**Date:** 08/23/2012  
**AGENDA ITEM**  
**Item:** 20

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<thead>
<tr>
<th>[] Ordinance</th>
<th>[] Resolution</th>
<th>[] Budget Resolution</th>
<th>[x] Other</th>
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</table>

**Department:** Ocean Center  
**Division:** Administration

**Subject:** Restated and Amended User License Agreement with Ticketmaster

| Donald Poor  
Director Ocean Center | Jeaniene Jennings  
Director Purchasing | Legal  
Tura Schnebly | County Manager’s Office  
Charlene Weaver, CPA,  
CFO  
Deputy County Manager |
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<tr>
<td></td>
<td>Approved in Accordance with Purchasing Policies and Procedures</td>
<td>Approved as to Form and Legality</td>
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</table>

| Phyllis Schwarz  
Proxy for Tammy Bong  
Director Management and Budget |  |
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<tbody>
<tr>
<td></td>
<td>Approved as to Budget Requirements</td>
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</tbody>
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**Council Action:**

**Modification:**

**Fund Number(s):**

| 118 Ocean Center | Description:  
Ocean Center | Amount:  
$48,000.00 |

**Total Item Budget:** $48,000.00

**Staff Contact(s):**

| Don Poor | Phone: 386 254 4500 Ext. 4500 |

**Summary/Highlights:**

On September 4, 1996, the county entered into a license agreement with Ticketmaster for the equipment, software, and service for ticketing at the Ocean Center. The licensed user agreement has been renewed periodically since that time with the most recent renewal on March 1, 2012. Staff negotiated an amended agreement to provide an estimated additional annual revenue to the county of $48,000 plus an estimated cost savings of $7,000 for ticket printing fees. The agreement also provides for upgraded software and replacement of hardware including thin client PCs, keyboards, and scanners totaling $32,224 at no cost to the county. Staff recommends approval of the attached restated and amended licensed user agreement with Ticketmaster commencing retroactively on March 1, 2012 and terminating February 28, 2017, unless otherwise extended in accordance with the agreement.

**Recommended Motion:** Approval
RESTAT ED and AMENDED LICENSED USER AGREEMENT

THIS RESTATED and AMENDED LICENSED USER AGREEMENT ("Agreement") is entered by and between Ticketmaster L.L.C., a Virginia limited liability company ("Ticketmaster") with its principle place of business at 9348 Civic Center Drive, Beverly Hills, CA 90210, duly authorized to do business in the State of Florida, and County of Volusia, 123 W. Indiana Avenue, DeLand, Florida, ("Principal") for the Ocean Center, a County of Volusia Facility.

RECITALS

WHEREAS Ticketmaster-Florida, Inc., predecessor-in-interest to Ticketmaster, and Principal entered into that certain Licensed User Agreement dated as of September 4, 1996, as amended by that certain TicketExchange Letter Agreement dated December 3, 2007 (as amended, "Licensed User Agreement") whereby Principal authorized Ticketmaster to act as Principal’s exclusive agent for the sale of all remote (e.g. at outlets, by telephone and via the internet) Tickets to attend each of the Attractions upon the terms and conditions set forth in the Licensed User Agreement; and

WHEREAS Ticketmaster and Principal hereby desire to extend the term of the Licensed User Agreement, and to amend and restate the Licensed User Agreement as set forth herein.

WITNESSETH:

In consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

Section 1. Defined Term(s). All capitalized terms used and not otherwise defined in this Section 1 shall have the meanings ascribed to them in this Agreement.

(a) AccessManager: The Ticketmaster AccessManager software which interfaces with the TM System to facilitate certain reporting systems and to provide various enhanced services to the patron admissions process through the use of bar code or other media printed on Tickets.
(b) **Attraction**: A sporting event or other entertainment feature to be held at the Facility in respect of which Principal has authority to sell Tickets to the public.

(c) **AVD**: Authentication, validation and delivery service and related software and technology with respect to all ticket sales through Ticketmaster’s secondary market Ticketsnow.com (“TNOW”).

(d) **Convenience Charge**: The amount charged to a ticket purchaser by Ticketmaster for the use of the TM System.

(e) **Facility**: Daytona Ocean Center

(f) **Facility Box Office**: The Ticket locations at the Facility which are operated by Principal.

(g) **Hardware**: All of that certain computer hardware, communications equipment, terminals and hook-ups listed with particularity on amended Exhibit 1, which is attached hereto and incorporated herein by this reference, or otherwise supplied by Ticketmaster to Principal at any time during the term of this Agreement.

(h) **Inside Charges**: The amount charged to Principal by Ticketmaster for services rendered by Ticketmaster under this Agreement.

(i) **Open Seats**: Seats in the Facility which are available for public purchase for an Attraction.

(j) **Outlet**: A retail Ticket selling agency where Tickets for an Attraction are made available through the TM System and are offered for sale to the public.

(k) **Software**: Ticketmaster’s ticketing system software known and marketed as Ticketmaster Classic, AccessManager, TM Charge, TicketExchange, and any new versions thereof or any other deliverables for TM System access, including AVD (so long as Ticketmaster owns or controls TNOW), provided to Principal by Ticketmaster during the Term.

(l) **Telephone Sales**: All sales of Tickets through the TM System by telephone.
(m) **TM Charge:** The electronic payment processing system within the TM System that utilizes the global banking association networks to authorize electronic payment for purchases of Tickets to Attractions sold by Principal from the Facility Box Office as permitted under the Licensed Agreement.

(n) **TM System:** The Hardware, software, related procedures and personnel, repair and maintenance services established and maintained by Ticketmaster for the purpose of selling, auditing and controlling the sale of Tickets for Attractions.

(o) **TM.com Website:** any Internet websites owned, operated and maintained by Ticketmaster, including, without limitation, any co-branded versions and any version distributed through any broadband distribution platform or through any platform or device including television, broadband and wireless technologies.

(p) **Ticket:** A printed evidence of the right to occupy space at or to attend the Attraction.

(q) **TNOW:** Ticketmaster’s secondary market resale site Ticketsnow.com.

(r) **Ticket Receipts:** The face value of a Ticket less the applicable Inside Charge.

**Section 2. Hardware: Software.** During the term of this Agreement, Ticketmaster shall provide to Principal the Hardware and on-line access to the Software. The Hardware and Software shall at all times be and remain the sole and exclusive property of Ticketmaster, and Principal shall have no right, title or interest therein or thereto except as a licensed user thereof.

**Section 3. Term of Agreement.** The term of this Agreement shall retroactively commence on March 1, 2012, and terminate on February 28, 2017. Thereafter, the Term of the Agreement shall automatically be renewed for successive three (3) year periods unless either party hereto notifies the other party in writing, not less than ninety (90) nor more than one hundred and twenty (120) days prior to the end of the then-current renewal period, of its intention not to renew this Agreement. Each twelve (12) month period commencing on March 1 and continuing through the following February 28 shall be a “Contract Year” as such term is used herein.
Section 4. **Compensation.** In consideration for the license by Ticketmaster of the Hardware and Software to Principal, the license by Ticketmaster to Principal of the right to deeplink to the TM.com Website granted in this Agreement, and Ticketmaster's continuing services to be performed in connection herewith, Ticketmaster shall be entitled to receive the fees and compensation described herein. Principal shall be entitled to royalties and fees as described herein below. Principal consents to the imposition of the charges described herein on all Tickets purchased through the TM System hereunder and to the AVD fee amount. Those fees and compensation that are owed by Principal may be deducted by Ticketmaster from the Ticket Receipts collected by Ticketmaster as an agent of Principal under the settlement procedures described in Section 17 of this Agreement. In the event applicable law prohibits the assessment of such fees against consumers, Ticketmaster and Principal shall agree on alternative means for compensating Ticketmaster for its services in amounts reasonably comparable to those set forth in this Agreement, and as permitted by applicable law.

(a) **Inside Charges:** Ticketmaster shall be entitled to assess and receive from gross Ticket proceeds collected by it as an agent of Principal an Inside Charge with respect to each Ticket sold through Outlets, Telephone Sales and Internet Sales. The amount of the Inside Charge shall be as follows:

<table>
<thead>
<tr>
<th>Type of Transaction</th>
<th>Inside Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outlet sales</td>
<td>$0.00 per Ticket</td>
</tr>
<tr>
<td>Telephone Sales and Internet Sales</td>
<td>The credit card charge set forth in Section 5 below</td>
</tr>
<tr>
<td>Other Tickets (including complimentary Tickets) printed by or on behalf of Principal</td>
<td>$0.00 per Ticket</td>
</tr>
</tbody>
</table>

The amount of Inside Charges owed by Principal to Ticketmaster shall be deducted from gross Ticket proceeds in the manner provided in Section 17 of this Agreement.

(b) **Convenience Charge (Per Ticket):** Subject to the provision of Section 5 of this Agreement, Ticketmaster shall assess a Convenience Charge against purchasers of Tickets for Tickets to all Attractions sold by Ticketmaster. The amount of the Convenience Charge for each applicable category of Ticket sale shall be as follows:

Daytona Ocean Center LUA 07232012

Page 4 of 27
<table>
<thead>
<tr>
<th>Face Value of Tickets</th>
<th>Convenience Charges – Outlets, Internet Sales and Telephone Sales</th>
</tr>
</thead>
<tbody>
<tr>
<td>$14.99 and below</td>
<td>$3.50</td>
</tr>
<tr>
<td>$15.00 to $24.99</td>
<td>$6.25</td>
</tr>
<tr>
<td>$25.00 to $44.99</td>
<td>$7.25</td>
</tr>
<tr>
<td>$45.00 and above</td>
<td>$7.75</td>
</tr>
</tbody>
</table>

Notwithstanding the above, the Convenience Charges with respect to any Attractions presented by Feld Entertainment ("Feld Attractions") at the Facility shall be determined pursuant to a separate national agreement between Ticketmaster and Feld Entertainment.

On March 1, 2015 and on March 1 of every other Contract Year thereafter during the Term, the Convenience Charges set forth above shall be automatically increased by $0.25 per Ticket.

(c) **Processing Fee (Per Order):** Subject to the provisions of Section 5 of this Agreement, Ticketmaster shall assess a Processing Fee against purchasers of Tickets in the amount of $4.15 with respect to each order of Tickets ordered by Internet Sales and Telephone Sales. Notwithstanding the above, the Processing Fees with respect to any Feld Attractions at the Facility shall be determined pursuant to a separate national agreement between Ticketmaster and Feld Entertainment. The Processing Fee shall be subject to automatic increase in the amount of $0.25 per order on March 1, 2015 and on March 1 of every other Contract Year thereafter during the Term and is subject to automatic increase equal to any increase (rounded up to the nearest $0.05) to the postal service rates.

(d) **Ticketmaster AccessManager:** Ticketmaster shall provide Principal with the AccessManager Hardware listed on Exhibit 1 and the related software thereto for use at the Facility in exchange for the license and maintenance fees set forth on Exhibit 1; Exhibit 1 is attached hereto and incorporated herein by this reference. Principal agrees to utilize and make AccessManager available to the public at all times throughout the Term of this Agreement at the door(s) of the Facility.

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(e) **Principal’s Royalties**: Principal shall be entitled to receive Ticket sales royalties (collectively, “Royalties”) from Ticketmaster with respect to each Convenience Charge and Processing Fee; all to the extent received (and not refunded) by Ticketmaster. The amount of the Royalties are as set forth below:

<table>
<thead>
<tr>
<th>Type of Royalty</th>
<th>Amount of Royalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convenience Charge</td>
<td>35% of the Convenience Charge</td>
</tr>
<tr>
<td>Processing Fee</td>
<td>35% of the Processing Fee</td>
</tr>
</tbody>
</table>

Principal shall not be entitled to Royalties with respect to any Tickets sold to any Feld Attractions at the Facility. Notwithstanding the above, credit card fees and applicable taxes shall be deducted from the fees above before the Royalties are calculated. The Royalties shall be payable weekly, along with the next settlement after the end of such period conducted under Section 17 of this Agreement.

(f) **TM Charge:**

(i) **Features.** Ticketmaster shall provide TM Charge to Principal for use in processing Principal’s credit card sales of Tickets and related transactions from the Facility Box Office utilizing the TM System. TM Charge is compatible with Ticketmaster’s technology solutions and includes the following features:

(i.a) immediate credit card authorization for Ticket sales using major credit cards;

(i.b) ability to accept all major credit cards, including Visa, MasterCard, American Express, Discover and Diners Club;

(i.c) generation of printed receipts for the consumer and the Facility Box Office at the time of sale;

(i.d) settlement of Principal’s credit card transactions after the close of Ticketmaster’s business day;
(i.e) deposit of funds directly in Principal’s specified merchant bank accounts; and

(i.f) daily access to reports regarding authorized and settled transactions.

(ii) **Operation.** Principal shall establish its own merchant numbers as necessary to process the credit cards that Principal wants to accept. Ticketmaster shall transmit data relating to Ticket sales made by Principal using TM Charge to Ticketmaster’s credit card processor (the “Processor”). Processor will then transmit such data to the applicable credit card company for payment to Principal, subject to Principal having entered into the applicable Principal Processor Agreements (as further described below). Ticketmaster shall use its best efforts to ensure the accuracy of information transferred from the Processor via TM Charge, but Ticketmaster does not guarantee the accuracy and timeliness of such information. Principal shall comply with all applicable credit card association or company guidelines (e.g. swiping all retail transactions and using customer address information for all non-face-to-face transactions).

(iii) **Information Provided by Principal.** As soon as practicable after the date of execution of this Agreement, Principal shall (x) provide Ticketmaster with the account name and location for Ticketmaster to use for the transmission of sales data and (y) notify Ticketmaster and Processor of the account(s) where Principal wishes settlement deposits to be made by the Processor. Principal shall be responsible for promptly notifying Ticketmaster and Processor, if applicable, of any changes to the information provided pursuant to this section.

(iv) **Reports.** Ticketmaster shall provide Principal with daily transaction reports regarding authorized and settled transactions. Principal shall review, on a regular basis, all reports provided to Principal by Ticketmaster. Principal also agrees that, for operational and monitoring purposes, the Processor may provide Ticketmaster with processing and settlement reports related to sales of Tickets via TM Charge.

(v) **Fees.** In connection with Principal’s credit card sales of Tickets authorized via TM Charge using either Visa or MasterCard, the Processor shall deduct the merchant fees in the amount of 2.75% of transactions processed on a daily basis. The fees

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set forth above are subject to automatic increases equal to any actual increases in Ticketmaster’s Processor fees or based on increases in credit card association or credit card company fees (such as interchange, assessments or other charges). Principal shall also be responsible for any and all other amounts charged to Ticketmaster (if any) by a Processor for processing Principal’s transactions, including, without limitation, chargebacks, fraudulent credit card use and additional charges for failure to meet the specific timing or other qualifications of the applicable credit card association or company. In the event that Principal desires to process any credit cards other than Visa or MasterCard utilizing TM Charge, then the fees for such service shall be mutually agreed upon by Principal and such credit card companies, and Principal shall enter into its own merchant agreement with such credit card companies.

(vi) Effect of Termination of Ticketmaster’s Processor Agreement. Ticketmaster has entered into an agreement with the Processor (the “Processor Agreement”), and Principal agrees to enter into an agreement with such Processor (the “Principal Processor Agreement”) as soon as practicable after the date of this Agreement. The Principal Processor Agreement shall provide that if the related Processor Agreement expires or terminates, then the Principal Processor Agreement shall also expire or terminate without any early termination penalties or charges. In order to facilitate streamlined credit card authorization processing for Ticketmaster and its clients, Ticketmaster continues to seek to maintain relationships with superior processors throughout the Term of this Agreement. In the event that Ticketmaster elects to use a different or new Processor, Principal shall enter into an agreement with such new Processor.

(vii) License and Maintenance Fees. The license and maintenance fees for TM Charge shall be waived during the Term of this Agreement.”

(g) **AVD Fee:** A $4.95 fee per order which shall be assessed against the ticket purchaser who uses TNOW in accordance with Section 18 of this Agreement.

**Section 5. Credit Cards Sales:** Principal hereby authorizes Ticketmaster to accept American Express, MasterCard, Visa, Discover and Diners Club charges (and any other credit card, debit card or other method of payment and membership/loyalty program Daytona Ocean Center LUA 07232012
reward points backed by those program sponsors whom Ticketmaster in its reasonable discretion chooses to authorize as a method of payment and which may hereafter be approved by Ticketmaster) in connection with sales of Tickets purchased from Ticketmaster with credit cards. Ticketmaster agrees to absorb the credit card company charge relative to the Convenience Charge and Processing Fee. Principal agrees to absorb the credit card company charge relative to the Face Value of Tickets sold using such credit cards in an amount equal to 2.50% of the Face Value of all Tickets purchased via Telephone Sales and Internet Sales, which percentage rate shall be deducted by Ticketmaster as an Inside Charge, or, at Principal’s option, upon notice to Ticketmaster, the Convenience Charge may be adjusted to include Principal’s portion of such credit card company charge, provided that the Convenience Charge will be rounded up to the nearest nickel. With respect to all Tickets sold via Outlets, the Convenience Charge will be adjusted to include the credit card company charge in an amount equal to 2.63% of the Face Value of such Tickets, provided that the Convenience Charge will be rounded up to the nearest nickel. With respect to any Feld Attractions, Principal agrees that Principal shall be obligated to pay for the credit card company charge for Tickets to Feld Attractions purchased with credit cards, or shall obtain the agreement of Feld Entertainment to adjust the Convenience Charge to include the amount of such credit card charges; in any such event Ticketmaster shall not be obligated to absorb the credit card charges with respect to the Face Value of Tickets to any Feld Attractions. Such rates set forth above are subject to automatic increase due to increases to the interbank rates imposed on Ticketmaster.

Section 6. **Exclusive Rights.**

(a) Principal hereby grants to Ticketmaster, and Ticketmaster accepts from Principal, the exclusive right during the term of this Agreement to sell, as Principal’s Agent, all tickets for any Attraction scheduled or presented by Principal at the Facility and made available generally to the public, via any and all means and methods, including, but not limited to, telephone, computer, television, and outlet sales.

(b) It is agreed and understood that neither Ticketmaster nor Principal will guarantee that any minimum or fixed number of Tickets will be sold through the TM System for any Attraction.

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(c) Principal shall not directly or indirectly use, sponsor, promote, advertise, authorize or permit the use of any third party that promotes, engages in or facilitates the sale, resale or issuance of tickets.

Section 7. **Central Computer Facility; Conduct of Telephone Sales.** Ticketmaster shall, at its sole expense, maintain a central computer facility at such location or locations as it shall deem necessary for the operation of the TM System. The central computer facility will be in operation 16 hours a day during each and every day of the year, and will be adequately staffed to perform all ongoing licensed user assistance, maintenance and repair services required to be performed by Ticketmaster under this Agreement. In addition, repair services are required to be performed by Ticketmaster under this Agreement. In addition to the foregoing, Ticketmaster also agrees to provide telephone ticket sales services on behalf of Principal with respect to Attractions and, in that regard, shall receive telephone calls for Ticket sales between the hours of 9:00 a.m. and 9:00 p.m. Monday through Friday and between the hours of 9:00 a.m. and 7:00 p.m. on Saturday and Sunday. Such telephone service will be adequately staffed to perform ongoing licensed user assistance with respect to Ticket sales.

Section 8. **Maintenance and Repairs.**

(a) Installation costs with respect to the Hardware, the cost of all telephone line connections between the central computer facility and the Facility, and all monthly telephone line costs with respect to the operation of the TM System between the Facility and the central computer facility, shall be borne solely by Ticketmaster. Ticketmaster agrees to provide ordinary and routine maintenance and repair of the TM System at the Facility at no additional cost to Principal, provided that such maintenance or repair is not necessitated by the negligence of Principal, its employees, agents or representatives. Ticketmaster represents and warrants that adequate service and repair personnel on duty at the central computer facility will be available to meet the reasonably anticipated service needs of Principal from time to time. In the event of any breakdown or malfunction in the operation of the Hardware, or difficulties encountered in connection with access to the Software, Principal agrees to promptly notify Ticketmaster of any such malfunction to assist Ticketmaster in performing its obligations hereunder. In the event of any emergency, Ticketmaster further agrees to respond to such emergency as quickly as possible to provide Principal with repair services.

(b) Nondurable operational supplies which are used at the Facility in connection with the operation of the TM System, consisting of line printer paper and Daytona Ocean Center LUA 07232012
printer ribbons, shall be paid for by Principal, and Principal shall be responsible for maintaining adequate supplies thereof to assure continuous operations at the Facility.

Section 9. **Limitation of Liability.** In the event of any breach of this Agreement by Ticketmaster which may be caused by the malfunction of the Hardware or Software or by Ticketmaster’s failure to provide required maintenance service and to keep the TM System in operating condition, the limit of any claim of loss by Principal shall be no greater than the proven financial loss sustained by virtue of such breach. In no event shall Ticketmaster be liable for incidental or consequential damages for any breach of this Agreement. Occasional short-term interruptions of service which are not unreasonable under comparable industry standards shall not be cause for any liability or claim against Ticketmaster hereunder, nor shall any such occasion render Ticketmaster in default under this Agreement.

Section 10. **Training of Box Office Employees.** Principal shall staff a Ticket sales office at the Facility with its employees for the proper operation of the TM System for Facility Box Office and for operation of the TM System at the Facility and agrees to provide additional training to other employees of Principal to the extent such training is necessary as a consequence of changes in, or a modification of, the Hardware or Software or in Ticketmaster’s method of operation. To the extent of any change in personnel by Principal in connection with Facility Box Office sales requiring additional training beyond that initially contemplated hereunder, Principal agrees to absorb all of the expenses thereof.

Section 11. **Box Office Ticket Pick-Up.** At all times during the term of this Agreement, Principal shall maintain a designated Facility Box Office window for the pick-up of Tickets purchased through the TM System pursuant to Telephone Sales. The pick-up window shall be open during the normal hours of operation of the Facility Box Office.

Section 12. **Installation.** Following the execution of this Agreement, Ticketmaster shall proceed in good faith and with due diligence to install the Hardware and to provide Principal with access to the Software to facilitate ticket sales on behalf of Principal in a manner compatible with the objectives of this Agreement and with due consideration of the needs of Principal.

Section 13. **General Responsibilities of Principal.** During the term of this Agreement, Principal shall designate in writing to Ticketmaster an individual who will
serve as Principal’s representative with respect to the resolution of disputes which may arise in connection with the administration of this Agreement. Principal designates Don Poor as Principal’s representative in such capacity.

Section 14. **Audit of Sales.** Principal agrees to allow the sale to be made at all Outlets and by telephone of all Open Seats for each Attraction at the Facility. At all times during the term of this Agreement, Principal shall have the right at its own expense to audit Ticket sales for Attractions from Outlets and with respect to all Telephone Sales made by Ticketmaster to assure its compliance with the terms of this Agreement. Principal shall not bear any cost with respect to the operation of Outlets.

Section 15. **Attraction Set-Up.** In advance of all Ticket sales, Principal shall furnish Ticketmaster with all necessary information with respect to the proposed arrangement of the Facility for all Attractions, including, without limitation, seating layout, Ticket structure, discounts permissible, Ticket header information, color logos, entry information and such other information as is necessary for the proper sale of Tickets at the Facility Box Office, at all Outlets and by telephone. Included in such information shall be Principal’s prepared disclaimer respecting refund, the purchaser’s assumption of risk of injury, and such other relevant information as Principal shall deem necessary or appropriate. Notwithstanding anything contained herein to the contrary, Ticketmaster shall have no responsibility and Principal shall indemnify and hold Ticketmaster harmless from and against any and all liabilities, claims, expenses (including reasonable attorneys’ fees) or causes of action resulting from the inaccuracy of any information furnished by Principal pursuant hereto.

Section 16. **Delivery of Tickets; Advertising.**

(a) Principal agrees to supply, at its expense, all blank Ticket stock sold at the Facility Box Office and shall have the right to see advertising on such Ticket stock; provided, however, that Ticketmaster shall agree to provide blank Ticket stock to Principal at Ticketmaster’s expense, in the event that Principal allows Ticketmaster to see advertising with respect to all of such blank Ticket stock. Principal shall be responsible for the security of Ticket stock in its possession and risk of loss of Ticket stock shall shift to Principal upon the delivery thereof to Principal or Principal’s authorized representative, agent or employee.

(b) Principal hereby grants to Ticketmaster the right, in Ticketmaster’s sole discretion, to advertise Attractions and the availability of Tickets at the Facility Box Daytona Ocean Center LUA 07232012
Office, at all Outlets and by telephone, and, in connection therewith, to use the name and logo of Principal, the Attraction, the Facility and all other information respecting the Attraction. Ticketmaster, in its sole discretion, may promote and advertise on its own behalf, or on behalf of Principal or others, on the back side of all Tickets sold through the TM System at all Outlets and over the telephone. Principal may, during the term hereof, provide and place advertisements in any form of media which Principal shall desire to promote the availability of Tickets; provided, however, that in the event Principal shall place any such advertisements it shall use its best efforts to cause the corporate name, logo and central telephone number of Ticketmaster to be displayed in the advertisement, as well as the address of the Facility and, if possible, the identity of the Outlets where Tickets may be purchased.

(c) Ticketmaster and Principal shall separately receive and retain all income derived from advertising which each is entitled to see under subsections (a) and (b) above.

Section 17. Accounting Procedures.

(a) Ticketmaster shall collect and deposit all Ticket Receipts derived from Ticket sales for Attractions from all Outlets and Telephone Sales in an account to be maintained by Ticketmaster at a financial institution located in the State of Florida. Withdrawals of all Ticket Receipts to which Principal is entitled shall be made from such account by Ticketmaster and delivered to Principal on Friday for system Ticket sales for performances occurring Monday through Sunday of the week preceding such payment date. Each weekly payment shall be accompanied by a written accounting. In the event that Principal cancels any Attraction, the amount of funds held by Ticketmaster in said account (but specifically excluding therefore the amount of Ticket sales proceeds to which Ticketmaster is entitled hereunder) shall be available for distribution by Ticketmaster to customers for refunds. In the event that the amount of funds held by Ticketmaster in said account is insufficient to make all refunds, Principal shall deliver the amount of such deficiency to Ticketmaster no later than 24 hours after notice by Ticketmaster to Principal of the amount of such deficiency.

(b) It is agreed and understood that Ticketmaster shall not be liable to Principal for the printing and sale of counterfeit Tickets when such action is beyond the control of Ticketmaster; provided, that Ticketmaster has previously taken reasonable efforts to prevent the printing and sale of such counterfeit Tickets by adopting adequate control procedures.

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(c) In the event that any Attraction is cancelled, Ticketmaster shall have the right to refund the Ticket price at each Outlet with respect to Tickets sold at such Outlet. In the alternative, the purchaser of a Ticket to such Attraction shall have the right to exchange such Ticket pursuant to any exchange policy which may be adopted by Principal and Ticketmaster. With respect to cancelled Attractions, Principal and Ticketmaster agree that Ticketmaster shall be entitled to retain the Inside Charges and Convenience Charges assessable with respect to the initial sale thereof, although no additional compensation shall be payable, or fee assessed by Ticketmaster, with respect to the exchange of any Tickets initially purchased at any Outlet or by Telephone Sales.

Section 18. AVD.

(a) Ticketmaster will enable its proprietary authentication, validation and delivery service and related software and technology (collectively, “AVD”), with respect to all ticket sales to the Attractions for Principal through Ticketmaster’s secondary market resale site Ticketsnow.com (“TNOW”) as further described in this Section 18.

(b) For so long as Ticketmaster owns or controls TNOW, Ticketmaster shall make AVD available for all Attractions at the Facility during the term of this Agreement in accordance with the following process:

(i) Original barcodes on all tickets posted for resale through TNOW shall be authenticated against primary market ticket inventory as valid tickets;

(ii) Once authenticated, the original barcodes shall be cancelled, and tickets shall be issued a new barcode and posted for resale as verified authentic tickets with specific seat locations displayed; and

(iii) Upon purchase, an account shall be established with the new purchaser, and the tickets shall be emailed via Ticketfast with the new purchaser’s name listed.

(c) Principal shall receive from Ticketmaster one hundred percent (100%) of each AVD Fee collected (and not refunded) by Ticketmaster on account of Principal’s Daytona Ocean Center LUA 07232012
ticket sales, which aggregate AVD Fees will be paid on a quarterly basis on or before the fifteenth day of the month following each calendar quarter, via ACH to Principal’s existing bank account for settlement of ticket sales proceeds under this Agreement. Each settlement shall be accompanied by a report of AVD transactions for such quarterly period, which report shall be emailed to an address Principal designates. Ticketmaster shall be responsible for all credit card processing fees with respect to AVD.

(d) For each AVD transaction, Principal shall be entitled to access and use the consumer data of the new purchaser consistent with the existing terms of this Agreement.

Section 19. **Ticketmaster’s Representations and Warranties; Default.**

(a) Ticketmaster represents and warrants to Principal that:

(i) Ticketmaster owns and has title to the Hardware and license rights in and to the Software

(ii) The Hardware and Software will perform, and operation of the TM System, including all repair and service responsibilities, will be undertaken in a manner reasonably adequate for the performance of Ticketmaster’s obligations under this Agreement; provided, however, that such warranties do not extend or become applicable with respect to any delays, stoppages or malfunctions which are caused by the acts of any third parties, or which are not under, or are caused by events or causes beyond, the control of Ticketmaster; and

(iii) **ALL IMPLIED WARRANTIES EXISTING BY OPERATION OF LAW, INCLUDING SPECIFICALLY ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED AND NEGATED BY THE EXPRESS WARRANTIES PROVIDED HEREIN.**

(b) The occurrence of any of the following events, continued for 30 days after receipt by Ticketmaster of written notice thereof and its failure to cure the same shall, at Principal’s option, constitute an Event of Default hereunder and operate to terminate this Agreement and Ticketmaster’s right to effect sales of Tickets through the TM System:

(i) the nonpayment by Ticketmaster to Principal of any sums required to be remitted hereunder;

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(ii) the default by Ticketmaster under any material term, covenant or condition of this Agreement, or the breach by Ticketmaster of any material representation or warranty contained herein;

(iii) any affirmative act of insolvency by Ticketmaster, whether voluntary or involuntary, or the filing by Ticketmaster, or any third person against Ticketmaster, of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law or any other law or laws for the relief of, or relating to, debtors; provided, however, that no such act shall constitute an Event of Default unless and until Ticketmaster shall be unable to meet its obligations to principal under the terms of this Agreement; and

(iv) the exposure by Ticketmaster of the Hardware or Software or any material portion thereof to any levy, seizure, assignment or sale for, or by, a creditor or governmental agency.

(c) Upon the happening of any of the foregoing Events of Default, (i) Ticketmaster shall, without demand, forthwith pay to Principal all amounts due and owing pursuant hereto, and (ii) Principal may completely terminate this Agreement and require Ticketmaster to remove all Hardware from the Facility.

(d) No remedy referred to in this Section 19 is intended to be exclusive, but each shall be cumulative and in addition to any other remedy above or otherwise available to Principal at law or in equity, each and all of which are subject to the limitation contained in Section 9 above.

Section 20. **Principal’s Representations and Warranties; Default**

(a) Principal represents and warrants to Ticketmaster and, if requested by Ticketmaster, will provide an opinion of counsel and other supporting documents to the effect that:

(i) Principal is a body corporate and politic duly organized and in good standing under the laws of the State of Florida and has adequate power to enter into and perform this Agreement;
(ii) This Agreement has been duly authorized, executed and delivered on behalf of Principal and constitutes the valid, legal and binding agreement of Principal, enforceable in accordance with its terms;

(iii) The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to Principal or any provision of Principal’s charter or bylaws, or result in any breach of, constitute a default under, or result in any creation of, any lien, charge, security interest or other encumbrance upon any assets of Principal or upon the Hardware or Software, pursuant to any instrument to which Principal is a party or by which it or its assets may be bound; and

(iv) Principal is the sole and exclusive operator of the Facility.

(b) The occurrence of any of the following events, continued for 30 days after receipt by Principal of written notice thereof and its failure to cure the same shall, at Ticketmaster’s option, constitute an Event of Default hereunder and operate to terminate this Agreement and Principal’s right to the use of the TM System and possession of Hardware and Software:

(i) The nonpayment by Principal of any sum required hereunder to be paid by Principal;

(ii) The default by Principal under any material term, covenant or condition of this Agreement, or breach by Principal of any material representation or warranty contained herein;

(iii) Any affirmative act of insolvency by Principal, whether voluntary or involuntary, or the filing by Principal, or any third person against Principal, of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law or any other law or laws for the relief of, or relating to debtors; provided, however, that no such act shall constitute an Event of Default unless and until Principal shall be unable to meet its obligations to Ticketmaster under the terms of this Agreement; and

(iv) The exposure of a substantial part of Principal’s property or any part of the Hardware to any levy, seizure, assignment or sale for or by a creditor or governmental agency.
(c) Upon the happening of any of the foregoing Events of Default, (i) Principal shall, without demand, forthwith pay to Ticketmaster all amounts due and owing pursuant hereto, and (ii) Ticketmaster may, without notice to or demand upon Principal:

(i) disconnect all Hardware and terminate access to the Software and related services from the central computer facility to the Facility and/or all Outlets,

(ii) take immediate possession of the Hardware wherever the same may be located without demand, notice or court order,

(iii) sue for any and all damages and losses resulting from Principal’s failure to perform the requirements of this Agreement,

(iv) obtain injunctive relief for any breach of Principal’s covenants contained in Section 31 hereof, and

(v) terminate this Agreement

(d) No remedy referred to in this Section 20 is intended to be exclusive, but each shall be cumulative and in addition to any other remedy above or otherwise available to Ticketmaster at law or in equity.

Section 21. Loss and Damage. Principal hereby assumes and shall bear the entire risk of loss and damage to the Hardware, ordinary wear and tear excepted, whether or not insured against, once installed, unless occasioned by the negligence of Ticketmaster, from any and every cause whatsoever from the date of installation at the Facility until removal thereof following termination of this Agreement. No such loss or damage to the Hardware shall impair any obligation of Principal under this Agreement. In the event of loss or damage of any kind to any Hardware, Principal at its sole option, shall:

(a) Place the same in good repair, condition and working order to the satisfaction of Ticketmaster within 90 days of such loss or damage;

(b) Replace the same with similar property in good repair, condition and working order to the satisfaction of Ticketmaster within 30 days of the date of such loss or damage; or

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(c) Pay Ticketmaster therefor in cash the full replacement cost of the Hardware, and Ticketmaster shall promptly install new hardware to replace the lost or damaged Hardware.

Section 22. Insurance.

(a) Principal shall, at its own expense, provide and maintain at all times during the term hereof insurance to protect the Hardware against loss caused by fire (with extend coverage), vandalism, malicious mischief, theft, or any other cause in an amount equal to the full replacement value of the Hardware as determined by Ticketmaster. Should Principal become unable to provide or maintain such insurance coverage, Principal shall promptly notify Ticketmaster in writing prior to the expiration of any such coverage and, thereafter, Ticketmaster shall have the right, but shall not be obligated, to provide insurance coverage for the occurrences specified above and charge Principal the costs of such insurance coverage.

(b) Principal shall provide, at its sole expense, any and all other forms of insurance, including, but not limited to, public liability and property damage insurance, required for its protection and the protection of Ticketmaster. Principal shall indemnify and hold Ticketmaster harmless from and against any and all risks, claims, expenses (including reasonable attorneys’ fees) or causes of action arising from Principal’s use, possession or operation of the Hardware, except to the extent of damages caused by the negligence of Ticketmaster in the repair or maintenance of the Hardware.

(c) All insurance provided and maintained by Principal shall be in such amounts, under such forms of policies, upon such terms, for such periods and written by such companies as Ticketmaster and Principal shall agree upon, and in all cases such insurance policies shall provide for the waiver of the insurer’s right of subrogation against Principal and Ticketmaster. All policies of insurance shall include Ticketmaster as an additional named insured and shall provide for at least 10 days prior written notice of cancellation to Ticketmaster. Principal shall furnish Ticketmaster with certificates of such insurance or other evidence satisfactory to Ticketmaster as to its compliance with the provisions of this Section 22.

Section 23. Taxes.

(a) Principal shall keep the Hardware free and clear of all levies, liens and encumbrances and shall promptly reimburse Ticketmaster for all license fees, registration Daytona Ocean Center LUA 07232012
fees, assessments, charges and taxes, whether municipal, state or Federal, with respect to the Hardware located at the Facility, including, but not limited to, use, excise and property taxes, and penalties and interest with respect thereto, except and excluding, however, any taxes based on or measured solely by Ticketmaster’s net income.

(b) Principal shall be responsible for the payment of any and all sales, amusement, admissions and other taxes or charges, measured by reference to a charge per ticket sold, due to any municipality or state as a result of, or in connection with, any Attraction held at the Facility (collectively, “Attraction Taxes”) and for remitting same to the appropriate governmental authority. Principal shall promptly reimburse Ticketmaster for any and all such Attraction Taxes paid by Ticketmaster to any governmental authority on behalf of Principal (other than Attraction Taxes paid by Ticketmaster directly from proceeds of the ticket sales generating such Attraction Taxes), including penalties and interest with respect thereto, and including any and all expenses (including attorneys’ fees) or damages that result from a failure by Principal to properly remit or reimburse Ticketmaster for any and all such Attraction Taxes as provided above.

Section 24. Hardware is Personal Property. Principal covenants and agrees that the Hardware is, and shall at all times be and remain, personal property which shall, at all times, remain the sole and exclusive property of Ticketmaster. If requested by Ticketmaster, Principal will obtain a certificate in form satisfactory to Ticketmaster from all parties with a real property interest in the premises wherein the Hardware may be located, waiving any claim with respect to the Hardware. Except as may be necessary to prevent damage to or destruction of the Hardware, Principal will not move the Hardware nor permit such Hardware to be moved from the Facility without Ticketmaster’s consent, which consent shall not be unreasonably withheld, and shall give Ticketmaster prompt written notice of any attachment or other judicial process affecting any item of Hardware.

Section 25. Designation of Ownership. If, at any time during the term hereof, Ticketmaster supplies Principal with labels, plates or other markings stating that the Hardware is owned by Ticketmaster, Principal shall affix and keep the same in a prominent place on the Hardware in recognition of Ticketmaster’s ownership of the same.

Section 26. Use. Principal shall use the Hardware in a careful and proper manner and shall comply with and conform to all Federal, state, municipal and other laws, ordinances and regulations in any way relating to the possession, use or maintenance of the Hardware. Neither the Principal, nor its employees, agents, servants or representatives, Daytona Ocean Center LUA 07232012
shall alter, modify, copy or add to the Hardware or Software without the prior written consent of Ticketmaster.

Section 27. **Surrender of Hardware.** Upon the expiration or termination of this Agreement, Principal shall return the Hardware to Ticketmaster in good repair, condition and working order, ordinary wear and tear resulting from proper use thereof alone expected.

Section 28. **Assignment and Sublease.** Without the prior written consent of Ticketmaster, Principal shall not (a) assign, transfer, pledge or hypothecate its rights in this Agreement or any interest therein, or (b) permit the Hardware or any part thereof to be used, or access to the Software or any part thereof to be had, by anyone other than Principal or Principal’s authorized employees. Any such assignment shall not relieve Principal of any of its obligations hereunder. Any assignment, transfer, pledge or hypothecation for which consent is required hereby and which is made without such consent shall be void.

Section 29. **Indemnity.** Principal shall indemnify Ticketmaster against, and hold Ticketmaster harmless from, any and all claims, actions, damages, expenses (including court costs and reasonable attorneys’ fees), obligations, losses, liabilities and liens, imposed or incurred by, or asserted against, Ticketmaster or its successors or assigns, occurring as a result of Principal’s use of the TM System at the Facility or as a result of, or in connection with, any Attraction held at the Facility. Ticketmaster shall indemnify Principal and hold Principal harmless from any and all claims, actions, damages, expenses (including reasonable attorneys’ fees), obligations, liabilities and liens relating to any claim arising out of any alleged patent, trademark or copyright infringement, asserted against Principal or its successors or assigns with respect to Principal’s use of the TM System, except to the extent that any such claim shall relate to Principal’s negligence or willful misconduct with respect thereto.

Section 30. **No Joint Venture.** The relationship of Ticketmaster and Principal hereunder shall in no way be construed to create a joint venture or partnership, or to constitute Ticketmaster as an agent or employee of Principal for any purpose other than as set forth in this Agreement.

Section 31. **Restrictive Covenant.** Principal recognizes and acknowledges that the TM System as it now exists, including the Hardware and Software associated with the TM System and all improvements in the state of the art relative thereto, represents a valuable, Daytona Ocean Center LUA 07232012
special and unique asset of Ticketmaster. Principal consents and agrees that it will not, during or after the term of this Agreement, disclose any information, design specifications, programs, listings, documentation or other supporting or related materials or information of any nature or description whatsoever relating to the TM System, the Hardware or the Software, or applications, adaptations and modifications thereof, whether now existing or developed in the future, to any person, firm, corporation, association or entity for any reason or purpose whatsoever; provided, however, that this covenant shall not apply with respect to any information which becomes a matter of general knowledge within the public domain or if Principal is obligated to disclose same by reason of any court order, rule or regulation applicable to the conduct of its business. Principal does further agree and acknowledge that any remedy at law for any breach or threatened breach of the provisions of this Section 31 and the covenants set forth herein will be inadequate and, accordingly, Principal grants to Ticketmaster the right and entitlement to seek injunctive relief for any such breach or threatened breach of the provisions and covenants herein in addition to, and not in limitation of, any and all other remedies at law or in equity otherwise available to Ticketmaster. The expiration or termination of this Agreement by either party shall not terminate the continuing confidentiality obligations imposed on Principal by the terms of this Agreement.

Section 32. **Principal’s Agreements.** No agreement between Principal and any third party shall contain any provision inconsistent with any provision of this Agreement. Principal agrees to indemnify and hold Ticketmaster harmless from and against any and all liabilities, damages, claims, losses and expenses, including costs and reasonable attorneys’ fees, arising out of any breach by Principal of the covenant contained in this Section 32 or of the warranties of Principal contained in Section 20(a) of this Agreement.

Section 33. **Miscellaneous.**

(a) **Notices.** Any notice required or permitted to be given by the provisions hereof shall be conclusively deemed to have been received by a party hereto on the day it is delivered to such party at the address indicated below (or at such other address as such party shall specify to the other party in writing), or, if sent by registered or certified mail, on the third business day after the day on which mailed, addressed to such party at such address:

Daytona Ocean Center LUA 07232012
(i) If to Ticketmaster, at:
Ticketmaster L.L.C.
150 N. Orange Avenue
Suite 301
Orlando, FL 32801
Attn: Client Development Manager

With copies to:
Ticketmaster L.L.C.
550 W. Van Buren
13th Floor
Chicago, IL 60607
Attn: SVP, Core Ticketing East Region

Ticketmaster L.L.C.
7060 Hollywood Boulevard
2nd Floor
Hollywood, CA 90028
Attn: General Counsel

(ii) If to Principal, at:
Daytona Ocean Center
101 N. Atlantic Avenue
Daytona Beach, FL 32018
Attn: Don Poor

With copies to:
County of Volusia
123 W. Indiana Avenue, Ste. 301
Deland, FL 32720
Attn: County Manager

County of Volusia
123 W. Indiana Avenue, Ste. 301
DeLand, FL 32720
Attn: County Attorney

(b) **Effect of Waiver.** No delay or omission to exercise any right or remedy in favor of Ticketmaster or Principal upon any breach or default hereunder shall impair any such right or remedy or be construed to be a waiver of any such breach or default; nor shall any waiver of any single breach or default be deemed a waiver of any other breach.
or default theretofore or thereafter occurring. Any waiver, permit, consent, or approval
on the part of Ticketmaster or Principal of any breach or default under this Agreement, or
of any provision or condition hereof, must be made in writing and shall be effective only
to the extent specifically set forth in such writing.

(c) **Attorneys’ Fees.** In the event of any action at law or suit in equity in
relation to this Agreement, the prevailing party shall be entitled to a reasonable sum for
its attorneys’ fees.

(d) **Applicable Law.** This Agreement shall be governed by, and construed in
accordance with, the laws of the State of Florida.

(e) **Additional Documents.** Each of the parties hereto agrees to execute and
deliver such additional and further documents and instruments as may be necessary or
appropriate to carry out the intents and purposes of this Agreement.

(f) **Counterparts.** This Agreement may be executed in one or more
counterparts, all of which shall be deemed to be one and the same document.

(g) **Severability.** In the event any one or more of the provisions contained in
this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any
respect, such invalidity, illegality or unenforceability shall not affect any other provision
of this Agreement, but this Agreement shall be construed as if such invalid, illegal or
unenforceable provision had never been contained herein. Further, in the event that any
provision of this Agreement shall be held to be unenforceable by virtue of its scope, but
may be made enforceable by a limitation thereof, such provision shall be deemed to be
amended to the minimum extent necessary to render it enforceable under the laws of the
jurisdiction in which enforcement is sought.

(h) **Confidentiality.** The terms, conditions and provisions of this Agreement
are confidential and shall not be disclosed to any other person without the prior written
consent of the non-disclosing party.

(i) **Binding Effect.** The terms, conditions, provisions and undertakings of this
Agreement shall be binding upon and inure to the benefit of each of the parties hereto and
their respective successors and assigns.

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(j) **Amendments.** This Agreement shall not be changed, modified, altered or amended in any respect without the mutual consent of the parties hereto, which consent shall be evidenced by a written amendment to this Agreement executed by the parties hereto.

(k) **Entire Agreement.** This written Agreement and the Exhibits hereto constitutes the sole and only agreement of the parties relating to the matters covered hereby. Any prior or contemporaneous agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force or effect. This Agreement supersedes any and all existing contracts and agreements by the parties with respect to the subject matter covered herein.

(l) **Volusia County Sovereign Immunity and Limitation of Liability.** The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes (as amended). Notwithstanding anything set forth in any Article of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of immunity of limits of liability of County beyond any statutory limited waiver of immunity of limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of County for damages regardless of the number or nature of claims in tort, equity, or contract shall not exceed the dollar amount set by the legislature for tort. Nothing in this Agreement shall inure to the benefit on any third party for the purpose of allowing any claim against County which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

In no event shall County be liable to Ticketmaster for any incidents, indirect, special or consequential damages.
IN WITNESS WHEREOF, the parties have executed this Restated and Amended License Agreement as of the date set forth below respectively for each.

TICKETMASTER, L.L.C.
A Virginia limited company
authorized to do business in the State of Florida

By: __________________________
    George Wood
Title: SVP, Core Ticketing East Region
Date: 8/6/12

COUNTY OF VOLUSIA

By: __________________________
    Frank T. Bruno, Jr.
Title: County Chair
Date: __________________________

ATTEST:

By: __________________________
    Name: BRIAN MORETH
    Title: DIR. FINANCE
    Date: 8/6/12

ATTEST:

By: __________________________
    Name: James T. Dinneen
    Title: County Manager
    Date: __________________________
EXHIBIT 1
HARDWARE

1. Facility Box Office Hardware

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Thin Client PCs</td>
<td>$4,152.00</td>
</tr>
<tr>
<td>8</td>
<td>Keyboards</td>
<td>$832.00</td>
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<tr>
<td>8</td>
<td>Ticket Printers</td>
<td>$9,840.00</td>
</tr>
<tr>
<td>1</td>
<td>Router</td>
<td>$1,400.00</td>
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</tbody>
</table>

2. AccessManager Hardware

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Scanners</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>1</td>
<td>Network Server</td>
<td>$2,500.00</td>
</tr>
<tr>
<td></td>
<td>Annual Software License Fee</td>
<td>Waived</td>
</tr>
<tr>
<td></td>
<td>Annual Maintenance Fee</td>
<td>Waived</td>
</tr>
</tbody>
</table>

For purposes of clarity, replacements for the Thin Client PCs, Keyboards and Scanners shall be installed by Ticketmaster upon execution of this Agreement. Over the Term of this Agreement, the Ticket Printers, Router and Network Server may be replaced as necessary.