

**BROKEN ARROW PUBLIC SCHOOLS**  
*Educating Today*  *Leading Tomorrow*

Contract Committee Review Request

**MUST BE COMPLETED IN FULL**

Date: 03/04/2024

Contract/Agreement Vendor:

Name of Vendor & Contact Person

Vendor Email Address

Describe Contract (Technology, program, consultant-prof Development, etc.)

Please use Summary below to fully explain the contract purchase, any titles, and details for the Board of Education to review.

Reason/Audience to benefit

BOE Date Amount of agreement


Person Submitting Contract/Agreement for Review:

**PLEASE SEND THROUGH APPROPRIATE APPROVAL ROUTING BEFORE SENDING TO BOARD CLERK**

Principal &/or Director or Administrator: 

Does this Contract/Agreement utilize technology? YES/NO  NO

If yes, Technology Admin:

Cabinet Team Member: 

Funding Source:

Fund/Project OCAS Coding

**Consent**

**Action**

Accept and APPROVE the new agreement between Broken Arrow Public Schools and e3 Diagnostics for repairs to audiometers at Spring Creek Elementary and Country Lane Intermediate. The repairs will include service, labor, and replacement parts if needed. The cost is not to exceed \$905.50 and will be paid from general fund. / R.Kaiser

**Summary** This area must be complete with full explanation of contract

*The Contract/Agreement should be received at least 2 weeks prior to a Board Meeting to ensure placement on the Agenda. The Contract Committee meets most Tuesdays at 8:00a.m. All Contracts/Agreements, regardless the amount, must be first approved by the Contract Committee and then presented to the Board of Education for approval and signature. The item will be placed on Electronic School Board for the board agenda by Janet Brown. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.*

# Quote

**Billing Address**

Broken Arrow Public School  
 412 S. 9th  
 BROKEN ARROW, OK 74012

Account Number: OK1283  
 Contact: Joe Miller  
 jmim@demant.com

Corrina Baldwin

Quote number: Q-459472-1  
 Date: 3/4/2024

Quote expires on: 4/3/2024

External Reference No: To Follow

Shipping Method: FOB

Payment Terms: NET 30 DAYS FROM INVOICE DATE

**Shipping Address**

Broken Arrow Public School  
 412 S. 9th St.  
 Broken Arrow, OK 74012

**S/N 28179 / MAICO MA27 / 24049**

| Product Number | Product  | Quantity | Price per unit | Total  |
|----------------|--|----------|----------------|--------|
| 8107796        | TDH39P 10 Ohm Earphone   | 2.00     | 185.00         | 370.00 |
| 8507203        | Dual Mono 2 Meter Dual Mono 2 Meter Earphone Cable<br>30 degree jack | 1.00     | 67.00          | 67.00  |

**S/N 9767 / MAICO MA27A /**

| Product Number | Product  | Quantity | Price per unit | Total  |
|----------------|--|----------|----------------|--------|
| 8107796        | TDH39P 10 Ohm Earphone   | 1.00     | 185.00         | 185.00 |
| 8507203        | Dual Mono 2 Meter Dual Mono 2 Meter Earphone Cable<br>30 degree jack | 1.00     | 67.00          | 67.00  |

| Product Number | Product            | Quantity | Price per unit | Total  |
|----------------|--------------------|----------|----------------|--------|
| 1000030        | Install labor      | 1.00     | 233.00         | 116.50 |
| 1000086        | Travel fee (fixed) | 1.00     | 100.00         | 100.00 |

PURCHASE AGREEMENT

The Customer (identified above) agrees to buy and e3 Diagnostics (e3 Diagnostics, Fein no. 36-2852863 ("Vendor")) agrees to sell the equipment and supplies ("Equipment") listed above. The purchase of the Equipment is subject to the Terms and Conditions described herein. The following "Terms and Conditions" page(s) are an integral part of this Agreement, and the sales of all Equipment, whether sold by Vendor as a distributor or as a manufacturer representative. Acceptance of this Quote/ Agreement may preclude, at the option of the invoicing party, use of a credit card as a form of payment.

Quote #: Q-459472-1

Accepted By (Buyer)

\_\_\_\_\_

Date: \_\_\_\_\_

Accepted By (Sales Person)

Joe Miller

Date: 3/4/2024

liens and encumbrances; (c) not permit use of the Equipment in any manner likely to be injurious to the Equipment; (d) not remove or permit removal of the Equipment from its original location, or make or permit any alterations without the prior consent of Vendor; (e) keep Vendor advised of the location of the Equipment and permit Vendor to inspect the Equipment at all reasonable times; and (f) procure and maintain fire, extended coverage, vandalism, and malicious mischief insurance to the full insurable value of the Equipment, with loss payable to Vendor and Customer as their interests shall appear.

**BATTLE OF THE FORMS:** Customer may submit a purchase order to Vendor, but Customer explicitly acknowledges that any purchase order is for the administrative convenience of Customer only.

**VENDOR HEREBY OBJECTS TO AND REJECTS ANY AND ALL DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS CONTAINED IN ANY ORDER SUBMITTED TO VENDOR BY OR ON BEHALF OF CUSTOMER.**

**INTELLECTUAL PROPERTY:** "Intellectual Property Rights"; means all industrial and other Intellectual property rights comprising or relating to (i) patents; (ii) trademarks; (iii) copyrights; (iv) works of authorship, expressions, designs, design registrations, internet domain names, software, firmware, application programming interfaces, schematics, data, data files, databases, and other documentation, whether or not copyrightable or otherwise registrable, and whether or not registered; (v) trade secrets; and (vi) all industrial and other intellectual property rights, and all rights, interests, and protections that are associated with, equivalent or similar to, or required for the exercise of any of these rights under the laws of any jurisdiction. Customer acknowledges and agrees that: (a) any and all Vendor's Intellectual Property Rights are the sole and exclusive property of Vendor or its licensors; (b) Customer shall not acquire any ownership interest in any of Vendor's Intellectual Property Rights under this Agreement; (c) any goodwill derived from Customer's use of Vendor's Intellectual Property Rights inures to the benefit of Vendor or its licensors, as the case may be; (d) if Customer acquires any Intellectual Property Rights in or relating to any Goods by operation of law, such rights are hereby irrevocably assigned to Vendor or its licensors without further action by either of the Parties; and (e) Customer shall use Vendor's Intellectual Property Rights only in accordance with this Agreement and the instructions of Vendor. Customer shall not: (a) take any action that interferes or infringes in any way with any of Vendor's rights in or to Vendor's Intellectual Property Rights; (b) challenge Vendor's right, title, or interest in or to Vendor's Intellectual Property Rights; (c) make any claim or take any action adverse to Vendor's ownership of Vendor's Intellectual Property Rights; (d) engage in any action that tends to disparage, dilute the value of, or reflect negatively on the Goods, Services, or any Vendor's Intellectual Property Rights; or (e) alter, obscure, or remove any Vendor's Trademarks, copyright notices, or any other proprietary rights notices placed on the Goods or other materials supplied by Vendor.

**LEGAL FEES AND WAIVER:** In the event of any legal action brought by Vendor for breach of this Agreement, Vendor shall be entitled to reimbursement by Customer of all costs, expenses, and legal fees incurred in obtaining a remedy to the Customer's breach, including any appeal. Failure of Vendor to enforce the breach of any portion of this Agreement by Customer shall not constitute a waiver of such right in respect to the same or any other breach.

**INDEMNIFICATION:** Each party (in such capacity, the "Indemnifying Party") shall indemnify, defend, and hold harmless the other party and its officers, directors, employees, agents, affiliates, successors, and permitted assigns (each, an "Indemnified Party") against any and all losses, damages, liabilities, claims, judgments, or settlements, including reasonable attorney's fees and the costs of enforcing any right to indemnification under this Agreement, incurred by Indemnified Party (collectively, "Losses"), arising out of or resulting from any claim of a third party arising out of or occurring in connection with the Indemnifying Party's gross negligence, fraud, willful misconduct, or material breach of this Agreement. Customer shall indemnify, defend, and hold harmless Vendor and its officers, directors, employees, agents, affiliates, successors, and permitted assigns against any and all Losses arising out of or occurring in connection with Customer's misuse, modification, tampering, off-label use, or alteration of the equipment. The above indemnification obligations are conditioned on the Indemnified Party (i) promptly notifying the Indemnifying Party in writing of such action or claim, (ii) giving the Indemnifying Party sole control of the defense thereof and any related settlement negotiations, and (iii) cooperating and, at the Indemnifying Party's request and expense, assisting in such defense or settlement, provided that the Indemnifying Party shall not enter into any settlement which adversely affects any rights or interest of the Indemnified Party without the Indemnified Party's prior written consent.

**CONFIDENTIALITY:** "Confidential Information" means all non-public, confidential, or proprietary information disclosed by either party, which is related, directly or indirectly, to the applicable purchase order that is either (i) marked or otherwise identified as confidential when disclosed or, if given orally, is confirmed in writing as being Confidential Information within thirty (30) days; or (ii) that a reasonable person would understand to be confidential or proprietary due to the context of its disclosure and/or its scope, content, or nature. Neither Party shall have any obligation with respect to the Confidential Information, or any part thereof, which: (i) was already in the receiving party's possession prior to receipt from the disclosing party, as evidenced by the receiving party's written records, without any obligation to keep it confidential; (ii) is disclosed to the receiving party by a third party having a legal right to make such disclosure; (iii) is or becomes part of the public domain other than through breach of these Terms & Conditions; (iv) is developed independently of Confidential Information received from disclosing party; or (v) is disclosed pursuant to a subpoena, order, government request, law, regulation, or other legal proceeding, provided, however, that prior to any such disclosure receiving party shall first provide the disclosing party with (a) prompt written notice

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Arlington Heights IL 60004  
United States

e3 Diagnostics

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## **ADDITIONAL TERMS & CONDITIONS FOR SOUND ROOM PURCHASES AND INSTALLATION**

In addition to the General Terms and Conditions outlined above, Customer accepts the following terms and conditions as governing any purchase and installation of Sound Rooms:

**DELIVERY:** A tentative install date will be set at the time the order is placed with the manufacturer. Every effort will be made to meet the agreed upon delivery date. However, actual delivery date and time will be dependent upon the common carrier trucking company selected by the factory. The Customer shall notify the Vendor of any known delay at least four (4) weeks PRIOR to the scheduled installation date.

**INSTALLATION:** The installation must be completed during Vendor's normal business hours, Monday through Friday, unless otherwise agreed upon by the parties in writing. Additional installation charges will be incurred by Customer if the installation crew is on-site and the installation site is not ready for installation.

**STORAGE:** If the site is not ready for the Sound Room installation on the agreed upon delivery date and the Sound Room is ready to be shipped or has been shipped, the Customer will be responsible for any additional storage charges from the manufacturer or shipping and/or storage charges from the common carrier trucking company arising from the delay.

**SITE PREPARATION:** Vendor is not responsible for removal of the ceiling, ceiling panels, soffit, or trim above or around the Sound Room for installation or removal. Vendor must be notified before coming on-site if asbestos is present in any form. The Customer is responsible to ensure the site has a minimum Sound Room clearance of four (4) inches on the sides and rear, one (1) inch beyond the ventilation panels, and the floor is able to support the published weight. Customer must establish and make easily accessible an area outside of the building, as close as possible to the installation site or service elevator, for the delivery truck or trailer during the installation period. Prior placing the order with manufacturer, Vendor must be notified if a receiving dock is not available at the installation site. If a lift gate truck is needed, there may be an additional charge.

**ELEVATOR:** If the Sound Room is NOT going to be installed and located on the ground floor at the installation site, the Customer is responsible for ascertaining suitability of the elevator and supplying to Vendor the dimensions of the elevator which will be used for transporting the Sound Room panels. Elevator dimensions and suitability for transporting panels is required before the order can be placed with the manufacturer. If the elevator is not adequate to accommodate standard Sound Room panels, the Customer is responsible for any charges for special transporting (i.e., hand carry upstairs, crane charges for window access, etc.) and/or manufacturing costs to modify the Sound Room panels to fit on the installation site's elevator. Customer shall ensure that Vendor has priority access to the service elevator during the installation period to prevent installation delays and additional charges.

**RECESSED PIT:** It is the sole responsibility of the Customer or their concrete contractor ("Contractor") to ensure the Sound Room pit size, pit depth, pit edge, and pit finish meets the manufacturer's "Pit Specifications." Delays in the installation of the Sound Room due to non-conforming Pit Specifications will be subject to additional charges.

**ELECTRICAL, FIRE, AND SPRINKLER CONNECTIONS:** Due to varying local standards, Vendor will not be responsible for meeting local building code (or UL) requirements or installing fire, electrical components, or sprinkler systems. The Customer is responsible for any hard wiring or plumbing required in the installation or removal of the Sound Room beyond plugging into a standard wall outlet. To meet local requirements, it is suggested that the Customer contact a local approved and licensed electrician or plumber prior to the installation date. For safety, a twenty (20) amp single-phase circuit with separate wire ground (Hospital Grade) is recommended.

**HVAC CONNECTIONS:** The typical Sound Room is not hooked up to the building HVAC system. Vendor is not responsible for hooking up or disconnecting HVAC connections to the building. If HVAC connections are utilized, the Customer is responsible for the purchase and professional installation of required special duct silencers and the flexible drop connection of the Sound Room.

**PACKING AND CRATING MATERIALS:** Vendor is not responsible for the removal of packaging/crating materials other than to a designated on-site location that must be provided by Customer.

**SCRATCHES AND PAINTING:** Every effort will be made to not incur paint scratches in the finish of the Sound Room. However, due to the nature of Sound Rooms, some scratches are inevitable. Vendor is not responsible for painting Sound Rooms or touch-up painting of scratches (due to color matching) that may occur during a normal installation. It is recommended the Customer consider professional electrostatically painting their rooms to match their office decor.

**RELOCATING EXISTING SOUND ROOMS:** In the disassembly of an existing Sound Room, damage or dents may normally occur to Sound Room panels and joiners while breaking the caulk sealing these parts together. New parts may unexpectedly be required and will be subject to additional charges to the Customer.

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