



## SERVICE AGREEMENT – JUNE 2020

### Pro-Plus Premium Ticketing Service

This Service Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 (“Effective Date”) between HomeTown Ticketing, Inc. (hereinafter “HTT”) and \_\_\_\_\_ (“Client” or “you” or “your”). HomeTown will provide a platform to allow Client to make online ticket sales to its customers (“Customers”). For good and valuable consideration, the receipt and sufficiency is hereby acknowledged, the parties hereto agree as follows:

#### 1.0 The Basics

- a. This 12-month auto-renewing agreement is to use HTT as your online ticketing provider via an online box office that HTT shall provide.
- b. HTT will charge to your customer the ticket face value, and the following service and credit card (“CC”) processing fees for online transactions (collectively, the “Fee”): \$1 per-ticket fee + CC fees (currently 2.9% + \$0.30 per-order). Point of Sale orders will charge customer the ticket face value + CC fees of 2.7% + \$0.05 per transaction.
- c. The full-face value of tickets sold (plus any taxes, if applicable and received from customer) will be paid to you within 24 hours after the sale is processed. It is your sole responsibility to remit any applicable sales taxes to the proper authorities.
- d. HTT will provide an online ticketing platform along with cloud hosting, technical services, and support for you. HTT will also provide customer (fan) support if your customers contact HTT directly.
- e. You are responsible for honoring all tickets sold through the HTT platform that can be successfully scanned with the HTT app, have not been altered, and were paid for in full without any dispute.
- f. You are responsible for any refunds and for implementing a refund policy and any event or other policies. These policies must be visible on your website and conveyed to any customers who purchase tickets through the HTT platform. HTT does not provide refunds of any fees. Any full refunds you choose to make to customers will cause the fee to be deducted from your account balance to cover the cost of said fees.
- g. HTT is not liable for taxes, event management, security, or any claim or loss that may arise at any event or venue, or for any damage to personal devices or other hardware that may be utilized to scan tickets.
- h. HTT may aggregate your event information on the HomeTownTix website and app.
- i. HTT maintains full control of digital ticket property, including digital ads in compliance with Board of Directors Policy, which may provide an optional revenue share to you.
- j. HTT’s liability hereunder is limited to the Fee received by HTT on any ticket sold by you in the last 60 days.
- k. Any warranties, whether express or implied, that are not specifically stated herein are hereby disclaimed.
- l. HomeTown may use your name, website address, public social media posts, and tickets available for sale publicly by you, together with aggregate data related thereto, to promote ticket sales and for reporting and compliance purposes.
- m. HTT will provide paper tickets at no cost to the district. All paper ticket orders must be placed by June 1, 2020. HTT reserves the right to place up to two HTTs on the back of the paper tickets. Ticket design proof will be provided once quantities are confirmed.

## **2.0 Relationship of Parties**

At all times under this Agreement, HTT shall be considered an independent contractor. Nothing contained herein, nor any course of action or failure to act, shall be construed to create a partnership, joint venture, common business association, or any other similar entity; nor shall any such action or failure to act be deemed to create an employer-employee or agent-servant relationship between the parties. HTT and those within its employ shall not be considered employees of the Client for any purpose whatsoever, nor shall the Client act as, or be held out by the HTT to be, a “common paymaster” for the employees of the HTT within the meaning of United States Treasury Regulation §31.3121(s)-1 (Title 26 C.F.R. §31.3121(s)-1).

**3.0 Scope of Work** HTT agrees to provide an online box office for Client and Client’s departments or teams to access at any time, from any compatible, web-capable device, which will allow relevant personnel to create, manage, and monitor their event ticketing needs. System will enable customers/fans of Client to purchase digital tickets to listed events via Client’s website or online box office. The current features of HTT’s PRO-PLUS package may be altered, amended, revised, or eliminated at HTT’s reasonable discretion.

## **4.0 Payments**

4.1 HTT warrants that its online ticketing system will bill customers for ticket sales as directed by the event configuration in the online box office. HTT shall ensure that the organization receives the full value of all tickets sold for events through its online ticketing system.

## **5.0 Term**

5.1 Performance under this Agreement shall begin as of the effective date of this Agreement and continue unless extended or terminated sooner as set forth herein.

5.2 This Agreement will automatically renew for a new term equal in time to the original term so long as neither party provides written notice of termination at least 30 days before the expiration of the term.

## **6.0 HTT’s Duties and Responsibilities**

6.1 HTT will provide an online, cloud-based ticketing platform (software) and provide technical services and support for your team related to the box office and event ticket sales. We will also provide customer support to your customers (fans or event attendees) if your customers were to contact HTT directly.

6.2 Neither party shall be responsible for any delay or failure in performance resulting from acts beyond the control of such party. Such acts shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, terrorism, epidemics, governmental regulations imposed after the fact, fire, theft, power failure, communication failure or overload, storms, earthquakes, or other disasters. In the event of a dispute regarding this Agreement, both parties agree to attempt to resolve the dispute to their mutual satisfaction within 30 days, at which time either party may terminate this Agreement by written notice if the dispute has not been resolved.

## **7.0 Client’s Duties and Responsibilities**

7.1 Client is responsible for the general operations of their events. HTT and Client may agree to utilize HTT’s event management services to assist with hosting a successful event.

**8.0 Public Relations** Client agrees that HomeTown may use Client’s name, website address, public social media posts, and tickets available for sale publicly by you, together with aggregate data related thereto, to promote ticket sales on the HomeTown Ticketing platform and for marketing purposes. HomeTown grants a limited, non-exclusive right during the Term of this Agreement to Client to utilize HomeTown’s logo and name to promote ticket sales utilizing the online box office in their marketing efforts.

## **9.0 Data Ownership**

9.1 HTT and Client jointly retain the rights to the ticket sales data in Client's box office and can use this to market to Customers or aggregate the data for statistical purposes during the term of this Agreement.

9.2 Upon termination of this Agreement, Client shall receive full rights to all data, including event, customer, and sales records, after the time of termination.

9.3 Client grants HTT limited rights to utilize aggregated (anonymized) data for statistical purposes (including website traffic, total ticket sales and revenue, volume of participating schools and their names, and other aggregate data of similar nature) in its marketing & reporting efforts and to monitor system operations & reliability, which shall survive termination of this Agreement.

**10 Severability** Each party shall perform hereunder in accordance with applicable laws, rules, and regulations now or hereafter in effect. If any provision of this Agreement shall be found to be illegal or unenforceable, then the remaining provisions of this Agreement shall remain in full force and effect, and such term or provision shall be deemed waived for as long as it remains illegal or unenforceable.

**11 Compliance and Security** HomeTown platform is PCI Service Provider compliant and has also been assessed as compliant under the HECVAT (Higher Education Cloud Vendor Assessment). Customer data is safeguarded both during the transaction and at rest. Credit card data is not handled by HomeTown; this is handled by our integration with Stripe (called Stripe Elements) which automatically makes the school merchant account and box office compliant to PCI SAQ-A (Stripe provides a record of this in the Business section of the [school / district] stripe account).

**12 Customer Data** Customer data stored on our platform is typically limited to name, email, phone, order summary without payment card data, and depending on the type of event, student ID or birthday. All information is stored securely, and each box office is "siloeed" which means we maintain separate databases by box office, so data and box offices are never intermingled.

**13 Indemnification and Limitation of Liability - The Indemnification clause is governed by the laws of Kentucky.**

- a. Client agrees to indemnify, defend and hold harmless HTT and its affiliates and their respective directors, officers, employees, successors and agents from and against any and all claims, damages, proceedings, costs and expenses resulting from or in connection with: (a) any breach of any representations, warranties, covenants or agreements of CLIENT under this Agreement; (b) any advertising by Client that includes the HTT Marks which is false, misleading or deceptive; or (c) infringement of copyrights, patents, trademarks or theft of trade secrets related to any Client furnished materials.
- b. HTT agrees to indemnify and hold harmless Client and its affiliates and their respective directors, officers, employees and agents from and against any and all claims, damages, proceedings, costs and expenses resulting from or in connection with: (a) any breach of any representations, warranties, covenants or obligation of HTT under this Agreement; (b) any advertising by HTT that includes the Client Marks which is false, misleading or deceptive; or (c) infringement of copyrights, patents, trademarks or theft of trade secrets related to the license or use of the HTT technology by Client in accordance with this Agreement.
- c. Notwithstanding any other provision of this Agreement, except with respect to each party's confidentiality and indemnification obligations: (a) no Party shall have any liability for, and each Party hereby waives and disclaims, any and all claims and causes of action, or warranty for any indirect, incidental, punitive, special, consequential or exemplary damages arising out of or in connection with this Agreement; and (b) each Party's aggregate liability under or in connection with this Agreement shall in no event exceed the fair market value of the HTT Contributions.

- d. The indemnified Party shall give the indemnifying Party prompt written notice of any Claim for which indemnification is sought. The indemnifying Party shall have sole discretion over the conduct of the defense and settlement of any Claims, and the indemnified Party, at its own expense, may retain counsel to participate in the defense of such Claims. The indemnified Party shall cooperate in the defense of any Claim and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

**14 Insurance** For as long as HTT's obligation to indemnify remains in effect, HTT will maintain comprehensive liability insurance, including product liability coverage, in minimum amounts of One Million Dollars (\$1,000,000) U.S. currency per occurrence and Five Million Dollars (\$5,000,000) U.S. currency in the aggregate, One Million Dollars (\$1,000,000) U.S. currency per occurrence for damage and/or injury to property and Worker's Compensation Insurance as required by law. Such coverage shall be on a date of occurrence form. The insurance coverage required shall be provided by an insurance company or companies with a rating of at least "A" or greater in Bests' Insurance Guide. Upon Company's reasonable request, and annually thereafter, upon reasonable request, HTT shall provide Company with certificates of insurance evidencing such coverage.

**15 Entire Agreement; Waiver** The four-corners of this document, the Agreement, including any Amendment(s) and/or Schedule(s) attached hereto, represents the entire agreement between Client and HTT. Any waivers, modifications or amendments hereto must be made in writing and signed by the duly authorized representative of both parties before they become effective. Any previous or contemporaneous oral representations, negotiations or other oral representations are expressly excluded, disclaimed, superseded and abandoned from this Agreement unless they are contained in writing within this Agreement. Any failure to enforce any provision of this Agreement shall not be deemed a waiver of any provision of this Agreement. No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing. Any consent by any party to, or waiver of, any breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for, any other different or subsequent breach.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above.

**HomeTown Ticketing, Inc.**

Sign: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

[CLIENT]

Sign: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_