

Education Achievement Authority  
of Michigan  
Equity. Choice. Reinvention.

**RESOLUTION 2012-53  
APPROVAL OF MASTER SERVICES AGREEMENT AND AMENDMENT  
WITH EPIC COMMUNICATIONS  
FOR E-RATE FILING & RELATED SERVICES**

The Executive Committee of the Education Achievement Authority resolves:

1. That the attached Master Services Agreement and Amendment with Epic Communications, to prepare and file E-Rate forms and applications, and perform other related services, for the EAA of Michigan is approved by the Executive Committee of the Authority as the governing body of the Authority;
2. That the Chancellor of the Authority is authorized to execute the Master Services Agreement with Epic Communications on behalf of the Authority;
3. That the Secretary of the Executive Committee of the Authority shall enter the terms of the Master Services Agreement and Amendment with Epic Communications in the minutes of the proceedings of the Executive Committee of the Authority.

*Certification:*

I certify that this resolution was duly adopted by the Executive Committee of the Education Achievement Authority at a properly-noticed open meeting held with a quorum present on the \_\_\_\_ day of \_\_\_\_\_.

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
Secretary

  
\_\_\_\_\_  
Legal Counsel  
Approved as to Form



EDUCATION ACHIEVEMENT AUTHORITY of Michigan
VENDOR CONTRACT JUSTIFICATION FORM

REQUESTER INFORMATION

Date: 7/30/12 Department: Information Technology Requisition No.:

Requester Contact Information: Adel Haddad 313.456.3731
Name Telephone Number

CONTRACT INFORMATION

Vendor Name: Epic Communications, Inc.

Contract Price: not to exceed \$240,000

Funding Source: Technology

Rebecca Lee-Gwin, Ed.D., Date
Deputy Chancellor, Business, Fiscal Affairs & Operations

Contract Term: 2012 through 2015 (4 years)

Equipment/Services to be Provided: Vendor will ensure that the EAA adheres to
certain mandatory record keeping requirements imposed upon E-Rate funding recipients
in accordance with federal regulations.

Justification for Contract: EAA requires assistance to manage its E-Rate technology
procurement program and ensure that it remains in strict adherence to regulations for use
of federal funds.

LEVEL OF IMPORTANCE

[checked] Essential

[ ] Important

[ ] Desirable

Legal Counsel
Approved as to Form

REQUIRED APPROVALS
Principal/Department Head Date
Chancellor Date

## MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement") is entered into this 2nd day of May, 2012 between the Education Achievement Authority, a Michigan public body corporate and special authority ("EAA") and E Enterprises Incorporated, a West Virginia Corporation, d/b/a Epic Communications, Inc. ("Vendor").

WHEREAS, EAA desires to retain Vendor to provide certain services as described herein upon the terms and conditions set forth herein and Vendor is willing to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### ARTICLE I SERVICES TO BE PROVIDED

**Section 1.1 Services.** The services to be provided by Vendor to EAA under this Agreement will be defined by the Epic Communications Agreement for E-Rate Year 15 (2012) – Retroactively and E-Rate Year 16 through Year 18 (2013-2015) (the "Epic Communications Agreement") in the form attached as Exhibit A. The Epic Communications Agreement shall be signed by both parties and will describe the services to be performed ("Services"), the schedule for the performance of the Services (the "Period of Performance"), any identifiable work product to be delivered by Vendor ("Deliverables"), the fixed price or hourly rate for the Services ("Fees"). The Epic Communications Agreement shall be governed by the terms of this Agreement. Except for those Special Terms in the Epic Communications Agreement that expressly provide that they take precedence over this Agreement, in the event of a conflict between this Agreement and the terms of the Epic Communications Agreement, this Agreement shall govern.

### ARTICLE II COMPENSATION

**Section 2.1 Fees.** All Fees payable to Vendor during the term of this Agreement shall be reflected in Exhibit A. Except for the Fees set forth in the Epic Communications Agreement, there are no other fees or costs to be paid by EAA to Vendor. Notwithstanding the foregoing, Vendor acknowledges and agrees that the total amount payable to Vendor hereunder is subject to EAA's annual budgeted amount for such Services. EAA affirms that it has budgeted funds for completion of this project and will allocate said funds accordingly. Furthermore, amounts to be paid to Vendor shall not exceed the maximum dollar amount(s) specified in the Epic Communications Agreement, unless Vendor obtains the prior written approval of EAA and the parties execute a modified agreement.

**Section 2.2 Invoices.** Vendor shall submit to EAA invoices for Services as provided in the Epic Communications Agreement attached as Exhibit A. Invoices shall be submitted to: 3022 W. Grand Blvd., Suite 14-652, Detroit, Michigan, 48202, Attention: Accounts Payable. EAA shall pay invoices for Services satisfactorily performed within 45 days after receipt of an invoice from Vendor. In the event that EAA reasonably disputes any amount that appears on an invoice received

from Vendor, the parties shall work together in good faith to resolve the dispute. EAA shall not be required to pay the disputed portion until the dispute is resolved; provided, however, that (i) EAA continues to pay any undisputed amounts consistent with this Agreement, (ii) Vendor shall continue to provide all of the Services and otherwise perform its obligations under the Agreement and, (iii) EAA shall provide a written explanation for any disputed amount with specific remedies it believes need to be taken. Nonpayment by EAA of disputed amounts shall not constitute a breach of EAA's obligations regarding payment to Vendor or otherwise be considered a basis for termination of this Agreement.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF EAA**

EAA represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying on such representations and warranties in entering into this Agreement and completing the transactions contemplated hereby:

**Section 3.1 Organization and Good Standing.** EAA is duly organized, validly existing and in good standing under the laws of the State of Michigan, has all requisite power and authority to own, operate and lease its properties and is duly authorized to do business in the State of Michigan.

**Section 3.2 Power and Authorization.** EAA has all requisite power to enter into this Agreement and to carry out and perform its obligations hereunder. All action required on the part of EAA and its officers, directors and shareholders for the authorization, execution and delivery of this Agreement and the performance by EAA of its obligations hereunder have been taken. This Agreement, when executed and delivered, shall constitute the legal and binding obligation of EAA in accordance with its terms, subject to (a) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief and other equitable remedies and (b) bankruptcy, insolvency, reorganization, moratorium or other similar laws not or hereafter in effect generally relating to or affecting creditors' rights.

**Section 3.3 No Conflict or Breach.** The execution, delivery and performance by EAA of its obligations under this Agreement will not result in any violation of, be in conflict with or constitute a default under, in any material respect, any material instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation binding upon EAA or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of its properties or assets.

### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE VENDOR**

The Vendor represents and warrants to EAA as follows and acknowledges that EAA is relying on such representations and warranties in entering into this Agreement and completing the transactions contemplated hereby:

**Section 4.1 Organization and Good Standing.** Vendor is duly organized, validly existing and in good standing under the laws of the State of Michigan, has all requisite power and authority and is duly authorized to do business in the State of Michigan.

**Section 4.2 Power and Authority.** The Vendor has all requisite power to enter into this Agreement and to carry out and perform its obligations hereunder. All action required on the part of the Vendor and its officers, and agents for the authorization, execution and delivery of this Agreement and the performance by the Vendor of its obligations hereunder have been taken. This Agreement when executed and delivered, shall constitute the legal and binding obligations of the Vendor in accordance with its terms, subject to (a) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief and other equitable remedies and (b) bankruptcy, insolvency, reorganization, moratorium or other similar laws not or hereafter in effect generally relating to or affecting creditors' rights.

**Section 4.3 No Conflict or Breach.** The execution, delivery and performance by the Vendor of its obligations under this Agreement will not result in any violation of, be in conflict with or constitute a default under, in any material respect, any material instrument, mortgage, deed of trust, loan, contract, commitment, judgment, decree, order or obligation binding upon the Vendor or result in the creation of any mortgage, pledge, lien, encumbrance or charge upon any of its properties or assets.

**Section 4.4 No Debarment, Pending Governmental Action or Record of Violations.** Vendor has not been debarred by the Federal, State or any local unit of government from providing services, nor is it currently the subject of any debarment or similar proceedings. Vendor has no record of violation of any Federal, State or local government's procurement, contracting or ethics rules.

**Section 4.5 Conflicts; No Undue or Improper Influence or Inducement.** Vendor represents and warrants that it has disclosed in writing any existing conflicts of interest involving EAA, and that it will disclose in writing to EAA any conflicts that arise during the term of this Agreement. Vendor represents and warrants that it has not and will not offer to EAA or any of EAA's employees any unlawful inducement, prohibited benefit, or improper incentive to enter into this or any other agreement with EAA.

**Section 4.6 Performance of Services; Compliance with Law.** The Services will be performed in a diligent manner in accordance with industry practices, by individuals of suitable training and skill. Vendor's actions and performance of the Services throughout the term of this Agreement shall be in full compliance with all applicable federal, state and local laws, rules, regulations and standards, including all laws applicable to EAA's operations or to which EAA is otherwise bound. Vendor has and will maintain throughout the term of this Agreement, all licenses, permits, authorizations and approvals necessary for the lawful conduct of its business. No representation or warranty of Vendor contained in this Agreement contains any untrue statement of material fact or omits to state a material fact necessary to make the statements and facts contained herein not misleading.

## **ARTICLE V TERM AND TERMINATION**

**Section 5.1 Term.** This Agreement commences on the Effective Date and shall continue in effect so long as Services are being provided pursuant to the Epic Communications Agreement, or until terminated as provided herein.

## **Section 5.2 Termination.**

- (a) EAA may terminate this Agreement hereunder without cause by providing at least thirty days written notice of such termination to Vendor. Except as provided for in other sections of this agreement, Vendor shall be compensated for all services provided up to the effective date of termination.
- (b) Either party may terminate this Agreement for cause upon breach by the other party, which breach remains uncured thirty days after written notice describing such breach is given to the breaching party.
- (c) This Agreement may be terminated immediately by a party upon (i) the commission of an illegal act, unethical practice, or violation of public policy, including theft or embezzlement, by the other party; (ii) conduct by the other party that may adversely affect a party, as determined by such party in its sole discretion, or (iii) the filing of bankruptcy by either party. Further, EAA may terminate this Agreement immediately upon the substantial failure of Vendor to perform the services that it is obligated to perform hereunder in a timely manner or breach by Vendor of the provisions of Article VI.
- (d) Upon the expiration or termination of this Agreement for any reason, Vendor will cooperate with EAA in the orderly completion or transfer of Services and return of all EAA data and information, including any work in progress. Vendor will recover, as its sole remedy, payment for Services satisfactorily completed prior to such expiration or termination and not previously paid for by EAA. Vendor waives and forfeits all other claims for payment including, without limitation, anticipated profits or revenue or other economic loss arising out of or resulting from such termination or expiration.

## **ARTICLE VI CONFIDENTIAL INFORMATION**

**Section 6.1 Standard of Care.** Vendor acknowledges that it may receive or have access to EAA's "Confidential Information", as that term is defined below. Vendor will protect EAA's Confidential Information with the same degree of care as Vendor uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information of a similar nature, but in no event, less than a reasonable degree of care. Vendor shall not disclose or otherwise make available EAA's Confidential Information to any third party without the prior written consent of EAA; provided, however, that Vendor may disclose the Confidential Information to its officers, employees, and contractors who need access to the Confidential Information to perform their obligations to Vendor or EAA and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Article VI. Further, Vendor shall comply will all confidentiality-related guidelines, standards and law applicable to EAA. Vendor agrees to immediately notify EAA in the event Vendor becomes aware of any loss or unauthorized disclosure of EAA's Confidential Information. The provisions of this Article VI shall survive the termination or expiration of this Agreement.

**Section 6.2 Confidential Information.** "Confidential Information" means any information related to the business, personnel and operations of EAA obtained by Vendor, and may include, but is not limited to, business affairs, data, manuals, financial and accounting data, data and information concerning students, contracts, intellectual property, proprietary information and other operational information. Confidential Information shall not include anything that Vendor can document: (i) was generally available to the public at the time it was received by Vendor, (ii) was known to Vendor, without restriction, at the time of disclosure, or (iii) was independently developed by Vendor without any use of the Confidential Information.

**Section 6.3 Return of Confidential Information.** Upon expiration or termination of this Agreement, Vendor shall promptly return to EAA all Confidential Information of EAA and all copies, or at EAA's option, Vendor shall destroy the Confidential Information.

## **ARTICLE VII AUDITS**

**Section 7.1 General.** Upon reasonable notice from EAA, Vendor shall provide EAA and its agents, regulators, accountants and inspectors access to, and any assistance and information that they may reasonably require with respect to the Services to, among other things, verify the security of EAA Confidential Information and examine Vendor's performance of the Services to enable EAA to confirm Vendor's compliance with this Agreement and applicable law.

**Section 7.2 Cooperation and Record Retention.** Vendor agrees to maintain accurate books and records in connection with Vendor's performance of the Services. Unless returned to EAA, upon its written request, all such books and records (including, without limitation, all papers, correspondence, data, information, reports, records, receipts, and other sources of information relating to the Services and Fees paid to Vendor) will be held and preserved for the duration of this Agreement and for a period of six years after the expiration or termination of this Agreement. Vendor shall make such books and records available to EAA at EAA's request. Further, Vendor shall, and shall cause its agents, employees and contractors to provide EAA with all assistance required to enable EAA to comply with applicable law and standards pertaining to the disclosure and confidentiality of such books and records.

## **ARTICLE VIII INDEMNIFICATION, DAMAGES, INSURANCE AND WARRANTIES**

**Section 8.1 Indemnification.** Vendor shall indemnify and hold harmless EAA and EAA's employees, agents, directors and officers against all liability arising out of, or resulting from any third party claim, suit, action or proceeding arising out of or resulting from (i) the failure of Vendor or any of its agents, employees or contractors, to comply with the terms of this Agreement or any applicable law; or (ii) any injury, loss, claim or damages arising from the actions or omissions of Vendor or an agent, employee, director, officer or contractor of Vendor.

**Section 8.2 Limitation of Liability; No Special Damages.** Notwithstanding any other provision of this Agreement, EAA shall not be liable to the Vendor for any damages for loss of profits, loss of revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing replacement services, or any indirect, incidental, special, consequential, exemplary or

punitive damages arising out of the performance or failure to perform under this Agreement. Nothing in this Agreement shall be construed as a waiver of governmental immunity, where applicable. No such limitation upon Vendor's liability for damages shall exist unless expressly set forth in the Epic Communications Agreement.

**Section 8.3 Insurance.**

- (a) At all times during the term of this Agreement, Vendor shall procure and maintain, at its sole cost and expense, the following types and amounts of insurance coverage issued by an insurance company reasonably acceptable to EAA:
  - (1) Commercial General liability, covering bodily and personal injury, property damage, and contractual liability insuring the activities of Vendor under this Agreement, in a minimum amount of One Million Dollars (\$1,000,000) per claim and Five Million Dollars (\$5,000,000) in the annual aggregate, adding EAA as an additional insured with respect to this Agreement.
  - (2) Commercial Automobile liability with limits of One Million Dollars (\$1,000,000) per claim and Five Million Dollars (\$5,000,000) in the annual aggregate, adding EAA as an additional insured with respect to this Agreement.
  - (3) Worker's compensation insurance in amounts required in accordance with applicable laws.
  - (4) Errors and Omissions/Professional liability with limits no less than One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$3,000,000) in the annual aggregate.
- (b) Upon request by EAA, Vendor shall provide EAA with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Section 8.3. Such certificates of insurance shall not be materially amended or cancelled without thirty days prior written notice to EAA; provided that, prior to such cancellation, Vendor shall have new insurance policies in place that meet the requirements of this Section 8.3.

**Section 8.4 Disclaimer of Warranties.** EXCEPT AS (1) EXPRESSLY SET FORTH IN THIS AGREEMENT, AND, (2) WITH RESPECT TO VENDOR ONLY, AS SET FORTH IN THE EPIC COMMUNICATIONS AGREEMENT, NEITHER EAA NOR VENDOR MAKES ANY OTHER REPRESENTATION OR WARRANTY REGARDING THE SERVICES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.

## **ARTICLE IX DISPUTES**

**Section 9.1 Informal Dispute Resolution.** EAA and Vendor will attempt to settle any dispute through informal good faith negotiations. The dispute will be escalated to appropriate senior level management of the parties, if necessary. If such managers are unable to resolve the dispute within ten business days of referral (or any other mutually agreed upon timeframe), the parties will undertake non-binding mediation as described below in a good faith attempt to resolve such dispute.

**Section 9.2 Mediation.** There will be a single mediator. If the parties cannot agree upon an acceptable mediator within ten days of termination of the negotiations under Section 9.1, each party will select one mediator from a list of not less than five mediators provided by the other party. These two mediators will select a third mediator who will serve as the sole mediator. Subject to the availability of the mediator, the mediation will occur not more than thirty days after the request for mediation. The mediation process will continue until the dispute (or any part thereof) is resolved or until such time as the mediator makes a finding that there is no possibility of resolution short of referring the parties to final and binding arbitration. The mediation will be held in Detroit, Michigan, unless the mediator, on his or her own initiative, wishes to conduct any mediation proceeding by telephone, facsimile transmission or other means of communication. The cost of mediation, including the mediator's fees and expenses, will be shared equally by the parties. Each party will have the right to be represented by attorneys of their own choosing to advise them before and during the mediation process and their attorneys may review any settlement agreement, or other agreement, which the parties have reached through mediation, prior to the execution of such agreement. The parties agree that the mediator is acting in a neutral capacity and is not serving as an attorney, advocate, representative or fiduciary for either or both of them. Each party will pay its own attorney's fees and costs. In connection with the mediation process, the mediator may meet in confidential "caucus" sessions separately with each party. The mediator will be obligated to treat as confidential and refrain from disclosing to the other party or its counsel any information conveyed to the mediator during the caucus sessions unless the party conveying such information authorized the mediator to disclose it to the other party.

**Section 9.3 Binding Arbitration.** Should any dispute (or part thereof) remain between the parties after completion of the mediation process described in Section 9.2, such dispute will be submitted to final and binding arbitration in Detroit, Michigan under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), except to the extent that the AAA Rules are contrary to the specific terms of this Section 9.3, provided, however, that at the election of EAA, the arbitration may be done privately and not under the auspices of the AAA, although the AAA rules shall still otherwise govern except as herein stated. There will be three arbitrators. Each party will select one arbitrator. The two arbitrators selected by the parties will select a third arbitrator. At least one of the arbitrators will have at least five years of relevant experience. Each party may be represented by an attorney selected by the party. The costs of the arbitration, including the arbitrators' fees and expenses, will be shared equally by the parties. Each party will pay its own attorney's fees and costs; provided that, if the arbitrators find either party has acted in bad faith, the arbitrators will have discretion to award attorneys' fees to the other party. No party may raise new claims against the other party in the arbitration not raised during mediation. The arbitrators will

have the power to resolve all disputes between the parties. The arbitrators will apply the law of the state of Michigan. The arbitrators will only interpret and apply the terms and provisions of the Agreement and will not change any such terms or provisions or deprive either party of any right or remedy expressly or impliedly provided for in the Agreement. The arbitrators will not have the power to award damages other than those described in the Agreement. The determination of a majority of the arbitrators will be conclusive upon the parties and will be non-appealable. At least thirty days before the arbitration is scheduled to commence, the parties will exchange lists of witnesses and copies of all exhibits intended to be used in arbitration. The parties will be entitled to limited discovery. A stenographic record of the proceedings will be kept, unless waived by both parties, at the equal expense of the parties. The arbitration will be completed within 120 days of the selection of the third arbitrator. The arbitrators will render a written decision, which contains findings of fact and conclusions of law, within thirty days of the conclusion of the arbitration and will specify a time within which the award will be performed. Judgment upon the award, including specific enforcement of the decision, will be entered in any court of proper jurisdiction. The parties have knowingly chosen arbitration as an alternative to proceedings in court and they specifically waive their rights to proceed by any means before a court otherwise having jurisdiction of any dispute between them, except to the extent necessary for injunctive relief or other equitable relief.

## **ARTICLE X GENERAL PROVISIONS**

**Section 10.1 Independent Contractor.** The Services of Vendor shall be rendered as an independent contractor. The relationship between EAA and the Vendor shall not be that of partners, agents, or joint venturers to one another, and nothing contained in this Agreement shall be deemed to constitute a partnership, agency or employment agreement between them for any purposes, including, without limitation, for federal income tax purposes. Vendor assumes full responsibility for the payment of wages, salaries, and other amount due to all persons engaged by Vendor in connection with the Services performed hereunder, and Vendor will be responsible for all taxes, including Social Security, unemployment and withholding taxes, with respect to such persons. No provision of this contract shall be for the benefit of any party other than the Vendor and the EAA.

**Section 10.2 Tax Exempt Status.** Vendor acknowledges that EAA is a tax-exempt entity. Vendor may not use any EAA facility for any unauthorized purpose and will not act in any way that might jeopardize EAA's tax-exempt status.

**Section 10.3 Entire Agreement and Amendments.** This Agreement (including the Epic Communications Agreement and exhibits), together with the documents delivered pursuant hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, negotiations, representations, discussions and understandings between the parties. This Agreement may be amended only by a written instrument executed by each party.

**Section 10.4 Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Michigan without giving effect to other conflicts of laws or principles thereof.

**Section 10.5 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

**Section 10.6 Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto. No party to this Agreement may assign its rights under this Agreement to any other person without obtaining the written permission of the other parties in advance.

**Section 10.7 No Third Party Beneficiaries.** Nothing expressed or referred to in this Agreement is intended or shall be construed to give any person other than the parties to this Agreement or their respective successors or permitted assigns any legal or equitable right, remedy or claim under or in respect of this Agreement it being the intention of the parties that this Agreement and the transactions contemplated hereby shall be for the sole and exclusive benefit of such parties or such successors and permitted assigns.

**Section 10.8 Expenses.** Each party shall bear its own expenses incurred in connection with this Agreement and with the performance of its obligations hereunder.

**Section 10.9 Notices.** All written notices, consents, approvals, requests and other communications ("Notices") required or permitted under this Agreement shall be personally delivered with receipt obtained, or mailed by overnight mail or registered or certified first-class mail, return receipt requested, addressed as follows:

If to the Vendor, to:

Epic Communications, Inc.  
31100 Solon Road  
PO Box 39490  
Solon, Ohio 44139  
Attention: Rosemary Enos

If to the EAA, to:

Education Achievement Authority  
3022 W. Grand Boulevard  
Suite 14-652  
Detroit, Michigan 48202  
Attention: Chancellor's Office

All Notices shall be deemed given on the day when hand delivered or, if mailed, on the day following the day of mailing. Either party to this Agreement may change its address for the receipt of Notices at any time by giving Notice to the other party as provided in this Section 10.9.

**Section 10.10 Further Assurances.** Each party promptly shall cause to be taken, executed, acknowledged or delivered all such further acts, conveyances, documents and assurances as any

other party from time to time reasonably may request in order to carry out and effectuate the intent and purposes of this Agreement.

[signature page follows]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be signed by their duly authorized representatives with effect from the day and year first above written.

**EDUCATION ACHIEVEMENT AUTHORITY**

By: \_\_\_\_\_  
John William Covington, Ed.D.

Title: \_\_\_\_\_  
Chancellor

Date: \_\_\_\_\_

**EPIC COMMUNICATIONS, INC.**

By: \_\_\_\_\_

Title: \_\_\_\_\_  
President

Date: May 3, 2012

**Epic Communications Agreement**  
**For E-Rate Year 15 (2012) - Retroactively and**  
**E-Rate Year 16 through Year 18 (2013-2015)**

This Agreement (hereafter “Contract” or “Agreement”) is made and entered into as of \_\_\_\_\_, 2012, Epic Communications, Inc. having its principal place of business at 31100 Solon Road, PO Box 39490, Solon, OH 44139 (hereafter “Epic”), and the Education Achievement Authority of Michigan (“District”).

**Recitals**

**WHEREAS**, Epic is in the business associated with preparing and filing E-Rate forms with the Schools and Libraries Division of the Universal Services Administrative Corporation; and,

**WHEREAS**, in order to meet the anticipated deadline for collection of E-Rate data, and E-Rate filings and in order for the School District to be eligible for SLD E-Rate funds there is a significant amount of work that must be performed prior to filing Federal Communications Commission’s Forms 470 and 471;

**WHEREAS**, as result of the Federal Communications Commissions’ *Fifth Report and Order, CC Docket 02-6, Released August 13, 2004*, certain mandatory record keeping requirements are imposed upon Applicants of Universal Service Funds (Schedule A); and,

**WHEREAS**, Epic will assist the District in its record keeping requirements; and,

**WHEREAS**, Epic will perform all regulatory work, interpretation of rules, regulations, Reports and Orders, in office marketing, planning, statistical analysis (free and reduced data analysis), Telecommunications design and analysis, certified network designers, Internet Access design and analysis; and

**WHEREAS**, it is mandatory that the District execute Letter of Authorization (Schedule B - Letter of Authorization (LOA)); and,

The ‘WHEREAS’ and ‘NOW THEREFORE’ clauses are part of this Agreement; and,

**NOW, THEREFORE**, in consideration of the mutual promises herein contained and intending to be legally bound hereby, the parties agree as follows:

## **I. Scope of Work**

- A. The District agrees to retain Epic as its contractor to perform all work set forth herein and in **Schedule A** to this Contract on the terms and conditions set forth herein.
- B. Epic will process the E-Rate Applications through the administrative and regulatory approval process, including the SLD/FCC. Administrative appeals of adverse decisions, if any are included in the fees. However, this does not include any appeals to federal courts.
- C. Epic's involvement will include areas of Telecommunications, Internal Connections, Internet Access, and Basic Maintenance of Internal Connections, interface with local exchange companies, new exchange providers, information services, leased lines, internal connections, electronic mail, and transmission of information as part of a gateway to an information service.
- D. Specifically, during the contract term Epic will provide the following services as required: systems planning, systems integration, bid review, and contract preparation, negotiation, and review. These functions will be performed with input from and in close cooperation with the District.  
  
Epic represents that it possesses the qualifications, resources, and experienced and qualified personnel to provide such services.
- E. Epic will perform all work associated with the 15<sup>th</sup> Year of E-Rate.
- F. The parties agree that any work not covered by this Contract and performed by Epic shall be charged separately at an agreed upon rate.
- G. Court appeals are not included in the fees.

## **II. Term**

The term of this Agreement shall commence upon the date first set forth above and shall expire on June 30, 2015. This contract is for Year 15 Retroactively and Year 16 through Year 18 (2013-2015) E-Rate only.

### **III. District's Payment Obligation to Epic**

#### **(Retroactive for E-Rate Year 15)**

Epic's fee for its services is 10% of the received funding, provided however, that payment of Epic fees shall occur as follows:

- a) Epic's fee of all Received Funding, is due Epic when all Billed Entity Applicant Reimbursement Form (BEAR) and Service Provider Invoices (SPI) notifications are approved.

**In total, Epic will receive 10% of all Funding actually received by the District as the fee for service (an audit will be performed at the end of the SLD funding year to reconcile payments to Epic versus funding used).**

If an SLD decision is appealed, final payment shall be made when the District is notified that the appeal has been successful.

**All fees are due and payable at Epic's office in Solon, Ohio.**

#### **(For E-Rate Year 16 through Year 18)**

Epic's fee for its services is 10% of the awarded funding, provided however, that payment of Epic fees shall occur as follows:

- a) Upon submitting the FCC Form 471 to the SLD, 2.5% of the requested funding, excluding internal connections, is due Epic as the first installment.
- b) The balance of Epic's fee of all awarded funding, less the first installment, is due Epic when an SLD funding notification letter (FCDL) is received.

**In total, Epic will receive 10% of all funding actually awarded and used by the District as the fee for service (an audit will be performed at the end of the SLD funding year to reconcile payments to Epic versus funding used).**

If an SLD decision is appealed, final payment shall be made when the District is notified that the appeal has been successful.

**All fees are due and payable at Epic's office in Solon, Ohio.**

### **IV. Independent Contractor**

The parties acknowledge and agree that Epic is an independent contractor.

## **V. Mutual Cooperation**

- A. Time is of the essence in performing all work under this Agreement.**
- B. The Parties shall cooperate with each other in the performance of their services hereunder, including securing and providing all information and data in a timely manner so that all filings are completed in a timely manner.**

## **VI. Confidentiality**

- A. The Parties agree that all financial, statistical, or proprietary information provided by either Party, one to the other or to the School District will be kept confidential.
- B. Epic agrees that any technical, or marketing information owned or used by the District and designated as proprietary under this Agreement shall not be used without the written consent of the District.
- C. The District agrees that any technical or marketing information owned or used by Epic and designated as proprietary under this Agreement shall not be used without the written consent of Epic.

## **VII. Assignment**

Neither party may assign this Contract or any right or interest herein, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

## **VIII. Miscellaneous**

- A. Any amendment, supplement, or waiver of any provision of this Agreement must be in writing and signed by authorized representatives of both parties.
- B. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns.
- C. The WHEREAS and NOW THEREFORE clauses and paragraph headings are not solely for convenience, but in fact demonstrate the interpretation to be accorded this Agreement.
- D. All agreements and covenants herein are severable, and in the event any of them is held to be invalid by any competent court, the Agreement will be

interpreted as if such invalid agreements or covenants were not contained herein. The parties further agree that in the event such portion is an essential part of this Agreement, they will immediately begin negotiations for a replacement.

- E. Epic will comply with all applicable federal, state, county and local laws, ordinances, regulations and codes in the performance of their obligations hereunder.
- F. No waiver by any party of the breach of any term or provision of the Agreement will be construed to be a waiver of any proceeding or succeeding breach of the same or any other term or provision.
- G. Any breach of this Agreement shall be governed by the laws of the State of Michigan.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by duly authorized representatives all as of the date first above written.

**Education Achievement Authority of Michigan**  
**School District Name**

By:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name

**Epic Communications, Inc.**

By:

*Rosemary Eas*  
\_\_\_\_\_  
Authorized Signature

*Rosemary Eas*  
\_\_\_\_\_  
Print Name

## Schedule A

### **FCC Fifth Report and Order**

As result of the Federal Communications Commissions' *Fifth Report and Order, CC Docket 02-6, Released August 13, 2004*, certain mandatory record keeping requirements are imposed upon E-Rate Applicants/Recipients and vendors.

#### **What's covered in this Agreement:**

- **Document Retention Requirements**
- **Recovery of Funds**
- **Audit Timeframe**
- **Pre-bidding Process**
- **Bidding Process**
- **Application Process**
- **Purchase and Delivery of Services**
- **Invoicing**
- **Inventory**
- **Forms and Rules Compliance**
- **Technology Plans**

#### **Mandatory Budget Requirement**

- **Certifications – Forms 470, 471 and 473**
- **SLD Plan for Timely Audit Resolution**
- **SLD Annual List of Administrative Procedures**
- **Elimination of the Offset Options**
- **Red Light Rule Extended**

### **Document Retention Requirements**

E-Rate rules require both applicants and service providers to retain all records related to the application for, receipt and delivery of discounted services for a period of five years after the last day of service delivered for a particular Funding Year provides for illustrative purposes the following description of documents that service providers and program applicants must retain pursuant to this record keeping requirement, as applicable.

The SLD requires that program participants retain all documents necessary to demonstrate compliance with the statute and SLD/Commission rules regarding the application for, receipt, and delivery of services receiving schools and libraries discounts.

### **Document Retention – Audits**

Failure to comply with an authorized audit or other investigation conducted pursuant to section 54.516 of the Commission's rules (e.g., failing to retain records or failing to make available required documentation) is a rule violation that may warrant recovery of universal service support monies that were previously disbursed for the time period for which such information is being sought.

### **Recovery of Funds**

1. E-Rate funds disbursed in violation of the USF rule/regulation that implements the statute or a substantive program goal must be recovered in full.
2. The government will recover the full amount disbursed for any funding requests in which the applicant failed to comply with the SLD's competitive bidding requirements.
3. It is appropriate to recover the full amount of funds disbursed for a funding request when the applicant signs a contract before the end of the 28-day posting period.
4. Likewise, it is appropriate to recover the full amount disbursed in a situation where the applicant failed to consider price as the primary factor when evaluating among competing bids.
5. SLD rules do not require applicants to affirmatively seek out price quotes from multiple sources if no service provider responds to a Form 470 posting.

6. A lack of necessary resources to use the supported services warrants full recovery of funds disbursed for all relevant funding requests. The requirements that applicants have sufficient computer equipment, software, staff training, internal connections, maintenance and electrical capacity to make use of the supported services are integral to ensuring that these monies are used for their intended purposes, without waste, fraud or abuse.
7. In situations where a service substitution would meet the criteria now established in SLD rules, the appropriate amount to recover is the difference between what was originally approved for disbursement and what would have been approved, had the applicant requested and obtained authorization for a service substitution.
8. In situations where the service substitution would not meet the criteria established in our rules, the appropriate amount to recover is the full amount associated with the service in question.
9. All E-Rate funds disbursed should be recovered for any funding requests in which the applicant failed to pay its non-discounted share.
10. A failure to pay more than 90 days after completion of service (which is roughly equivalent to three monthly billing cycles) presumptively violates our rule that the applicant must pay its share.
11. SLD rules prohibit the funding of duplicative services, defined as services that provide the same functionality to the same population in the same location during the same period of time.
12. In duplicative services circumstances, the SLD ordinarily will recover the amount associated with the more expensive of the duplicative services, except in situations where there are indications of fraud, where the SLD may recover the full amount of the funding request.
13. Applicants/vendors failure to complete delivery of services by the relevant deadline for a particular funding year is a rule violation that warrants recovery of all funds disbursed for services installed or delivered after the close of the funding year.
14. Applicants fail to calculate properly their appropriate discount rate, the amount disbursed in violation of this rule is the difference between the amount of support to which the applicant is legitimately allowed and the amount requested or provided.

15. Where there is evidence that an applicant has manipulated its discount rate in a deliberate attempt to defraud the government, full recovery may be appropriate.
16. Where the applicant would not have qualified for any support for internal connections had it properly applied the discount, the recovery would be the entire amount disbursed.
17. Where an applicant requested and received funding for a full year, and the service provider billed for the full year, but provided services for less than the full year, we believe it would be appropriate to pro-rate support and recover the excess.
18. A funding request may not be bona fide in a situation in which a service provider has charged the applicant an inflated price. Therefore, the SLD will recover amounts disbursed in excess of what similarly situated customers are normally charged in the marketplace.
19. Where the applicant has requested a clearly excessive level of support –judged in the context of the specific circumstances of the District – the SLD will recover the full amount of the funding request, because the applicant has not made a bona fide request based on its reasonable needs.

### **Audit Timeframe**

The SLD will initiate and complete any inquiries to determine whether or not statutory or rule violations exist within a five year period after final delivery of service for a specific funding year.

### **Pre-bidding Process**

Applicants must retain the technology plan and technology plan approval letter. If consultants are involved, applicants must retain signed copies of all written agreements with E-Rate consultants.

### **Bidding Process**

All documents used during the competitive bidding process must be retained.

- RFP(s) – evidence of publication date
- Bid evaluation criteria, weighting, worksheets
- All written correspondence between the applicant and prospective bidders

- All bids submitted, winning and losing
- Documents related to the selection of service provider(s)

Both applicants and service providers must retain executed contracts, signed and dated by both parties. All amendments and addendums to the contracts must be retained, as well as other agreements relating to E-Rate between the applicant and service provider, such as up-front payment arrangements

### **Application Process**

The applicant must retain all documents relied upon to submit the Form 471, including National School Lunch Program eligibility documentation supporting the discount percentage sought; documents to support the necessary resources certification pursuant to section 54.505 of the Commission's rules, including budgets; and documents used to prepare the Item 21 description of services attachment

### **Purchase and Delivery of Services**

Applicants and service providers should retain all documents related to the purchase and delivery of E-Rate eligible services and equipment. Applicants must retain purchase requisitions, purchase orders, packing slips, delivery and installation records showing where equipment was delivered and installed or where services were provided.

### **Invoicing**

Both service provider and applicants must retain all invoices. Applicants must retain records providing payment of the invoice, such as accounts payable records, service provider statement, applicant check, bank statement or ACH transaction record.

Applicants must also be able to show proof of service provider payment to the applicant of the BEAR, if applicable.

### **Inventory**

Applicants must retain asset and inventory records of equipment purchased and components of supported internal connections services sufficient to verify the location of such equipment.

Applicants must also retain detailed records documenting any transfer of equipment within three years after purchase and the reasons for such a transfer.

## Forms and Rule Compliance

All program forms; attachments and documents submitted to the SLD must be retained.

Applicants and service providers must retain all official notification letters from SLD, as applicable

- FCC Form 470 certification pages (if not certified electronically)
- FCC form 471 and certification pages (if not certified electronically)
- FCC Form 471 Item 21 attachments
- FCC Form 479
- FCC Form 486
- FCC Form 500
- FCC Form 472

Applicants must also retain any documents submitted to SLD during Program Integrity Assurance (PIA) review, Selective Review and Invoicing Review, or for SPIN change or other requests.

## Technology Plans

### 1. Technology Plan Timing

Applicants with technology plans that have not yet been approved when they file FCC Form 470 must certify that they understand that technology plans must be approved prior to the commencement of service

Applicants are expected to develop a technology plan prior to requesting bids on services in FCC Form 470; all that we are deferring is the timing of the approval of such plan by the state or other approved certifying body rules to require that applicants formally certify, in FCC Form 486, that the technology plans on which they based their purchases were approved before they began to receive service.

### 2. Technology Plan Content

Technology plans should continue to focus on ensuring that technologies are used effectively to achieve educational goals rather than assuming a greater role in monitoring the procurement process. SLD has already been treating technology plans approved under

the Department of Education's Enhancing Education Through Technology (EETT) as acceptable technology plans subject to one qualification.

Qualification: SLD has required that the EETT technology plans be supplemented by an analysis that indicates that the applicant is aware of and will be able to secure the financial resources it will need to achieve its technology aims, including technology training, software, and other elements outside the coverage of the Commission's support program that applicants that do not have EETT technology plans, must demonstrate that their plans contain the following elements:

- establish clear goals and a realistic strategy for using telecommunications and information technology to improve education or library services;
- have a professional development strategy to ensure that the staff understands how to use these new technologies to improve education or library services; include an assessment of the telecommunication services, hardware, software, and other services that will be needed to improve education or library services
- provide for a sufficient budget to acquire and support the non-discounted elements of the plan: the hardware, software, professional development, and other services that will be needed to implement the strategy; and include an evaluation process that enables the school or library to monitor progress toward the specified goals and make mid-course corrections in response to new developments and opportunities as they arise

The state is the certified technology plan approver for libraries and public schools.

Only if an applicant desires to order services beyond the scope of its existing technology plan does it need to prepare and seek timely approval of an appropriately revised technology plan.

A violation of the technology plan rules by the Applicant will be subject to recovery on a prospective basis

Support under this support mechanism is conditional upon the school(s) securing access to all the resources, including computers, training, software, maintenance, internal connections, and electrical connections necessary to use the services purchased effectively.

## **Certifications**

### **Certifications – Form 470**

All bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology plan goals.

### **Certifications – Form 471**

The FCC Form 471 shall be signed by the person authorized to order telecommunications and other supported services for the eligible school or consortium and shall include that person's certification that

- the applicant is/are eligible to receive support and has/have secured access to all of the resources necessary to make effective use of the service purchased;
- the applicant is/are covered by technology plans that have been or will be approved by a state or other authorized body;
- the applicant has/have complied with program rules as well as all state and local laws regarding procurement of services;
- the services will be used solely for educational purposes and will not be sold, resold, or transferred;
- the applicant understands that the discount level used for shared services is conditional; and;
- the applicant recognizes that its application may be audited

## **New Certification Requirements**

“All bids submitted were carefully considered and the most cost-effective bid for services or equipment was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals

Service providers receiving funds through the E-Rate program accordingly now must make the following certifications with respect to their participation in the competitive bidding process of the E-Rate program in the Service Provider Annual Certification Form, FCC Form 473

I certify that the prices in any offer that this service provider makes pursuant to the schools and libraries universal service support program have been arrived at independently, without, for the purpose of restricting competition, any consultation,

communication, or agreement with any other offer or competitor relating to (i) those prices; (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered

I certify that the prices in any offer that this service provider makes pursuant to the schools and libraries universal service support program will not be knowingly disclosed by this service provider, directly or indirectly, to any other offer or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

I certify that no attempt will be made by this service provider to induce any other concern to submit or not to submit an offer for the purpose of restricting competition”

### **Elimination of the Offset Options**

The SLD has eliminated the current option to offset amounts disbursed in violation of the statute or a rule against other funding commitments

### **Red Light Rule Extended**

The Red Light Rule was adopted pursuant to the Debt Collection Improvement Act (DCIA) to bar applicants or service providers from receiving additional benefits under the schools and libraries program if they have failed to satisfy any outstanding obligation to repay monies into the fund. It is in effect for Starting Funding Year 2004 [July 1, 2004 – June 30, 2005]

Schedule B for Year 15

Letter of Agency
For the Year 2012 – 2013

I hereby authorize Epic Communications, Inc. to submit FCC Form 470, FCC Form 471, and all other E-Rate forms for all E-Rate eligible services to the Schools and Library Division on behalf of the undersigned school district.

I understand that in submitting these forms on our behalf, you are making certifications for our school district. By signing this letter of agency, I make the following certifications:

- (a) I certify that the schools in our district are all schools under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of 1956, do not operate as for-profit businesses, and do not have endowments exceeding \$50 million.
(b) I certify that the schools in our district have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services.
(c) I certify that the schools in our district are all covered, or will be covered at the time funding is granted; by E-Rate approved technology plans (unless discounts are only being requested for basic local and long distance telephone service).
(d) I certify that the services that our school district purchases using E-Rate discounts (as described in the law 47 U.S.C. Sec. 254) will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
(e) I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
(f) I certify that our school district has complied with all E-Rate program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments.
(g) I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of the benefits from those services.
(h) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.
(i) I certify that I am authorized to sign this letter of agency (LOA) for my District and, to the best of my knowledge, information, and belief, all information provided to Epic for E-Rate submission is true.

I understand that persons (including Epic, its employees and agents, and Independent Contractors) willfully make false statements on E-Rate forms or through this letter of agency can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Sec. 502, and 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

District: Education Achievement Authority of Michigan Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_, 2012 Title: \_\_\_\_\_

**Schedule B for Year 16**

**Letter of Agency  
For the Year 2013 – 2014**

I hereby authorize **Epic Communications, Inc.** to submit FCC Form 470, FCC Form 471, and all other E-Rate forms for all E-Rate eligible services to the Schools and Library Division on behalf of the undersigned school district.

I understand that in submitting these forms on our behalf, you are making certifications for our school district. By signing this letter of agency, I make the following certifications:

- (j) I certify that the schools in our district are all schools under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of 1956, do not operate as for-profit businesses, and do not have endowments exceeding \$50 million.
- (k) I certify that the schools in our district have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services.
- (l) I certify that the schools in our district are all covered, or will be covered at the time funding is granted; by E-Rate approved technology plans (unless discounts are only being requested for basic local and long distance telephone service).
- (m) I certify that the services that our school district purchases using E-Rate discounts (as described in the law 47 U.S.C. Sec. 254) will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
- (n) I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
- (o) I certify that our school district has complied with all E-Rate program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments.
- (p) I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of the benefits from those services.
- (q) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.
- (r) I certify that I am authorized to sign this letter of agency (LOA) for my District and, to the best of my knowledge, information, and belief, all information provided to Epic for E-Rate submission is true.

I understand that persons (including Epic, its employees and agents, and Independent Contractors) willfully make false statements on E-Rate forms or through this letter of agency can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Sec. 502, and 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

District: Education Achievement Authority of Michigan Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_, 2012 Title: \_\_\_\_\_

# Epic Communications

*Making E-Rate E-Z for You!™*

31100 Solon Road ♦ PO Box 39490 ♦ Solon, Ohio 44139  
866-716-3336 (toll free) ♦ 866-604-8456 (toll free fax)  
216-514-3336 (phone) ♦ 216-514-3337 (fax)  
[rpenos@epicinc.org](mailto:rpenos@epicinc.org)

CONFIDENTIAL

July 31, 2012

Education Achievement Authority  
3022 W. Grand Boulevard  
Suite 14-652  
Detroit, MI 48202

**RE: E-Rate Consulting Services**

This letter serves to amend Section III of Epic Communications Agreement for E-Rate Years 15 through 18. As discussed in my phone conversation with Adel Haddad, Chief Technology Officer, on July 30, 2012, Epic Communications agrees to a not-to-exceed (cap) of the Education Achievement Authority of Michigan's (District) Payment Obligation to Epic for E-Rate Years 15 through 18.

Therefore, Epic's fee for its services is 10% or specified not-to-exceed amounts indicated below, whichever is less, provided however, that payment of Epic's fee shall occur as follows:

**(Retroactive for E-Rate Year 15)**

Epic's fee for its services is 10% or \$25,000.00, whichever is less, of the received funding, provided however, that payment of Epic's fee shall occur as follows:

- a) Epic's fee of all Received Funding, is due Epic when all Billed Entity Applicant Reimbursement Form (BEAR) and Service Provider Invoices (SPI) notifications are approved.

**In total, Epic will receive 10% or \$25,000.00, whichever is less, of all Funding actually received by the District as the fee for service (an audit will be performed at the end of the SLD funding year to reconcile payments to Epic versus funding used).**

If an SLD decision is appealed, final payment shall be made when the District is notified that the appeal has been successful.

**All fees are due and payable at Epic's office in Solon, Ohio.**

**(For E-Rate Year 16)**

Epic's fee for its services is 10% or \$65,000.00, whichever is less, of the received funding, provided however, that payment of Epic's fee shall occur as follows:

a) Upon submitting the FCC Form 471 to the SLD, 2.5% of the requested funding, excluding internal connections, is due Epic as the first installment.

b) The balance of Epic's fee of all awarded funding, less the first installment, is due Epic when an SLD funding notification letter (FCDL) is received.

**In total, Epic will receive 10% or \$65,000.00, whichever is less, of all Funding actually received by the District as the fee for service (an audit will be performed at the end of the SLD funding year to reconcile payments to Epic versus funding used).**

If an SLD decision is appealed, final payment shall be made when the District is notified that the appeal has been successful.

**All fees are due and payable at Epic's office in Solon, Ohio.**

**(For E-Rate Year 17)**

Epic's fee for its services is 10% or \$75,000.00, whichever is less, of the received funding, provided however, that payment of Epic's fee shall occur as follows:

a) Upon submitting the FCC Form 471 to the SLD, 2.5% of the requested funding, excluding internal connections, is due Epic as the first installment.

b) The balance of Epic's fee of all awarded funding, less the first installment, is due Epic when an SLD funding notification letter (FCDL) is received.

**In total, Epic will receive 10% or \$75,000.00, whichever is less, of all Funding actually received by the District as the fee for service (an audit will be performed at the end of the SLD funding year to reconcile payments to Epic versus funding used).**

If an SLD decision is appealed, final payment shall be made when the District is notified that the appeal has been successful.

**All fees are due and payable at Epic's office in Solon, Ohio.**

**(For E-Rate Year 18)**

Epic's fee for its services is 10% or \$75,000.00, whichever is less, of the received funding, provided however, that payment of Epic's fee shall occur as follows:

a) Upon submitting the FCC Form 471 to the SLD, 2.5% of the requested funding, excluding internal connections, is due Epic as the first installment.

b) The balance of Epic's fee of all awarded funding, less the first installment, is due Epic when an SLD funding notification letter (FCDL) is received.

In total, Epic will receive 10% or \$75,000.00, whichever is less, of all Funding actually received by the District as the fee for service (an audit will be performed at the end of the SLD funding year to reconcile payments to Epic versus funding used).

If an SLD decision is appealed, final payment shall be made when the District is notified that the appeal has been successful.

All fees are due and payable at Epic's office in Solon, Ohio.

Sincerely,

  
Rosemary Enos  
President

**Education Achievement Authority  
of Michigan**

Equity. Choice. Reinvention.

**RESOLUTION 2012-54  
AUTHORITY TO APPOINT INTERIM MEMBERS TO PUBLIC SCHOOL ACADEMIES'  
BOARD OF DIRECTORS**

The Executive Committee of the Education Achievement Authority resolves:

1. That the Board of the Education Achievement Authority of the Michigan (the "Board") granted the Chancellor general administrative control and oversight authority in matters related to the Education Achievement Authority of Michigan's (the "Authority") public school academies ("PSA") pursuant to "*Resolution 2012-4 Authorizing Public School Academies*";
2. That the Chancellor is granted authority to accept and review applications for Public School Academy Board of Directors and to determine whether they meet the EAA's standards for PSA board membership and Board policies;
3. The Chancellor is granted authority to appoint, on an interim basis pending final approval by the EAA Executive Committee, members to the Public School Academy Board of Directors of public school academies chartered by the Authority.

*Certification:*

I certify that this resolution was duly adopted by the Executive Committee of the Education Achievement Authority at a properly-noticed open meeting held with a quorum present on the \_\_\_\_ day of \_\_\_\_\_.

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
Secretary

\_\_\_\_\_  
Legal Counsel  
Approved as to Form

**Education Achievement Authority  
of Michigan**  
Equity. Choice. Reinvention.

**RESOLUTION 2012-55  
APPROVAL OF AMENDMENT TO RESOLUTION 2012-21 –  
BOARD OF DIRECTORS COMPOSITION FOR CHARTER SCHOOLS**

The Executive Committee of the Education Achievement Authority resolves:

1. That the attached Resolution 2012-21, Board of Directors Composition for Charter Schools, previously approved at the May 10, 2012 Board Meeting, is hereby amended as indicated and approved;
2. That the Chancellor is granted authority to amend Board policies and other related documentation consistent with this resolution.

*Certification:*

I certify that this resolution was duly adopted by the Executive Committee of the Education Achievement Authority at a properly-noticed open meeting held with a quorum present on the \_\_\_\_ day of \_\_\_\_\_.

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
Secretary

\_\_\_\_\_  
Legal Counsel  
Approved as to Form