



**DRAFT**

**EXCLUSIVE REPRESENTATION RIGHTS AGREEMENT**

**DSM AGREEMENT #** [REDACTED]

**DATED 30 JANUARY 2009**

**I. OVERVIEW**

Daktronics Sports Marketing, a division of Daktronics, Inc., (hereinafter “DSM”) agrees to provide to **Wylie** Independent School District, (hereinafter the “Customer”) the following exclusive Representation Rights Services for, in, and around [REDACTED] and any other facility in which equipment is to be placed.

**II. DSM SERVICES**

DSM will implement a 5-phase plan, to include:

**PHASE 1**

DISCOVERY/PROJECT EVALUATION

- Present and review project flow chart to Customer
- Review Customer’s specific goals, objectives, and expectations
- Review existing sponsorships, vending and any and all marketing and/or media agreements, plus current revenue generation
- Review what sponsorship vending and marketing/media advertising rights are available (Refer to Attachment A)
- Review similar projects/market evaluations
- Begin formulating preliminary financial proforma for project
- Provide a Representation Rights Agreement to Customer if project evaluation indicates the ability to achieve Customer’s goals, objectives and expectations

**PHASE 2**

PROJECT DEVELOPMENT

- Customer and DSM sign a mutually agreeable Representation Rights Agreement

- Conduct venue site visit (DSM project team)
- Determine project design criteria
- Evaluate product application and technology
- Target areas within the Facilities for specific component implementation
- Develop conceptual designs for evaluation within the facilities
- Determine system design costs
- Review financial proforma with updated revenue and system design costs.
- Review the feasibility of accomplishing Customer's goals, objectives and expectations
- Preliminary review of conceptualls/financial proforma with Customer
- Obtain written approvals by Customer through Customer Approval Book, which will include the following, with the understanding that Customer at all times retains the right to negotiate the terms of any document, even after its approval of any part of the Customer Approval Book:
  - Project Flow Chart
  - Signed Representation Rights Agreement (applicable terms and conditions)
  - Marketing Conceptualls
  - Marketing Inventory Checklist (MIC)
  - Marketing/Advertising Rights List
  - Equipment / Services
  - Installation Responsibilities
  - Customer Agreement Template
  - Financial Proforma
  - Advertiser Target List
  - Advertising Agreement Template
  - Graphic File Standards/Prospectus Checklist
  - Contract Fulfillment Responsibilities
- Finalize financial proforma/equipment cost
- Prepare Advertising Sales Presentation materials , which may include:
  - PowerPoint Presentation
  - Electronic and/or Email Advertising Prospectus
  - Printed Advertising Prospectus

### **PHASE 3**

#### **AD SALES AND CONTRACTING**

- DSM will pay all selling expenses for:
  - Travel
  - Salaries
  - Materials
  - Commissions
  - DSM internal attorneys fees
  - Phone, fax, and email
  - Contract development, signatures and distribution
  - Internal DSM overhead and administration
- Ad sales selling and contracting

- Review/present and finalize financing options with Customer
- Finalize Customer Agreement

## **PHASE 4**

### TECHNICAL CONTRACTING/PROJECT MANAGEMENT /MANUFACTURING/ INSTALLATION

- Establish a detailed project installation timeline listing all manufacturing and installation aspects of the project
- Provide all electrical, signal, mechanical, structural, installation, preliminary and final engineering drawings
- Prepare specific equipment and installation specifications and scopes of work to prepare for local bidding out purposes including electrical and signal, mechanical and structural, and lifting and mounting display
- Negotiate and contract with subcontractors using Customer-approved AIA documents
- Conduct site visit that includes, but not limited to, pre-design evaluation meetings, subcontractor walk-through negotiations, site and subcontractor inspections, major equipment deliveries, system follow-up and system acceptance
- Ad copy management and approval
- Complete project installation requirements
- Coordinate on-site operator and maintenance training

## **PHASE 5**

### CONTRACT FULFILLMENT

- Collaborate with Customer annually to solidify all inventory that needs to be fulfilled each Agreement Year
- Meet with Customer and Advertisers semi-annually or annually (attend a game-day event if possible)
- Develop and maintain a relationship with all committed Advertisers through various mediums (phone calls, emails, letters and site visits) throughout the life of the contract
- Fulfill any change to static signage or digital content when an Advertiser's logo or copy needs to be altered
- Manage and fulfill inventory for any new Advertiser that commits after initial installation
- Collaborate with DSM Sales to secure renewals, when needed

### **III. As part of this Agreement, Customer shall be responsible for:**

- Assisting DSM with or developing a marketing prospect list (Advertiser Target List), information pertaining to existing corporate and vending relationships, copies of contracts/agreements, etc.

- Assisting DSM with sponsorship sales and sales presentations including, but not limited to, providing information pertaining to current and potential advertisers, sponsors or partners; information and written documentation about contracted vendors, alumni, development, and other associations; information and resources to create sponsorship prospectuses and rate sheet; letters and phone calls to help set up appointments.
- Accompanying DSM, when requested, on sales presentations, follow-up visits, and discussions with any existing or potential advertisers/sponsors.
- Providing qualified personnel and/or operators for maintenance, logging, managing and servicing advertising and sponsorship packages, as per the Contract Fulfillment Responsibilities Checklist
- Performing certain Installation Responsibilities, as agreed to and accepted by Customer

#### **IV. DSM MARKETING FEES**

##### **1. COMMISSION FEES**

DSM will earn commission a 20% on all gross advertising (sponsorship) dollars and/or revenues sold and contracted for on this project by DSM up to the annual threshold, regardless of who finalizes the sale and contractual agreements. Unless otherwise agreed to, all commissions will be paid within 60 days of the close of each Agreement Year.

##### **2. REVENUE SPLIT AFTER THRESHOLD**

If, and to the extent, the gross annual advertising revenues exceed the annual threshold during any Agreement Year, DSM and Customer agree to share the excess revenues, as follows: 60% to Customer and 40% to DSM. The funds will be distributed within 60 days of the close of each Agreement year.

##### **3. SALES RETENTION AND EXCLUSIVITY**

Customer grants DSM the exclusive Representation Rights for 240 business days from date of last signature on this Agreement, to perform DSM services as delineated in Section II. This agreement will automatically terminate at the end of that time. The parties may agree in writing to extend this agreement for an additional amount of time.

#### **V. GENERAL CONDITIONS**

1. DSM and Customer shall pay their own expenses incurred in connection with this agreement; provided, however, that if projected revenue is sufficient to enter into a Customer Agreement or other form(s) of finalized Agreement and Customer fails to

negotiate the same in good faith, Customer will reimburse DSM for Expenses, as defined below, but not to exceed \$50,000. The determination whether projected revenue is sufficient to enter into a Customer Agreement or other form of finalized agreement will be made as follows: at the conclusion of Phase 2 as described above, the parties will mutually determine in writing, in terms of a specific dollar amount, the amount of advertising revenues that will be necessary to make the transaction viable for both parties (the "Viability Threshold Amount"). If, and only if, DSM is able to secure committed advertising revenues in excess of the Viability Threshold Amount may the projected revenue be deemed sufficient to enter into a Customer Agreement or other form of finalized agreement. Customer retains the sole discretion to determine whether any proposed advertisers are acceptable, but may not unreasonably reject a proposed advertiser if such rejection would cause the committed advertising revenues to fall below the Viability Threshold Amount. In all other respects, Customer retains absolute discretion to reject any proposed advertiser. If Customer rejects a proposed advertiser, the total amount of projected revenue from a rejected advertiser will be deducted from the total projected advertising revenue in determining whether the total projected advertising revenue meets or exceeds the Viability Threshold Amount. In no event will Customer's exercise of its discretion to approve or reject advertisers be deemed to require that Customer reimburse DSM under this section. Customer is not required under this section to reimburse DSM for any expenses incurred prior to the parties' agreement on the Viability Threshold Amount. If the parties do not enter into a Customer Agreement within the time specified in section IV(3) as that time may be extended by mutual agreement, DSM will not be entitled to any reimbursement.

Expenses are defined as follows: Reasonable and documented expenses incurred in for the following:

- a. Travel (calculated using the rates established by the Texas Comptroller of Public Accounts)
- b. Services provided by DSM related to marketplace review, creative development, research and facility evaluations, system design and marketing plans, presentation materials, and drawings or renderings. The total amount for this subsection (b) will not exceed \$47,000.

2. After DSM secures sufficient revenues and Advertising Agreements, Customer may choose to assign advertising revenues to DSM, and DSM will finance equipment/system and will distribute revenues accordingly; or, Customer may choose to retain the advertising and marketing rights and purchase/finance the equipment; and, pay DSM commissions for the marketing services. In the event that Customer elects to assign advertising revenues to DSM, the parties will enter into a separate mutually-agreeable agreement.

3. Customer acknowledges that any information, including, but not limited to, the designs, drawings, renderings, conceptals and/or content provided under this Agreement or any

subsequent Agreement is the exclusive protected right and property of DSM and that Customer has no right in any of the information, designs, and/or content, except those expressly granted by this Agreement and any subsequent Agreement by and between both parties. Therefore, any unauthorized use of said protected right and property, including, but not limited to, unauthorized copying, disclosure, imitation or distribution thereof, is strictly prohibited unless prior written consent and/or assignment of said right is granted by DSM.

4. This agreement is governed by the laws of the state of Texas. Exclusive venue for any action arising out of this agreement is in the state courts of **Taylor County**, TX.

5. Nothing in this agreement is intended to waive any immunity or legal defense to which Customer may be entitled.

6. Nothing in this agreement requires Customer to enter into any other agreement with any other party. Customer may elect to enter into separate agreements related to this agreement. Any installation, construction, or similar work that Customer may procure from DSM will be subject to a separate, mutually-agreeable agreement between the parties.

7. It is expressly understood that Customer retains all authority and discretion with respect to the content and location of any advertisements related to this agreement, and may accept or reject any proposed advertisements without breaching this agreement or incurring any other penalty.

8. Except for the commissions payable under the agreement, in no event will Customer be liable to DSM for any amount of money, other than as expressly agreed to in a separate agreement between the parties.

9. Customer may terminate this agreement for convenience at any time upon seven calendar-day written notice to DSM of its intention to do so, and this agreement will automatically terminate upon the expiration of that notice period. In the event of such termination, DSM is entitled to reimbursement of the reasonable expenses it may have incurred directly connected to this agreement that are described in section V(1).

10. This agreement constitutes the final agreement between the parties. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this agreement are expressly merged into and superseded by this agreement.

***This Agreement, its contents and conditions, is accepted by both parties and signing party has authority to enter into this Agreement.***

**CUSTOMER WYLIE ISD**

By \_\_\_\_\_  
Authorized Signature

Title \_\_\_\_\_  
Please Print or Type Title

Dated \_\_\_\_\_

**CONTACT INFORMATION:**

\_\_\_\_\_  
Fax \_\_\_\_\_

Email Address \_\_\_\_\_

**DAKTRONICS SPORTS MARKETING**

By \_\_\_\_\_  
Authorized Company Manager

Dated \_\_\_\_\_

**CONTACT INFORMATION:**

331 Thirty-Second Avenue, Brookings, South Dakota 57006

ATTN: DSM Business Manager

Phone: 1-888-325-8463

Fax: 605-697-4700

**This Exclusive Representation Rights Agreement is presented by:**

\_\_\_\_\_  
Regional Project Development Director



**ATTACHMENTS (optional/as required)**

- ATTACHMENT A: Marketing/Advertising Rights
- ATTACHMENT B: Preliminary Financial Proforma (Project by DSM)
- ATTACHMENT B: Preliminary Financial Proforma (Project financed by CUSTOMER)

**ATTACHMENT A: Marketing/Advertising Rights**

<b>Daktronics</b>	<b>Customer</b>
-------------------	-----------------

**SIGNAGE**

X	
X	
X	
X	
X	
X	
X	
X	
X	

Exclusive on-premise signage in and around [REDACTED] and any other facility in which equipment is to be placed details include but not limited to:	
•	Building Exterior
•	Outdoor Marquee
•	Parking lot
•	In-bowl/In-Arena
•	Area adjacent to field/endzone
•	Concourse
•	Concession stand area
•	Ticket window area
•	Wayfinding areas

**CONTENT**

X	
X	
X	

Exclusive rights to all sponsor digital content including, but not limited to:	
All sponsored content on Videoboard(s)	
All sponsored content on Outdoor Marquee(s)	
All sponsored content on Message Center(s)	

**MULTI-MEDIA**

X	
X	
X	
	X

Exclusive multi-media rights including, but not limited to:	
Television Broadcast Rights	
Radio Broadcast Rights	
All sponsored PA announcements	
Internet	

**PRINT**

	X
	X
X	
X	
X	

Exclusive sponsorship rights to all printed materials including, but not limited to:	
Game Day Programs	
Student Newspaper	
Tickets -back of and/or front of	
Schedule Cards	
Posters	

**OTHER**


Exclusive rights to all Special Events and Promotions including: <b>List out</b>	
•	
•	
•	
•	

**ATTACHMENT B: PRELIMINARY PROJECT PROFORMA – FINANCED BY DSM**

CONTRACT TERM:        Years

DESCRIPTION	PER YEAR CALCULATION
<p><b>ADVERTISING REVENUE</b> Estimated Annual Gross Revenues</p>	<p>\$            PER YEAR</p>
<p><b>ANNUAL DEBT SERVICE (THRESHOLD)</b> Equipment/System Debt services based on \$</p> <p>Financed at        % for        Years = \$</p> <p>DSM Commission Fee (        % of all revenue generated up to annual threshold) =</p> <p>Miscellaneous Expenses (i.e. tickets, printing, etc.) =</p>	<p><b>ANNUAL THRESHOLD/DEBT SERVICE</b></p> <p>\$            PER YEAR</p>
<p><b>ADJUSTED ANNUAL ADVERTISING REVENUE</b> (Estimated Advertising Revenue less Debt Service/Threshold)</p>	<p>\$            PER YEAR</p>
<p><b>PROJECTED NET REVENUE SPLIT AFTER THRESHOLD TO CUSTOMER</b></p> <p>(        % TO CUSTOMER;        % to DSM)</p>	<p>\$            PER YEAR</p>

▪ **THESE PROJECTIONS ARE ESTIMATES ONLY**

**ATTACHMENT C: PRELIMINARY PROJECT PROFORMA – FINANCE OPTION BY CUSTOMER**

CONTRACT TERM:        Years

DESCRIPTION	PER YEAR CALCULATION
<p><b>ADVERTISING REVENUE</b> Estimated Annual Gross Revenues</p>	<p>\$        PER YEAR</p>
<p><b>ANNUAL DEBT SERVICE (THRESHOLD)</b> Equipment/System Debt services based on \$</p> <p>Financed at        % for        Years = \$</p> <p>DSM Commission Fee (        % of all revenue generated up to annual threshold) =</p> <p>Miscellaneous Expenses (i.e. tickets, printing, etc.) =</p>	<p><b>ANNUAL THRESHOLD/DEBT SERVICE</b></p> <p>\$        PER YEAR</p>
<p><b>ADJUSTED ANNUAL ADVERTISING REVENUE</b> (Estimated Advertising Revenue less Debt Service/Threshold)</p>	<p>\$        PER YEAR</p>
<p><b>PROJECTED NET REVENUE SPLIT AFTER THRESHOLD TO CUSTOMER</b></p> <p>(        % TO CUSTOMER;        % to DSM)</p>	<p>\$        PER YEAR</p>

- **THESE PROJECTIONS ARE ESTIMATES ONLY; CUSTOMER SHALL HAVE THE OPTION TO PROCURE OWN TAX-FREE FINANCING, IF APPLICABLE.**