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**TULSA COUNTY**  
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**PURCHASING  
DEPARTMENT**

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# MEMO

DATE: JUNE 7, 2017

FROM: LINDA R. DORRELL  
PURCHASING DIRECTOR 

TO: BOARD OF COUNTY COMMISSIONERS

SUBJECT: AGREEMENT-ERGOMETRICS & APPLIED PERSONNEL RESEARCH,  
INC.

SUBMITTED FOR YOUR APPROVAL AND EXECUTION IS THE ATTACHED AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS ON BEHALF OF TULSA COUNTY SHERIFF'S OFFICE AND ERGOMETRICS & APPLIED PERSONNEL RESEARCH, INC. FOR THE ANNUAL LICENSE OF ECOMM NATIONAL TESTING SERVICES.

RESPECTFULLY SUBMITTED FOR YOUR APPROVAL AND EXECUTION.

LRD/arh

ORIGINAL: MICHAEL WILLIS, COUNTY CLERK, FOR THE JUNE 13, 2017 AGENDA.

COPIES: COMMISSIONER JOHN M. SMALIGO  
COMMISSIONER KAREN KEITH  
COMMISSIONER RON PETERS  
VIC REGALADO, SHERIFF  
JOHN FOTHERGILL, CHIEF DEPUTY  
VICKI ADAMS, CHIEF DEPUTY



ERGOMETRICS & APPLIED PERSONNEL RESEARCH, INC.  
18720 33<sup>RD</sup> AVENUE WEST  
LYNNWOOD, WA 98037

May 25, 2017

Ms. Karen Fasano  
Contracts Specialist  
Tulsa County Sheriff's Office  
300 North Denver Avenue  
Tulsa, OK 74103

Ms. Fasano:

Ergometrics is pleased to provide you with this agreement for annual license of ECOMM National testing services. Ergometrics will provide all testing materials, administration instructions and scoring.

The Department will be responsible for administering the examinations. After you have returned to Ergometrics the completed answer sheets from each test administration, we will score the test responses and provide the Department with the candidates' scores. Under normal circumstances, the Department will be billed within one week of receipt of completed answer sheets.

ECOMM National and all related materials are copyrighted and owned by Ergometrics.

The "Statement of Terms" and Attachment A (Cost and License Term), are incorporated into this agreement by reference.

#### Parties to the Agreement

This agreement will be between Ergometrics and Applied Personnel Research, Inc. and the party listed below. It is understood that the persons signing below are authorized to represent and act on behalf of their respective agencies, and are acting in reliance upon this representation in the execution of this agreement.

#### Licensee

Principal Signer

Title

Date

Ergometrics

Client Services Supervisor

Title

5/26/2017

Date

TEL 425. 774. 5700  
FAX 425. 774. 0829  
ERGOMETRICS.ORG

  
APPROVED AS TO FORM  
ASSISTANT DISTRICT ATTORNEY

# Statement of Terms

## 1. Scope of Agreement

Ergometrics grants use of the tests to the licensee for the sole purpose of pre-employment and promotional testing. These materials may not be used for training purposes under any circumstances. Authorization to use this test is limited to the licensee's agency. You may not lease, rent, loan, transfer or administer this test to or for any other agency or entity without express written permission from Ergometrics. The test(s) meet and/or exceed all EEOC guidelines and professional standards. Ergometrics will provide general validation reports upon request. In the event of challenge, Ergometrics will provide expert testimony at its regular consulting rates. Ergometrics assumes no liability for the use or misapplication of this product.

## 2. Copyright

The test is owned by Ergometrics and protected by United States copyright laws and international treaty provisions. The Licensee is not authorized to copy any videos or DVD's. Printed materials may only be copied with express permission from Ergometrics and may only be used as designated by Ergometrics.

## 3. Security

Licensee will maintain strict security of these tests in accordance with accepted security practices and those incorporated herein. All copies of test materials and any associated confidential documents such as answer sheets are to be stored in a secured location and accounted for at all times. Authorized copying of test materials will be personally monitored by an individual responsible for test security. Test materials and any trash containing confidential material will be handled with complete security.

## 4. Implementation

Licensee certified that it is experienced in test administration and qualified to administer these materials. Ergometrics will provide the licensee general written or telephone instructions on the administration, use and scoring of this test. Ergometrics warrants that the video, audio, and printed materials are free from defects in material and workmanship.

Some DVD players will have incompatibilities with the DVD format provided. There may be some skipping, stopping or other difficulties experienced. We suggest playing all DVD's, each time, prior to playback and check for deep or excessive scratches. Check DVD's prior to test administration on the machine that will be used for testing

## 5. Test Security

Test users should always observe security precautions when dealing with tests. Your test licensing with Ergometrics requires that you conform to specific test security procedures. Basic test security precautions include preventing materials from being stolen, copied, or otherwise compromised. This can be done by establishing responsibility and following conventional test security procedures. Ergometrics maintains the right to, at any time; verify the whereabouts of testing materials maintained by the Licensee and request written documentation of the chain of responsibility outlined in the Test Security Agreement.

## 6. Security Precautions

### *a. Maintain an uninterrupted chain of responsibility*

Test copies, keys and any other confidential parts of tests must always be the responsibility of a clearly defined person. This person must sign for test materials and be responsible for the security of the test whereabouts at all times. Logs must be maintained that show who had responsibility for the tests during what time. This includes keeping records of who is responsible for the materials in their normal storage location and to whom they are temporarily checked out. There must be no time when the tests are not someone's responsibility and properly accounted for.

### *b. Keep materials in a secure area or with the responsible person*

Tests and related parts must be stored in secure areas where there is limited, recorded access. Tests must not be left unattended on a table or on someone's desk, even for a few minutes. If tests are not in use, they must be under lock and key.

### *c. Protect materials from computer based theft*

Any Ergometrics' materials that are maintained on computer must be kept on a *stand alone* computer that is secured from unauthorized users. The only persons authorized to access these materials are those directly involved in managing and administering the product.

### *d. Obtain Certification of Compliance with Confidentiality and Copyright before allowing applicants to take tests*

To avoid problems by obtaining Certification of Compliance with Confidentiality and Copyright before allowing applicants to take tests.

### *e. Maintain security during testing*

Monitor all test sessions in progress, being alert to ways that individuals could steal, copy or in any other way compromise the confidentiality, copyright test materials. Number test booklets or test parts that are given to applicants so that if something turns up missing you can tell whose it was. Have applicants initial for the parts that they are receiving. Check applicants in and out of the test session one at a time, making sure that all test parts are accounted for. Restrict movement of applicants in and out of the testing area when tests are in progress. If an applicant must leave for any reason, check materials back in first. Be alert for individuals who may be attempting to take notes, speak notes into a recorder or surreptitiously make recordings of tests. Cell phones are not allowed in plain sight during the test administration. They must be put away and turned off or in the event of any applicant being on-call or needing to be paged, they must be checked into the test administrator prior to the test session. Collect and destroy scratch paper. Make sure that any authorized visitors or observers are aware of all security precautions. No one, other than the official test monitor, should take notes or any other confidential materials from a testing room.

### *f. Protect materials from organized attempts at compromise*

Educational institutions, unions or other groups affected by testing have been known to organize attempts to reproduce product materials. Even if the reproductions are crude, they still constitute copyright violation. Many lawsuits over such matters have been brought and won by testing companies and organizations. Let local organizations know that any such acts will not be lightly tolerated. Send them copies of the Certification of Compliance with Confidentiality and Copyright. Call Ergometrics immediately if you discover organized attempts to compromise materials. We can technically analyze the severity of the violation and will not hesitate to take legal action to rectify the situation.

### *g. If a test is taken*

If the above procedures are observed, theft or attempted theft of test items is a very rare event. Should someone take a test or key, the following guidelines apply. Theft of a valuable item is a police matter. If you have reasonable information as to who the suspect is and that person is present, presumable with the test materials on their person, detain that person and phone the police. Any one of the following are reasonable circumstances for

detaining someone. You or another staff member witnessed the theft. Someone else, such as another applicant, identifies the culprit (if two are accusing each other it is reasonable to detain both because both have been identified). A numbered booklet is missing that is checked out to a specific person. There are other circumstances that may reasonably point to a particular person or persons. If you have reasonable information to suspect someone, detain the person and phone the police. Be polite to suspects while you wait for authorities to arrive. For instance, offer them a cup of coffee and try to make them comfortable. Thank them for their cooperation.

**h. Never discuss specific test questions or answers**

The content of test questions is confidential and copyrighted. Do not discuss specific questions or answers with anyone, including applicants or even others in the organization, except in the course of formal research and test design. Any conversations about test content must be conducted formally in conjunction with Ergometrics.

**i. Obtain Test Security Agreement from all responsible individuals**

Document that all employees who deal with test materials or applicants understand their responsibility in maintaining security. Maintain on file signed copies of the form entitled Test Security Agreement Individual Statement of Responsibility from all employees whose job in any way can impact test security. This includes test administrators, human resource management staff, any employees who have responsibility for the security of confidential materials in storage, etc.

**j. Obtain written consent from Ergometrics prior to subcontracting**

Ergometrics' test materials are licensed for use by your organization only. Contact Ergometrics if your organization is considering subcontracting test administration or other services that involve the outside handling of Ergometrics' test materials. This has been acceptable in some cases, however, security arrangements must be formally established. Your organization will remain fully responsible for the security of materials that are handled in this manner.

**7. Termination**

This Agreement may be terminated in whole in the event that the Licensee or Ergometrics breaches any material provision of this Agreement and fails to cure such breach within thirty (30) days after the non-breaching party delivers written notice of such breach to the breaching Party upon termination, Ergometrics will be entitled to payment, determined on a pro rata basis for services performed or rendered and all test materials must be returned immediately to Ergometrics once the Licensing Agreement has been terminated. At the end of the license period, Ergometrics will automatically renew the license period unless written notification has been received of intent to cancel the agreement prior to expiration and all test materials have been returned.

**8. Events Upon License Expiration or Termination**

**a. Annual License**

Upon any termination or expiration of this Agreement for any reason, Licensee will cease use of all testing materials and return such materials within 15 days of expiration or termination of license. If testing materials (video tapes, test originals, test booklets, etc.) are not returned within 15 days of expiration or termination, Ergometrics will invoice for another license term. Ergometrics will continue to license until such time that all testing materials under this agreement have been returned. Ergometrics will prorate license fees upon return of all Ergometrics' testing materials as of the date in which they are returned in the event the materials are returned after the license expiration.

In the event that test materials are lost stolen or neglected to be returned by the licensee, Ergometrics may pursue legal actions regarding any breach of security incorporated herein and/or agreement of license term (Attachment A, to be created at time of test order).

**b. Per Applicant License**

Upon any termination or expiration of this Agreement for any reason, Licensee will cease use of all testing materials and return such materials within 15 days of expiration or termination of license. **If testing materials** (video tapes, test originals, test booklets, etc.) are not returned within 15 days of expiration or termination, Ergometrics **will** invoice \$25 for every 15 days overdue. Ergometrics will continue to invoice until such time that all testing materials under this agreement have been returned. In the event that test materials are lost stolen or neglected to be returned by the licensee, Ergometrics may pursue legal actions regarding any breach of security incorporated herein and/or agreement of license term (Attachment A, to be created at time of test order).

This is a legal agreement between the Licensing Agency and Ergometrics and Applied Personnel Research, Inc. By accepting the Ergometrics performance evaluations for use, you are agreeing to the terms of this agreement.

**Authorized Contacts**

Please list in addition to the Principal Signer anyone who is authorized to receive materials, scores or discuss scores with Ergometrics.

Authorized Contact

Title

Telephone

Email

Authorized Contact

Title

Telephone

Email

Return to:  
Ergometrics &  
Applied Personnel Research, Inc.  
18720 33<sup>rd</sup> Avenue West  
Lynnwood, WA 98037  
FAX: 425-774-0829  
Or email to:  
[karas@ergometrics.org](mailto:karas@ergometrics.org)

*Failure to return the signed licensing agreement,  
will delay the processing of your order.*

For Office use only:

Product: \_\_\_\_\_

Highrise: \_\_\_\_\_

Exam HQ \_\_\_\_\_

Notes: \_\_\_\_\_

**Tulsa County Sheriff's Department  
Licensing Agreement  
Attachment A**

**Pricing**

ECOMM National Annual License:

Annual Base Cost: \$1,000

Renewal Cost: \$800

*(subsequent licenses will include a 20% discount if renewed before the license expiration)*

Scoring will be charged at a \$25 minimum or \$3.00 per applicant for diagnostic scoring (video test) and \$7.00 per applicant (computer administered testing). Licensee will be responsible for all associated freight expenses.

**Term of Agreement**

The service agreement will begin and end on the following dates:

Start Date	End Date
July 1, 2017	June 30, 2018

Upon any termination or expiration of this Agreement for any reason, Licensee will cease use of all testing materials and return such materials within 15 days of expiration or termination of license. If all testing materials (video tapes, test originals, test booklets, etc) are not returned within 15 days of expiration or termination, Ergometrics will invoice for another license term. Ergometrics will prorate license fees upon return of all Ergometrics' testing materials if materials are returned after the license expiration. In the event that test materials are lost, stolen or neglected to be returned by the licensee, Ergometrics reserves the right to pursue legal actions regarding any breach of security and/or agreement of license term.