



NON-CONFERENCE GAME AGREEMENT

This NON-CONFERENCE GAME AGREEMENT ("Agreement") is entered as of the date of the last signatures to this Agreement ("Effective Date"), by and between **WICHITA STATE UNIVERSITY INTERCOLLEGIATE ATHLETIC ASSOCIATION, INC.** ("WSU") and The University of New Mexico ("UNM"), referred individually as "party" and collectively as "parties." The parties agree as follows:

1. **Game(s).** The parties agree that their Men's Baseball teams will meet as follows:

DATE	TIME	LOCATION	CITY	STATE
March 18, 2022	TBA	Eck Stadium	Wichita	Kansas
March 19, 2022	TBA	Eck Stadium	Wichita	Kansas
March 20, 2022	TBA	Eck Stadium	Wichita	Kansas

2. **Compensation.** In consideration of playing the Games, WSU agrees to pay as a guarantee to UNM the sum of \$15,000 ("Compensation"). Such Compensation, if any, shall be paid within sixty (60) days after the date of the last Game listed above. The parties agree that WSU shall only be responsible for paying the Compensation if all Games listed above are actually held. Should any Game not be played for any reason, WSU shall not be responsible for paying the Compensation.
3. **Travel Expenses.** Unless otherwise agreed to herein, each institution shall be responsible for its own expenses and travel arrangements associated with the Game(s).
4. **Income.** The rights to any income derived from any Game including, without limitation, concessions, programs, souvenirs, soft goods, parking, etc., shall belong to the home team.
5. **Officials.** The Coordinator of Officiating for the American Athletic Conference (AAC) schedules referees for all conference, designated non-conference, and exhibition games. The AAC prohibits the use of "split" officiating crews. Blend crews and neutral crews are permissible. If game officials in said contests contracted for in this Agreement are assigned by the conference of the visiting team, the officiating game fees, travel expenses, and per diem will be paid at a rate not lower than those established by the AAC for the season in which the competition takes place.
6. **Media Rights.**
- a. **Television Rights.** All TV rights, including for both the live telecast and subsequent highlight use, will be governed by any agreement in place when the game is played between the American and the other team's conference. CBS and ESPN, Inc. have exclusive rights to all American home games through 2020-21.
 - b. **Radio Rights.** All radio broadcast rights to the games played pursuant to this Agreement (including without limitation national, regional, local, satellite, and terrestrial radio rights) are owned by the home team, except that the visiting team shall be provided space for one (audio-only) radio broadcast outlet for the non-exclusive regional terrestrial broadcast by the visiting team's flagship station and additional (audio-only) terrestrial distribution on the visiting team's regional network of terrestrial radio stations.
7. **Complimentary Tickets.** Each team, to the extent they are acting as the host team, agrees to provide the other institution 60 number of complimentary tickets for each Game to be played under this Agreement. Notwithstanding the foregoing, the number of complimentary tickets provided by either institution is subject to limitations on Game or venue attendance. If Game attendance is limited to what is considered "less than normal," the number of Complimentary Tickets provided to the visiting team shall be similarly limited. By way of example, if seating capacity at the Game venue is reduced to fifty percent (50%), the number of Complimentary Tickets provided to the visiting team will be 30.



8. Other Terms.

- a. Wichita State agrees to provide 15 rooms for three nights at a location to be determined by Wichita State. Room upgrades, early check-ins, late checkouts, breakfast meals etc. will be at the discretion of the hotel and all associated costs will be the responsibility of the visiting team
 - b.
 - c.
9. **Forfeiture Fee.** In the event that either team should cancel or fail to appear for the Game(s) specified in this Agreement, then the institution of the team which cancelled or failed to appear shall pay to the other party a forfeiture fee in the amount of \$15,000 for costs and/or damages incurred as a result of the cancellation or forfeiture ("Forfeiture Fee"). Notwithstanding the foregoing, neither party shall be required to pay the Forfeiture Fee if the cancellation or forfeiture was mutually agreed to by the parties in writing, or if the cancellation or forfeiture was the result of a Force Majeure Event (as defined herein). Any payment required by this paragraph shall be paid within sixty (60) days of the last scheduled Game. If multiple games are scheduled under this Agreement, the Forfeiture Fee shall be paid upon cancellation of any one Game, but shall be paid only once, even if more than one Game is cancelled.
10. **Governing Rules.** The Game(s) shall be governed in all respects by the rules and regulations of the NCAA and the parties' respective athletic conferences.
11. **Force Majeure.** If any of the obligations of any of the parties becomes practicably impossible or inadvisable, in whole or in substantial part, because of a Force Majeure Event, then such non-performance shall be excused and not be treated as a breach of this Agreement, and all other obligations of the parties shall continue. A "Force Majeure Event" shall mean causes beyond the control of the parties, whether foreseeable or unforeseeable, including, but not limited to: an act of God; inevitable accident, fire, labor dispute, riot or civil commotion; act of public enemy, terror, or war; governmental act; epidemic; pandemic (including but not limited to COVID-19); viral outbreaks; outbreaks of communicable disease or any other public health crisis; quarantines or other restrictions; national or regional emergencies; regulation or rule; prohibition or restriction or suspension of practice or play imposed by the NCAA or the parties' respective conferences; governmental regulations or restrictions on travel, movement, and large gatherings; failure of technical facilities; national day of mourning; emergency announcement or news bulletin; inability to obtain supplies, delays in transportation, embargoes; or other reason beyond the control of the parties. Delays or non-performance excused by this paragraph shall not excuse performance of any other obligation which is outstanding at the time of occurrence. Upon the occurrence of a Force Majeure Event, the parties shall make reasonable efforts to find an alternate date(s) for the Game(s). If an alternate date(s) cannot be agreed upon, the parties agree to mutually terminate this Agreement, without penalty.
12. **Termination of Agreement.** WSU may, in its sole discretion, cancel this Agreement at any time and for any reason without financial penalty. However, if WSU terminates this Agreement less than forty-eight (48) hours before any scheduled Game, WSU will reimburse UNM for its actual incurred travel costs.
13. **COVID-19.** Both parties understand that, at the time this Agreement was signed, the COVID-19 coronavirus is an ongoing global pandemic. In response to this pandemic, the NCAA and various athletic conferences have adopted rules, regulations, and guidelines with respect to competition and play. Each team acknowledges and affirms that, to the extent they are the visiting team, a Game will not be played unless all of the following "Required Conditions" occur:
- a. Visiting team shall follow all guidelines provided by the NCAA, the home institution, and the home institution's conference pertaining to COVID-19 including, but not limited to, social distancing, COVID-19 testing, quarantine and/or isolation policies;
 - b. Playing the game is allowed by the NCAA, the respective athletic conferences of each team, and each team's state and county public health officials. In the case of WSU, this includes the State of Kansas, the Kansas Department of Health and Environment, Sedgwick County, and the Sedgwick County Health Department; and



c. Neither party cancels this agreement in accordance with Paragraph 11 herein.

Breach by either party of section (a) of this paragraph 13 shall be considered a material breach of this Agreement and the non-breaching party may cancel any scheduled Game(s) and/or terminate this Agreement in its entirety without penalty. The parties agree that breach of paragraph 13(a) shall not result in either team being required to pay the Forfeiture Fee. Rather, for purposes of breach of paragraph 13(a), the breaching party shall pay to the non-breaching party as liquidated damages the sum of FIVE THOUSAND DOLLARS and NO CENTS (\$5,000.00) per each cancelled Game. Payment shall be paid within sixty (60) days of the date that the cancelled Game would have been played. This sum represents liquidated damages and shall not be regarded as a penalty.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date set forth above.

Wichita State University Intercollegiate
Athletic Association, Inc.

University of New Mexico

By: Brad Pittman
Name: Brad Pittman
Title: Senior Associate Athletic Director
Dated: July 28, 2021

By: David Williams
David Williams (Aug 11, 2021 15:40 MDT)
Name: David Williams
Title: Deputy Athletic Director
Dated: Aug 11, 2021

T. Brown
T. Brown (Aug 11, 2021 09:15 MDT)