Test Licensing Agreement

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

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 confidential, 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, presumably with the test materials on their person call the police. Ask the person to remain in the lobby, but under no circumstances can you detain the candidate against their will. Any one of the following is a reasonable circumstance for reporting suspected theft: 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

a. 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.

b. Termination for Convenience: This agreement may be terminated at any time at the option of either party, without future or prospective liability for performance upon giving ninety (90) days written notice thereof.

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).

9. No Waiver

The waiver or failure of either Party to exercise in any respect any right provided in this Agreement shall not be deemed a waiver of any other right or remedy to which the party may be entitled.

10. Entirety of Agreement

The terms and conditions set forth herein constitute the entire Agreement between the Parties and supersede any communications or previous agreements with respect to the subject matter of this Agreement. There are no written or oral understandings directly or indirectly related to this Agreement that are not set forth herein. No change can be made to this Agreement other than in writing and signed by both Parties.

11. Headings in this Agreement

The headings in this Agreement are for convenience only, confirm no rights or obligations in either party, and do not alter any terms of this Agreement.

12. Severability

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

13. No Waiver of Sovereign Immunity or Powers

Nothing in this agreement will be deemed to constitute a waiver of sovereign immunity or powers of licensee, the Williamson County Commissioners Court, or the Williamson County Judge.

14. Texas Prompt Payment Act Compliance

Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date licensee receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by licensee in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of licensee's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

15. Good Faith

Ergometrics agrees to act in good faith in the performance of this agreement.

16. Venue and Governing Law

Venue of this contract shall be Williamson County, Texas, and the law of the State of Texas shall govern.

17. Right to Audit

Ergometrics agrees that licensee or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Ergometrics which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Ergometrics agrees that licensee shall have access during normal working hours to all necessary Ergometrics facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. licensee shall give Ergometrics reasonable advance notice of intended audits.

Test Licensing Agreement

This is a legal agreement between the Licensing Agency (Licensee) and Ergometrics and Applied Personnel Research, Inc. By accepting the Ergometrics test materials for use, you are agreeing to the terms of this agreement and that you have authority to enter into such an agreement on behalf of the Agency.

Licensee

Principal Signer _____ Date _____

Signature _____

Title _____

Agency Name _____

Physical Address _____

City _____ State _____ Zip _____

Telephone _____ EMail _____

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 33rd Avenue West
Lynnwood, WA 98037
FAX: 425-774-0829
Or email to:
chantelle@ergometrics.org

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

For Office use only:

Product: _____

License Type: _____

Highrise: _____

Exam HQ: _____

Notes: _____

Kara Swank
K Swank
Client Services Lead
11/2/16

Williamson County Emergency Communications
Licensing Agreement
Attachment A

Pricing

ECOMM National Annual License:
Annual $5,500

Scoring will be charged at a $25 minimum batch fee or $3.00 per applicant for standard and diagnostic scoring. 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
10.03.16	10.03.17

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.