



Library • Solution Integrated Library System Hosted Contract for Grand Island Public Library

THIS AGREEMENT (hereinafter referred to as "Agreement") is made between The Library Corporation, Inc., a corporation organized under the laws of the State of Nebraska, with its principal place of business at Research Park, Inwood, West Virginia, party of the first part (hereinafter referred to as "The Library Corporation" or "TLC"), and GRAND ISLAND Public Library, party of the second part (hereinafter referred to as "Library" or "Licensee"). All information contained within this agreement between TLC and GRAND ISLAND Public Library, is considered proprietary and confidential.

WITNESSETH:

WHEREAS, The Library Corporation has developed a computerized System (hereinafter referred to as "Library • Solution") consisting of Hardware and Software for Authority Control, Cataloging/Database Management, Public Access Catalog, Circulation, Acquisitions, Serials Control, OPAC, and Z39.50 server, and provides "Hosting Services" to libraries, and the Library is desirous of having TLC provide Library • Solution as a "Hosted Solution;"

NOW, THEREFORE the parties mutually agree as follows:

1 Definitions:

- 1.1 "Hardware" is defined as all Hardware and products including, but not limited to, the (a) computer, disk drives, tape drive(s), and interface, (b) monitor(s) and terminals, (c) barcode scanner(s), (d) printers, (e) wiring and communication devices and (f) supplies for such Hardware.
- 1.2 "Licensed Software" and "Modules" are defined as Library • Solution computer programs, including, but not limited to, (a) the integrated Library Systems in the Dataserver, (b) the PC-based Modules provided by The Library Corporation that are resident in the PC workstation(s), and (c) the operational programs stored in the Dataserver. The Licensed Software is listed in Schedule E and includes all corrections, modifications and enhancements thereof, as well as all applicable Oracle licenses and Licensed Software.
- 1.3 "Hosted System" and "Hosted Solution" are defined as the provision of the System by TLC to the Library via Hosting Services.
- 1.4 "Hosting Services" are the services described in Schedule I by which TLC will install, implement, operate, and maintain the System at a Host Location remote from the Library's premises and deliver access to and use of the System by the Library over data communications lines, including the Internet.
- 1.5 "Host Location" is the location where the Hosted Solution is located, from which Hosting Services are delivered by TLC to the Library.

- 1.6 "Initial Customer Database" is defined as the Library's existing electronic bibliographic, patron, and transaction data.
- 1.7 "Data Conversion" is defined as the migration by The Library Corporation of the Library's Initial Customer Database for use with Library • **Solution**.
- 1.8 "Error" or "Bug" is defined as any function that is performed incorrectly or inconsistently by the Software resulting in incorrect data or failure of the System to provide the correct response.
- 1.9 "Contract" is defined as this document.
- 1.10 The terms "Software" and "Software Materials" and "Licensed Software Materials" in this Agreement shall also mean any machine-readable or printed material not included in the Licensed Software and which is designated by The Library Corporation as available under license to libraries who have licensed the program to which those materials relate, including documentation of the System.
- 1.11 "Documentation" is defined as TLC's current published product descriptions, printed and electronic, for the System, Hardware, Software, Hosted Solution, and Hosting Services.
- 1.12 "Licensed Software Updates" is defined as periodic enhancements and additional functionality added to the Licensed Software.
- 1.13 "Sub-Licensed Software" is defined as all applicable Microsoft, Oracle and Cognos Software provided to the Library by The Library Corporation. The Sub-Licensed Software is subject to such limitations and restrictions as required by the original licensor.
- 1.14 "Sub-Licensed Software Updates" is defined as periodic enhancements and additional functionality added to the Sub-Licensed Software.
- 1.15 The term "Databases" refers to Library of Congress MARC Database and other information formatted for use by the Licensed Software and provided on machine-readable media by The Library Corporation.
- 1.16 The terms "Customer's Database" and "Library's Data" and "Library's Database" are defined as the Library's patron, circulation transaction, and MARC catalog machine-readable data, contained in the System or Hosted Solution.
- 1.17 The "Installation Date" shall be the day on which the Library begins production use of the Hardware, Licensed Software, Hosted Solution, and Hosting Services with the Library's Data fully loaded and available to the Library.
- 2 Statistics. Statistics set forth in Schedule A, *Library Statistics*, include the numbers estimated in July 2019 of titles, number and type of terminals, number of locations, total items circulated annually at each location, and the number of items in the collections at the Library locations where the System is to be used. "Items" are defined as materials circulated by the Library (individual copies of books, records, cassettes, etc.). Since The Library Corporation relies on these Statistics to choose the type of Hardware and to set parameters of the Software, the Library agrees that its Statistics as shown are reasonably correct.

- 3 Term. This Agreement is effective until it is terminated according to the provisions contained herein. The Library can terminate this Agreement upon ninety (90) days written notification to The Library Corporation of its intention to terminate. Termination of contract by the library before the end of the five-year term will result in penalty of the remaining contract amount.
 - 3.1 Upon termination by the Library, charges for TLC-assisted or customized extract of item and patron data will be charged at the then current rate.
 - 3.2 Termination. The Library Corporation may discontinue any license or terminate this Agreement upon written notice if the Library fails to comply or to contest within thirty (30) days of receipt of such notice, with any of the terms and conditions of this Agreement. In the event the Library becomes insolvent or voluntarily or involuntarily bankrupt or a receiver, or if the Library makes an assignment for the benefit of creditors, then The Library Corporation at its option may immediately terminate this Agreement by notice to the Library to that effect. In no event shall this Agreement be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise, and any such assignment or attempted assignment shall be void and in no event shall this Agreement or any rights or privileges hereunder be an asset of the Library under any bankruptcy, insolvency or reorganization proceedings.
 - 3.3 Term of the Hosting Services Agreement. The Hosting Services Agreement, a sample of which is contained in Schedule I, shall be effective until it is terminated according to the provisions contained therein.
- 4 Library Corporation Fees and Deliverables. According to the Statistics in Schedule A, and subject to any special conditions appended in Schedule J, *Additional Considerations*, The Library Corporation will provide deliverables detailed in the following schedules at the fees indicated:
 - Schedule B: Conversion, Processing and Implementation
 - Schedule C: Hosted Solution Costs
 - Schedule D: Peripheral Hardware and Maintenance
 - Schedule E: Software
 - Schedule F: Cataloging Database Subscriptions
 - Schedule G: Installation and Training
 - Schedule H: Payment Schedule
 - Schedule I: Hosting Services
 - Schedule J: Additional Considerations
- 5 Payment. Payments for Hardware, Software, and all other goods and services shall be made in accordance with the terms that are set forth in Schedule H. Fees enumerated in Schedules B through G are summarized in Schedule H.
- 6 Site Preparation. It is understood and agreed that the aforesaid fees do not include any site preparation or installation costs except as described in Schedule G, *Installation and Training*.
- 7 Licenses. The Library Corporation hereby grants to the Library a perpetual, non-transferable and non-exclusive license to use the Licensed Software.

- 7.1 Each License granted under this Agreement authorizes the Library to: (a) use the Licensed Software, in object code form only, at the location specified herein and on the designated number of display units at the location and a number of remote locations authorized in Schedule A, or as provided by Schedule E, (b) utilize the Licensed Software Materials in printed form and the Database in machine-readable form in support of the use of the System.
- 7.2 No title to or ownership of the Software is transferred to the Library, and it remains the proprietary property of The Library Corporation.
- 7.3 The Library shall not allow the Software or any portion thereof to be reverse-compiled or disassembled.
- 7.4 The Library Corporation may terminate all proprietary licenses granted hereunder and require return of the Software if the Library fails to comply with these terms and conditions. The Library Corporation shall have the right to enforce these terms and conditions against the Library.
- 7.5 If the Licensed Software is to be used at other than the designated location(s) as specified by Schedule A, additional licenses may be required for each additional location as addressed in Schedule E, *Software*. If the Library cannot perform its data processing at the Host Location because of network conditions beyond the Library's control, the affected licenses will be temporarily extended to permit the Library to use the licensed program material at another location.
- 7.6 The Library must notify The Library Corporation of the Library's intention to change the designation of the location at which Licensed Software is to be used.
- 7.7 The Library Corporation hereby grants to the Library a perpetual, non-transferable and non-exclusive license to use the Sub-Licensed Software. The Sub-Licensed Software is governed by the licensing terms and conditions of the owners of those Software products, as identified in Section 1.13 of this Agreement.
- 8 The Library shall:
 - 8.1 Pay all costs associated with data lines.
 - 8.2 Pay shipping charges for all Peripheral Hardware purchased from The Library Corporation as defined in Schedule D.
 - 8.3 Pay all fees to previous vendor for export & delivery of Initial Customer's Database.
- 9 Privacy of Data. The Library Corporation agrees not to use patron details such as names, addresses, etc., for any purpose other than providing requested services to the Library and agrees not to transmit the Library's Data to any third party, except as requested by the Library.

All bibliographic, item, fine, patron, and other records entered into the Library's Database on the Library's System or supplied to The Library Corporation by the Library are and

shall remain the sole property of the Library. The Library Corporation shall not, without the Library's written consent, copy or use such records except to carry out contracted work, and shall not, without the Library's consent, transfer such records to any other party not involved in the performance of this Agreement, and shall return submitted records to the Library upon completion of the work hereunder.

The Library shall have the right, without the consent of The Library Corporation to extract such data in industry-standard formats, using The Library Corporation's Software and at no cost to the Library. The Library acknowledges that the methods of storage, compilation, format, and layout constitute proprietary and trade secret information of The Library Corporation and are protected by federal copyright law. The Library Corporation agrees to assist the Library within thirty (30) days of such request, in making such extracts.

10 Protection and Security. All Licensed Software Materials, including, but not limited to Documentation, contain proprietary information, use of which is limited by the licenses granted in this Agreement. The Library will not disclose or otherwise make available any Software Materials in any form to any third party except to the Library's employees, or to agents directly concerned with licensed use of the program.

11 Warranty

11.1 The Library Corporation warrants that The Library Corporation has the right to license the Software listed in Schedule E, *Software*, and to grant sub-license to the Sub-Licensed Software as defined in Section 1.13. The Licensed Software will perform the functions set out in the Documentation. Thereafter The Library Corporation will provide program service and maintenance as described in Schedule H, Part 2, *Software Support*.

11.2 The Library Corporation does not warrant that the operation of the Licensed Software will be uninterrupted or Error-free or that all program defects will be corrected.

11.3 The Library Corporation agrees, however, to make its best efforts to correct all reproducible material Errors in programming and discrepancies between the Documentation and the actual Software performance. The Library Corporation further agrees to make its best efforts to correct any Hardware or Software problems that result in total System "downtime".

11.4 The Library Corporation warrants that the Library shall acquire good and clear title to the Hardware purchased hereunder, free and clear of all liens, claims, or encumbrances from a third party. Title to the Hardware purchased from The Library Corporation by the Library shall pass from The Library Corporation to the Library upon payment of the final balance due, as outlined under Schedule H, *Payment Schedule*.

11.5 Hardware purchased under this Agreement will be newly manufactured.

11.6 The above warranties will apply as long as the Library has maintained Hardware Maintenance as provided by Schedule D and Software Support as provided by Schedule E or during the time of Hosted Services.

12 Software Support and Maintenance.

- 12.1 Telephone support and Licensed Software Updates will be provided as part of the annual Software support service fee, as provided for in Schedule H of this Agreement. The initial cost of the Software includes first-year Software support. Payment of the annual Software support fee entitles the Licensee to continued use of the Software.
- 12.2 Licensed Software Updates will be made upon release.
- 12.2.1 The Library Corporation agrees to notify the Library at least 12 months prior to the release of a mandatory Licensed Software Update that would require a Hardware enhancement.
- 12.3 The Library Corporation reserves the right not to release Licensed Software Updates to the Software during the term of this Agreement. Failure to release Licensed Software Updates to the Software does not constitute default on the part of The Library Corporation because of the continuation of the right to use telephone support and other support-related services.
- 12.4 After a period of five years from the date of execution of this Agreement, The Library Corporation can discontinue Software support upon two years written notification to the Library and the warranties provided by Section 12.1 of this Agreement shall remain in effect.
- 12.5 The Library Corporation shall not be responsible for correcting any adverse effects on performance or operation as a result of the Library's use of (a) third-party Hardware or Software, and/or (b) Databases and networks external to the Library • **Solution** System, in conjunction with the Library • **Solution** System. When resources are available, The Library Corporation may provide consultation services or assistance relating to the Library's use of such third-party Hardware and Software, external Databases and networks, and The Library Corporation reserves the right to charge, at the then-published rate, for such services and assistance.

13 The Library's Election of Hosting Services

The Library has elected to receive Hosting Services for operation and delivery of the System to be provided as a Hosted Solution according to the provisions of the Hosting Services Agreement that is to be separately executed by the parties in addition to this Agreement.

13.1 Acceptance and Payment

The Hosting Services Agreement contained in Schedule I of this Agreement defines procedures for Acceptance of the Hosted Solution and Hosting Services that is a prerequisite for full payment of the amounts due under this Agreement as specified by Schedule H.

14 Special considerations

- (A) TLC acknowledges that the library's financial commitment in purchasing and maintaining the system is substantial and that the library enters into the contract expecting vendor will remain in business in the foreseeable future to service and

maintain the system and fulfill TLC's obligations. Accordingly, TLC represents and warrants that it:

1. Has not received any notice or claim from any other party that any portion of the system is being used contrary to or in violation of another party's patent, copyright, trademark, trade secret, license, or other intellectual property interest;
2. Is not now negotiating for the sale or transfer of its business or assets to another entity or company;
3. Has no knowledge or information that, in the foreseeable future, its ability to fulfill its obligations and commitments to the library will be hindered or jeopardized.

15 Patent and Copyright.

15.1 The Library Corporation will defend the Library against any claim that Licensed Software or Software Materials or Sub-Licensed Software or Hardware furnished and used within the scope of the licenses and Sub-Licenses and titles to Hardware granted herein infringe a U.S. patent or copyright and The Library Corporation will pay resulting costs, damages and attorney fees finally awarded, provided that: (a) the Library promptly notifies The Library Corporation in writing of the claim, and (b) The Library Corporation has sole control of the defense and all related settlement negotiations.

15.2 If such claim has occurred, or in The Library Corporation's opinion is likely to occur, the Library agrees to permit The Library Corporation at its option at no additional expense to the Library either to procure for the Library the right to continue using the Licensed Software or Sub-Licensed Software or Hardware or to replace or modify the same so that they become non-infringing.

15.3 The Library Corporation shall have no obligation to defend the Library or to pay costs, damages, or attorney's fees for any claim based upon (1) use of other than a current unaltered release of the Licensed Software if such infringement would have been avoided by the use of a current unaltered release of the Licensed Software, or (2) the combination, operation or use of any Licensed Software or data with non-Library Corporation programs or data if such infringement would have been avoided by the combination, operation or use of the Licensed Software with other Library Corporation-approved programs or data.

15.4 The foregoing states the entire obligation of The Library Corporation with respect to infringement of patents or copyrights.

16 Limitation of Remedies. The Library's right to recover damages to property caused by The Library Corporation's fault or negligence shall be limited to one million dollars (\$1,000,000.00), except for a patent or copyright violation as contained in paragraph 15, Patent and Copyright. The Library Corporation shall not be liable in any event for any damages resulting from the Library's use of products, even if advised of the possibility of such damage. This limitation of liability shall apply regardless of the form of action, whether in contract or tort, including negligence. This Agreement shall be subject to the

- provisions of the Uniform Commercial Code, with all Hardware and Software to be defined as "Goods".
- 16.1 In no event will The Library Corporation be liable for any damage caused by the Library's failure to perform its responsibilities or for any lost profits or other consequential, special, or indirect damages, even if The Library Corporation has been advised of the possibility of such damages.
17. Waiver of rights. The waiver or failure of The Library Corporation to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.
18. Severability. If any provision of this Agreement is invalid, illegal or unenforceable under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the remaining provisions shall not be affected in any way.
19. Headings. The headings of the various Paragraphs and Subparagraphs herein are for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement.
20. Governing Law. This Agreement shall be subject to all applicable laws of the Federal Government of the United States of America and to the laws of the State of Nebraska. The applicable law for any legal disputes arising out of this Agreement shall be the law of the State of Nebraska.
21. Saving Clause. All quotations and Agreements are contingent upon accidents, fires, availability of materials, and all other causes beyond the control of either party. Typographical and stenographic errors are subject to correction. Terms inconsistent with those stated herein, which might appear on the Library's formal order or Request for Proposal, will not be binding on The Library Corporation.
22. Assignments. The Library and The Library Corporation agree that no sublicensing, nor assignment of its rights or interest, nor delegation of its duties under this Agreement shall be made or become effective without the prior written consent of The Library Corporation or the Library. Any attempted sublicensing, assignment or delegation by either party without prior written consent of the other party shall be wholly void and ineffective for all purposes.
23. Taxes not included. The charges shown on this Agreement do not reflect applicable federal, state, and local taxes which may be added to the amounts shown at the time of invoicing.
24. Whole Agreement. This Agreement, including Schedules A through L and the documents listed below and referenced attachments which are defined in aggregate as the Contract Documents, constitute the entire Agreement between the parties and supersedes all proposals, presentations, representations, and communications, whether oral or in writing, between the parties on this subject. Latter Agreements supersede former Agreements. Neither party shall be bound by any warranty, statement, nor representation not contained herein. The signatories acknowledge reading and agree to comply with all terms and conditions.

25. Amendments. Amendments and modifications to all, or any part, of the Agreement and to the Schedules A through L and referenced attachments, may be made, and shall be binding, only if in writing and signed by duly authorized representatives of both parties.

IN WITNESS WHEREOF the parties have duly executed and delivered this Agreement on the dates set forth below.

ACCEPTED FOR THE LIBRARY

By Roger H. Steele

Title Mayor

Date April 28, 2021

ACCEPTED FOR
THE LIBRARY CORPORATION

By Annita H. Murphy

Title CEO

Date April 27, 2021

Jacy R. Wankof
Interim City Attorney

Schedule A

Library Statistics

Estimated Number of patrons:	40,000
Estimated Number of Titles:	100,000
Estimated Number of Circulations:	138,000
Number of Library Sites:	1
Number of Staff Licenses*:	12
Total Number of PAC stations:	Unlimited

* "Staff License" refers to a unique/concurrent account that will access the TLC software. Any physical station may allow any licensed user to access the software – users are portable.

Schedule B

Conversion, Processing and Implementation*

1. Data Preparation

Number of Bibliographic Records: 100,000 (est.)

Data Preparation and Clean-up

- Data Clean-up and Normalization
- Authority Control Processing
- Global Updating of Headings
- RDAExpress retroactive conversion of your existing MARC records to the new RDA cataloging standard.
- Migration of Library Data to Library•Solution

2. **Project Implementation Services**

- Project Management
 - i. Project Initiation – Outline Milestones & Deliverables
 - ii. Coordination with 3rd party vendors
 - iii. Operation Review – Rules configuration, collection review & workflow analysis
 - iv. System “Look and Feel” collaboration with staff
 - v. Iterative management process to keep library updated on project progress
- Enable ongoing access to national authority files
- Customized PAC appearance
- Library Policy and Rules Configuration setup
- User provisioning and access models defined
- Migration Review upon “Go-live”

**Total Conversion & Implementation
cost:**

\$5,000

Schedule C

Hosted Solution Costs

<u>Service</u>	<u>1st year</u>	<u>Ongoing annual support years 2-5 (ea.)</u>
1. Hosted (TLC Cloud)	\$5,999	\$5,999

Schedule D

Peripheral Hardware and Maintenance

		<u>One-Time Cost</u>	<u>Annual Support Costs Years 2+</u>
1.	<u>Component</u>		
1.1	<i>Not Applicable</i>		
1.2			
1.3			
1.4			
1.5			
1.6			
1.7			
1.8			
1.9			

Schedule E**Software**

According to the provisions of this Agreement, The Library Corporation grants perpetual, non-transferable and non-exclusive licenses for the following Software and Databases, subject to the terms and conditions of this Agreement for use at the location(s) specified in Schedule A.

1. The Library Corporation, Library • **Solution** Integrated Library System and additional modules:

<u>Quantity</u>	<u>Description</u>	<u>Initial Cost</u>	<u>Annual Support years 2-5 (ea.)</u>
1	Library • Solution Core <ul style="list-style-type: none"> • LS2 Staff • LS2 Cataloging • LS2 Reports • LS2 PAC • LS2 Kids PAC • LS2 Inventory • LS2 Serials • Oracle Database licensing • Ongoing Authority control • Library • Z (Z39.50 server) 	\$7,200	\$7,200
12	Staff workstation licenses*	Included	Included
1	Reports licenses**	Included	Included
1	Multi-lingual PAC option	Included	Included
1	SIP Server (unlimited connections)	\$999	\$999
1	OPAC Enrichment	\$1,282	\$1,282
1	Online Selection & Acquisitions™	\$1,999	\$399
1	eIntegration for Borrowers	\$500	\$500
	TOTAL	\$11,980	\$10,380

*The cost to add an L•S Software license will be \$1,000 per user, with an annual support cost of \$200/yr.

**The cost to add a Report licenses will be \$400 per user with an annual support cost of \$100/yr.

Schedule F**Cataloging Database Subscriptions**

1. The Library Corporation will grant perpetual, non-transferable and non-exclusive licenses for the following cataloging database subscription, subject to the terms and conditions of this Agreement for use at the location(s) specified in Schedule A.

<u>Quantity</u>	<u>Description</u>	<u>Initial Cost</u>	<u>Annual Support years 2-5 (ea.)</u>
1	ITS • MARC® core dataset	Included	\$995
		TOTAL	\$995

Schedule G

Installation and Training

1. Installation

1.1 Onsite set-up for printers and workstations at the library, if necessary.

2. Training

2.1 Five (5) days of remote training, with a TLC trainer to train the library's staff.

2.1.1 Go-live assistance is included on the final day, immediately following formal training, with the TLC trainer to answer questions and assist staff as they work with the new system.

2.1.2 If the Library feels more training is needed, additional days can be purchased at 1,500/day for on-site training or \$750/day for remote training.

Note: All of TLC's own related training expenses are included.

Total for Installation and Training \$3,750

Schedule H Part 1**Payment Schedule**

1. Summary of charges:

	Year One (1) Total Cost	Annual Cost/Year 2-5 (ea)
Conversion, Processing and Implementation Services (Schedule B)	\$5,000	n/a
Hosted Solution Costs (Schedule C)	\$5,999	\$5,999
Peripheral Hardware (Schedule D)	N/A	N/A
Shipping (Schedule D)	N/A	N/A
Software Subscription(s) (Schedule E)	\$11,980	\$10,380
Cataloging Database Subscription (Schedule F)	Included	\$995
Installation and Training (Schedule G)	\$3,750	N/A
TOTAL	\$26,729	\$17,374

Payment Schedule: 25% down at contract signing
Remainder due net 30 days from date of invoice (installation).

1.1 **Alternate description of charges**

Description	Year 1 Total	Ongoing costs (yrs 2-5 ea.)
ILS core software charge	\$7,200	\$7,200
Add-on software and subscriptions	\$4,780	\$4,175
Hosted Solution charges	\$5,999	\$5,999
Conversion and Training	\$8,750	N/A
TOTALS	\$26,729	\$17,374

Payment Schedule: Annual License will be invoiced 90 days prior to annual anniversary of Installation Date and will be due prior to Installation Date Anniversary.

Schedule H Part 2

Software Support Years One (1) through Five (5)

Annual Licensed Software Support Cost (included in Software Subscription)

1. Annual Licensed Software Support includes telephone diagnostic service available during normal company business hours (6:30 a.m. – 9:00 P.M. EST Monday - Friday) additionally with emergency referrals from The Library Corporation's Operations Center to on-call personnel, 24 hours per day, and 7 days per week. All Library • **Solution** customers have access to The Library Corporation's toll-free (800) telephone line.
2. Software support covers trouble-shooting of any Software-related problem and provision of updates to the latest version of the System Software.

First- year software support is included in Software costs.

4. Software support fees include:
 - Library • **Solution** Core ILS (as outlined in Schedule E)
 - ITS-**MARC**®
 - Online Selection & Acquisitions (OSA)
 - SIP Server
 - OPAC Enrichment
 - eBook Integration for Borrowers
 - Ongoing Authority Control

SCHEDULE I

Hosting Services Agreement

By execution of this Hosting Services Agreement the parties agree that TLC will provide Hosting Services to the Library by which as described herein TLC will install, implement, operate, and maintain System at a Host Location remote from the Library's premises and deliver access to and use of the System as a Hosted Solution by the Library over data communications lines, including the Internet. TLC's remote hosting is provided by Oracle Cloud.

1. General.

TLC will provide to the Library Hosting Services for operation and delivery of the Hosted Solution over data communication lines substantially in accordance with applicable Documentation and TLC's then-current published product descriptions for the Hosting Services. As part of the Hosting Services, TLC will (a) configure, install, maintain, monitor and operate the System and Software components provided by TLC; (b) provide access to the Hosting Services; and (c) secure and maintain connectivity with third-party telecommunication providers, all as necessary to provide the Hosting Services and the Library's Database via the Internet. Institution is responsible for securing and maintaining its own Internet connectivity to access the System and the Hosting Services.

2. Hosting Services Detail

TLC Hosting was designed to offer our products to libraries who desire a higher level of outsourced server hardware service and support.

Hosted Service & Maintenance includes:

- State of the art hosting facilities with redundant data communication lines and load balancing to ensure the best performance.
- Fully redundant power using redundant PDU's, battery backup and diesel generators
- Multi layered network security.
- Nightly backup
- Comprehensive 24x365 monitoring
- Operating System updating
- Database configuration and updating
- TLC Software updating
- The fastest possible response time for any server-related issues

In the event of an unrecoverable, localized disaster, such as an equipment malfunction, the customer's hosted solution would be restored to a standby server and any lost data would be restored from the nightly backups.

3. Service Level.

TLC will use its best efforts to provide the Hosting Services and to establish, operate, and maintain the Hosted Solution in accordance with this Hosting Services Agreement. TLC's

obligations under this Hosting Services Agreement are subject to materials and services provided by equipment, telecommunications and/or other suppliers and to delays by or actions of Institution or third parties. The Library acknowledges that the Hosting Services may be subject to temporary interruptions due to causes beyond TLC's reasonable control, and such temporary interruptions will not be deemed to be a breach of any obligations under this Hosting Services Agreement.

4. Uptime Commitment

TLC will use its best efforts to ensure that the Hosted Solution is available 99.9% of the time (the "Uptime Commitment"). The Uptime Commitment will be measured as follows:

$$\text{Uptime Commitment} = (T - P - D) / (T - P) * 100\%$$

T = the total number of minutes in the respective month

P = planned outages (which will not exceed four (4) hours per month), telecommunications or power disruptions caused by third parties, any other causes beyond TLC's reasonable control, and excluding other times described herein.

D = the total number of minutes of unplanned downtime in the month.

TLC agrees to notify the Library promptly of any factor, occurrence, or event coming to its attention that may affect TLC's ability to meet the Uptime Commitment, or that is likely to cause any material interruption or disruption of the Hosting Services.

Notice of scheduled maintenance shall occur 3 days prior to scheduled downtime.

In the event planned emergency maintenance is required, TLC will make best efforts to notify the Library as soon as possible in advance.

5. Hosted Solution Performance and Response Time Warranties, Testing, and Remediation

TLC agrees and warrants that:

- a. The Software, System, Hosting Services, and Hosted Solution will perform substantially in accordance with the Contract Documents and this Hosting Services Agreement, and if the Hosted Solution fails to perform within the response-time performance levels or functions and capabilities described herein, then TLC will make whatever enhancement to the Hosted Solution that is necessary to provide the contracted levels of performance and functionality as specified by this Hosting Services Agreement within a reasonable time frame and at no cost to the Library.
- b. During operation of the Hosted Solution under normal business conditions during hours of operations of Library in which the activities of users are not scripted to create pre-defined transaction mixes for purposes of stress-testing licensed software or the response-time performance or capacity of the licensed software, the Hosted Solution shall perform transactions with average response times of ≤ 2 seconds as

measured at workstations connected to the Hosted Solution server at the Host Location.

- c. On demand during the term of this Hosting Services Agreement, a thirty (30) minute response time test can be conducted by the Library to determine whether the Hosted Solution is meeting response times of ≤ 2.5 seconds at the Library's locations for transactions using one (1) to three (3) workstations connected to the Hosted Solution.
- d. If the Library determines that the Hosted Solution is performing transactions at a Library site with an average response time of > 2.5 seconds, then TLC shall measure performance of transactions at the Host Location and if the average response time of the Hosted Solution is found to be > 2 seconds, then TLC will make whatever enhancement to the Hosted Solution that is necessary to provide average response times of ≤ 2 seconds as measured at workstations connected to the Hosted Solution server at the Host Location.

6. Acceptance of the System, Hosted Solution, and Hosting Services

- a. TLC agrees that the Library may test the performance of the System, Hosted Solution, and Hosting Services for an Acceptance Test Period of thirty days from the Installation Date and notify TLC of any non-conformance in performance of the Hosted Solution with the functionality and response times as specified in the Contract Documents and this Hosting Services Agreement.
- b. If, during the Acceptance Test Period the Library so notifies TLC of any such non-conformance, TLC shall use its best efforts to resolve each non-conformance, and the Acceptance Test Period will then be re-started, during which Library may begin again testing of the Hosted Solution for thirty days from that time. Such testing will continue until the Library notifies TLC that the Hosted Solution is acceptable or until the Acceptance Test Period has expired without notification by the Library to TLC of a non-conformance.

In the event that any non-conformance cannot be resolved to the Library's satisfaction, TLC and the Library agree to engage in negotiations to establish an understanding and basis for the Library's continued use and acceptance of the System, Hosted Solution, and Hosting Services.

ACCEPTED FOR THE LIBRARY

By Roger H. Steele

Title Mayor

Date May 4, 2021

Jason R. Smith
Interim City Attorney

ACCEPTED FOR
THE LIBRARY CORPORATION

By Quinn H. Murphy

Title CEO

Date May 3, 2021

SCHEDULE J

Additional Considerations

1. Second-Year Support Costs, is stated in Schedule H-part 2, and schedule F, and includes all Software and Hardware purchased under this agreement.
2. Library • **Solution** includes IBM Cognos Business Intelligence Version 10.2.0, or higher which delivers a full library of pre-written reports, lists, and notices to support most reporting needs. Report formats include lists, notice forms, bar charts, pie charts, line graphs, and cross-tabs. Staff can schedule the reports to run during off-hours and the reports can be automatically delivered to specified email recipients.

One User License *per site* is included. The User License provides the ability to run any reports in the Reports Library. This license also enables staff to set personal preferences, schedule reports, subscribe to a scheduled report, create and manage report folders, and personalize standard reports. Additional licenses are available at additional cost. *Note: The Library has agreed to purchase a total of three (3) licenses, so that additional staff may have access to LS2 Reports.*