

**PUBLIC-PRIVATE PARTNERSHIP AGREEMENT**

**THIS AGREEMENT** is made this 8<sup>th</sup> day of October, 2013 by and between the **TOWN OF WILTON** (the "TOWN"), a municipal corporation of the State of Connecticut, having its territorial limits within Fairfield County, and the **WILTON LIBRARY ASSOCIATION, INC.** ("WLA"), a Connecticut non-stock corporation, having its principal office at 137 Old Ridgefield Road, Wilton, Connecticut.

**WITNESSETH, THAT:**

**WHEREAS**, the mission of WLA is to provide free, public library service to the Wilton community; and

**WHEREAS**, the TOWN has customarily provided annual operating funds to support WLA in this endeavor; and

**WHEREAS**, WLA and the TOWN wish to enter into this Agreement in order to set forth the terms and conditions under which their ongoing relationship will operate to best serve the needs of the Wilton community.

**NOW THEREFORE**, in consideration of the foregoing and the mutual promises, guidelines, and agreements herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE I**

**TOWN REPRESENTATION ON THE WLA BOARD OF TRUSTEES**

The TOWN may nominate six (6) of the twenty-four (24) members of WLA's Board of Trustees, and WLA shall elect the members nominated by the TOWN to WLA's Board of Trustees. Three (3) of these TOWN-nominated trustees shall serve as members of WLA's Executive Committee and at least one TOWN-nominated trustee shall serve on each of the following standing committees: Human Resources, Finance, Nominating, Long Range Planning, and Technology. TOWN-nominated trustees shall report to the TOWN's Board of Selectmen on a quarterly basis.

**ARTICLE II**

**COMPLIANCE WITH LAWS**

Throughout the term of this Agreement, WLA shall comply with all present and future laws, ordinances, orders, rules, regulations, and requirements of all federal, state and municipal governments, departments and commissions, which may be applicable to the Library or the operations thereof.

**ARTICLE III**

**DEFAULT**

Subject to the provisions hereinafter set forth, each of the following shall be deemed an "Event of Default" by WLA of and a breach under this Agreement:

(1) Failure to perform or commence to perform any material covenant or condition of this Agreement to be performed by WLA for a period of sixty (60) days after receipt of written notice from the TOWN specifying the item or items in default;

(2) WLA shall be judicially declared bankrupt or insolvent according to law, or a receiver, trustee in bankruptcy or similar officer shall be appointed to take charge of all or a substantial part of its property by a court of competent jurisdiction, or if a petition shall be filed for the liquidation or reorganization of WLA under any provisions of the Bankruptcy Code now or hereafter enacted and providing a plan for the debtor to settle, satisfy, or extend the time for payment of debts; or

(3) WLA assigns or transfers its interest hereunder to anyone in violation of the terms of this Agreement.

#### **ARTICLE IV ASSIGNMENT**

Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party, as the case may be, which consent may be given or withheld in the sole and absolute discretion of such party. For the purposes hereof, (i) the sale or merger of WLA to or with another entity or (ii) the sale of all or substantially all of the assets of WLA to any other entity shall constitute an assignment hereunder.

#### **ARTICLE V CONNECTICUT LAW**

This Agreement shall be construed under the laws of the State of Connecticut pertaining to contracts wholly made and to be wholly performed in Connecticut, and any proceedings of any nature or kind brought under this Agreement or to enforce any of the provisions hereof shall be instituted and maintained in a Connecticut state court of competent jurisdiction within and for the County of Fairfield, unless such proceeding is required by law, statute, ordinance, or regulation of the United States or the State of Connecticut or the TOWN of Wilton to be brought in a different forum.

#### **ARTICLE VI INDEMNIFICATION**

WLA assumes sole responsibility and liability to any and all persons and authorities related to the Library as herein set out.

WLA shall defend, indemnify and hold harmless the TOWN and its directors, officers, officials, agents, employees and members, from and against all liabilities, claims of liability, obligations, suits, damages, penalties, claims, costs, charges, and expense, including reasonable attorney's fees, and costs of investigations that may be incurred by the TOWN by reason of:

- (1) The operation and management of the Library;
- (2) Any negligence on the part of WLA, any of its agents, contractors, employees, subtenants, licensees or invitees;
- (3) Any accident, injury, or damage to any person or property occurring in, or about the Library, or any part thereof;
- (4) Any failure by WLA to perform or comply with any of the covenants, agreements, terms, or conditions contained in this Agreement.

**ARTICLE VII  
DISSOLUTION**

Upon the dissolution of the WLA or the winding up of its affairs, the TOWN may, but is not required to, take possession of the remaining assets of WLA. If the TOWN decides not to accept or is unable to accept said assets, then the assets shall be offered to a charitable, religious, scientific, literary, or educational organization, which qualifies as a charitable organization under the provisions of Section 501 (c) (3) of the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended.

**ARTICLE VIII  
CONSENT**

Except as may be otherwise specifically provided in this Agreement, Consent of the TOWN may be given by the Board of Selectmen of the TOWN, or its successor, and Consent by WLA may be given by its Board of Trustees.

**ARTICLE IX  
NOTICES**

Whenever this Agreement requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, postage prepaid, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice:

If to TOWN:                   Office of the First Selectman  
                                    Town of Wilton  
                                    238 Danbury Road  
                                    Wilton, CT 06897

With a copy to:           Office of the Town Attorney  
                                    Town of Wilton  
                                    238 Danbury Road  
                                    Wilton, CT 06897

If to WLA:                    President  
                                    Wilton Library Association  
                                    137 Old Ridgefield Road  
                                    Wilton. CT 06897

With a copy to:           Executive Director  
                                    Wilton Library Association  
                                    137 Old Ridgefield Road  
                                    Wilton, CT 06897

All notices, demands, and requests shall be made in writing and deemed effective upon being deposited in the United States Mail, or in the case of personal or electronic delivery, upon delivery.

**ARTICLE X  
SUCCESSORS AND ASSIGNS**

The covenants and agreements contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their respective successors and permitted assigns.

**ARTICLE XI  
NO ORAL MODIFICATION**

This Agreement shall not be changed orally. Any modifications to this Agreement shall be in writing and signed by the party against who enforcement of any waiver, change, modification or discharge is sought.

**ARTICLE XII  
RESOURCE SHARING AND COOPERATIVE PURCHASING**

WLA and the TOWN may, as they have in the past, enter into agreements with respect to the use of their own facilities and equipment by the other, and may also enter into cooperative purchasing agreements , in each case with the Consent of both parties as specified herein. Equipment purchased specifically for use by both the TOWN and WLA (and such other parties as may be included) shall be maintained and replaced in a manner that is deemed fair and reasonable by all parties.

**ARTICLE XIII  
FUNDING CONTRIBUTIONS**

On an annual basis, before the Board of Selectmen presents its annual budget request to the Board of Finance, WLA shall present its proposed budget for the next fiscal year to the Board of Selectmen, including the amount of funding WLA is requesting from the TOWN. The TOWN shall continue to fund the annual costs of operating WLA as it has in the past in the approximate amount of seventy-five percent (75%) of WLA's budgeted expenses for the year for so long as the TOWN is able and the need exists as determined in the sole and absolute discretion of the TOWN, and WLA shall continue to engage in fundraising activities as it has in the past to fund a portion of these expenses insofar as it is able.

**ARTICLE XIV  
DISPUTE RESOLUTION**

If either party is dissatisfied with the performance of the other under this Agreement, the dissatisfied party shall provide written notice to the other of the reasons the party is not satisfied with the performance of the other, and shall afford the other party a period of at least thirty (30) days to address the dissatisfied party's reasons. If the reasons are not addressed to the satisfaction of the dissatisfied party within thirty (30) days of providing written notice, the dissatisfied party may call for a face-to-face meeting with representatives of the other party. If the other party does not meet with the dissatisfied party or otherwise address the concerns of the dissatisfied party to its satisfaction after

requesting a face-to-face meeting, the dissatisfied party may terminate this Agreement and/or pursue its remedies at law in the event of a breach of this Agreement.

**ARTICLE XV  
MISCELLANEOUS**

WLA shall notify the TOWN of any liens or encumbrances placed on WLA's assets, and of any legal actions to foreclose upon these liens or encumbrances.

The waiver by either party, or the failure by either party to take action with respect to, any breach of any term, covenant, condition, provision, restriction, or reservation herein contained shall not be deemed to be a waiver of such term, covenant, condition, provision, restriction or reservation or subsequent breach of same, or of any term, covenant, condition, provision, restriction or reservation herein contained. Either party may grant waivers in the terms of this Agreement, but such must be in writing and signed by the party granting such waiver before being effective.

Whenever in this Agreement a pronoun is used, it shall be construed to represent either the singular or plural, masculine or feminine as the case shall demand.

This Agreement sets forth the entire agreement between the parties herewith respect to ongoing Library operations, is binding upon and inures to the benefit of the parties hereto, and in accordance with the provisions hereof, their respective successors in interest, and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

TOWN OF WILTON

By 

William F. Brennan  
First Selectman

WILTON LIBRARY ASSOCIATION, INC.

By 

Michael P. Kaelin  
President