

DAKTRONICS

tel 800-325-8766 (800-DAKTRONICS) 605-697-4000

EXTENDED SERVICE AGREEMENT

DAKTRONICS, INC.

("Daktronics")
 201 Daktronics Drive
 BROOKINGS, SD 57006
 Phone: 800-325-8766

Daktronics Contact: Teresa Brown

Purchaser: Peoria Sports Complex
Address: 16101 N 83rd Ave
City, State, Zip: Peoria, AZ 85382
Province/Country: United States
Phone: 623-773-8701 **Fax:** 623-773-8716
Contact: Chris Easom **Email:** chris.easom@peoriaaz.gov

Customer ID: 107107 **Loc:** 002
Pipeline No.: 413703

Peoria Sports Complex ("Purchaser") hereby agrees to purchase the services, peripherals and additional supplies (collectively, the "Services"), subject to this Extended Service Agreement, the Standard Terms and Conditions of Extended Service, and any and all applicable Attachments (collectively, the "Agreement" or the "Contract Documents"), which documents Purchaser has reviewed and agrees to accept.

Term (Duration) of the Agreement:

Commencement Date: 1 October 2011

Expiration Date: 30 September 2013

Order No.: E12837-3	Original Job No.: C12837
Description of Services Provided:	Price:
See Attachment A Enhanced OR Enhanced Services 24 Hour On-Site Response	See Attachment B
Equipment List	
See Attachment A	

Exceptions: Identification/advertising panels are excluded.

Payment Terms: See Attachment B



All notices required herein shall be given to Purchaser at the address indicated above on this Agreement unless otherwise specified below:

Notice / Communication Address:

Address: _____

City, State, Zip: _____
Province/Country: _____
Phone: _____ Cell _____ Fax _____
Attention: _____
Email: _____

All invoices will be forwarded to Purchaser at the address indicated on page one (1) of this Agreement unless otherwise specified below:

Purchaser hereby confirms that the Services are to be delivered at the address indicated on page one (1) of this Agreement unless otherwise specified below:

Billing Address:

Company: _____
Address: _____

City, State, Zip: _____
Province/Country: _____
Phone: _____ **Fax:** _____
Contact: _____
E-mail: _____

Site Address:

Company: _____
Address: _____

City, State, Zip: _____
Province/Country: _____
Phone: _____ **Fax:** _____
Contact: _____
Email: _____



ACCEPTANCE:

In witness hereof, the parties hereto have executed this agreement by and through their duly authorized officers.

PURCHASER: Peoria Sports Complex

By: *Dan Zenko* Name/Title ~~Herman Koeborgen, Materials Manager~~ Date: 8-11-11
Signature Dan Zenko, Materials Management Supervisor

Attested By: *Wanda Nelson* Name/Title Wanda Nelson, City Clerk Date: 08/18/11
Signature

Approved as to form *Stephen M. Kemp* Name/Title: Stephen M. Kemp, City Attorney Date: 8/16/11
Signature



DAKTRONICS, INC.

By: _____ Name/Title: _____ Date: _____
Signature Print or Type

This form is an important part of your coverage. Please sign and return both forms to Daktronics, Inc. Once the signed agreement is entered into our system, you will receive an executed form for your records. Offer expires 60 days from proposal date.

A CON 41711



Attachment A

Equipment List

Equipment	Qty
BA-3730 Baseball Display (LED Retrofit)	1
AF-3400-40x96 Galaxy Display	1
AF-192x288-23 ProStar Display	1
*V-Link 4000 Video Processor	1
All Sport 5010 Control Console	2
*Venus 7000 Controller	1

***The parties acknowledge and agree that the indicated equipment is nearing or has exceeded its expected life. As such,** some of the components may be unavailable or certain service issues may require a total replacement of this equipment. In the event a service issue regarding this equipment arises, the equipment will be checked. To the extent the failed component of the equipment can be repaired or replaced, the costs of the repairs or replacement are included in this Agreement. To the extent that the failed component cannot be repaired or replaced, the replacement equipment is not included in this agreement. The determination of whether the equipment or any part or portion can be repaired or replaced shall be at Daktronics reasonable discretion. Nothing herein shall be construed as requiring Daktronics to specially engineer, order, manufacture or otherwise incur costs to procure replacement components for this equipment.

Option 1: Enhanced Service Portfolio

Scope of Services

1. Daktronics Parts Coverage which includes:
 - 1.1. Daktronics Expedited Parts Processing: includes stocked parts, repair and return parts and exchange parts.
 - See Estimated Processing Times for Service Parts (DD#1428254) for estimated lead and delivery times.
 - 1.2. Shipping of repaired or replaced failed electronic components to and from Daktronics.
2. Technical Phone Support:
 - 2.1. General phone support hours 24/7/365.
 - 2.2. Remote assisted technical support.¹
3. Account Services: Access to Daktronics Service Coordination 24/7/365.
4. On-Site Field Services: On-site response between 24-48 hours of notification.
5. Costs of access to the display/equipment with a 45' aerial lift or bucket truck for outdoor equipment, taking into account environmental or site conditions, or 15' for indoor equipment.
6. One Annual System Check to include display and control system checks and display filter change when applicable.
7. On-Site Parts Inventory Management, including inventory control.

Enhanced Service Portfolio shall not include nor be construed to include any service or support that is not expressly stated above in the definition of the Enhanced Service Portfolio. Examples of services that are not within the scope of standard service include, but are not limited to, the following:

1. Remote monitoring services.
2. Camera calibration.
3. Display washing.

Above listed exclusions are available as billable services. Quotes may be provided upon request.

Purchaser Responsibilities

The items listed below are the responsibility of the Purchaser.

1. Purchaser is responsible for routine operator functions such as content creation or management and all configuration, set-up, and operation for events/United Statesge.
2. Purchaser is responsible for lift access charges for equipment which does not meet the criteria stated in Section 5 of the Scope of Services listed above.
3. Purchaser is responsible for providing a secure internet connection.
4. Purchaser is responsible for the maintenance items listed below; failure to properly maintain equipment may, at Daktronics' sole discretion, relieve Daktronics of its responsibilities under the Standard Terms and Conditions of Extended Service attached hereto.
 - 4.1. Throughout the term of this Agreement, Purchaser shall maintain site conditions within the common environmental range of all system devices as specified by Daktronics.
 - 4.2. Purchaser is responsible for routine, preventative maintenance functions of the external cooling systems (including but not limited to filters, fans, air conditioning) for displays.

¹ Available with internet connection.

Enhanced Service Portfolio

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Option 2: Enhanced Service Portfolio

Scope of Services

1. Daktronics Parts Coverage which includes:
 - 1.1. Daktronics Expedited Parts Processing: includes stocked parts, repair and return parts and exchange parts.
 - See Estimated Processing Times for Service Parts (DD#1428254) for estimated lead and delivery times.
 - 1.2. Shipping of repaired or replaced failed electronic components to and from Daktronics.
2. Technical Phone Support:
 - 2.1. General phone support hours 24/7/365.
 - 2.2. Remote assisted technical support.¹
3. Account Services: Access to Daktronics Service Coordination 24/7/365.
4. On-Site Field Services: **On-site response within 24 hours of notification. (upgraded service)**
5. Costs of access to the display/equipment with a 45' aerial lift or bucket truck for outdoor equipment, taking into account environmental or site conditions, or 15' for indoor equipment.
6. One Annual System Check to include display and control system checks and display filter change when applicable.
7. On-Site Parts Inventory Management, including inventory control.

Enhanced Service Portfolio shall not include nor be construed to include any service or support that is not expressly stated above in the definition of the Enhanced Service Portfolio. Examples of services that are not within the scope of standard service include, but are not limited to, the following:

1. Remote monitoring services.
2. Camera calibration.
3. Display washing.

Above listed exclusions are available as billable services. Quotes may be provided upon request.

Purchaser Responsibilities

The items listed below are the responsibility of the Purchaser.

1. Purchaser is responsible for routine operator functions such as content creation or management and all configuration, set-up, and operation for events/United Statesge.
2. Purchaser is responsible for lift access charges for equipment which does not meet the criteria stated in Section 5 of the Scope of Services listed above.
3. Purchaser is responsible for providing a secure internet connection.
4. Purchaser is responsible for the maintenance items listed below; failure to properly maintain equipment may, at Daktronics' sole discretion, relieve Daktronics of its responsibilities under the Standard Terms and Conditions of Extended Service attached hereto.
 - 4.1. Throughout the term of this Agreement, Purchaser shall maintain site conditions within the common environmental range of all system devices as specified by Daktronics.
 - 4.2. Purchaser is responsible for routine, preventative maintenance functions of the external cooling systems (including but not limited to filters, fans, air conditioning) for displays.

¹ Available with internet connection.

Enhanced Service Portfolio

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Standard Terms and Conditions of Extended Service

1. **Scope of Extended Service Agreement.** The scope of the Extended Service Agreement may provide for equipment listed on either the face of the document or Attachment A and may include those services as defined on Attachment A (excluding maintenance services which are the responsibility of Purchaser as defined on Attachment A or services which may be purchased for an additional fee). Response Times are defined on Attachment A.

2. Daktronics, Inc. recognizes that Purchaser may, for operating convenience, desire to utilize its own form in acknowledging this order such as issuing a subsequent Purchase Order, or other order confirmation form. Therefore, it is agreed that any Purchase Order or other form subsequently issued shall incorporate the terms and conditions of this Agreement and any provision in the form of acceptance used, which modifies, conflicts with, or contradicts any provision of this Agreement shall be deemed to be waived. This Agreement can only be accepted on the terms set forth hereon.

3. **Commencement Date.** Unless otherwise agreed to in writing, this Agreement becomes effective upon the date stated as the "Commencement Date" on the cover page of this Agreement.

4. **Conditions Precedent.** The obligations of Daktronics in this Agreement are subject to the express condition precedent that Purchaser shall perform its obligations under the Agreement, particularly those obligations defined in Attachment A. Daktronics may, at its sole discretion, waive these conditions. The Purchaser's rights and Daktronics obligation under this Agreement shall be suspended until all payments owing to Daktronics are current.

5. **Payment Terms.** Purchaser agrees to pay Daktronics according to the Payment Schedule as outlined on the face of this document or on Attachment B. In addition, the Purchaser agrees to pay or reimburse Daktronics for any taxes or charges resulting from this Agreement that are levied by a taxing authority, and shall hold harmless and indemnify Daktronics from the claims of any governmental authority asserting that any such Tax is due and payable.

6. **Conditions of Coverage.** This Agreement provides for the services defined on Attachment A, provided the equipment is installed with the recommended ventilation/air conditioning system for its location. Air conditioning systems must be maintained according to manufacturer's specifications. If equipment contains LEDs, this agreement does not cover LED degradation, which occurs when the LEDs continue to emit light, but at some lesser level of brightness.

Daktronics will repair or replace failed radio components. A radio component has failed when it does not transmit or receive data properly. Local site interference or obstructions may cause intermittent or complete failure of radio performance. This Agreement does not include the provision of replacement communication methods (such as wire, fiber optic cable, conduit, trenching or other solutions) for the purpose of overcoming local site interference.

Certain failures may result in a required total replacement and/or upgrade of any or all of the components in the system. In the event of a failure, the component will be checked thoroughly and if the component can be repaired or replaced, the costs of the repair or the replacement part are included in this Agreement. If the component cannot be repaired or replaced for whatever reason, and an upgrade is required, then the Purchaser shall be responsible for the difference in cost between the upgraded component and the cost of the repaired or replaced component to the extent the cost of the upgraded component exceeds the cost of the repaired or replaced component. Further, the Purchaser shall be responsible for any additional upgrades required by the upgraded component in the integrated system.

Daktronics, Inc. will have sole discretion with regard to selecting the parties delivering services under this agreement.

7. **Service outside the Scope of Services** listed on Attachment A may be provided on a time and material basis according to the then current rates. Subject to the limitations in the Scope of Services, Daktronics will maintain the equipment for normal wear and tear. The equipment may require additional maintenance beyond the Scope of Services attributable to causes other than normal wear and tear. Such causes may include, but are not limited to: inadequate or improper power, improper care or abuse of equipment, unauthorized attempts to repair or modify the equipment, failures caused by environmental conditions beyond Daktronics' control such as corrosives and metallic pollutants, acts of God or nature (including damage done by vermin), terrorism, vandalism, or war.

Service does not include paint or refinishing the equipment or furnishing material for this purpose, electrical work external to the equipment, or service of accessories, alterations, attachments, or other devices not furnished by Daktronics unless otherwise agreed in writing. Batteries and metallic or fiber optic data cable are not covered unless otherwise agreed to in writing.

This Agreement does not cover defects or failure resulting from the use of replacement parts not supplied by Daktronics.

The Purchaser shall provide normal access to the equipment. Normal access is defined as unfettered, solid, safe and unrestricted access to the entire display/equipment, taking into account environmental or site conditions. Unless otherwise specified on Attachment A, the Purchaser shall be required to provide any lifts or access equipment required to access the equipment. Special circumstances will not be covered under this Agreement, including, without limitation, the presence of any additional equipment and/or personnel to ensure safety of service personnel.

In no event shall Daktronics be obliged to perform Services under this Agreement during the existence of Adverse Conditions. "Adverse Conditions" include, among others, without limitation, the following: severe inclement weather, hazardous site conditions including infestations of animals or dangerous insects, saturated ground conditions, or residence or occupation by unauthorized personnel. The determination of a site condition as an Adverse Condition shall be at the sole discretion of Daktronics.

Inaccessibility due to Adverse Conditions will exempt a location from coverage under this Agreement until such time as the equipment becomes accessible once again.

8. **Service Request.** Purchaser shall fully cooperate with Daktronics in connection with the service of the Equipment. The Purchaser shall immediately notify Daktronics in writing of equipment failure and allow Daktronics full and free access to the equipment. Waiver of liability or other restrictions shall not be imposed as a requirement prior to accessing the site. Also, the Purchaser will allow Daktronics to use necessary

machines, communication facilities, and other equipment at no charge.

9. Return Items. All items returned to Daktronics must have a Return Material Authorization (RMA) number. For exchange items, the number is included with the shipment of the exchange unit. For repair items, an RMA number can be obtained by phone (800-325-8766), (International +1-605-697-4000), fax (605-697-4444) unless otherwise directed by Daktronics.

10. Shipping. When returning Equipment to Daktronics for repair or replacement, Purchaser assumes all risk of loss or damage, and agrees to use any shipping containers, which might be provided by Daktronics, and to ship the Equipment in the manner prescribed by Daktronics.

11. Limitation of Warranty. Daktronics shall be under no obligation to furnish continued service under this Agreement if the equipment is moved from its location of initial installation or reinstalled without the prior written approval of Daktronics, unless the equipment was designed by Daktronics to be mobile.

12. Confidentiality. Purchaser shall consider all information, including the terms and conditions of this Agreement, furnished by Daktronics to be confidential 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 Purchaser obtains written permission from Daktronics to do so. Purchaser 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. The provisions of this paragraph shall survive termination of the Agreement.

13. Default. Daktronics reserves the right to terminate this contract and accelerate all amounts due and payable if Purchaser fails to make payment to Daktronics within ten days of the agreed payment dates or otherwise fails to comply with this Agreement, or any proceeding is filed by or against Purchaser in bankruptcy. Daktronics reserves all its rights (both legal and equitable) under the contract, applicable statutes, or the common law. Selection of a remedy by Daktronics shall in no way be construed as a waiver of other remedies available to Daktronics. If Purchaser fails to perform any covenant or obligation under this Agreement or any other agreement that Purchaser has with Daktronics, including without limitation the failure to pay when due any amounts owed to Daktronics under this Agreement or any other agreement between the parties, Daktronics shall be excused from the performance of any of its obligations under this Agreement and any other Agreement it has with the Purchaser until such time as said default is cured, if ever.

14. Indemnity. Daktronics shall indemnify, defend and hold harmless the Purchaser and their respective subsidiaries, officers, directors, shareholders, partners, employees, agents, insurers, successors and assigns from any and all liability, losses, damages, costs or expenses (collectively, "Losses") arising out of or in any way related to: (i) any material breach of this Agreement by Daktronics; (ii) any negligent act or omission by Daktronics or its personnel, agents, subcontractors, or others engaged by Daktronics or under Daktronics' control related to the execution of this Agreement; (iii) 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 regarding the equipment or the Software and its components; or, (iv) any fine or assessment with respect to any violation or alleged violation of any Applicable Laws regarding safety or health.

The Purchaser shall indemnify, defend and hold harmless Daktronics and its subsidiaries, officers, directors, shareholders, partners, representatives, employees, agents, insurers, successors and assigns of each of the foregoing from any and all Losses arising out of or in any way related to: (i) any material breach of this Agreement by the Purchaser; or (ii) any negligent act or omission by the Purchaser or its personnel, agents, subcontractors, or others engaged by the Purchaser or under their control (other than Daktronics or its personnel, agents, subcontractors, or others engaged by Daktronics or under Daktronics' control).

15. Limitation of Liability. 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 in no event shall either party be liable for special, incidental, consequential or indirect damages, regardless of cause. Purchaser understands and agrees that the prices granted herein would be higher in the absence of this limitation of liability. No action against Daktronics shall be commenced more than one year after the accrual of the cause of action. Daktronics shall have no liability with respect to claims relating to or arising from use of third-party products and services.

16. Force Majeure. Daktronics 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 Daktronics, including without limitation acts of God, natural disaster, labor or material shortages, war, earthquakes, acts of terrorism, etc.

17. Assignment. Unless otherwise stated, this Agreement may not be assigned by either party without the written consent of the other party.

18. Termination. If either party neglects or fails to perform any of its obligations under this Agreement, and such failure continues for a period of thirty (30) days after written notice thereof, the other party shall have the right to terminate this Agreement.

19. Miscellaneous. This Agreement shall be governed by the laws of the state of South Dakota without regard to its conflict of law principles. The parties consent to the jurisdiction and venue of the courts of South Dakota for any action, suit or proceeding. This 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. Each party hereto shall pay its own expenses, including without limitation accounting and attorneys' fees, in connection with this Agreement. The Purchaser and Daktronics 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.