

## Agreement to Participate in SCLS Technology Services

This Agreement to Participate in SCLS Technology Services (the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_ between the South Central Library System (hereinafter referred to as SCLS) and the Library Board of Trustees or other applicable governing body of \_\_\_\_\_ (hereinafter referred to as the Library).

WHEREAS SCLS is organized, exists, and maintains a public library system pursuant to the provisions of Chapter 43, Wisconsin Statutes; and

WHEREAS the Library is organized under Sections 43.52, 43.53, or 43.57, Wis. Stats., is a member in good standing of SCLS, and pledges to remain so for the life of this Agreement and agrees to share resources in accordance with the requirements of said Chapter 43; and

WHEREAS the Library has determined that the cooperative sharing of specific technology services will permit more efficient library service and will provide great and lasting benefits to its patrons; and

WHEREAS the parties desire to share, in an equitable and agreeable fashion as set forth herein, with other SCLS member libraries, the costs and expenses as well as the benefits of the purchase, development, operation, and maintenance of these specific technology services,

NOW THEREFORE, in consideration of the covenants and undertakings herein contained, the parties hereto agree as follows:

1. SCLS, with advice from the Technology Committee and/or the ILS Committee, both elected, representative bodies of participating libraries, **will provide services to the Library, as selected by the Library by having the member library director or other authorized representative initial one or more of these boxes:**

A. Basic Services: SCLS will provide basic services to the Library in the form provided to SCLS members at no additional cost, including (subject to change or discontinuance by SCLS from time to time in its sole discretion) web hosting services, email services, database authentication, and reselling/purchase of products or equipment, together with such other services as SCLS may choose to offer from time to time as part of its basic services package.

B. Infrastructure: The core cost that is required to support any of the three technology services. **Any library participating in any of the following three technology services must participate in the Infrastructure program.**

C. Network Services: Including, but not limited to, Library network hardware and software, replacements, and upgrades; internet connectivity, network and response time support, Enterprise Wireless, third party vendor support, new building and remodeling support, wide-area network planning.



D. PC Support: Including, but not limited to, PC and peripheral equipment ordering, field and help desk support, automatic software updates, PC software testing and support, Windows and MS-Office, and anti-virus licenses, third party vendor support, technology planning. **PC Support is only available to libraries receiving Network Services.**



E. ILS Services: Including, but not limited to, the day-to-day operation and maintenance of the ILS modules of Acquisitions, Cataloging, Circulation, Public Access Catalog, Serials; development, implementation and support, planning for and coordinating ILS modifications, enhancements and/or replacement; centralized cataloging; required telecommunications and/or network connectivity; furnishing regular reports to the library. **Network Services are required to receive certain ILS services such as: response time troubleshooting and RFID/self-check and sorter response time support, peripheral devices associated with the ILS.**

2. With the exception of services offered at no charge to SCLS member libraries, the Library will pay a share of the total cost of the specific technology services selected in Section 1 above. The total cost shall include all sums required to cover expenses to be incurred by SCLS during the next year in providing the functionality as selected by the Library, including, without limitation, all operating, maintenance, and contractual expenses, and capital costs such as the purchase of substitutions, replacements, improvements, and additions to the components. Additional PCs, not included in the previous year's count, will be charged a pro-rated PC maintenance fee for the remainder of the year in which they are purchased. These costs shall be determined through the annual budgeting process, culminating in the adoption of an annual budget by the SCLS System Board of Trustees. The amount of Library's share of costs due under this Agreement will be calculated based on the cost formula adopted by the SCLS Board of Trustees on or before July 1, 2014. Changes may be made to the cost formula in subsequent years by similar action of the SCLS Board of Trustees on or before July 1 of the year preceding the budget year to which the formula will be applied.
3. The role of SCLS is limited by its statutory obligations to provide specific technology services to member public libraries within its territory and any contribution to the services offered must be consistent with its statutory responsibilities to support and extend resource sharing.
4. SCLS will continue to contribute to the support of services described in this Agreement at an amount and in a manner guided by the Administrative Council and ratified by the SCLS Board of Trustees.
5. Libraries participating in any services requiring fees selected in Section 1 of this Agreement shall vote annually to approve the related fees for the following fiscal year at the All-Directors' meeting held in July. This meeting will be noticed to all parties at least one month before the scheduled date of the meeting. Votes for each service shall be allocated as follows: a maximum of one thousand (1,000) shares or votes shall be allocated to Libraries participating in each service based on their share of the current year's operating budget for that service. A quorum

of 51% of the libraries participating in each service controlling 51% of allocated votes must attend the meeting or vote by proxy for action to be taken; libraries may attend and vote at such meetings by telephone or video conference. A super majority of 75% of all votes cast and 75% of the libraries in each service must be present or by proxy for passage of the fees. SCLS will not be responsible for performance of services if fees are not approved or timely paid.

6. On or before August 1st of each year, the Library will be informed of its share of the cost for each selected service for the calendar year following. Invoices for each year shall be issued by SCLS by January 31 of the year, with total payment due from the Library within sixty days.
7. SCLS agrees that all existing or future funds generated by SCLS ILS, Network Services, PC Support, or Infrastructure, including the annual SCLS contribution, will be allocated to that specific service fund. Operating funds not expended in one fiscal year will carry forward for future use, according to its originally-designated purpose. SCLS will receive all interest earnings on deposited funds designated for these services to help offset overhead costs associated with service management. The SCLS policy on investments, adopted by the SCLS Board of Trustees 3/10/2008, governs investment strategy. SCLS agrees to notify the Administrative Council in the event that the SCLS Board of Trustees considers materially amending said policy.
8. The ILS Committee has adopted or may from time to time adopt rules and policies for the operation of the ILS. The Technology Committee has adopted or may from time to time adopt rules and policies for the operation of Basic Services, Network Services, PC Support, and Infrastructure. The Library agrees to adhere to the rules and policies applicable to any and all selected services. SCLS may enforce these rules and policies by charging the Library for reasonable costs related to non-compliance or exercise other enforcement measures up to and including cessation of services to the Library. Without limiting the foregoing or any other term of this Agreement, Library is responsible for maintaining, and shall maintain, reasonable and not less than industry-standard security practices. Without limiting Library's obligations, Library shall comply with all security or network instructions or recommendations provided by SCLS.
9. NOTWITHSTANDING ANY OTHER TERMS OF THIS AGREEMENT OR ANY OTHER COMMUNICATIONS BETWEEN THE PARTIES, ALL SERVICES ARE PROVIDED "AS-IS" WITH NO WARRANTY OF ANY KIND, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. SCLS WILL NOT BE RESPONSIBLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES ARISING OUT OF OR RELATING TO THE PERFORMANCE OF ANY SERVICES HEREUNDER. UNDER NO CIRCUMSTANCES, INCLUDING WITHOUT LIMITATION ANY NEGLIGENT ACTION OR INACTION OF SCLS OR ITS EMPLOYEES OR AGENTS, WILL SCLS BE RESPONSIBLE FOR, OR INCUR ANY LIABILITY TO, LIBRARY OR ANY THIRD PARTY IN EXCESS OF THE LESSER OF (i) THE FEES, IF ANY, ACTUALLY PAID TO SCLS BY LIBRARY FOR THE SERVICE GIVING RISE TO LIABILITY (EXCLUDING ANY PASS-THROUGH CHARGES) DURING THE THEN-CURRENT YEAR, OR (ii) \$1,000.

The parties agree that the limitations of liability set forth in this section and this Agreement represent a reasonable allocation of risk that is necessary for SCLS to be able to provide the services at issue.

10. SCLS will, in its reasonable discretion, use reasonable efforts to compel vendors to comply with contract terms and provide satisfactory performance, and will provide reasonable cooperation to Library to communicate problems or issues to vendors, to the extent allowed under SCLS's contracts with its vendors. NOTWITHSTANDING THE FOREGOING OR ANY OTHER TERM OF THIS AGREEMENT, THE PARTIES AGREE THAT SCLS IS NOT RESPONSIBLE FOR, AND SHALL HAVE NO LIABILITY FOR, THE FAILURE OR LACK OF PERFORMANCE OF ANY VENDOR WITH WHOM IT CONTRACTS TO PROVIDE ANY SERVICES UNDER THIS AGREEMENT, OR ANY PRODUCT, SOFTWARE OR EQUIPMENT ASSOCIATED WITH OR USED IN RELATION TO SERVICES PROVIDED UNDER THIS AGREEMENT, WHETHER SUCH PRODUCT, SOFTWARE, OR EQUIPMENT IS OWNED BY SCLS, THE LIBRARY, OR OTHERS. SCLS RESELLS AND PASSES THROUGH ANY EQUIPMENT OR PRODUCTS PURCHASED BY LIBRARY (COLLECTIVELY, AND INCLUDING ANY THIRD-PARTY SERVICES, "PRODUCTS") ON AN "AS IS, WHEN AVAILABLE" BASIS. EACH OF THE PRODUCTS MAY BE SUBJECT TO APPLICABLE WARRANTY, END-USER LICENSE, INTELLECTUAL PROPERTY INDEMNITY OR OTHER TERMS AVAILABLE FROM THE ORIGINAL EQUIPMENT MANUFACTURER ("OEM") OF THE PRODUCT. SCLS MAY, TO THE EXTENT PRACTICABLE, PASS APPLICABLE WARRANTIES, LICENSES, INDEMNITIES AND SUCH OTHER TERMS AS MAY APPLY FROM THE OEM THROUGH TO LIBRARY. SCLS AND LIBRARY HEREBY EXPRESSLY DISCLAIM ALL OTHER WARRANTIES AS TO PRODUCTS, WHETHER WRITTEN, ORAL, EXPRESSED, OR IMPLIED INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. IN ADDITION, SCLS DOES NOT REPRESENT OR WARRANT THAT ANY PRODUCT, INCLUDING HARDWARE, SOFTWARE OR THIRD-PARTY SERVICES, WILL BE FREE FROM ERRORS, DEFECTS OR INFRINGEMENT. IN NO EVENT SHALL SCLS, ITS AFFILIATES, OR THEIR RESPECTIVE TRUSTEES, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, BE LIABLE TO LIBRARY OR ANY OTHER PARTY FOR ANY REASON, WHETHER IN CONTRACT OR IN TORT, FOR ANY DAMAGES ARISING OUT OF OR BASED UPON PERFORMANCE OF, OR DAMAGES CAUSED BY PRODUCTS (INCLUDING THOSE RELATED TO CLAIMS OF INFRINGEMENT UPON A PROPRIETARY RIGHT OF A THIRD PARTY) SOLD OR RESOLD BY SCLS. FOR THE AVOIDANCE OF DOUBT, LIBRARY ACKNOWLEDGES THAT ITS SOLE RECOURSE FOR ANY DAMAGES ARISING OUT OF OR BASED UPON PERFORMANCE OF, OR DAMAGES CAUSED BY PRODUCTS RESOLD UNDER THIS AGREEMENT SHALL BE AGAINST THE OEM OF THE APPLICABLE PRODUCT.
  
11. All data created and stored on the ILS shall remain the shared property of SCLS and the libraries receiving applicable ILS Services for the term of this Agreement. Decisions regarding methods and standards for the creation, maintenance, purging, or archiving of data and/or the ability of member libraries to alter such data shall be made by SCLS, as advised by the ILS Committee, and

shall be binding on all participating member libraries. The Library shall have a right to a copy of its own data, subject to availability and feasibility and provided it reimburses SCLS for the actual cost of extraction and duplication of the data. Upon request from the Library, SCLS will provide an estimate of the cost of extraction and duplication of the data. Library is responsible for backup of its own data and network/systems.

12. SCLS shall have no responsibility or liability for or arising from any loss of data or by Library or arising from any Library equipment, network, or system. IN ADDITION TO AND WITHOUT LIMITING ANY OTHER EXCLUSION OR LIMITATION OF SCLS'S LIABILITY UNDER THIS AGREEMENT, THE PARTIES ACKNOWLEDGE THAT DIGITAL SYSTEMS AND NETWORKS ARE BY THEIR NATURE IMPOSSIBLE TO SECURE COMPLETELY AGAINST INTRUSION, HACKING, OR SECURITY INCIDENTS. SCLS IS NOT, TO THE FULLEST EXTENT ALLOWED BY LAW AND INCLUDING WITHOUT LIMITATION ACTS OR LIABILITY ARISING FROM OR RELATED TO THE NEGLIGENCE OR INTENTIONAL MISCONDUCT OF SCLS OR ITS EMPLOYEES OR AGENTS, RESPONSIBLE OR LIABLE FOR ANY DAMAGES, LOSS (INCLUDING DATA LOSS), DIRECT OR INDIRECT DAMAGES OR OTHER LIABILITY OF ANY FORM OR NATURE ARISING FROM OR RELATED TO ANY ACTS OF HACKING, SYSTEM INTRUSION, "RANSOMWARE," OR OTHER SIMILAR ACTS OR INCIDENTS OF MANIPULATION OR MISUSE OF ANY NETWORKS, EQUIPMENT, OR SYSTEMS RELATED TO THIS AGREEMENT.
13. The purchase price of the remote site components installed at the Library (including but not limited to workstations, printers, and scanners) together with all expenses incurred with their installation, related internal wiring and connections, shall be paid by the Library. The Library holds title to equipment purchased under this section. Minimum standards/specifications for such remote site components shall be established and updated by SCLS, subject to adoption by the Technology Committee.
14. Network equipment purchase, replacement and maintenance shall be managed by SCLS, with payment by Library as applicable.
15. The Library will provide written notice to SCLS of any changes in the services selected under this Agreement, with such notice to be provided on or before August 15 of each year, with changes to services to be effective the next calendar year.
16. This Agreement shall remain in force and shall be automatically renewed and extended for terms of one year indefinitely, unless and until terminated by either party. Either party may withdraw from participation in this Agreement effective as of the end of any calendar year by notifying the other party in writing by August 15 of that year. If SCLS ILS services are terminated, the Library agrees to return all borrowed materials to the owning library or pay the respective replacement costs to the owning library and to pay SCLS for the actual cost of purging data unique to that library from the SCLS ILS and for reconciling any transactions (including but not limited to holds). Upon request from the Library, SCLS will provide an estimate of costs

associated with purging the data and reconciliation of transactions. If SCLS Network Services are terminated, the Library agrees to pay SCLS the actual costs of any internet or other service provider contracts which provide connectivity to the Library and whose terms extend beyond the withdrawal date.

17. Should SCLS withdraw from participation in this Agreement, SCLS agrees that any unspent funds accumulated for the operation or development of Infrastructure, Network Services, PC Support and/or ILS Services will be turned over to an organization, or organizations as agreed by all current participating members using the voting structure and methodology established in section 5.
18. The Library's services selected under this Agreement may be terminated by SCLS, with consent of the Administrative Council, for failure to adhere to the terms of this Agreement.
19. SCLS, in consultation with the Administrative Council, shall review this Agreement annually. Amendments, once proposed by the Administrative Council and adopted by the SCLS Board of Trustees, will be incorporated into a new contract that will be offered to the Library by August 1<sup>st</sup> to be effective as of the next renewal term.
20. Nothing in this Agreement waives the rights or protections of either party granted in Section 893.80 of Wisconsin State Statutes, or any other statute, law, or regulation.
21. This Agreement represents the complete agreement of the parties, and supersedes any written or oral communications relating to the subject matter hereof unless expressly incorporated herein by reference.

*[Signature page follows]*

**SOUTH CENTRAL LIBRARY SYSTEM**

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System Director

\_\_\_\_\_

Date

\_\_\_\_\_

System Board President

\_\_\_\_\_

Date

**LIBRARY**

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Library Director

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Date

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Library Board President

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Date

Adopted April 27, 2023 by the SCLS Board of Trustees