

**AMENDMENT TO AGREEMENT BY AND**  
**AMONG THE COUNTY OF ALBANY, SMG,**  
**AND TICKETMASTER L.L.C.**  
**PURSUANT TO RESOLUTION NO. 215 of 2015**  
**AMENDING THE DULY EXECUTED AGREEMENT AMONG THE PARTIES**  
**PURSUANT TO RESOLUTION No. 243 of 2010**

This is an Amendment to an Agreement by and among the County of Albany (hereinafter called "the County" or "the Owner"), a municipal corporation duly organized under the laws of the State of New York, SMG, a Pennsylvania general partnership as managing agent for the County at the Times Union Center, and Ticketmaster L.L.C., a Virginia limited liability company for a computerized ticketing and distribution system for the civic center.

It is hereby agreed among the County of Albany, SMG and Ticketmaster. L.L.C., as follows:

1. That except as amended or revised by this AMENDMENT to the original Agreement, for a computerized ticketing and distribution system for the civic center that was fully executed by and among the parties hereto, shall remain in full force and effect. The original Agreement was adopted pursuant to Resolution No. 243 for 2010.

2. That Article 2 (a) of the Agreement: Term of the Agreement, is amended to reflect that the parties mutually agree renew the Agreement for an additional period of five (5) years. The amended Agreement shall begin effective September 23, 2015 and shall continue through September 22, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this AMENDMENT to the Agreement on the dates set forth.

**COUNTY OF ALBANY**

DATED: \_\_\_\_\_

\_\_\_\_\_  
Daniel P. McCoy  
County Executive

or

DATED: 8/7/15

\_\_\_\_\_  
Philip F. Calderone  
Deputy County Executive

**TICKETMASTER, L.L.C.**

DATED: 7-28-15

\_\_\_\_\_  
Name and Title

**SMG**

DATED: 7-30-15

\_\_\_\_\_  
Robert H. Belber  
General Manager

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

On July 28, 2015 before me, Maria Hernandez, Notary Public

personally appeared Geoff Corrao

Here Insert Name and Title of the Officer

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ she/they executed the same in ~~his~~ her/their authorized capacity(ies), and that by ~~his~~ her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Maria Hernandez

Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Resolution No. 215 of 2015

Title or Type of Document: Amendment to Agreement - Albany County, SWS & Ticketmaster, LLC.

Document Date: July 21, 2015

Number of Pages: 2

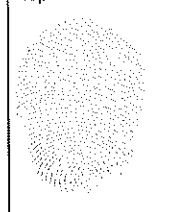
Signer(s) Other Than Named Above: W/K

### Capacity(ies) Claimed by Signer(s)

Signer's Name: Geoff Corrao

- ☐ Individual  
☒ Corporate Officer — Title(s): SVP, Venues & Promoters  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here



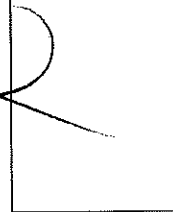
Signer Is Representing:

Ticketmaster, LLC.

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here



Signer Is Representing: \_\_\_\_\_

STATE OF NEW YORK     )  
COUNTY OF ALBANY     ) SS.:

On the \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned, a notary public in and for the state, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEW YORK     )  
COUNTY OF ALBANY     ) SS.:

On the 7<sup>th</sup> day of August, 2015, before me, the undersigned, a notary public in and for the state, personally appeared Philip F. Calderone, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC  
EUGENIA K. CONDON  
Notary Public, State of New York  
No. 4969817  
Qualified in Albany County  
Commission Expires July 23, 2018

STATE OF NEW YORK     )  
COUNTY OF ALBANY     ) SS.:

On the 30<sup>th</sup> day of July, 2015, before me, the undersigned, a notary public in and for the state personally appeared Robert H. Belber, G.M. of the T.U.Center, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or, the person upon whose behalf the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

JOHN E. MANEY  
NOTARY PUBLIC STATE OF NEW YORK  
ALBANY COUNTY, L.C. #02MA4924423  
COMM. EXP. \_\_\_\_\_

March 20, 2018

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS.:

On the \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned, a notary public in and for the state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon whose behalf the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS.:

On the \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned, a notary public in and for the state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon whose behalf the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

2015 MAY 13 AM 9 52

**FOR COUNSEL USE  
ONLY**

Date Received: PM

Received by: PM

Method: Hand: PM

Courier: \_\_\_\_\_

Mail: \_\_\_\_\_

**REQUEST FOR LEGISLATIVE ACTION**

RLA #1342: Contract authorization for ticket sales

**DATE:**

Thursday, May 07, 2015

**DEPARTMENT:**

Management & Budget

Contact Person:

David Reilly, Sr. Budget Analyst

Telephone:

518-447-7034

Dept. Representative Attending  
Committee Meeting:

John Evers, Director

**PURPOSE OF REQUEST:**

Adopting of Local Law  
Amendment of Prior Legislation  
Approval/Adoption of Plan/Procedure  
Bond Approval  
Budget Amendment (see below)  
Contract Authorization (see below) X  
Environmental Impact  
Home Rule Request  
Property Conveyance  
Other: (State briefly if not listed above)

**CONCERNING BUDGET AMENDMENTS**

**STATE THE FOLLOWING:**

Increase Account/Line No. \_\_\_\_\_

Source of Funds: \_\_\_\_\_

Title Change: \_\_\_\_\_

**CONCERNING CONTRACT AUTHORIZATION**

**STATE THE FOLLOWING:**

**TYPE OF CONTRACT:**

Change Order/Contract Amendment \_\_\_\_\_

Purchase (Equipment/Supplies) \_\_\_\_\_

Lease (Equipment/Supplies) \_\_\_\_\_

Requirements Professional Services X

Education/Training \_\_\_\_\_

Grant: \_\_\_\_\_

New \_\_\_\_\_

Renewal \_\_\_\_\_

Submission Deadline Date \_\_\_\_\_

Settlement of a Claim \_\_\_\_\_

Release of Liability \_\_\_\_\_

Other: (State briefly) \_\_\_\_\_

**CONCERNING CONTRACT AUTHORIZATION (Cont'd)**  
**STATE THE FOLLOWING:**

**Contract Terms/Conditions:**

Party (Name/Address)	Ticketmaster LLC 550 W Van Buren, 13th Floor Chicago, IL 60607
Amount/Raise Schedule/Fee	\$632,650.44
Scope of Services	Resolution 243 of 2010 authorized the award of a five year contract with Ticketmaster to provide comprehensive ticketing services. This contract will be up for renewal in the near future and we would prefer to stay with the existing vendor and continue this mutually beneficial relationship by exercising the previously agreed upon 5 year renewal term.

**Contract Funding:**

Bond Res. No.:	
Date of Adoption:	

**CONCERNING ALL REQUESTS:**

Mandated Program/Service:	No
If Mandated Cite: Authority	
Anticipated in Current Adopted Budget	Yes

**County Budget Accounts:**

Revenue	
Appropriation	

**Fiscal Impact - Funding: (Dollars or Percentages)**

Federal	
State	
County	
Local	

Term/Length of Funding:	60 Months (9/23/2015 - 9/22/2020)
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<b><u>Impact on Pending Litigation</u></b>	No
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If yes, please explain:	
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**Previous Requests for Identical or Similar Action**

Resolution/Law Number	
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Date of Adoption	
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**Justification: (State briefly why legislative action is requested)**

Ticketmaster is the biggest and most reliable ticketing company in the United States. The programs that are available to service the Siena Basketball team and Albany Devils season ticket holders has been extremely effective. The marketing arm of Ticketmaster with extensive data and reach to hundreds of thousands of email addresses in the Upstate NY Region has greatly helped us sell tickets and the service provided to our box office has been very reliable and expeditious when problems have occurred. Over the previous five years the average annual revenue has been \$632,650.44. Included in the attachments for the RLA are the factors that go into calculating that amount.

## LICENSED USER AGREEMENT

THIS LICENSED USER AGREEMENT (this "Agreement") is made and entered into as of August 27, 2010 and is effective as of 5:01pm on September 23, 2010 ("Effective Date"), by and among Ticketmaster L.L.C., a Delaware limited liability company ("Ticketmaster"), the County of Albany, New York ("Owner"), the owner of the Facility, and SMG, a Pennsylvania general partnership, as agent for the Owner. (SMG and the Owner are collectively referred to as the "Principal").

### WITNESSETH:

Ticketmaster provides comprehensive ticketing services for entertainment facilities and events, and maintains a distribution network for the sale of tickets to the public, via any and all means and methods, including the TM System. SMG has the right to manage, operate and promote the Facility pursuant to a Management Agreement with the Owner, as agent for the Owner.

Principal desires to engage Ticketmaster, and Ticketmaster desires to be engaged, to sell Tickets for Attractions pursuant to the terms and conditions of this Agreement.

In consideration of the foregoing and the mutual promises and covenants set forth herein, the parties, intending to be legally bound, hereby agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the respective meanings indicated below unless the context otherwise requires:

- (a) "Account Balance" is defined in Section 13(b) hereof.
- (b) "AccountManager" means the Ticketmaster AccountManager software and hosting services that allow Subscribers to manage their Season/Contract Ticket accounts.
- (c) "Archtics" means Ticketmaster's software that delivers extensive season, miniplan and single ticket functionality in connection with the Ticketmaster host system and distribution channels for inventory control by Ticketmaster and Principal.
- (d) "Archtics Transaction Fees" means the amounts Ticketmaster charges for certain Products transactions as described in Section 6.
- (e) "Attraction" means a concert, sporting, entertainment or other act or event of any kind or nature whatsoever to be held at the Facility; provided, however, that events for which there is no performance and no charge for admission (e.g., private catered events that utilize all or part of the Facility) are specifically excluded.
- (f) "Attraction Taxes" means any and all sales, amusement, admissions and other taxes, charges, fees, levies or other assessments measured by reference to a charge per Ticket sold or determined based upon the purchase price of a Ticket assessed by federal, state, county, municipal or other governmental or quasi-governmental authorities as a result of, or in connection with, any Attraction, including Principal Taxes and Ticketmaster Taxes as further



described below. To the extent such taxes relate to the Ticket Receipts and funds paid or owed to Principal under this Agreement such portion of Attraction Taxes may also be referred to herein as Principal Taxes, and to the extent such taxes relate to the Convenience Charges and other amounts collected and retained by Ticketmaster under this Agreement, such portion of Attraction Taxes may also be referred to herein as Ticketmaster Taxes.

(g) "Auction Base" means the Face Value of a Ticket plus the related Convenience Charge for such Ticket (which Convenience Charge shall be subject to Royalty payments as set forth in Section 4(a)).

(h) "Auction Fee" means the amount Ticketmaster charges the customer to sell Tickets via a Ticketmaster online auction.

(i) "Auction Lift" means the difference between the ultimate price a consumer pays for a Ticket sold via a Ticketmaster online auction less the Auction Base.

(j) "Cancelled Attraction" is defined in Section 13(b) hereof.

(k) "Chargebacks" is defined in Section 13(c) hereof.

(l) "Convenience Charge" means the per Ticket amount charged by Ticketmaster to a consumer for the convenience of purchasing Tickets through the TM System as set forth in Section 3(b) hereof.

(m) "Deficiency Amount" is defined in Section 13(d) hereof.

(n) "Delivered E-mails" means all e-mails generated by Principal using Ticketmaster MailManager that are not indicated as having been returned to Principal as "undeliverable" in Ticketmaster's records.

(o) "Event of Default" is defined in Section 10(a) hereof.

(p) "Face Value" means the face price of a Ticket as determined by Principal, which shall be inclusive of all applicable Attraction Taxes and Facility, parking and similar fees.

(q) "Facility" means the venue located at 51 South Pearl Street, Albany, NY 12207 and currently known as Times Union Center.

(r) "Facility Box Office" means the Facility's Ticket sales location that is operated by Principal and located at the Facility.

(s) "Facility Website" means an Internet website(s) owned and/or operated and maintained by Principal pertaining solely to the Facility (and not any other website maintained by SMG or Owner generally or for other public assembly facilities managed by SMG or Owner), as the same may be modified from time to time, and any successor format of the same.

(t) "GroupManager" means the Ticketmaster GroupManager software and hosting services that allow Principal and Principal's customers to manage their group ticket experience.

(u) "Group Sales" means sales of Tickets to one person, on behalf of a group of at least ten (10) people to attend an Attraction as a group, and not to attend individually or to purchase Tickets with the intent to resell such Tickets.

(v) "Hardware" means all of that certain computer hardware, communications equipment, terminals and hook-ups (including replacements thereof) listed with particularity on Exhibit B, which is attached hereto and incorporated herein by this reference, or otherwise supplied by Ticketmaster to Principal at any time during the Term of this Agreement, but excluding (i) any computer hardware, communications equipment, terminals and hook-ups purchased by Principal to provide the connectivity to and interfacing with the TM System required under this Agreement, and (ii) any computer hardware, communications equipment, terminals and hook-ups purchased by Principal from Ticketmaster.

(w) "Hosted Platform" shall mean the equipment, operating system, hardware and software specifications, and networking environment on and with which the TM System and Software are hosted by Ticketmaster, and additions or replacements to the foregoing which may be implemented by Ticketmaster in accordance with the terms of this Agreement.

(x) "House Seats" means Tickets that are provided or held by Principal (e.g., complimentary, band holds and venue holds) to the promoter or presenter of an Attraction, the performing act or event or members thereof, or their managers or agents, or to others for legitimate promotional or business purposes, including for distribution through legitimate fan clubs in accordance with current Ticketmaster guidelines (i.e., fan club holds) (collectively, "House Seat Recipients"); provided, however, that at no time shall such Tickets be sold or issued to the general public and provided further that House Seats shall not include Tickets provided to fan clubs or similar organizations.

(y) "Inside Charges" means the amounts Ticketmaster charges the Ticket purchaser to sell, issue and process Tickets utilizing the TM System under this Agreement.

(z) "Interface Page" means a co-branded web page interface for use with Software transactions designed, created and maintained by Ticketmaster to have, in general, the look and feel of Principal's Website and hosted on Ticketmaster's web servers.

(aa) "Internal Ticket Forwarding" means the ability of Principal to forward a reasonable number of House Seats Tickets (other than Tickets for fan clubs) directly from Archtics to a recipient with a valid email address.

(bb) "Internet Sales" means all sales of Tickets over the Internet or any other means of interaction with the TM.com Website.

(cc) "MailManager" means the Ticketmaster MailManager software and hosting services that allows Principal to build a permissible marketing database and supports targeted, trackable direct email communication to Principal's customers.

- (dd) "Material Financial Event" is defined in Section 13(d) hereof.
- (ee) "MiniPlan Tickets" means specifically designated Tickets sold directly by Principal to a single consumer on an annual or season basis across a set of at least two (2) Attractions.
- (ff) "On-Sale Date" is defined in Section 8(d) hereof.
- (gg) "Outlet" means a retail Ticket selling agency (other than the Facility Box Office) where Tickets for an Attraction are made available and offered for sale to the public through the TM System.
- (hh) "Principal's Website" means an Internet website(s) owned, operated and maintained by Principal, which shall contain links to the Interface Page.
- (ii) "Processing Fee" means the per order amount charged by Ticketmaster to a consumer for purchasing Tickets via Internet Sales or Telephone Sales.
- (jj) "Products" means the additional ticket sales software and Internet-based premium Ticketmaster products indicated with an X in Section 6 hereof.
- (kk) "Season/Contract Tickets" means specifically designated Tickets sold directly by Principal on an annual basis across all Attractions or across a category of Attractions (i.e., luxury suites, club level seats and season tickets).
- (ll) "Sellable Capacity" means the number of Tickets that can be sold for an Attraction other than Season/Contract Tickets.
- (mm) "Set-Up Information" is defined in Section 8(d) hereof.
- (nn) "Software" means Ticketmaster's ticketing system software known and marketed as Ticketmaster Classic, Ticketmaster AccessManager, TM Charge, the Products and any new versions thereof that are provided to Principal by Ticketmaster.
- (oo) "Subscribers" means any person who holds an account on Principal's AccountManager.
- (pp) "Telephone Sales" means all sales of Tickets through the TM System by telephone, interactive voice response (IVR) and similar means.
- (qq) "Term" is defined in Section 2 hereof.
- (rr) "Third Party Provider" is defined in Section 5(c) hereof.
- (ss) "Ticket" means a printed, electronic or other type of evidence of the right, option or opportunity to occupy (i) space at or to enter or attend an Attraction or Attractions, including, without limitation, tickets printed via *ticketFast*<sup>TM</sup> at home or elsewhere by the

purchaser even if not evidenced by any physical manifestation of such right, such as a "smart card."

(tt) "TicketFast Delivery Fee" means the per order amount charged by Ticketmaster to a consumer for electing to have Tickets delivered via Ticketmaster's *TicketFast*™ print at home service.

(uu) "Ticket Forwarding" means the ability of Subscribers to forward Tickets purchased through AccountManager to a recipient with a valid email address.

(vv) "Ticket Forwarding Fee" means amounts Ticketmaster charges Subscribers for authentication and delivery of Tickets sent via Ticket Forwarding.

(ww) "Ticketmaster AccessManager" means the Ticketmaster AccessManager software which interfaces with the TM System to facilitate certain reporting systems and to provide various enhanced services to the patron admissions process through the use of bar codes or other media printed on Tickets.

(xx) "Ticket Receipts" means the Face Value of a Ticket less the applicable Inside Charge.

(yy) "TM Charge" means the credit card processing system within the TM System that utilizes the global banking association networks to authorize credit card purchases of Tickets to Attractions sold by Ticketmaster at Outlets, via Telephone Sales or Internet Sales, or sold by Principal from the Facility Box Office as permitted under this Agreement.

(zz) "TM.com Website" means any Internet websites owned, operated and maintained by Ticketmaster, as the same may be modified from time to time, and any successor format of the same and any ticketing property, feature, or product acquired by Ticketmaster or its affiliates that may become available subsequent to the Effective Date, including, without limitation, any co-branded versions and any version distributed through any broadband distribution platform or through any platform or device including television, broadband and wireless technologies.

(aaa) "TM System" means the Hardware, Software, TM.com Website, related procedures and personnel, and repair and maintenance services established and maintained by Ticketmaster and its affiliates for the purpose of selling, distributing, auditing and controlling the sale of Tickets for Attractions, including, without limitation, at Outlets, by Internet Sales and by Telephone Sales.

## 2. Term of Agreement.

(a) The initial term of this Agreement shall begin on the Effective Date and shall continue through September 22, 2015 (the "Initial Term"). This Agreement may be renewed for an additional period of five (5) years, provided that the parties mutually agree to the terms in effect during such renewal term no later than one hundred twenty (120) days prior to the end of the Initial Term. The Initial Term and such renewal term, if applicable, shall be hereinafter the "Term." Each twelve (12) month period commencing on September 23 and

continuing through the following September 22 shall be a "Contract Year" as such term is used herein.

(b) Upon the expiration or termination of this Agreement (where Ticketmaster's services hereunder are not renewed or extended) and upon the request of Principal, Ticketmaster shall cooperate with Principal for a period not to exceed sixty (60) days in order to have a smooth transition of such services to such successor ticketing company; provided, however, such cooperation shall not result in the disclosure of any confidential or proprietary information relating to Ticketmaster's business or systems to any third party.

3. **Compensation.** In consideration for the license by Ticketmaster of the Hardware and Software to Principal, the license by Ticketmaster to Principal of the right to deeplink to the TM.com Website granted herein, and Ticketmaster's continuing services to be performed in connection herewith, Ticketmaster shall be entitled to receive the fees and compensation described herein. Principal consents to the imposition of the charges described herein on all Tickets purchased through the TM System hereunder. Those fees and compensation that are owed by Principal may be deducted by Ticketmaster from the Ticket Receipts (or the Face Value with respect to Inside Charges) collected by Ticketmaster on behalf of Principal under the settlement procedures described in Section 13 hereof.

(a) **Inside Charges:** Ticketmaster shall be entitled to assess and receive from gross Ticket proceeds collected by it on behalf of Principal an Inside Charge with respect to each Ticket sold through Outlets, Telephone Sales and Internet Sales. The amount of the Inside Charge shall initially be as follows:

Type of Transaction	Inside Charge
Outlet Sales	\$0.00 per Ticket
Telephone Sales and Internet Sales	Credit card fees set forth in Section 3(c) below
Other Tickets (including complimentary Tickets) printed by or on behalf of Principal	\$0.00 per Ticket

The amount of Inside Charges owed by Principal to Ticketmaster shall be deducted from the Face Value collected by Ticketmaster on behalf of Principal in the manner provided in Section 13 hereof.

(b) **Convenience Charge (Per Ticket or Per Parking Pass):** Ticketmaster shall assess a Convenience Charge against purchasers of Tickets for Tickets sold by Ticketmaster via the TM System. The amount of the Convenience Charge for each applicable category of Ticket sale shall initially be as follows: