

## **SCOREVISION STANDARD TERMS AND CONDITIONS**

Unless otherwise defined herein, all defined terms within these ScoreVision Standard Terms and Conditions shall have the same meaning and definition as provided elsewhere in the Contract Documents. The Contract Documents collectively may also be referred to as “the Agreement”

1. **Scope of the Work.** The scope of the obligations of ScoreVision are specified in the Order and defined herein as the “Work,” and may include: the Equipment (whether sold or leased and the installation thereof, if applicable; any licensed Software; any installation, maintenance and support services that may be provided in connection with the licensed Software as provided in the Order, and any Extended Services as provided in the Order (collectively, the “Services”). The obligations of ScoreVision in this Agreement are subject to the express condition precedent that Customer shall perform its obligations under the Agreement.
2. **Contract Documents.** The “Contract Documents” shall include the following: (a) the applicable Order, (b) this ScoreVision Standard Terms and Conditions; and (c) the ScoreVision Software End-User License Agreement.
3. **Change Orders.** The parties, without invalidating the Agreement, may modify the scope of the Work. The modifications shall be referred to as “Change Orders.” The parties shall mutually agree in writing as to the cost or credit from a Change Order as well as any modifications in delivery time; which written agreement shall be an express condition precedent to the effectiveness of any Change Order. ScoreVision shall not perform any Change Order or change directive or any other such modification order without the prior written approval of both parties.
4. **Software.** The term “Software” means ScoreVision’s object code related to the operation of the displays for all sports; and any Enhancements provided by ScoreVision in ScoreVision’s sole discretion together with any Documentation during the applicable term. Specifically excluded are any rights granted to Customer to any ScoreVision mobile applications which may be provided for use to end users under a separate Terms of Service for each mobile application. On-going software updates will be deployed and available as long as Customer is not in default and current.
5. **Payment Terms.** Unless otherwise stated in the executed Order, payment terms shall be “pay with order” or invoiced annually in the case of the annual software license. ScoreVision will include a monthly service charge of 1.5% per month on amounts outstanding after the due date. ScoreVision may accept partial payment in an amount less than the full amount of any invoice, but such acceptance shall not constitute a waiver of ScoreVision’s right to collect the remaining balance, notwithstanding ScoreVision’s endorsement of a check or

other negotiable instrument. Customer shall be liable for any and all costs and expenses (including attorney's fees) incurred by ScoreVision in enforcing any provision of the Agreement. ScoreVision will not honor any back charges unless approved, in advance, in writing by ScoreVision. ScoreVision has the right to deny service with non-payment, which may be up to and include a disruption of all services or a denial of specific services. Annual software licenses may be increased no more than 10% per year or by [the current CPI index rate] whichever is greater.

6. Delivery and Risk of Loss. ScoreVision shall coordinate the shipment of the Equipment listed in the Sales Order and will ship the Equipment in accordance with Customer's instructions. Risk of loss to the Equipment shall pass to Customer in accordance with the applicable shipping terms contained in the Order. If for any reason Customer is not able to take delivery of the Equipment, ScoreVision may, at its sole discretion, store the Equipment. All costs of the storage, including taxes and insurance, shall be immediately payable by Customer upon demand by ScoreVision. Notwithstanding the above, and unless otherwise specifically noted, Customer shall determine any export license requirements, obtain any export license or other official authorization, and carry out any customs formalities for the export of the Equipment.

7. Installation. Subject to the terms and conditions of the Agreement, the Customer shall perform its respective obligations, if any, as designated in the Contract Documents. Customer shall fully cooperate with ScoreVision in connection with the installation of the Equipment and Software. The Customer agrees and acknowledges that ScoreVision may subcontract any of the Services to third parties selected by ScoreVision; provided, however (i) nothing herein shall create any contractual relationship between the Customer and any subcontractor; and (ii) ScoreVision shall be fully responsible hereunder for the performance, actions or omissions of ScoreVision's employees, all subcontractors and all other persons or entities performing any Services on the project described herein at the direction of ScoreVision, as if such performance, actions and omissions were those of ScoreVision.

8. Acceptance; Substantial Completion. "Acceptance" shall be defined as follows: (i) in the case of the sale or lease of Equipment without installation by ScoreVision, Acceptance will occur upon delivery of the Equipment; (ii) in the case of the sale or lease of Equipment with installation by ScoreVision, Acceptance will occur upon: (i) Substantial Completion (as defined below); and (ii) the provision of all Services in accordance with the requirements of this Agreement, (except services which are on-going in nature, such as maintenance and support services for the Software); (iii) the completion and documentation of testing and other reviews demonstrating that the Equipment and the Services meet all the requirements of this Agreement; and (iv) delivery to the Customer of such testing and review documentation.

“Substantial Completion” means the operational availability of the Equipment to the Customer in material accordance with its specifications, without regard to punch-list items, or other non- substantial items which do not affect the operation of the Equipment.

9. Title. Title to the Equipment shall pass from ScoreVision to the Customer upon Acceptance. No transfer, renewal, extension or assignment of this Agreement or of any interest therein shall operate as a payment or transfer of title to the Customer or in any manner relieve the Customer of its obligations. No title shall pass to Customer with respect to Software, which is furnished solely on a license basis.

10. Security Interest. As collateral security for the payment of the purchase price of the Equipment, Customer hereby grants to ScoreVision a security interest in and to all of the right, title and interest of Customer in, to and under the Equipment. Where permitted by law, the parties acknowledge that the security interest granted under this provision constitutes a purchase money security interest. Upon request, Customer shall execute and deliver such further documents as reasonably requested by ScoreVision to preserve and perfect such security interests.

11. Warranty. The LED displays provided by ScoreVision come with a five-year parts warranty from their manufacturer. The front-serviceable LED modules are manufactured to be serviceable by the Customer, so if any portion of the LED display goes out it can be replaced by the Customer. We provide up to 3% extra LED panels to be inventoried by the Customer. Broken panels can be sent back to ScoreVision for repair and/or replacement for free for up to five years from the date of installation. Damage caused by malicious acts or abnormal wear and tear are not covered under this warranty. Beyond the five-year warranty, the Customer will be responsible for covering the cost of any new panels and freight. With respect to component parts, they shall be limited to any warranty the manufacturer of the Equipment may provide. Workmanship related to the installation of the LED and/or components is guaranteed to be free from defects in material and workmanship for a period of one year from the date of Final Completion. This Workmanship Warranty applies and is limited as follows: a.) to the installation work that has not been subject to accident, misuse or abuse, b.) to the installation work that has not been modified, altered, defaced, or had repairs made or attempted by others, c.) ScoreVision be immediately notified in writing within ten (10) days of first knowledge of defect by owner or his agent, d.) that ScoreVision shall be given first opportunity to make any repairs, replacements or corrections to the defective construction at no cost to owner within a reasonable period of time, and e.) under no circumstances shall ScoreVision be liable by virtue of this warranty or otherwise for damage to any person or property whatsoever for any special, indirect, secondary or consequential damages of any nature however arising out of the use or inability to use because of the construction defect.

12. **Warranty Disclaimer.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE CONTRACT DOCUMENTS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SCOREVISION DISCLAIMS ANY AND ALL OTHER PROMISES, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION AND/OR DATA ACCURACY. Critical and unforeseeable factors beyond the control of ScoreVision prevent it from eliminating all risks in connection with the use of the Equipment. Customer acknowledges and assumes all risks and liability resulting from the handling, storage and use of the Equipment. Customer shall not alter the Equipment without the prior written consent of ScoreVision.

13. **Confidentiality.** To the greatest extent permitted by law, Customer shall consider any and all information, including the terms and conditions of this Agreement and the Contract Documents, furnished by ScoreVision to be confidential ("Confidential Information") and shall not disclose any such information to any other person, or use such information itself for any purpose other than fulfillment of this Agreement unless Customer obtains written permission from ScoreVision to do so. This confidentiality requirement shall apply, but is not limited, to: drawings, specifications, or other documents prepared by ScoreVision for Customer under this Agreement. Customer shall provide Confidential Information only to those of its agents, servants and employees who have been informed of the requirements of this paragraph and have agreed to be bound by them. Customer agrees not to disclose, publish, disseminate, or otherwise permit any unauthorized use of or access to any of the Confidential Information in any way except with the written consent of ScoreVision. Customer further agrees: (i) not to make any use whatsoever at any time of such Confidential Information except to perform its obligations under the Agreement, and (ii) not to copy or reverse engineer any such Confidential Information. The provisions of this paragraph shall survive termination of the Agreement.

14. **Use of Image.** Customer permits ScoreVision to photograph, make reference to, or take video of the project site, including both the completed work and the work in progress, for purposes including, but not limited to, use in website and marketing materials, provided that ScoreVision may not, without prior written consent, do the foregoing in a manner which implies endorsement by Customer.

15. **Default.** ScoreVision reserves the right to terminate this contract and accelerate all amounts due and payable if Customer fails to make payment to ScoreVision within ten days of the agreed payment dates or otherwise fails to comply with this Agreement, or any proceeding is filed by or against Customer in bankruptcy. ScoreVision reserves all its rights (both legal and equitable) under the contract, applicable statutes, or the common law. Selection of a remedy by ScoreVision shall in no way be construed as a waiver of other remedies available

to ScoreVision. If Customer fails to perform any covenant or obligation under this Agreement or any other agreement that Customer has with ScoreVision, including without limitation the failure to pay when due any amounts owed to ScoreVision under this Agreement or any other agreement between the parties, ScoreVision shall be excused from the performance of any of its obligations under this Agreement and any other Agreement it has with the Customer until such time as said default is cured, if ever. Except as otherwise provided in this Agreement,

Customer shall perform its payment obligations under this Agreement without setoff, deduction, recoupment or withholding of any kind for amounts owed or payable to ScoreVision, whether under this Agreement or a separate agreement between the Parties.

16. Indemnity. To the greatest extent permitted by law, ScoreVision shall indemnify, defend and hold harmless the Customer and their respective subsidiaries, officers, directors, shareholders, partners, employees, agents, successors and assigns from any and all liability, losses, damages, costs or expenses (collectively, "Losses") arising out of: (i) any negligent act or omission by ScoreVision or its personnel, agents, subcontractors, or others engaged by ScoreVision or under ScoreVision's control; or (ii) any claim against any indemnified party by reason of or alleging any unauthorized or infringing use by an indemnified party of any patent, process, trade secret, copyright, trademark, or other intellectual property right in any material, information, technology, process, or data regarding the Equipment or the Software and its components.

To the greatest extent permitted by law, the Customer shall indemnify, defend and hold harmless ScoreVision and its subsidiaries, officers, directors, shareholders, partners, representatives, employees, agents, successors and assigns of each of the foregoing from any and all Losses arising out of: (i) any negligent act or omission by the Customer or its personnel, agents, subcontractors, or others engaged by the Customer or under their control (other than ScoreVision or its personnel, agents, subcontractors, or others engaged by ScoreVision or under ScoreVision's control), or (ii) any claim against ScoreVision by reason of or alleging any unauthorized or infringing use by ScoreVision of any copyright, trademark, or other intellectual property right in any material, information, technology, process, or data provided by Customer and used by ScoreVision.

The indemnification rights provided in this section are subject to the party claiming indemnification (i) promptly notifying the indemnifying party of the claim; (ii) granting the indemnifying party sole control of the defense and settlement of the claim; and (iii) providing the other party, at the other party's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim. This Section 17 shall survive any termination or expiration of the Agreement.

17. Existing Structure. Except to the extent ScoreVision is specifically responsible for any structural element per the Order, Customer represents and warrants that the existing structure, including without limitation any existing steel, walls, columns, tresses, footings, hoists attachment points, wiring, power supplies, or any other foundation or existing structural elements (the "Existing Structure") shall be adequate to support the weight, size, wind load, and all other technical specifications of the Equipment and shall indemnify, defend and hold ScoreVision harmless from any and all Losses arising out of any third party claim which alleges a failure of any Existing Structure.

18. Limitation of Liability. ScoreVision's liability shall be limited solely to the lesser of the repair or replacement of the Equipment or the fees paid by Customer. The damage limitation provided in this Agreement and the remedies stated herein shall be exclusive and shall be Customer's sole remedies. THE PARTIES AGREE THAT IN NO EVENT WHATSOEVER SHALL THE LIABILITY OF EITHER PARTY EXCEED THE AMOUNT OF THE PURCHASE PRICE. IT IS AGREED THAT, EXCEPT AS OTHERWISE EXPLICITLY SET FORTH IN THE CONTRACT DOCUMENTS, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL,

INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, REGARDLESS OF CAUSE, WHETHER SUCH LOSSES ARISE DIRECTLY OR INDIRECTLY FROM THE OTHER PARTY'S ACTS, OMISSIONS, OR BREACH. For the purposes of this Agreement, the Parties agree that "Consequential Damages" include, but are not limited to, loss of use, loss of profit, loss of business opportunity, and loss of advertising revenue. Customer explicitly accepts the provisions of this paragraph in return for the prices granted under the Agreement. Customer understands and agrees that the prices granted herein would be higher in the absence of this limitation of liability. No action against ScoreVision shall be commenced more than one year after the accrual of the cause of action. ScoreVision shall have no liability with respect to claims relating to or arising from use of third-party products and services. This Section 19 shall survive any termination or expiration of the Agreement.

19. Force Majeure. ScoreVision shall be excused from any liability under this Agreement for any delay in performance or failure to perform which delay or failure to perform is caused by circumstances which are beyond the reasonable control of the ScoreVision, including without limitation acts of God, natural disaster, labor or material shortages, war, earthquakes, or acts of terrorism.

20. Assignment. Unless otherwise stated, the Customer may not assign this Agreement, or any portion thereof, without the written consent of ScoreVision. ScoreVision reserves the right to, without the consent of Customer, assign any of its rights and delegate any of its duties under this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and permitted assigns.

21. Acceptance of Terms. ScoreVision' acceptance of Customer's Order is on the express condition that only the terms and conditions set forth in the Agreement shall apply to the sale. Any term, provision or condition in conflict with, in addition to, or in modification of any of the terms and conditions of the Agreement shall not be binding upon ScoreVision. ScoreVision's failure to object to any term or condition contained in any communication from Customer shall not be deemed a waiver of the terms and conditions herein.

22. Taxes. Unless otherwise stated in the Order, the purchase price is exclusive of federal, state and local taxes, including without limitation sales, use, excise, privilege, transactional, gross receipts, ad valorem or any other transactional tax or customs and duties ("Tax" or "Taxes") paid or payable by ScoreVision, however designated, levied or based on amounts payable to ScoreVision under or in connection with this Agreement. Customer shall immediately pay upon demand the full amount of any such applicable Tax and shall hold harmless and indemnify ScoreVision from the claims of any governmental authority asserting that any such Tax is due and payable. Customer must present an exemption certificate if it claims any exemption from Tax. Absent presentation of an exemption certificate, all applicable Taxes shall be added to the purchase price of the Equipment.

23. Governing Law. This Agreement shall be governed by the laws of the state of Nebraska without regard to its conflict of law principles, and the parties consent to the jurisdiction and venue of the courts of Nebraska for any action, suit or proceeding. The parties agree that the United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

24. Miscellaneous. The Agreement represents the entire agreement of the parties and supersedes any previous understanding or agreement. This Agreement may not be amended or altered in any manner except in a writing signed by both parties. This Agreement may be executed in counterparts. Except as otherwise explicitly set forth in this Agreement, each party hereto shall pay its own expenses, including without limitation accounting and attorneys' fees, in connection with this Agreement. The Customer and ScoreVision are not partners or joint venturers. If any part of this Agreement is in any manner held to be invalid, illegal, void, or to be in conflict with any law, then the validity of the remaining portions or provisions of this Agreement shall not be affected, and such part, term, paragraph 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 shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.