



Resource Sharing Alliance
715 Sabrina Drive
East Peoria, IL 61611
866-940-4083

**INTERGOVERNMENTAL AGREEMENT
ESTABLISHING RESOURCE SHARING ALLIANCE AND
AUTHORIZING MEMBERSHIP IN RESOURCE SHARING ALLIANCE (“RSA”)**

WHEREAS, each of the entities listed on Exhibit A to this Intergovernmental Agreement establishing Resource Sharing Alliance and Authorizing Membership in Resource Sharing Alliance (“RSA”) (hereinafter “Agreement”) is either a local library established pursuant to the Local Library Act, 75 ILCS 5/ 1-0.1, et seq., a public library district established pursuant to the Public Library District Act, 75 ILCS 16/ 1-1, et seq., a school district established pursuant to state statute, an academic institution, or another entity with a library; and

WHEREAS, pursuant to Article VII, Sec. 10 of the Illinois Constitution of 1970 and to the Intergovernmental Agreement Act, 5 ILCS 220/1, et seq., and to the respective statutes pursuant to which each of the public libraries, library districts, school districts and academics are established, the Governing Body (collectively known as “Member Libraries”) of each of the said entities is empowered and authorized to enter into intergovernmental contracts and agreements for library services, and the other entities with a library have the authority to contract for library services; and

WHEREAS, the entities which are signatories to this Agreement wish to cooperate jointly and mutually among themselves via their support of RSA to provide cost-effective and efficient sharing of library materials among Member Libraries through an integrated, multi-functional library automation system and use their collective financial resources to achieve economics of scale. RSA also provides members other library related automation activities, aggregates resource sharing opportunities, and serves as a gateway to other electronic databases as appropriate.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and in further consideration of the execution of this Agreement by at least 51% of the entities listed on Exhibit A, the entity whose signature is set forth below hereby agrees as follows:

1. Incorporation of Preambles. The above and foregoing preambles are incorporated herein and constitute a part of this Agreement.

2. Establishment of RSA. There is hereby created and established an intergovernmental entity to be known as the Resource Sharing Alliance (“RSA”), which shall be the entity formed to carry out the joint and cooperative undertakings of this Agreement and there shall be a conversion of Resource Sharing Alliance NFP into RSA as of 12 a.m. July 1, 2024 and all of Resource Sharing Alliance NFP’s rights, privileges, immunities, powers,

and purposes shall remain in RSA with all property, assets and liabilities of Resource Sharing Alliance NFP continuing as the property, assets and liabilities of RSA.

3. Members. RSA shall be composed of each of the entities which are signatories to this Agreement, each of which shall be designated a "Member" of RSA.

4. Board of Directors. The affairs of RSA shall be conducted by a Board of Directors ("Board"), which shall be composed of representatives of the Member Libraries. The bylaws contain information on the Board of Directors' composition, officers, elections, meetings, duties, operation, and voting Board voting procedures.

5. Powers and Duties of RSA. RSA may exercise any power, privilege, or authority, consistent with this Agreement, including but not limited to the following:

- A. To administer the integrated library automation system ("ILS").
- B. To adopt bylaws consistent with law and with this Agreement to govern its operation, which bylaws may include, among other things, provisions dealing with election of officers, meetings, voting, operational services, budgeting, assessment of fees and other policies.
- C. To employ or contract with agents, employees, vendors, independent contractors or other entities, including legal counsel, accountants and such other persons as may be necessary to provide any services required for the ILS or its implementation, to store any of the equipment required to carry out the services outlined in this Agreement and to accomplish the purposes of RSA.
- D. To purchase or lease equipment, machinery, or personal property necessary for the carrying out of the purpose of the ILS.
- E. To hold title to the ILS, except for any equipment held solely by a Member.
- F. To collect payments and assessments from Members.
- G. To carry out such other activities as are necessarily implied or required to carry out the purposes of this Agreement and the ILS.

6. Bylaws. The Members of RSA shall adopt bylaws consistent with law and with this Agreement to govern its operation, which bylaws may include, among other things, provisions dealing with election of officers, meetings, voting, contracts, budgeting, receipt

and expenditure funds, operational services, employment of staff, assessment of fees, establishment and termination of membership, and dissolution.

7. Obligations/Duties of Members. The obligations and duties of Members are as follows:

- A. To accept and follow the RSA bylaws, including but not limited to the responsibilities of Member Libraries as set forth in the bylaws. To comply with such other reasonable rules and regulations as may be established by RSA as well as all policies of RSA, as amended.
- B. To appropriate or budget annually its liabilities for participation in RSA and to meet its obligations hereunder.
- C. To cooperate fully with any agent, employee, officer or independent contractor of RSA in any matter relating to the purpose and powers of RSA.
- D. To make RSA membership fee payments within 60 calendar days of the invoice date. The Member is solely responsible for telecommunications costs, local equipment, supplies, and other non-RSA provided costs. In the event that a Member fails to meet any of its financial obligations, the Board of Directors may suspend participation of the Member and terminate ILS system services to the Member, including denial of access of the Member's computers to the database, until the Member makes payment. If such Member Library fails to make full payment within ninety (90) days after such termination of services, it shall be deemed to have voluntarily terminated and withdrawn from RSA, and shall be subject to the provisions of Section 12, with specific recognition of the continuing obligation of the Member to make payments, among any other payments due at the time of withdrawal, to the end of the RSA fiscal year in which the withdrawal occurs.
- E. To execute any agreement or other documents with Vendors, such as a confidentiality agreement, required for operation of or participation in RSA.
- F. To act promptly on all matters requiring approval by the Members and to not withhold such approval unreasonably or arbitrarily.
- G. To make its library materials available for interlibrary loan in accordance with the ILLINET Interlibrary Loan Policy and applicable RSA Loan Policy.

- H. To take responsibility for purchasing and maintaining all equipment and telecommunication services necessary for access/connectivity to the RSA system. All such equipment must be compatible with RSA's system following the vendor's and RSA's guidelines.
- I. To make all reasonable efforts to use the integrated library system responsibly by adhering to procedures and standards of RSA. To allow staff to participate in all required training programs.
- J. To acknowledge that the vendors of the ILS have or may have certain proprietary rights in connection with the ILS and to assume and accept responsibilities/liabilities related to any violation of said proprietary rights by its patrons or users.
- K. To take no action inconsistent with this Agreement as originally written or hereafter amended.
- L. To serve, if called, on the RSA Board of Directors and share in the decision-making process to enhance and expand RSA.
- M. To participate in Membership Groups, ad-hock committees and task forces as needed.
- N. Use of the ILS. The Members will jointly determine the use of the ILS. RSA does not warrant or guarantee the ILS, nor shall RSA be liable for any damages resulting from the malfunction of the ILS.

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 RSA NOR ITS OFFICERS, BOARD OF DIRECTORS' MEMBERS, EMPLOYEES OR AGENTS SHALL BE LIABLE TO OR THROUGH THE MEMBER 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. NO PARTY TO THIS AGREEMENT, INCLUDING THEIR OFFICERS, BOARD OF DIRECTORS' 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. ANY SUCH ACTION SHALL BE LITIGATED IN THE 10th CIRCUIT COURT OF TAZWELL COUNTY, ILLINOIS (AND IN NO OTHER STATE OR FEDERAL COURT) AND THE PARTIES HERETO CONSENT TO THE JURISDICTION OF THE SAID CIRCUIT COURT OF TAZWELL COUNTY.
- 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 RSA.
- F. THE TERMS AND CONDITIONS IN THIS SECTION 8 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

9. Liability of RSA, Its Employees and RSA Board Members.

- A. The members of the RSA Board and employees of RSA shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties hereunder. They shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith; nor for any action taken or omitted by any agent, employee or independent contractor; nor for any loss incurred through investment of RSA funds or failure to invest. They may participate in indemnification and self insurance programs. No RSA Board member or employee shall be liable for any action taken or omitted by any other RSA Board member or employee. No member of the RSA Board shall be required to give a bond or other security to

guarantee the faithful performance of the Board member's duties hereunder, except as required by this Agreement or by law.

- B. The liability of RSA, its employees and RSA Board members is limited solely to the proceeds of payments of the Members.
- C. If any claim or action not covered by insurance is instituted against a RSA Board member or employee of RSA allegedly arising out of an act or omission occurring within the scope of his or her duties or authority, RSA shall at the request of the Board member or employee:
 - 1. appear and defend against the claim or action; and
 - 2. pay or indemnify the RSA Board member or employee for a judgment and court costs based on such claim or action, provided there shall be no indemnification for any portion of a judgment representing an award of punitive or exemplary damages; and
 - 3. pay or indemnify the RSA Board member or employee for a compromise or settlement of such claim or action providing the settlement is approved by the RSA Board.
- D. The term "RSA Board member or employee" shall include current and former RSA Board members and employees. This indemnification provision shall not apply if the RSA Board finds that the claim or action is based on malicious, willful or criminal claim or action is based on malicious, willful or criminal misconduct. In such case the action to be taken by the RSA Board will be determined after an investigation of the facts.
- E. Moreover, all Members shall indemnify and hold harmless RSA, RSA Board members, employees and agents for any actions that it may take or fail to take, and such indemnity shall include, to the extent not indemnified under the provisions of this Section 9, all losses, costs, expenses, damages and claims of whatever kind and nature, including reasonable attorneys' fees and defense costs.

10. Amendments. The Board of Directors may propose amendments to this Agreement at any time. The proposed amendment must be approved by a vote of at least two-thirds (2/3) of RSA Members.

11. Termination. This Agreement shall continue unless and until RSA dissolves or there is a termination of membership as set forth in the bylaws.

12. Withdrawal from RSA.

- A. The Member's obligations and rights upon withdrawal are set forth in the bylaws.
- B. Withdrawing RSA Member shall continue to pay all usual and customary RSA charges until its withdrawal date.
- C. Withdrawing RSA Member shall not receive a refund of any RSA funds.
- D. Withdrawing RSA Member is responsible for any and all vendor charges related to withdrawal from RSA. Withdrawing RSA Member shall reimburse RSA for all such costs incurred by RSA.
- E. RSA shall provide withdrawing RSA Member with the services and data needed for withdrawal. Libraries who are not members of OCLC will not receive a MARC record export, only a shelf list of their items. RSA shall not charge for its services related to withdrawal unless staff overtime is required. If possible, RSA will provide withdrawing RSA Member with advance notice of the need for such overtime and an estimate of such charges.
- F. Within 30 days after its withdrawal date, the former RSA Member will provide RSA with written certification that it has uninstalled all local ILS software provided by RSA and needed for the RSA system and destroyed or returned all related documentation and software media.

13. Waiver. The waiver by any Member signing this Agreement or by RSA of any breach or violation of any provision of this Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Agreement.

14. Execution of Agreement. This Agreement may be executed in counterparts, each of which will be signed by one Member Library, and each separate Agreement and all such collectively constitute one original.

15. Assignment. Under no circumstances shall this Agreement be assigned by any party or be construed as one of agency, partnership, joint venture or employment between the Parties. The Parties shall each be solely responsible for the conduct of their respective officers, employees and agents in connection with the performance of their obligations under this Agreement.

16. Notices. All notices of claims or any other notice required to be given pursuant to this Agreement, shall be in writing, shall be sent by certified mail and shall be addressed to:

Resource Sharing Alliance
715 Sabrina Drive
East Peoria, Illinois, 61611

Attention: Executive Director

And to: Insert address and contact for Member

17. Section Headings. The section headings inserted in this Agreement are for convenience only and are not intended to and shall not be construed to limit, enlarge or affect the scope or intent of this Agreement or the meaning of any provision hereof.

18. Validity and Savings Clause. In the event that any provision of this Agreement shall be declared by a final judgment of a court of competent jurisdiction to be unlawful or unconstitutional or invalid as applied to any Member, the lawfulness, constitutionality or validity of the remainder of this Agreement shall not be deemed affected thereby.

19. Governing Law. This Agreement shall be construed in accordance with the Constitution and laws of the State of Illinois.

20. Effective Date. This Agreement shall become effective and binding upon and inure to the benefit of the Members signing this Agreement, and their respective successors and assigns, as of the date of execution by 51% or more of the Libraries listed on Exhibit A. For any Member who executes the Agreement after July 1, 2024, the Effective Date shall be the first day of the calendar month next following the month in which the Member has duly approved and executed this Agreement or a substantially similar agreement.

IN WITNESS WHEREOF, the Library whose signature is set forth below, acting under authority of its Governing Body, has caused this Agreement to be duly executed.

Name of Member: _____

BY: _____

(print name and title of representative authorized to execute this Agreement)

ATTEST:

BY: _____

(print name and title)

APPROVED THIS ____ DAY OF _____, 2024.