

December 20, 2022

The University of New Mexico Department of Athletics 1414 University Drive Albuquerque, NM 87106

Attn: Mr. Jon Newman-Gonchar, Head Coach, Volleyball

Re: 3-year Official Volleyball Agreement for the University of New Mexico.

Mr. Newman-Gonchar:

Molten USA, Inc. (Molten) is pleased to enter into the following Agreement to become the Official Volleyball of the *University of New Mexico (New Mexico)*. The terms of the Agreement, which will commence on January 1, 2023, and end on December 31, 2025, are listed below:

- I. Molten agrees to provide the *University of New Mexico* with the following free products and sponsorship considerations:
 - A. 36 each IV58L-N Super Touch NCAA royal/silver/white premium leather volleyballs in each year of the Agreement.
 - B. Four (4) each BKF series standard ball carts in the first year of the Agreement, and two (2) each in each subsequent year.

Note: All agreed upon free products will be shipped using FedEx Ground Service in a timely manner, unless otherwise specified and paid for by the *University of New Mexico*.

- II. Molten agrees to provide the *University of New Mexico* with the following pricing:
 - A. A price of \$44.00 each for every IV58L-N Super Touch NCAA royal/silver/white premium leather volleyball.
 - B. A price of \$30.00 each for every BV-5000 series composite sand volleyball.
 - C. A price of \$130.00 for every BKF series standard ball cart.
 - D. A price of \$150.00 for every BKH series deluxe ball cart.
 - E. A price of \$1.50 for every V100V mini promotional volleyball.
 - F. A price of \$9.00 each for every MS500 custom camp volleyball (minimum order of 120 pieces / 90 days lead time). Additional discounts available based on quantity.



G. A price of \$6.00 each for every V200 custom promotional mini volleyball (minimum order of 210 pieces / 90 days lead time).

Note: Molten reserves the right to adjust pricing due to increases in our costs of goods sold with the consent of both parties. The adjustments will be no more than 5% annually. Taxes and shipping are not included in the prices. Any amendments or addenda hereafter made shall be in writing and executed with the same formality.

- III. The University of New Mexico agrees to fulfill the following contractual obligations:
 - A. The designation of Molten as the Official Volleyball of *New Mexico*. This designation includes:
 - 1. The use of Molten volleyball in all *New Mexico* home matches.
 - 2. The use of Molten volleyballs in all tournaments hosted by *New Mexico*.
 - 3. The use of Molten volleyballs in *New Mexico* camps and clinics.
 - B. Promote on a "best effort" basis Molten and its volleyballs in photographs, newsletters, press guides, brochures, press releases, team photos and other publications.
- IV. Warranties, Exclusions and Clauses:
 - A. Exclusivity The University of *New Mexico* agrees that it will not conclude any agreement and/or contract that materially conflicts or competes with this Agreement, in the category of Official Volleyball.
 - B. Name Marks and Logo The use of University trademarks, service marks, logos or symbols is subject to being previously reviewed and approved by UNM Athletics and/or its Licensing partner to assure compliance with University's policies and procedures regarding use of marks.

C. Default and Termination

- 1. Molten may declare The University of New Mexico in default of this Agreement upon the failure of The University of New Mexico to observe or perform any covenant, condition, or agreement upon its part to be observed under this Agreement for a period of 15 days after receipt of written notice from Molten specifying such failure and requesting that it be remedied. If the default be continuing and The University of New Mexico has not taken any action reasonably anticipated to cure such default, in addition to any other remedies herein or by law provided, Molten shall have the right, without any further demand or notice, to declare this Agreement terminated and shall have no further obligation to perform any of the obligations of Molten under this Agreement.
- 2. The University of New Mexico may declare Molten in default of this Agreement upon the failure of Molten to observe or perform any covenant, condition, or agreement upon its part to be observed under this Agreement for a period of 15



days after receipt of written notice from *The University of New Mexico* specifying such failure and requesting that it be remedied. If the default be continuing and Molten has not taken any action reasonably anticipated to cure such default, in addition to any other remedies herein or by law provided, *The University of New Mexico* shall have the right, without any further demand or notice, to declare this Agreement terminated and shall have no further obligation to perform any of the obligations of *The University of New Mexico* under this Agreement.

- D. **Interpretation -** The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against *The University of New Mexico* or Molten. If any provision is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary to render it valid and enforceable. Otherwise, if any provision of this Agreement is held by an arbitrator or court of competent jurisdiction to be unenforceable, void, illegal or invalid, said provision shall be deemed to severed or deleted, and neither such provision, its severance or deletion, shall affect the validity or affect the remaining covenants and provisions of this Agreement. No covenant or provision shall be deemed dependent upon any other unless so expressly provided herein.
- E. **Notices** All notices required, necessary or desired to be given pursuant to this Agreement shall be in writing and shall be effective as of the date such notice is deposited in the U.S. mail and sent by certified or registered mail, return receipt requested, or sent via facsimile transmission with accurate date and time stamp to the following parties:

Molten USA, Inc. Attn: Jeff Keyes – Director of Sales 1170 Trademark Drive, Suite 109 Reno, Nevada 89521

University of New Mexico Department of Athletics Attn: Jon Newman-Gonchar – Head Volleyball Coach 1414 University Drive Albuquerque, NM 87106

Each party may change its address for these notice purposes upon giving the other party (10) days advance written notice in the same manner provided above.

F. **Assignment -** Molten shall not assign or permit an assignment by operation of law of this Agreement or any interest hereunder without prior written consent of *The University of New Mexico*, which consent will not be reasonable withheld or delayed. If such assignment is requested by Molten and *The University New Mexico* provides its written consent to such assignment, all terms and conditions of this Agreement shall be binding and inure to any assigned of Molten.



- G. **Representations of Authority -** By the execution of this Agreement, Molten and *The University of New Mexico* each represents to the other that it is an entity validly existing, duly constituted and in good standing under the law of the jurisdiction in which it was formed and in which it presently conducts business; and that the person signing this Agreement on its behalf has due authorization to do so.
- H. Confidentiality To the extent permitted by law, the parties agree that they will maintain this Agreement and its terms in confidence except as necessary to perform the parties' obligation under this Agreement, and as permitted with written permission of the other party. Each party acknowledges that any material breach of this provision will be considered in default of this Agreement.
- I. **No Partnership, Etc. -** This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between Molten and *New Mexico*.
- J. **Counterparts -** This Agreement may be executed in multiple counterparts each of which shall be declared an original.
- K. Governing Law and Venue This Agreement is a New Mexico contract to be interpreted and enforced under and in accordance with the laws of the State of New Mexico. Venue for any matter arising with respect to this Agreement shall be Bernalillo County, New Mexico.
- L. **Entire Agreement -** This document constitutes the entire Agreement between Molten and *New Mexico*, and shall supersede all other agreements, whether oral or otherwise, between the parties. Any amendment or modification of this agreement must be in writing.
- M. **Term-**This Agreement will become effective upon execution of this Agreement and, subject to the early termination rights of the parties set forth in Section C of the Agreement, will remain in effect through December 31, 2025.

The signatures below indicate the acceptance of this agreement, in entirety as described above, by the *University of New Mexico* and Molten USA, Inc.

Brett Sletten			
Brett Sletten	Date	Jeff Keyes	Date
Purchasing Manager		Director of Sales	
The Regents of The University of New Mexico		Molten USA, Inc.	