

## ADVERTISING AGREEMENT

THIS ADVERTISING AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and among \_\_\_\_\_ ("Advertiser"), DAKTRONICS, INC. ("Daktronics") and ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT ("Customer").

WHEREAS, Daktronics has entered or will enter into an agreement with Customer (the "Customer Agreement") pursuant to which (a) Daktronics shall install or has installed certain video display, scoreboard, electronic message center equipment and/or other components at, within or around the Customer's facilities and (b) Customer has granted to Daktronics the exclusive right to market and sell on behalf of the Customer the advertising rights upon such equipment and other components and within, around and/or at such facilities; and

WHEREAS, Daktronics has marketed to the Advertiser certain advertising rights and the Advertiser desires to acquire certain advertising rights upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the foregoing premises and the mutual covenants herein contained, the parties agree to the following:

1. Granting of Advertising Rights. Subject to the terms and conditions of this advertising agreement the Customer hereby grants to Advertiser the right to advertise on the specific equipment and other components (the "Equipment") and/or within or pertaining to the facilities (collectively, the "Facility") as more particularly described on Attachment A attached hereto and incorporated herein (the "Advertising Specifications"). The Advertising specifications hereunder shall be provided by Customer in accordance with Attachment A at all events to be held within, around and/or at the Facility; provided, however, that Advertiser understands that certain events held in the Facility, such as, but not limited to, Commencement activities, may not allow advertising to be present.

2. Fabrication of Panel(s). Daktronics shall fabricate the initial advertising panel or panels, as well as other initial advertising that may be in the form of banners or other on-premise signage, if any, described on Attachment A. Advertiser is solely responsible for submission of all logo and associated artwork for use on printed items, advertising panels, advertising copy, and promotional items and other. Advertiser shall reasonably cooperate with Daktronics in connection with any such fabrication and shall pay upon demand (unless otherwise agreed in writing) any expenses incurred due to any change orders made by Advertiser with respect thereto. Advertising copy layout approval is required by Advertiser, Daktronics, and Customer (if required). The initial ad copy layout and up to two (2) revisions per ad copy layout will be provided at no cost. If additional revisions are requested by Advertiser, revisions will be billed at \$130.00 per hour.

3. Custom Programming; and/or Conversion of Video Content. Daktronics shall create the following *initial* custom programming and/or conversion of video content:

For the Football Display

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Daktronics shall create all custom programming delineated above within thirty (30) days of Advertiser's submission of suitable storyboard concepts including necessary camera-ready or proper electronic format artwork as reasonably approved by Daktronics and Customer (if required). Advertiser is solely responsible for submission of all logos and associated artwork. Daktronics shall convert into a format displayable upon the Equipment the video content, as delineated above within thirty (30) days of Advertiser's delivery to Daktronics of properly formatted broadcast quality video content and/or logos, as reasonably approved by Daktronics and Customer (if required).

Advertiser shall reasonably cooperate with Daktronics in connection with any such custom programming or conversion and shall pay upon demand (unless otherwise agreed in writing) any expenses incurred due to any change orders made by Advertiser with respect thereto.

4. Term. This Agreement and the grant of Advertising hereunder shall be for a term of \_\_\_\_ ( ) years beginning on the later of \_\_\_\_\_ or the date the Equipment and other components are installed and operational by Customer (the "Commencement Date") and ending on \_\_\_\_\_ (the "Term").

5. Advertising Fees. In consideration for the Advertising, fabrication of panels, if any, other on-premise signage, if any, and custom programming or conversion, if any, Advertiser shall pay the sum of \_\_\_\_\_ Dollars Net (\$\_\_\_\_\_ net) (the "Advertising Fees") per Agreement Term, payable per Attachment B (Payment Schedule). The payments shall be directed to Daktronics at the address specified below Daktronics' name on the signature page hereof. Any applicable sales, use privilege, ad valorem, excise or other similar taxes shall be paid by Advertiser in addition to Advertising Fees.

6. Casualty; Impairment; Extension. In the event of casualty, condemnation, material damage or destruction of the Equipment and other components, Customer shall timely replace or repair the Equipment and other components. In such event, or if the Facility is otherwise not used for scheduled events, Customer agrees to provide to Advertiser, an extension of the Advertising provided hereunder for events similar in type and exposure and held at the Facility, as deemed appropriate by Customer in the exercise of its reasonable discretion. Payment of all Advertising Fees due during any such extension shall be made in accordance with Section 5.

7. Nonpayment. In the case of Advertisers' failure to pay the Advertising Fees hereunder within twenty (20) days of due date, Daktronics shall have the right to declare immediately due and payable the present value (discounted using a 8.5% rate of interest) of all future payments together with amounts then owed, together with reasonable attorneys' fees and costs, and/or pursue any other remedies available at law or in equity. The Customer agrees to cooperate with Daktronics in enforcing any payment terms under this Agreement and to take whatever action is reasonably necessary to enforce the payment terms hereunder.

8. Limitation of Liability. The entire liability of Customer and Daktronics to Advertiser, regardless of the form of action, whether in contract or in tort, will not exceed Advertising Fees paid during the 12-month period immediately prior to Advertiser's giving of notice of such claim. In no event will Customer or Daktronics be liable for any incidental, indirect, special or consequential damages to Advertiser, including, but not limited to, loss of use, revenues, profits or savings, even if Customer or Daktronics knew or should have known of the possibility of such damages. Except with respect to, and to the extent of, prepayments of Advertising Fees hereunder, Advertiser hereby releases Daktronics from any future claims, demands, actions, causes of action, liabilities or damages to the extent directly or indirectly resulting from (i) the negligence or fault of the Customer or the Customer's agents or employees with respect to its operation of the Equipment or otherwise, or (ii) any early termination of this Agreement by the Customer other than as a result of the negligent act or material breach of Daktronics.

9. No Warranties. EXCEPT FOR ANY WARRANTIES EXPRESSLY MADE IN ATTACHMENT A TO THIS AGREEMENT, CUSTOMER AND DAKTRONICS EXCLUDE ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. Assignment. This Agreement shall not be assigned by Advertiser nor shall Advertiser grant to any other person any of its rights without the prior written consent of Daktronics and the Customer. Daktronics may assign its right to payments hereunder without the prior written consent of

Customer or Advertiser. Upon such assignment, Daktronics shall provide written notice thereof to Customer and Advertiser. Customer and Advertiser shall promptly execute such documentation as an assignee of Daktronics may reasonably require stating (i) they will send copies of any notices required under this Agreement to the assignee; (ii) they are not entitled to withhold, delay or condition the payment of their obligations under this Agreement based upon any claims they may have against Daktronics; (iii) they represent that this Agreement is in full force and effect, and is enforceable against such parties in accordance with its terms; and (iv) with respect to the Customer, its obligations under the Agreement are not subject to periodic budget appropriations.

11. Marketing Materials. The Advertiser acknowledges and agrees that Daktronics may, and hereby authorizes Daktronics to take and utilize in any of its marketing materials photographs of the Equipment and inventory upon and after installation; provided, however, that the depiction of the Advertiser's (or their respective affiliates') trademarks or logos, if any, in such photographs shall be incidental to the principal subject, and the Equipment.

12. Miscellaneous. No party shall be liable for delay in performance hereunder due to causes beyond its control, including but not limited to acts of God, fires, strikes, and delinquencies of suppliers, intervention of any governmental authority or acts of war or terrorism. The parties agree that if any part or provision of this Agreement is in any manner held to be invalid, illegal, void, or in any manner unenforceable, or to be in conflict with any law or, including but not limited to the NCAA, interscholastic governing bodies or the Customer's rules or regulations, then the validity of the remaining portions or provisions of this Agreement shall not be affected, and such part or provision shall be construed and enforced in a manner designed to effectuate the intent expressed in this Agreement to the maximum extent permitted by law. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Neither Advertiser, Customer nor Daktronics are partners or joint venturers with the other or others.

13. Non-Disclosure. Advertiser and Customer acknowledge and agree that this Agreement and all terms and conditions hereof, are considered to be confidential in nature and shall under no circumstances be disclosed to any third party, either in its entirety or in parts, with the following exceptions: (a) where the disclosure is made to the disclosing party's attorneys, accountants, and advisors; or (b) where the disclosure is mandated by judicial order; or (c) where disclosed by Customer as required by any State or Federal law. Specifically, but not by way of limitation, neither Advertiser nor Customer may disclose to any third party any portion of the financial terms of this Agreement. In the event of any unauthorized disclosure, the disclosing party shall be liable to Daktronics for all losses, damages, and costs occasioned thereby. In addition, Daktronics shall be entitled to enforce its rights hereunder by way of injunction, restraining order, or other relief to enjoin any breach or default under this non-disclosure clause.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives on the date first above written.

**ADVERTISER:** \_\_\_\_\_

By \_\_\_\_\_  
[authorized signature only]

\_\_\_\_\_  
[print or type name clearly]

Title \_\_\_\_\_  
Dated \_\_\_\_\_

**Contact Information**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**CUSTOMER: ECTOR COUNTY ISD**

By \_\_\_\_\_  
[authorized signature only]

\_\_\_\_\_  
[print or type name clearly]

Title \_\_\_\_\_  
Dated \_\_\_\_\_

**Contact Information**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**DAKTRONICS:**

By \_\_\_\_\_  
Authorized Signature and Title

Dated \_\_\_\_\_

**Contact Information**

331 Thirty-Second Avenue, PO Box 5128, Brookings, SD 57006-5128  
Daktronics Sports Marketing, A Division of Daktronics, Inc.  
Attn: DSM Business Manager  
Phone – (888) 325-8463 Fax – (605) 697-4700

**ATTACHMENT A**  
**ADVERTISING SPECIFICATIONS**

**ATTACHMENT B  
PAYMENT SCHEDULE**

**Agreement term 1:** For services rendered \_\_\_\_\_ to \_\_\_\_\_  
Payment: \$\_\_\_\_\_ Payment due on or before \_\_\_\_\_

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**ADVERTISER ACKNOWLEDGES AND WILL ABIDE BY THE PAYMENT SCHEDULE**

**ADVERTISER INITIALS:** \_\_\_\_\_