

MANAGEMENT AGREEMENT

BY AND BETWEEN

REGENTS OF THE UNIVERSITY OF NEW MEXICO

AND

**LEVY PREMIUM FOODSERVICE LIMITED PARTNERSHIP,
AS MANAGER**

DATED: May 2, 2024

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MANAGEMENT AGREEMENT

This Management Agreement ("Agreement") is effective as of the first day of July, 2024 by and between, Regents of the University of New Mexico for and on behalf of the University of New Mexico, specifically for Athletics, with principal offices located at MSC 04 2685 1 University of New Mexico Albuquerque, NM 87131("UNM") and Levy Premium Foodservice Limited Partnership, an Illinois limited partnership ("Manager").

RECITALS

1. Whereas, On July 3, 2023, UNM issued RFP-2430-23 for "Dining Services Management" and Compass Group USA Inc. responded to that RFP.
2. Whereas, UNM owns the exclusive right to determine who shall operate the food and beverage concession services throughout the University.
3. Whereas, All facilities subject to the exclusive operating rights granted to Manager under this Agreement are listed in Exhibit "A" – Athletic Concession Service Facilities, attached and made a part hereof, collectively called the "Food and Beverage Areas."
4. Whereas, Manager and its affiliated and related entities are in the business of developing, owning and managing restaurants and other food service facilities.
5. Whereas, UNM desires to engage Manager, and Manager desires to be engaged by UNM, pursuant to the terms of this Agreement, to exclusively manage all of the food and beverage concession services throughout the athletic facilities at the University, including Food and Beverage Areas throughout the duration of this Agreement to include food purchase and production, quality control, human resources management (hiring, training, development, dismissal, etc. of its employees), financial and technical management. All Facilities subject to the exclusive operating rights granted to Manager under this Agreement are listed in Exhibit "A" – Athletic Concession Service Facilities, attached and made a part hereof. In the event UNM designates, constructs, or adds additional athletic concession operations and facilities (excluding concessions at athletic concession facilities, vending and convenience stores, if not already managed by Manager), Manager shall be granted the first right to operate such operations and facilities, provided that the exclusive rights granted herein shall not be removed by such construction, additions or renovations.
6. Whereas, Manager desires to render certain management and operational services for the Food and Beverage Areas, all as more fully described in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, hereby agree as follows:

i. Representations

(a) UNM's Representations to Manager. UNM hereby represents to Manager as follows:

(i) that it has the full right, power and authority to grant the exclusive right to manage the food and beverage concessions throughout the Athletics Food and Beverage Areas, including, but not limited to, the right to engage Manager to provide the management and operational services described in this Agreement;

(ii) that it is not prevented from entering into this Agreement or complying with its commitments hereunder by any statute, regulation, order of, or agreement with, governmental or quasi-governmental authority or by any license, debt instrument, mortgage, lease, contract or other agreement or instrument binding it or any of its property;

(iii) that it is duly authorized to enter into this Agreement and has taken all necessary action to obtain such authorization and that no consent of, or notice to, any other individual, private entity or governmental authority is required in connection with the execution, delivery, and performance of this Agreement;

(vi) that this Agreement constitutes a legal, valid and binding agreement, enforceable by Manager against UNM in accordance with its terms;

(vii) that the party executing this Agreement on behalf of UNM has full right, power and authority to execute this Agreement and to bind UNM to the terms hereof; and that in future contracts with all suiteholders, it will require all suiteholders, guests and invitees that drink alcohol to drink responsibly and such contracts will require all suiteholders to indemnify, and hold Manager harmless, as well as release Manager from any liability whatsoever based on the actions of the suiteholder and its guests and invitees.

(b) Manager's Representations to UNM. Manager hereby represents to UNM as follows:

(i) that it has been validly formed and duly exists as a limited partnership under the laws of the State of Illinois, and that it is duly qualified to do business in the State of New Mexico;

(ii) that it is duly authorized to enter into this Agreement and is not prevented from entering into this Agreement or complying with its commitments hereunder by its partnership agreement, by any statute, regulation or order of any governmental or quasi-governmental authority, or by any license, debt instrument, mortgage, lease, contract, or other agreement or instrument binding upon it or any of its property;

(iii) that it is duly authorized to enter into this Agreement and has taken all necessary action to obtain such authorization, and that no consent of, or notice to, any other individual, private entity or governmental authority is required in connection with the execution, delivery and performance of this Agreement;

(iv) that this Agreement constitutes a legal, valid, and binding agreement, enforceable by UNM against Manager in accordance with its terms; and

(v) that the party executing this Agreement on behalf of Manager has full right, power and authority to execute this Agreement and to bind Manager to the terms hereof.

2. Manager's Investment.

(a) Manager Investment: Manager hereby agrees to contribute One-Million Dollars (\$1,000,000.00) to the cost to develop, design, construct, fixture, equip and finish the Athletics Foodservice Facilities, and to maximize revenues, fan engagement, and the hospitality experience (the "Manager's Investment"). Manager's Investment shall be amortized on a straight-line basis over the Term (as hereafter defined) beginning once the Manager's Investment is made. UNM hereby formally acknowledges and agrees that, except with respect to the Manager's Investment, UNM shall be responsible for delivering to Manager "turnkey" facilities, and paying all costs, fees and expenses incurred in connection with the development, design, construction, fixturing, equipping and finishing the facilities, including, but not limited to, the Foodservice Facilities (collectively, the "UNM's Investment"). Manager shall consult with UNM prior to any expenditures of the Manager's Investment and shall work in good faith with UNM to determine mutually beneficial investments.

(b) Suite Rental: Manager shall rent a full suite at University Arena – The Pit valued at Twenty-Five Thousand Dollars (\$25,000.00) ("Suite Rental") from the University during each year of the Term. At UNM's sole discretion, the Suite Rental may be redirected to the Lobo Club's Scholarship Fund.

(c) Gift-in-kind: Manager shall provide gift-in-kind catering services to the University's Athletic Department and Lobo Club, provided that such catering services shall (i) be measured at Manager's retail pricing and (ii) not exceed One Hundred Thousand Dollars annually.

(d) **Signing Bonus:** Manager shall provide to UNM Two Hundred Fifty Thousand Dollars (\$250,000.00) (“Signing Bonus”) as a signing bonus. Signing bonus shall be paid by July 31, 2024. The Signing Bonus shall be amortized on a straight-line basis over the Term, commencing with the date the Signing Bonus is provided to UNM. Interest will not accrue on the unamortized portion of the Signing Bonus. The Signing Bonus may be used at UNM's sole discretion. If the Agreement expires or is terminated for any reason prior to the complete amortization of the Signing Bonus, UNM shall reimburse Manager, on the expiration or termination date, the unamortized portion of the Signing Bonus.

3. Management Services.

(a) Foodservice Facilities. UNM hereby retains Manager to operate and manage, on an exclusive basis, the entire food and beverage service operations (collectively, the “Operations”) of, for and to the Food and Beverage Areas for all events held or conducted during the Term (as that term is defined below), including but not limited to, all of the UNM’s home games and all catering throughout the athletic facilities. In order to provide the services required of Manager hereunder, Manager shall also have the exclusive right and license to use all food preparation facilities located at the athletic facilities including without limitation, the kitchens, pantry areas and other areas of the premises described on Exhibit “A” attached hereto and made a part hereof (collectively, the “Facilities”). The Food and Beverage Areas, together with the Facilities, shall hereinafter be referred to as the “Foodservice Facilities.” In addition, Manager shall have the exclusive right and license to utilize all of the equipment in the Facilities, which currently existing equipment is listed on Exhibit “B” attached hereto and made a part hereof (as the same may be supplemented or changed from time to time) (the “Equipment”). In the event UNM designates, constructs, or adds additional athletic concession operations and facilities (excluding concessions at athletic concession facilities, vending and convenience stores, if not already managed by Manager), Manager shall be granted the first right to operate such operations and facilities, provided that the exclusive rights granted herein shall not be removed by such construction, additions or renovations. In the Event that UNM constructs an Athletics only dining hall, Manager shall be granted the first right to operate such operations and facilities. In the Event that UNM constructs a dining hall open to all UNM students on the South Campus near Athletic Facilities, the vendor with the rights to the existing dining hall on main campus (“La Posada”) shall have the first right to operate such operations and facilities.

(b) Manager’s Rights in the Foodservice Facilities. In order to enable Manager to fulfill its responsibilities under this Agreement, UNM hereby grants Manager the exclusive right and license to use all of the Foodservice Facilities without hindrance or disturbance from UNM, or any individuals of entities claiming by, from, through or under any of the foregoing. In order to control the quality of the products and services sold at the athletic facilities, to ensure the safety of the patrons and to protect Manager's exercise of

the exclusive rights granted hereunder, UNM will prevent any other entities or individuals, (i) utilizing all or any portion of the Foodservice Facilities, and (ii) selling, anywhere in the Foodservice Facilities, any Food and Beverage Items (as that term is defined below). In addition, UNM hereby agrees to use its best efforts to prevent patrons from bringing any food, beverages, beverage containers or alcoholic beverages into the athletic facilities. Notwithstanding Manager's rights described in this section elsewhere in this Agreement, UNM shall retain the right to provide non-Manager catered meals served at non-public events by UNM to UNM staff, teams, or similar groups.

(c) Services. The management services (collectively, the "Services") to be provided by Manager shall include, without limitation, the following:

(i) Administration, management and direction of the day-to-day Operations in accordance with, and subject to, the further terms and conditions of this Agreement;

(ii) Procurement of all supplies, services and personnel which are necessary for the Operations, including personnel for the maintaining and operating of the Foodservice Facilities and preparation and service of such food and beverage items as shall be proposed by Manager and reasonably approved by UNM ("Food and Beverage Items"), which Food and Beverage Items shall consist of, but not necessarily be limited to, food, alcoholic and non-alcoholic beverages, candy and confections, but only to the extent that any of the foregoing may now or hereafter be legally sold at the Food and Beverage Areas, in accordance with applicable laws, ordinances, rules and regulations;

(iii) Establishment and, from time to time, review and/or modification of such menus, portions and prices of the Food and Beverage Items as shall be proposed by Manager and reasonably approved by UNM; provided, however (A) UNM shall not unreasonably withhold, condition or delay its approval of such menus, portions and prices, (B) in the event that UNM fails to deliver to Manager within fifteen (15) days after submission of such menus, portions and prices, written approval or denial, such submitted menus, portions and prices shall be deemed approved, and (C) Manager may increase the price of Food and Beverage Items annually based on the greater of the increase in the Consumer Price Index or the Employment Cost Index (as those terms are hereafter defined). For purposes hereof, "Consumer Price Index" shall mean the Consumer Price Index for Albuquerque, New Mexico -- Urban Wage Earners and Clerical Workers (all items) (1982-84=100) (Revised Series) prepared by the Bureau of Labor Statistics of the United States Department of Labor for the preceding twelve (12) month period, with 2024 as the base year and "Employment Cost Index" shall mean the Employment Cost Index for Total Compensation for All Civilian Workers (Index Dec 2005=100) prepared by the Bureau of Labor Statistics of the United States Department of Labor for the preceding twelve (12) month period, with 2024 as the

base year. If either of such indexes shall cease to be published, the parties shall use the most comparable index published by the U.S. Government;

(iv) Arranging for the maintenance and repair of all furniture, fixtures and equipment used solely in connection with the Operations and the maintenance of the Foodservice Facilities in a clean, neat and sanitary condition, within a 10-foot radius surrounding such Foodservice Facilities areas. If any furniture, fixtures or equipment needs to be repaired more than twice in any Contract Year, then such item shall be replaced at UNM's expense;

(v) Arranging for the addition to, and replacement or modification of, any Equipment or other element of the Foodservice Facilities, the cost of which shall be borne by UNM;

(vi) Consultation with UNM at such times as shall be reasonably appropriate for the purpose of eliminating operational problems and improving the Operations;

(vii) Arranging for the removal of all trash from the Facilities to various centralized collection points in the Food and Beverage Areas, whereupon UNM shall be responsible for arranging for such trash to be properly and lawfully discarded; and

(viii) Any and all other services which UNM or Manager, in their joint reasonable discretion, deem appropriate in order for Manager to effectively manage and operate the Operations in a manner at least consistent with, if not better than, Manager's performance of comparable services at facilities similar to the Food and Beverage Areas.

(d) UNM Cooperation. UNM shall use its good faith, reasonable and diligent efforts at all times to cooperate with and assist Manager in (A) providing quality food and beverage services to patrons of the Food and Beverage Areas, and (B) achieving maximum Gross Receipts (as that term is defined below) for the Operations.

4. Projections of Gross Receipts; Annual Plan.

(a) Projection of Gross Receipts; Capital Budget. Prior to the commencement of each year during the Term (or such other period upon which UNM and Manager shall mutually agree), Manager shall supply UNM with a copy of Manager's projections for anticipated Gross Receipts for the ensuing year together with a budget (the "Capital Budget") for any recommended capital expenditures for replacements or upgrades to be made during such year to add to, replace or modify any of the furniture, fixtures or equipment to be included in the Foodservice Facilities, which Capital Budget shall be subject to UNM's reasonable approval, which approval shall not be unreasonably withheld, conditioned or delayed. No less than once each month, Manager shall

provide UNM with a statement of the actual Gross Receipts for the prior month in comparison to the applicable sales projection, together with a brief explanation from Manager about any significant variances between the projected Gross Receipts and the actual Gross Receipts.

(b) Annual Plan. Manager shall be responsible for development and implementation of an “Annual Plan” for the successful continuation of the Concession Services Program for each year during the Term. On or before January 1st, Manager shall provide UNM with a Concession Services Program Assessment that, at a minimum, incorporates the following:

(i) SWOT Analysis (Strengths, Weaknesses, Opportunities and Threats) of current Concession Services Program;

(ii) Evaluation of Services at UNM compared to best practices;

(iii) Market Basket Survey of the Concessions and Catering Services program pricing in comparison to off-campus Sports & Entertainment competitors;

(iv) Peer campus survey of Concessions and Catering configuration and rates in comparison to UNM;

(v) Based on all of the above, recommendations for service, program and/or policy modifications for the next fiscal year, as well as recommended equipment additions or replacement.

(c) UNM shall provide feedback on Manager's initial recommendations on or before February 1st. Based on this, Manager shall prepare an Annual Plan for the management of the Operations for the following contract year, July 1st through June 30th, with the plan to be completed by March 1st. The Annual Plan shall be based on identified goals and objectives as established and determined by the UNM's Contract Administrator, and at a minimum, shall address the following:

(i) Planning and/or implementation of new concession locations and/or modifications to existing Operations;

(ii) Menus, concepts, pricing and days of service/hours of operation for all service locations;

(iii) Catering menus, pricing and policies;

(iv) Detailed Marketing Plan, with specific revenue enhancement strategies and objectives for retail and catering sales;

(v) Student employee hiring and retention program;

(vi) Preventive equipment maintenance and unforeseen equipment maintenance plan and budget;

(vii) Capital expenditure plan and budget UNM provided capital expenditures;

(viii) Smallwares expenditure plan and budget;

(ix) Updated Sustainability Plan;

(x) Updated Quality Control Plan;

(xi) Employee training plan and budget

(d) Once the Annual Plan is approved by the UNM, the Annual Plan shall be incorporated into this Agreement and Manager shall be responsible to comply with the Annual Plan, and shall not substantially deviate from it without the express written consent of the UNM Contract Administrator. At the close of each contract year, or more frequently if deemed necessary by the Contract Administrator, Manager and the Contract Administrator shall meet to review operating results for the fiscal year to date, as well as operating plans for the balance of the fiscal year.

5. Conduct of the Operations.

(a) General. Manager agrees that it will conduct the Operations diligently and in good faith. The hours and days of operation during which the Foodservice Facilities shall be open shall be proposed by Manager and reasonably approved by UNM and documented annually for the coming fiscal year.

(b) Compliance with Laws, Policies and Programs. In connection with the conduct of the Operations, Manager shall in all material respects comply with and observe all applicable federal, state and local laws, ordinances, regulations, orders or directions (including, without limitation, fire, building, health and sanitation codes and regulations) with respect to the sanitation and purity of the Food and Beverage Items, provided that nothing herein shall be interpreted to hold Manager responsible for such compliance as it relates to areas of the Food and Beverage Areas other than the Foodservice Facilities in which Manager prepares or provides food and beverages on an exclusive basis. If the NCAA or any change in the current law requires material changes to the alcohol policy in the Food and Beverage Areas as compared to the alcohol policy in the Food and Beverage Areas on the date hereof, or if the costs of Food and Beverage Items materially increase, then upon request of Manager, UNM hereby agrees to re-negotiate in good faith all business terms agreed to in this Agreement.

(c) Condition of the Foodservice Facilities. Manager agrees to use reasonable efforts to conduct the Operations in such a manner so as to reasonably preserve the condition of all areas of the Foodservice Facilities to which Manager shall have access in the course of the performance of its obligations hereunder. Manager agrees to keep the Foodservice Facilities and all other areas to be utilized by Manager, neat, clean and in a sanitary condition, within a 10-foot radius surrounding such Foodservice Facilities areas, and to follow all reasonable and appropriate directions of UNM with respect thereto. Equipment failure as a result of Manager's negligent acts or omissions shall be the responsibility of the Manager.

(d) Sponsorship. Manager and UNM recognize the value of securing sponsorship relationships for the University. UNM shall have the exclusive right to enter into any sponsorship agreements with corporations with respect to food and/or beverage products that are offered in the Food and Beverage Areas ("Sponsorship Agreements") and shall retain all revenue from these agreements. At UNM's request, Manager agrees to provide UNM with introductions to Manager's food and beverage vendors that may be interested in having their products exclusively served or sold at the Food and Beverage Areas. Notwithstanding the foregoing, UNM will ensure that such Sponsorship Agreements do not impair the quality of the Food and Beverage Items served by Manager (as compared to comparable items served at other similar venues in which Manager or its affiliates provides food and beverage service) or increase the costs for such items (as compared to the Manager's pricing or what Manager would normally pay through its own distributors for comparable items of similar size and quality). UNM and Manager agree that they will not compromise the quality of the Food and Beverage Items served in the Operations in order to secure a sponsorship. In the event UNM decides to enter into a Sponsorship Agreement (or enters into any other relationship) that materially increases the costs that Manager incurs, then UNM and Manager shall mutually agree upon a mechanism to make Manager whole for the increase such as passing along the cost to guests in the form of a price increase. In order for Manager to provide UNM with high quality Food and Beverage Items and in order for Manager to maintain the high standards of operations that it requires, Manager shall purchase inventory, equipment, and services from various sellers and vendors selected by Manager in its sole discretion (each, a "Vendor"). Purchases from Vendors shall be made under such terms Manager deems acceptable in its sole discretion ("Vendor Terms"). All Vendor Terms are the exclusive obligations and property of Manager. UNM does not have any liability under, or any right to benefit from, any Vendor Terms, and no Vendor Terms will reduce or otherwise affect the amount or performance of UNM's obligations. Manager covenants that the Vendor Terms will not: (i) impair the quality of the Food and Beverage Items served by Manager (as compared to comparable items served at other similar venues in which Manager or its affiliates provides food and beverage service), or (ii) increase the costs for such items (as compared to the Manager's pricing for comparable items of similar size served at other similar venues in which Manager or its affiliates provides food and beverage service). The foregoing shall be in accordance with any applicable federal, state, or local statute, law code, regulation, or ordinance.

(e) Sustainability. Manager shall develop and implement a comprehensive sustainability plan for the Operations (“Sustainability Plan”). The Sustainability Plan shall be updated on an annual basis and become part of the Annual Plan outlined in Section 4.

(f) Quality Control Plan. Manager shall be responsible for the development and implementation of a “Quality Control Plan” for the life of the contract, to include the following:

(i) Risk identification and minimization strategies for all risks identified, including client generated risks, concerns, and issues. Manager shall be expected to itemize what risks it controls and does not control. For all risks identified, Manager must propose a plan on how those risks will be minimized;

(ii) List of UNM action items and requirements. The list must include item/task/ expectation, date required, and the actual person in the UNM's organization that is responsible for fulfilling the need;

(iii) A detailed list of performance metrics and benchmarks that will be measured on an ongoing basis, that to the reasonable satisfaction of the UNM considers financial performance, quality, customer satisfaction performance, and other necessary benchmarks of the contracted services;

(iv) Manager shall be expected to report quarterly (or at a more convenient period as determined by UNM Contract Administrator) on the performance and risk level of the service.

The Quality Control Plan shall be updated on an annual basis and become part of the Annual Plan outlined in Section 4.

6. Sale and Delivery of Food and Beverage Items. Manager covenants that it shall use commercially reasonable efforts to have available for sale in the Foodservice Facilities sufficient quantities and varieties of Food and Beverage Items and to provide sufficient trained personnel to conduct the Operations. All deliveries of Food and Beverage Items and any other items used in connection with the Operations shall be made only at the times and through the locations in the Food and Beverage Areas reasonably designated by UNM.

7. Employees and Agents.

(a) Conduct and Supervision of Employees and Agents. Manager agrees that it shall hire, train, supervise and regulate all persons employed by it in the conduct of the Operations so that they are aware of, and practice, standards of cleanliness, courtesy and service required and customarily followed in the conduct of similar operations. Manager

shall use its reasonable, good faith and diligent efforts to instruct its employees to (i) be neatly and cleanly uniformed, (ii) maintain personal cleanliness (iii) be polite and courteous and (iv) with respect to non-management employees, wear identification badges that are (A) reasonable in light of identification and security concerns and (B) unobtrusive and consistent with the uniforms worn by the Manager's employees. Manager shall hire and at all times employ an experienced Director of Operations, Executive Chef, Concession Manager, and a Catering Manager who shall be subject to UNM's reasonable approval from time to time and who shall be available to, and shall consult with and shall regularly report to UNM regarding the conduct of the Operations. Manager shall prepare succession planning in the event the current Director of Operations leaves the property at the UNM. Manager shall work in good faith to keep UNM apprised of the succession plan and shall designate a member of its corporate team to work with the UNM in such an event.

(b) Cooperation with Other Employees. Manager agrees to direct its employees to reasonably cooperate in the use of the University's facilities, which are common to the Foodservice Facilities and to other operations at the University. In this regard, Manager agrees to instruct its employees to cooperate in all other reasonable manners with all employees and agents of UNM and with third parties performing services at the University.

(c) Hiring and Employment Practices. Manager agrees that in the conduct of the Operations it will not intentionally discriminate or permit discrimination in its hiring or employment practices on the basis of any federal, state or local impermissible grounds. Upon receipt of notice from UNM of any reasonable and significant objection to any of Manager's employees, the employment of such person will be discontinued and a suitable person will be promptly substituted; provided, however, UNM acknowledges that its right to require replacement of an employee employed by Manager is expressly subject to considerations and restrictions imposed upon Manager by any federal, state or local statute, law, code, regulations, or ordinance by any collective bargaining agreement or other contract affecting such employee. Manager shall use commercially reasonable efforts to develop and implement a high quality, proactive student employee hiring and retention program designed to maintain a volume of student employment.

(d) Labor Relations. Notwithstanding anything in this Agreement to the contrary, Manager shall have the sole and exclusive right and authority to implement all matters relating to labor relations in the Foodservice Facilities and with respect to the Operations, including, but not limited to, the determination of (i) the degree and methods of opposition (if any) to any union organizing efforts, (ii) all terms and provisions of any collective bargaining agreement(s) and (iii) counsel and consultants to be utilized in such efforts.

(e) Background Checks. Manager shall ensure that each Manager full time employee and each supervisory level Manager employee assigned to work at UNM has a clear criminal history record with the Federal Bureau of Investigation, Identification Division (for employees who have resided outside of New Mexico) or the New Mexico Department of Public Safety (for employees who have resided only in New Mexico) based

on thorough background checks and fingerprint submissions, the cost of which shall be borne by Manager. Manager shall ensure that each of its subcontractor perform and abide by the same requirements.

(f) Compliance with UNM Policies. All Manager employed personnel shall be subject to UNM policies, rules, codes of conduct and regulations in effect for all UNM employees while working on campus, as outlined in the UNM's official Policies and Procedures, including personal behavior and the use of UNM property. In the event of UNM disapproval of the conduct or behavior of any employees, UNM shall inform Manager. An offending employee of Manager shall be removed from employment in the UNM's Operations immediately upon the receipt of a good faith written request from UNM, provided that such removal does not violate any applicable federal, state, or local laws. UNM shall initiate such written requests after reviewing all the relevant information with Manager. Among specific causes, but not limited to these causes, would be the following; inflicting or threatening physical abuse or verbal abuse on any person, sexual harassment, damaging UNM grounds or property, disrupting patrons' enjoyment, or any other conduct or action considered inimical or offensive to UNM. Any such removal shall be made in the name of Manager. Nothing in this paragraph shall be interpreted to preclude UNM Police Services or other law enforcement officials from taking such emergency action relative to conduct by an employee or agent of Manager who poses an immediate threat to safety or welfare of members of the UNM community or its property.

(g) Photo Identification Badges. Photo identification badges will be issued to Manager's full time employees, at Manager's expense, by the UNM's Lobo Card Office after a list of employees is submitted by Manager. Manager must have all new employees report to the designated location at the UNM to have photographs taken. Manager must turn in badges immediately to the UNM of those employees who leave the employment of Manager.

(h) Manager shall require all employees to utilize authorized and designated entrances and exits during working hours.

(i) Manager will restrict employees to assigned spaces during working hours and require them, when not working, to vacate the Food Service Facilities.

(j) Manager shall assure that the Director of Operations or an immediate assistant will be on site at each location during all hours Operations, including catering services.

(k) Manager shall bear complete financial responsibility for any vandalism or loss due to negligence or willful misconduct on the part of its employees acting within the scope of its duties.

8. Licenses and Permits. Manager shall obtain and use commercially reasonable efforts to maintain in force during the Term, all required food, alcohol and other licenses and permits and renewals thereof and shall cause to be paid all fees and taxes which may be due and owing from time to time to federal, state or municipal authorities incidental to the Operations. Manager shall be the named licensee under all such licenses and permits and UNM shall do all acts or things that are necessary in order for Manager to obtain all such licenses and permits. Throughout the Term, UNM shall, at its sole cost and expense, maintain all other licenses and permits which may be required for the operation of the Food and Beverage Areas. At all times, UNM shall comply with the restrictions, rules and conditions of all such licenses and permits. Notwithstanding anything contained in this Agreement to the contrary, Manager shall be solely responsible for the determination of brands, quantities, pricing, shelving and display for sale of any and all alcoholic beverages that Manager may buy or sell at the Food and Beverage Areas. Nothing contained in this Agreement is intended in any way to diminish Manager's discretion and responsibility relating to the service of alcoholic beverages at the Food & Beverage Areas, including without limitation, Manager's sole discretion and sole responsibility for the decision to serve or refuse service of alcoholic beverages to any individual. Manager acknowledges and agrees that UNM and its affiliates require all retailers, distributors/wholesalers and distillers/brewers of alcoholic beverages (each an "Industry Member") that UNM and its affiliates conduct business with, including, but not limited to, Manager, to strictly comply with all local, state and federal, laws and regulations, which may be applicable to the Manager and the purchase, marketing, promotion, advertising and sale of alcoholic beverages, including, but not limited to: Title 27 of the Federal Alcohol Administration Act (Title 27 of the United States Code) and Title 27 of the Code of Federal Regulations, and other related provisions governing "intoxicating liquors" (collectively, "Alcohol Laws"). Further, UNM and its affiliates shall not conduct business with any Industry Member in violation of the Alcohol Laws, and UNM shall indemnify and hold Manager harmless as to any action or conduct which may be imputed to Manager as a result of UNM or its affiliates' actions or conduct which may give rise to any alleged violation of the same by Manager. UNM further agrees that it shall not require as a condition for the continuation of this Agreement or exercise an early termination rights or failure to renew, Manager to engage in conduct, which Manager believes would be in violation of the Alcohol Laws.

9. Collections and Payments of Taxes and Other Items.

(a) Payment of Taxes; Filing of Sales Tax Returns. Manager agrees to timely pay, from Gross Receipts, all sales and employment taxes relating to the Operations (the "Manager Taxes"). Manager agrees to file separate sales tax returns reflecting only the Operations, it being understood that such returns shall be filed separately from all other sales tax returns required to be filed by Manager. Manager shall not be responsible for any taxes other than the Manager Taxes.

(b) Cash Handling and Cash Management Policies. In connection with the conduct of the Operations, Manager agrees to employ reasonable and appropriate internal control procedures to protect against the misappropriation of cash funds, which procedures shall be subject to the reasonable approval of UNM. In addition, Manager agrees to deposit

all cash Gross Receipts in a federally-insured depository institution. Manager shall not extend credit to any party. Manager recognizes that UNM's Athletic Facilities are currently "cash less" and agrees to work in good faith to support UNM's cash management policies.

(c) Replacement of Equipment. In addition to providing UNM with the annual Capital Budget, Manager shall be responsible for consulting with UNM with respect to the purchase of all necessary replacements to furniture, fixtures and equipment and for the purchase of additional furniture, fixtures and equipment, the entire cost of which shall be borne out of the Reserve Fund (as described below), or if the Reserve Fund is fully exhausted, by UNM. In addition, Manager shall consult with UNM regarding the purchase of additional Equipment, the cost of which shall be borne out of the Reserve Fund (as described below), or if the Reserve Fund is fully exhausted, by UNM.

10. Use of Facilities.

(a) Access to Facilities. Access to the Foodservice Facilities shall be limited to the authorized representatives of, and other persons designated by, UNM and Manager for the purpose of the reasonable exercise of UNM's and Manager's rights and obligations hereunder.

(b) Signs, Displays and Advertising. Manager agrees that all signs and displays, and the content and graphics thereof, to be utilized by Manager at the Food and Beverage Areas shall be subject to the prior reasonable approval of UNM. Manager may use its name and logo and that of any affiliate of Manager, as well as the name and logo of the UNM and the name(s) by which the athletic facilities are known in the signage, displays, menus and similar items used in connection with the Operations. In addition, Manager may, in a reasonable and tasteful fashion, including by use of relevant names and logos, promote its affiliation with the UNM and the services provided by Manager under this Agreement in Manager's and its affiliates corporate stationery, brochures and similar promotional material. If requested by UNM, Manager may preliminarily clear certain hospitality brand names for use connection with Foodservice Facilities. Because a preliminary search only uncovers obvious conflicts, Manager does not guarantee that UNM has the exclusive right to use the names. As the owner of the brand, UNM is expected to conduct its own trademark search before using any name to make the final risk assessment and seek trademark protection (if desired).

(c) Parking. UNM shall provide to Manager, free of charge, parking spaces, located reasonably proximate to the premises and the Foodservice Facilities, for Manager's employees and vendors. Parking shall be provided in a lot determined at the sole discretion of UNM.

(d) Office Space and Equipment. UNM shall provide to Manager sufficient office space and equipment for Manager's employees (e.g., chefs, sous chefs, Director of Operations) to manage the Operations, which shall include, but not be limited to, furniture,

phone systems, HVAC, electricity and lighting. Costs for such items shall be the sole expense of UNM.

(e) Utilities. UNM shall be responsible to pay and provide for all utilities and related costs.

(f) UNM Taxes. UNM shall be responsible to pay any real, excise, possessory, lease, personal property, and other taxes related to the Foodservice Facilities and the Operations (collectively, "UNM Taxes").

(g) Assets. Title to all equipment and assets in the Food and Beverage Areas, including such that are purchased pursuant to the Manager's Investment, shall be owned and vested in UNM, except for computers or other proprietary items of Manager.

11. Definition of Gross Receipts; Capital Budget / Reserve Fund:

(a) Gross Receipts. As used in this Agreement, the term "Gross Receipts" shall mean the total gross revenues actually collected from patrons of the Athletics Food and Beverage Areas in respect of food and beverage sales and services by Manager at the Food and Beverage Areas including the net amount received by Manager from subcontractors; provided, however, Gross Receipts shall not include any (i) service charges, discounted sales or gratuities, (ii) any service or discount charges on credit or debit card sales, (iii) amounts not received by Manager due to cash shortages or bad debt, including accounts receivable and credit card bad debt, which amounts shall not exceed a total of one percent (1%) of total Gross Receipts, (iv) any transaction fees associated with the acceptance of LOBOCASH, or (v) any city, county, state or federal use, excise or similar tax imposed on the sale or use of the Food and Beverage Items collected and paid to applicable taxing authorities by Manager.

(b) Capital Budget / Reserve Fund. Contractor is responsible for funding an amount up to one percent (1%) of Gross Receipts annually (the "Reserve Fund"), to provide for and perform the scheduling of equipment maintenance, repair, and replacement for equipment used in the Operations, and any additional costs in excess of the Reserve Fund for the maintenance, repair or replacement of such equipment shall be at UNM's cost and expense. Manager shall maintain all capital equipment in good repair and condition, normal wear and tear expected, and be responsible for development and implementation of a comprehensive Preventive Maintenance Plan. The Preventive Maintenance Plan shall be updated on an annual basis and become part of the Capital Budget outlined in Section 4. Upon termination or expiration of the contract, Manager shall leave all UNM owned equipment in excellent condition and good working order. At the end of each Contract Year, any amount remaining in the Reserve Fund shall roll over into the next Contract Year. At early termination or expiration of this Agreement, any amount remaining in the Reserve Fund shall be offset against any amounts owed to Manager, and if the Reserve Fund is not fully exhausted, any remaining amount shall be remitted to UNM. The Reserve Fund shall begin at a balance of \$0.00 at the beginning of the term and the balance shall accumulate over the course of the term.

12. Commissions. (a) Commissions. As consideration for UNM's grant of the exclusive rights and privileges to Manager pursuant to this Agreement, and as the sole compensation due and owing from Manager to UNM, Manager agrees to pay UNM the following percentages of Gross Receipts generated in the following parts of the Food and Beverage Areas during each Contract Year; provided, however, that (i) sales, attendance, and hours of operations are consistent with the Original Agreement; and (ii) it is expressly understood that the increasing percentages referred to herein shall be incremental and shall not be retroactive to the first dollar of the Gross Receipts derived (collectively, the "Commissions"):

<u>Source of Gross Receipts</u>	<u>Amount of Gross Receipts</u>	<u>Percentage of Gross Receipts</u>
(i) Football Stadium Concessions	\$0.00 -\$500,000	32.5%
	all amounts in excess of \$500,000	35.0%
(ii) Basketball Arena Concessions	\$0.00 - \$500,000	32.5%
	\$500,000 to \$1,000,000	35.0%
	all amounts in excess of \$1,000,000	40.0%
(iii) Concessions Alcohol	All amounts	45%
(iv) Other Events	\$0.00 - \$500,000	27.5%
	\$500,000 to \$1,000,000	30.0%
	all amounts in excess of \$1,000,000	35.0%
(v) Olympic Sports	all amounts	25.0%
(vi) Catering	\$0-850,000	15.0%
	all amounts in excess of \$850,000	20.0%

(vii) Net receipts from Subcontractors	All	25.0%
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All amounts in the middle column above shall be increased annually by the greater of the increase in the Consumer Price Index or the increase in the Employment Cost Index.

13. Accountings.

(a) Accountings; Payment of Commissions. Within thirty (30) days following the last day of each month during the Term, Manager shall provide UNM with a statement detailing all Gross Receipts from the Operations generated during such month, (separated by area), together with a statement of the applicable Commissions due for such Gross Receipts (collectively, the "Statement"). When Manager delivers the Statement, Manager shall also pay to UNM the appropriate Commissions for such month. Within sixty (60) days following the conclusion of each fiscal year (defined as July 1-June 30) during the Term, Manager shall provide UNM with a complete accounting (collectively, the "Final Statement"), setting forth the calculation of the annual Gross Receipts, (separated by area) and the total Commissions due for the applicable period. At any time during the Term, and for a period of one (1) calendar year thereafter, UNM and its designated representatives shall have the opportunity, at their sole cost and expense (subject to the provisions set forth below), to inspect the books and records of Manager solely and directly related to the financials of this Agreement to verify the figures contained in each Statement or Final Statement, as the case may be. In the event that UNM disputes such figures, UNM shall deliver a written notice of such dispute to Manager ("Dispute Notice"). If UNM and Manager are unable to resolve such dispute within ninety (90) days following the delivery of the Dispute Notice, UNM and Manager shall immediately submit the dispute for resolution to a nationally recognized public accounting firm to be mutually agreed to by UNM and Manager (the "Accounting Firm"). The determination of Gross Receipts and Commissions in accordance with the terms hereof made by the Accounting Firm after a full and complete inspection of Manager's books and records shall be final and binding upon the parties. If the Accounting Firm determines that the computation of Gross Receipts or Commissions contained in any Statement or the Final Statement as the case may be, is inaccurate and not previously corrected, then either UNM shall promptly pay to Manager, or Manager shall promptly pay to UNM, such amount as is necessary to reflect the adjustment of Gross Receipts or Commissions based upon the Accounting Firm's determinations (the "Adjusted Amount"), provided, not previously collected. If the Accounting Firm determines that the computation of Gross Receipts or Commissions contained in any Statement or the Final Statement, as the case may be, is understated by the greater of (i) \$25,000.00 or (ii) five percent (5%) or more, then, in addition to the Adjusted Amount, Manager shall pay the entire cost of the Accounting Firm's engagement. In all other events, the cost of the Accounting Firm's engagement and the costs of UNM's inspection of the books and records of Manager shall be borne by UNM.

(b) UNM's Payment to Manager. UNM shall pay Manager for any and all amounts owed by UNM to Manager within thirty (30) days of the invoice date. If such payment is not received within thirty (30) days of the invoice date, all such outstanding amounts shall be paid at the rate of one and one-half percent per month, from the date of the invoice to the date of payment until all outstanding amounts are paid in full, and Manager shall have the right to withhold any past due amounts (plus all applicable interest) from any of UNM's share of the Commissions until made whole.

14. Scope; Duration; Termination; Default.

(a) UNM hereby grants Manager the right to be the exclusive provider of all management services for the Operations upon execution of this Agreement and, subject to the termination rights of the parties set forth in section 14(b) and 14(d) below, will remain in effect through June 30, 2032 (the "Term") with the option to renew in accordance with NMSA 13-1-150, as amended. For purposes of this Agreement, the term "Contract Year" shall mean the twelve (12) month period commencing on July 1st and expiring on the next ensuing June 30th. In the event that: (i) UNM or NCAA prohibits all athletic events during a Contract Year or (ii) a force majeure event or events as described in Paragraph 25, results in the UNM hosting less than Eighty Percent (80%) of their anticipated events at the University in any given Contract Year, Manager may have the right and option to extend the Term one (1) Contract Year for each such occurrence.

(b) UNM shall have the right to terminate this Agreement and Manager's services for all of the Operations upon the occurrence and continuation of any of the following events of default by Manager:

(i) Manager shall file a voluntary petition in bankruptcy, or shall be adjudicated bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute or law relating to bankruptcy, insolvency or other relief for debtors, whether federal or state, or shall seek, consent to or acquiesce in the appointment of any trustee, receiver, conservator or liquidator of Manager or of all or any substantial part of its properties (the term "acquiesce," as used herein, being deemed to include, but not be limited to, the failure to file a petition or motion to vacate or discharge any order, judgment or decree providing for such appointment within the time specified by law); or a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Manager seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute or law relating to bankruptcy, insolvency or other relief for debtors, whether federal or state, and Manager shall consent to or acquiesce in the entry of such order, judgment or decree, or the same shall remain unvacated and unstayed for an aggregate of sixty (60) days from the day of entry thereof, or any trustee, receiver, conservator or liquidator of Manager or of all or any substantial part of its properties

shall be appointed without the consent of or acquiescence of Manager and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days; or

(ii) Manager defaults under any agreement related to debt for borrowed money, which UNM reasonably believes materially adversely effects Manager's ability to perform hereunder, which is not cured within any applicable cure period and causes all amounts owed under such agreement to be then due and payable; or

(iii) Manager, upon written notice, materially breaches its material obligations under this Agreement and fails to cure or remedy such breach within thirty (30) days after Manager's receipt of a Termination Notice (as defined below) or, if such breach cannot reasonably be cured within thirty (30) days, fails to commence such cure or remedy within said thirty (30) day period and fails to diligently prosecute such cure or remedy to completion as soon as is reasonably possible thereafter.

Upon termination of this Agreement pursuant to subparagraphs (i), (ii), or (iii) above, Manager shall only be obligated to pay the Commissions for Gross Receipts generated and actually collected prior to termination in accordance with Paragraph 13 above, less any amounts owed by UNM to Manager.

(c) In the event that all of Manager's services are terminated as provided in this Paragraph 14, Manager shall, at the request of UNM, continue to serve as manager of the Operations until a successor is selected and commences work in the Foodservice Facilities or until such earlier date as UNM shall specify; provided that Manager shall not be obligated to so continue as manager for a period in excess of sixty (60) days. The terms and conditions of this Agreement shall continue to be fully applicable during such period as if no termination had occurred; provided that such request shall be deemed to constitute UNM's agreement to continue the current business deal contained herein. In addition, UNM shall have two (2) options with respect to Manager's compliance with the federal Worker Adjustment and Retraining Notification Act ("WARN Act") and applicable state or local WARN Acts (collectively, the "WARN Acts"): (i) permit Manager to stay at the Foodservice Facilities as long as necessary to comply with any applicable WARN Acts; or (ii) reimburse Manager for any and all costs Manager incurs (including, but not limited to, all applicable back pay amounts owed to Manager's employees and applicable penalties) resulting from Manager's failure to provide sufficient notice required under the WARN Acts. UNM will have no obligation to assist in billing issues or issue payment under for services provided after sixty days after termination.

(d) Manager shall have the right to terminate this Agreement upon the occurrence of any of the following events of default by UNM and upon written notice to the UNM specifying the nature of such default:

(i) UNM shall file a voluntary petition in bankruptcy, or shall be adjudicated bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute or law relating to bankruptcy, insolvency or other relief for debtors, whether federal or state, or shall seek, consent to or acquiesce in the appointment of any trustee, receiver, conservator or liquidator of UNM or of all or any substantial part of its properties (the term "acquiesce," as used herein, being deemed to include, but not be limited to, the failure to file a petition or motion to vacate or discharge any order, judgment or decree providing for such appointment within the time specified by law); or a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against UNM seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute or law relating to bankruptcy, insolvency or other relief for debtors, whether federal or state, and UNM shall consent to or acquiesce in the entry of such order, judgment or decree, or the same shall remain unvacated and unstayed for an aggregate of sixty (60) days from the day of entry thereof, or any trustee, receiver, conservator or liquidator of UNM or of all or any substantial part of its properties shall be appointed without the consent or acquiescence of UNM and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days; or

(ii) UNM defaults under any agreement related to debt for borrowed money in excess of Manager's Investment, which is not cured within any applicable cure period, and which causes all amounts owed under such agreement to be then due and payable; or

(iii) UNM, upon written notice, materially breaches its material obligations under this Agreement (other than its obligations to make any payments due to Manager hereunder) and such breach is not cured within thirty (30) days after UNM's receipt of a Termination Notice (as defined below) or, if such breach cannot reasonably be cured within thirty (30) days, fails to commence such cure or remedy within said thirty (30) day period and fails to diligently prosecute such cure or remedy to completion as soon as is reasonably possible thereafter; or

(iv) UNM fails to make any payment due to Manager hereunder within fifteen (15) days after notice from Manager that payment is past due.

(e) In the event that, for any reason, this Agreement is terminated, UNM hereby agrees, as a condition precedent to such termination, to pay Manager, in a single lump sum payment, all amounts owed to Manager, including without limitation, (i) the unamortized value of Manager's Investment on an annual straight line basis over each full year of the Term of the Agreement (with no amortization for partial Term years) plus, (ii) the unamortized value of Signing Bonus on an annual straight line basis over each full year of the Term of the Agreement (with no amortization for partial Term years) plus, (iii) any

other amounts owed to Manager, and (iv) an amount equal to the cost of Manager for all food, beverage, and supply inventory on hand. The parties hereby agree that there shall be no early termination of this Agreement except as permitted in Sections 14(b) and 14(d). Notwithstanding anything in this Agreement to the contrary, neither UNM nor Manager shall be entitled to seek, claim or collect damages in excess of the actual and direct damages actually incurred or sustained as a result of a breach or violation of this Agreement, provided that nothing in this sentence shall limit Manager's right to recover the Manager's Investment.

(f) UNM shall not, without Manager's written consent, hire, make any agreement with, or permit the employment, in any operation providing food service, any person who has been a Manager-salaried employee at UNM within the earlier of one (1) year after said employee terminates employment with Manager or within one (1) year after termination of this Agreement. UNM agrees that Manager employees have acquired special knowledge, information, skills and contacts as a result of being employed with and trained by Manager. If UNM hires, makes any agreement with or permits employment of any such employee, in any operation providing food service within the restricted period, it is agreed by UNM that Manager shall suffer damages and UNM shall pay Manager as liquidated damages an amount equal to two (2) times the annual salary of each employee hired by UNM. This sum has been determined to be reasonable by both parties after due consideration of all relevant circumstances. This provision shall survive termination of this Agreement.

(g) Any public announcements made upon the expiration or earlier termination of this Agreement shall be reasonably agreed upon in advance by UNM and Manager.

(h) If either party (the "Non-Breaching Party") in good faith believes that the other party has materially breached this Agreement, then it shall provide written notice of the breach to the other party specifying in detail the nature of the breach (the "Preliminary Notice"). Promptly after receipt of the Preliminary Notice, UNM and the Director of Operations of Manager shall meet in person to discuss the claims and possible resolutions. If the dispute is not resolved after this meeting, then the Non-Breaching Party may submit a written notice to the other party indicating it intends to terminate the Agreement as a result of the other party's breach unless the specified breach is cured (the "Termination Notice"); provided that a party may not deliver a Termination Notice at any time it is in breach or default of this Agreement.

15. Liability. As between the parties, each party acknowledges that it will be responsible for claims or damages arising from personal injury or damage to persons or property to the extent they result from the negligence of its employees, agents, subcontractors or others under its control. The liability of UNM shall be subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 et seq. NMSA 1978, as amended.

16. Independent Contractor. In performing its services hereunder, Manager is an independent contractor of UNM and not an employee, agent, partner, or joint venturer of UNM.

17. Ownership in Foodservice Facilities; Authority of Manager. Manager shall have no ownership rights in the Foodservice Facilities, nor any claim of ownership with respect thereto, arising out of this Agreement or the performance of its services hereunder. This Agreement shall in no way be construed to authorize Manager to engage in any brokerage services or activities of any similar nature relating to the Foodservice Facilities.

18. Taxes and Contributions. Manager assumes full and exclusive responsibility and liability for withholding and paying, as may be required by law, all federal, state and local taxes and contributions with respect to: (a) Manager's earnings hereunder, or (b) salaries or other contributions or benefits paid or made available to any persons retained, employed or used by or for Manager in connection with its services. UNM shall be responsible for all other taxes, including, without limitation, UNM Taxes.

19. Qualification. Manager shall, at its own expense, qualify to do business in the State of New Mexico.

20. Severability. Each provision of this Agreement is intended to be severable. If any term or provision hereof shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be deemed to be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

21. Consents; Waiver. UNM and Manager hereby expressly acknowledge and agree that, unless otherwise expressly stated to the contrary in this Agreement, all of the consents and approvals that are necessary or required from either UNM or Manager hereunder shall not be unreasonably conditioned, delayed, withheld or denied. The granting of any consent or approval in any one instance by or on behalf of either UNM or Manager shall not be construed to waive or limit the need for such consent in any other or subsequent instance. No waiver, express or implied, by either UNM or Manager to or of any breach or default by the other party in the performance by the other of its obligations hereunder shall be valid unless in writing, and no such waiver shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such party hereunder. Failure on the part of either party to complain of any act or failure to act of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

22. Remedies. The remedies specified in this Agreement shall be in addition to, and not exclusive of, any other remedies available to a party at law or in equity. In the event of any dispute, claim, suit or proceeding relating to this Agreement, UNM and Manager hereby expressly waive any right to seek, claim or collect lost profits or any punitive, treble, indirect, special, speculative or consequential damages in connection with, or related to, a breach or violation of this or any other agreement entered into between UNM and Manager.

23. Governing Law and Jurisdiction. This Agreement shall be governed by, construed and enforced, in accordance with the laws of the State of New Mexico without regard to conflict of law principles. The parties agree that any and all disputes, controversies, or claims of whatever nature arising out of or relating to this Agreement or breach thereof shall be only resolved by a state or federal court in the State of New Mexico, and the parties hereby consent to the exclusive jurisdiction of such courts in any action or proceeding arising under or brought to challenge, enforce, or interpret any of the terms of this Agreement.

24. Time of Essence. Subject only to the provisions of Paragraph 25 below, time is of the essence in the performance of this Agreement.

25. Force Majeure; Change of Circumstances.

(a) Force Majeure. A delay in or failure of performance by UNM or Manager shall not constitute a default, nor shall UNM or Manager be held liable for loss or damage, if and to the extent that such delay, failure, loss or damage is caused by occurrences beyond the reasonable control of such party, and its agents, employees, contractors, subcontractors and consultants, including, but not limited to acts of God or the public enemy, expropriation or confiscation of facilities, compliance with any order or request of any governmental authority or person purporting to act therefor, acts of declared or undeclared war, weapon of war employing atomic fission or radioactive force, whether in the time of peace or war, public disorders, rebellion, sabotage, revolution, earthquakes, tornadoes, floods, riots, strikes, labor or employment difficulties, delays in transportation, epidemic, pandemic (including COVID-19 and variations or mutations thereof and any related epidemics and residual effects thereof), inability of a party to obtain necessary materials or equipment or permits due to existing or future laws, rules or regulations of governmental authorities, or any other causes, whether direct or indirect, and whether or not of the same class or kind as those specifically above named, not within the reasonable control of such party, or its agent, employees, contractors, subcontractors and consultants, and which by the exercise of reasonable diligence said party is unable to prevent. Neither UNM nor Manager shall be entitled to the benefits of this Paragraph 25 unless it gives reasonably prompt written notice to the other of the existence of any event, occurrence or condition which it believes permits a delay in the performance of its obligations pursuant to this Paragraph 25; provided, however, if the other party is already aware of such event causing the Force Majeure (including COVID-19 and variations or mutations thereof and any related epidemics and residual effects thereof), no such written notice shall be required.

(b) Change of Circumstances. In the event of changing conditions at the University (including but not limited to attendance changes, changes in employee work arrangements, office closures, disruption in operation, changes in revenue, or changes in participation rates) for reasons outside of Manager's reasonable control, the parties may re-negotiate the financial terms of this agreement. If the parties are unable to agree upon alternate financial terms within thirty (30) days, Manager may terminate this agreement for cause effective upon 30 days' written notice.

26. Assignment and Subcontracts. Manager shall have no right, power, or authority to assign this Agreement without the prior written approval of UNM, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, that an assignment of this Agreement to any of Manager's partners or affiliates (or any of their affiliated or related entities) shall not constitute an assignment under this Section and, therefore, shall not require UNM's approval.

27. Appropriations. The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Regents of the University of New Mexico, or other sponsoring agency for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Regents or other sponsoring agency, this Agreement will terminate upon delivery of written notice by UNM to Manager. In the event that the Agreement is terminated pursuant to this Section 27, UNM hereby agrees, as a condition precedent to such termination, to pay Manager, in a single lump sum payment, all amounts owed to Manager, including without limitation, (i) the unamortized value of Manager's Investment on an annual straight line basis over each full year of the Term of the Agreement (with no amortization for partial Term years) plus, (ii) the unamortized value of Signing Bonus on an annual straight line basis over each full year of the Term of the Agreement (with no amortization for partial Term years) plus, (iii) any other amounts owed to Manager, and (iv) an amount equal to the cost of Manager for all food, beverage, and supply inventory on hand. The decision of UNM as to whether sufficient appropriations are available will be accepted by Manager and will be final.

27(A). Modification of Agreement. This Agreement constitutes the entire agreement between the parties hereto. To be effective, any modification of this Agreement must be in writing and signed by an authorized representative of both Manager and UNM.

28. Headings. The headings of the paragraphs of this Agreement are inserted for convenience of reference only and shall not in any manner affect the construction or meaning of anything contained herein or govern the rights or liabilities of the parties hereto.

29. Interpretation. Whenever the context requires, all words used in the singular number shall be deemed to include the plural and vice versa, and each gender shall include any other gender. The use herein of the word "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

30. Notices. All notices, requests and communications required or permitted hereunder shall be in writing and shall be sufficiently given and, deemed to have been received upon personal delivery or, if mailed, upon the first to occur of actual receipt as evidenced by written receipt for certified or registered mail or a nationally recognized overnight courier service, refusal or delivery or notification by the United States Postal Service to the sending party that the notice, request or

communication is not deliverable at the address of the receiving party set forth below due to the unwillingness of the recipient to accept delivery:

If to UNM:	Director of Athletics 1 University of New Mexico MSC04 2685 Albuquerque, NM 87131
With a copy to:	Chief Procurement Officer 1 University of New Mexico MSC01 1240 Albuquerque, NM 87131
If to Manager:	Andrew J. Lansing CEO Levy Premium Foodservice Limited Partnership 980 North Michigan Avenue Suite 400 Chicago, Illinois 60611
With a copy to:	Vice President/General Counsel Levy Premium Foodservice Limited Partnership 980 North Michigan Avenue Suite 400 Chicago, Illinois 60611
With a copy to:	Manager's Director of Operations at his/her offices at the University

Notice of a change in address of one of the parties shall be given in writing to the other parties as provided above, but shall be effective only upon actual receipt.

31. Confidentiality and Information Technology Security.

(a) Confidentiality.

(i) Any financial statements or other financial information that may be provided by either party to the other prior to the execution of, or pursuant to the requirements contained in, this Agreement, whether provided voluntarily or in satisfaction of an obligation to do so, and the terms of this Agreement, shall be kept strictly confidential by the party receiving the same, except and only to the extent that such information may be required to be reported for purposes of the receiving party's financial statements or public reporting requirements, to or by any duly constituted governmental authorities or to any bank or other financial institution

providing financing to Manager, UNM or any of their respective affiliated or related entities or owners.

(ii) During the course of the performance of Manager's services pursuant to this Agreement, Manager may utilize certain information that relates to its past, present or future research, development, business activities, products, services, technical knowledge and knowledge capital ("Confidential Information"). Furthermore, during the course of Manager's Services hereunder, Manager may utilize certain proprietary materials, tools and methodologies, including, but not limited to, software, programs and systems (including modifications and adaptations thereto), documentation, training manuals and procedures (hereinafter collectively referred to as "Service Solution Tools"). Service Solution Tools shall be deemed to be included as part of Manager's Confidential Information, unless required by law.

(iii) UNM hereby acknowledges and recognizes the competitive advantage and value associated with Manager's Confidential Information and hereby agrees to use its best efforts to, at all times, protect and preserve the confidentiality of Manager's Confidential Information, unless required by law. UNM hereby agrees that it shall not have or retain any right, title or interest in the Confidential Information, except to use them during the term of this Agreement as expressly authorized by Manager from time-to-time and solely for the purpose of furthering Manager's services pursuant to this Agreement. Nothing in this Agreement shall restrict, prohibit or limit, in any way, Manager's use of the Service Solution Tools in any manner or for any purpose whatsoever.

(iv) UNM hereby agrees that all Confidential Information, including, but not limited to, Service Solution Tools and all copies thereof, shall be returned to Manager or, at Manager's election, may be removed by Manager upon the first of the following to occur: (a) the expiration or earlier termination of this Agreement or (b) Manager's request.

(v) UNM and Manager hereby expressly acknowledge and agree that the terms and provisions of this Paragraph 31 shall survive the expiration or earlier termination of this Agreement.

(vi) If Manager, in its sole discretion authorizes UNM to use any Service Solution Tools, UNM may only use such Service Solution Tools for its internal business purpose and may not use or share them for the benefit of any other party. The Service Solution Tools are made available "AS IS" without express or implied warranties of any kind.

(b) Information Technology Systems. In connection with the services provided hereunder, Manager may need to operate certain information technology systems not

owned by UNM (“Manager Systems”), which may need to connect to or interface with UNM’s internet access, networks, software, or information technology systems (“UNM Systems”). Manager will be solely responsible for all Manager Systems, and UNM will be solely responsible for all UNM Systems, including taking the necessary security and privacy protections that are reasonable under the circumstances. If Manager serves as the merchant-of-record for credit or debit card transactions in connection with the services provided hereunder, then Manager will be responsible for complying with applicable laws, regulations and payment card industry data security standards related to the protection of cardholder data (“Data Protection Rules”). If Manager Systems connect to or interface with UNM Systems, then UNM agrees to promptly implement upon request from Manager, at UNM’s expense, the changes to the UNM Systems that Manager reasonably requests and believes are necessary or prudent to ensure Manager’s compliance with the Data Protection Rules. Each party will indemnify, defend, and hold the other party harmless from all claims, liabilities, damages, and costs (including reasonable legal fees) arising from the indemnifying party’s failure to comply with its obligations in this section.

(c) Access to UNM One-Card System. Manager shall be required, when deemed appropriate by the UNM, to accept LOBOCASH at each of the various locations operated by Manager under this Agreement. UNM shall provide LOBOCASH card readers at all point of sale locations at UNM expense. Any transaction fees associated with the acceptance of LOBOCASH shall be deducted from Gross Receipts.

32. Security. UNM shall be exclusively responsible for providing adequate security throughout the entire Food and Beverage Areas, including the Foodservice Facilities. Manager acknowledges that UNM shall be responsible for public order and safety and shall have the right and authority to eject individuals from the Foodservice Facilities as necessary.

33. Insurance.

(a) Manager Required Insurance. Throughout the Term of this Agreement (including any extensions thereof), Manager shall provide and maintain in full force and effect the policies of insurance set forth hereinafter, which shall protect Manager from any and all claims, damage, liability, loss or expense to persons or property caused by, resulting from, arising out of or in connection with the Operations conducted by Manager pursuant to this Agreement:

(i) Commercial General Liability insurance with limits not less than \$2,000,000 each occurrence and \$6,000,000 in the aggregate. The each occurrence limit and annual aggregate limit may be satisfied by using a combination of primary and umbrella (excess) insurance coverages. Such insurance shall include coverage for products-completed operations liability, personal injury, property damage and bodily injury liability;

(ii) Liquor Liability Insurance with limits not less than \$2,000,000 each common cause and \$6,000,000 in the aggregate. The each common cause limit and aggregate may be satisfied by using a combination of primary and umbrella (excess) insurance coverages;

(ii) Automobile Liability insurance covering liability arising out of Manager's use of Manager's vehicles, whether owned by Manager, non-owned, leased, hired or borrowed, with limits not less than \$2,000,000 combined single limit each accident for bodily injury and property damage;

(iii) Workers' Compensation insurance covering all of Manager's employees who are engaged in furnishing the Services under this Agreement. Such insurance shall provide coverage and limits as required by statutory law, including Employer's Liability coverage with limits not less than \$1,000,000 each accident, \$100,000 disease-each employee and \$100,000 disease-policy limit;

(iv) Manager Additional Insureds. UNM shall be included as an additional insured on the General Liability, Liquor Liability and Automobile Liability policies.

(b) UNM Required Insurance. The Parties acknowledge that UNM is insured by the New Mexico Risk Management Division and UNM agrees to maintain such coverage in the amounts provided by state law and regulations as they may change from time to time.

(c) General Insurance Provisions. All such insurance required above shall be written by the New Mexico State Risk Management Division or by insurance companies qualified to do business in the State with an A.M. Best Company rating of A-VII or better in the latest edition of Best's Insurance Guide and Key Ratings. Manager and UNM shall bear all costs of all deductibles for their respective insurance policies and shall remain solely and fully liable for the full amount of any claim, damage, liability, loss or expense not compensated by insurance. Upon execution of this agreement and for each insurance renewal thereafter, Manager and UNM shall respectively provide each other with a certificate(s) of insurance certifying that the appropriate insurance coverages are in place to meet the insurance requirements as set forth above.

* * * * *

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

The Regents of the University of New Mexico

: Bruce Cherrin

Bruce Cherrin (May 16, 2024 15:01 MDT)

By: Bruce Cherrin

Its: Chief Procurement Officer

Eddie Nunez

Eddie Nunez (May 16, 2024 13:46 MDT)

By: Eddie Nuñez

Its: Vice President / Director of Athletics

Levy Premium Foodservice Limited Partnership,
an Illinois limited partnership

By: Levy GP Corporation

Its: General Partner

DocuSigned by:

Robert Ellis

069962AD348F4C3

By: Robert Ellis

Its: President of its General Partner

EXHIBIT “A”

FACILITIES

FOOD AND BEVERAGE AREAS

1. University Stadium
2. University Arena - “The Pit”
3. UNM Soccer/Track & Field Complex
4. Santa Ana Star Field - Lobo Baseball Complex
5. Lobo Softball Complex
6. McKinnon Family Tennis Stadium
7. UNM Athletic Complex
8. Other Venues as requested by UNM Athletics

EXHIBIT “B”
EQUIPMENT
[TO BE PROVIDED]