LIBRARY SERVICES AGREEMENT

This Library Services Agreement ("Agreement") is entered into on the ___ day of _____, 2017 ("Effective Date") by and between the **Traverse Area District Library**, a Michigan district library, whose address is 610 Woodmere Avenue, Traverse City, Michigan (hereinafter "TADL") and the **Interlochen Center for the Arts**, a nonprofit organization, whose address is 4000 Highway M-137, Interlochen, MI 49643 ("ICA").

R E C I T A L S

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

WHEREAS, Interlochen Center for the Arts is a private, non-profit arts education institution and maintains a library on its campus and has authority to enter into contracts for services to the library; and

WHEREAS, TADL and ICA desire to enter a contractual relationship for TADL to provide library-related services to the ICA library; and

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

1. **Autonomy**. TADL shall retain its identity as a public library eligible for state aid provided under the State Aid Act, Public Act 89 of 1997 as amended. The ICA library shall retain its identity as a private library for the use of its students and patrons and other persons as may be permitted by ICA from time to time pursuant to the policies and procedures established by ICA. TADL and ICA each assumes its own responsibility for the operation of their respective libraries.

2. **Term of Agreement**. The term of this Agreement shall run for three (3) years from the Effective Date.

3. **TADL Services**. During the term of this Agreement, TADL will provide certain services in order to enhance ICA library patron service, as set forth on ***Exhibit A*** attached hereto and incorporated by reference ("Services"). For the term of this Agreement, TADL confirms its authorization for patrons of ICA to use the Services and access digital products from TADL as set forth on ***Exhibit A***.

4. **Fees**. In return for the Services provided to ICA, ICA hereby agrees to compensate TADL for the initial migration of data to the TADL systems the sum of $31,000.00 due to TADL on the ___ day of _____, 2017 ("Initial Migration Fee"). In addition to the

Initial Migration Fee, ICA further hereby agrees to compensate TADL the sum of $12,000.00 upon the completion of the initial migration service for the first year of Service ("Annual Service Fee"). Following the initial Annual Service Fee, subsequent payments of the Annual Service Fee shall be due on or before the ___day of January of each year for which this Agreement is in effect. ICA understands and agrees that the Annual Service Fee may be subject to increase, but in no event shall such increase in any year exceed five per cent (5%) of the first year's fee of $12,000.00.

5. **Duties of ICA**. ICA understands and agrees that it must endeavor to make certain preparations in anticipation of and throughout the term of this Agreement, and accepts responsibility to TADL to perform its duties, all as set forth on ***Exhibit B*** attached hereto and incorporated by reference.

6. **Reasonable Efforts**. TADL will use commercially reasonable efforts in carrying out the Services. ICA understands and agrees that TADL's performance of Services will be in an amount, quality, and frequency in accordance with Exhibit A. For purposes of this Agreement, "commercially reasonable efforts" means such efforts that a reasonable person in the position of the promising party would use to achieve a particular goal as effectively and as expeditiously as possible, provided, however, that the obligation to use such commercially reasonable efforts does not require the promising party to undergo any action or expenditure that is unduly burdensome.

7. **Modification, Extension, and Termination**. This Agreement may be modified, extended, or terminated upon mutual agreement of TADL and ICA, upon one hundred and twenty (120) days' prior written notice to the other party, or by either party if termination is required by law. In the event of termination pursuant to this paragraph, any annual fees paid or due pursuant to paragraph 4 above shall be prorated for the term.

8. **Dispute Resolution**. ICA and TADL agree to enter into negotiations should either party express dissatisfaction with this Agreement. If either party has a dispute with the other regarding the meaning, operation, or enforcement of any provision of this Agreement, the disputing party agrees to meet and confer to negotiate a resolution of the dispute. They further agree as follows:

a. If they are unable to resolve the dispute themselves, and before formally instituting any other dispute mechanism, they shall utilize the services of a mutually acceptable neutral mediator, who meets the qualifications of the Michigan Court Rules (MCR 2.411), to bring them together in at least one mediation session.

b. All meetings, hearings and actions to resolve the dispute shall be in Grand Traverse County.

c. Written notice of a dispute shall be given to the other party. Negotiations and mediation shall occur within 60 days after such notice.

9. **Force Majeure**. Any delay or failure in the performance by a party under this Agreement shall be excused if and to the extent caused by the occurrence of any of the following: a cause or event that is not reasonably foreseeable or is otherwise caused by or under the control of the other party; an act of God, fire, flood, explosion, riots, wars, vandalism, hurricane, sabotage, accident, restraint of government, governmental acts, interpretation of state laws prohibiting performance, injunctions, labor strikes; or any other like events that are beyond the reasonable anticipation and control of a party, despite any and all reasonable efforts to prevent, avoid, delay, or mitigate the effect of such acts, events, or occurrences, and which events or the effects thereof are not attributable to a party's failure to perform its obligations under this Agreement. Neither party shall have any financial liability to the other for any disruption related to the performance of its obligations hereunder if caused by technological or other system failure; provided, however, the Annual Service Fee shall be reduced on a per diem pro-rated basis for each day Services are not delivered by TADL.

10. **Disclaimer of Warranties**. TADL makes no warranties, express or implied, statutory or otherwise, concerning the Services provided hereunder or the technology licensed, or to be licensed, by TADL to ICA except as provided in paragraph 3, above. Without limiting the foregoing, TADL makes no warranty, express or implied, of merchantability, fitness for a particular purpose or otherwise, quality or usefulness of the technology to be provided to ICA pursuant to this Agreement.

11. **Ownership of Assets**. All assets now owned and possessed by either TADL or ICA, including without limitation all data relating to patrons, bibliographic information, item records, and other local data ("Data"), 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, each party shall return to the other all extractable Data, and all equipment, computer hardware, computer software, and other materials provided to it and owned by the other party. By executing this Agreement, each party 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 ICA pursuant to its status under this Agreement. A copy of any rule, license or requirement pursuant thereto shall be made available to ICA upon request. Further, any access to any license or computer network provided by a party to the other party by virtue of their relationship with each other shall cease and terminate upon termination of this Agreement.

12. **Employees**. The personnel employed by either party shall not 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.

13. **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.

14. **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, marital status or any other classification proscribed by applicable law. Breach of this covenant may be regarded as a material breach of this Agreement.

15. **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 parties' status and services which currently exist, or previously have existed between the parties.

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

17. **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.

18. **Indemnification and Hold Harmless**. To the extent permitted by law and up to the limits of the parties' insurance coverage, the parties agree to indemnify and hold each other harmless and their agents and employees, from and against all claims, damages, losses, and expenses, including reasonable attorney fees, arising out of the performance of this Agreement which is caused in whole or in part by the other party's negligent act or omission, or that of anyone employed by them.

19. **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.

20. **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.

21. **Mutual Negotiation**. The parties have each participated in negotiating and drafting this Agreement for their mutual benefit. In the event an ambiguity or a question of intent or interpretation arises, this Agreement is to be construed as if the parties had drafted it jointly, and shall not be construed against any drafting party.

22. **No Third Party Beneficiary**. This Agreement is intended solely for the benefit of the parties hereto and their successors and assigns, and may not be relied upon or enforced by any third party beneficiary.

Traverse Area District Library	**Interlochen Center for the Arts**
By: _____	By: _____
Its: President of the Board of Trustees	Its: _____
By: _____	By: _____
Its: Secretary of the Board of Trustees	Its: _____

EXHIBIT A

SERVICES TO BE PROVIDED TO ICA

1. TADL technology will directly manage or provide the following services for ICA as part of standard operations:
    - Hosted Evergreen Integrated Library System (ILS) service including an online account management interface
    - An online reporting system for ILS data
    - Maintenance of ILS integration with ICA's CRM / SIS, EBSCO discovery layer, MelCat and OCL
    - EZProxy authentication services via a virtual server on ICA provided hardware within ICA's existing IP ranges.

2. TADL technology will manage and provide the following services for ICA as part of its initial migration:
    - Conversion of existing ILS data into Evergreen database
    - Development of ILS integration points with ICA's CRM / SIS, ICA's EBSCO discovery layer, MelCat and OCLC
    - Develop custom reports for ILS data within an online reporting system
    - Modify Academic Reserve and Notification functionality to support ICA requirements
    - Training

3. TADL will provide technology support for only the services it directly manages or provides.

4. TADL will be the point of contact and maintain vendor relationships for all services it provides at ICA.

5. The TADL technology department will be staffed and available via phone Monday-Friday, 9 AM to 5:00PM. On weekends, holidays and after-hours, an emergency contact will be available.

6. Assist and coordinate with ICA to accomplish the ICA Duties in Exhibit B.

7. The services to be provided shall be provided within available resources of TADL.

EXHIBIT B

DUTIES OF ICA

1. ICA will be responsible for terminating relationships with vendors whose services are being replaced with those provided by TADL and its vendors. ICA assumes all liability for costs it may incur as a result of terminating its pre-existing vendor relationships, in addition to any and all monetary obligations of ICA to such vendors.

2. ICA will provide TADL access to their current ILS for data migration purposes.

3. ICA will work with TADL to establish integration points between ICA's CRM / SIS and the TADL managed ILS.

4. ICA will work with TADL to review existing circulation policies in order to map these policies to the new ILS. In such cases where there is no exact mapping, ICA will work with TADL to determine the most acceptable alternative, up to and including revising policies.

5. ICA will provide TADL a virtual server within their existing IP range to be used for EZProxy authentication. TADL will manage this virtual server, pay for yearly support, and provide ICA staff with access to add additional resources to the authentication schema.

6. ICA will use the TADL-supplied trouble ticket system as the primary means to report break and fix issues. The TADL technology department will also be staffed and available via phone Monday-Friday, 9 AM to 5:00PM. On weekends, holidays and after-hours, an emergency contact will be available via a voice menu option on the TADL support phone number.