

## **MEMBER LIBRARY AGREEMENT**

This Agreement is made this 11<sup>th</sup> day of November, 2021, by and between the **Traverse Area District Library**, a Michigan district library, whose address is 610 Woodmere, Traverse City, Michigan 49686 (“TADL”) and **Peninsula Community Library**, a Michigan township library, whose address is 2699 Island View Road, Traverse City, Michigan 49686 (“Member Library”).

### **R E C I T A L S**

WHEREAS, the Traverse Area District Library is a Michigan district library pursuant to Act 24 of the Public Acts of 1989, and has legal authority to enter into contracts for services with libraries and municipalities within or without its district; and

WHEREAS, the Peninsula Community Library is a Michigan township library pursuant to Act 164 of the Public Acts of 1877 as amended, and has authority to enter into contracts for services with libraries and municipalities within or without its service area; and

WHEREAS, TADL and the Member Library have historically maintained a contractual relationship to enhance the library services for library patrons within TADL’s service area; and

WHEREAS, the historical affiliation between TADL and the Member Library has resulted in enhanced library services for library patrons, and TADL and the Member Library desire to continue the affiliation; and

WHEREAS, TADL wishes to extend library services with enhanced service in specific geographic areas within TADL’s district (the “District”) in recognition that legal public libraries in these areas pre-existed the formation of the District, and this contract is permissible as an Intergovernmental Contract between municipal corporations pursuant to MCL 124.1, et seq. and is not intended to be construed as an intergovernmental contract for jointly managed services;

NOW THEREFORE, in consideration of the mutual covenants, conditions, and promises contained herein, the parties understand and agree as follows:

1. **Autonomy.** The Member Library shall retain its separate identity as a public library eligible for state aid provided under the State Aid Act, Public Act 89 of 1997 as amended. Member Library shall simultaneously serve as a member library of TADL pursuant to this Agreement.
2. **TADL Responsibilities.** TADL shall provide the following to the Member Library:
  - A. **Funding.**

1. As used in this Section 2, the term “Library Support” shall include all operating revenue other than state and federal revenue including, but not limited to, the following categories of revenue: contract fees from TADL; services from TADL; penal fines allocated by the Library of Michigan through the State Treasurer and the Grand Traverse County Treasurer; interest on operating funds under the control of the Member Library; donations for the Member Library; other forms of financial support (including contributions from Member Library’s township); and any miscellaneous fees for goods and services and fundraising efforts contributed to Member Library financially, excluding in-kind donations.

2. TADL agrees to compensate Member Library a contract amount for each calendar year during the term of this Agreement as set forth in this paragraph 2(A)(2). For the calendar year 2022, TADL agrees to compensate Member Library a contract amount of \$229,000.00. The 2023 contract amount shall be determined by increasing (or decreasing as the case may be) the 2022 contract amount by the percentage of increase (or decrease) of TADL’s revenue from property taxes, state aid and penal fines (“Basis Revenue”) for 2022 as compared with TADL’s Basis Revenue for 2021. Similarly, the contract amounts in all subsequent years during the term of this Agreement shall be determined by increasing (or decreasing) the prior year’s contract amount by the percentage of increase (or decrease) of TADL’s Basis Revenue in the prior year as compared with TADL’s Basis Revenue in the year before that. All payments under this contract shall be contingent upon Member Library’s acceptance of this Agreement and performance of its obligations provided herein. In addition to the contract amounts referenced above, TADL shall allocate within its budget sufficient funds in order to provide the Member Library with specific services enumerated in paragraph 2B herein.

3. Payments of the contract amount for each year during the term of this Agreement shall be paid in full by TADL to the Member Library in each calendar year within seven (7) days after the date of the January regular meeting of the TADL Board of Trustees for that calendar year.

**B. Services Support.** During the term of this Agreement, TADL will provide certain services in order to enhance patron service. Providing these services shall be in an amount, quality, and frequency as determined in the discretion of TADL and consistent with services provided throughout the District, and TADL shall have no financial liability to Member Library for any disruption related to said services caused by technological or other system failure. Those services include the following:

1. High speed network and internet connection;
2. Shared online catalog and automated circulation system;

3. Wireless internet access;
4. MeL delivery of books and other materials among various participating libraries;
5. Generate and provide library cards;
6. Generate overdue notices via phone and/or email, or via mail as necessary;
7. Purchase, install, and maintain TADL approved computer hardware, software, and related equipment and supplies;
8. Create and print miscellaneous forms (e.g., card applications, hours bookmarks, inter-library loan bands, etc.) as determined by TADL;
9. Institutional membership in MLA maintained by TADL, and contractually available to Member Library pursuant to this Agreement.
10. A limited license to utilize trademarks, trade names, and logos associated with the Traverse Area District Library.

C. **Supplemental Funding.** Upon request by the Member Library, TADL may consider, in its sole discretion, providing supplemental funding to the Member Library at the request of the Member Library based upon a change of circumstance or other good cause. These requests will be evaluated by the TADL Board on a case by case basis, and any decision regarding supplemental funding requests will be left to the sole discretion of the TADL Board.

D. **Funding Assurances.** It is the intent of this Agreement that the Member Library have sufficient local funding to ensure its status as a “public library” entitling it to state aid under the State Aid Act, Public Act 89 of 1997 as amended. For purposes of evaluating local funding, all Library Support as herein defined will be used to calculate this figure. If the amount of the Member Library’s local funding jeopardizes its qualifications and eligibility for state aid pursuant to PA 89, TADL will make an additional monetary payment or provide library-related services in such amount as necessary to maintain the Member Library’s status as a public library eligible for state funding.

E. **Budget/Audit.** TADL shall transmit a copy of its annual budget within thirty (30) days of adoption to the Member Library, and shall further provide a copy of any audit (annual or otherwise) of its operations to the Member Library within thirty (30) days of acceptance by TADL.

F. **Identification of Funding.** TADL shall provide an annual accounting to the Member Library identifying all sources of its funding simultaneously with transmitting its annual budget to the Member Library.

**3. Member Library Responsibilities.** As part of this Agreement, and in recognition of the consideration provided by TADL, the Member Library shall provide member library services as follows:

A. **Autonomy.** The Member Library shall be under the control of a local board established pursuant to the Public Act which authorizes its operation, and said board shall govern its operation, including payment of all expenses associated with the Member Library.

B. **District-wide Service.** The Member Library shall serve all Grand Traverse County (and City of Traverse City within Leelanau County) residents on an equal basis. The Member Library shall also serve all geographic areas which have negotiated a penal fine contract with TADL and it shall be the responsibility of TADL to advise the Member Library of those participating geographic areas on an annual basis.

C. **State Aid.** The Member Library's cooperative state aid shall be retained by the Member Library.

D. **Library Cooperative Fees.** The Member Library shall be responsible for payment of its own Library Cooperative membership fees.

E. **Advisory Council.** Both the Member Library and TADL shall participate in the District Library Advisory Council. Said Council shall be composed of the head librarians of TADL and each Member Library under contract to TADL, and shall meet periodically at reasonable times and locations as determined mutually by the representatives from TADL and each Member Library.

F. **TADL Identification.** Member Library shall identify itself as a member of TADL on all mutual signage, printed material, web sites and other printed materials as permitted by TADL. Notwithstanding the foregoing, Member Library may use existing signage and any existing stock of stationery or printed materials provided that Member Library shall comply with this paragraph when replacing such signage, stationery or printed materials after the effective date of this Agreement. This Agreement provides Member Library with a limited license for use of TADL logos and authorized proprietary materials.

G. **Hours of Operation.** Unless otherwise agreed by TADL, the Member Library shall be open to the public not less than 38 hours per week during the calendar year.

H. **Access to Materials and Facilities.** The Member Library shall provide access to its lending materials and facilities to all libraries associated with TADL. Costs of district-wide systems upgrades will be borne by TADL, and any system changes affecting the physical layout of the Member Library will be undertaken only in consultation with the Member Library and with the Member

Library's approval. Examples of such access may include, but are not limited to the following: the ability of library patrons within the District to attend the Member Library's programs; the ability of library patrons within the District to borrow materials from the Member Library; and allowing items placed on reserve by the Member Library to be accessed through inter-library loan to any library associated with TADL. Member Library may provide access to its lending materials and facilities to seasonal residents as determined by the Member Library.

I. **Budget/Audit.** The Member Library shall transmit a copy of its annual budget within thirty (30) days of adoption to TADL, and shall further provide a copy of any audit (annual or otherwise) of its operations to TADL within thirty (30) days of acceptance by the Member Library.

J. **Identification of Funding.** The Member Library shall provide an annual accounting to TADL identifying all sources of its funding simultaneously with transmitting its annual budget to TADL.

K. **Use of Funds.** The Member Library acknowledges and affirms that funds provided by TADL pursuant to this Agreement shall be used for operations only, and may not be used to fund capital projects.

4. **Suspension of TADL Obligations.** In the event that Member Library ceases to maintain State aid eligibility under Act 89 of 1977, TADL's obligations under this Agreement shall cease until Member Library's eligibility is restored.

5. **Term of Agreement.** The term of this Agreement shall run from January 1, 2022, through December 31, 2031. This Agreement may be modified, extended, or terminated upon mutual agreement of TADL and the Member Library. The Member Library and TADL agree to enter into negotiations should either express dissatisfaction with this agreement.

6. **Ownership of Assets.** All assets now owned and possessed by either TADL or the Member Library, and all assets hereafter acquired by either respective library, shall remain and be the property of that library. Notwithstanding the foregoing, upon termination of this Agreement, the Member Library shall return to TADL all equipment, computer hardware, computer software, and other materials provided it by TADL on an in-kind basis, whether during the term of this Agreement or any predecessor to this Agreement. By executing this Agreement, the Member Library agrees to abide by all rules and requirements in the use of any license agreement or computer network system undertaken by TADL which is allocated to the Member Library pursuant to its status under this Agreement, and a copy of any rule, license or requirement pursuant thereto shall be made available to the Member Library upon

request. Further, any access to any license or computer network provided to the Member Library by virtue of its relationship as a member of TADL shall cease and terminate upon termination of this Agreement.

**7. Employees.** The personnel employed by either party shall in no way be deemed to be employees of the other party and shall not be entitled to any fringe benefits of the other party and shall not hold themselves out as employees of the other party.

**8. Workers Compensation.** The parties shall maintain at all times while work is being performed under this Agreement, suitable Workers Compensation insurance pursuant to Michigan law and shall provide a certificate of insurance or a copy of state approval for self-insurance to the other party upon request.

**9. Non-discrimination.** The parties agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of that person's race, color, religion, national origin, age, sex, height, weight, sexual identity, gender identity, physical or mental disability, or marital status. Breach of this covenant may be regarded as a material breach of this Agreement.

**10. Entire Agreement.** This Agreement constitutes the entire agreement of the parties and there are no valid promises, conditions, or understandings which are not contained herein. This Agreement supersedes and replaces all prior agreements defining the Member Library's status and services to TADL which currently exist, or previously have existed between the parties.

**11. Amendments.** The parties agree to permit modifications of this Agreement from time to time, but such modifications shall be in writing and signed by both parties.

**12. Assignment.** The parties agree there shall be no assignment or transfer of this Agreement or any part thereof unless mutually agreed in writing by both parties.

**13. Insurance.** During the term of this Agreement, Member Library and TADL shall maintain Comprehensive General Liability Insurance in an amount not less than \$2,000,000 per occurrence for injuries, including accidental death, for each person; and subject to the same limit for each person, in an amount not less than \$2,000,000 per occurrence on account of each accident; and Property Damage Insurance in an amount not less than \$1,000,000 each occurrence; and combined Single Limit for Bodily Injury and Property Damage Liability in an amount not less than \$2,000,000 for each occurrence. Certified copies in duplicate, setting forth the limits and coverage shall be furnished annually to the

other party. The policies shall contain endorsements stating that the other party, its board, officers, employees, and agents have been named as additional insureds onto such policy.

**14. Authority to Execute.** The parties agree that the signatories appearing below have the authority and are duly authorized to execute this Agreement on behalf of the party to the Agreement.

**15. Not a Joint Venture.** Other than the contractual commitments made in this Agreement, each party confirms that this Agreement shall not be construed to create a partnership or joint venture between them, and no benefits are conferred to any third party not otherwise a signatory to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective January 1, 2022.

**\*\* Signature Lines on Next Page \*\***

**Traverse Area-District Library**

By: Joseph A. [Signature]

Its: President of the Board of Trustees

By: Deborah [Signature]

Its: Secretary of the Board of Trustees

**Peninsula Community Library**

By: Thelma [Signature]

Its: President

By: Nancy W. [Signature]

Its: Secretary