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nel freeman
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Master Ticket Sales Agreement

This Master Ticket Sales Agreement ("Agreement") is made and entered into as of January 24, 2011, 2010 ("Effective Date"), by and between Tix, Inc. a California Corporation (Tix) with its principal place of business at 110 West Ocean Boulevard 11th Floor, Long Beach, California 90802 and Burr and Burton Academy ("Client") with its principal place of business at 57 Seminary Avenue, Manchester, VT 05254.

Background

Tix is engaged in the sale of event tickets. In accordance with this Agreement, Client has requested that Tix sell event tickets to the public for Event(s) managed by the Client.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. Definitions

- 1.1. "Event" means a gathering of people at a particular location on a particular date at a particular time for entertainment or other purposes. The Event(s) covered by this agreement are specified in separate Event Sales Addendums.
- 1.2. "Ticket" means a computer record or physical document that allows a person admission to a single Event or multiple Events.
- 1.3. "Customer" means a person who purchases a Ticket using Tix' services.

2. Obligations of Parties

- 2.1. Tix hereby agrees to make the purchase of admission to Client's Event(s) available on Tix' web site.
- 2.2. Tix hereby agrees to make sales information available to client on the secure administrative section of the Tix web site. This information includes Customers who have purchased Tickets to specific Events.
- 2.3. Tix hereby agrees to remit moneys collected to the Client as per the Fees and Payment Schedule specified herein.
- 2.4. Tix hereby agrees to customize its web site to match the look and feel of the Client's web site and to provide Client with a custom URL to access customized site.
- 2.5. Client hereby agrees to provide such information to Tix as is necessary to allow Tix to sell Tickets to Customers. Client understands that information contained in the Event Sales Addendum(s) will be used for Ticket sales and Event information on Tix' web site and represents that all information contained in the Event Sales Addendum(s) is materially accurate and complete.
- 2.6. Client hereby agrees to notify Tix immediately by phone, fax, or e-mail of all changes relating to Event date(s), location(s), Ticket availability, or other pertinent information relating to Event(s) specified in the Event Sales Addendum(s).
- 2.7. Client hereby agrees to admit all Customers presenting a valid Ticket or proof of identity that corresponds to Customers listed as purchasing Tickets to each Event.

Client Initials:

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- 2.8. Client hereby agrees to allow Customer to sit or otherwise be located in the location specified on the Ticket or in Tix' system for said Customer for events in which specific seating locations are assigned.
- 2.9. Client hereby warrants that Client is authorized to enter into this agreement and doing so will not cause a breach of any other agreement to which Client is a party.
- 2.10. Client hereby agrees to be responsible for Client's Internet access as needed to manage Event(s) through Tix.

3. Fees

- 3.1. Tix charges \$1.50 per Ticket fee for online sales. This applies to orders in which the Customer purchases the Tickets using the Internet.
- 3.2. Tix charges \$3.50 per Ticket fee for orders placed through the Tix Call Center. The use of the Tix Call Center is optional as specified in the Event Sales Addendum.
- 3.3. Tix charges 25 cents per Ticket fee for orders entered by the Client. This includes, but is not limited to, box office orders, walk-up sales, mail orders, and phone orders entered by the Client.
- 3.4. Tix charges 5% of the price of each ticket for credit card processing. The credit card processing fee applies only to those orders in which a credit card is used.
- 3.5. Tix charges \$3.00 per order for printing and mailing tickets directly to Customers by Tix. Tickets will be mailed via First Class Mail. The use of Tix' printing and mailing services are optional as specified by the Client in the Event Sales Addendum.
- 3.6. Tix charges 5% of the price of each Ticket for refunds ("Refund Fees"). Refund Fees are in addition to fees charged for the sale of the Ticket(s) being refunded.
- 3.7. Client agrees to reimburse Tix \$25 for fees imposed by financial institutions for the reversal of credit card charges ("Chargeback Fees"). This does not apply to Chargeback Fees that were a result of errors caused by Tix.
- 3.8. Fees charged to the Customer are at the Client's discretion as specified on the Event Sales Addendum. The Client may charge the Customer some or all of the fees charged by Tix except Chargeback Fees and Refund Fees related to cancelled, postponed, or relocated events.

4. Payment Schedule

- 4.1. Payments for each Event taking place through Sunday will be remitted by check to the Client on the following Friday. Checks will be sent First Class via U.S. Mail. Payments will be accompanied by a summary of the sales for which the payment is being made.

5. Refunds

- 5.1. Client hereby agrees that Customers are entitled to full refunds for cancelled, postponed, or relocated events. Client accepts responsibility for all refunds related to cancelled, postponed, or relocated events.
- 5.2. Client hereby agrees that Customers are entitled to full refunds for errors caused by Client that prevent Customers from being admitted to Event(s) or being allowed to sit or otherwise be located in the location specified on Customer's Ticket or in Tix' system.

Client Initials: *DP*

Tix, Inc. Initials: *[Signature]*

- 5.3. If an Event or Events are cancelled, postponed, relocated, or a Customer or Customers are otherwise entitled to a refund(s), Client will remit all amounts paid by Tix to Client for applicable Customer(s) and Event(s) no later than ten (10) days after the earliest of such cancellation, postponement, or relocation, or originally scheduled date of Event(s) as specified in the Event Sales Addendum(s). In the event of a cancellation, postponement, or relocation, all revenue collected by Tix for cancelled Event(s) and not yet remitted to Client will be refunded to Customer(s) and will not be remitted to Client.

6. Event Capacity

- 6.1. Client hereby warrants that Event(s) will not be over-sold and that the number of tickets allocated for sales by Tix specified in the Event Sales Addendum(s) combined with all other sales for said Event(s) will not exceed fire codes or any other capacity restriction or limitation.
- 6.2. Tix will not be responsible for the over-selling of Event(s). Client hereby agrees to reimburse Tix for all costs, including, but not limited to, credit card processing fees, Chargeback Fees, labor, and administrative expenses incurred by Tix due to Event(s) being over-sold.

7. Taxes

- 7.1. Client is responsible for all taxes related to the sale of Event Tickets. The taxes, if applicable, must be included in the price of the Tickets.

8. Termination/Expiration

- 8.1. Client reserves the right to terminate this agreement at any time.
- 8.2. Tix reserves the right to terminate this agreement upon 30 days written notice to Client.
- 8.3. Upon expiration or termination of this Agreement for any reason, all rights and obligations of the parties under this Agreement shall be extinguished, except that: (a) all accrued payment obligations hereunder shall survive such expiration or termination; and (b) the rights and obligations of the parties under paragraphs 3.6 and 3.7 and sections 5, 6, 7, 9, 11, 12, 13, 15, 16, 17, 18, 19, and 20, and any other provisions of this Agreement that should reasonably survive expiration or termination, shall survive such expiration or termination.

9. Disclaimers, Limitations

- 9.1. TIX DOES NOT MAKE ANY, AND EXPRESSLY DISCLAIMS ALL, WARRANTIES, CONDITIONS AND REPRESENTATIONS OTHER THAN THE WARRANTIES, CONDITIONS AND REPRESENTATIONS EXPRESSLY MADE IN THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, OR ARISING BY USAGE OF TRADE OR COURSE OF DEALING, INCLUDING WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, AVAILABILITY, TITLE AND NON-INFRINGEMENT. CLIENT ACKNOWLEDGES THAT USE OF SERVICES MAY NOT BE UNINTERRUPTED OR ERROR FREE. THE REMEDIES SET FORTH HEREIN WILL BE THE SOLE AND EXCLUSIVE REMEDIES OF CLIENT.

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- 9.2. TIX WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE FOR ECONOMIC, INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOST PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE, WHETHER CLAIMED UNDER CONTRACT, TORT, BREACH, FAILURE OF WARRANTY OR ANY OTHER LEGAL THEORY.
- 9.3. THE MAXIMUM AGGREGATE LIABILITY OF TIX FOR ALL CLAIMS UNDER THIS AGREEMENT WILL BE ONE HUNDRED PERCENT (100%) OF THE FEES COLLECTED BY TIX FOR THE EVENT(S) HEREUNDER.
- 9.4. ANY ACTION AGAINST TIX PERMITTED UNDER THIS AGREEMENT AND NOT BROUGHT WITHIN TWELVE (12) MONTHS AFTER THE CAUSE OF ACTION WILL BE DEEMED BARRED.

10. Breach

- 10.1. Upon any failure by either party to perform or comply with any of its obligations under this Agreement, which breach is not cured within seven (7) days of receipt of written notice, the non-breaching party will have the right, without waiving any right or remedy otherwise available, to cease performance until such failure is remedied.

11. Confidentiality

- 11.1. Both Client and Tix acknowledge that they may obtain proprietary information about the other throughout the term of this Agreement. Except pursuant to court order or as otherwise required under judicial or regulatory proceedings, neither party shall disclose the proprietary information of the other party to any third party.
- 11.2. All obligations relating to Confidentiality will survive the termination and/or expiration of this agreement for a period of ten (10) years.

12. Non-Disclosure of Terms

- 12.1. Except pursuant to court order or as otherwise required under judicial or regulatory proceedings, neither party shall disclose the terms and conditions of this Agreement without prior written consent of the other party.
- 12.2. All obligations relating to Non-Disclosure of Terms will survive the termination and/or expiration of this agreement for a period of ten (10) years.

13. Customer Privacy

- 13.1. Tix respects a Customer's right to privacy. Except pursuant to court order or as otherwise required under judicial or regulatory proceedings, neither party shall disclose customer information to any third party. Both parties agree to abide by the Privacy Policy as stated on the Tix web site.

14. Assignment

- 14.1. Client will not assign or sublicense, in whole or in part, any of its rights or obligations under the Agreement without the prior written consent of Tix.

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15. Indemnification

- 15.1. Each party agrees to defend, indemnify and hold the other party harmless from and against any and all claims, suits or damages, including reasonable attorney's fees, brought or asserted against the indemnified party that arise out of or relate to an allegation that the indemnifying party's intellectual property used, provided or developed in connection with this Agreement infringes or otherwise violates any rights of third parties, including, without limitation, rights under the laws protecting copyright, trademark, trade name, patent, and/or other enforceable proprietary rights.
- 15.2. Each party agrees to defend, indemnify and hold the other party harmless from and against any and all claims, suits or damages, including reasonable attorney's fees, brought or asserted by a third party against the indemnified party that arise out of or are based on the gross negligence or intentional wrongful acts of the indemnifying party's employees, officers and/or agents performed in connection with or pursuant to this Agreement.
- 15.3. If any action is initiated or claim asserted against a party and that party proposes to demand indemnification under this Section 15, that party (the "indemnified party") shall notify the indemnifying party with reasonable promptness, and the indemnifying party shall have the right to assume the entire control of defense of the claim, including the selection of counsel, subject to the right of the indemnified party to participate with counsel of its choice and at its cost in the defense, compromise or settlement thereof. The indemnified party shall cooperate fully in all respects with the indemnifying party in any such defense, compromise or settlement, including, without limitation, by making available all pertinent information under its control to the indemnifying party. The indemnifying party shall not compromise or settle any such action or claim without the prior written consent of the indemnified party, provided, however, that in the event approval is withheld, then the liabilities of the indemnifying party shall be limited to the total sum representing the amount of the proposed compromise or settlement and the amount of counsel fees accumulated at the time such approval is withheld.

16. Intellectual Property

- 16.1. Client agrees that it does not own any proprietary rights to the trademarks, service marks, or the brands of Tix.
- 16.2. Tix agrees that it does not own any proprietary rights to the logos, trademarks, service marks, or the brands of the Client.
- 16.3. Both Client and Tix are hereby authorized to use the other's logos, trademarks, service marks, and brands for marketing purposes related to the Event(s) specified in the Event Sales Addendum(s).
- 16.4. Client hereby acknowledges that the material, content, methodology and concepts in the Tix system are owned by Tix, Inc. These materials, content, methodologies, and concepts are protected by intellectual property law and other proprietary rights. The use of such materials is governed by the laws which create those rights and provide for their enforcement. Client may not copy, reproduce, modify, distribute, or reverse engineer the Tix system. Client will not allow others, including but not limited to, employees, partners, subsidiaries, contractors, and/or consultants to copy, reproduce, modify, distribute, or reverse engineer the Tix system. Client acknowledges that Tix may take any and all actions necessary to protect its material, content, methodology, concepts and processes from unauthorized copying, reproduction, modification, distribution, and/or reverse engineering.

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17. Governing Law

17.1. This Agreement is governed by and will be construed in accordance with the laws of the State of California. Any claim brought pursuant to or under this Agreement shall be brought in a court of competent jurisdiction in California.

18. Severability

18.1. If any provision of this Agreement is held invalid under any applicable law, such invalidity will not affect any other provision of this Agreement and such invalid provision will be deemed modified to the extent necessary to make it valid and enforceable or, if such provision cannot be so modified, it will be deemed deleted from this agreement.

19. Attorney's Fees and Costs

19.1. The prevailing party in any litigation regarding a claim or a claim for equitable relief, will be entitled as a matter of right to recover its costs and expenses including, without limitation, attorneys' and witness' fees.

20. Non-waiver

20.1. The failure of either party to enforce the other party's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

21. Force Majeure

21.1. If the performance of either party is delayed or prevented at any time due to circumstances beyond its control, including, without limitation, those resulting from labor disputes, fire, floods, riots, civil disturbances, weather conditions, control exercised by a governmental entity, unavoidable casualties or acts of God or a public enemy, performance will be excused until such condition no longer exists.

22. Notices

22.1. All notices will be in writing and, if originating in the United States, sent by certified mail, overnight mail, responsible courier, or transmitted by facsimile (if confirmed by mail), or, if originating outside the United States, sent by responsible international courier or transmitted by facsimile (if confirmed by mail) to the other party at the address listed above or other such address as either party may indicate by at least ten (10) days prior written notice to the other party.

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23. Cooperation

23.1. Both parties will reasonably cooperate with the other in connection with each other's performance. Both parties acknowledge that such performance depends in part on such cooperation and that the failure to cooperate may hinder or impede the other's performance hereunder.

24. Relationship of Parties

24.1. The relationship of the parties is that of independent contractors dealing at arms length and, except as expressly provided in this Agreement, nothing in this Agreement will be construed so as to constitute the parties as partners, a joint venture, or co-owners or empower either party to act for, bind or otherwise create or assume any obligation on behalf of the other and neither party will hold itself out as entitled to do the same.

25. Currency

25.1. All currency and monetary tender referred to herein and exchanged between the parties will be in United States Dollars.

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26. Entire Agreement

26.1. This Agreement supersedes and cancels any previous understandings, representations, or agreements between the parties related to the subject matter hereof, and expresses the complete and final understanding with respect to the subject matter hereof and supersedes and cancels all previous and contemporaneous written and oral agreements and communications relating hereto.

27. Modifications

27.1. This Agreement shall not be modified in any way without the express written consent of both the Client and Tix.

28. Counterparts

28.1. This Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original. A facsimile of a signature shall be deemed as effective as an original signature for the purposes of this Agreement and any other communications between the Client and Tix.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement, and it will be effective as of the Effective Date.

CLIENT

1/27/11

Date

Mary Blair
Signature

MARY BLAIR
Name

DIRECTOR OF FINANCE
Title

BURR AND BURTON ACADEMY
Organization

802-549-8112
Contact Phone

mblair@burrburton.org
Contact E-Mail Address

TIX

2/12/11
Date

Robert E. Edmison
President
Tix, Inc.

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