

AGREEMENT

This Agreement is entered into between the University of Notre Dame du Lac ("Notre Dame") and The University of Texas at Austin (~~The~~ University of Texas") on the 1st day of November, 2012.

1. **PURPOSE:** The purpose of this Agreement is to confirm the arrangements and conditions under which the University of Notre Dame and the University of Texas will compete in the following games of intercollegiate football ("the Game" or "the Games") to be played on the following dates at the following locations:

<u>DATE</u>	<u>HOST @ LOCATION</u>
September 5, 2015	Notre Dame @ Notre Dame, IN
September 3, 2016	University of Texas @ Austin, TX
August 31, 2019	University of Texas @ Austin, TX
September 12, 2020	Notre Dame @ Notre Dame, IN

The host as identified above is referred to herein as the Host Institution, and the other party (the visitor) to each Game is referred to herein as the Visiting Institution.

2. **OFFICIALS:** The Big 12 Conference shall appoint officials for the Games played at Notre Dame. The officials shall be assigned by an FBS conference at the request of Notre Dame for the Games played at Austin. Instant Replay crews shall be appointed by the Host Institution.

3. **ELIGIBILITY:** The Games shall be governed by the rules of the NCAA and applicable conference(s) (if any) in effect on the date of each Game. The eligibility of players to participate in the Games shall be determined by the rules of the NCAA, applicable conference(s) (if any) and the respective institutions in effect on the date of each Game.

4. **GAME MANAGEMENT:** The Host Institution shall be responsible for managing the Games, at its own cost, including but not limited to procurement of the facility (if applicable), and shall be responsible for arranging and conducting ticket sales, advertising, security and all of the other details customarily attendant to hosting a Division I intercollegiate football game, and paying all expenses associated therewith, except for the expenses of the Visiting Institution. The Host

Institution shall retain all revenue associated with the Games unless otherwise set forth herein.

5. **GUARANTEE:** The Host Institution shall pay to the Visiting Institution a guaranteed sum of \$500,000 for each Game. Payment shall be received no later than sixty (60) days following the date of the Game.

6. **CANCELLATION:**

A. Neither party shall be considered to have breached this Agreement for failure to participate in a Game for reasons due to acts of God, national emergency, natural disaster, war, terrorism, civil unrest, court order, or any other cause beyond the control of the party. In the event that a Game is cancelled pursuant to this provision, the parties agree to exercise their best efforts to reschedule the Game to a mutually-agreeable date and time.

B. If either party is prohibited from appearing in a televised broadcast of a Game by virtue of a sanction imposed by the NCAA ("the sanctioned party"), then the non-sanctioned party shall have the right to cancel any Game covered by such sanction. The non-sanctioned party shall notify the sanctioned party of its intent to cancel under this provision within thirty (30) days of learning about the sanction imposed by the NCAA that prohibits the sanctioned party from appearing on television. In the event of such a cancellation by the non-sanctioned party, the cancellation will constitute and be construed for the purposes of Section 6.C as a cancellation by the sanctioned party as of the date the sanctioned party receives the notice of cancellation, such that the sanctioned party shall pay to the non-sanctioned party the applicable cancellation fee under Section 6.C and such that the non-sanctioned party shall have no financial liability to the sanctioned party for the cancellation. Each party hereby agrees that, if the party is prohibited from appearing in a televised broadcast of a Game by virtue of a sanction imposed by the NCAA, the party forfeits any and all legal rights relative to a cancellation of a Game covered by such sanction, including but not limited to any claim for cancellation fees from the other party (even if the basis for the cancellation is the imposition by the NCAA of a sanction prohibiting the other party from appearing in a televised broadcast of the Game) under Section 6.C.

C. If for any reason other than those set forth in Section 6.A above a party cancels a Game covered by this Agreement, the party cancelling the Game must pay to the other party a cancellation fee as follows:

- The sum of \$150,000 if notice of cancellation is received two years or more before the scheduled date of the cancelled Game;
- The sum of \$500,000 if notice of cancellation is received more than one year but less than two years before the scheduled date of the cancelled Game; or
- The sum of \$1,000,000 if notice of cancellation is received one year or less before the scheduled date of the cancelled Game.

If a party cancels multiple Games, the cancelling party shall be responsible for paying the cancellation fee set forth above only for the first Game to have been played after the date the notice of cancellation is received. Payment of the cancellation fee, as set forth above, shall be the sole remedy for damages incurred because of cancellation of a Game. The parties agree that this sum represents a reasonable approximation of actual damages likely to be suffered in the event of cancellation and is not a penalty, and they further agree that actual damages would be difficult to calculate accurately in light of the uncertainties of attendance, revenue, costs and expenses resulting from a Game between these two parties. The cancellation fee must be paid in full within sixty (60) days of notice of cancellation.

7. **TICKETING:** The Visiting Institution shall have the option of purchasing from the Host Institution 5,000 tickets for each Game covered by the agreement. The Visiting Institution shall return all unsold tickets to the Host Institution in sufficient time to ensure their sale prior to the Game. In no case, however, shall more than 500 tickets be returned later than one month prior to a Game and no more than 100 tickets be returned later than 48 hours prior to a Game. In addition, no more than 50 tickets shall be returned on the day of a Game. Also, the Visiting Institution shall be provided 60 sideline passes for each game. Bands shall be admitted free of charge, and shall not count against the 5,000 tickets allocated for the Visiting Institution. The limitation on size of band is 400. One cheerleading squad (12 members) and a single mascot will be admitted in uniform to each Game.

8. **RADIO:** Each party shall be permitted to provide its audio broadcast of the Game only to its normal recurring set of stations/outlets, which broadcast also may be distributed to an institutional satellite radio carrier and an institutional website. Neither party may resell or grant the Game audio broadcast rights to a third party networker. In addition, a single student radio station from each the Host Institution and the Visiting Institution shall be permitted to produce a radio broadcast of the Game. There shall be no sharing of radio revenue between the parties.

9. **TELEVISION:** If a crossover agreement applies to any Game played subject to this agreement, such crossover agreement shall govern in the event of any conflict between the crossover agreement and this Section 9.

A. **NOTRE DAME** acknowledges and agrees that (a) all rights to telecast or distribute (live or delayed, whole or condensed (including highlights), throughout the universe, in any and all markets, in any and all languages and via any and all forms of media and methods of distribution and distribution technology) the Games played at the University of Texas belong to the University of Texas, (b) the University of Texas shall have the exclusive right to enter into agreements with certain third parties for the telecast or distribution of such Games, (c) the University of Texas has no ability to grant Notre Dame any rights for the telecast or distribution of Games played pursuant to this Agreement in which the University of Texas is the home football team and (d) the University of Texas shall have the exclusive right to retain all revenues derived from the telecast or distribution of the Games played at the University of Texas pursuant to this Agreement. **THE UNIVERSITY OF TEXAS** acknowledges and agrees that (a) all rights to telecast or distribute (live or delayed, whole or condensed (including highlights), throughout the universe, in any and all markets, in any and all languages and via any and all forms of media and methods of distribution and distribution technology) the Games played at Notre Dame belong to the University of Notre Dame, (b) Notre Dame shall have the exclusive right to enter into agreements with certain third parties for the telecast or distribution of such Games, (c) Notre Dame has no ability to grant the University of Texas any rights for the

telecast or distribution of Games played pursuant to this Agreement in which Notre Dame is the home football team and (d) Notre Dame shall have the exclusive right to retain all revenues derived from the telecast or distribution of the Games played at Notre Dame pursuant to this Agreement.

B. Both the Host Institution and the Visiting Institution shall have the right to produce films and/or videotapes of the Games played pursuant to this Agreement for internal use by the football coaches and student-athletes and for evaluation by professional personnel only and for no other purpose. The Host Institution agrees to provide reasonable facilities for such cameras as may be reasonably required by the Visiting Institution to produce such films and/or videotapes. In addition, the Visiting Institution shall be allowed to use up to eight minutes (8:00) of footage originating from the live telecast of the Game, subject to any timeframe restrictions present in the Host Institution's television contract, as part of a weekly coaches' show, and up to three minutes (3:00) of footage originating from the live telecast of the Game, subject to any timeframe restrictions present in the Host Institution's television contract, for use on the Visiting Institution's official athletics website. Any other usage by the Visiting Institution of footage originating from the live telecast of the Games played pursuant to this Agreement shall be governed by a separate agreement between the Visiting Institution and the applicable broadcast partner. In no event shall the Visiting Institution interfere with the filming of the Game by the television network camera crew or the Host Institution.

C. The Host Institution agrees to provide accommodations for the origination of any of the programs described herein and to provide adequate accommodations for telecast origination if no other television feed is available.

D. All programs, films, videotapes, products, institutional promotional programming, marketing and other materials produced pursuant to this Agreement shall be governed by NCAA rules and regulations.

10. **CORPORATE CONTRACTS:** Each party hereby acknowledges that the other party has entered into an exclusive Sponsorship Agreement with Stokely-Van Camp, Inc. ("SVC"), the exclusive manufacturer and distributor of GATORADE products, pursuant to which each party has agreed to require that GATORADE-identified cups, coolers, ice chests, squeeze bottles, sideline carts and towels (hereinafter "Gatorade Merchandise") be placed, exclusively, on all its team benches and sidelines at athletic events, subject to NCAA legislation, guidelines and regulations (including those regarding individual player endorsements), subject to applicable Conference and NCAA guidelines with respect to pre-season, post-season and exhibition games, and subject to the legal and contractual rights of third parties. If for any reason Gatorade Merchandise cannot be placed on any Visiting Institution's team benches or sidelines at any athletic contest played pursuant to this Agreement, then the parties agree that generic (non-branded) cups, coolers, ice chests, squeeze bottles, sideline carts and towels shall be placed, exclusively, on said Visiting Institution's team benches or sidelines. Each party reserves the right to substitute its corporate partner under this Section 10.

11. **MISCELLANEOUS PROVISIONS:**

A. The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

B. By executing this Agreement, the undersigned parties represent and warrant that they are each authorized to act on behalf of the educational institution they represent and the terms of this Agreement shall bind each institution and their respective officers, trustees, employees, agents, servants, affiliates and successors. The parties further acknowledge that they may have crossover agreements with independent institutions, which have terms that are substantially different than those set forth herein and the existence of such other arrangements shall have no effect on the rights and obligations of the parties under this Agreement.

C. Venue/Governing Law (Section deleted).

D. All notices, consents, requests, demands or other communications to the respective parties shall be in writing and shall be effective for all purposes upon receipt in the case of (i) personal delivery; (ii) delivery by messenger or overnight carrier; (iii) delivery by U.S. first

class certified or registered mail, postage prepaid; or (iv) delivery by fax, to the last known

addresses or fax numbers of the parties, with attention to the Director of Athletics. Either party may change its address by written notice to the other party in any manner set forth in this Section 11.D.

E. This Agreement may not be assigned in whole or in part by either party without the prior written consent of the other party.

F. No amendment, modification, supplement, or waiver of any obligations under this Agreement shall be binding unless set forth in a writing signed by the party against which enforcement is sought. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to any other instance. Any waiver granted shall apply solely to the specific instance expressly stated.

G. This Agreement constitutes the entire Agreement between the parties pertaining to the matters referred to herein and supersedes all prior and contemporaneous agreements, representations and understandings of the parties relating to the subject matter hereof.

H. Each party shall execute and deliver all such documents and do all such acts as the other party may reasonably request for accomplishing the purposes of this Agreement.

I. This Agreement does not, and is not intended to, create a joint venture, partnership, association or other entity or create a fiduciary or principal/agency relationship between the parties to this Agreement.

J. None of the provisions of this Agreement shall be for the benefit of or be enforceable by any third party, including the creditors of any party hereto.

K. If any portion of this Agreement is declared null, void, invalid, or unenforceable, such provisions shall be stricken from the Agreement. All of the provisions of this Agreement not so stricken shall remain in full force and effect and shall be binding upon the parties.

L. This Agreement is not effective until approved by the Board of Regents of The University of Texas System. The University of Texas at Austin shall notify Notre Dame in writing within ten (10) business days of the approval of this Agreement by the Board of Regents of The University of Texas System and shall provide official documentation of such approval with the written notice.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the respective dates set forth below.

THE UNIVERSITY OF TEXAS AT AUSTIN:

By


Linda Shaunessy

Title: Business Contracts Administrator

DATE

Nov. 20, 2012

UNIVERSITY OF NOTRE DAME:

By


Jack Swarbrick

Title: Director of Athletics

DATE

11/25/12