

AGREEMENT

This Agreement is made and entered into as of December 21, 2021 by and between THE GAZELLE GROUP, INC., 475 Wall Street, Princeton, New Jersey, 08540 (“Gazelle”), and THE REGENTS OF THE UNIVERSITY OF NEW MEXICO, Department of Intercollegiate Athletics, 1414 University Drive, Albuquerque, N.M. 87106 (“Participant”) to establish the terms and conditions for the participation of Participant in a Division I men’s college basketball Event as defined herein.

In consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. EVENT

(a) Participant shall play three games in the Event and shall serve as NCAA sponsor in accordance with National Collegiate Athletic Association (“NCAA”) Multiple Team Event rules applying the “28 plus 3” format.

(b) The Event shall be qualified in compliance with the NCAA Bylaws. As described herein, the Event shall consist of college basketball Games featuring men’s college basketball Teams as participants (including Participant) playing Games and shall include various promotional activities associated with the Event.

(c) Gazelle shall have the sole authority to determine all Teams and opponents for Participant in the Games. If any portion of the Event is postponed for any reason, then Gazelle and Participant shall agree to reschedule such portion of the Event on the next available date or dates as necessary to complete the Event. It is further agreed by the parties that should the event be rescheduled; the rescheduled date shall take place within the same season of the original season of the Event as set forth herein.

(d) The Event shall include six games played at Participant’s Arena (the “Host Rounds”) on three dates between (and including) November 25-27, 2022 (or other mutually agreed upon dates). Participant shall play three home games versus three different teams on such dates (in one game of a doubleheader on each date).

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2. TEAMS.

Each of the participating Teams shall be men’s college basketball Teams. Gazelle shall have the sole authority to determine and select all Teams to participate in the Event. Appearance Fees, Transportation, Accommodations and Meals for Teams other than Participant shall be the responsibility of Gazelle. Teams (other than Participant) selected by Gazelle to participate in the Event shall have a three-year average “NET” ranking (as defined by the NCAA) of 250 or better/lower.

3. SITE HOSTING, GAME OPERATIONS AND STAFFING.

(a) Participant shall conduct the Host Rounds at Participant’s customary building for home games (the “Arena” or “Host Site”). As a “Host Site”, during the six games played at its Host Site (one doubleheader per day), Participant shall be responsible, at its sole cost and expense, for all staging elements and details normally undertaken for collegiate basketball contests including, but not limited to, the following:

- (1) Provide Game officials.

- (2) Provide playing conditions (including, but not limited to, the playing surface, power, lighting, heating, scoreboard, game clock, shot clock, video boards, official scorekeeper, ball boys/ball girls, public address system and announcer, statisticians, media support, and other services mutually agreed upon).
- (3) Provide courtside replay equipment, videotape or television monitoring for all games played at Host's venue. This equipment must be located on a designated courtside table (i.e., within approximately 3 to 12 feet of the playing court), in order to be used by game officials.
- (4) Provide for the installation of all Event signage and court decals.
- (5) Provide adequate locker room facilities for the competing teams and game officials.
- (6) Provide for adequate crowd control and safety including guest and event services, ushers, security, medical staff, police and fire protection pursuant to all local and state statutes and ordinances.
- (7) Provide the Participant box office and will call services for selling and printing of all tickets (including any third party ticket companies and credit card processing).
- (8) Provide use of lobbies, vestibules, hallways and other public areas and rooms and facilities appropriate for use on game days.
- (9) Provide all required clean up.
- (10) Provide the set up and staffing of the press box, press room, interview area, and stat reproduction area.
- (11) Provide the set up and catering for the press room and media room (lunch or dinner), locker rooms and benches (drink, cups, coolers, water, snacks, fruit, towels, shampoo, soap, etc.)
- (12) Provide all necessary staffing required to implement these services for staging of Event.
- (13) Provide Gazelle an on-site room (or office) and internet access.
- (14) Any rental charges and facility fees for use of its home playing court whether the same be on campus or off campus shall be considered a detail normally undertaken for collegiate basketball contests and no such rental charges or facility fees shall be applied to Gazelle.

4. PROMOTION AND ADVERTISING.

Gazelle shall have the right to market and promote Participant as a participant in the Event in its exploitation of the Event.

5. TICKET PACKAGING AND PRICING.

(a) Gazelle and Participant mutually agree that tickets to all Games played during the Host Rounds of the Event at Participant's Host Site shall be included and sold in any and all Participant season ticket subscription packages (for full or partial season subscriptions) for Participant season ticket holders and multi-game ticket packages, consistent with Participant's customary practices.

(b) The parties agree that Gazelle may allocate a mutually agreed upon number of tickets during the Host Rounds of the Event for teams, sponsors, publicity, and advertising on a complimentary basis.

(c) The parties agree that Participant shall, in its sole discretion, set the price of tickets.

6. PARTICIPANT'S HOST FEE.

During the Host Rounds of the Event at Participant's Arena, Participant shall be entitled to sell all tickets for the games at its Arena and retain all revenues from such ticket sales. Participant shall pay Gazelle a Host Fee of \$225,000 (\$50,000 shall be due July 31, 2022 and the remaining balance of \$175,000 shall be due no later than November 1, 2022).

7. PAYMENTS.

Except as otherwise stated herein, Gazelle and Participant shall pay to each other all amounts due and payable under this Agreement, including, but not limited to, ticket receipts, fees, and merchandising monies, no later than thirty (30) business days after the conclusion of the Event. Participant shall be responsible for the collection and payment of all taxes related to ticket sales and merchandise sales.

8. CONCESSIONS, MERCHANDISE, PARKING, SPONSORSHIP, AND MEDIA RIGHTS.

During the Host Rounds of the Event at Participant's host Site, Participant shall have the right to operate and receive all income from concessions to food, beverage and vending machines, parking operations, and sponsorship/multi-media rights for the Event. Participant shall retain all rights to broadcast the Game(s) on radio, television, internet, and any other medium.

9. EVENT REPRESENTATIVE.

Gazelle shall provide an Event representative to coordinate with Participant on all arrangements related to its participation in the Event.

10. LIABILITY

Neither party to this Agreement shall be responsible for personal injury or property damage or other loss except that resulting from its own negligence and/or willful misconduct or the negligence and/or the willful misconduct of those acting within its control.

11. REPRESENTATIONS AND WARRANTIES.

Gazelle and Participant represent that they are free to enter into and perform this Agreement and the rights granted by each party will not infringe upon or violate the rights of any third party.

12. CONFIDENTIALITY

The terms of this Agreement and all proprietary information exchanged by the parties shall be kept strictly confidential by both parties and no information shall be used or disclosed to any third party without the express written consent of the other party or as required by law. The obligation to maintain this level of confidentiality shall continue beyond the term of this Agreement.

13. SEVERABILITY.

In the event any provision of this Agreement is determined to be invalid by a court of competent jurisdiction, such determination shall in no way effect the validity or enforceability of any other provision herein.

14. ENTIRE UNDERSTANDING.

This Agreement sets forth the complete and entire understanding between the parties with respect to the subject matter hereof. All additions or modifications hereto must be mutually agreed upon by both parties.

15. INDEPENDENT CONTRACTOR STATUS.

This Agreement shall not be construed in any way to create an agency, employment, partnership, or joint venture relationship between Gazelle and Participant for any purpose whatsoever.

16. HEADINGS.

Headings are included herein for convenience or reference only and shall not be construed as part of this Agreement.

17. RESERVED.

18. INTENTIONALLY DELETED

19. TERMINATION AND TERMINATION FEE.

Each party to this Agreement recognizes that its promise to perform and fulfill its responsibilities and obligations under this Agreement is of the essence of this Agreement. Nevertheless, either party may terminate this Agreement prior to its expiration, but only under the following terms and conditions:

(a) If either party notifies the other party of its intent to terminate this Agreement or fails to fulfill its responsibilities and/or obligations without the other party's consent, then the terminating party (or party failing to perform) shall pay the other party liquidated damages of \$225,000 upon notice of such termination or its failure to perform. Failure to timely pay said amount shall constitute a breach of this agreement and said sum shall be recoverable in any court of competent jurisdiction.

(b) The parties have bargained for and agreed to the foregoing provisions, giving consideration to the fact that termination of this Agreement prior to its natural expiration or a party's failure to fulfill its responsibilities and/or obligations without the other party's consent may cause the non-terminating party to lose certain benefits and/or compensation, which damages are difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by the terminating party shall constitute adequate and reasonable compensation to the non-terminating party for any damages and injury the non-terminating party suffers because of such termination or failure to fulfill its responsibilities and/or obligations without the other party's consent. The foregoing is not, nor is construed to be, a penalty.

20. NOTICES.

Any notice or other communication required or permitted hereunder shall be given by hand delivery, facsimile, electronic mail, guaranteed twenty-four hour courier service or certified or registered United States Mail (return receipt requested) at the address indicated below for each party:

If to Gazelle:

The Gazelle Group, Inc.
475 Wall Street
Princeton, New Jersey 08540
Attn.: Rick Giles

If to Participant:

The University of New Mexico
Department of Athletics
1414 University Drive
Albuquerque, N.M. 87106
Attn.: Director of Athletics

Any notice or communication delivered by hand, facsimile transmission, or electronic mail shall be effective upon the date of delivery or transmission. Any notice or communication sent by guaranteed twenty-four hour courier service or United States Mail shall be effective on the date of receipt by the party to whom addressed.

21. FORCE MAJEURE.

Neither Party shall be deemed to be in default of its obligations hereunder nor have breached this Agreement if and so long as it is prevented from or delayed in performing such obligations by a Force Majeure Event (as defined hereafter); provided, however that the Party affected by the Force Majeure Event (the "Affected Party") shall (i) provide prompt written notice of such delay or suspension to the non-Affected Party, which notice shall set forth in detail the nature of each delay or suspension; and (ii) use all commercially reasonable efforts to minimize the extent of such force majeure delay or suspension. The Affected Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause if possible. In the event that the Force Majeure Event causing the delay or suspension remains uncured for a period of 3 days following written notice given by the Affected Party, either Party may thereafter terminate this Agreement upon 2 days' written notice. A "Force Majeure Event" shall include: government action, regulation, proclamation, order, or action; epidemics, pandemics, nuclear explosion, hostile foreign action, terrorist threats or acts, fire, acts of God, earthquake, hurricane, tornado, flood, tsunami or other severe weather, natural disasters, strikes, work stoppages or other labor disturbances, riots, insurrections or other civil disturbances, war, a U.S. Department of State Travel Restriction, and other similar events beyond the Affected Party's reasonable control. If a Force Majeure Event causes the termination of this Agreement, each party shall refund and return any monies received from the other party, less any amounts (which cannot be mitigated) already disbursed to third parties. Furthermore, if a Force Majeure Event causes the termination of this Agreement then neither party shall have any further obligations or liability for Termination Fees, Cancellation costs or any damages or losses due to the termination of the Agreement.

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

THE GAZELLE GROUP, INC.

By: Richard J Giles
Richard J Giles (Jan 3, 2022 10:29 EST)

Name: Richard J Giles

Title: President

THE UNIVERSITY OF NEW MEXICO

By: 
Eduardo Nunez (Dec 29, 2021 14:59 CST)

Name: Eduardo Nunez

Title: Vice President/Dir. Of Athletics

By: richard pitino
richard pitino (Dec 21, 2021 10:50 MST)

Name: richard pitino

Title: Head Mens Basketball Coach

Signature: Matt McKernan
Matt McKernan (Dec 21, 2021 10:07 MST)

Email: mckmatt@unm.edu