

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE REACHING ACROSS ILLINOIS LIBRARY SYSTEM AND  
SYSTEM WIDE AUTOMATED NETWORK  
FOR AUTOMATED LIBRARY COMPUTER SERVICES**

**THIS AGREEMENT** is entered into this 1<sup>st</sup> day of July, 2011, by and between the Reaching Across Illinois Library System, a body politic and corporate (hereinafter referred to as "RAILS") and System Wide Automated Network ("SWAN"), an Illinois intergovernmental entity (hereinafter referred to as "LLSAP") (hereinafter collectively referred to as the "Parties").

WHEREAS, RAILS is an Illinois Library System established pursuant to Illinois law; and

WHEREAS, SWAN is an intergovernmental entity established via Intergovernmental Agreement to provide automated library services; and

WHEREAS, a Local Library System Automation Program, commonly referred to as an LLSAP, is a resource-sharing consortium that is directly supported by one of the regional library systems, with funding from the state of Illinois through the system annual area and per capita grant. SWAN, MAGIC, RSA, and PrairieCat will be Local Library System Automation Programs of RAILS; and

WHEREAS, RAILS and LLSAP desire to enter into this Agreement to obtain and provide automated library services as set forth herein; and

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution and the Act provide authority for intergovernmental cooperation, and Section 5 of the Act, 5 ILCS 220/5, specifically provides authority for the formation and execution of intergovernmental contracts; and

WHEREAS, RAILS and LLSAP have each authorized the execution of this Agreement pursuant to the authority granted to them by the Illinois Constitution and the Intergovernmental Cooperation Act.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and promises set forth in this Agreement, the Parties do hereby agree as follows:

**Section 1: Incorporation of Recitals**

The foregoing recitals are hereby incorporated herein and made a part of this Agreement.

**Section 2. Term and Termination of Agreement**

This Agreement shall be effective on July 1, 2011 and will be in place until June 30, 2012, unless terminated by mutual written consent of both Parties or by either Party upon ninety (90) days' written notice to the other Party. LLSAP shall be responsible for payment to RAILS for actual costs incurred through the termination date.

### **Section 3: Services Provided by RAILS**

Contingent upon state funding, RAILS shall provide the services required for the integrated library system (“ILS”) as set forth more specifically in Exhibit A. In addition, RAILS shall also provide the following types of support:

#### *Administrative Support*

- A. RAILS will provide and pay for staffing support to facilitate resource sharing through coordinated purchasing among the LLSAPs and other libraries as appropriate.
- B. RAILS will provide staff for administrative support, including:
  - 1. Meeting scheduling, hospitality arrangements, entry in L2, and attendance record keeping;
  - 2. Meeting agenda and minutes recording, distribution and posting; meeting notice postings as required by the Illinois Open Meetings Act; and
  - 3. Training, handout creation, and revisions.

#### *IT Support*

- A. Manage the data facility used by LLSAP, including providing uninterrupted power services, fire suppression system, cleaning, and security;
- B. Maintain Internet connectivity and the Local Area Network (“LAN”), including network security;
- C. Provide and maintain email services for LLSAP staff, including protection against spam;
- D. Provide LLSAP website services;
- E. Provide hardware and software for all staff who perform services for the ILS, including the operating system and all required office applications;
- F. In FY2012, replace LLSAP staff workstations that are more than 4 years old as of July 1, 2011;
- G. Provide printer and copier support; and
- H. Provide remote telecommuting access for staff to the RAILS network.

### **Section 4. Services Provided by LLSAP to RAILS**

SWAN will be a Local Library System Automation Program option for libraries located within the boundaries of RAILS or otherwise affiliated with it. LLSAP will comply with all RAILS and Illinois State Library reporting requirements resulting from its designation as a Local Library System Automation Program. LLSAP will work with RAILS to develop streamlined, cost-effective procedures and services and to foster resource sharing among Illinois libraries.

## **Section 5. Cost of Services**

For the services provided by RAILS to LLSAP, LLSAP shall make payment to RAILS in accordance with Exhibit B. RAILS shall invoice LLSAP for the services on a monthly basis. Payment shall be made within 60 days after receiving the invoice from RAILS.

## **Section 6. Facility and Vehicles**

RAILS shall house the equipment and staff at its own expense, procure office supplies, pay utility costs, and contract for and manage facility telecommunications, including but not limited to data lines, facility phones, PBX support contract, and phone equipment.

RAILS will provide access to system vehicles for in-state LLSAP-related travel. Travel reimbursement may be substituted when system vehicles are unavailable.

RAILS will also assume all costs associated with the LLSAP's relocation to a different library system facility, including but not limited to moving, acquiring furniture, network infrastructure, space planning, and moving consultation. RAILS will provide at least 120 days written notice to LLSAP prior to any relocation.

## **Section 7: Insurance**

LLSAP will procure insurance that covers all equipment it owns against risks of loss or damage for an amount equal to the replacement cost of the equipment. RAILS will provide all insurance for its employees and will procure insurance for all equipment that it owns against risks of loss or damage for an amount equal to the replacement cost of the equipment.

## **Section 8: Limitation of Liability/Damages**

- A. ANY SPECIFICATION, DESCRIPTION, OR OBJECTIVE IN THIS AGREEMENT CONCERNING THE OPERATION OF THE ILS IS A STATEMENT OF THE UNDERSTANDING OF THE PARTIES AS TO THE DESIGN AND SERVICE OBJECTIVES OF THE ILS, AND DOES NOT CREATE AN EXPRESS OR IMPLIED WARRANTY THAT THE ILS DOES OR WILL ALWAYS CONTINUE TO OPERATE AS DESCRIBED.
- B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER RAILS NOR ITS OFFICERS, BOARD MEMBERS, EMPLOYEES OR AGENTS SHALL BE LIABLE TO OR THROUGH THE LLSAP MEMBERS FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO DIRECT (WITH THE EXCEPTION OF PERSONAL INJURY AND PROPERTY DAMAGE DIRECTLY CAUSED BY WILLFUL AND WANTON CONDUCT), INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST REVENUES OR FAILURE TO REALIZE EXPECTED SAVINGS) SUSTAINED OR INCURRED IN CONNECTION WITH THE PERFORMANCE OR NONPERFORMANCE OF SERVICES UNDER THIS AGREEMENT, AND ANY

AMENDMENTS THERETO, OR THE PROVISION, USE OR OPERATION OF THE ILS OR SERVICES PROVIDED PURSUANT TO THIS AGREEMENT AND ANY AMENDMENTS THERETO, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE.

- C. NEITHER PARTY TO THIS AGREEMENT, INCLUDING THEIR OFFICERS, BOARD MEMBERS, EMPLOYEES AND AGENTS, SHALL BE LIABLE IN ANY WAY FOR DELAYS, FAILURE IN PERFORMANCE, LOSS OR DAMAGE DUE TO FORCE MAJEURE CONDITIONS OR CAUSES BEYOND SUCH PARTY'S REASONABLE CONTROL.
- D. ANY ACTION IN LAW OR IN EQUITY ARISING FROM OR IN CONNECTION WITH ANY MATTER UNDER THIS AGREEMENT MUST BE BROUGHT WITHIN TWO YEARS AFTER THE CAUSE OF ACTION HAS ACCRUED.
- E. EXCEPT AS SET FORTH EXPRESSLY IN THIS AGREEMENT, NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE MADE BY RAILS.
- F. THE TERMS AND CONDITIONS IN THIS SECTION 8 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

#### **Section 9: Assignment**

Neither Party shall have the right to assign their respective rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

#### **Section 10: Amendments; Waivers**

This Agreement and the rights created by this Agreement may not be amended, modified, or waived in any respect except by written agreement expressly referring to this Agreement and duly and validly authorized, executed, and delivered by the Parties.

#### **Section 11: Relationship of the Parties**

RAILS shall act as an independent contractor with respect to the provision of the services pursuant to this Agreement. Nothing in this Agreement is intended, or shall be construed or applied, to create the relationship of principal and agent, employer and employee, partners, or joint ventures between RAILS and LLSAP. RAILS staff assigned to LLSAP support, including LLSAP managers, shall remain employees of RAILS. No employer/employee relationship shall be created by this Agreement between an LLSAP and any RAILS employee providing services under the terms of this Agreement. LLSAP managers will participate fully in RAILS management responsibilities as assigned.



**Section 16: Successors**

This Agreement shall be binding upon successors of the Parties.

**Section 17: Authority**

Each of the Parties to this Agreement represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform its respective obligations hereunder and that such obligations shall be binding upon such Party without the requirement of the approval or consent of any other person or entity in connection herewith.

**Section 18: Execution in Counterparts**

This Agreement may be executed in counterparts. Facsimile signatures shall be sufficient.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly designated officers on the day and year set forth on the first page hereof.

**SYSTEM WIDE AUTOMATED NETWORK      REACHING ACROSS ILLINOIS  
LIBRARY SYSTEM**

\_\_\_\_\_  
Cindy Rauch  
President, SWAN Administrative Council

\_\_\_\_\_  
Name  
President, RAILS Board of Directors

Attest By:

\_\_\_\_\_  
Jeannie Dilger-Hill  
Secretary, SWAN Administrative Council

\_\_\_\_\_  
Name  
Secretary, RAILS Board of Directors

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A – SERVICES TO BE PROVIDED BY RAILS**

The following services shall be provided by RAILS to SWAN:

1. Technical Support: RAILS shall provide SWAN with a centralized help desk responsible for day-to-day operations of the integrated library automation system (“ILS”). Support will be provided for software problems, network issues, and requests for software changes. RAILS shall also provide ILS routines (notices, reports, statistics, backup, etc.), membership support and wide area network management.

2. Membership Services: RAILS shall provide SWAN members with training and instruction, facilitation of member user groups, and coordination of the implementation of new features and products within the SWAN ILS.

3. Administration: RAILS shall provide administration, assistance and direction to implement new ILS features, products and upgrades as well as exploring application software outside the ILS.

4. Bibliographic Services: RAILS shall provide copy cataloging and original cataloging services, bibliographic quality control and authority control, training and member user support.

5. Financial Services: RAILS shall provide accounting services (billing, accounts payable, accounts receivable, audit and financial statements), and payroll. The accounting services include, but are not limited to, the following:

- A. Billing SWAN member libraries for fees, purchases, credits, and services provided by SWAN to its member libraries.
- B. Financial reconciliation and documentation required by the SWAN Administrators’ Council.
- C. Annual auditing services for SWAN.

Any proposed service changes shall be presented by RAILS to the SWAN Administrators’ Council and must be approved by the SWAN Administrators’ Council prior to implementation.

RAILS shall give the SWAN Executive Director the power to make staff assignments within the SWAN service. The SWAN Administrators’ Council will have right of approval for the person selected to be the SWAN Executive Director. If SWAN Administrators’ Council determines that the performance of the SWAN Executive Director is not satisfactory, it may request that RAILS remove him/her from the position, and replace the position subject to Council approval.

## **EXHIBIT B - COST OF SERVICES**

For the services provided by RAILS to SWAN, SWAN shall pay to RAILS a contractual amount not to exceed \$767,450, which is the amount of SWAN's FY2012 staffing salaries and all benefits except unemployment, health, life, dental and vision of staff assigned to SWAN in each pay period. The SWAN Executive Director and SWAN Administrative Manager position costs, including salary and all benefits, will be assumed fully by RAILS.

SWAN shall also pay RAILS for its portion of the actual cost of telecommunications and equipment maintenance, divided equitably among all parties sharing the facility.

RAILS will be responsible for the costs of any increases for FY2012 over what SWAN members pay for ILL (interlibrary loan) and cataloging services via the current ILLINET Group Services contract in effect through June 30, 2011. To implement this cost-sharing arrangement, RAILS will reduce SWAN's contractual amount described above by a figure equal to any cumulative increase in the new ILLINET Group Services contract over what SWAN members pay for these services under the current ILLINET Group Services contract that ends on June 30, 2011.