

ITEM 114-1004-R0102 ATTACHMENT

THE UNIVERSITY OF MONTANA VIIRTU CONSULTING AGREEMENT

THIS AGREEMENT sets forth the understanding with respect to Virtu Consulting, LLC (“Virtu”) installation and operation of two new video and scoring Systems at The University of Montana (“University”).

1. RELATIONSHIP OF THE PARTIES

The relationship between Virtu and the University is that of independent contractors and shall not be construed as a joint venture, partnership or principal-agent relationship, and under no circumstances shall any employee of one party be deemed to be an employee of the other party for any purpose. This Agreement shall not be construed as authority for either party to act for the other in any agency or any other capacity or to make commitments of any kind for the account of or on behalf of the other, except as expressly set forth in this Agreement.

2. TERMS AND SERVICES

- a) Virtu shall provide to the University two new video and scoring Systems (“Systems”) to be installed at Washington Grizzly Stadium and at Adams Center (“Stadiums”), respectively, at no cost to the University. The University agrees to allow Virtu to install the Systems in the Stadiums as the Stadiums’ scoring Systems. During the term of this Agreement, all right, title, and interest in the Systems shall be retained by Virtu.
- b) Virtu shall provide, through sponsorship, all equipment, installation, maintenance and operation of the Systems at no cost to the University. The Systems design and equipment shall meet with the approval of the University.
- c) Virtu shall install one System in Washington Stadium on or before September 1, 2002 and install the other System in Adams Center on or before November 1, 2002, provided that the commitments referred to in Sec. 3 are obtained.
- d) Virtu estimates that the aggregate costs of the Systems, including installation, shall be between \$2.1 million and \$2.5 million. If such costs exceed \$2.5 million, this Agreement shall terminate and the parties may enter into good faith negotiations in order to re-negotiate another agreement mutually acceptable to both parties.
- e) Virtu will obtain financing at a rate not to exceed 1% over the Prime rate, amortized over a fifteen-year term.
- f) Virtu shall have the exclusive right to solicit and place sponsors (both permanent and spot messages) on the Systems. All sponsor Agreements shall be between Virtu and the sponsor and must be approved by the University. In addition, all sponsor Agreements shall have a clause assigning those sponsor Agreements to The University of Montana in the event that Virtu ceases to be able to perform its obligations pursuant to this Agreement. The University shall use its best efforts to assist Virtu in the solicitation of sponsorships for the Systems.

- g) The University shall not add additional sponsor panels within either Stadium during the term of this Agreement, other than temporary banners for certain events, provided that such temporary banners do not obstruct the visibility of the Systems' sponsor panels and such banners do not conflict with the sponsor Agreements entered into by Virtu. However, the University reserves the right to display such temporary signage as may be necessary to support a short term event (3-5 days). In such instance, the parties agree to work together in good faith to develop a mutually acceptable display.
- h) The Systems shall be warranted to the extent of the warranties provided by Virtu's suppliers as such warranties relate to the Systems.
- i) This Agreement shall remain in effect for fifteen (15) years. At the end of this Agreement's 15-year term unless the parties otherwise agree before that time, Virtu will donate the Systems to the University at the Systems' fair market value at that time.
- j) Virtu shall employ University students to maintain and operate the Systems whenever feasible and practical.

3. TERM

This Agreement shall remain in effect for fifteen (15) years from the Effective Date unless it is terminated earlier or extended as provided herein. It is understood by both parties that ordering and installing these Systems is dependent upon securing advertising commitments and/or other methods of private funding in advance, in an amount sufficient to cover, at a minimum, items a), b), & c) under section 5 of this Agreement. The pursuit of said advertising and private funding agreements will be ongoing, with the ordering of the Systems to take place at such time as the required commitments are secured. Installation of the Systems will be arranged with the University in its best interest. If sponsorship identified in section 5a, b, & c, are not secured by July 15, 2002, both parties either agree to extend this contract, subject to approval of the Montana Board of Regents, or terminate the contract. Once the Systems are installed, the parties agree to make reasonable commercial efforts to obtain and maintain sponsor Agreements reasonably likely to generate the revenues projected in Section 5 of this Agreement throughout the duration of its term. The Effective Date of this Agreement shall begin on the date the Agreement is approved by the Montana Board of Regents.

4. TERMINATION

This Agreement may be terminated:

- a) by either party, effective thirty (30) days after providing written notice to the other party of a material breach of this Agreement, if the other party fails to cure any such material breach within such thirty-day period after written notice of the breach;
- b) at any time upon the mutual agreement of both parties; and
- c) by Virtu, if either Stadium ceases to be used by the University in substantially the same manner as the use as of the Effective Date.

In addition, if the 'University ceases to hold events or games at either of the Stadiums for a certain period of time for any reason whatsoever ("No Use Period"), Virtu shall have the option

to extend the term of this Agreement by a period equal to the period of time of such No Use Period.

5. COMPENSATION

Revenues received by Virtu on account of sponsorship of the Systems shall be retained and distributed in the following amounts and priorities:

- a) First, a maximum of **\$507,000** of the gross revenues shall be paid annually to the University for the term of this Agreement.
- b) Second, an amount equal to the annual Debt Service shall be retained by Virtu for that purpose.
- c) Third, in consideration for its maintenance of the Systems, Virtu shall retain an amount equal to ten percent (10%) of annual Debt Service payments (such percentage shall be increased to fifteen percent (15%) commencing four (4) years after the Effective Date).
- d) Fourth, Virtu shall retain, in consideration for its operation of the Systems, an amount equal to eight percent (8%) of annual Debt Service payments; and such percentage shall increase to eleven percent (11%) commencing four (4) years after the Effective Date.
- e) Fifth, Virtu shall retain an annual sponsorship marketing commission amount equal to twenty percent (20%) of the aggregate gross sponsorship revenues over \$507,000 identified in Section 5(a) above, for the fifteen (15) year term.
- f) Sixth, all remaining revenues, if any, shall be equally divided between the parties.
- g) Virtu agrees to make all financial records required to ensure and monitor performance of this Agreement reasonably available to University upon the latter's request.

6. ASSIGNABILITY

Neither party may assign this Agreement without the other party's express prior consent, which shall not be unreasonably withheld.

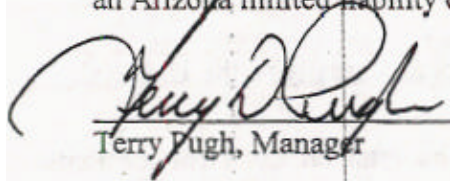
7. COVENANTS

- a) Both parties shall perform all of their activities, obligations, and responsibilities contemplated under this Agreement in compliance with all-applicable laws, rules, and regulations.
- b) Both parties shall provide proof of liability insurance to the other party. Such policies shall be in a form reasonably agreed to by both parties.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS**

AGREED TO AS OF THIS DATE 12/1/01 :

VIRTU CONSULTING, LLC,
an Arizona limited liability company



Terry Pugh, Manager

THE UNIVERSITY OF MONTANA,
a political subdivision of the State of Montana

By: _____

Its: _____