

AGREEMENT

This AGREEMENT is made as of this day of August, 2013 by and between the THE RANDLOLPH TOWNSHIP BOARD OF EDUCATION (hereinafter "BOARD"), with principal administrative offices located at 25 School House Road, Randolph, New Jersey 07869 (hereinafter "the DISTRICT") and EQUIPMENT INCORPORATED (hereinafter "TEQ"), with principal administrative offices located at 7 Norden Lane, Huntington Station, New York 11746.

RECITALS

WHEREAS, the BOARD has determined it would like to purchase advanced proprietary hardware and software which will provide a combination of advanced digital educational features and a security alert system in one fully integrated package; and

WHEREAS, the BOARD has determined that the proprietary Safari Montage system (hereinafter "Montage System") when combined with the advanced features developed by a company known as Audio Enhancement is the only fully integrated education/security system that allows for the full interaction of the digital education features of the Montage System with other advanced educational and security systems developed by Audio Enhancement; and

WHEREAS, the BOARD has determined that the purchase of the Montage System in combination with the advanced features known as the VIEWpath and SAFE Systems, both developed by Audio Enhancement, will best meet the Board's needs; and

WHEREAS, TEQ is an authorized reseller of the Montage System in New Jersey, which can be purchased under New Jersey State Contract #T0114, Vendor #80922; and

WHEREAS, TEQ is the only certified reseller authorized by Audio Enhancement/Panasonic to represent, sell, install and service the SAFE and VIEWpath Systems in New Jersey; and

WHEREAS, the Montage System will allow the BOARD to access educational digital video titles designed for K-12 school Board use; and

WHEREAS, the Montage System allows for full integration with the VIEWpath System, which will allow teachers and others to record events in the classroom and store the recorded information on the Montage System, thereby providing a teaching tool by allowing other people to view lessons and other activities in the classroom from a remote location; and

WHEREAS, the Montage System allows for full integration with the SAFE System which allows school personnel, including teachers, to instantly alert others regarding security problems in the classroom; and

WHEREAS, pursuant to N.J.S.A. 52:32-44, TEQ has provided a copy of its Business Registration Certificate;

WHEREAS, pursuant to N.J.S.A. 19:44-20.26, TEQ has provided a fully executed C.271 Political Disclosure Form; and

WHEREAS, pursuant to N.J.S.A. 34: 11-56.48 et seq., TEQ has provided a valid copy of its Public Works Contractor Registration Certificate.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the BOARD and TEQ agree as follows:

1. Recitals.

The foregoing recitals are incorporated by reference herein.

2. Term.

This Agreement shall commence on August 1, 2013 or upon receipt of a Board purchase order, whichever is later. All installation work and training provided by TEQ shall be completed by September 30, 2013 or as soon thereafter as is possible. TEQ will promptly perform all services hereunder and will exert its best efforts to perform same. After commencement of the 2013-2014 school year, no installation work will take place during the District's school hours when classes are in session.

3. Scope of Services.

3.1 The Board will purchase the Montage System, SAFE System and VIEWpath System equipment (collectively, "the System"), including, but not limited to, one (1) Montage Server, one (1) Manager/Head-End License and four (4) Manager/Client Licenses, along with appropriate school licenses and other necessary equipment, sufficient for installation of one system at each of the four (4) District elementary schools – Center Grove, Fernbrook, Ironia and Shongum, in accordance with the prices set forth in TEQ's Quotation Numbers 70797 and 73244, (Exhibit A). Exhibit A is incorporated into this Agreement as if fully set forth at length herein.

3.2 TEQ shall provide the installation and training services set forth in Exhibit A in accordance with the pricing included therein.

3.3 The Statement of Work, attached hereto as Exhibit B, sets forth the nature and scope of the installation services. Exhibit B is incorporated into this Agreement as if fully set forth at length herein.

3.3 All listed Montage System equipment is priced in accordance with State Contract #T-0114 (Vendor #80992).

3.4 All Software licenses listed in Exhibit A are subject to the software license agreements associated with each license.

3.5. The installation of the System shall be coordinated with the District Technology Staff to ensure proper placement and operation.

4. Terms of Payment.

4.1 The Board shall pay TEQ the sum of Ninety Thousand, Two Hundred Thirty-Three Dollars (\$90,233.00) for all of the equipment and services listed in Exhibit A.

4.2 The Board will not pay for any goods or services received unless a Board purchase order authorizing such purchases is delivered to TEQ prior to the services rendered. TEQ will honor all of the terms and pricing stated on the purchase order.

4.3 TEQ shall submit an Application for Payment to the Board's Business Administrator no later than the twenty-fifth day of the month to allow for payment in accordance with the Board's billing cycle during the following month. All Applications for Payment shall be reviewed by the Board's technical staff before payment and shall be returned to TEQ with requested modifications if it appears that the Application for Payment is not consistent with the completed work claimed therein. Payment will be made to TEC no later than ten (10) days following the approval of the Payment Request by the Board.

5. Confidentiality.

TEQ agrees to maintain the confidentiality of all confidential and proprietary information to which it gains access during the course of engagement by the Board. TEQ further agrees not to divulge or allow the disclosure of any confidential/proprietary information to third parties except as may be required to perform the services hereunder. For the purposes of this Agreement, "confidential/proprietary information" includes all information that is not in the public domain, not generally available to the public, and which the Board considers to be or designates as confidential or proprietary.

6. Insurance.

6.1 TEQ and any subcontractors it retains to perform the installation work shall maintain insurance coverage for comprehensive general liability insurance by a carrier that is licensed to provide such coverage in the State of New Jersey. TEQ expressly understands and agrees that any insurance protection required by this Agreement shall in no way limit its obligations assumed in this Agreement, and shall not be construed to relieve TEQ from liability in excess of such coverage.

6.2 The required insurance shall include:

Commercial General Liability Insurance – This insurance shall cover any and all bodily injury and property damage arising out of or in connection with the Work performed hereunder. The primary policy shall include coverage for contractual liability, products, completed operations in an amount not less than \$2,000,000.00 (Two Million Dollars), except and unless another amount is agreed upon in writing by both the Board and TEQ. The Excess policy shall provide the same coverages as the primary and shall provide coverage in an additional amount not less than \$3,000,000.00 (Three Million

Dollars). The Randolph Township School District shall be named as an additional insured with specific regard to the installation work carried out at each elementary school.

Comprehensive Automobile Liability Insurance - This insurance shall cover any and all owned, non-owned, hired or borrowed vehicles, covering bodily injury and property damage. Such coverage shall be in an amount of \$2,000,000.00 (Two Million Dollars) combined single limit.

Worker's Compensation Insurance maintained in accordance with the laws of the State of New Jersey for all full time and part time employees with New Jersey statutory benefits with a minimum of \$1,000,000.00 for employers liability.

Professional Liability/Errors and Omissions Insurance – This policy shall include coverage of no less than \$5,000,000.00.

6.3 All insurance required shall be issued by insurance companies authorized to do business in the State of New Jersey and rated as “A-” or better as determined by A.M. Best Company.

6.4 A certificate of insurance evidencing the coverages required shall be submitted to the Board for approval prior to the commencement of the Work. The certificate must be submitted on the ACCORD Form Certificate of Insurance. If requested by the Owner, TEQ shall provide complete copies of any policies of insurance required by this Contract to be obtained by TEQ.

6.5 The continued maintenance of insurance coverage shall be a condition precedent to the Owner's obligation to pay under the Contract. Insurance coverages shall be maintained without interruption from the date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment. Each policy shall contain a provision that the policy will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to the Owner.

7. Catastrophe.

Neither TEQ nor the Board shall be liable for failure to perform its respective obligations under this Agreement when such failure is caused by fire, explosion, water, act of God, civil disorder or disturbance, vandalism, war, riot, sabotage, weather and energy related closings, governmental rules or regulations, failure of third parties to perform their obligations with respect to the Services, or like causes beyond the reasonable control of such party, or for real or personal property destroyed or damaged due to such causes.

8. Termination.

8.1 For Cause. If TEQ fails to comply with any of the obligations required of it in this contract and, following receipt of written notice specifying the failure, fails to remedy and cure such failure within fifteen calendar days (15) of written notification, then the

Board will have the right to terminate the contract immediately upon giving an additional fifteen (15) days prior written notice of that intention.

8.2 For Convenience. The Board may terminate this Agreement, in whole or in part, at any time upon ten (10) days written notice to TEQ. In the event of such termination, TEQ shall receive payment in accordance with this Agreement, up to the date of termination, subject to any and all adjustments pursuant to this Agreement or as provided by law.

8.3 Notwithstanding the above, TEQ will not be relieved of liability to the Board for damages sustained by the Board by virtue of any breach of this Agreement by TEQ and the Board may withhold any payments to TEQ for the purpose of compensation until such time as the exact amount of the damages due the Board from TEQ is determined.

8.4 TEQ agrees to indemnify and hold the Board harmless from any liability to subcontractors/suppliers concerning payment for work performed or good supplied arising out of the lawful termination of this Agreement by the Board under this provision.

8.5 Upon termination of this Agreement, all outstanding undisputed amounts shall be paid to TEQ.

9. Business Registration Certificate and Use Tax.

9.1 TEQ shall provide written notice to its subcontractors and suppliers of the responsibility to submit proof of business registration in the State of New Jersey to TEQ. The requirement of proof of business registration extends down through all levels (tiers) of the Project.

9.2 Before final payment on the contract is made by the Board, TEQ shall submit an accurate list and the proof of business registration in the State of New Jersey of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used.

9.3 A business organization that fails to provide a copy of a business registration as required pursuant to Section 1 of P.L. 2001, C. 134 (C.52:32-44 et al.) or subsection E. or F. of Section 92 of P.L. 1977, C.110 (C.5:12-92), or that provides false business information under the requirements of either of those sections, shall be liable for a penalty of twenty-five dollars (\$25) for each day of violation, not to exceed fifty thousand dollars (\$50,000) for each business registration copy not properly provided under a contract with a contracting agency.

9.4 For the term of the Agreement, TEQ, any subcontractor and each of their affiliates, so designated pursuant to N.J.S.A. 52:32-44(g)(3), shall collect and remit to the New Jersey Director of the Division of Taxation in the Department of Treasury, the use tax due pursuant to the Sales and Use Tax Act, N.J.S.A. 52:32B-1, et seq., on all of their sales of tangible personal property delivered into the State of New Jersey, regardless of whether the tangible personal property is intended for a contract with a contracting

agency. For purposes herein, “affiliate” shall mean any entity that: (a) directly, indirectly or constructively controls another entity; (b) is directly, indirectly or constructively controlled by another entity; or, (c) is subject to the control of a common entity. For purposes of the immediately preceding sentence, an entity controls another entity if it owns, directly or indirectly, more than fifty percent (50%) of the ownership interest of that entity.

10. School Ethics Act.

TEQ represents that, to the best of its knowledge, information and belief, none of its employees engaged in conduct that constitutes a conflict of interest under, or a violation of, the School Ethics Act, N.J.S.A. 18A:12-21, et seq., and N.J.A.C. 6A:28-1.1, et seq.

11. Assignment.

TEQ shall not assign the whole or any part of its obligations under this Agreement without the written consent of the Board.

12. Professional Conduct.

TEQ shall comply with all State and federal laws and regulations, Board policies, procedures, rules and regulations in the performance of the services under this Agreement. The Board has the right to require the substitution of particular personnel provided by TEQ under this Agreement.

13. Applicable Laws.

TEQ shall comply with the anti-discrimination provisions of N.J.S.A. 10:2-1 et seq., the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., N.J.S.A. 10:5-31, et seq., N.J.A.C. 17:27-1.1 et seq. and N.J.A.C. 6A:7-1.1 et seq., as well as any and all other applicable state, federal and local law(s), rules, statutes, ordinances and any other applicable law.

14. Governing Law and Jurisdiction.

This Agreement and all of the rights and obligations of the parties shall be governed by the laws and courts of the State of New Jersey. Any claim, dispute or other matter in question arising out of or relating to this Agreement or breach thereof, shall be subject to and decided by a court of competent jurisdiction venued in Morris County, New Jersey. Only upon mutual agreement of both parties to this Agreement may a claim, dispute or other matter be submitted to mediation or arbitration as an alternative to civil litigation.

15. Notices.

Notices regarding disputes or issues under this Agreement shall be in writing and sent to:

Tequipment Incorporated

Attention: Amy Senius
7 Norden Lane
Huntington Station, New York 11746
Tel: (877) 455-9396

Randolph Township Board of Education
Attention: Jennifer Fano, Assistant Superintendent
25 School House Road
Randolph, New Jersey 07869
Tel: (973) 361-0808, Ext. 8208

16. Entire Agreement and Amendment.

This Agreement represents and contains the entire terms of the agreement between the parties, and shall supersede and replace all prior agreements or discussions between the parties. This Agreement cannot be altered or amended except by a signed written instrument executed by the parties.

17. Indemnification.

TEQ shall indemnify and hold harmless the Board, its servants, agents, board members, officials and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from TEQ's performance of the work agreed to and permitted under this Agreement, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused by the intentional acts, negligent acts or omissions of TEQ, anyone directly or indirectly employed by TEQ or anyone for whose acts it may be liable. The provisions of this section 17 shall survive termination of this Agreement.

18. Severability.

The provisions of this Agreement are severable, and the invalidity of any provision shall not affect the validity of any other provision.

19. Waiver.

The failure of either party to enforce at any time any of the provisions of this Agreement shall not be construed to be a waiver of such provisions or of the right of such party thereafter to enforce any such provision. The Board's failure at any time to require strict compliance by TEQ with any of the provisions hereof shall not waive or diminish Board's right thereafter to demand strict compliance therewith.

20. Independent Contractor.

TEQ shall be an independent contractor and shall retain control over its employees and agents. TEQ shall not act as or be the Board's agent, partner or joint venture. TEQ is employed to render the services only, as specified in the Agreement, and any payments made by the Board are compensation solely for such services rendered. Should a court or agency of competent jurisdiction determine that TEQ's services, or the services of its employees, do not qualify it or its employees as independent contractors, TEQ shall indemnify and hold the board, its employees and agents, collectively and individually, harmless for any back taxes, pension contributions, benefit payments, etc., for which the Board may be held responsible

21. Criminal Background Checks and Employee Identification.

21.1 TEQ warrants that there is no criminal history record information on file with the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification, which disqualifies any person providing services hereunder from entering into this Agreement with the Board.

21.2 TEQ shall, in accordance with law, ensure that a criminal background check has been performed on all of its employees, agents and representatives that will provide services under this Agreement. TEQ will provide the Board with all such information in a timely manner.

21.3 All personnel employed by TEQ shall display a personal identification badge while on the school district's premises.

22. Equal Employment Opportunity.

During the performance of this contract, the TEQ agrees as follows:

The TEQ or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the TEQ or subcontractor, where applicable, will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The TEQ or subcontractor, where applicable, agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The TEQ or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of TEQ, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The TEQ or subcontractor, where applicable, will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of TEQ's or subcontractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The TEQ or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The TEQ or subcontractor, where applicable, agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The TEQ or subcontractor, where applicable, agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The TEQ or subcontractor, where applicable, agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the TEQ or subcontractor, where applicable, agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The TEQ or subcontractor, where applicable, shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The TEQ or subcontractor, where applicable, shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

23. Board Approval.

This Agreement is subject to the approval of the Randolph Township Board of Education. Upon such approval, the Board President is authorized to sign this Agreement on behalf of the Board.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their authorized representatives.

Equipment Incorporated

Randolph Township Board of Education

Tammy MacKay, Board President