

AGREEMENT FOR E-RATE SERVICES  
BETWEEN  
COCHISE COUNTY LIBRARY DISTRICT AND  
YAVAPAI COUNTY SCHOOL SUPERINTENDENT

1. **Parties.**

Cochise County Library District (“Library”).

The Yavapai County School Superintendent (“YCSS”).

2. **Purpose.**

2.1 Universal Service Administrative Company’s Schools and Library Program, commonly known as “E-Rate Services,” provides discounts of up to 90% to assist most schools and libraries in the United States to obtain affordable telecommunications and Internet access. YCSS assists school districts, individual schools and libraries with the compliance of applicable regulations to obtain all available E-Rate Services at the lowest cost.

2.2 The purpose of this agreement is that Library retains YCSS to provide consulting about and assistance with E-Rate Services pursuant to a service program under A.R.S. § 15-365 (hereinafter referred to as the “Agreement”).

2.3 The E-Rate Services provided by YCSS are intended to support and enhance student achievement by assisting and guiding Library to plan, procure, and implement essential technology assets.

3. **Statutory Authority.**

3.1 YCSS is the statutory educational service agency for Yavapai County and has authority to provide assistance with E-Rate Services to Library pursuant to A.R.S. §§ 15-301 (Office of County School Superintendent), 15-302 (Powers and Duties), and 15-365 (Service Programs Operated Through the Office of a County School Superintendent).

3.2 Library has authority to retain YCSS for consulting about and assistance with E-Rate Services pursuant to A.R.S. §§ 15-365 (Service Programs Operated Through the Office of a County School Superintendent) and 41-3508(E) (Statewide E-Rate Program Fund).

4. **Duration.**

This Agreement's term is for 2.5 years and shall be effective from January 1, 2017 until June 30, 2019.

5. **Contract Interpretation.**

5.1 **Arizona Law.** The law of Arizona applies to this Agreement.

5.2 **Implied Contract Terms.** Each provision of law and any terms required by law to be in this Agreement are a part of this Agreement as if fully stated in it.

5.3 **Contract Order of Precedence.** In the event of a conflict in the provisions of the Agreement, as accepted by the parties and as they may be amended, the following shall prevail in the order set forth below:

- 1) Standard Terms;
- 2) Scope of Work;
- 3) Attachments;
- 4) Referenced Documents.

5.4 **Relationship of Parties.** Neither party to this Agreement shall be deemed to be the employee or agent of the other party to the Agreement.

5.5 **Severability.** If any provision(s) of this Agreement is/are invalid, illegal, or unenforceable for any reason, all other Agreement provisions shall nevertheless remain in full force and effect. If any provision(s) is/are inapplicable to any person or circumstance, the same provision(s) shall nevertheless remain applicable to all other persons and circumstances.

5.6 **Entire Agreement.** This Agreement represents the entire, integrated Agreement between the parties. The Agreement supersedes all prior negotiations, representations, or Agreements, whether written or oral. The Agreement may be amended only by written instrument signed by the parties.

5.7 **No Parole Evidence.** This Agreement is intended by the parties as a final and complete expression of their Agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document.

5.8 **No Waiver.** No action or failure to act by the parties constitutes a waiver of any right or duty under this Agreement, nor does the action or failure to act constitute

approval of or acquiescence in a breach of the Agreement, unless the waiving party memorializes the waiver or approval in writing and signs it.

5.9 **Headings.** Headings are for organizational purposes only and shall not be interpreted as having legal significance or meaning.

6. **Standard Terms.**

6.1 **Compliance with Law.** The parties shall comply with all applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities in performing this Agreement, including but not limited to environmental laws.

6.2 **Immigration Law Compliance.** Both parties hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws applicable to their employment of their employees, and with the requirements of A.R.S. §§ 23-214 and 41-4401 (together the "State and Federal Immigration Laws"). A breach of the foregoing warranty shall be deemed a material breach of the contract, and the parties shall have the right to terminate this Agreement for such a breach, in addition to any other applicable remedies. The parties retain the legal right to inspect the papers of each contractor, subcontractor or employee of either who performs work pursuant to this Agreement to verify performance of the foregoing warranty of compliance with the State and Federal Immigration Laws.

6.3 **Fingerprint and E-verify.** If required, and only to the extent required, the parties shall comply with the fingerprinting provisions in A.R.S. § 15-512(H) and the e-verify provisions in A.R.S. § 41-4401.

6.4 **Nondiscrimination.** The parties shall comply with Executive Order 2009-09, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules and regulations, including the Americans with Disabilities Act. The parties shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

6.5 **No Boycott of Israel.** In accordance with A.R.S. § 35-393.01, the parties certify that they are not currently engaged in, and for the duration of this Agreement agree not to engage in, a boycott of Israel, and will not adopt a procurement, investment, or other policy that has the effect of inducing or requiring a person or company to boycott Israel.

6.6 **Inspection and Audit:** The parties agree to keep all books, accounts, reports, files, and other records relating to this Agreement for five (5) years after completion of the

contract; and, in addition, agrees that such books, accounts, reports, files, and other records shall be subject to audit pursuant to A.R.S. § 35-214.

6.7 **Public Records Law:** Notwithstanding any other provision of the Agreement, the parties understand that they are public entities and, as such, are each subject to Arizona's public records law, A.R.S. § 39-121, *et. seq.*

6.8 **Conflict of Interest:** This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 regarding Conflict of Interest.

7. **Notices.**

All notices under this Agreement must be in writing and sent to the appropriate person. Notices will be deemed properly given if sent by (1) personal delivery, (2) facsimile transmission, (3) first-class United States mail, postage prepaid, or (4) certified U.S. mail, postage prepaid, return receipt requested, addressed as follows:

Cochise County Library District  
PO Drawer AK  
Bisbee, AZ 85603  
Attn: Amadee Ricketts

YCSS  
2970 Centerpointe East Drive  
Prescott, AZ 86301  
Attn: Tim Carter, Yavapai County School Superintendent

Each party may specify by notice to the others a different address for purposes of subsequent notices. Notice is effective on the date of actual receipt or three days after the date of mailing, whichever is earlier.

8. **Alternative Dispute Resolution.**

If the parties are unable to mutually resolve disputes arising under this Agreement, all disputes arising under or relating to this Agreement shall be settled by binding Arbitration. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such Arbitration shall be conducted by an experienced and knowledgeable Arbitrator(s) and shall include a written record of the Arbitration hearing.

If the parties can mutually agree upon an Arbitrator, that Arbitrator shall be selected. If not, the parties shall each select an Arbitrator and those two Arbitrators shall select a third Arbitrator (or the parties shall request a third Arbitrator from the Arizona

Arbitration Association). All Arbitrations will be held in the State of Arizona and under the Arizona Rules of Arbitration.

9. **Third Parties.**

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against Library or YCSS. This Agreement is not intended to benefit any third party.

10. **Insurance.**

The parties shall maintain insurance in the coverage and limits of liability available to them under the Arizona Counties Insurance Pool.

11. **Indemnification.**

To the extent allowed by law, each party (as "indemnitor") shall indemnify, defend, and hold harmless the other party (as "indemnitee"), including its officers, officials, agents, and employees, from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury (including death), personal injury, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the acts or omissions of the indemnitor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such party to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the parties shall, in all instances, be indemnified by the indemnitor from and against any and all Claims. It is agreed that the indemnitor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. This indemnification shall survive the termination of this Agreement.

12. **Workers' Compensation.**

For purposes of workers' compensation, an employee of a party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another party pursuant to this specific Agreement, is deemed to be an employee of both the party who is his primary employer and the party under whose jurisdiction or control or within whose jurisdiction he is then working, as provided by A.R.S. § 23-1022(D). The primary employer party of such employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each party herein shall comply with the provisions of A.R.S. § 23-1022(E) by posting the public notice required.

13. **Termination.**

Either party may terminate this Agreement with thirty (30) days written notice. This Agreement is also subject to the cancellation provisions of A.R.S. § 38-511. Any termination of this Agreement shall not relieve either party of responsibility for costs incurred prior to the effective date of the termination.

14. **Scope of Work: Services and Duties Provided by YCSS.** Under this Agreement, YCSS shall provide the following specific services to Library:

- 14.1 YCSS shall consult with and guide Library on Library's E-Rate application for FY 2016-17, 2017-18, and 2018-18.
- 14.2 YCSS shall advise Library on the E-Rate process and share technical advice on related services and equipment.
- 14.3 With respect to E-Rate Services procurement, YCSS shall:
  - (a) prepare bid documents and contract documents necessary to procure and contract for E-Rate Services;
  - (b) assist Library in publishing the call for bids;
  - (c) advise Library on compliance with federal and state procurement regulations;
  - and
  - (d) assist Library in scoring and evaluating all bids received.
- 14.4 YCSS shall file on behalf of Library the following E-Rate forms: Form 470, 471, 472 (BEAR), 486, and any necessary extension letters, appeals, and/or other related forms.
- 14.5 YCSS shall guide Library through any Program Integrity Assurance (PIA) review of FCC forms filed by or on the School's behalf.
- 14.6 YCSS shall advise Library on reasonable means and methods to obtain the maximum E-Rate discount allowed by governing rules and regulations.
- 14.7 YCSS shall advise Library on reasonable means and methods to reduce and minimize costs for both E-Rate eligible and ineligible services.

- 14.8 YCSS shall perform all other reasonable, customary, and lawful E-Rate tasks to assist Library during this Agreement's term.
- 14.9 YCSS shall not accept any gratuity, gift, favor, service, or opportunity from any service provider.

**SERVICES NOT PROVIDED BY YCSS.** YCSS will not select the final E-Rate vendor or advise Library which vendor to select.

15. **Scope of Work: Duties Provided by Library.** Under this Agreement, Library shall provide the following duties to YCSS:

15.1 Library shall provide all information reasonably requested by YCSS in a timely manner.

15.2 Library shall designate a responsible, authorized person to:

- (a) serve as a point of contact for Universal Service Administrative Company's School and Libraries Division (SLD);
- (b) review and sign all E-Rate Forms; and
- (c) deal with YCSS on all matters relating to this Agreement.

15.3 Library shall fully comply with all E-Rate rules and regulations and all other applicable federal and state laws, including the obligation to certify the representations in and execute the Letter of Agency form attached as Exhibit 1 incorporated by reference herein.

15.4 Library shall not accept any gratuity, gift, favor, service, or opportunity from any service provider.

16. **Payment and Consideration.**

Within 30 days after YCSS invoices Library, Library shall pay YCSS the invoiced amount for all services provided under this Agreement as follows:

\$1,000.00 for FY 2016-17.

\$2,500.00 for FY 2017-18.

\$2,500.00 for FY 2018-19.

17. **Assignment.**

Neither party to this Agreement may assign its rights or responsibilities under this Agreement without the written consent of the other party.

18. **Counterparts.**

This Agreement may be executed in two or more counterparts. Each counterpart will be deemed an original, and all counterparts shall form a single instrument.

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This Agreement is effective on the date approved by the Yavapai County Board of Supervisors and Library's governing board.

## APPROVALS

Tim Carter  
Yavapai County School Superintendent

Cochise County Library District

\_\_\_\_\_  
Signature Date  
Tim Carter  
Yavapai County School Superintendent

\_\_\_\_\_  
Signature Date  
Amadee Ricketts  
Cochise County Library Director

This Agreement has been reviewed by the undersigned who has determined that it is in the appropriate form and is within the power and authority granted to YCSS.

Approved as to form:

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Lauri J. Owen Date  
Counsel for the Cochise County Library

\_\_\_\_\_  
Name of Legal Counsel for YCSS

### APPROVED BY:

\_\_\_\_\_  
Thomas Thurman, Chairman Date  
Yavapai County Board of Supervisors

\_\_\_\_\_  
Ann English, Chairman Date  
Cochise County Board of Supervisors

### ATTEST:

\_\_\_\_\_  
Kim Kapin  
Clerk of the Yavapai County Board

\_\_\_\_\_  
Arlethe Rios  
Clerk of the Cochise County Board