

# CONSULTANT/CONTRACTED SERVICE REQUIRED SIGNATURES

1. **\$1 – \$5,000**
  - Consultant/consulting company
  - AAPS Budget Manager
2. **\$5,001 – Bid Index Limit\***
  - Consultant/consulting company
  - AAPS Budget Manager
  - Cabinet Level Supervisor
3. **Over Bid Index Limit\* – \$100,000**
  - Consultant/consulting company
  - AAPS Budget Manager
  - Cabinet Level Supervisor
  - Superintendent (or designee)

4. **Over \$100,000**

Consultant services beyond \$100,000 **require** Board of Education approval. **NO** contract commitments may be made until Board of Education approval has occurred.

**Bid Index Limit for FY10 is \$20,998**

(Call Purchasing and Business Support Services to verify amount for the fiscal year).

**NOTE:**

A contract must be signed by the budget manager and the consultant/consulting firm before a PO is written and before service is rendered.

Revised required signatures as approved by the Superintendent and Deputy Supt. For Operations, May 28, 2008

## ANN ARBOR PUBLICS SCHOOLS

### CONSULTANT/CONTRACTOR TERMS AND CONDITIONS

1. Termination. Either party may, by written notice delivered to the other party, terminate this Agreement prior to expiration of the term hereof for the following reasons: (i) the breach of this Agreement by the other which breach is not cured within ten (10) days after written notice of such breach is sent; (ii) the dissolution or bankruptcy of a party; or (iii) embezzlement or fraud, dishonesty, lying, cheating, defrauding or deceiving in the performance of the other party's obligations hereunder. Notwithstanding such termination, any liability or obligation of either party, which may have accrued prior to such termination, shall continue in full force and effect.
2. Independent Contractor. Consultant/Contractor expressly acknowledges that his status under this Agreement shall be that of an independent contractor, and not that of an agent or employee of AAPS, for all purposes, including without limitation payment of social security, withholding and any other taxes imposed by state or federal law.
3. Confidentiality and Proprietary Information: Work for Hire. Consultant/Contractor acknowledges and agrees, and shall cause individuals provided by Consultant/Contractor to perform the Services to acknowledge and agree, to the following:
  - a) The Services and all documentation relating thereto (including this Agreement and its terms), reports prepared by Consultant/Contractor relating to AAPS or the Services, and information provided by AAPS to Consultant/Contractor is privileged and confidential. Consultant/Contractor agrees to use all due care to safeguard information provided by AAPS and to prevent the unauthorized use or disclosure thereof.
  - b) Consultant/Contractor shall, upon completion of the tasks assigned pursuant to this Agreement, upon termination of this Agreement or upon demand, return any and all information (including any copies or reproductions thereof) in his possession or control to AAPS.
  - c) Consultant/Contractor agrees and warrants that for the duration of this Agreement, and for five (5) years thereafter, neither Consultant/Contractor nor any of its employees, agents and contractors will disclose, copy, use, deliver or otherwise make available to any person or entity, directly or indirectly, or use in any way without the express prior written consent of AAPS (except as necessary to perform duties assigned to Consultant/Contractor by AAPS), any information of AAPS which is confidential and proprietary to, and/or trade secret of, AAPS. The foregoing restriction shall apply to all such information, whether created by Consultant/Contractor or received directly or indirectly by Consultant/Contractor for AAPS during the term of this Agreement.
  - d) Any reports, compilations, records, or other work product produced by Consultant/Contractor for AAPS under this Agreement shall be conclusively deemed to be a work for hire, and all rights thereto, whether copyright or otherwise shall be, and the same hereby are, assigned irrevocably to AAPS.

e) Consultant/Contractor agrees to adhere to all Board Policies and laws including FERPA, Non-Discrimination and Harassment.

4. Employment of Personnel. Consultant/Contractor may employ other persons to assist in the performance of the Services and shall be responsible for, and in full control of, the work of such personnel. *Consultant/Contractor* shall be solely responsible for the actions or omissions, for filing all necessary forms and returns, and for making all required payments to all relevant governmental authorities for itself and its agents and employees. Consultant/Contractor must comply with the School Safety Initiative Public Act 680 of 2006, including MCL 380.1230 et seq. If Consultant/Contractor is assigned to "regularly and continuously" work in any school (in a classroom, elsewhere on school property, or on a school bus or school related vehicle) Consultant/Contractor shall provide results of a LiveScan FBI/Michigan state police fingerprint check.

5. No Authority to Bind. Consultant/Contractor shall have no power or authority to execute any agreements or contracts for or on behalf of AAPS nor to bind AAPS in any other manner.

6. Indemnification. Consultant/Contractor shall indemnify and hold AAPS harmless from any liability, claim, loss, damage, or expenses, including reasonable attorney fees, arising from Consultant's/Contractor's acts or omissions in the course of providing the Services.

7. No Assignment. This Agreement may not be assigned by Consultant/Contractor without the prior written consent of AAPS.

8. Binding Effect. This Agreement shall inure to the benefit of and be binding upon, the parties and their respective heirs, personal representatives, successors, as applicable, and permitted assigns but shall not inure to the benefit of any third parties.

9. Amendment. This Agreement may not be amended except by mutual written agreement of the parties.

10. Notices. All notices, requests, demands and other communications shall be in writing and shall be deemed to have been duly given or made if delivered by hand, in which case notice will be deemed effective upon receipt, or, if by mail by certified or registered mail, with postage prepaid to the address of such party set forth above or to such address directed by a party in writing, in which case notice will be deemed effective upon mailing.

11. Enforcement and Dispute Resolution. This Agreement shall be construed and enforced in accordance with the laws of the State of Michigan. Any and all disputes, controversies or claims arising out of or in connection with or relating to this Agreement, or any breach or alleged breach thereof, shall, at the request of either party, be submitted to and settled by arbitration in the State of Michigan pursuant to the rules, then in effect, of the American Arbitration Association (or at any other place or under any other form of arbitration mutually acceptable to the parties involved). The parties hereto specifically agree to arbitrate with the other party in a joint proceeding with regard to all common issues and disputes, and to permit pre-hearing discovery in the time and manner provided by the then applicable Michigan Court Rules. This Agreement to arbitrate shall be specifically enforceable under the prevailing arbitration

law. Notice of the demand for arbitration shall be filed, in writing, with the other party to this Agreement and with the American Arbitration Association. The demand for arbitration shall be made within six (6) months after the claim, dispute, or other matter in question arose where the party asserting the claim should reasonably have been aware of the same.

The arbitrator shall have no power to add to, subtract from, or alter the terms of this Agreement, and shall render a written decision setting forth findings and conclusions only as to the claims or disputes at issue. The expenses of any arbitration shall be borne equally by the parties to such arbitration, provided that each party shall pay for and bear the costs of its own experts, evidence and counsel's fees.

Any award by the arbitrator shall be final and conclusive upon the parties, and a judgment thereon may be entered in the highest court for the forum, state or federal, having jurisdiction.

12. Non-Assignment. Neither party may assign this Agreement, nor its rights and duties hereunder, nor any interest herein without prior written consent from the other.

13. Severability. If any provision of the Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement shall not in any way be affected, impaired or prejudiced thereby.

14. Headings and Titles. Any article or section headings in this Agreement are for convenience of the parties only and in no way alter, modify, amend, limit or restrict contractual obligations of the parties.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which constitutes one and the same Agreement.

16. No Third Party Beneficiary. Nothing in this Agreement shall be intended to confer third party beneficiary status or rights, pursuant to MCL 600.1405 or under the common law, to any person or entity that is not a party to this Agreement.

## ANN ARBOR PUBLIC SCHOOLS PURCHASE ORDER TERMS & CONDITIONS

These Purchase Order Terms & Conditions (the "Terms & Conditions") apply to all purchase orders issued by THE PUBLIC SCHOOLS OF THE CITY OF ANN ARBOR ("AAPS").

1. Purchase Order. Any purchase order issued by AAPS shall be subject to these Terms and Conditions. Vendor's provision of goods or services to AAPS shall constitute acceptance to these Terms & Conditions. No additional terms shall be made a part of these Terms & Conditions, or of any offer made by AAPS to Vendor, without the express written consent of AAPS.
2. Warranty. Vendor warrants all goods which it may sell to AAPS for a period of one (1) year against defects in design, materials, and workmanship. The warranty period shall start at the later of the date of the completion of delivery or date of completion of installation, and during such warranty period all costs for parts and labor for repairs shall be borne by the Vendor.
3. Preemption. In the event of conflicting provisions among the purchase order, these Terms & Conditions, and Vendor's proposal/quote, provisions from the following documents will control in the order listed herein: (a) the purchase order, (b) these Terms & Conditions, and (c) Vendor's proposal/quote, with the purchase order superceding any conflicting terms in the other documents.
4. Payment Terms. Payment shall be made by AAPS within thirty (30) days of the latest of the date of the completion of delivery, the date of completion of installation, or the date of the receipt of an original invoice at P.O. Box 1188, Ann Arbor, Michigan 48106.
5. Delivery. In the event a good or service to be supplied by Vendor is not delivered to the location and by the date specified, if any, on the AAPS purchase order relating to such good or service then such failure shall entitle AAPS to refuse acceptance of further deliveries of goods or to cancel its contract with Vendor in whole or in part. All goods provided by Vendor must be delivered to AAPS between the working hours of 8:00 a.m. and 3:00 p.m.
6. Compliance with Regulations. Vendor shall comply with the following provisions:
  - (a) Nondiscrimination. Vendor, Vendor's contractors and subcontractors may not discriminate against any employee or applicant for employment because of race, creed, color, gender, national origin, or age except where based on a bona fide occupational qualification.
  - (b) Disclosure of Conflicts of Interest. Vendor must disclose in writing whether, to its actual knowledge, any member of the AAPS Board of Education or any AAPS employee or member of the immediate family of the member of the AAPS Board of Education or the AAPS employee possesses a Financial Interest in Vendor or receives a benefit, bonus, commission, payment, consideration, or item of value from Vendor as a result of the transaction of

business with AAPS. Such written disclosure must be submitted to AAPS by Vendor prior to the delivery of goods. If such conflict of interest is discovered subsequent to the delivery of Vendor's goods, written disclosure must be submitted to AAPS within seven (7) business days of discovery. AAPS reserves the right to terminate any contract with a Vendor immediately upon the notification of a conflict of interest. Upon such termination, AAPS shall compensate the Vendor only for the value of any goods or services provided to AAPS prior to such termination.

(c) Definitions. For purposes of these Terms & Conditions, the following definitions apply:

(i) A "Financial Interest" shall be defined as a relationship wherein (1) an AAPS employee or a member of his or her immediate family is a partner, member, director, or officer of the Vendor, or (2) the AAPS employee or his or her family member owns not less than one percent (1%) of any class of stock in the Vendor or an amount of stock having a total market value in excess of \$25,000.00.

(ii) "Domestic Partner" shall be defined as provided in Chapter 110 of the City Code of the City of Ann Arbor, as the same may be amended from time to time.

(iii) "Immediate family" shall be defined as a spouse, the in-laws of a spouse, parent, the in-laws of a parent, child, the in-laws of a child, sibling, the in-laws of a sibling, grandparent, the in-laws of a grandparent, aunt, the in-laws of an aunt, uncle, the in-laws of an uncle, first cousin, the in-laws of a first cousin, the domestic partner, or any of the foregoing familial relations listed herein of the domestic partner of an AAPS employee.

7. Purchase Order Requirements. All purchase orders must be in writing, possess the signatures of the then current AAPS Director of Purchasing and Business Support Services and Finance Director, and be in the standard form from time to time used by AAPS (see attached Exhibit "A" for current example). Oral purchase orders shall not be valid. All purchase orders shall be delivered to AAPS at: P.O. Box 1188, Ann Arbor, Michigan 48106. All purchase orders above the State of Michigan's bid index amount must include a valid AAPS Board of Education annex number.

8. AAPS as Offeror. Any price quotes provided by Vendor for its goods/services shall be treated as for informational purposes only and not as an offer. AAPS shall be treated as the offeror in all contracts between AAPS and Vendor.

9. Invoices. All original invoices sent by Vendor to AAPS must reference the identification number from the corresponding purchase order. All of Vendor's original invoices shall be sent to AAPS at: P.O. Box 1188, Ann Arbor, Michigan 48106.

10. Default by Vendor and AAPS Remedies. In the event that Vendor defaults by failing, at any time, to comply with its obligations under the provisions of these Terms & Conditions or any other contract with AAPS, then AAPS reserves the right to

immediately terminate any and all contracts with Vendor in whole or in part. Such right of termination is in addition to any other rights provided to AAPS under law or equity.

11. Entire Agreement. Each contract between AAPS and Vendor shall consist of (a) these Terms & Conditions, (b) the AAPS purchase order, and (c) any written price quote issued by Vendor. Such documents constitute the entire contract between the parties with respect to the subject matter hereof.

12. Assignment. Vendor shall not have the right to assign or otherwise transfer its rights and obligations under any agreement with AAPS except with the prior written consent of AAPS. Any prohibited assignment shall be null and void.

13. Notices. Notices permitted or required to be given hereunder shall be deemed sufficient if given by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective addresses of the parties as first above written or at such other addresses as the respective parties may designate by like notice from time to time. Unless specified otherwise herein in connection with any particular notice, notices so given shall be effective upon receipt by the party to which notice is given.

14. Amendment. These Terms & Conditions shall not be deemed or construed to be modified, amended, rescinded, canceled or waived, in whole or in part, except by written amendment signed by the parties hereto. Any modification or amendment shall be effective only upon the issuance by AAPS of a revised purchase order and the conveyance of the same to the Vendor.

15. Severability. In the event that any of the terms of these Terms & Conditions are in conflict with any rules of law or statutory provision or are otherwise unenforceable under the laws or regulations of any government or subdivision thereof, such terms shall be deemed stricken from these Terms & Conditions.

16. Governing Law. These Terms & Conditions shall be governed under the laws of the State of Michigan.

17. Dispute Resolution. Any and all disputes, controversies or claims arising out of or in connection with or relating to this Purchase Order, or any breach or alleged breach thereof, shall, at the request of either party, be submitted to and settled by arbitration in the State of Michigan pursuant to the rules, then in effect, of the American Arbitration Association (or at any other place or under any other form of arbitration mutually acceptable to the parties involved). The parties hereto specifically agree to arbitrate with the other party in a joint proceeding with regard to all common issues and disputes, and to permit pre-hearing discovery in the time and manner provided by the then applicable Michigan Court Rules. This Agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. Notice of the demand for arbitration shall be filed, in writing, with the other party to this Agreement and with the American Arbitration Association. The demand for arbitration shall be made within six (6) months after the claim, dispute, or other matter in question arose where the party asserting the claim should reasonably have been aware of the same.

The arbitrator shall have no power to add to, subtract from, or alter the terms of this Agreement, and shall render a written decision setting forth findings and

conclusions only as to the claims or disputes at issue. The expenses of any arbitration shall be borne equally by the parties to such arbitration, provided that each party shall pay for and bear the costs of its own experts, evidence and counsel's fees.

Any award by the arbitrator shall be final and conclusive upon the parties, and a judgment thereon may be entered in the highest court for the forum, state or federal, having jurisdiction.

Revised: June, 2008

Reviewed by D. Comsa, HRS

LND

**EXHIBIT "A"**

Vendor: [Vendor Number]

PURCHASE ORDER  
ANN ARBOR PUBLIC SCHOOLS  
FINANCE DEPARTMENT  
P.O. BOX 1188  
ANN ARBOR, MI 48106  
(000) 000-0000

P/O #: [PO Number]

TO: [Vendor Name]  
[Vendor Address]

SHIP TO: [AAPS LOCATION TO BE NAMED]  
FED ID #00-0000000 TAX EXEMPT

ANN ARBOR, MI 4810\_\_  
(734) \_\_\_\_ - \_\_\_\_  
ATTN: [AAPS Employee Name]

Date: [Date]    Required: [Date]    Include Shipping    Req: [Req. No.]

QUANTITY	DESCRIPTION	DISCOUNT	UNIT PRICE	TOTAL
[No. of items]	[Item description]	[Discount]	[Unit price]	[Total price]

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TOTAL[Total price]

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ACCOUNT  
[Account Number]

AMOUNT  
[Total amount]

[Signature] \_\_\_\_\_  
Finance Director

[Signature] \_\_\_\_\_  
Purchasing Director