

VALLEY LIBRARY CONSORTIUM

MEMBER LIBRARY AGREEMENT

The Agreement dated as of September 1, 2003, by and between

VALLEY LIBRARY CONSORTIUM, a Michigan non-profit membership corporation,

hereinafter called "VLC," and

Michigan library organizations that are parties to this Agreement,

hereinafter called "Members,"

WITNESSES AS FOLLOWS:

1. **Background.** VLC operates an integrated automated library system, consisting of a circulation control system, on-line public access catalogue system and other software modules (the "System"). Members desire to use the System.
2. **Membership.** Members of VLC shall include Michigan library organizations that currently are VLC Members or hereafter become Members in accordance with the following provisions:
 - a. Current Members. The following Michigan library organizations are current Members of VLC:

Almont District Library
Bay City Schools
Bay County Library System
Caro Area District Library
Community District Library
Delta College Library
Dryden Township Library
Gladwin County Library
Harrison Community Library
Houghton Lake Public Library
Iosco-Arenac District Library
Lapeer District Library
Marlette District Library
Mid-Michigan Community College Library
North Branch Township Library
Northwood University Library
Otsego County Library
Pigeon District Library
Public Libraries of Saginaw
River Rapids District Library
Ruth Hughes Memorial District Library
Sandusky District Library
St. Charles District Library
West Branch Public Library
White Pine Library Cooperative

VLC and each of the above-listed current Members will execute an instrument appended to this Agreement titled "Member Library Agreement - Execution Instrument." Execution of such instrument by current Members constitutes their agreement to continue to abide by the provisions

of VLC's governing documents, including its Articles of Incorporation, By-Laws, Standards and Procedures Manual, Mission Statement, and this Member Library Agreement, as they presently exist or as they may be amended from time to time by VLC's Board of Directors. Each Member will be provided thirty days advance notice of any changes in those governing documents unless emergency circumstances require a shorter notice period.

- b. **New Members.** Other Michigan library organizations may become Members of VLC subject to the following conditions and procedures:
Submission to VLC of a request to become a Member together with pertinent information and documentation specified by VLC's Board of Directors.

Approval of such Membership application by VLC's Board of Directors.

Execution by the new Member of a "Member Library Agreement - Execution Instrument" which shall be attached to and included in this Agreement.

The initial term of each new Member shall be three years commencing on the date of the Board of Directors' approval of the new Member's application for Membership. During the initial three-year term, a Member will be subject to the provisions of following paragraph 7 applicable to current Members during the three-year period following the effective date of this Agreement.

Upon executing said "Member Library Agreement - Execution Instrument" a new Member will be obligated to abide by the provisions of VLC's governing documents, including its Articles of Incorporation, By-Laws, Standards and Procedures Manual, Mission Statement, and this Member Library Agreement.

- 3. **Liaison.** Each Member shall prepare and furnish VLC's Board of Directors written notice of the individual designated as that Member's contact person with VLC and to serve as the Member's representative on the VLC Administrative Council. At any time a Member may furnish VLC's Board of Directors written notice of a change in the Member's designated representative and the new notice will supersede any notice which that Member previously furnished to the Board regarding the Member's designated representative.
- 4. **Majority Rule.** Unless otherwise expressly required by provisions of VLC's governing documents or by law, all actions and decisions which require Membership approval shall be determined by a simple majority of VLC's Members in good standing at the time such approval is needed. A member's vote on matters requiring Membership approval may be cast by the Member's designated representative at a duly convened meeting of Members.
- 5. **Fees.** Member shall pay such annual fees and other charges as are assessed by VLC to libraries participating in the System generally. All fees are to be paid within Forty-five (45) days of the date of invoice. Member agrees to pay a late payment fee for each day a payment is overdue, such fee to be calculated on the basis of Eighteen Percent (18%) per annum of the amount due. The fees and charges initially applicable to Member are as follows:

Start-up Enrollment Fee: \$ 5,000

Other Initial Charges: Actual cost of telecommunication equipment, licenses, software, and other central site equipment needed for start-up.

Annual Fee: The annual fee and start-up enrollment fee will be reviewed by the Board each year in accordance with Section 8b. of this agreement. For the method of calculating a member's fee see Attachment I below.

6. **Term.** This Agreement shall be effective for an initial term of Three (3) years. Thereafter, this Agreement shall remain in effect unless written notice of termination is given 18 months prior to the effective termination date. Any Member who wishes to withdraw at the end of the initial term of the contract must give a minimum of 18 months notice of withdrawal prior to the end of the initial agreement term.
7. **Termination.** The provisions of paragraph 7 notwithstanding, this Agreement may be terminated by either VLC or Member, as follows:
 - a. If there is a material default by one party under the terms of this Agreement, or in complying with the provisions of the Bylaws or the Standards and Procedures Manual of VLC, as amended from time to time, and such default is not cured within Ninety (90) days after written notice thereof is given by the corresponding party.
 - b. If the fees assessed to Member for Participation in the System for any fiscal year of VLC are increased by more than Ten Percent (10%) (excluding the costs incurred by the actions of an individual Member) above the fees assessed to Member in the immediately preceding fiscal year, Member may terminate this agreement effective as of July 1 of any year if written notice of such termination is given to VLC prior to April 1 of such year.

A terminated or withdrawing Member shall continue to be liable to VLC for payment of all dues and assessments owed by the Member as of the date of the Member's termination or withdrawal. A terminated or withdrawing member will not be entitled to receive any refund of dues and assessments previously paid by the member to VLC.

Member agrees to compensate the Consortium for any costs incurred or revenue not realized due to early withdrawal from this agreement. Charges may include, but not be limited to, contractual telecommunication obligations, the Equipment Improvement/Replacement Fund, and any costs for items or services purchased for the member that will go unused.

Upon termination, either under paragraph 7 or under this paragraph 8, Member shall be responsible for cost of removing Member's database from the System.

8. **Software License.** Member understands that the computer software utilized in connection with this System is or may be obtained under licensing arrangements with various third parties. Member agrees to maintain the secrecy, confidentiality and integrity of any such software in accordance with the instructions of VLC and such third-party vendors and agrees to execute such confidentiality agreements as may be reasonably required to accomplish this purpose. Member further agrees to indemnify VLC against any liability or damage, including attorney's fees, arising out of breach by Member of such duty of confidentiality. Member shall not duplicate or copy any software documentation provided for the System without the written consent of VLC and the relevant software vendor.
19. **Security.** Member agrees to provide reasonable security measures to prevent unauthorized access to the member's network(s) and the VLC network for the purpose of obtaining secure information (i.e. VLC account logins and passwords). See Attachment II for more information on reasonable security measures.
10. **Training.** VLC will provide ongoing staff assistance and training to Member's personnel, in accordance with the general procedures of VLC.
11. **Dispute.** In the event that any dispute arises between VLC and Member in connection with this Agreement, such dispute shall be brought before the Board of Directors of VLC for their consideration and recommendation as to resolution. Neither party shall proceed with court action until the board of Directors of VLC has had an opportunity to mediate the dispute.

14. **Notices.** All notices under this Agreement shall be effective Two (2) days after being sent by certified mail, return receipt requested, upon personal service to the corresponding party, or upon delivery to a national courier service, addressed as follows:
- If to VLC: Valley Library Consortium
 PO Box 24065
 Lansing, MI 48909
- If to Member: to the Member’s designated representative
 as provided in preceding paragraph 3.
15. **Entire Agreement.** This Agreement, together with the Bylaws, Standards and Procedures Manual, Mission Statement of VLC, and Attachments I and II constitutes the entire agreement of the parties, and can be amended or modified only in writing in accordance with the terms of this Agreement, or in accordance with the terms of a document executed by both VLC and Member. In the event of any inconsistency between the terms of this Agreement and of the Bylaws or Standards and Procedures Manual of VLC, the terms of this Agreement shall control.
16. **Assignment.** Neither party may assign its rights or obligations under this Agreement without the prior written consent of the corresponding party.
17. **Severability.** In the event that any term or provision of this Agreement is found to be invalid or unenforceable, such determination of invalidity or unenforceability shall not affect the other terms of this Agreement.
18. **Amendment.** Provisions of VLC’s governing documents, including its Articles of Incorporation, By-Laws, Standards and Procedures Manual, Mission Statement and this Member Library Agreement may be revised and amended by VLC’s Board of Directors as provided in the By-Law

IN WITNESS WHEREOF this Agreement effective as of September 1, 2003, has been executed by and in behalf of Valley Library Consortium and its Members on the dates specified below and on the appended Execution Instruments.

Valley Library Consortium, a Michigan
 Non-profit Membership Corporation

By: _____

Title: Executive Director

Signed on: July 17, 2003

Attachment I

Starting in FY 2003/04 and continuing for the remainder of the contract period the Annual Membership Fee will be \$2,000. The remainder of the annual fee will be calculated based on each member's actual usage of the system. The following factors will be used to calculate each member's share of the budget: number of ports, circulation, holdings, patrons, and serial subscriptions. The VLC membership may elect to vary the percentages. The counts for the above calculations will take place in November of each year and will be for the previous twelve (12) month period. New members' fees will be calculated from information provided by the Member, the Library of Michigan and/or whatever information exists in the VLC database for that member.

Attachment II

Reasonable security measures include, but are not limited to the following:

Protecting devices on the network(s) from the type of access that would allow an individual to execute any type of program, script, etc. with the intent of obtaining secure information (i.e. passwords, etc.).

Locating telecommunication equipment in a secure area that is not accessible to the public .

Assuring that any PC or terminal, in or near a public area, be logged off when unattended (excluding PAC accounts).

Keeping IDs and passwords, when written down, in a secure location.

Providing individual passwords and IDs for each staff member.

Promptly notifying the VLC when a staff member terminates employment.

Not sharing passwords/IDs with other staff members or family members.

VALLEY LIBRARY CONSORTIUM

**MEMBER LIBRARY AGREEMENT
EXECUTION INSTRUMENT**

The following-named Member of Valley Library Consortium:

Name:

Address:

Hereinafter called "Member"

Hereby agrees to be a party to and to abide by provisions of the Valley Library Consortium Member Library Agreement, dated September 1, 2003, previously executed by and in behalf of Valley Library Consortium, a Michigan non-profit membership corporation.

Executed by and in behalf of Member on _____, 2003.

Signature: _____

Printed Name: _____

Title: _____