



**KANSAS STATE UNIVERSITY
BASEBALL GAME CONTRACT**

This **AGREEMENT** ("Agreement") is made and entered into this **4th** day of **January, 2021**, by and between the **UNIVERSITY of NEW MEXICO ("VISITING TEAM")** and **K-STATE ATHLETICS, INC. ("HOME TEAM" or "K-STATE")**.

The parties agree as follows:

1. The parties mutually agree to cause their respective varsity men's teams to meet and engage in a game(s) of baseball on the following dates and times:

March 19-21, 2021, in Manhattan, KS, with the time(s) TBA
2. The eligibility of all players to participate in the games shall be governed by the rules and regulations of the **BIG 12 CONFERENCE**, the **NCAA**, and the **MOUNTAIN WEST CONFERENCE**, each team subscribing to the rules and regulations of its own conference.
3. Ticket prices shall be set by the **HOME TEAM**.
4. The **HOME TEAM** agrees to pay the **VISITING TEAM**, as full and complete compensation, the fixed sum of **\$15,000**, payable on or before the May 31st immediately following the game at **HOME TEAM**. A properly executed W-9 must be provided before payment. (See 13: Additional Provisions).
5. Should actual or impending weather conditions or other events of nature or disaster make it impossible or impractical to play the game(s), including pandemic, fire, flood, hurricane, tornado, earthquake, war, invasion, hostilities, rebellion, insurrection, confiscation by order of the government, military or public authority or prohibitory or governmental authority, both parties shall be relieved of any and all further obligations under this Agreement. Otherwise, it is agreed by both parties that if either party – without the written mutual agreement of both parties – (1) cancels a game; (2) fails to confirm (in writing) its intention to appear for a game within five (5) days of **HOME TEAM'S** request for confirmation; or (3) fails to appear for a game, then the cancelling/failing party is in material breach and actual damages would be of an uncertain amount and, in view of that fact, the breaching party shall pay the non-breaching party **\$25,000** as reasonable and contemplated liquidated damages. Payment shall be made within thirty (30) days of a written demand for payment. A breach by one party under

this section relieves the other party from the obligation to participate in any future games.

6. Officials for the game shall be assigned and compensated by the **BIG 12 CONFERENCE**. The game rules shall be the NCAA rules in effect at the time of the game.
7. **HOME TEAM** will provide sixty (60) complimentary tickets to **VISITING TEAM** for the contest.
8. Radio, Television, and Other Broadcast Rights
 - (a) Radio Rights. The **HOME TEAM** (or its conference) for each game owns and retains, and is entitled to retain all revenues derived therefrom, all rights to create and distribute live or delayed audio-only coverage of such game, provided that the **VISITING TEAM** may create and distribute, on a non-exclusive basis, and retain the revenues derived therefrom, its own audio-only full-game account of the game for distribution by the **VISITING TEAM's** regular-season radio broadcasting network via terrestrial radio, satellite radio, internet, and other digitally distributed means. The **HOME TEAM** for each game shall provide to the **VISITING TEAM** one radio outlet location for the aforementioned broadcast.
 - (b) Television and Other Distribution Rights. Except for the radio rights described in clause (a) above, the **HOME TEAM** (or its conference) for each game exclusively owns and retains, and is entitled to retain all revenues derived therefrom, all rights to televise or otherwise distribute audio, video or audiovisual coverage of such game and any and all portions of such game (whether live or delayed and including re-airst and highlights) throughout the universe by any and all means, uses, and media now known or hereafter developed. If and to the extent the **VISITING TEAM** has or will have any such rights, the **VISITING TEAM** irrevocably assigns, conveys, and transfers all of such rights to the **HOME TEAM** (or its conference) in perpetuity. Notwithstanding the foregoing, the **HOME TEAM** for each Game hereby grants the **VISITING TEAM** (and its conference) the non-exclusive rights to:
 - (i) use from the initial telecast or other audiovisual distribution of the Game authorized by the **HOME TEAM** or its conference (the "Game Broadcast"), after the conclusion of such Game Broadcast, up to three (3) minutes of highlights of each Game on the **VISITING TEAM's** or its conference's respective owned, branded or co-branded platforms, including without limitation any branded cable television network, official website and official mobile/tablet application of the **VISITING TEAM** or its conference, and on in-stadium video boards and closed circuit television before, during and after other games of the **VISITING TEAM**

or its conference, and in end-of-season DVD's or digital downloads featuring the **VISITING TEAM**;

(ii) use from the Game Broadcast, after the conclusion of such Game Broadcast, up to eight (8) minutes (for 72 hours) of highlights of each Game for post-game and in coach's shows distributed on behalf of the **VISITING TEAM**; and

(iii) create and distribute coach's films of each Game for use solely by the **VISITING TEAM**, professional sports leagues and other colleges and universities for coaching and scouting purposes. The **HOME TEAM** certifies to the **VISITING TEAM** and its conference that the **HOME TEAM** has obtained the right to license the use of the Game Broadcast as described above. The **VISITING TEAM** acknowledges that the Game Broadcast may contain individual or intellectual property elements (*e.g.* music) that are controlled by a third-party other than the producer of the Game Broadcast and that the **VISITING TEAM** (and its conference) shall be solely responsible for obtaining all necessary clearances in connection with its distribution of the highlights described above.

In the event that the respective conferences of the parties enter into a separate agreement describing the rights of a **VISITING TEAM** to distribute audiovisual coverage of a game played between institutions from the respective conferences, and such agreement remains in full force and effect when any game covered by this Agreement occurs, then the **VISITING TEAM** (and its conference) for such game(s) shall have the rights as described in such agreement, rather than the television and other distribution rights described above.

(c) Other Rights. The **VISITING TEAM** for each Game covered by this Agreement hereby authorizes the **HOME TEAM** (and its conference) to use (and to authorize each entity effecting or facilitating the telecast or other distribution of such Game) to use the trademarks and logos of the **VISITING TEAM** to promote and publicize such Game and the participating teams and institutions, provided that such trademarks and logos must not be used as an endorsement of any product or service or in connection with any political cause or candidate.

(d) Controlling Language. To the extent that this Section conflicts or is inconsistent with any other language or provision in this Agreement, the terms and content of this Section shall control and supersede any other such language or provision.

9. This Agreement is the complete agreement between the parties pertaining to this subject matter and supersedes all prior and contemporaneous agreements, representations, or understandings. Changes to this agreement must be made in writing and signed by both parties. No provision of this Agreement shall be

construed against or interpreted to the disadvantage of any party by reason or any party having, or being deemed to have, drafted or dictated such provision.

10. The failure at any time of any party to demand strict performance of another party or of any of the terms, covenants, or conditions set forth in this Agreement shall not be construed as a continuing waiver or relinquishment thereof, and any party may at any time demand strict and complete performance of any other party of such terms, covenants, and conditions. This Agreement may not be assigned by either party without the prior written consent of the other party.
11. The unenforceability or invalidity of any provision of this Agreement shall not affect any other provision of this Agreement and this Agreement shall continue in full force and effect and be construed as if such provision had not been included.
12. This Agreement shall be governed and enforced in accordance with the laws of the State of Kansas, and any actions to enforce shall be brought in a court of competent jurisdiction in the State of Kansas.
13. [Additional provisions, if necessary]: **HOME TEAM will provide to VISITING TEAM fifteen (15) hotel rooms each night for three nights (45 total room nights) at a property of the HOME TEAM'S choosing and three postgame meals (one per day).**

The signatories below covenant that they have the authority to enter into this Agreement on behalf of their respective institutions.

David Williams

David Williams (Jan 16, 2021 12:32 PST)

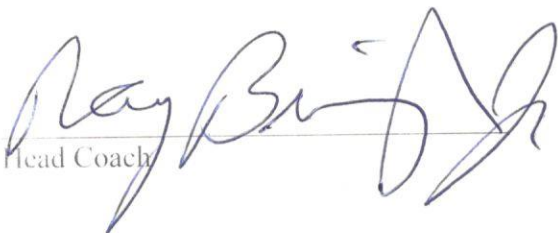
Director of Athletics
University of New Mexico

Gene Forrest Taylor

Gene Forrest Taylor (Jan 19, 2021 08:54 CST)

Gene Taylor
Chairman and CEO, K-State Athletics, Inc.
By authorization of the Board of Directors

Head Coach



Head Coach

ADDENDUM

Force Majeure:

No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this contract, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)": of God; (b) tornado, haboob, drought, flood, fire, earthquake, explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) shortage of adequate power or transportation facilities; and (j) other similar events beyond the reasonable control of the Impacted Party.

a. The parties acknowledge that they enter this contract in the midst of the COVID-19 pandemic. This pandemic has resulted in various declarations of national, state and local emergencies and actions by governmental authorities that restrict the movement and gathering of persons. If the Game were to be played in the current environment, it is likely that governmental authority would prohibit the Game from being played. However, the parties enter this contract in the good faith belief that current governmental restrictions will no longer be in effect at the time of performance. Notwithstanding the fact that the pandemic has already resulted in Force Majeure Events, the parties agree that they may be subject to future Force Majeure Events that impact one or both parties and make performance of this contract impossible or impracticable. The parties agree that the existence of current Force Majeure Events is not predictive of future Force Majeure Events related to COVID-19, and that unforeseen consequences of future government actions related to COVID-19 shall entitle either part to invoke the protections of the Paragraph, above.

Gene Forrest Taylor

Gene Forrest Taylor (Jan 19, 2021 08:54 CST)

KANSAS STATE UNIVERSITY

David Williams

David Williams (Jan 16, 2021 12:32 PST)

THE REGENTS OF THE UNIVERSITY OF NEW MEXICO









3.19-21.21 - MBA at KSTATE

Final Audit Report

2021-01-19

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