York State Labor/Management Child Care Advisory Committee. A listing of existing centers is attached for your information.

Further, members of the State Police continue to be eligible to participate in the Statewide Child Care Flexible Benefit Spending Program.

Sincerely,

Ronald J. Kurach
Associate Director
Attachment

APPENDIX E

The following Leave Donation Memorandum of Agreement as contained in Appendix E is not part of the Agreement and is appended for information purposes only.

MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF NEW YORK AND THE POLICE BENEVOLENT ASSOCIATION OF THE NEW YORK STATE TROOPERS, INC.

This Memorandum of Agreement (MOA) describes the leave donation program applicable to employees of the Unit Consisting of Troopers and the Commissioned and Non-Commissioned Officers Unit. Detailed guidelines on program administration are contained in Attendance and Leave Manual Appendix H.

Program Description

The intent of the Leave Donation Program is to provide a means of assisting employees who, because of long-term personal illness, have exhausted their accrued leave credits and would otherwise be subject to a severe loss of income during a continuing absence from work. This MOA extends the current provisions of the Leave Donation Program.

Eligibility Criteria — Donors

In order to donate vacation credits an employee of this unit must:

- be employed in the same department or agency or be a family member of an eligible recipient employed in another agency or be an employee other than a family member employed in another agency;
- have a minimum vacation balance of at least ten days after making the donation, based on the donor's work schedule. Vacation credits which would otherwise be forfeited may not be donated.
- donor identity is kept strictly confidential.

Eligibility Criteria — Recipients

In order to receive donated leave credits, an employee of this unit must:

- be subject to the Attendance Rules or otherwise eligible to earn leave credits;
- be absent due to a non-occupational personal illness or disability for which medical documentation satisfactory to management is submitted as required;
- have exhausted all leave credits;
- be expected to continue to be absent for at least two biweekly payroll periods following exhaustion of leave credits or sick leave at half-pay;

- must not have had any Division Level disciplinary actions or unsatisfactory performance evaluations within the employee's last two years of State employment;
- be employed in the same agency or department as the prospective donor though not necessarily in the same facility or location, or be a family member employed in another agency, or be an employee other than a family member employed in another agency.

Donation to and from Employees in Other Units

Employees of this Unit may participate in the voluntary donation or receipt of accrued vacation credits with employees of other bargaining units or those designated M/C subject to the following conditions:

Vacation credits may only be donated, received, or credited between employees of the same department or agency or between family members employed in different agencies or between employees other than family members employed in different agencies who are deemed eligible to participate in an authorized leave donation program, provided that there are simultaneously in effect a Leave Donation Exchange Memorandum of Agreement between the Governor's Office of Employee Relations and the employee organizations representing both the proposed recipient and the proposed donor, or applicable attendance rules for managerial or confidential employees.

The donations are governed by the provisions of the program applicable to the donor; receipt, crediting and use of donations are governed by the provisions of the program applicable to the recipient.

Restrictions on Donations

Only vacation credits which would not otherwise be forfeited may be donated. Credits must be donated in 8 hour increments. There is no limit on the number of times an eligible donor may make donations. Donated credits not used by recipients are returned to the donor, provided the donor is employed in the same agency as the recipient. Donated credits from employees outside the agency will NOT be returned.

There is no maximum number of days which a recipient employee may accept, provided, however, that donated credits cannot be used to extend employment beyond the point it would otherwise end by operation of law, rule or regulation. There is no maximum number of donors from whom an eligible employee may accept donations.

An employee's continuing eligibility to participate in this program must be reviewed by the agency personnel office at least every 30 days and more frequently if appropriate, based on current standards as to what constitutes satisfactory medical documentation.

Use of Donated Credits

Donated credits may be used, at the employee's option, in full day increments after exhaustion of all leave credits and prior to sick leave at half-pay or in either full or half-day units (four or eight hour increments for members assigned to a 8 hour shift and in six or twelve hour increments by Troopers assigned to a 12 hour) after exhaustion of sick leave at half-pay.

An employee who opts to use donated credits prior to sick leave at half-pay is permitted to again participate in this program following exhaustion of sick leave at half-pay. Donations made across agency lines shall be used prior to donations made within the agency.

Status of Recipient Employees

Recipient employees are deemed to be in leave without pay status for attendance and leave purposes while charging donated leave credits. They do not earn biweekly accruals or observe holidays, nor do they receive personal leave if their anniversary dates fall while using donated leave credits. Time charged to donated leave credits does not count as service for earning additional eligibility for sick leave at half-pay.

Employees using donated leave receive retirement service credit for days in pay status.

Health insurance premiums, retirement contributions and other payroll deductions continue to be withheld from the employee's paycheck so long as the check is of an amount sufficient to cover these deductions.

Solicitations

Donations may be solicited by the recipient employee, on his or her behalf by coworkers or by local union representatives. The employing agency may not solicit donations on the employee's behalf.

Administrative Issues

The employing department or agency is responsible for verifying medical documentation, reviewing eligibility requirements, approving and processing donations, confirming employee acceptance of donations and transferring credits. This program is not subject to the grievance procedure contained in the collective bargaining agreements.

For purposes of this MOA, family shall be defined as any relative or any relative-in-law regardless of place of residence, or any person with whom the employee makes his or her home.

_____/s/_____
Daniel M. De Federicis
President
Police Benevolent Association of
the New York State Troopers, Inc.

_____/s/_____
Michael N. Volforte
Acting General Counsel
Governor's Office of Employee
Relations

Date: 7/06/09

Date: 6/18/09

APPENDIX F

February 10, 2010

Mr. Thomas H. Mungeer
President
Police Benevolent Association
of the NYS Troopers, Inc.
120 State Street
Albany, New York 12207

Re: 2007-2011 Collective Bargaining Agreement
Article 10.3 – Performance Bonus

Dear President Mungeer:

The following confirms the parties understanding with respect to the Performance Bonus contained in Article 10.3 of the 1991 – 1995 collective bargaining agreement. The Performance Bonus contained in Article 10.3 of the 1991-1995 collective bargaining agreement was replaced with a new physical fitness program in the Interest Arbitration Award covering the period 1995-1999. There is a disagreement between the parties as to whether disputes arising out of or related to the Physical Fitness Program, as currently constituted, are arbitrable.

However, recognizing the importance of a written collective bargaining agreement, the parties have agreed, during the course of negotiations for the 2007-2011 collective bargaining agreement, that Article 10.3 of the 1991-1995 collective bargaining agreement would be placed in this Appendix for historical purposes and that the terms and conditions of the Physical Fitness Program, as currently constituted, would not be included in the body of this collective bargaining agreement. This agreement was made without prejudice and with full reservation of rights by each party as to whether or not disputes related to the Physical Fitness Program, as currently constituted, are arbitrable. Both parties reserve all arguments and rights with respect to the issue of arbitrability of the Physical Fitness Program, as currently constituted, and the impact, if any of the below language regarding the Performance Bonus having been contained in the 1991-1995 collective bargaining agreement and it being replaced with a new Physical Fitness Program in an interest arbitration award. Neither the Performance Bonus language being placed in this Appendix nor the fact that the terms and conditions of the Physical Fitness Program, as currently constituted, are not contained in the current collective bargaining agreement shall constitute a waiver or concession by either party as to whether or not disputes related to the Physical Fitness Program, as currently constituted, are arbitrable.

The language below was contained in Article 10.3 of the 1991-1995 collective bargaining agreement.

Effective April 1, 1991, members of this unit shall be entitled to a bonus of \$200 to be paid annually provided they meet the following criteria:

A. 15 years or more of service as of April 1 of the year the bonus is to be paid. (Parkway Police shall continue to count their Parkway Police time towards the bonus.)

B. An Excellent overall performance rating for the one-year period ending December 31 previous to the year in which the bonus is to be paid.

C. Meet the height and weight standard as recorded in the last physical examination provided by the Division of State Police. Members whose weight is in question, regardless of their last medical check-up, shall be given the option of being weighed at Troop Headquarters in order to qualify for the bonus. A member may waive being weighed, however, the waiver shall disqualify the member from being eligible for the bonus. It is intended that weighing will only be requested in obvious cases of a member being overweight. Any such weight check shall be utilized to determine qualifications for this Article, exclusively.

Please countersign below to indicate your acceptance of these terms.

Sincerely,

/s/

Michael Volforte

/s/

Thomas H. Mungeer
President

APPENDIX G

The following letter as contained in Appendix G is not part of the Agreement and is appended for information purposes only.

MEMORANDUM OF AGREEMENT

By and Between

**The Police Benevolent Association of the
New York State Troopers, Inc.**

And

The State of New York, Division of State Police

April 2, 2009

WHEREAS, the Police Benevolent Association of the New York State Troopers, Inc. ("PBA") and State of New York, Division of State Police ("Division") are parties to an August 16, 2008, Memorandum of Agreement ("MOA") regarding terms for a Collective Bargaining Agreement dated April 1, 2007, to March 31, 2011, for the bargaining unit consisting of those employees of the Division holding the rank of Trooper ("Troopers' Unit") and an August 16, 2008, Memorandum of Agreement ("MOA") regarding terms for a Collective Bargaining Agreement dated April 1, 2007, to March 31, 2011, for the bargaining unit consisting of those employees of the Division of State Police who are Commissioned and Non-Commissioned Officers ("Supervisors' Unit").

WHEREAS, paragraph 14 of the Troopers' Unit MOA and paragraph 15 of the Supervisors' Unit MOA each set forth that the parties will establish a Labor/Management Committee for the purpose of developing a benefit for certain on-the-job injuries.

WHEREAS, the parties have established the Labor/Management Committee and that the Committee has met and discussed the issues associated with developing a benefit for certain on-the-job injuries and the creation of a Modified Duty Policy applicable to both the Troopers' and Supervisors' Units.

WHEREAS, the PBA, the State and the Division have reached an agreement that is satisfactory to all parties and desire to reduce said agreement to writing;

NOW, therefore in consideration of the mutual premises contained herein, it is hereby stipulated and agreed as follows:

Heightened Risk Disability Benefit

1. The Heightened Risk Disability Benefit will apply only to on-duty illnesses/injuries resulting from circumstances above and beyond a Member's routine daily duties.

2. Upon written request by a Member to the Deputy Superintendent – Employee Relations to receive the Heightened Risk Disability Benefit as a result of an on-duty illness/injury, the Superintendent shall determine, on a case-by-case basis, whether the Member's on-duty illness/injury falls within the Heightened Risk Category.

3. A Member, who is unable to work due to an on-duty injury/illness that is determined by the Superintendent to be in the Heightened Risk Category, will be entitled to the Heightened Risk Disability Benefit, and thus will continue to receive full pay and fringe benefits during the period of absence until the Member: 1) receives a New York State Police accidental disability retirement (RSSL §363-bb); or 2) becomes eligible for a New York State Police service retirement with full benefits (currently, twenty (20) years of State Police service credit); or 3) reaches his/her applicable mandatory retirement age under New York State law; or 4) is deemed capable of returning to full and strenuous duty; or 5) refuses a modified duty assignment as described in paragraph 6 below, **whichever occurs first**.

4. The Division or the Member may file for disability retirement on behalf of the Member at any time. The Division reserves the right to file on behalf of the Member without his/her consent.

5. A Member who is eligible to receive the Heightened Risk Disability Benefit shall be required to work in a modified duty assignment if he/she is determined to be fifty percent (50%) or less disabled in accordance with the terms and provisions of the Modified Duty Program as set forth herein.

6. If the Member is determined to be fifty percent (50%) or less disabled in accordance with the terms of the Modified Duty Program, and refuses the assignment to modified duty, he/she shall not be eligible to receive full pay and fringe benefits pursuant to the Heightened Risk Disability Benefit.

7. If the Member is determined to be greater than fifty percent (50%) disabled in accordance with the terms of the Modified Duty Program, he/she shall not be required to work in a modified duty assignment and shall continue to receive full pay and fringe benefits under the Heightened Risk Disability Benefit subject to the terms set forth in paragraph 3 above.

8. The Superintendent's determination that an on-duty injury/illness does not fall within the Heightened Risk Category will be issued in writing to the PBA and the Member and shall be subject to appeal by the Member upon written notification to the Deputy Superintendent – Employee Relations within ten (10) calendar days of his/her receipt of the Superintendent's written determination. Such appeal shall be reviewable by a three (3) person panel that shall be referred to as the Heightened Risk Determination Review Panel ("Panel"). The Panel shall consist of one (1) representative appointed by the Division, one (1) representative appointed by the PBA and one (1) representative appointed by the Director of the Governor's Office of Employee Relations.

9. Upon proper written appeal by the Member as set forth in paragraph 8 above, the Panel shall schedule the date for a hearing in furtherance of its review of the Superintendent's determination on Heightened Risk categorization within twenty (20) calendar days of receipt of the written request to the Deputy Superintendent – Employee Relations.

After reviewing the particular facts and circumstances of the matter, prior Heightened Risk determinations, documentary evidence, testimony, and/or other submissions by the parties, the Panel shall issue a binding written decision based on a majority vote of the Panel members within ten (10) calendar days of the hearing date.

10. Pending the Panel's decision, the Member shall be subject to the Division's normal Workers' Compensation procedures and benefits.

Modified Duty Policy

11. Modified Duty Generally. The parties recognize that the traditional policy of requiring a Member to be fit for full and strenuous duty may create a hardship for the Division and a Member who is fit for partial duty, but nonetheless, is not permitted to work. This can result in substantial depletion of a Member's accruals and deprive the Division of the Member's services. Assignment of the Member to Modified Duty will alleviate the impact of the absence on the Member and on the Division.

12. Qualifications for Consideration. It is the policy of the Division to permit and assign a Member recovering from either an on-duty or off-duty illness/injury to a modified duty assignment when such Member meets the criteria for such assignment as set forth herein and the Division's best interests are served. However, modified duty assignments are not designed nor intended to be long-term in duration.

13. Modified Duty Assignments. Modified Duty shall consist of assignments as available and as designated by the Division, including but not limited to, administrative duties, desk duty, records management, inventory control, investigations not requiring field work, communications, and other non-patrol functions.

14. Assignment to Modified Duty. A Member who is approved for assignment to modified duty shall be assigned to report for such duty by the Deputy Superintendent – Employee Relations or his/her designee.

15. Assignment – Schedule. Members assigned to modified duty will be scheduled to work an eight (8) hour work schedule or a twelve (12) hour work schedule at the discretion of the Troop or Detail Commander, subject to the terms set forth in Article 12 of the parties' collective bargaining agreement.

16. Assignment - Limitations. Members working in a modified duty capacity shall not be eligible for assignment to overtime details, normal road patrol, criminal investigations requiring field work, or field supervisory coverage. Absent an emergency, Members working in a modified duty capacity shall not be assigned to work overtime. Any overtime that is assigned to a Member working in a modified duty assignment requires prior approval by the Troop/Detail Commander. The Troop/Detail Commander shall provide notice of all overtime incurred pursuant to this paragraph to the Deputy Superintendent – Employee Relations.

17. Limitations – Location of Assignment. The Division shall have the sole right to determine the location of a modified duty assignment and will make every reasonable effort to assign the Member as close to his/her official duty station as possible. A Member shall not be assigned more than fifty-five (55) miles from his/her official duty station without his/her consent. However, the Division shall not be required to assign a Member to any location where there is insufficient work. A Member assigned more than thirty-five (35) miles from his/her official duty station will be entitled to mileage or sustenance in accordance with Articles 2 and

10 of the New York State Police Administrative Manual, and as otherwise provided for in accordance with law, rule, regulation or collective bargaining agreement.

18. Limitations – Duration of Modified Duty Generally. With the exception of a Member receiving the Heightened Risk Disability Benefit, a Member may not work in a modified duty capacity for more than five hundred forty (540) calendar days in any three (3) year period. This time period limitation shall begin on the first day of the Member's modified duty assignment and shall apply in instances of single or multiple illnesses/injuries, regardless of whether the illnesses/injuries result from the same or different events/circumstances. Upon written request by the Member, the Superintendent may, in his sole discretion, determine to extend the time limitation on modified duty assignments as set forth herein.

19. Assignment – Out-of-Title Work. There shall be no grievances alleging out-of-title work filed or processed in association with any modified duty assignment.

20. Assignment – Attire. The Troop/Detail Commander shall determine whether the Member in a modified duty assignment will wear his/her uniform or appropriate business attire while on duty.

21. Remedies. A determination regarding a Member's degree of disability or eligibility for modified duty, including determinations made regarding a Member's eligibility to receive the Heightened Risk Disability Benefit, shall not be subject to the Article 15 Grievance Process whether contract or non-contract. A dispute regarding the application or interpretation of a term of this Memorandum of Agreement will be subject to the Article 15 Grievance Process as a non-contract grievance.

22. Outside Employment. A Member assigned to modified duty must request approval to engage in outside employment pursuant to Article 8H of the New York State Police Administrative Manual. This requirement applies to both previously approved and new outside employment requests.

23. Promotion While on Modified Duty. A Member on modified duty shall not be precluded from promotional appointment from an eligible list, or from any other promotional opportunity, if there is a medical certification from the Division Physician and the Member's physician that the Member is expected to return to full and strenuous duty within thirty (30) calendar days of the date of promotion. In the event that the Member is promoted under the terms of this paragraph, but does not return to full and strenuous duty within thirty (30) calendar days of promotion, the Division reserves the right to return the Member to his/her previous rank, however, where the promotion is made from a promotional list, the Member will not lose his/her position on that list.

24. Member's Cooperation. A Member subject to any of the provisions herein shall cooperate fully in all aspects of the process. This includes, but shall not be limited to, attendance at scheduled medical appointments and providing relevant medical records or other relevant documentation as required. Failure to cooperate may result in discontinuation of the Member's assignment to modified duty and/or loss of eligibility under the Heightened Risk Disability Benefit.

Modified Duty Provisions for On-Duty Illnesses/Injuries

25. **Level of Fitness.** To be considered for assignment to modified duty, a Member recovering from an on-duty illness/injury, including a Member receiving the Heightened Risk Disability Benefit, must be found to be fifty percent (50%) or less disabled by the State Insurance Fund or his/her attending physician, and the Division Physician must concur with that determination.

26. **Requesting Modified Duty.** For a Member recovering from an on-duty illness/injury, including a Member receiving the Heightened Risk Disability Benefit, either the Member or the Division can request that the Member be assigned to modified duty. In either event, the request shall be referred to the Division Physician for review. If the Division is making the request, and the Division Physician determines that such assignment is proper, the matter may be referred to the State Insurance Fund for a degree of disability determination. If the State Insurance Fund determines that the Member is fifty percent (50%) or less disabled, and all other criteria are met as set forth herein, and upon final approval of the Division, the Member shall be assigned to modified duty. If the Member is making the request, he/she may submit written certification from his/her health care provider/attending physician that he/she is fifty percent (50%) or less disabled. Such request and determination shall be submitted to the Division Physician for review. If the Division Physician concurs with the Member's health care provider/attending physician, and all other criteria are met as set forth herein, and upon final approval of the Division, the Member shall be assigned to modified duty.

27. **Review Procedure.** In furtherance of the Division Physician's review of each request as set forth in paragraph 26 above, he/she may direct that additional relevant information be obtained from the Member's health care provider/attending physician prior to making a determination. Upon final medical determination by the Division Physician, the Superintendent shall have the sole authority to determine a Member's modified duty eligibility for on-duty illnesses/injuries. A Member who wishes to contest a modified duty eligibility determination based on the degree of disability determination by the State Insurance Fund, may do so by utilizing the Dispute Resolution Process set forth in paragraph 29 below.

28. **Limitations – Duration of Assignment.** All approved modified duty assignments will run for the duration of the disability, or ninety (90) calendar days, whichever is less ("Assignment Period"). All modified duty assignments will be reviewed at the end of each Assignment Period and any approved extension to a subsequent Assignment Period will be subject to the same time limitations. The Superintendent shall determine whether or not to approve an extension to a subsequent assignment period and, when necessary, will refer the matter to the Division Physician for further review and medical recommendation. Should the Division Physician determine that additional medical information is required prior to making a recommendation to the Superintendent, appropriate arrangements shall be made to obtain such medical information and/or to schedule a medical examination by a State Insurance Fund Physician. For a Member recovering from an on-duty illness/injury only, the expense of such examination shall be at State expense.

29. **Dispute Resolution Process Generally.** A Member who wishes to contest a modified duty eligibility determination based on the degree of disability determination by the State Insurance Fund, may do so by using the Dispute Resolution Process. The Dispute Resolution Process shall consist of a review of the relevant medical documentation by an

independent third party medical consultant retained by the Division upon submission of relevant documentation by the parties.

30. Dispute Resolution Process - Appeals. A Member recovering from an on-duty illness/injury, including a Member receiving the Heightened Risk Disability Benefit, who wishes to contest a modified duty determination as described in paragraph 29 above must submit his/her appeal to the Deputy Superintendent – Employee Relations by memorandum through channels within five (5) calendar days of the date that the Member receives notice in writing of the modified duty determination.

31. Dispute Resolution Process – Third Party Review. A Member contesting a modified duty determination as described in paragraph 29 above must also provide an appeal form to his/her attending physician. The Member's attending physician must complete the form and submit it to the third party consultant, along with any medical records deemed relevant in support of the attending physician's opinion with regard to the Member's degree of disability, within ten (10) calendar days of the date that the Member receives notice in writing of the modified duty determination. The Division and the State Insurance Fund shall also provide the third party consultant with the necessary medical documentation to support their degree of disability determination within ten (10) calendar days of receipt of the Member's memorandum contesting assignment to modified duty. A Member appealing a modified duty determination shall not be required to report for a modified duty assignment until completion of the Dispute Resolution Process. A Member who appeals a modified duty determination, and does not report for a modified duty assignment, will be removed from Workers' Compensation leave during the appeal process. The Member may use any accumulated sick, annual or personal leave accruals for such absence. In the event that the third party consultant finds the Member is fifty percent (50%) or less disabled and is eligible for modified duty or continuing in a modified duty assignment, the Member shall be assigned to modified duty by the Division as soon as practicable. In the event that the third party consultant finds that no disability exists, the Member will be ordered to return to full duty. If the Member then refuses to return to duty after a finding by the third party consultant that the Member is fifty percent (50%) or less disabled or that there is no disability, the Division will direct the State Insurance Fund to pay the Member directly for any Workers' Compensation benefits the Member is entitled to and the Member may continue to charge accumulated accruals. In the event that the third party consultant finds that the Member is greater than fifty percent (50%) disabled, the assignment shall be rescinded and any accruals used by the Member during the appeal process shall be restored. In such case, the Member shall be entitled to leave under Regulation 5.12 of the State Police Administrative Manual or, if applicable based on a prior determination by the Superintendent as set forth above, to benefits under the Heightened Risk Disability Benefit.

32. Leave Entitlement. A Member on modified duty as a result of an on-duty injury, including a Member receiving the Heightened Risk Disability Benefit, shall not be charged with use of Compensation Leave except where otherwise provided for herein. In addition, such Member shall not have his/her leave accruals charged for work time spent performing his/her modified duty assignment, but shall be charged with accruals for any authorized leave.

Modified Duty Provisions for Off-Duty Illnesses/Injuries

33. **Level of Fitness.** To be considered for assignment to modified duty, a Member recovering from an off-duty illness/injury must present certification from his/her health care provider/attending physician indicating that he/she is fifty percent (50%) or less disabled, and the Division Physician must concur with that determination.

34. **Requesting Modified Duty.** A Member recovering from an off-duty illness/injury may request assignment to modified duty by memorandum through channels. The Member must include with this memorandum written certification from his/her health care provider/attending physician that he/she is fifty percent (50%) or less disabled and has the ability to perform those modified duty assignments as set forth in paragraph 13 above. Such request shall be reviewed by the Division Physician in furtherance of his/her final medical determination. Any expense incurred in connection with this process shall be the Member's responsibility.

35. **Review Procedure.** In furtherance of the Division Physician's review of each request as set forth in paragraph 34 above, he/she may direct that additional relevant information be obtained from the Member's health care provider/attending physician prior to making a determination. Upon final medical determination by the Division Physician, the Superintendent shall have the sole authority to determine a Member's modified duty eligibility for off-duty illnesses/injuries. A Member who wishes to contest a modified duty eligibility determination based on the degree of disability determination by the Division Physician, may do so by utilizing the Dispute Resolution Process set forth in paragraph 37 below.

36. **Limitations – Duration of Assignment.** All approved modified duty assignments will run for the duration of the disability, or ninety (90) calendar days, whichever is less ("Assignment Period"). All modified duty assignments will be reviewed at the end of each Assignment Period and any approved extension to a subsequent Assignment Period will be subject to the same time limitations. The Superintendent shall determine whether or not to approve an extension to a subsequent assignment period and, when necessary, will refer the matter to the Division Physician for further review and medical recommendation. Should the Division Physician determine that additional medical information is required prior to making a recommendation to the Superintendent, appropriate arrangements shall be made to obtain such medical information and/or to schedule an independent medical examination. The cost of this examination shall be the responsibility of the Member.

37. **Dispute Resolution Process Generally.** A Member who wishes to contest a modified duty eligibility determination based on the degree of disability determination by the Division Physician, may do so by using the Dispute Resolution Process. The Dispute Resolution Process shall consist of a review of the relevant medical documentation by an independent third party medical consultant retained by the Division upon submission of relevant documentation by the parties.

38. **Dispute Resolution Process - Appeals.** A Member recovering from an off-duty illness/injury who wishes to contest a modified duty determination as described in paragraph 37 above must submit his/her appeal to the Deputy Superintendent – Employee Relations by memorandum through channels within five (5) calendar days of the date that the Member receives notice in writing of the modified duty determination.

39. Dispute Resolution Process – Third Party Review. A Member who wishes to contest a modified duty determination concerning an off-duty illness/injury shall also have the right to use the Dispute Resolution Process as outlined in paragraph 37 above. If a Member appeals a modified duty determination through the Dispute Resolution Process, the Member shall not be entitled to report for duty until the Dispute Resolution Process is complete. In the event that the third party consultant determines that the Member is fifty percent (50%) or less disabled, the Member will be assigned to modified duty as soon as practicable and any leave accruals that the Member used while awaiting a determination from the Dispute Resolution Process will be restored. If the third party consultant finds that the Member is greater than fifty percent (50%) disabled and incapable of performing modified duty, the Member shall remain on sick leave. After a minimum of thirty (30) calendar days has elapsed from the date of the third party consultant's determination, the Member may submit additional medical documentation through channels to the Division Physician and again request assignment to modified duty.

40. Leave Entitlement. A Member on modified duty as a result of an off-duty injury shall not have his/her leave accruals charged for work time spent performing his/her modified duty assignment, but shall be charged with accruals for any authorized leave.

Miscellaneous Terms

41. Contractual Terms. Unless specifically modified herein, the terms of the parties' Collective Bargaining Agreement remain in full force and effect.

42. Right to Reopen. In the event the Division negotiates an enhancement to any benefit contained herein for Members of the Division not represented by the PBA, the parties agree to reopen negotiations and make any necessary modifications to the terms of this MOA.

43. Term of Agreement. Unless renewed by mutual agreement, this Agreement shall terminate on March 31, 2011.

44. Effective Date. This Agreement shall take effect on April 2, 2009.

IN WITNESS WHEREOF, the parties hereto have caused this MOA to be signed in their respective names by their respective representatives thereunto duly authorized.

THE POLICE BENEVOLENT ASSOCIATION
OF THE NEW YORK STATE TROOPERS, INC.

_____/s/
By: Daniel M. De Federicis, President

STATE OF NEW YORK,
DIVISION OF STATE POLICE

_____/s/
By: Colonel Francis P. Christensen
Deputy Superintendent