

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION**

**OF**

**BRAINERD MEMORIAL LIBRARY ASSOCIATION, INC.**

The undersigned, the incorporators, for the purpose of forming a nonstock corporation under the provisions and subject to the requirement of the State of Connecticut (particularly Chapter 602, Title 33 of the Connecticut General Statutes and the acts amendatory thereof and supplemental thereto, and known, identified and referred to as the “Connecticut Revised Nonstock Corporation Act”), and the following articles of incorporation, hereby certify that:

**1. THE NAME OF THE CORPORATION:**

The name of the corporation shall be **The Brainerd Memorial Library Association, Incorporated** (the “**Corporation**”).

**2. MEMBERSHIP IN THE CORPORATION:**

The Corporation shall have no members.

**3. THE NAME AND ADDRESS OF THE REGISTERED AGENT:**

The address of the registered office of the Corporation in the State of Connecticut is 920 Saybrook Rd, Haddam, CT 06438. The name of its registered agent at such address is the Library Director.

**4. THE NAMES OF THE INCORPORATORS:**

The names of the Initial Incorporators are Ephraim P. Arnold, Miner C. Hazen, Everett E. Lewis, Wallace Porter, Rollin U. Tyler, and Jennie S. Walkley.

**5. THE NATURE OF THE ACTIVITIES TO BE CONDUCTED OR THE PURPOSES TO BE PROMOTED BY THE CORPORATION:**

The Corporation shall be organized and operated exclusively for educational, scientific and literary purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. In furtherance thereof, the nature of the activities to be conducted and the purposes to be promoted or carried out by the Corporation are:

(A) To establish and maintain a public library and reading-room and, at the Corporation's discretion, a lecture hall and rooms for purposes of science and art, in the Town of Haddam, which shall, under proper regulation to be adopted by the Corporation, be free to all inhabitants of said town; and

(B) To engage, subject to the foregoing limitations and those set forth in Article 6 below, in any lawful act or activity for which a corporation may be organized under the Connecticut Revised Nonstock Corporation Act.

## **6. OTHER INFORMATION**

(A) **DEFINITIONS.** References included in this Certificate of Incorporation to provisions of the Internal Revenue Code shall be deemed to refer to provisions of the Internal Revenue Code of 1986, as amended, or to any corresponding provision of future federal law. References to the "Corporation" shall refer to Brainerd Memorial Library Association, Inc.

(B) **POWERS.** The Corporation shall have all powers granted by law, all powers that are or may hereafter be conferred by the laws of the state of Connecticut upon corporations without capital stock, and all legal powers necessary or convenient to effect any or all of the purposes stated in this Certificate of Incorporation, whether or not such powers are set forth herein; provided, however, that no such powers and privileges may be exercised, nor shall any activities be conducted, by the Corporation, if the same are inconsistent with the express limitations contained in this Certificate of Incorporation or with the Corporation's nonprofit purposes.

(C) **LIMITATIONS.** Notwithstanding any other provision of this Certificate of Incorporation:

- (1) The Corporation shall at all times be organized and operated exclusively for educational, scientific and literary purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code;
- (2) No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to the Corporation's trustees, officers, or other private persons, provided that the Corporation may pay reasonable compensation for services actually rendered and may reimburse reasonable expenses actually incurred by any such persons and may make payments and distributions, to the extent reasonable and necessary in furtherance of the purposes set forth in Article 5 above;
- (3) No trustee or officer of the Corporation, or any private individual, shall be entitled to share in the distribution of any of the corporate assets upon its dissolution;
- (4) No substantial part of the activities of the Corporation shall include carrying on propaganda or otherwise attempting to influence legislation, and the Corporation

shall not participate or intervene (including by the publication or distribution of statements) in any political campaign on behalf of or in opposition to any candidate for public office;

- (5) The Corporation shall not conduct any activities not permitted to be conducted by a corporation exempt from taxation under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code or by a corporation the contributions to which are deductible by a contributor under Section 170(c)(2) of the Internal Revenue Code; and
- (6) The Corporation shall not indemnify any individual with respect to any excise tax imposed on such individual under Chapter 42 of the Internal Revenue Code.

(D) **PRIVATE FOUNDATION RESTRICTIONS.** Notwithstanding anything herein to the contrary, if at any time the Corporation is or shall become a private foundation within the meaning of Section 509(a) of the Internal Revenue Code, then the Corporation shall be subject to the following for so long as it shall remain a private foundation:

- (1) The Corporation shall distribute its income for each tax year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code.
- (2) The Corporation shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code; nor retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code; nor make any investments in such a manner as to subject it to tax under Section 4944 of the Internal Revenue Code; nor make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code.

(E) **BOARD OF TRUSTEES.** The activities, business, property, and affairs of the Corporation shall be managed by or under the direction of the board of trustees. The initial trustees shall be appointed by the incorporators. Thereafter the board of trustees shall be self-perpetuating. The bylaws shall prescribe the number, terms of office, qualifications, and manner of election of trustees, and such provisions may be amended from time to time in such lawful manner as the bylaws shall prescribe and as shall not be inconsistent with the provisions of this Certificate of Incorporation. Ex officio trustees may be elected to serve on the board as voting or non-voting trustees, as may be provided in the bylaws.

(F) **LIMITATION ON LIABILITY OF TRUSTEES.**

- (1) No person who is or was a trustee of the Corporation shall be personally liable to the Corporation for monetary damages for breach of duty as a trustee in an amount that exceeds the compensation, if any, received by the trustee for serving

the Corporation during the year of the violation if such breach did not (a) involve a knowing and culpable violation of law by the trustee, (b) enable the trustee or an associate, as defined in Section 33-840 of the Connecticut General Statutes, to receive an improper personal economic gain, (c) show a lack of good faith and a conscious disregard for the duty of the trustee to the Corporation under circumstances in which the trustee was aware that his or her conduct or omission created an unjustifiable risk of serious injury to the Corporation, or (d) constitute a sustained and unexcused pattern of inattention that amounted to an abdication of the trustee's duty to the Corporation. Any lawful repeal or modification of this article or the adoption of any provision inconsistent herewith by the board of trustees of the Corporation shall not, with respect to a person who is or was a trustee, adversely affect any limitation of liability, right or protection of such person existing at or prior to the effective date of such repeal, modification or adoption of a provision inconsistent herewith.

- (2) The limitation of liability of any person who is or was a trustee provided for in this Article shall not be exclusive of any other limitation or elimination of liability contained in, or which may be provided to any person under, Connecticut law as in effect on the effective date of this Certificate of Incorporation and as thereafter amended.

(G) **INDEMNIFICATION.** The Corporation shall indemnify and advance expenses to its trustees to the fullest extent permitted by law. In furtherance of the foregoing, the Corporation shall indemnify its trustees against liability to any person for any action taken, or any failure to take any action, as a trustee, except liability that (a) involved a knowing and culpable violation of law by the trustee, (b) enabled the trustee or an associate, as defined in Section 33-840 of the Connecticut General Statutes, to receive an improper personal economic gain, (c) showed a lack of good faith and a conscious disregard for the duty of the trustee to the Corporation under circumstances in which the trustee was aware that his or her conduct or omission created an unjustifiable risk of serious injury to the Corporation, or (d) constituted a sustained and unexcused pattern of inattention that amounted to an abdication of the trustee's duty to the Corporation.

The Corporation may indemnify and advance expenses to each officer, employee or agent of the Corporation who is not a trustee, or who is a trustee but is made a party to a proceeding in his or her capacity solely as an officer, employee or agent, to the same extent as the Corporation is permitted to provide the same to a trustee, and may indemnify and advance expenses to such persons to the extent permitted by Section 33-1122 of the Connecticut Revised Nonstock Corporation Act.

The Corporation may also procure insurance providing greater indemnification as provided by law.

Notwithstanding any provision hereof to the contrary, the Corporation shall not indemnify any trustee, officer, employee or agent against any penalty excise taxes assessed against such person under Section 4958 of the Internal Revenue Code.

(H) DISSOLUTION. The board of trustees may order the dissolution of the Corporation, but only by means of an affirmative vote of three quarters or more of the members of the full board at a special meeting specifically convened for that purpose, with 30 days advance notice to all trustees. Such advance notice, and notice of the decision of the trustees, shall also be given to the Town of Haddam Board of Selectmen, with the dissolution taking place at such a time as the transfer of assets in the manner and subject to the conditions spelled out below has taken place.

In the event of dissolution of the Corporation or the winding up of its affairs, subject to any restrictions on use or transfer that may exist, the assets of the Corporation remaining after all liabilities and obligations have been satisfied or provided for shall be paid over, transferred or conveyed to the Town of Haddam for the continued provision of a free library service to the town on the present site. Such organization tasked by the Town of Haddam with providing free library services must satisfy the following conditions:

- (1) The organization shall be organized and operated either (a) exclusively for the purposes set out in Article 5(A) above, or (b) exclusively for purposes determined by the board of trustees to be similar to or supportive of those set out in Article 5(A) above; and
- (2) The organization shall either be: (a) an organization exempt from federal income taxation under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code that is not a private foundation as defined in Section 509(a) of the Internal Revenue Code or (b), provided such assets will be used exclusively for one or more public purposes, the federal or a state government or a political subdivision thereof.

Any such assets not so distributed shall be disposed of as determined by a court of competent jurisdiction, exclusively for such purposes, or to such organization or organizations, as said court shall determine, that are exempt from federal taxation under Section 501(a) of the Internal Revenue Code as organizations described in Section 501(c)(3) of the Internal Revenue Code and are not private foundations as defined in Section 509(a) of the Internal Revenue Code, or to the federal or a state government or political subdivision thereof for a public purpose.

(I) This Certificate of Incorporation may be amended by a resolution adopted by not less than three quarters or more of the members of the full Board of Trustees present at a meeting at which a quorum is present and not less than two-thirds of the members of the Corporation voting thereon, provided that the Certificate of Incorporation shall not be amended to permit the Corporation to engage in any activity that would be inconsistent with its classification as an

organization described in Section 501(c)(3) of the Internal Revenue Code and as an organization contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

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