

**ATHLETIC CONTEST AGREEMENT
THE UNIVERSITY OF TEXAS AT EL PASO
And
UNIVERSITY OF NEW MEXICO**

This Athletic Contest Agreement is between THE UNIVERSITY OF TEXAS AT EL PASO (hereinafter “UTEP) and University of New Mexico, (hereinafter “UNM”). For and in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

1. TERM

The term of this Agreement is dated effective as of the date fully executed by both parties and shall terminate on February 15, 2024.

2. DATE OF COMPETITION

UTEP and UNM will have their respective Women’s Softball intercollegiate teams meet on the following date in the City indicated and compete against each other in a game of softball(“Game”). The Host Institution shall establish the starting time for the Game. This will be a tournament playing a minimum of 2 (two) games.

DATE	SITE	Host Institution	Visiting Institution
Feb. 14, 2024 @ 2:00 pm and 4:00 pm	Helen of Troy Softball Complex	UTEP	UNM

3. GOVERNING RULES

Each Game will be played in accordance with and governed by the applicable bylaws and rules of the National Collegiate Athletic Association (“NCAA”) and the Host Institution’s Conference.

4. PLAYER ELIGIBILITY

The eligibility of all players who are to participate in the Game(s) on such date(s) shall be determined by the rules and regulations of the NCAA and the Conference in which each Institution in which each institution is a member.

5. GAME OFFICIALS

Game officials will be appointed by Conference of the Host Institution. Fees and expenses of the officials shall be paid by the Host Institution.

6. GUARANTEED PAYMENTS

None

7. TICKETS AND ADMISSIONS

A. The Host Institution shall be responsible for establishing the price of tickets, for ticket printing, for selling tickets to the public. The Host Institution shall be permitted to issue free tickets when deemed appropriate. The Host Institution may also issue passes or otherwise provide for free admission to radio, television, press, and other media personnel, and the uniformed or otherwise identifiable members of the bands and the cheerleaders, spirit groups, team mascot and handlers of Host Institution and Visiting Institution.

B. The Visiting Institution shall be entitled to receive 0 (zero) complimentary tickets and may request up to zero additional tickets on consignment. The Visiting Institution shall pay the

Host Institution for all tickets it retains on consignment. This payment will be made within thirty (30) days after the Game.

- C. All tickets sold by the Visiting Institution shall be sold at the price established by the Host Institution.
- D. The Visiting Institution may return a maximum of zero tickets to the Host Institution for full credit if those tickets are received by the Host Institution no less than thirty (30) days prior to the Game.
- E. The Visiting Institution band seats, if needed, must come from the Visiting Institution's ticket Allotment. The Host Institution will provide information regarding the standard location of seats for a Visiting Institution's band members.

8. ASSOCIATED GAME ACTIVITIES.

The rights to the income derived from all associated Game activities, such as concessions, programs, souvenirs, soft goods, and parking shall belong to the Host Institution.

9. TELEVISION, VIDEO, FILM, INTERNET VIDEO STREAMING

The parties hereto mutually desire that the Game(s) to be played hereunder should have maximum media exposure, including exposure via television if possible. Each party may enter into agreements for television coverage of the Game(s) so long as said agreements are in compliance with the provisions set forth herein.

- A. Agreement to Telecast. Each Game covered hereunder shall be available for telecasting by the Host Institution. The Visiting Institution shall agree to the following:
 - i. The scheduled start time for the Game is subject to change for the purpose of accommodating live telecasting opportunities.
 - ii. Any change in the date of the Game shall require the consent of the Visiting Institution, which consent shall not be unreasonably withheld.

The Game also shall be available for telecasting by the Visiting Institution subject the conditions set forth herein.

- B. Rights of Release. Following are the basis on which the respective institutions may release a telecast of a Game. Such a telecast may be made on a free, pay, or pay-per-view basis.

- i. Host Institution.

- (1) The Host Institution shall have the following rights of release for live and delayed telecasting:

- (a) National network television;
 - (b) National cable television;
 - (c) Conference television package via over-the-air, cable or satellite transmissions;
 - (d) Institutional branded network;
 - (e) Institutionally syndicated package;
 - (f) Home-Area release;
 - (g) Internet video streaming;
 - (h) Release via any other means of transmission not listed herein which may exist or be developed; plus
 - (i) Delayed telecast without restriction.

- (2) In addition, the Host Institution may use recorded footage of any Game under this Agreement for the following purposes:
 - (a) for file, reference, audition, promotional and publicity purposes;
 - (b) for any non-broadcast, non-commercial purpose not in conflict with the rights granted hereunder;
 - (c) or highlight shows, coach's shows, or other commercial ventures inuring solely to the benefit of the Host Institution or its conference.
- (3) The Host Institution, however, will not permit its telecaster(s) to sell or otherwise make available a feed of the signal of the Game telecast to any telecaster or cablecaster in the Home Area of the Visiting Institution without the express consent of the Visiting Institution. This provision is not applicable to items B.1(a), B.1(b), B.1(c), or B.1(d) above.
- (4) Notwithstanding the foregoing, any release of a Game or use of footage of a Game played hereunder by the Host Institution must comply with the applicable national network or national cable contract of the conference of which the Host Institution is a member, and the rules and regulations of such conference.

ii. Visiting Institution

- (1) The Visiting Institution shall have the following rights of release:
 - (a) Live telecast into its Home-Area if not in conflict with either conferences' Television agreements, or Home Institution's agreements related to items B.1(a), B.1(b), B.1(c) or B.1(d) above, which shall supersede this agreement;
 - (b) Delayed telecast into the Visiting Institution's Home Area and whatever additional area it wishes so long as such release does not conflict with the terms of the Home institution's conference contract, or Home Institution's agreements related to items B.1(a), B.1(b), B.1(c) or B.1(d) above, or the visitor's conference's contract governing time exclusivity;
 - (c) Such additional live rights as may be granted it by the Host Institution.
- (2) In addition, the Visiting Institution may use recorded footage of any Game under this Agreement for the following purposes:
 - (a) for file, reference, audition, promotional and publicity purposes;
 - (b) for any non-broadcast, non-commercial purpose not in conflict with the rights granted hereunder;
 - (c) for highlights shows, coach's shows, or other commercial ventures, including broadcast on Institutional Branded Network, inuring solely to the benefit of the Visiting Institution or its conference.
- (3) Notwithstanding the foregoing, any release by the Visiting Institution of a Game or use of footage of a Game played hereunder must comply with the applicable national network or national cable contracts of the conferences of which the Host Institution is a member and the Visiting Institution is a member, and the rules and regulations of such conferences.

iii. Definitions

For the purposes of this Agreement "Home Area Telecast" shall mean a release in one or more markets near the releasing institution's main campus, but not on such a numerical (station) or geographical basis as to constitute a syndication. "Home Area," for CUSA institutions shall be defined as set forth in the Conference rules and

regulations. "Home Area" for non-CUSA institutions shall mean the area agreed to by the parties. "Delayed Release" shall mean presentation of a Game telecast no earlier than the conclusion of the Game.

iv. Facilities

The Host Institution agrees to provide the Visiting Institution, at no cost to it, adequate facilities at the game site to originate a television broadcast of the Game, or, if in the good faith determination of the Host institution the facilities do sound audio feed of its telecast, plus space for the Visiting Institution's announcers. The Host Institution or its television producer may charge the Visiting Institution's producer a customary fee in line with the industry guidelines for such a feed. Notwithstanding any other provision of this Agreement, the Host Institution shall not be required to make any alteration to or expansion of existing television or radio broadcast or press box facilities for the purposes of this Agreement.

v. Distribution of Revenue

If the Game is televised as part of a conference package or series, there shall be no rights fee paid the Visiting Institution or its conference. All of the television rights fee, if any, shall be retained by the Host Institution and its conference.

In all other instances, any rights fees received by the televising institution(s) shall be retained by the televising institution(s) for both a live and delayed telecast of the Game.

10. RADIO BROADCAST, INTERNET AUDIO STREAMING

The radio broadcast of the Game shall be under control of the Host Institution. The Host Institution shall retain revenue from radio rights. The Host Institution shall provide one radio outlet free of charge for the Visiting Institution, and Visiting Institution shall retain revenue derived therefrom. Each institution may deliver the broadcast to its respective radio network, to include audio streaming on the internet.

11. COURTSIDE PROVISIONS

The Visiting Institution shall be allowed zero courtside passes at no charge. These shall be in addition to complimentary tickets, and the free admission of bands, cheerleaders, and mascots. These passes are for use by coaches, trainers, and working personnel only. Courtside passes must be worn by all personnel with the exception of varsity players in uniform. All courtside passes will be restricted to the team area.

The Visiting Institution may use any and all products and equipment that are normally used on their home field, and in conjunction with such use, may display the product or equipment name, logo, image, slogan, or identifying marks in a safe and responsible manner. In addition, game personnel (coaches, players, trainer, equipment managers, etc.) who must be on the field or courtsides will be permitted to wear any brand name clothing or equipment and to display any product or equipment name logo, image, slogan or identifying marks as are customary on their home field.

12. DAMAGES

Except where the appearance of either team is prevented by one of the events set forth in Paragraph 13, the party whose team fails to appear and participate in the Game(s) provided for in this Agreement shall pay the other party the sum of two thousand dollars (\$2,000.00) within sixty (60) days of the applicable Game date.

13. FORCE MAJEURE

In the event that either party is unable to perform this Agreement or participate in any Game for any reason beyond its reasonable control (a force majeure), including but not limited to fire, strike, flood, labor dispute, sickness or death of key personnel or athletes, energy shortage/blackout/power interruption, government intervention, acts of war or terrorism, earthquake or other casualty or natural disaster including suspected contagions in its facilities, epidemics, pandemics or government travel bans or lockdowns, NCAA, CUSA, or other applicable conference, league or division directive and/or mandate, the party who cannot perform will notify the other party as soon as practicable, and neither party shall have any liability to the other party for such failure in performance. Thereafter, the parties, may attempt, but are not obligated, to reschedule the Game for an alternate date and/or time.

14. MERGER AND AMENDMENT

This Agreement constitutes the entire agreement between the parties with respect to the subject and no prior or contemporaneous agreement, written or oral, will be effective to vary the terms of this Agreement. No amendment to this Agreement will be effective unless reduced to writing and signed by an authorized representative of each party. In the event the rules and regulations of the NCAA or the conference in which either school is a member should be amended, modified or changed in any manner so that the terms of this Agreement are in conflict with such rules or regulation, then the terms of this Agreement shall be considered amended so that the terms shall not conflict with such rules and regulations.

15. APPLICABLE LAW AND VENUE

This Agreement will be governed by and construed in accordance with the laws of the State of Texas without regard to any conflict of laws rule or principle that might refer the governance or construction of this Agreement to the laws of another jurisdiction. Subject to the sovereign immunity of the State of Texas, any legal proceeding brought in connection with disputes relating to or arising out of this Agreement will be filed and heard in El Paso County, Texas, and each party waives any objection that it might raise to such venue and any right it may have to claim that such venue is inconvenient.

HAVING READ this Agreement and the content and scope of each of its clauses understood by the contracting parties, they sign effective on the date of last signature as established below.

THE UNIVERSITY OF TEXAS AT EL PASO

UNIVERSITY OF NEW MEXICO

By: *Jim Senter*
Jim Senter
Vice President/ Athletics Director

By: *Eddie Nunez*
Eddie Nunez (Sep 29, 2023 09:19 MDT)

Date: Oct 13, 2023

Date: Sep 29, 2023

Nicole Dickson
Nicole Dickson (Sep 27, 2023 17:06 MDT)