

**MEMORANDUM OF AGREEMENT  
AND  
RELEASE OF CLAIMS**

This **MEMORANDUM OF AGREEMENT AND RELEASE OF CLAIMS** (hereinafter "the Agreement") is being entered into by and between the Town of Southborough ("the Town") and Kenneth M. Paulhus ("Mr. Paulhus"), to fully resolve any and all disputes that may have arisen in connection with Mr. Paulhus's employment with the Town.

**WHEREAS**, certain disputes and differences have arisen concerning Mr. Paulhus's employment with the Town; and

**WHEREAS**, the parties wish to avoid the time, expense, inconvenience and uncertainties of litigation, and have agreed that it is in their mutual interests to resolve the disputes upon the terms and conditions more fully set forth hereinafter; and

**WHEREAS**, the parties recognize that this Agreement is executed as a means of fully and finally resolving all claims and disputes that may exist in connection with Mr. Paulhus's employment with the Town in a manner that avoids costly and uncertain litigation, and that nothing in this Agreement, or the fact that the parties have executed it, shall be considered or construed as an admission of any liability, fault or wrongdoing by any party hereto, including but not limited to any breach of any federal, state or local statutory, regulatory, contractual or common law obligation, which the Town unequivocally denies; and

**NOW, THEREFORE**, in consideration of the foregoing and the agreements hereinafter set forth, the Town and Mr. Paulhus do covenant and agree as follows:

1. **Irrevocable Retirement.** Upon execution of this Agreement and by means of the letter attached hereto as **Appendix A**, Mr. Paulhus shall submit his irrevocable notice of retirement from employment as Police Chief for the Town of Southborough Police Department, effective close of business May 31, 2022, to the Town Administrator. Said notice of retirement shall be held in escrow by the Town until expiration of the revocation period set forth in paragraph 11 herein.
2. **Unemployment Compensation.** In consideration for the agreements and benefits contained herein as well as the fact that Mr. Paulhus is retiring, Mr. Paulhus shall refrain from filing an application for Unemployment Compensation as a result of his employment with the Town.
3. **Final Payout.** Mr. Paulhus shall be entitled to forty-eight (48) hours of vacation leave in the amount of \$3,802.56, the balance of his accrued time, and shall not be entitled to any sick or personal leave buyout. Mr. Paulhus shall receive a lump sum payment in the amount of \$68,658.33, which amounts to five (5) months of base wages. Said payments shall be paid in the next regular payroll after the revocation period set forth in paragraph 11 herein has expired without revocation. Mr. Paulhus acknowledges and agrees that he is entitled to no further or additional pay pursuant to the terms of his Employment Agreement or the Massachusetts Wage Act, having received full and final payment therefore.



4. Return of Property. Mr. Paulhus and the Town shall return each other's property in accordance with the Police Department's policy governing the return of this property.

5. Response to Reference Request. If a prospective employer contacts the Town for an employment reference, the Town's response shall be consistent with the response to reference request which is attached hereto as **Appendix B**. The parties shall discuss this matter using the joint statement as set forth in the attachment attached hereto as **Appendix C**.

6. Confidentiality. Mr. Paulhus and the Select Board, the Town Administrator, the Assistant Town Administrator and the acting/interim Police Chief, to the extent allowed by law, agree that they will neither discuss, nor reveal the terms of this agreement, aspects of Mr. Paulhus's employment with Southborough or the circumstances of the conclusion of his employment, except as provided in the joint statement as set forth in **Appendix C**, to any third party(ies), including, but not limited to, present or future employers of Mr. Paulhus, former, present or future employees of Southborough, without receipt of a release and waiver, and the media or press, except as required by law or court order to do so, or disclose that they are subject to a confidentiality agreement. However, the Records Access Officer may provide a copy of this Agreement in response to a public records request. In the event of such a public records request, the Town shall provide Mr. Paulhus notice of the same, and Mr. Paulhus shall have the right to seek independent injunctive relief. In the event either party breaches this confidentiality provision, except when required by law or court order or public records request, the other party may seek immediate injunctive relief and any other remedies available to it, excepting rescission of the notice of retirement, including reasonable attorney's fees in obtaining such judicial relief. Such relief will be available to the party in addition to any other action at law or in equity to enforce this Agreement.

Mr. Paulhus and the Town of Southborough agree that he and Select Board, the Town Administrator, the Assistant Town Administrator and the acting/interim Police Chief will not in any way disparage or harm the name of the other and shall in response to questions refer to the joint statement. In the event of a material breach of this provision, each party shall be entitled to immediate injunctive relief and any other remedies available to it, including reasonable attorney's fees in obtaining such judicial relief. Such relief will be available to the parties in addition to any other action at law or in equity to enforce this Agreement.

This Paragraph shall not apply to any documents, memoranda, notes, e-mails, correspondence, or any other document, including this Agreement, that constitute public records pursuant to M.G.L. c. 4, § 7.

7. Non-Admission of Liability. It is agreed by the parties that this Agreement is a Memorandum of Agreement and Release and does not constitute an admission of liability or wrongdoing by any party hereto or of such conduct on behalf of their officers, employees, representatives, agents and/or assigns. This Agreement is being executed by all parties as a



means of resolving all potential claims that have arisen or may arise out of Mr. Paulhus's employment with the Town as of the date of this Agreement.

8. Full Settlement. This Agreement constitutes a full and complete settlement of all issues, claims, controversies, or disputes arising out of or pertaining to any and all other claims or issues relating in any way to Mr. Paulhus's employment with the Town and all of the signatories hereto irrevocably waive any statutory, contractual or other legal claims arising out of or pertaining to these matters that any of them might have had except with respect to the enforcement of the terms of this Agreement, and they all hereby release each other from any liability for any such claims.

9. Release of Claims. In consideration for the compensation and benefits described in this Agreement, except for the duties and obligations imposed herein, Mr. Paulhus, acting on his own behalf and on behalf of his heirs, representatives, successors and assigns (collectively and individually, the "Releasing Parties") hereby releases and forever discharges the Town and their respective members, officers, agents, employees, representatives, successors and assigns, in both their official and individual capacities, (collectively and individually, in their official capacities and in their individual capacities, the "Released Parties"), from any and all debts, demands, actions, causes of action, suits, sums of money, contracts, controversies, agreements, promises, claims for personal injury or emotional distress, executions, liabilities, including any claim for vacation pay, sick leave pay, or any other pay "buy back" not otherwise covered under this Agreement, and any and all other claims of any kind, nature and description whatsoever, both known and unknown, both in law and equity, which the Releasing Parties (or any of them) has or ever had against the Released Parties (or any of them), jointly or severally, from the beginning of the world to the date of this Agreement.

10. Release of Employment Claims. In consideration for the compensation and benefits described in this Agreement, except for the duties and obligations imposed herein, Mr. Paulhus, for himself and on behalf of the Releasing Parties, understands and agrees that he is waiving any and all rights he may have had, now has, or in the future may have, to pursue any and all remedies available to him under any employment-related cause of action, including, without limitation, any and all claims in connection with, arising out of, or relating to Mr. Paulhus's employment in the Town, including but not limited to any claims for alleged violation of Massachusetts General Laws Chapter 31, Civil Service; Massachusetts General Laws Chapter 149, the Wage Act; Massachusetts General Laws Chapter 150E; Massachusetts General Laws Chapter 214, Section 1C, Sexual Harassment Act; Massachusetts General Laws Chapter 214, Section 1B, Privacy Act; Massachusetts General Laws Chapter 151B; Massachusetts General Laws, Chapter 12, Sections 11H and 11I; Massachusetts General Laws Chapter 93, Section 102; Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991, the Americans with Disabilities Act; Pregnant Workers Fairness Act; the Family Medical Leave Act, Massachusetts Parental Leave Law, Massachusetts General Laws Chapter 149, § 1, *et seq.*; Massachusetts General Laws Chapter 258; 42 U.S.C., § 1983, the Civil Rights Act, as amended, and any other

federal, state, or municipal fair employment statutes or laws, contract claims, including breach of contract or wrongful termination, or any other local, state or federal law, regulation or policy not specifically excluded herein.

11. Waiver of Rights and Claims Under the Age Discrimination in Employment Act of 1967.

Mr. Paulhus has been informed and agrees that he:

(a) has or may have specific rights and/or claims under the Age Discrimination in Employment Act ("ADEA") of 1967;

(b) is, in consideration for the amounts and benefits described in this Agreement, specifically waiving such rights and/or claims he might have against the Town, its successors and assigns, and its current and former officers, agents, directors, supervisors, employees, representatives, successors and assigns, and all persons acting by, through, under, or in concert with any of them, to the extent such rights and/or claims arose prior to the date this Agreement was executed;

(c) understands that rights or claims under ADEA which may arise after the date this Agreement is executed are not waived by him;

(d) was advised when presented with the original draft of this Agreement on May 9, 2022 that he had at least twenty-one (21) days within which to consider this Agreement; this twenty-one (21) day review period will not be affected or extended by any revisions which might be made to this Agreement;

(e) has been advised to consider the terms of this Agreement carefully and of his right to consult with or seek advice from an attorney of his choice or any other person of his choosing prior to executing this Agreement and has not been subject to any undue or improper influence interfering with the exercise of his free will in deciding whether to execute this Agreement.

(f) has carefully read and fully understands all of the provisions of this Agreement, and he knowingly and voluntarily agrees to all of the terms set forth in this Agreement; and

(g) may revoke this Agreement for a period of seven (7) days following the day on which he executes it. This Agreement shall not become effective or enforceable until the seven (7) day revocation period has expired without revocation by Mr. Paulhus. Any revocation within this period must be submitted, in writing, to the Town Administrator, Mark J. Purple, Southborough Town House, 17 Common Street, Southborough, MA 01772, and must state, "I hereby revoke my acceptance of our



Agreement." The revocation must be hand-delivered to the Town Administrator, Mark J. Purple, or his designee, or mailed to the Town Administrator, Mark J. Purple, and post-marked, within seven (7) days of the date on which Mr. Paulhus signs this Agreement.

12. Release of Claims by Town. In consideration for the benefits described in this Agreement, except for the duties and obligations imposed herein, the Town and their respective members, officers, agents, employees, representatives, successors and assigns, in both their official and individual capacities, (collectively and individually, in their official capacities and in their individual capacities, the "Released Parties"), hereby releases and forever discharges Mr. Paulhus from any and all debts, demands, actions, causes of action, suits, sums of money, contracts, controversies, agreements, promises, claims for personal injury or emotional distress, executions, liabilities, and any and all other claims of any kind, nature and description whatsoever, both known and unknown, both in law and equity, which the Town has or ever had against Mr. Paulhus, jointly or severally, from the beginning of the world to the date of this Agreement.

13. LEOSA. The Town agrees to issue Mr. Paulhus an identification card pursuant to the Law Enforcement Officers Safety Act of 2004 upon request.

14. Indemnification. To the extent permitted by law, the Town shall defend, save harmless and indemnify Mr. Paulhus against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as the Police Chief, even if said claim has been made following his termination of employment, provided that Mr. Paulhus acted within the scope of his duties. The Town may compromise and settle any such claim or suit. The Town shall have the discretion to determine whether to assign counsel or reimburse Mr. Paulhus for his reasonable attorneys' fees and costs in connection with such claims or suits involving Mr. Paulhus in his professional capacity, provided that Mr. Paulhus acted within the scope of his duties. Separate counsel will be assigned to Mr. Paulhus in the case of a conflict of interest between the Town and Mr. Paulhus's interests in any such matter. The provisions of this section shall not apply to disputes between the Town and Mr. Paulhus regarding the terms and provisions of this Agreement or claims against the Town by Mr. Paulhus.

15. Mistakes in Fact; Voluntary Consent. Mr. Paulhus expressly and knowingly acknowledges that, after the execution of this Agreement, Mr. Paulhus may discover facts different from or in addition to those that Mr. Paulhus now knows or believes to be true with respect to the claims released in this Agreement. Nonetheless, this Agreement shall be and remain in full force and effect in all respects, notwithstanding such different or additional facts and Mr. Paulhus intends to fully, finally, and forever settle and release those claims released in this Agreement. In furtherance of such intention, the release given in this Agreement shall be and remain in effect as a full and complete release of such claims, notwithstanding the discovery and existence of any additional different claims, and Mr. Paulhus assumes the risk of mistakes, and if



Mr. Paulhus should subsequently discover that any fact relied upon in entering into this Agreement was untrue or that Mr. Paulhus, or Mr. Paulhus's understanding of the facts or law was incorrect, Mr. Paulhus shall not be entitled to set aside this Agreement or the settlement reflected in this Agreement or be entitled to recover any damages on that account.

16. Representation Regarding Work Injury. Mr. Paulhus represents and warrants that Mr. Paulhus does not presently believe that Mr. Paulhus suffers from any work-related injury or illness.

17. Covenant not to Sue. To the fullest extent permitted by law, Mr. Paulhus promises, covenants and agrees, never to commence, aid in any way, prosecute or cause to be commenced or prosecuted, any action or other proceeding based upon any claims, demands, causes of actions, obligations, damages or liabilities that are released by this Agreement.

18. No Lawsuits. Mr. Paulhus represents that Mr. Paulhus has not filed any claims, charges, complaints or actions against the Town or any of the Releasees, or assigned to anyone any charges, complaints, claims or actions against the Town or any of the Releasees. Mr. Paulhus agrees to take any and all steps necessary to ensure that no lawsuit arising out of any claim released herein shall ever be prosecuted by Mr. Paulhus or on Mr. Paulhus's behalf in any forum, and hereby warrants and covenants that no such action has been filed or shall ever be filed or prosecuted. Mr. Paulhus also agrees that if any claim is prosecuted in Mr. Paulhus's name before any court or administrative agency that Mr. Paulhus waives and agrees not to take any award or other damages from such suit to the extent permissible under applicable law. Mr. Paulhus further agrees to cooperate fully with the Town in the event of a lawsuit or threat of lawsuit arising out of acts and events occurred during Mr. Paulhus's employment with the Town.

19. No Reemployment. Mr. Paulhus agrees that Mr. Paulhus will not seek employment or reemployment with the Town and the Town shall not be liable for refusing to consider any such application for employment by Mr. Paulhus.

20. Binding Effect. This Agreement shall be binding on all parties and their respective officers, employees, representatives, agents, successors and/or assigns and may not be abandoned, supplemented, changed or modified in any manner, orally or otherwise, except by an instrument in writing signed by Mr. Paulhus and by a duly authorized representative of the Town.

21. Entire Agreement. This Agreement contains and constitutes the entire understanding and agreement between the parties hereto and cancels any and all previous oral and written negotiations, agreements, commitments and writings in connection therewith.

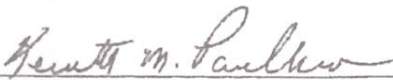
22. Enforcement of Agreement. Nothing in this Agreement shall preclude Mr. Paulhus from pursuing any claims to enforce the provisions of this Agreement.

23. Full Understanding. Mr. Paulhus acknowledges that he has read and fully understands the terms of this Agreement; that he has consulted and received advice from his attorney regarding same or if not, waives his right to claim defenses in connection therewith; and that he has executed this Agreement voluntarily and of his own free will.

24. Counterparts. This Agreement shall be executed in two (2) counterparts, each of which shall constitute one and the same instrument and shall take effect in accordance with paragraph 12 herein.

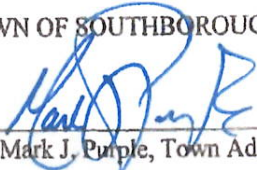
Mr. Paulhus and the Town, having read and agreed to the foregoing provisions of this Agreement, hereby execute this Agreement.

KENNETH M. PAULHUS

  
Kenneth M. Paulhus

Date: 5/25/22

TOWN OF SOUTHBOROUGH

  
By: Mark J. Purple, Town Administrator

Date: 5-25-2022

APPROVED AS TO FORM:

  
Katherine McNamara Feodoroff  
Labor Counsel

Date: 5/25/22

APPENDIX A  
LETTER OF RETIREMENT

Kenneth M. Paulhus  
Blackstone, Massachusetts

May 25, 2022

Mark J. Purple  
Town Administrator  
Southborough Town Hall  
17 Common Street  
Southborough, MA 01772

Re: Resignation from Employment

Dear Mr. Purple:

I hereby irrevocably resign from my employment as Police Chief for the Town of Southborough, effective close of business May 31, 2022, in order to pursue retirement.

Very truly yours,



Kenneth M. Paulhus  
Police Chief

cc.: Town Clerk  
Select Board



**APPENDIX B**  
**RESPONSE TO REFERENCE REQUEST**  
(to be reprinted and signed on next page without title or page number)

May 25, 2022

To Whom It May Concern:

This will confirm that Kenneth M. Paulhus was employed as a full-time Police Chief for the Town of Southborough from February 12, 2014, through May 31, 2022. On May 25, 2022, he advised that he was retiring from his position.

Very truly yours,

Mark J. Purple  
Town Administrator

**APPENDIX C  
JOINT STATEMENT**

**(to be reprinted and released on next page without title or page number)**

The Southborough Select Board and Police Chief Kenneth Paulhus announced today a mutual agreement that his employment with the Town would not continue beyond May 31, 2022. The Board and Mr. Paulhus have reached a written Agreement to address the balance of certain contractual benefits under his existing Employment Contract with the Town.

The timing of release of this statement was agreed to by the parties.



Kenneth M. Paulhus  
Blackstone, Massachusetts

May 25, 2022

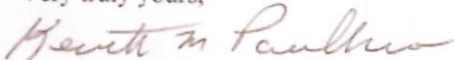
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Town Administrator