



FOOTBALL GAME AGREEMENT

THIS FOOTBALL GAME AGREEMENT (this "Agreement") is made and entered into as of December 16, 2013, by and between the Arizona Board of Regents for and on behalf of Arizona State University and its Department of Sun Devil Athletics ("ASU") and Texas Tech University ("Texas Tech").

In consideration of the promises and mutual covenants contained in this Agreement, the parties agree as follows:

1. Playing Date(s). The parties agree that their respective varsity men's football teams will play each other in the college football games to be held on the dates and at the locations set forth below:

<u>Date</u>	<u>Location</u>	<u>Home Team / Visiting Team</u>	<u>Kickoff Time</u>
September 10, 2016	Tempe, Arizona	ASU / Texas Tech	TBA
September 16, 2017	Lubbock, Texas	Texas Tech / ASU	TBA

The right to change the time of the game as required by national or regional television broadcast of the game is reserved by the Home Team pursuant to Section 6 hereof.

2. Compensation. The Home Team agrees to pay the Visiting Team the fixed sum of \$400,000 for and in consideration of the participation of its team in the above described games. On or before the February 15 following the game, the Home Team shall render to the Visiting Team full payment under this Agreement.

3. Tickets. All ticket prices shall be set by the Home Team. The Visiting Team will have the option of purchasing up to 4,000 tickets at face value. In addition, the Visiting Team will receive 350 complimentary tickets. The Visiting Team will return all unsold tickets to the Home Team no later than two weeks prior to the game unless a sellout has been declared by the Home Team. If a sellout is declared by the Home Team two weeks or more prior to the game, the Visiting Team will have 24 hours to return all remaining unsold tickets it does not wish to purchase to the Home Team.

4. Cheerleaders and Band Members. The cheerleaders and mascots of each team will be admitted free of charge provided they are in uniform. The band members of each team shall be admitted in uniform. A ticket must be purchased for each member of the band.

5. Expenses. Except as otherwise provided in this Agreement, the Visiting Team will be responsible for defraying any and all of its own costs related to its participation in the game, including but not limited to, transportation, meals and lodging.

6. Media Rights. For all references to the "Home Team" and/or "Visiting Team" that involve a Pac-12 Conference institution, all media rights and any other grant of rights referenced herein shall be retained by the Pac-12 Conference, except for local radio rights (which are retained by the participating institution). For all references to the "Home Team" or "Visiting Team" that involve non-Pac-12 Conference institutions, the media rights and other grant of rights referenced herein shall be controlled in line with such institution's and affiliated conference's media agreements and other media rights policies.

Radio

- A. The Visiting Team will be provided space for one radio broadcast outlet for the non-exclusive regional terrestrial radio and satellite radio broadcast by the Visiting Team's flagship station and additional terrestrial distribution on the Visiting Team's regional network of terrestrial radio stations. The Home Team will not be required to make any alteration to or expansion of existing facilities in its home stadium for the purposes of this Agreement.

- B. The Home Team will have unfettered regional terrestrial, national terrestrial and satellite radio rights, and any other audio distribution method now known, existing or hereafter developed. The Home Team also will have exclusive rights to sell national terrestrial radio rights.

Television, Video, Film and Internet Video Streaming

- A. The parties hereto mutually desire that the game(s) to be played hereunder should have maximum media exposure, including national television exposure.
- B. Agreement to Telecast. Each game covered hereunder will be available for telecasting by the Home Team. The Home Team will have all rights of telecast, including but not limited to, national network television, national cable, Conference networks, Internet streaming, delayed telecasting, unlimited highlights, institutionally syndicated packages, and telecasting by any and all other means. The Visiting Team agrees to the following:
1. The scheduled start time for the game(s) is solely at the discretion of the Home Team and may be changed up to six (6) days in advance of the game in order to accommodate television.
 2. Any change in the date of the game(s), including changes for television, must be mutually agreed upon by the participating institutions.
 3. Media timeout formats are determined by the Home Team's conference. The Home Team's conference shall be responsible for the TV liaison (red hat).
 4. The Home Team agrees to provide the Visiting Team with one 30-second message if the game is selected for a national broadcast network or national cable network telecast.
 5. The Visiting Team may not telecast the game in any way or use any video from the Home Team's telecast of the game (including, but not limited to, programs like coaches' shows, DVDs, web site highlights, etc.) without the written permission of the Home Team's conference; provided however, that the Visiting Team will be allowed the use of highlights of the game(s), not to exceed eight (8) minutes in length, for the sole purpose of producing coaches' shows and season highlight presentations. This permission, if granted, must be within any limits set by the Home Team's Conference or telecast rights holder regarding amount of video (time elapsed), where the video may be seen or accessed (i.e., national vs. local TV, website, mobile device) and any other restrictions. Notwithstanding the above, immediately following the conclusion of each game hereunder, the Visiting Team will have the right to telecast audio and visual highlights not to exceed five (5) minutes in length on the Visiting Team's or the Visiting Team's Conference's controlled and operated Network (e.g., Pac-12 Network, Big Ten Network, etc.).

Contact

Questions dealing with interpretations of the Pac-12 Football Television Agreements should be addressed to the Pac-12 Associate Commissioner, Television. Questions dealing with interpretations of the Big 12 Conference Football Television Agreements should be addressed to the Senior Associate Commissioner, Tim Allen.

7. Films. Recognizing that either or both of the parties may enter into or may have entered into contractual arrangements for the sale of post-game television or theater newsreel rights to the subject game, the parties agree that each reserves the right to retain any and all income from the sale of such rights.

8. Officials. The officials for the 2016 game will be assigned by the Big 12 Conference. The officials for the 2017 game will be assigned by the Pac-12 Conference. The costs for the officials of each game will be the responsibility of the Home Team. There will be no split officiating crews.

9. Rules. Each game will be governed in all respects, including the eligibility of the players, by the rules of the National Collegiate Athletic Association (NCAA) in effect on the date of the game, the rules and regulations of the respective intercollegiate conferences of ASU and Texas Tech and the institutional rules of ASU and Texas Tech in effect on the date of the game.

10. Force Majeure Cancellation. It is understood and agreed that neither party can foresee circumstances beyond the control of either party which may arise by reason of Acts of God or other extraordinary events. When such an emergency occurs, the parties may, by mutual agreement, cancel this Agreement or any portion thereof. Any financial costs of obligations incurred by either party relating to this Agreement prior to such cancellation shall be borne by such party and, if jointly incurred, shall be borne equally by the parties.

11. Termination for Convenience. If either party wishes to terminate this Agreement, it must give the other party advance written notice no later than 18 months prior to the scheduled date of the game being canceled. The parties agree that neither game contemplated by this Agreement may be canceled with less than 18 months' prior notice. Notwithstanding the foregoing, the parties acknowledge and agree that if either party chooses to terminate this Agreement or fails to participate in either of the games contemplated by this Agreement, the other party's damages would be difficult to assess and substantiate. Due to the nature of intercollegiate athletics, the difficulty and expense of finding a suitable replacement game and the overhead costs associated with scheduling and planning an athletic contest, the parties agree that the terminating or non-participating party shall pay to the other party a termination fee of \$1,000,000 for each game that is not played as a result of such termination or non-participation. The terminating or non-participating party shall pay the termination fee to the other party within thirty (30) days of the applicable game date. It is agreed that if one party communicates to the other party that it does not intend to participate in one or both of the games contemplated by this Agreement or schedules another game which would conflict with one or both of the games contemplated by this Agreement, the terms of this Section 11 shall apply.

12. Change of Status. The parties acknowledge and agree that this Agreement is conditioned upon the participants (Home Team and Visiting Team) being a Football Bowl Subdivision (FBS) member of the NCAA at least 24 months prior to the date of each game contemplated by this Agreement and being a FBS member at the time each game is played. In the event either team fails to maintain FBS classification, the other team has the right to cancel the game without penalty upon reasonable notice to the other party.

13. Authority. Each Party acknowledges that it has read and freely signed this Agreement. The parties executing this Agreement on behalf of the respective parties hereby warrant that they are duly authorized and empowered by the parties to so execute.

14. Entire Agreement; Waiver. This Agreement represents 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. 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.

15. Assignment; Severability. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party; any purported assignment without that consent is void *ab initio*. Any provisions of this Agreement found by a court to be void or unenforceable shall not affect the validity or enforceability of any other provisions.

16. Relationship of the Parties. The parties are independent contractors, and this Agreement will not be construed in any way to create an agency, employment, partnership, or joint venture relationship between the parties for any purpose whatsoever. Neither party shall have, or hold itself out as having, power or authority to bind or create liability for the other by its negligent or intentional act or omission.

17. Notices. All notices, consents, requests, demands or other communications between the parties must be given 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) transmittal by facsimile, to the last known addresses or facsimile numbers of the parties. Either party may change its address or facsimile number by written notice to the other party in any manner set forth in this Section.

Notices to ASU:

Arizona State University
Sun Devil Athletics
P.O. Box 872505
Tempe, AZ 85287-2505
Attention: Director of Sun Devil Athletics
Fax: (480) 965-8219

Notices to Texas Tech:

Texas Tech Athletics
Box 43021
Lubbock, TX 79409-3021
Attention: Kirby Hocutt
806-742-3355

18. State of Arizona Provisions.

a. Nondiscrimination. The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration and nondiscrimination, including the Americans with Disabilities Act.

b. Conflict of Interest. ASU's participation in this Agreement is subject to Arizona Revised Statutes Section 38-511, which provides that this Agreement may be cancelled if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of ASU is, at any time while this Agreement or any extension thereof is in effect, an employee or agent of the other party to this Agreement in any capacity or a consultant to any other party with respect to the subject matter of this Agreement.

c. Notice of Arbitration and Dispute Resolution Statutes. Notice is given of Arizona Revised Statutes Section 12-1518 and 12-133. Notice is also given of Texas Government Code, Chapter 2260, and the procedure for a 2260 proceeding is attached to this Agreement. In the case of a controversy involving this Agreement, the party seeking enforcement of this Agreement may utilize the contract dispute resolution process available to it under the law of the state in which that party is located.

d. Failure of Legislature to appropriate. If ASU's performance under this Agreement depends upon the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then ASU may provide written notice of this to Texas Tech and cancel this Agreement without further obligation of ASU. Appropriation is a legislative act and is beyond the control of ASU.

19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument, and photocopy, facsimile, electronic and other copies shall have the same effect for all purposes as an ink-signed original.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

THE ARIZONA BOARD OF REGENTS
for and on behalf of
ARIZONA STATE UNIVERSITY

By: _____

James Rund
Interim Director of Athletics

Date: _____

12.16.13

TEXAS TECH UNIVERSITY

By: _____

Kirby P. Hocutt
Director of Athletics

Date: _____

12.26.13

By: _____

M. Duane Nellis
President

Date: _____

Dec. 28, 2013

ATTACHMENT

DISPUTE RESOLUTION

The Contractor will use the dispute resolution process provided in Texas Government Code Chapter 2260 in attempt to resolve any unresolved claim for breach of contract arising under its Agreement with Texas Tech University, referred to herein as "TTU."

- (a) Any claim for breach of contract that the Contractor cannot resolve in the ordinary course of business with TTU will be submitted to the negotiation process described in Government Code, Chapter 2260, Subchapter B. To initiate the process, Contractor must submit written notice, as required by Subchapter B, to the Managing Director of Procurement Services. The notice must specifically state that the provisions of Chapter 2260, Subchapter B, are being invoked. A copy of the notice must also be given to all of TTU's representatives and those that are otherwise entitled to notice under this Agreement. Compliance with Subchapter B is a condition precedent to the filing of a contested case under Government Code, Chapter 2260, Subchapter C.
- (b) The contested case process provided in Government Code, Chapter 2260, Subchapter C, will be Contractor's sole and exclusive process for seeking a remedy for TTU's alleged breach of contract if Contractor is unable to resolve Contractor's disputes with TTU in the ordinary course of business under Chapter 2260, Subchapter B, unless, after considering the recommendation of the Administrative Law Judge, the Legislature grants Contractor consent to sue TTU under Chapter 107 of the Civil Practices and Remedies Code.
- (c) Neither TTU's execution of this Agreement nor any other conduct of any of TTU's representatives relating to this Agreement will be considered a waiver of TTU's sovereign immunity to suit.
- (d) This dispute resolution process provided for in Government Code, Chapter 2260, will not, at any time, affect TTU's right or ability to bring suit against Contractor for disputes arising under this Agreement, nor will it affect TTU's ability to assert all claims and defenses in a lawsuit.
- (e) Pursuant to Chapter 2260, the submission, processing and resolution of Contractor's claim are governed by the published rules adopted by the Texas Attorney General's Office, as currently effective, hereafter enacted or subsequently amended.
- (f) Notwithstanding any other provision of the parties' Agreement to the contrary, unless otherwise requested or approved in writing by TTU, Contractor will continue performance and will not be excused from performance during the period any breach of contract claim or dispute is pending under either of the above processes; however, Contractor may suspend performance during the pendency of such claim or dispute if Contractor has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.