

AGREEMENT TO MAKE PAYMENTS IN LIEU OF TAXES

This AGREEMENT TO MAKE PAYMENTS IN LIEU OF TAXES ("Agreement") is made this 22<sup>nd</sup> day of September, 2014 by and between Eagle Hill School Foundation, Inc., a non-profit corporation duly organized under Chapter 180 of the General Laws of the Commonwealth of Massachusetts ("Commonwealth") having its principal place of business at 242 Old Petersham Road, Hardwick, Massachusetts 01037 ("Eagle Hill") and the Town of Hardwick ("Town"), a municipal corporation in the Commonwealth.

WITNESSETH THAT:

Eagle Hill is owner of certain real and personal properties in the Town comprising the campus of the Eagle Hill School at 242 Old Petersham Road ("Main Campus") and certain additional properties, said additional properties being more particularly described on Exhibit A attached hereto ("Additional Properties").

Eagle Hill is currently entitled to exemption from obligations to pay local real and personal property taxes on the Main Campus and Additional Properties pursuant to Massachusetts General Laws C. 59, § 5 as a matter of use, ownership and occupancy, provided that the use of the Main Campus and Additional Properties remains consistent with the tax laws relative to exemption. Eagle Hill and the Town further acknowledge and agree that real and personal property acquired by Eagle Hill after the date of this Agreement shall also be entitled to exemption from taxation subject to applicable law relative to exemption from taxation.

Eagle Hill recognizes that the existence of the Main Campus and Additional Properties requires the Town to furnish municipal services and that, beginning in 2000, the Additional Properties were removed from the Town's tax base, and is willing voluntarily to make certain payments to the Town in the form of a payment in lieu of taxes ("PILOTs").

NOW, THEREFORE, in consideration of the municipal services to be furnished by the Town, and, the mutual benefits and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto hereby agree as follows:

1. Eagle Hill agrees to make PILOTs to the Town as voluntary contributions on account of the Additional Properties for a period of 30 [thirty] years, commencing with the Town's 2014 fiscal year. The payments to be made in the Town's 2014 fiscal year shall be as set forth in Exhibit B hereto and shall be paid on or before April 1, 2014. PILOTs shall be paid to the Town on February 1st of each fiscal year thereafter. The Town agrees that the PILOTs will be increased to the extent beyond Exhibit B only by the annual review and adjustment of the tax rate by the Town's Board of Assessors, applied in a customary and non-discriminatory manner. Eagle Hill and the Town acknowledge and agree that any additional real and personal property acquired, or improvements developed or constructed, by Eagle Hill shall be entitled to exemption from taxation, subject to applicable law relative to exemption from real property taxation ("Future Properties"). The Future Properties not located on the Main Campus or on the existing Additional Properties at the time of acquisition or development by Eagle Hill shall be included in the definition of "Additional Properties" for purposes of this Agreement, commencing in the first full Town fiscal year after acquisition.

2. PILOTs for Additional Property shall be determined in accordance with customary practice of the Town's Board of Assessors, shall be based solely on the value of the real property at the time of acquisition by Eagle Hill, and shall not reflect the value of any improvements made after acquisition by Eagle Hill. In the event there are existing improvements on any Additional Property at the time of

acquisition by Eagle Hill and such improvements are removed or substantially modified, PILOTs may reflect the initial value of any such existing improvements, subject to a 2% increase per annum. Eagle Hill shall have the right to reasonably object to the determination of PILOTs for Additional Property by written notice to the Town, and the parties shall make good faith efforts to resolve any such objection within twenty (20) days of receipt by the Town of such written notice by Eagle Hill.

3. At any point during the term of this Agreement the parties may offset a percentage of the total PILOTs due in each fiscal year for community services or other similar services provided or funded to the Town by Eagle Hill. Any such services shall be determined by mutually acceptable agreement and shall be over-and-above services Eagle Hill was providing to the Town prior to signing this Agreement. In no event shall community services rendered by Eagle Hill be prorated to future fiscal years.

4. It is the intention of the Town, through its Assessing Department, to recognize the Main Campus and Additional Properties as exempt pursuant to M.G.L. c. 59, § 5 in future fiscal years so long as and provided that (a) exemption is warranted as a matter of ownership, use and occupancy and (b) State Tax Form 3ABC is timely filed with the Board of Assessors for the Commonwealth for each fiscal year.

5. In the event a real estate tax bill is issued for all or any part of the Main Campus and Additional Properties, however, it is the exclusive responsibility of Eagle Hill to do all things necessary to preserve the jurisdiction of the Town's Board of Assessors to grant abatement relief on the basis of exemption, overvaluation, misclassification and/or disproportion, including timely filing of application(s) for abatement, supporting documentation and appeal(s) to the Massachusetts Appellate Tax Board, as may be necessary, and timely payment of the deemed tax due as defined in M.G.L. c. 59, § 64.

6. If at any time hereafter, due to a change in the laws applicable to exemptions from real property taxation any tax payment is made pursuant to a M.G.L. c. 59 tax assessment in a particular year for any Additional Property which is a subject of this Agreement, such payment will be credited against the PILOT obligation as calculated above. Any overpayment made in a fiscal year by reason of this provision shall be credited against future PILOT obligations.

7. If the Commonwealth hereafter reimburses the Town for property taxes lost as a result of exemptions and said reimbursement is based in part on valuation of Additional Properties which are the subject of this Agreement, there shall be a reduction of the amounts payable thereafter under this Agreement. Such reduction shall be in an amount equal to the percentage which the valuation of Eagle Hill Additional Properties under this Agreement constitutes the valuation of all exempt buildings on which the reimbursement is based. Such reduction shall be credited against the payment due under this Agreement in each fiscal year in which the Town receives the state reimbursement.

8. The parties recognize that there is the possibility during the term of this Agreement that all or a portion of the Additional Properties may be damaged or destroyed or otherwise rendered unusable due to a Force Majeure event, which includes, without limitation, the following events:

- a. Acts of God including floods, winds, storms, earthquake, fire or other natural calamity;
- b. Acts of War or other civil insurrection or terrorism; or
- c. Taking by eminent domain by any governmental entity of all or a portion of the Additional Properties.

If a Force Majeure event occurs during the term of this Agreement with respect to any portion of the Additional Properties that renders such Additional Properties unusable for a period of more than sixty (60) days, then Eagle Hill may, at its election, notify the Town of the existence of this condition as well as

its decision whether or not to rebuild that portion of the Additional Properties so damaged or destroyed or taken. If Eagle Hill elects not to rebuild, then it may notify the Town of its termination of this Agreement as to such Additional Properties.

9. The provisions of this Agreement shall be binding and inure to the benefit of the parties hereto and their respective legal representatives, successors in office or interests, and assigns and may be amended only by an agreement in writing duly executed by the parties hereto or their successors.

10. The parties agree that the payment obligations established by this Agreement were negotiated in good faith in recognition of and with due consideration and agree to act in good faith, each to the other, to carry out this Agreement and shall endeavor to resolve amicably any disputes or disagreements which may arise hereunder.

11. So long as Eagle Hill is not in breach of this Agreement, during its term the Town will not (a) seek to invalidate this Agreement or otherwise take a position adverse to the purpose or validity of this Agreement, (b) seek to collect from Eagle Hill any property tax upon the Main Campus or the Additional Properties or the improvements thereon in addition to the amounts provided herein, or (c) impose any lien or other encumbrance upon the Main Campus or the Additional Properties or the improvements thereon. Notwithstanding anything to the contrary provided herein, Eagle Hill shall have all of the rights of ownership with respect to its real and personal properties, including without limitation the right to sell, convey, lease, license and use its real and personal properties in its sole discretion, in whole or in part.

12. If on or before February 1 of any future year Eagle Hill shall report of the Town's Board of Selectmen in writing that it is experiencing significant financial difficulties and shall request a deferral of all or a portion of the PILOTs payable under this Agreement in the following fiscal year, such deferral shall be permitted, provided that any such deferred PILOTs shall be payable in the fiscal year immediately following the year of deferral and provided further that no such deferral may be requested in any two consecutive years or more than [five] times during the term hereof.

13. This Agreement may be modified or terminated by mutually acceptable written agreement between the parties at any point during the term hereof.

14. If the entirety of this Agreement shall be held invalid, illegal or unenforceable due to a change in the laws applicable to exemptions from real property taxation, this Agreement shall terminate and be null and void and of no further force or effect. If any one or more of the provisions contained in this Agreement shall be held invalid, illegal or unenforceable in any respect, then the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

15. This Agreement may be executed in counterparts by the parties hereto and will be binding upon the parties at such time as the signatories hereto have signed each counterpart of this Agreement. All executed counterparts shall constitute one Agreement binding all parties hereto, notwithstanding that all parties are not signatories to the original or same counterpart.

[Signatures on following page]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed as a sealed instrument by its officers duly authorized as of the day and year first above written.

TOWN OF HARDWICK

By: Keruan P. Young  
Name: Keruan P. Young  
Title: Chairman Selectman  
Hereunto duly authorized

EAGLE HILL SCHOOL FOUNDATION, INC.,  
a Massachusetts non-profit corporation

By: Peter J. McDonald  
Name: PETER J. McDONALD  
Title: HEADMASTER  
Hereunto duly authorized

EXHIBIT A

ADDITIONAL PROPERTIES AS OF 2014

<u>Parcel ID</u>	<u>Owner Name</u>	<u>Street #</u>	<u>Street</u>
124/024.0-0000-0004.0	Eagle Hill Foundation of MA, Inc.	130	Old Petersham Road
124/027.0-0000-0014.0	Eagle Hill Foundation of MA, Inc.	170	Sessions Road
124/036.0-0000-0015.0	Eagle Hill Foundation of MA, Inc.	26	Barre Road
124/021.0-0000-0012.0	Eagle Hill Foundation of MA, Inc.	444	Old Petersham Road
124/024.0-0000-0005.0	Eagle Hill Foundation of MA, Inc.	408	Old Petersham Road
124/024.0-0000-0005.A	Eagle Hill Foundation of MA, Inc.	0	Off Old Petersham Road
124/021.0-0000-0007.0	Eagle Hill Foundation of MA, Inc.	16	Charity Hill Road
124/021.0-0000-0013.0	Eagle Hill Foundation of MA, Inc.	0	Charity Hill Road
124/027.0-0000-0019.0	Eagle Hill Foundation of MA, Inc.	0	Sessions Road
124/027.0-0000-0009.0	Eagle Hill Foundation of MA, Inc.	44	Sessions Road
124/024.0-0000-0001.0	Eagle Hill Foundation of MA, Inc.	355	Old Petersham Road
124/024.0-0000-0001.A	Eagle Hill Foundation of MA, Inc.	0	Old Petersham Road

EXHIBIT B

2014 PAYMENT SCHEDULE

See Sheet 1, Exhibit B; Fiscal Year 14, Tax Rate 15.82 attached. This Sheet 1 is an integral part of this document as of the date signed.

EXHIBIT B

PARCEL_ID	OWNER_NAME_1	STREET #	STREET	SALE_DATE	GRANTOR	TOTAL VALUE	TAX PAID BY PILOT
124/024.0-0000-0004.0	EAGLE HILL FOUNDATION OF MASS	130	OLD PETERSHAM ROAD	2/29/2000	HAGER/HOLOPAINEN	\$225,100	\$3,581.08
124/027.0-0000-0014.0	EAGLE HILL FOUNDATION	170	SESSIONS ROAD	2/14/2003	HOLDEN, C & L	\$300,800	\$4,758.66
124/038.0-0000-0015.0	EAGLE HILL FOUNDATION	26	BARRE ROAD	3/30/2006	LOFGREN, C & R	\$282,200	\$4,464.40
124/024.0-0000-0012.0	EAGLE HILL FOUNDATION OF MASS	444	OLD PETERSHAM ROAD	12/18/2007	MITCHELL, G & C	\$144,000	\$2,278.08
124/024.0-0000-0005.0	EAGLE HILL FOUNDATION OF MASS	408	OLD PETERSHAM ROAD	12/18/2007	MITCHELL, G & C	\$498,500	\$7,886.27
124/024.0-0000-0007.0	EAGLE HILL FOUNDATION OF MASS	0	OFF OLD PETERSHAM RD	12/18/2007	MITCHELL, G & C	\$700	\$11.07
124/021.0-0000-0007.0	EAGLE HILL SCHOOL FOUNDATION	16	CHARITY HILL ROAD	11/16/2010	WITKOS, R & A	\$185,700	\$2,937.77
124/027.0-0000-0019.0	EAGLE HILL FOUNDATION OF MASS	0	SESSIONS ROAD	10/10/2012	HUNTRESS, J & G & C	\$2,000	\$31.64
124/027.0-0000-0009.0	EAGLE HILL FOUNDATION OF MASS	44	SESSIONS ROAD	10/10/2012	HUNTRESS, J & G & C	\$342,500	\$5,418.85
124/024.0-0000-0001.0	EAGLE HILL FOUNDATION OF MASS	355	OLD PETERSHAM ROAD	12/20/2012	LEMAITRE, C & A	\$162,100	\$2,564.42
124/024.0-0000-0001.A	EAGLE HILL FOUNDATION OF MASS	0	OLD PETERSHAM ROAD	12/20/2012	LEMAITRE, C & A	\$74,000	\$1,170.68
						\$2,292,300	\$36,264.19

\* Note: Athletic Field & structures thereon exempt