

**FIRST AMENDMENT TO MEN'S BASKETBALL AGREEMENT BETWEEN THE
REGENTS OF THE UNIVERSITY OF NEW MEXICO AND SOUTHERN METHODIST
UNIVERSITY**

The Regents of the University of New Mexico ("Visiting Team" or "UNM"), located in Albuquerque, New Mexico and Southern Methodist University ("SMU"), a Texas nonprofit corporation located at 6425 Boaz Lane, University Park, Texas, 75205, Dallas County, Texas, have entered into a Men's Basketball Agreement (the "Original Agreement"), dated 5/25/2021 (the "Original Agreement", in effect from 5/25/2021 through the agreed upon return date of the game. SMU and Visiting Team wish to amend the Original Agreement by way of First Amendment, as provided herein;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree to the following:

1. Section 1 of the Original Agreement is amended to read as follows:

Varsity men's basketball teams representing the two institutions shall compete against each other on the following date, time, and location:

Home Team: **SMU**

Visiting Team: **UNM**

Event: **Men's Basketball Game**

Date: **November 15, 2022**

Time: **TBD**

Location: **Moody Coliseum, Dallas, TX**

The time of the game will be mutually agreed upon and will be chosen at a later date. If no game is played between these teams in 2022, then section 7 of the original contract will take effect.

2. All other terms and conditions of the Original Agreement remain in full force and effect.

AGREED TO AND EFFECTIVE as of the latest date set forth below:

THE REGENTS OF THE UNIVERSITY OF NEW MEXICO SOUTHERN METHODIST UNIVERSITY

Eddie Nunez
By Eddie Nunez (Jun 1, 2022 16:54 MDT)
Name: Eddie Nunez

Title: Director of Athletics

Date Jun 1, 2022

Rick Hart
By Rick Hart (Jun 1, 2022 19:47 CDT)
Name: Rick Hart

Title: Director of Athletics

Date Jun 1, 2022



THE UNIVERSITY OF NEW MEXICO

INTERCOLLEGIATE ATHLETICS GAME CONTRACT BETWEEN

**THE REGENTS OF THE UNIVERSITY OF NEW MEXICO ("UNM")
and SOUTHERN METHODIST UNIVERSITY ("SMU")**

SPORT: Men's Basketball

GAME SITE: University Arena - Albuquerque, NM

DATE/TIME: Sunday, December 19, 2021 at a time TBD

1. The parties agree to participate in an athletic contest ("Game") between their Men's Basketball teams on the date and at the time set forth above.
2. Officials for such contest(s) shall be assigned by the American Athletic Conference for games played at UNM and by the Mountain West Conference for games played at SMU. SMU shall be responsible for payment of American Athletic Conference officials and UNM shall be responsible for payment of Mountain West Conference officials. Both parties agree that officials shall adhere to the COVID-19 protocols established by each respective Athletic Conference.
3. The eligibility rules governing participation in such contest(s) shall be those established by the faculties of the respective institutions and the Athletic Conferences involved.
4. Complimentary tickets will be decided at a later date dependent upon state, city, county, NCAA and conference requirements at the time of the competition. If 100% capacity is allowable, SMU will be allowed 50 complimentary tickets for the above contest.
5. UNM retains all rights to broadcast the Game on radio, television, the internet, and any other medium.
6. SMU grants to UNM the non-exclusive, worldwide, irrevocable, transferable (without consent), sublicensable (without consent, and through multiple tiers of sublicensees), royalty-free right and license to use (i) the trademarks, service marks and other indicia of and relating to any teams participating in said Game and (ii) the names, images, likenesses, biographical details, privacy rights, publicity rights, and all other indicia of identity of participants and other individuals involved in the conduct of the Game for the purposes of broadcasting, advertising and promoting the Game.
7. The parties agree that if either institution breaches this contract by refusing to play at the time and place agreed upon, (except as the result of a Force Majeure Event as defined in Section 8 below) the non-breaching party shall sustain damages that are difficult (if not impossible) to calculate. Therefore, the parties agree that in the event one party refuses to play at the time and place agreed upon, it shall pay to the other party, the sum of seventy-five thousand dollars (\$75,000.00).
8. 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)"):



THE UNIVERSITY OF NEW MEXICO

(a) acts of God; (b) tornado, (c) haboob, (d) drought, (e) flood, (f) fire, (g) earthquake, (h) explosion; (i) war, (j) invasion, (k) hostilities (whether war is declared or not), (l) terrorist threats or acts, (m) riot or other civil unrest; (n) government order or law; (o) embargoes or blockades in effect on or after the date of this Agreement; (p) action by any governmental authority that makes performance impractical or impossible; (q) declaration of a national, regional or local emergency; (r) strikes, labor stoppages or slowdowns or other industrial disturbances; (s) shortage of adequate power or transportation facilities; (t) pandemic or other health emergency; and, (u) other similar events beyond the reasonable control of the Impacted Party.

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 events contemplated by this Agreement were to be held in the current environment, it is likely that governmental authority would prohibit the events from occurring or make it impractical for the parties to perform their obligations. 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 subjected to the same or similar Force Majeure Events in the future that impact one or both parties and make performance of this contract impossible or impracticable. The parties expressly agree that if performance of this Agreement becomes impractical or impossible due to COVID-19-related Force Majeure Events, the parties shall be excused from performance and from making the payment set forth in Section 7 above and may invoke the protections of this Section.

9. The following additional provisions shall apply:

- a. The University of New Mexico shall play at Southern Methodist University in Dallas, TX during the 2022-23 season on a mutually agreed upon date.
- b. The game time shall be requested with the Mountain West Conference to be 1:00pm MT but is subject to the discretion of television partners.

FOR: THE UNIVERSITY OF NEW MEXICO

David Williams

David Williams (May 25, 2021 08:53 MDT)

Sport Coordinator

May 25, 2021

Date

Richard Pitino

Richard Pitino (May 25, 2021 08:59 MDT)

Coach

May 25, 2021

Date

Eduardo Nunez

Eduardo Nunez (May 25, 2021 09:14 MDT)

Athletic Director or Designee

May 25, 2021

Date

FOR: SOUTHERN METHODIST UNIVERSITY

[Signature] 6/8/21
Coach Date

[Signature] 6/8/21
Athletic Director or Designee Date