

SEPARATION AND RELEASE AGREEMENT

This SEPARATION AND RELEASE AGREEMENT (“Agreement”) is entered into by and between Michael Janonis (“Janonis” or “Employee”) and the Village of Mount Prospect, Illinois (the “Village”). Janonis and the Village hereinafter are sometimes collectively referred to as “the Parties”.

AGREEMENT

NOW, THEREFORE, for and in consideration of the provisions, covenants and mutual promises contained herein, the Parties hereby agree as follows:

1. **Change of Status Date.** As of March 17, 2015, the employment relationship between the Parties will permanently change and Employee will be completely relieved of all authority, responsibilities and rights to act on behalf of the Village in any capacity. This date (March 17, 2015) will be referred to as Employee’s “Change of Status Date”.
 - (a) Employee will receive compensation for all services performed on behalf of the Village through and including his Change of Status Date (March 17, 2015) on the Village’s next regular payroll date thereafter (March 26, 2015).
 - (b) As of Employee’s Change of Status Date, his participation in all of the Village’s benefit programs, including the right to earn personal days, sick days, vacation days or any other paid time off benefit pursuant to any Village policy or practice shall cease, except as specifically stated in this Agreement.
 - (c) Even though Employee will not be expected or permitted to perform services on behalf of the Village after the Change of Status Date, he will continue to be considered an active employee with the Village for purposes of computing his years of service credit and the contribution amounts to be paid to the Illinois Municipal Retirement Fund (“IMRF”) through and including September 18, 2015.

2. **Salary Continuation Payments.** Provided Employee: (a) timely executes this Agreement, (b) does not revoke his acceptance as set forth in Paragraph #21 below, and (c) fully complies with his obligations under this Agreement, the Village shall provide Janonis Salary Continuation Payments in the amount of his regular bi-weekly Base Salary amounts from his Change of Status Date through and including September 18, 2015. Such Salary Continuation Payments will be made as a direct deposit, as previously authorized by Employee. The Parties agree that such Salary Continuation Payments shall continue to be paid to Employee, despite Employee’s acceptance and/or commencement of employment with another employer.
 - (a) The Salary Continuation payments will begin on the next regular payroll date following the Effective Date this Agreement, pursuant to the terms in Paragraph #21 below.
 - (b) The Salary Continuation Payments will be subject to legally required withholdings and other authorized deductions. For purposes of this Agreement, Employee’s “Base Salary” shall be in the annualized amount of One Hundred

Eighty Four Thousand, Seven Hundred and Seven Dollars and No Cents (\$184,747.00) and Employee's gross bi-weekly paycheck shall be \$7,105.70.

- (c) As of September 18, 2015 (also referred to herein as Employee's "Separation Date"), the employment relationship between the Parties will permanently end in all respects.

3. **Severance Payment.** The Village also shall provide Janonis a lump sum payment in the gross amount of Ninety Two Thousand, Three Hundred Seventy Three Dollars and Fifty Cents (\$92,373.50), which is equal to six (6) months of his regular Base Salary amount. This amount, referred to herein as the "Severance Payment", will be subject to legally required withholdings and other authorized deductions. The Severance Payment will be payable to Janonis in accordance with the Village's normal payroll practices on September 24, 2015 and will be made as a direct deposit, as previously authorized by Employee. Employee acknowledges that this Severance Payment is adequate consideration for his promises in Section #10 below.

4. **Insurance Continuation Benefits.** During the period in which Employee is receiving Salary Continuation Payments, Employee and his eligible dependents will continue to be covered by the Village's group health insurance program, as if Employee were actively working.

- (a) As of the Employee's Change of Status Date, Employee's portion of the health insurance premium payments was \$87.75 per pay period for Employee and his eligible dependents. Employee voluntarily authorizes the Village to deduct this amount from Employee's Salary Continuation Payments during the period in which such payments are provided to Employee pursuant to Section 2 above.
- (b) As of September 30, 2015, Janonis may elect to continue his health insurance coverage for himself and his eligible dependents as provided by law under the Consolidated Omnibus Budget Reconciliation Act ("COBRA"). By separate communication mailed to his home address, Janonis will be notified of his option to continue such health insurance coverage pursuant to COBRA.
- (c) As additional consideration and provided that Janonis makes a timely COBRA election, the Village will pay the full COBRA premium amount on behalf of Employee and his eligible dependents in such amounts from October 1, 2015 and continuing through and including September 30, 2016, subject to the remaining provisions of this Agreement (the "COBRA Subsidy" Period).
- (d) After the COBRA Subsidy period ends, Employee will be responsible for the full cost of any COBRA premiums that he incurs for himself and his eligible dependents pursuant to the remaining provisions of the COBRA laws.
- (e) The Parties agree and acknowledge that the Village's obligations to provide the COBRA Subsidy payments in this Paragraph will end if any of the following events occur by Janonis: (a) he is in violation of his obligations under this

Agreement, (b) he fails to comply with his obligations under the applicable COBRA laws, (c) he fails to authorize deductions from his Separation Pay and/or makes other arrangements to pay his portion of the COBRA premium payment as if he was actively employed, and/or (d) enrolls in a health insurance coverage from another source or employer prior to the end of the COBRA Subsidy Period.

- (f) Following the Change of Status Date, Employee will be entitled to participate in the Village's flexible benefit program and dental insurance program to the extent allowed by the terms of those plan documents and at his own expense.

5. **Deferred Compensation Payment.** During the period in which Employee is receiving the Salary Continuation Payments referenced in Section 2 above, the Village also will deposit into Employee's existing deferred compensation account, thirteen (13) payments in installments of \$1153.85 each (the "Deferred Compensation Payments"). The Deferred Compensation Payments collectively equal and total the amount of Fifteen Thousand Dollars and No Cents (\$15,000). In the event that Employee reaches the maximum amount of contributions available in his Deferred Compensation account due to his receipt of payments pursuant to this Section 5 from the Village, the remaining portion of the Deferred Compensation Payments will be provided to Employee as an additional payment on September 24, 2015 and subject to legally required withholdings and other authorized deductions.

6. **RHS Plan.** As of the Change of Status Date, Employee had a total remaining balance of 241.75 hours of personal, sick and/or vacation time which he earned but had not yet used. This remaining balance, in the gross amount of \$22,904.16, will be placed in Employee's RHS account upon his Separation Date, subject to the remaining terms of the RHS plan documents (as amended, as necessary).

7. **Unemployment Benefits.** Upon expiration of the period in which Employee is receiving Salary Continuation Payments (which will be no later than September 17, 2015), Employee is free to apply for unemployment benefits with the Illinois Department of Employment Security ("IDES"). The Parties agree that Employee was not engaged in "misconduct" as defined by IDES and therefore the Village agrees not to protest any timely filed claim for unemployment benefits filed by Employee. This paragraph will be construed in accordance with the law and any final determination about his rights under the law will be determined by the IDES.

8. **Mutual Releases.**

- (a) Except for a claim based upon a breach of this Agreement, Janonis does hereby fully, finally, and unconditionally release and forever discharge the Released Parties (defined below) from any and all actions or claims accruing prior to the execution of this Agreement. By way of explanation, this release by Janonis resolves all claims, liabilities, suits, discrimination or other charges, personal injuries, demands, debts, liens, damages, costs, grievances, injuries, actions or rights of action of any nature whatsoever, known or unknown, whether related or unrelated to his employment, occurring and/or accruing prior to Janonis' execution of this Agreement. Janonis further waives any right to any form of

recovery, compensation or other remedy in any action brought by him or on his behalf.

- (b) Except for a claim based upon a breach of this Agreement, the Village, for itself, and on behalf of its respective parents, subsidiaries, divisions, partners, joint venturers, and/or affiliated businesses or entities of the Village, on behalf of its past and present directors, officers, board members, agents, attorneys, employees, representatives, trustees, administrators, and fiduciaries, acting in their official capacities as representatives of the Village, does hereby fully, finally, and unconditionally release and forever discharge Janonis and his respective agents, attorneys, heirs, executors, administrators and legal representatives (“Janonis Released Parties”), from any and all actions or claims accruing prior to the Village’s execution of this Agreement. By way of explanation, this release by the Village resolves all claims, liabilities, suits or other charges, personal injuries, demands, debts, liens, damages, costs, grievances, injuries, actions or rights of action of any nature whatsoever, known or unknown, whether related or unrelated to Janonis’ employment, occurring and/or accruing prior to the Village’s execution of this Agreement. The Village further waives any right to any form of recovery, compensation or other remedy in any action brought by it or on its behalf.
- (c) Without limiting the foregoing terms, this Agreement specifically includes all claims arising from any federal, state or local constitution, statute, regulation, rule, ordinance, order, public policy, contract or common law, including but not limited to all claims under 42 U.S.C. 1983, the Age Discrimination in Employment Act as amended (“ADEA”), the Family and Medical Leave Act, the Illinois Human Rights Act, the Cook County Human Rights Ordinance, and the Americans with Disabilities Act as amended.
- (d) In addition to releasing the causes of action, this Agreement releases all claims for equitable and legal relief, attorneys’ fees and costs. In particular, this Agreement is intended to be a resolution of any possible claims and the Parties agree that neither party is a “prevailing party.” Moreover, the Parties specifically intend and agree that this Agreement fully contemplates all claims for attorney’s fees and costs, and hereby waives, compromises, releases and discharges any such claims.
- (e) Janonis agrees that this release includes all claims and potential claims against the Village and any affiliated companies, including their parents, subsidiaries, divisions, partners, joint venturers, and as intended third-party beneficiaries, their predecessors, successors, heirs, and assigns, and their past, present and future owners, directors, officers, members, agents, attorneys, employees, representatives, trustees, administrators, fiduciaries and insurers, jointly and severally, in their individual, fiduciary and corporate capacities, (collectively referred to as the “the Village Released Parties”). The Village Released Parties expressly include, but are not limited to, individuals who have served or are currently serving as Board Members to the Village (hereinafter, the “Board Members”).

- (f) Specifically exempt from the releases under this Section 8, however, is any requirement or obligation that the Village and/or Janonis has to cooperate under any statute, regulation, or funding agreement, including, but not limited to, the Illinois Governmental Ethics Act.
- (g) This Section 8 does not restrict Janonis from pursuing a claim under the ADEA in the event he alleges that he did not knowingly and/or voluntarily enter into this Agreement, except as provided by law. Additionally, nothing in this Section 8 shall be construed to restrict or prevent either Party from bringing a claim against the other based on an act or event which constitutes a violation of this Agreement, and subject to the remaining provisions of this Agreement.

9. **Representation & Warranties.** Except as provided in Section 8(g) above, the Parties represent and warrant that neither has filed nor will they file any claims against the other Party (including the Janonis Released Parties and the Village Released Parties), and that each Party's obligations under this Agreement, including the payment of monies, are conditioned upon this representation. Janonis represents that in negotiating the terms of this potential agreement, he has not already disclosed the proposed terms to any third-parties (except to his attorney(s)), nor has he disclosed any confidential information that he was obligated to maintain while a Village employee. Nothing in this Section 9 restricts Employee's right to file a claim seeking unemployment benefits with the IDES pursuant to Section 7 above.

10. **No Reinstatement.** Janonis recognizes that his employment with the Village has permanently ceased. The Village shall have no obligation to rehire, reinstate, recall or hire Janonis in the future.

11. **Confidentiality Obligations.**

- (a) Janonis agrees that neither he nor his agents will disclose the terms or any other circumstance relating to this Agreement, except: to his attorney(s), accountant(s), and advisors; to his spouse and adult children; in response to lawful process of any judicial or adjudicative authority; or otherwise required by law. The Village agrees that neither it nor its agents will disclose the terms of or any other circumstances relative to the Agreement, except to the Village's corporate authorities in executive session, to the Village's Human Resources Department as necessary to administer the terms of this Agreement, to the Village's attorneys and accountants, or in response to lawful process of administrative or adjudicative authority (including as necessary to comply with the Illinois Freedom of Information Act).
- (b) Janonis understands and agrees that while he was employed by the Village, he had an obligation to maintain certain confidential information, including but not limited to information with which he was entrusted as a fiduciary and also information that is subject to the attorney-client privilege. As a further inducement for the Village to enter into this Agreement, Janonis agrees to continue to maintain all such confidential information as confidential, and agrees not to use, reveal, report, publish, post on the internet or intranet, disclose or

transfer, directly or indirectly, any of the Village's confidential information for any purpose except as expressly authorized by the Village's then appointed Village Manager (or designee). Janonis also agrees to take all reasonable measures to prevent the unauthorized use, misappropriation and/or disclosure of the Village's confidential information and to prevent unauthorized persons or entities from obtaining, misappropriating or using the Village's confidential information.

- (c) Janonis shall promptly return all the Village information and materials, including any and all manuals, notes, plans, computer files, lists, reports, proposals, technical information, and reproductions thereof, which relate in any way to the Village's operations, business assets, employee files or records, or any of the foregoing items covered by this paragraph. Janonis shall also promptly provide the Village with the passcode to any cellphone or other computerized device to which he has been assigned (hereinafter, the "the Village Computerized Devices"). Within 24 hours after Janonis provides the Village with the passcodes to his Village Computerized Devices, subject to this Agreement being in effect, Janonis will meet with a Village representative and Janonis will direct the Village representative to the location of certain personal information stored on such Computerized Devices. Upon Janonis' direction, the Village representative will then access and forward, copy or delete such personal information, to the extent possible and permitted. The Parties will arrange for a reasonable time for Janonis to come to the Village offices to remove his personal belongings from the premises.
- (d) The Parties understand and agree that in addition to any other remedies available to them, any violations by Janonis of this Section 11 will cause irreparable harm to the Village for which there is no adequate remedy and will form a basis for an action against Janonis seeking injunctive relief, and/or attorneys' fees pursuant to Section 23 below.

12. **Nondisparagement.** Janonis agrees that he will not make any adverse or disparaging statements or communications, including web-based communications, about the Village, his employment with the Village, or its employees, officers or directors, about the separation of his employment or any other dealings of any kind between him and the Village, to any third party, specifically including, without limitation, any past, present or prospective employee of the Village, or to any representative of any media. Likewise, the Village agrees that it will not directly or indirectly make any adverse or disparaging statements or communications, including web-based communications, about Janonis, Janonis' employment with the Village, including the separation of Janonis' employment, or any other dealings of any kind between Janonis and the Village, to any third party, specifically including, without limitation, any employer or prospective employer of Janonis, any past, present or prospective employee of the Village, or to any representative of the media. This paragraph shall not apply to communications between Janonis and any spouse, accountants and attorneys, and any disclosure or statement relating to any proceeding to enforce the terms of this Agreement, or in response to lawful process of any judicial or adjudicative authority; or otherwise required by law, including but not limited to the Illinois Freedom of Information Act. Nothing precludes the Village from publicly

disclosing factual information concerning events that occurred during Janonis' employment with the Village, provided that the Village does not identify Janonis as the individual undertaking or failing to undertake any specific actions.

13. **Indemnification of Employee.** The Village acknowledges and agrees to indemnify Employee and comply with its obligations under 745 ILCS 10/2-302 as to any claim or action instituted against Employee in his individual capacity based on an injury allegedly arising out of an act or omission occurring within the scope of his employment through the time of execution of this Agreement and it specifically agrees to do the following:

- (a) Appear and defend against the claim or action;
- (b) Indemnify the employee or former employee for his court costs or reasonable attorney's fees or both, incurred in the defense of such claim or action;
- (c) pay, or indemnify the employee or former employee for a judgment based on such claim or action; or
- (d) pay, or indemnify the employee or former employee for, a compromise or settlement of such a claim or action.

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

15. **Neutral Reference.** The Village agrees that, in the event its Human Resources Department receives an inquiry from anyone outside of the Village concerning the prospective employment of Janonis, such individual will be provided a copy of the written letter of reference attached to this Agreement as Exhibit "A".

16. **Complete Agreement.** Janonis understands this Agreement sets forth all of the terms and conditions of the agreement between the Parties and that, in signing this Agreement,

Janonis cannot rely and has not relied upon any prior verbal statement regarding the subject matter, basis or effect of this Agreement, and that all clarifications and/or modifications of this Agreement must be in writing.

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

18. **Effect on Previous Agreements.** This Agreement supersedes any and all prior agreements, understandings and communications between the Parties.

19. **Nonadmission.** This Agreement shall not be construed as: (a) an admission by the Janonis Released Parties or the Village Released Parties of any: (i) liability or wrongdoing, (ii) breach of any agreement, or (iii) violation of a statute, law or regulation; or (b) a waiver of any defenses as to those matters within the scope of this Agreement.

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

Mayor Arlene A. Juracek
Village of Mount Prospect
50 S. Emerson Street
Mt. Prospect, IL 60056

and to the Employee at:

Michael E. Janonis
1314 Burning Bush Lane
Mount Prospect, IL 60056

21. **Time To Consider Agreement.** Janonis understands that he been given twenty-one (21) days to consider and sign this Agreement (the "Consideration Period"), and agrees that this Consideration Period has been reasonable and adequate. Janonis hereby waives the right to any remaining days in the Consideration Period, and agrees the Consideration Period is expired as of his execution of this Agreement. Following his execution of this Agreement, Janonis will have seven (7) days from the date he signs this Agreement to revoke it if he so desires (the "Revocation Period"). This Agreement shall not become effective or enforceable until the Revocation Period has expired (the "Effective Date"). If Janonis has not communicated his acceptance of this offer to the Village before the expiration of this Consideration Period, this offer automatically expires at that time, and the Village is not required to take any further action to rescind or otherwise withdraw the terms of this Agreement.

22. **Right to Counsel.** Janonis understands that he was informed of this right and he acknowledges that he has been advised by competent legal counsel of his own choosing in connection with the review and execution of this Agreement. Janonis also acknowledges and agrees that he has had an opportunity to and did negotiate over the terms of this Agreement.

23. **Attorney's Fees for Prevailing Party.** In any action to enforce the terms of this Agreement or where this Agreement is used as a defense to a claim, the more prevailing party shall be entitled to recover its reasonable attorneys' fees in addition to any other remedies available in that action.

24. **Janonis' Acknowledgments.** Janonis states that he has completely read this Agreement and acknowledges that it has been written in a manner that Janonis has understood its contents. Janonis freely, voluntarily and without coercion enters into this Agreement. Further, Janonis agrees and acknowledges that he has had the full opportunity to investigate all matters pertaining to any claims he might have and that the waiver and release of all rights or claims he may have under any local, state or federal law is knowing and voluntary.

25. **Board Approval.** The Village's obligations under this Agreement are subject to the approval of the Village Board of Trustees. If the Board approves this Agreement or any term sheet submitted to it, Janonis agrees to voluntarily absent himself from the office pending finalization of the Agreement and expiration of the Revocation Period, such absence not to be characterized as leave or other paid time off.

**READ CAREFULLY. THIS DOCUMENT CONTAINS
JANONIS' RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.**

MICHAEL JANONIS

VILLAGE OF MOUNT PROSPECT ILLINOIS



Date: March 19, 2015

By: _____

Date: _____

EXHIBIT "A"

[Mount Prospect Letterhead]

(Date)

To Whom It May Concern:

Michael E. Janonis was employed with the Village of Mount Prospect as Village Manager from July, 1992 until _____, 2015. He left the employ of Mount Prospect in good standing.

During Mr. Janonis' tenure as Village Manager, he provided the necessary leadership and vision to create a strong, high performing, full service municipal operation. Mount Prospect enjoys a strong AA₂ bond rating, achieved through disciplined financing, planning and budgeting. The organization has been built on a strong, long-tenured and innovative management team, which encompasses a deep bench strength. Integrity, honesty and loyalty have been the driving force of the organization under Mr. Janonis' tenure as Village Manager.

Mr. Janonis will bring strong management and leadership skills to any organization striving for excellence.

VILLAGE OF MOUNT PROSPECT

By: _____

Ms. Arlene A. Juracek
Village President