

CONSULTING AGREEMENT

IT IS HEREBY AGREED this ____ day of July, 2014, by and between E-Rate Consulting, Inc., a New Jersey Corporation, doing business at 180 Hollywood Avenue, Fairfield, New Jersey 07004, hereinafter referred to as ERC, and the Randolph Township Schools, with its principal offices located at 25 School House Road, Randolph, NJ 07869, hereinafter referred to as Client, as follows:

1. **SCOPE.** ERC hereby agrees to provide consulting services, as an independent contractor, to the Client in connection with the filing of all required applications on behalf of the Client for E-Rate funding for internet access, telecommunications services, and if applicable, internal connections. Such services may include the calculation of discount rates, filtering of appropriate and ineligible pieces of equipment pertaining to the E-Rate program, and general counsel and advice regarding the process of bidding and selection of an appropriate vendor.

2. **DESIGNATION OF REPRESENTATIVE.** The Client agrees to designate to ERC, in writing within 14 days from the date hereof, an appropriate representative invested with the authority to execute all required documents and applications on behalf of the Client and who will be authorized to respond to inquiries raised by ERC and/or the Schools and Libraries Division of the Universal Service Administration.

3. **TERM OF AGREEMENT.** The term of the within Agreement shall begin on the date hereof and shall continue for a period of three (3) years from the 2014-2015 funding year through the completion of the 2016-2017 funding year. The Client agrees that the consulting services of ERC shall be utilized in connection with all E-Rate funding applications filed during that time. All fees earned by ERC, or paid to ERC, in connection

with services provided up to and including the date said termination becomes effective shall remain due and owing and/or unreimbursed. The parties acknowledge that any fees to be paid pursuant to paragraph 5 shall remain due and payable in the event funding is granted subsequent to termination of this Agreement.

4. **ASSIGNMENT**. ERC may assign this Agreement to a successor corporation or other successor entity, or to an entity with whom it may merge or become affiliated, after written notice to the Client. All rights and obligations of ERC pursuant to this Agreement shall remain in full force and effect in the event of said assignment.

5. **PAYMENT**. In consideration of the services to be provided by ERC pursuant to the terms of the within Agreement, the Client agrees to pay the following fees to ERC:

- A. Payments in the amount of equal to **seven percent (7%)** of all amounts funded through the E-Rate program as a result of all applications filed by the Client during the term of the within Agreement, which payment shall be made by the Client within thirty (30) days of its receipt of notification of an award of funding.

ERC fees set forth herein shall not be added into any cost item which may be part of a funding application, as said fees are separate and apart from any cost item connected with the E-Rate program.

6. **REPRESENTATIONS**. The Client acknowledges for itself and its servants, agents and employees, that all information provided by it to ERC shall be fully relied upon by ERC in providing its consulting services. Therefore all information provided by the Client shall be true and accurate to the best of the Client's belief. The Client understands that any misstatements or lack of candor by the Client shall constitute a breach of this Agreement and may be grounds for immediate termination by ERC.

7. **CONFIDENTIALITY**. Client agrees that, neither it nor its servants, agents or employees will disclose to any third party, without the prior written consent of ERC, any information relating to the business of ERC if such information could reasonably be construed as confidential or proprietary and was obtained in the course of ERC's provision of services to the Client.

8. **CONDUCT, INDEPENDENT STATUS, AND BENEFITS**. ERC shall provide competent, professional services in the required disciplines, using its own appropriate independent skill and judgment, and the manner and means that appear best suitable to it to perform the work, and the Client shall have no right or responsibility hereunder to set ERC's hours or location of work. ERC is a valid corporation existing under the laws of the State of New Jersey, doing business with the corporate name E-Rate Consulting, Inc., and certifies its federal employer identification number (EIN) is 22-3745829.

The parties to this Agreement agree that the relationship created by this Agreement is that of client-independent contractor. ERC agrees that its personnel are not employees of the Client and are not entitled to (and also hereby waive) any benefits provided or rights guaranteed by the Client, or by operation of the law, to their respective employees, including but not limited to group insurance, liability insurance, disability insurance, paid vacations, sick leave or other leave, retirement plans, health plans, premium "overtime" pay, and the like. It is understood and agreed that since ERC is an independent contractor, the Client will make no deductions from fees paid to ERC for any federal or state taxes or FICA, and the Client has no obligation to provide Worker's Compensation coverage for ERC. In the event of any claims brought or threatened by any party against ERC or the Client relating to the status, acts or omissions of either party or

its personnel, the parties hereto agree to cooperate in all reasonable respects, including supporting the assertions of employment status made in the Agreement.

9. **SERVICES TO OR BY OTHERS.** It is understood and agreed that this is not an exclusive agreement as to ERC and that ERC may provide similar services for others. However, in order to maximize the potential for refunding, it is understood and agreed that the Client shall consult with ERC and utilize its services as to all applications for E-Rate funding filed by or on behalf of the Client during the term of this Agreement.

10. **INDEMNIFICATION.** The Client shall indemnify and hold harmless ERC, its officers, directors, agents, owners and employees, for any claims brought or liabilities imposed against ERC by any other party (including private parties, governmental entities and courts) as a result of consulting services provided by ERC on behalf of the Client or resulting from claims brought by the Client's vendors against ERC. Indemnification shall be for any and all loss, including costs and attorney fees.

11. **UNCERTAINTY OF FUNDING.** The parties acknowledge that funding determination and decisions are made by entities over which the parties hereto have no control. Thus, the Client acknowledges that despite the retention of ERC to provide E-Rate consulting services, applications for E-Rate funding may be denied in whole or in part. The Client acknowledges that ERC has not made any representations, which may be construed to be a guarantee of any funding. Therefore, the Client hereby waives any and all claims against ERC for payment of anticipated funding, which has been denied in whole or in part and acknowledges that any payments due to ERC pursuant to paragraph 5 herein shall be due and owing without regard to whether funding is received by the Client.

12. **MISCELLANEOUS.** Each provision of the Agreement shall be considered severable such that if any one provision or clause conflicts with existing or future applicable law, or may not be given full effect because of such law, it shall not affect any other provision of the Agreement which can be given effect without the conflicting provision or clause. To the extent there may be any conflict between the terms of this Agreement and of any purchase order issued by the Client, this Agreement shall take precedence. The Client represents that it was afforded the opportunity to ask questions and to seek the assistance of legal counsel regarding these terms, and is not relying upon and advise from ERC in this regard.

13. This Agreement shall be governed by the laws of the State of New Jersey, except for its choice of law principles, regardless of where ERC's work is performed, and any litigation shall be brought in the state or federal courts of the State of New Jersey. Client agrees to the exercise of personal jurisdiction over it by such courts to the full extent permitted by law.

E-RATE CONSULTING, INC.

RANDOLPH TOWNSHIP SCHOOLS

By: _____

By: _____

Name: John LaForgia

Name: _____

Title: Vice President

Title: _____

Date: _____

Date: _____