

**EPSON AMERICA, INC.**  
**NO CREDIT CARD CONSOLIDATED EXCHANGE AGREEMENT**

This Agreement is entered into by and between **EPSON AMERICA, INC.** ("Epson," "Us" or "We"), and

**Customer Name:** Yealey Elem  
\_\_\_\_\_  
("Customer" or "You").

- A. Applicability. Your rights and Epson's obligations regarding service on all Epson Products are governed solely by the relevant Epson Limited Warranty Statement or Epson Service Plan Agreement. When Epson determines Customer's product is defective (the "Defective Unit"), in accordance with the warranty or Service Plan provisions, Epson will ship Customer a replacement unit (the "Replacement Unit") for the Defective Unit. This Agreement only covers your obligation to return the Defective Unit or Parts provided to You under the terms of warranty. As used herein "Epson Products" shall refer to those products where the Customer is entitled to the Exchange Program under the applicable Epson warranty or Service Plan Agreement.
- B. Eligibility. In order to receive Replacement Units without the use of a major credit card, Customer must set up an account with Epson to secure the cost of Replacement Units. Set-up may be contingent upon a credit report satisfactory to Epson. If Customer does not already have an account with Epson, Customer authorizes Epson to conduct a routine credit investigation at no charge to Customer, as Epson deems necessary. Customer understands that any information obtained during its credit investigation will be kept confidential by Epson, whether or not credit is extended.
- C. Requirements. Customer agrees to send back to Epson, per the instructions provided by Epson, each Defective Unit within ten (10) business days after receipt of the Replacement Unit. Customer shall retain copies of the applicable shipping document and/or return tracking numbers for a minimum of 90 days and shall provide that information to Epson upon request. Customer also agrees to notify Epson immediately if any Epson Products covered by this Agreement are sold, lost, stolen or damaged.
- D. Internal Procedures. You agree to instruct Your employees on Your policies concerning the use of the Epson Exchange Program, and

agree to be responsible for their compliance with this Agreement.

- E. Risk Of Loss, Insurance, etc. Customer shall bear the risk of loss or damage to the Defective Unit until it is placed in the possession of Epson's designated carrier. Shipping fees therein shall be determined in accordance with the provisions of the applicable Exchange Program under the Limited Warranty Statement or the Epson Service Plan Agreement between the parties for the particular Product.
- F. Default. If Customer fails to return the Defective Unit within the required time, Epson may invoice Customer for the cost of the Defective Unit at current MSRP for the Epson Product less 10%. Payment is due net 10 days from receipt of invoice. If the invoice has not been paid when due, Epson may in its discretion refuse to allow Customer to return the Defective Unit for credit. Interest shall accrue on all delinquent amounts at the rate of one percent (1%) per month (twelve percent (12%) per annum) from the due date of invoice or the maximum rate of interest permitted by applicable law or regulations, whichever is less.
- G. Security Interest. Epson reserves and retains a security interest in each Replacement Unit, all proceeds therefrom, and additions and accessions thereto until the Defective Unit is returned or all amounts due Epson under this Agreement are paid in full. This constitutes a security agreement between Epson, as the secured party, and Customer, as debtor, under the Uniform Commercial Code and under the California Commercial Code, and Epson shall have the rights and remedies of a secured party thereunder.
- H. Remedies. If Customer's account balance is past due, Epson shall have the right to suspend exchange service to Customer on the Epson Products immediately. During any suspension, Customer's right to service on the Epson Products shall be limited to Epson's standard repair service until Customer account is brought current.
- I. Cumulative Remedies. The remedies provided for herein are cumulative and in addition to any other remedy referred to in this Agreement or otherwise available to Epson at law or in equity.
- J. NO LIABILITY. OTHER THAN CUSTOMER'S OBLIGATION TO RETURN

EPSON PRODUCT HEREUNDER, NEITHER PARTY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY FOR GENERAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE NOR SHALL SUCH PARTY BE RESPONSIBLE FOR ANY LOSS OF REVENUE, BUSINESS, OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH ITS PERFORMANCE UNDER THIS AGREEMENT.

- K. Governing Law; Arbitration of Disputes. Any controversy or claim arising out of or relating to this Agreement or any other document relating hereto, or the breach hereof or thereof, shall be determined by arbitration before a single arbitrator in Los Angeles, California, in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as varied by this Agreement. Neither party may take any other action by way of request for injunctive relief or otherwise. The costs of arbitration, including the fees and expenses of the arbitrator, shall be shared equally by the parties unless the arbitration award provides otherwise; provided that each party shall bear its own cost of preparing and presenting its case. In no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. The decision of the arbitrator shall follow the plain meaning of the relevant documents, and shall be final and binding, without any right of appeal therefrom, whether on questions of law, fact, or mixed law and fact. Upon award, judgment may be recorded in and enforced by any court of competent jurisdiction. This Agreement shall be construed in accordance with the laws of the State of California, except the arbitration

clause, which shall be enforced pursuant to the Federal Arbitration Act.

- L. Miscellaneous. In the event that it becomes necessary for either party to institute litigation to enforce the provisions of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs incurred by it in connection with the litigation.
- M. Notices. Any written notice required or permitted under this Agreement shall be made by facsimile transmission with confirmation, or by certified or registered United States mail, return receipt requested, postage prepaid to the address set forth below. Notice shall be deemed to have been received on the day it is delivered to such party, if faxed, or on the third business day after the date on which it was sent by U.S. mail.
- N. Waiver. No delay or omission to exercise any right or remedy accruing to a party upon breach or default of the other party shall impair any such right or remedy nor shall it be construed as a waiver of any such breach or default.
- O. Entire Agreement. This Agreement constitutes the entire agreement between the parties. There are no representations, agreements or understandings, expressed or implied, affecting the parties which are not expressly set forth herein or therein. Epson's sales representatives do not have authority to change the terms hereof or thereof. The agreement described herein and therein shall not be supplemented or modified by any course of dealing, trade usage, or any inconsistent terms in any purchase order or confirmation. This Agreement may only be modified by a writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in counterparts through duly authorized representatives whose signatures appear below.

EPSON AMERICA, INC.

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

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

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

Address: 3840 Kilroy Airport Way  
Long Beach, California 90806  
Attention: Service Plan Administrator

Yealey Elementary  
"Customer"

By: Renée Turner

Name: Renée Turner

Title: principal

Address: 10 Yealey Drive  
Florence, Ky 41042

Attention: Terri Brass, Secretary

Phone: 859-282-3333

Fax: 859-282-3337