

SECOND AMENDATORY AGREEMENT

This **SECOND AMENDATORY AGREEMENT** is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City") and **ACTIVE NETWORK, LLC**, successor in interest to **THE ACTIVE NETWORK, INC.**, a Delaware corporation registered to do business in Colorado, whose primary address is 717 N. Harwood, Suite 2500, Dallas, TX 75201 (the "Contractor") collectively referred to as the "Parties" and individually a "Party".

WITNESSETH:

WHEREAS, the Parties entered into an Agreement dated August 24, 2010 and amended the Agreement on September 24, 2012, to provide an Enterprise Class Cashiering system intended for City departments, agencies, and constituents involving the acquisition, purchase, and installation of various software/hardware components as well as significant business process re-engineering (the "Agreement"); and

WHEREAS, the Parties wish to amend the Agreement to amend the scope of work, extend the term, and increase the maximum contract amount; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations herein set forth, the Parties agree as follows:

1. All references to "...Exhibit A..." in the existing Agreement shall be amended to read "...Exhibit A and A-1, as applicable...". The scope of work marked as Exhibit A-1 is attached and incorporated by reference.

2. Paragraph 2 of the Agreement, entitled "**TERM**" is amended to read as follows:

"**2. TERM:** The term of the Agreement is from August 10, 2010 through August 9, 2021, unless earlier terminated by the provisions of this Agreement."

3. Paragraph 3.D. (i) of the Agreement, entitled "**MAXIMUM CONTRACT LIABILITY**" is hereby amended to read as follows:

"**3. COMPENSATION AND PAYMENT:**

D. Maximum Contract Liability:

(i) Any other provision of this Agreement notwithstanding, in no event shall the City be liable to pay for services rendered and expenses incurred by

Contractor under the terms of this Agreement for any amount in excess of **SEVEN HUNDRED SIXTY THOUSAND EIGHT HUNDRED SEVENTY-FIVE DOLLARS (\$760,875.00)** (the “Maximum Contract Amount”). The Contractor acknowledges the City is not obligated to execute an amendment to this Agreement for any services and that any services performed by the Contractor beyond that specifically described herein are performed at the Contractor’s risk and without authorization under this Agreement.”

4. This Second Amendatory Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument.

5. Except as herein amended, the Agreement is affirmed and ratified in each and every particular.

EXHIBIT LIST:

EXHIBIT A-1 – SCOPE OF WORK

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: TECHS-CE00013-02

Contractor Name: Active Network, LLC.

By:  _____
288A484511484D8...

Name: Evan Davies
(please print)

Title: President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Exhibit A-1

Denver Payment Manager Amendment Language

1. Beginning January 1, 2019 Annual Support and Maintenance will reflect the licensing below in Exhibit 1. This invoice will be generated annually in January and cover a 12 month time period.

Product	Qty	Price	Total
Reports Inquiry (5 Packs)	1	\$ 1,062.50	\$ 1,062.50
POS Plus	80	\$ 637.50	\$ 51,000.00
POS Touch Screen	5	\$ 127.50	\$ 637.50
General Ledger Link	1	\$ 637.50	\$ 637.50
Payment Server	1	\$ 1,275.00	\$ 1,275.00
Payment Processing Engine	1	\$ 2,125.00	\$ 2,125.00
Online Payments (per 10,000 population)	61	\$ 212.50	\$ 12,962.50
Department Connector	18	\$ 1,062.50	\$ 19,125.00

2. Any additional workstations added by the City will require purchase of the software license and the annual maintenance and support cost (Year 1 annual maintenance and support will be prorated based on the time of purchase). If additional licenses are purchased, the following year annual support and maintenance quantity will be updated to reflect the current licensed amount.

Product	License	Annual Maintenance and Support
POS Plus	\$ 3,750.00	\$ 637.50
Department Connector	\$ 5,000.00	\$ 1,062.50

3. The City may require ACTIVE Network Technical Services from time to time and will be quoted by the ACTIVE Network at a daily rate of \$2,000 based on the project scope. Project Management services are available from ACTIVE Network at a rate of \$250 per hour.
4. Support and Maintenance Handbook: *From time-to-time the information in this Support and Maintenance Handbook document may be updated by ACTIVE, in which case the updated information will be available for review in an attachment on the following article on ACTIVE Net Answers at http://support.activenetwork.com/activenet/articles/en_US/Article/Support-and-Maintenance-Handbook*

SUPPORT AND MAINTENANCE SERVICES

Annual Support and Maintenance Services. The following supplies and services are included in the Support Services and Maintenance Services provided by Active as determined by the level of Support Services and Maintenance Services purchased which are set forth in a separate Schedule.

1. **General.**

1.1 In order to receive the benefit of the service levels contained herein, Client must be in compliance with the obligations of the Agreement.

Exhibit A-1

1.2 Client understands and acknowledges that the Product is a commercial off-the-shelf product with core architecture that services many clients, and that Active is permitted to make changes to the Product hosting environment, network, telecommunications, data storage, and any/all other information technology infrastructure that underlies the Product, without seeking or obtaining any consent from Client.

2. Technical Support.

2.1 Standard: This is the default level of Support and is included with your license to use Active's Software. Available between 5:00am and 6:00pm Pacific Time, Monday through Friday, via web portal (<http://www.activenetwork.com/service-and-support/customer-support>).

2.2 Advanced: If you have purchased Advanced Support, Support is available between 5:00am and 6:00pm Pacific Time, Monday through Friday, via telephone (800-663-4991) or web portal (<http://www.activenetwork.com/service-and-support/customer-support>).

2.3 Enterprise: If you have purchased Enterprise Support, Support is available between 5:00am and 6:00pm Pacific Time, Monday through Friday via telephone (800-663-4991) or web portal (<http://www.activenetwork.com/service-and-support/customer-support>) with preferred access to second tier resources.

3. **Phone Support.** Unlimited phone Support for system down issues on a twenty four (24) hours x seven (7) days a week basis, provided that: (a) support calls, placed during "Extended Support Hours" (those occurring after 6:00pm and before 5:00am Pacific Time, Monday through Friday, and any time during the weekend and holidays), are placed by an authorized contact person and (b) the requested phone support consists of a "Call Priority Level 1" issue, as defined in the table below. Unlimited phone Support is offered to Desktop Software Clients only if the site has remote access and Internet email capability.

4. **Online Support.** Access to the Active customer care web portal, discussion forums, knowledgebase and online training materials, which are available at <http://www.activenetwork.com/service-and-support/customer-support>.

5. **Upgrades.** Active shall also provide Upgrades of the Software and free assistance in planning the Upgrades.

6. **Support Issue Priorities and Timelines.** New Support incidents are assigned one of the following levels, each with its respective standard ticket resolution target.

Call Priority Level	Description	Standard Completion Target
Priority 1	Issues that result in Client's inability to fulfill critical business functions (i.e. those pertaining to core functionality such as processing registrations, memberships, rentals) and that have no reasonable work-around.	All: 1 business Day
Priority 2	Issues significantly impacting the use of the system but which do not prevent core functions from being fulfilled.	Standard: 3 business day Advanced: 2 business days Enterprise: 1 business day
Priority 3	All other issues, except those classified as Priority 4 (i.e. how-to questions, reporting/reconciliation issues).	Standard: 5 business days Advanced: 3 business days Enterprise: 2 business days
Priority 4	Issues that are not time-sensitive or may be undertaken as a customer service initiative outside the scope of this attachment.	All: None

7. Services Not Included.

The following are excluded from all offered Support Services and Maintenance Services:

- Services which are required to remedy problems that stem from changes to or defects in system configuration upon which the Software was originally installed.
- Services which are required to remedy problems which do not stem from any defect in the Software.

Exhibit A-1

- Services which are required to remedy problems caused by lack of training of the Client's personnel.
- Improper treatment or use of the Software.
- Onsite or remote training services.
- Full report customization service.
- Database-specific services or assistance.

8. **Restrictions.**

The following actions will void the Support Services and Maintenance Services portions of the Agreement:

- The use of any other application that modifies data in the database, whether created by you or otherwise.
- The use or creation of any other application that competes with or replaces a module that is offered by Active to work with either the application or the application's database.

9. **Annual Support and Maintenance Related to SaaS Services Only.** The following Support Services and Maintenance Services are offered in conjunction with the above for SAAS Services Clients.

- Monitoring of connectivity and critical functionality at all times.
- Site-down/critical issues response time of one (1) hour, with commercially reasonable efforts to advise your organization of the current status and expected resolution time.
- Scheduled maintenance and Updates designed to address performance, with reasonable efforts to notify Clients of scheduled maintenance times and potential impacts to service.
- Urgent maintenance (done to correct network, hardware or software issues that are likely to cause significant service disruption and that require immediate action). Active may undertake urgent maintenance at any time deemed necessary and shall provide status updates to Clients as soon as possible.