CPS HR CONSULTING

Please have the head of your agency (or the person who can enter into contract on your agency's behalf) initial each page as well as sign and date page 3. ***It will be important that the individuals listed as Authorized Representatives receive a copy of the Agreement so they are aware of our policies and procedures and also sign the agreement on the designated area.***

Please fax all completed pages of the agreement to **916-921-6240** or email to **testrental@cpshr.us**. **For your convenience you can complete most of the agreement electronically and print for initials and signatures.*

Feel free to contact any of our Test Rental Team members if you have any questions.

NAME	TITLE	SPECIALTIES	E-MAIL ADDRESS
Veronica Lara-Lopez	Program Coordinator	Order inquires/requests, scoring, account receivables/payables, skills online administration, credit card payment, general inquiries	veronica@cpshr.us
Sheila Jones	Technician	Test orders, review copy requests, scoring, billing questions.	sjones@cpshr.us
Amy Knight	Technician	Test orders, review copy requests, test publishing	amy@cpshr.us
Ashley Maxwell	Office Assistant	Test orders, review copy requests, scoring	amaxwell@cpshr.us
Holly Hatada	Consultant	Test selection, interpretation of statistics/test analyses/item analyses, pass point setting	hhatada@cpshr.us
Ana Costa	Consultant	Test selection, interpretation of statistics/test analyses/item analyses, pass point setting	acosta@cpshr.us
Stephen Nakagawa	Consultant	Test selection, interpretation of statistics/test analyses/item analyses, pass point setting	snakagawa@cpshr.us
Vicki Quintero Brashear	Manager	Test Rental Agreement change requests; any other client concerns	vicki@cpshr.us

CPS HR CONSULTING

CPS HR – Test Rental
241 Lathrop Way
Sacramento, CA 95815
testrental@cpshr.us
(t) 916.263.1800
(f) 916.921.6240
www.cpshr.us

CPS HR CONSULTING

TEST RENTAL AND USE AGREEMENT

This Test Rental and Use Agreement ("Agreement") is by and between Cooperative Personnel Services, dba CPS HR Consulting, a California Joint Powers Authority ("CPS HR") and the Agency or Organization named in the signature block at the end of the Agreement ("Client").

A. **Purpose.** This Agreement defines CPS HR test rental, use and security policies and procedures.

CPS HR develops and rents tests for a number of purposes and in a number of formats (including but not limited to print and electronic media). For that reason, some of the below paragraphs apply under certain circumstances. But, unless specifically limited, each paragraph applies to all testing purposes and formats.

B. **Ownership of CPS HR Tests.**

1. CPS HR owns all rights, title and interest, including copyrights, in all tests provided under this Agreement. They are the property of CPS HR and shall remain the property of CPS HR, even while in the custody of Client.
2. Additionally, tests that have been constructed or modified based on information provided by the client shall not be considered works made for hire, as that term is defined under U.S. Copyright Law. CPS HR shall own all rights, title and interest, including the copyright, in any test it creates for the Client.
3. Ownership of tests specifically developed for a client and of individual test questions supplied by Client, if any, shall be governed by a separate Agreement between CPS HR and Client.

C. **Test Materials.** Test Materials consist of all used and unused test booklets, proctors instructions, proctors manuals, scoring instructions, key sheets, key overlays, keyed booklets, scoring keys, instructions, CDs (for oral tests), and any other materials generated at the test administration, such as completed answer sheets (if applicable), scratch paper, note paper and the like.

D. **Test Security.** CPS HR security standards are designed to protect the mutual interests of all Clients that use Test Materials as well as the interests of applicants who take CPS HR tests. In order that no person may gain special advantage by having improper access to the material, all users must sign this Agreement and agree to fulfill its terms, before the Agreement is effective.

1. Client agrees to take all reasonable and diligent steps to keep CPS HR tests, sample tests, and testing processes confidential and free from unauthorized access and use. This includes, but is not limited to, client agreeing not to divulge, convey, copy in whole or part, duplicate, convert to another format or medium, or otherwise disseminate tests, portions of tests, or test materials.
2. For on-line tests, client further agrees to take all reasonable and diligent steps to prevent any modification to or reverse engineering of the testing software, and any transfer, storage or dissemination of tests or testing software and data on any storage medium or computer server other than those specifically authorized by CPS HR.
3. Should Client suspect any breach of test security, Client agrees to immediately notify CPS HR and immediately take all steps necessary to preserve evidence of or related to the breach, whether physical or electronic.

E. **Test Review, Ordering and Administration.**

1. **Review Copies.** Review of CPS HR tests, regardless of format, is subject to the test security standards.
   (a) **Test Rental Division:** To help in deciding whether to rent exams, Client may review CPS HR stock tests and other stock test materials free of charge (e.g., stock supplements, structured interview packages, and specialized item sets).
   (b) **SLPP:** CPS HR does not offer review copies of the Spanish Language Proficiency Program (SLPP) tests. However, for new clients, CPS HR can provide a sample written test booklet showing the different components of the test.
   (c) **On-line Testing:** To help in deciding whether to utilize on-line testing, Client may review sample on-line tests free of charge.
2. **Ordering Testing Materials and Scheduling of Examinations.**
   (a) **Test Rental Division and SLPP:**
      (i) To insure materials are received in time, Client must notify CPS HR at least 10 business days prior to the test date of the total number of candidates in each job classification to be tested. If orders are placed less than 10-business-days prior to the test date, rush shipment charges may apply and timely delivery cannot be guaranteed.
      (ii) Client shall rent one test booklet per candidate to be tested. CPS HR shall provide Client with Test Materials including instructions for administering the test, sufficient test booklets and any other material CPS HR deems necessary.
   (b) **On-line Testing:**
      (i) To insure Client equipment is functioning and capable of administering on-line testing, Client must request testing from CPS HR at least 10 business days prior to the test date on the first time Client utilizes on-line testing. After Client has successfully used on-line testing, 5 working days notice is normally sufficient for subsequent testing.
      (ii) Client recognizes that CPS HR has no control over the functioning of the internet, and any problems with on-line testing due to the failure thereof are not attributable to CPS HR.

Client Initials _____

3. **After the test date.**

   (a) **Test Rental Division and SLPP:**

      (i) Within 10 business days of the test date, Client shall return to CPS HR all Test Materials including all materials provided by CPS HR for the test administration.

      (ii) Client shall not reuse printed tests on the test date or on any other date but shall return Test Materials to CPS HR, whether or not the test was administered.

   (b) **On-line Testing:**

      (i) After the scheduled test date(s), CPS HR will suspend access to the on-line test site.

      (ii) Within 10 business days of the test date, Client shall destroy all CPS HR Test Materials including scratch paper and note paper in a way that make the materials unrecoverable.

F. **Billing, Pricing, and Payment.**

1. CPS HR shall bill Client at the billing address provided in Exhibit A, unless notified in writing of a new billing address.
2. The bill shall be derived from the most current applicable Rate Sheet (s): Exhibit B for Test Rental, Exhibit C for SLPP, and Exhibits D and E for On-line Testing. Client acknowledges and understands that the Test Price List(s) are only effective as of the date shown each of them and are subject to change.
3. Client shall be billed for any work done on a canceled or postponed test up to the time CPS HR is notified of such cancellation or postponement. Under certain circumstances, and in CPS HR's sole discretion, credit may be given for work already performed if the test is rescheduled.
4. CPS HR may charge Client for lost or compromised tests if Test Materials are not timely returned.
5. Client agrees to and shall pay all invoices within thirty (30) days of receipt of invoice.

G. **Candidate Inspections**

1. **Test Materials.**

   CANDIDATE INSPECTION OF TEST MATERIALS SHALL <u>NOT</u> BE ALLOWED EXCEPT IN CASE OF ANSWER SHEETS AS DESCRIBED BELOW

2. **Answer Sheets.**

   (a) If a candidate files a protest regarding the scoring of his or her test, inspection of a candidate's own answer sheet(s) for the purpose of detecting whether any clerical or other error has been made in the scoring of the answer sheets shall be allowed, upon request by the Client, for a 10-business-day period immediately following the notification to the candidate of test results.

   (b) Candidates are not allowed to review the question booklet during this inspection period.

   (c) Not more than one hour will normally be allowed for answer sheet(s) review. A representative of Client's Personnel or Administrative office shall be present to assure that no changes or marks of any kind are made by the candidate on the answer sheet(s) or keyed answer sheet.

H. **Client Responsibilities.**

1. Client shall perform all parts of the testing process which are not performed by CPS HR. Client has the responsibility for assuring that the testing process performed by Client conforms to any applicable laws, rules or ordinances, and for the test as a whole. Under the federal Uniform Guidelines on Employee Selection Procedures, the Client as test user is responsible for the results of the selection process, and Client understands and acknowledges that it must be prepared to demonstrate that the process is valid and meets other testing standards if it adversely affects groups protected by fair employment laws.
2. Client is responsible for insuring that all persons who handle or have access to Test Materials in any capacity for Client shall do so in compliance with this Agreement, and are trained to handle Test Materials and administer tests before they do so.

I. **Legal Proceedings Involving Test Materials.**

1. If Client receives notice of any administrative or court proceeding involving a CPS HR test, or a request for disclosure of Test Materials, such as a subpoena, or a public records or freedom of information request, Client shall notify CPS HR of such request immediately and well before a response is due.
2. Upon CPS HR request, Client shall maintain the confidentiality of the Test Materials pending the grant or denial of a protective order or the decision of a court or administrative body as to whether the requested Test Materials must be disclosed under the applicable public records statute.
3. Client shall cooperate with CPS HR in seeking any relief necessary to maintain the confidentiality of the Test Materials.
4. Client shall indemnify and hold CPS HR harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorney fees and costs) arising out of or in connection with administration of a test, or with maintaining confidentiality of Test Materials.

J. **Term and Termination of Agreement.**

1. Term. This Agreement is effective beginning the date it is signed by both parties and continuing for two years thereafter unless earlier terminated by either party as stated below.
2. Immediate Termination upon Material Breach. Either party may terminate this Agreement immediately upon any material breach by the other party. For purposes of this Agreement, but without limiting the meaning of material breach, any breach of the test security provisions, however minor, shall be considered a material breach. Client understands and acknowledges that immediate termination by CPS HR may result in the withholding or recall of Test Materials.
3. Termination Without Cause. CPS HR and Client may terminate the Agreement without cause upon thirty days written notice to the other party.
4. Return of Test Materials. Upon termination of the Agreement, Client shall immediately return to CPS HR any Test Materials that it possesses.

K. **Miscellaneous.**

1. **Notices**. Any notice to the parties required or permitted under this Agreement shall be given in writing and shall be sent to Client at the address provided for the Principal Signer and to CPS HR at 241 Lathrop Way, Sacramento, CA 95815.
2. **Dispute Resolution; Remedies.**
   (a) In the event of a dispute, the parties may agree to pursue mediation or either binding or nonbinding arbitration to resolve their dispute, under such rules as the parties may agree.
   (b) If either CPS HR or Client determines to file a judicial action, then, in addition to any other remedies available at law or in equity to the parties for breach of this Agreement, Client acknowledges that breach of this Agreement may result in irreparable harm to CPS HR for which damages would be an inadequate remedy and, therefore, in the event of a breach, in addition to its rights and remedies otherwise available by law, CPS HR shall be entitled to seek equitable relief, including injunction.
3. **Attorneys Fees**. If any legal action or arbitration or other proceeding is brought to enforce or construe the term of this Agreement or because of an alleged dispute, breach or default in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys fees and other costs incurred in that action, arbitration or proceeding in addition to any other relief to which it may be entitled.
4. **Waiver.** The failure of any party at any time or times to require performance of any provisions of this Agreement shall in no manner affect its right to enforce such provision at a later time. Nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself. No waiver shall be enforceable unless made in writing and signed by the party granting the waiver.
5. **Entire Agreement; Modifications.** This Agreement constitutes the entire Agreement between the parties regarding the subject matter hereof and supersedes all other Agreements, representations and warranties. All modifications and supplements to this Agreement must be in writing and signed by both parties.
6. **Counterparts; Facsimile Signature; Electronic Signature**. This Agreement may be executed in any number of counterparts. If this Agreement or any counterpart is signed and then faxed or e-mailed by PDF or otherwise, the faxed or e-mailed copy bearing the signature shall be as good as the original wet-ink signed copy for all intents and purposes.
7. **Interpretation; Jurisdiction.** This Agreement shall be interpreted and enforced under the laws of the State of California and jurisdiction shall be in Sacramento County, California. The Agreement shall be interpreted in a fair and balanced manner to best preserve its intent, and without bias against the drafter.
8. **Authority to Sign.** The person signing this Agreement on behalf of the Client (the Principal Signer) represents that he or she is the head of the agency or is otherwise duly authorized to sign this Agreement and to bind the Client.

Principal Signer By signing below, I represent that the persons(s) listed in Exhibit A and on any attached sheets is/are authorized to handle CPS HR Test Materials on Clients behalf. I affirm that I will handle all CPS HR Test Materials in accordance with the terms of the CPS HR Test Rental Agreement then in effect, and that I will insure all individuals handling and/or administering tests are properly trained.

Cooperative Personnel Services dba
CPS HR Consulting,
A California Joint Powers Authority

By: _____
Authorized Signature

Name: Vicki Quintero Brashear

Title: Test Rental Program Manager

Date: _____

Client

By: _____
Authorized Signature

Name: _____

Title: _____

Email: _____

Date: _____

Client Initials _____

Exhibit A

Authorized Representative(s) ***(use an additional page if needed)*** By signing as an Authorized Representative, I affirm that I will handle all CPS HR Test Materials in accordance with the terms of the CPS HR Test Rental Agreement then in effect.

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

Name, Title	Signature
E-mail Address	Phone Number

II. Billing Contact

Contact Name and Title	Signature	Date
Agency		
Street Address, City, State, Zip		
E-Mail	Phone Number	Fax Number

III. Physical Address

Agency / Department Name
Street Address, City, State, Zip

Exhibit B

CPS HR Test Rental Division Rates (Effective March 25, 2009 – Subject to Change)

	STOCK TESTS*	MODULAR TESTS	SEMI-STOCK TESTS	CUSTOM TESTS	AGENCY TESTS
Base Fee (per order) ‡	$295.00	$395.00	$595.00	$995.00	$350.00
1-100 Candidates (per candidate)	$9.00	$12.00	$14.00	$15.00	$10.00
101-500 Candidates (per candidate)	$8.50	$11.00	$13.00	$14.00	$9.50
501+ Candidates (per candidate)	$8.00	$10.00	$12.00	$13.00	$9.00
New Item Writing/Entry	N/A	N/A	N/A	$35 per item	N/A
Pick Up/Handling	5%	5%	5%	5%	5%
Standard Shipping/Handling **	10%	10%	10%	10%	10%
Expedited Shipping/Handling **	15%	15%	15%	15%	15%
Premium Shipping/Handling **	20%	20%	20%	20%	20%
Shipping outside contiguous U.S.	CALL FOR DETAILS				

Entry Law/Fire Candidate Preparation Manuals *****Now available Online*****	***Structured Interview Packages***
Quantity Per Booklet/Candidate Fee 10 - 1000 $ 3.00 1001+ Call for volume discount details	Base Fee: $ 595.00 Per Candidate Fee: 1 - 500 $7.50

*CPS HR will apply a credit of $35.00 for each **fully paid UNOPENED package of Stock Exams** of test booklets on the current **STOCK test order.**

**Standard shipping applies to orders placed at least 10 business days prior to test date. Expedited shipping applies to orders placed less than 10 business days prior to test date. Orders placed less than 3 business days prior to the test date will be charged at the premium shipping rate.

Semi-Stock, Modular and Custom Tests require Job Analysis Workbooks or Job Specifications

‡ Base fee includes the following at no additional charge: Proctor's Manual, Scoring Manual, CPS HR Scoring, CPS HR answer sheets and a scoring report.

SPECIAL SERVICES

Stock Supplements	$ 2.00 per book when ordered with a Stock test
Writing Proficiency Exam	$ 350.00 Base Fee + $ 15.00 per candidate (Professional Scoring included)
Scoring Keys	Available at no additional charge
Re-Scoring/Hand-Scoring of Answer Sheet	$ 30.00 (Requested directly by Agency)
Non-specified special services	CALL FOR DETAILS (Billed at applicable hourly rate)

Test Rental Contact Information:

CPS HR Consulting
Attn: Test Rental Division
241 Lathrop Way, Sacramento CA 95815

Telephone: 916.263.1800 / Toll Free 866.867.5272
Fax: 916.921.6240 / E-mail: testrental@cpshr.us

Exhibit C

Spanish Language Proficiency Test Rental Division Rates

Effective March 25, 2009 -- Subject to Change

	WRITTEN TEST	ORAL TEST
Base Fee (per order)	$295.00	$295.00
**Per Booklet Fee	$9.00	N/A
***Per Tape Scoring Fee	N/A	$120.00
Expedited Shipping	*20%	*20%

*Orders placed less than two weeks prior to the exam date will incur expedited shipping charges
**Per Booklet Fee will be charged for number of books ordered
***Billed for the number rated

SPECIAL SERVICES	
Faxing/Emailing Test Results	Available at no additional charge
Hand Scoring	$30.00
Proctoring Services	Call for details/quote
SLPP Extended Use Program	Call for details

Charges for Cancellations, and Lost or Compromised Tests
Minimum cancellation charge once a SLPP order is shipped is $200.00.
For each lost **written** test, there will be a base charge of $10,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000.
For each lost **oral** test, there will be a base charge of $15,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000.

Exhibit D

CPS HR On-line Skills Test Pricing Schedule
Effective January 1, 2010 – Subject to Change

Online Skills Test Pricing Schedule	Fee Per Test**
1 - 25 Candidates (per candidate)	$20.00
26 - 100 Candidates (per candidate)	$18.00
101 - 250 Candidates (per candidate)	$17.00
251 - 1,000 Candidates (per candidate)	$15.00
1,001 - 2,500 Candidates (per candidate)	$10.00
2,500 + Candidates (per candidate)	$8.00

***When multiple tests are combined into a test battery each test is charged separately.*

Access 2003 or 2007	Excel 2003 or 2007	Word 2003 or 2007
Advanced Skills	Advanced Skills	Advanced Skills
Basic Skills	Basic Skills	Basic Skills
Standard	Standard	Standard
PowerPoint 2003 or 2007	**Windows XP**	**Digital Literacy 2008**
Advanced Skills	Advanced Skills	Computing
Basic Skills	Basic Skills	Internet
Standard	Standard	Software Skills

Other Exams	
Basic Computer Literacy	Typing Test
Excel Functions	Ten Key Test
Internet Literacy (with Explorer)	Data Entry Test - Numeric
Outlook 2003 or 2007 - Standard	Data Entry Test - Alphanumeric
Publisher 2003 - Standard	

Test Rental Contact Information:

CPS HR Consulting
Attn: Test Rental Division
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Fax: 916.921.6240 / E-mail: testrental@cpshr.us