THIS AGREEMENT entered into this 28<sup>th</sup> day of January 2004, by and between the West Virginia University Board of Governors, on behalf of West Virginia University, and Villanova University:

- 1. Purpose The purpose of this Agreement is to confirm the arrangements and conditions under which West Virginia University and the Villanova University will compete in one or more games of football as set forth in Section 2. This Agreement will supersede the Agreement dated December 28, 2001.
- 2. **Event** Each party shall cause its varsity football Team to play the other in a game of football (a "Game or "Games") in accordance with the terms of this Agreement. The games shall be held as set forth below:

Date	Place	Time	Home Team
August 30, 2008	Morgantown, W.Va.	TBA	West Virginia

- 3. Rules of Contest Each Game shall be governed by the applicable rules of the National Collegiate Athletic Association ("NCAA") as in effect at the time of the Game.
- 4. **Eligibility of Team Members** The eligibility of each Team member to participate in the Game shall be governed by the rules and regulations of the NCAA, its institution and the rules of the athletic conference, if any, of which each institution is a member.
- 5. **Officials** The officials for each Game shall be a solid crew assigned by the coordinator of football officiating of the conference or association of the Home Team.
- 6. Compensation to Visiting Team The Home Team for each Game shall compensate the Visiting Team a flat fee in th amount of \$250,000.00. Revenues from radio and television shall be distributed between parties as set forth in Sections 9 and 10 of this Agreement.

#### 7. Tickets

- A. Ticket prices will be set by the Home Team.
- B. The Visiting Team shall be allowed 300 complimentary tickets.
- C. Bands, cheerleaders and mascots for each Team shall be admitted without charge when in uniform and shall not be included in the complimentary ticket allotment. Seating for the Visiting Team band may come from the Visiting Team's ticket allotment and seats for the band shall not be in the coaching area. Unused tickets allocated for band seating will be returned to the Home Team prior to the game at not cost to the Visiting Team.

- D. The Visiting Team shall be allotted 3,800 tickets for sale to its fans. Any tickets unsold by the Visiting Team must be returned to the Home Team no later than three days before the date of the game or the Visiting Team will be responsible for paying the Home Team for such tickets.
- 8. **Sideline Passes** The Visiting Team shall be allowed 40 sideline passes at no charge, which passes shall be in addition to complimentary tickets and to the admission of bands, cheerleaders and mascots. Such passes are for use by coaches, trainers and working personnel only. Sideline passes must be worn by all personnel with the exception of Team players in uniform. All visiting team sideline passes will be restricted to the Visiting Team area (between the 25-yard lines).

#### 9. Radio Rights

- A. The Home Team shall retain the revenue from, and shall have full control, of all radio rights to broadcast the Game.
- B. Notwithstanding the foregoing, the Visiting Team shall be allowed two free outlets, one for a live commercial radio broadcast for which it shall retain the revenue from such broadcast and one student non-commercial radio broadcast. The Home Team shall provide adequate space for each radio outlet. All other radio broadcast rights, privileges and receipts therefrom shall belong exclusively to the Home Team.
- C. A network station of either Team may be designated only if it is carrying more than 50 percent of the games being played by the Team.
- 10. **Television, Film and Video Rights** The television rights will be governed by any existing or future crossover agreements established between the Home Team and the Visiting Team, or their respective Conferences. In an absence of such conference agreement by the year of the game and the time it is selected to be telecast, the following will govern:
- A. **National Broadcast or National Cable Networks** If the game is to be televised by any one of the broadcast networks (CBS, NBC, ABC, Fox, etc. or national syndication), on a national or regional basis or a national cable network (ESPN, ESPN2, FX Cable, Fox Sports Net, TBS, USA, etc.), the Home Team/Conference shall own all the rights and retain all of the rights fees. The Visiting Team/Conference in a national broadcast or cable network telecast shall have no rights and receive no fees, and must agree to participate in the telecast.
- B. Regional Syndication: Home and Away Local Market Telecasts If a game is not televised on a broadcast network or national cable network, the Home Team/Conference controls all television rights and the fee it shall receive for all other television markets except the local market of the Visiting Team. The Home Team/Conference shall determine who televises the game in all such other television markets, whether it be regionally syndicated or locally distributed in the Home Team's market, except the local markets of the Visiting Team. For its own local television market only, and assuming the game is not televised on a broadcast network or national cable network, the Visiting Team controls all local television rights, shall determine who televises the game, and the fee it shall receive. The Visiting Team is responsible for arranging with the home team/conference and host broadcaster for a "split feed" for its visiting local market.

- C. Visiting Team Local Market Telecast Only If the Home Team/Conference chooses not to televise the game, but the visiting team elects to televise it live back to its own local market, the following guidelines must be followed. The Visiting Team broadcaster must pay for all production costs and arrange with the home team for appropriate press box, camera, and mobile unit locations. The telecast is not permitted to air at a time or in a market that violates the home team/conference's contractual exclusivities with its network partners. The Home Team will consider a change request, but is not required to change, a start time to accommodate such a request by the Visiting Team in order to comply with exclusivity provisions.
- D. **Delayed Telecasts** The Home Team/Conference rights to a delayed telecast are subject to the provisions of its contracts with its network partners. A Visiting Team's delayed rights also are subject to the exclusivity provision of the Home Team's contracts with its network partners. Each team, whether the home or visiting, retains any rights fee for its own delayed telecast. Similar production provisions apply as in the above paragraphs, which pertain to "split feeds", or visiting market only live telecasts.
- E. Copyright The Home Team and Visiting Team shall own jointly the copyright in all forms of television broadcast, films, videotapes, videodiscs, recordings and any other recordings of the Games (collectively the "Recordings"). Each of the Teams shall have the right to reproduce and use or license the use or sale of any such Recordings for any purpose. It is expressly agreed by both Teams that in the event one Team wishes to sell or license any recording, or any part thereof, the other Team as a co-owner of the copyright on the recording will consent to such sale or license. The Teams further agree that neither Team shall be required to share with the other any income received from the sale, use or licensed use or sale of any such Recording. In order to fix and preserve such copyright, all contracts negotiated by or on behalf of either Team shall contain provisions requiring that the person, partnership, corporation or entity granted the television rights to such Game shall:
  - (i) make an announcement during the telecast of the game identifying the Teams as the coowners and grantors of the privileges and telecast rights for such transmissions and that any rebroadcast, re-telecast, retransmission or any other use of accounts and descriptions of the Game without the prior written consent of the Teams is prohibited;
  - (ii) include as a part of the opening and closing credits of the Game telecast a copyright notice consisting of the symbol "c" or the word "copyright" followed by the year that the Game is first telecast and the names of each Team;
  - (iii) film or videotape the Game and make and preserve copies of such film or videotape together with written evidence of the manner of fixation of the copyright notice and broadcast for copyright affix a copyright notice identical to that required under subsection I (ii) above.
- F. Game Film or Tape Each Team shall have the right to produce films/videotapes of the game for coaches' analysis. The Home Team shall provide reasonable facilities for equipment and personnel.
- 11. **Programs** The Visiting Team shall be furnished 100 complimentary game programs, to be delivered to its dressing room at least one hour before game time.

- 12. **Concession, Parking and Program Income** The Home Team shall have the exclusive rights to sell programs and run concessions and parking. All income from program sales, concessions and parking shall be the sole property of the Home Team.
- 13. **Settlement** Payment due under this Agreement shall be made 90 days following the date of each Game.
- 14. **Arrival of Teams** The Teams shall present themselves at the site of the Game in condition to play at least 30 minutes before the time advertised as the starting time of the Game.
- 15. **Impossibility** If an unforeseen catastrophe or disaster makes impossible the playing of a Game by either party, that Game shall be canceled, and neither party shall be responsible to the other for any loss or damage. Notwithstanding the preceding sentence, any financial obligations incurred by either party for promotion of the Game shall not be deemed a breach of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible. No such cancellation shall affect the parties' obligations as to subsequent Games covered by this Agreement.

## 16. Damages

A. If this Agreement is breached by the Visiting Team, and no Game occurs between the Home Team and the Visiting Team as a result of such breach, and if no Game with a team of similar stature is scheduled by the Home Team to replace the one canceled as a result of the breach, then the Visiting Team shall pay to the Home Team:

- (i) expenses incurred by the Home Team, if any, in preparing for the event which expenses shall include actual expenditures prior to the breach, and expenses accrued prior to the breach which cannot be avoided after the breach; and
- (ii) a liquidated sum of \$150,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, so that such \$150,000.00 shall represent liquidated damages for the Home Team's loss of revenue.
- B. If this Agreement is breached by the Home Team, and no Game occurs between the Home and Visiting Teams as a result of such breach, and if no Game with a team of similar stature is scheduled by the Visiting Team to replace the one canceled as a result of the breach, then the Home Team shall pay the Visiting Team a liquidated sum of \$150,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, so that such \$150,000.00 shall represent liquidated damages for the Visiting Team's loss of revenue.
- 17. **Integration** This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes in all respects all other agreements either written or oral. No amendment to this Agreement shall be valid unless reduced to writing and signed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto by their respective officers duly authorized, have caused this Agreement to be executed as of the date first above written.

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS

on behalf of West Virginia University

David C. Hardesty, Jr., President

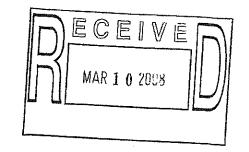
Ed Pastilong

**Director of Athletics** 

VILLANOVA UNIVERSITY

Vince Nicastro

Director of Athletics



# West Virginia University

THIS AGREEMENT entered into this 28th day of February 2008, by and between the West Virginia University Board of Governors, on behalf of West Virginia University, and Liberty University:

- 1. **Purpose** The purpose of this Agreement is to confirm the arrangements and conditions under which West Virginia University and Liberty University to compete in one or more games of football as set forth in Section 2.
- 2. Event Each party shall cause its varsity football Team to play the other in a game of football (a "Game or "Games") in accordance with the terms of this Agreement. The games shall be held as set forth below:

Date	Place	Time	Home Team
September 5, 2009	Morgantown, W.Va	TBA	West Virginia

- 3. Rules of Contest Each Game shall be governed by the applicable rules of the National Collegiate Athletic Association ("NCAA") as in effect at the time of the Game.
- 4. **Eligibility of Team Members** The eligibility of each Team member to participate in the Game shall be governed by the rules and regulations of the NCAA, its institution and the rules of the athletic conference, if any, of which each institution is a member.
- 5. **Officials** The officials for the contest shall be a solid crew appointed by the official's association representing the Home Team.
- 6. **Compensation to Visiting Team** That in consideration of playing the game, the Visiting Team shall receive a flat fee guarantee of \$365,000.00, payable within 90 days following the date of the contest.

#### 7. Tickets

- A. Ticket prices will be set by the Home Team.
- B. The Visiting Team shall be allowed 400 complimentary tickets.
- C. Bands, cheerleaders and mascots for each Team shall be admitted without charge when in uniform and shall not be included in the complimentary ticket allotment. Seating for the Visiting Team band may come from the Visiting Team's ticket allotment and seats for the band shall not be in the coaching area. Unused tickets allocated for band seating will be returned to the Home Team prior to the game at no cost to the Visiting Team, unless said tickets are not returned to and received by the Home Team at least ten (10) days before the date of the Game, in which case the Visiting Team will be responsible for paying to the Home Team for said unused tickets.

- D. The Visiting Team shall be allotted 2,000 tickets for sale to its fans. The Visiting Team shall pay the Home Team for all said tickets other than tickets utilized by the Visiting Team's band pursuant to Section 7.C which are not returned to and received by the Home Team at least ten days before the date of the Game. The Visiting Team shall be solely responsible for any and all costs it may incur as a result of the sale and distribution of said tickets.
- 8. **Sideline Passes** The Visiting Team shall be allowed 50 sideline passes at no charge, which passes shall be in addition to complimentary tickets and to the admission of bands, cheerleaders and mascots. Such passes are for use by coaches, trainers and working personnel only. Sideline passes must be worn by all personnel with the exception of Team players in uniform. All visiting team sideline passes will be restricted to the Visiting Team area (between the 25-yard lines).

#### 9. Radio Rights

- A. Except as stated in Section 9.B, the Home Team shall retain the revenue from, and shall have full control of, all locally originating and national radio rights to broadcast the Game, however disseminated, including, without limitation, by radio, satellite radio and/or internet.
- B. The Visiting Team shall be allowed two free radio outlets: one for a live, commercial, locally originated radio broadcast however disseminated including, without limitation, by radio, satellite radio and/or internet for which the Visiting Team shall retain the revenue from such broadcast; and one student non-commercial radio broadcast. The Home Team shall provide adequate space for each radio outlet. All other radio broadcast rights and privileges, and receipts therefrom, shall belong exclusively to the Home Team.
- C. Only those stations which carry more than fifty percent (50%) of the locally originated radio broadcasts of a Team shall be permitted to carry that Team's locally originated radio broadcast of any Game under this Agreement.

#### 10. Television, Film and Video Rights

- A. **National Live Telecasts** The right to negotiate national television contracts (such as ABC, CBS, NBC, FOX, ESPN, Turner, USA or other network whose distribution is national rather than regional) shall belong to the Home Team and/or its Conference and all revenue shall be distributed according to existing or future agreements between the conferences within which each team plays at the time of each Game.
- B. **Regional Telecasts** In the event the Game is not telecast live nationally, the Home Team has the right to authorize syndicated television coverage. All rights fees from syndications shall be distributed according to existing or future agreements between the conference within which each team plays at the time of each Game.
- C. Delay and Highlight Shows Subject to conference agreements, each Team shall have the right to produce one or more delayed television broadcasts of the Game and/or use video of the Game in its regular television program(s). Each Team shall retain all income it may receive from such opportunities.
- D. Copyright The Home Team and Visiting Team shall own jointly the copyright in all forms of television broadcast, films, videotapes, videodiscs, recordings and any other recordings of the Games (collectively the "Recordings"), except to the extent that copyright in the Recordings are

owned by one or more third parties pursuant to contract(s) entered into by the Home Team's conference to which the Home Team is obligated. Each of the Teams shall have the right to reproduce and use or license the use or sale of any such Recordings for any purpose. It is expressly agreed by both Teams that in the event one Team wishes to sell or license any recording, or any part thereof, the other Team as a co-owner of the copyright on the recording will consent to such sale or license. The Teams further agree that neither Team shall be required to share with the other any income received from the sale, use or licensed use or sale of any such Recording. In order to fix and preserve such copyright, all contracts negotiated by or on behalf of either Team shall contain provisions requiring that the person, partnership, corporation or entity granted the rights to such Game as identified in this Section 10(D) shall:

- (I) make an announcement during the telecast of the Game identifying the Teams as the co-owners and grantors of the privileges and telecast rights for such transmissions and stating that any rebroadcast, re-telecast, retransmission or any other use of accounts and descriptions of the Game without the prior written consent of the Teams is prohibited;
- (ii) include as a part of the opening and closing credits of the Game telecast a copyright notice consisting of the symbol "c" or the word "copyright" followed by the year that the Game is first telecast and the names of each Team;
- (iii) film or videotape the Game and make and preserve copies of such film or videotape together with written evidence of the manner of fixation of the copyright notice and broadcast for copyright affix a copyright notice identical to that required under subsection I (ii) above.
- E. Other Audio and Video Rights Except as specified in Sections 9 and 10, above, the Home Team shall retain any and all of its rights to the commercial exploitation of all audio and all video transmission or dissemination by any and all means (including without limitation internet transmission or dissemination), now known or hereafter existing.
- F. Game Film or Tape Each Team shall have the right to produce films/videotapes of the Game for coaches' analysis ("Coaches' films"). The Home Team shall provide reasonable facilities for equipment and personnel. Except as explicitly agreed in writing signed by both Parties, under no circumstances shall the Coaches' films be used for commercial or promotional purposes or for any other purpose other than coaches' analysis.
- 11. **Programs** The Visiting Team shall be furnished 100 complimentary game programs, to be delivered to its dressing room at least one hour before game time.
- 12. Concession, Parking and Program Income The Home Team shall have the exclusive rights to sell programs and run concessions and parking. All income from program sales, concessions and parking shall be the sole property of the Home Team.
- 13. Settlement Payment due under this Agreement shall be made 90 days following the date of each Game.
- 14. **Arrival of Teams** The Teams shall present themselves at the site of the Game in condition to play at least 30 minutes before the time advertised as the starting time of the Game.

15. Impossibility If an unforeseen catastrophe or disaster—such as, without limitation, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, or unusually severe weather—makes impossible the playing of a Game by either party, that Game shall be canceled, and neither party shall be responsible to the other for any loss or damage. Notwithstanding the preceding sentence, any financial obligations incurred by either party for promotion of the Game shall not be deemed a breach of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible. No such cancellation shall affect the parties' obligations as to subsequent Games covered by this Agreement.

#### 16. Damages

- A. If this Agreement is breached by the Visiting Team, and no Game occurs between the Home Team and the Visiting Team as a result of such breach, then the Visiting Team shall pay to the Home Team:
  - (I) expenses incurred by the Home Team, if any, in preparing for the event, which expenses shall include actual expenditures prior to the breach, and expenses obligated prior to the breach which cannot be avoided after the breach upon reasonable effort by the Home Team; and
  - (ii) a sum of \$500,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$600,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$500,000.00 (or, where relevant, \$600,000.00) is a reasonable estimate of damages for the Home Team's loss of revenue.
- B. If this Agreement is breached by the Home Team, and no Game occurs between the Home and Visiting Teams as a result of such breach, then the Home Team shall pay the Visiting Team a sum of \$300,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$300,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of represent liquidated damages for the Visiting Team's loss of revenue.
- 17. **Miscellaneous** This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes in all respects all other agreements either written or oral. No amendment to this Agreement shall be valid unless reduced to writing and signed by both parties hereto. No condition, covenant, duty or obligation contained in this Agreement can be waived except by written agreement signed by authorized representatives of each party. Forbearance or indulgence in any form or manner by either party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. The interests, rights, powers, duties and liabilities of the parties hereto shall attach to the benefit of and shall be binding upon each party's respective successors, assigns and other legal representatives. If one or more paragraphs or provisions of this Agreement shall be declared invalid, illegal or unenforceable under applicable laws, said invalid, illegal or unenforceable paragraphs or provisions shall be severed from this Agreement and the remaining paragraphs and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto by their respective officers duly authorized, have caused this Agreement to be executed as of the date first above written.

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS on behalf of West Virginia University Michael S. Garrison, President

by

Ed Pastilong

Director of Athletics

LIBERTY UNIVERSITY

by

Jeff Beffer Director of Athletics

## **WEST VIRGINIA UNIVERSITY**

#### COASTAL CAROLINA UNIVERSITY

#### Football Game Agreement

THIS AGREEMENT entered into this <u>30</u> th day of April 2008, by and between the West Virginia University Board of Governors, on behalf of West Virginia University, and Coastal Carolina University:

- 1. Purpose The purpose of this Agreement is to confirm the arrangements and conditions under which West Virginia University and Coastal Carolina University to compete in one or more games of football as set forth in Section 2.
- 2. Event Each party shall cause its varsity football Team to play the other in a game of football (a "Game or "Games") in accordance with the terms of this Agreement. The games shall be held as set forth below:

Date	Place	Time	Home Team
September 4, 2010	Morgantown, W.Va	TBA	West Virginia

- 3. Rules of Contest Each Game shall be governed by the applicable rules of the National Collegiate Athletic Association ("NCAA") as in effect at the time of the Game.
- 4. Eligibility of Team Members The eligibility of each Team member to participate in the Game shall be governed by the rules and regulations of the NCAA, its institution and the rules of the athletic conference, if any, of which each institution is a member.
- 5. Officials The officials for the contest shall be a solid crew appointed by the official's association representing the Home Team.
- 6. Compensation to Visiting Team That in consideration of playing the game, the Visiting Team shall receive a flat fee guarantee of \$350,000.00, payable within 90 days following the date of the contest.

#### 7. Tickets

- A. Ticket prices will be set by the Home Team.
- B. The Visiting Team shall be allowed 400 complimentary tickets.
- C. Bands, cheerleaders and mascots for each Team shall be admitted without charge when in uniform and shall not be included in the complimentary ticket allotment. Seating for the Visiting Team band may come from the Visiting Team's ticket allotment and seats for the band shall not be in the coaching area. Unused tickets allocated for band seating will be returned to the Home Team prior to the game at no cost to the Visiting Team, unless said tickets are not returned to and received by the Home Team at least ten (10) days before the date of the Game, in which case the Visiting Team will be responsible for paying to the Home Team for said unused tickets.

- D. The Visiting Team shall be allotted 3,500 tickets for sale to its fans. The Visiting Team shall pay the Home Team for all said tickets other than tickets utilized by the Visiting Team's band pursuant to Section 7.C which are not returned to and received by the Home Team per the following schedule: i) One month prior to the date of the game, the Visiting Team should retain no more than 500 unsold tickets from the original allotment sent by the home team; ii) Two weeks prior to the date of the game, the Visiting Team should retain no more than 200 unsold tickets from the original allotment sent by the home team; iii) On the night before the game, the Visiting Team may return no more than 100 unsold tickets from the original allotment sent by the home team; iv) With prior approval of the Home Team ticket manager, this policy may be amended to allow the Visiting Team more flexibility in returning unsold tickets. The Visiting Team shall be solely responsible for any and all costs it may incur as a result of the sale and distribution of said tickets.
- 8. Sideline Passes The Visiting Team shall be allowed 60 sideline passes at no charge, which passes shall be in addition to complimentary tickets and to the admission of bands, cheerleaders and mascots. Such passes are for use by coaches, trainers and working personnel only. Sideline passes must be worn by all personnel with the exception of Team players in uniform. All visiting team sideline passes will be restricted to the Visiting Team area (between the 25-yard lines).

#### 9. Radio Rights

- A. Except as stated in Section 9.B, the Home Team shall retain the revenue from, and shall have full control of, all locally originating and national radio rights to broadcast the Game, however disseminated, including, without limitation, by radio, satellite radio and/or internet.
- B. The Visiting Team shall be allowed two free radio outlets: one for a live, commercial, locally originated radio broadcast however disseminated including, without limitation, by radio, satellite radio and/or internet for which the Visiting Team shall retain the revenue from such broadcast; and one student non-commercial radio broadcast. The Home Team shall provide adequate space for each radio outlet. All other radio broadcast rights and privileges, and receipts therefrom, shall belong exclusively to the Home Team.
- C. Only those stations which carry more than fifty percent (50%) of the locally originated radio broadcasts of a Team shall be permitted to carry that Team's locally originated radio broadcast of any Game under this Agreement.

## 10. Television, Film and Video Rights

- A. **National Live Telecasts** The right to negotiate national television contracts (such as ABC, CBS, NBC, FOX, ESPN, Turner, USA or other network whose distribution is national rather than regional) shall belong to the Home Team and/or its Conference and all revenue shall be distributed according to existing or future agreements between the conferences within which each team plays at the time of each Game.
- B. Regional Telecasts In the event the Game is not telecast live nationally, the Home Team has the right to authorize syndicated television coverage. All rights fees from syndications shall be distributed according to existing or future agreements between the conference within which each team plays at the time of each Game.

- C. **Delay and Highlight Shows** Subject to conference agreements, each Team shall have the right to produce one or more delayed television broadcasts of the Game and/or use video of the Game in its regular television program(s). Each Team shall retain all income it may receive from such opportunities.
- D. Other Audio and Video Rights Except as specified in Sections 9 and 10, above, the Home Team shall retain any and all of its rights to the commercial exploitation of all audio and all video transmission or dissemination by any and all means (including without limitation internet transmission or dissemination), now known or hereafter existing.
- E. Game Film or Tape Each Team shall have the right to produce films/videotapes of the Game for coaches' analysis ("Coaches' films"). The Home Team shall provide reasonable facilities for equipment and personnel. Except as explicitly agreed in writing signed by both Parties, under no circumstances shall the Coaches' films be used for commercial or promotional purposes or for any other purpose other than coaches' analysis.
- 11. **Programs** The Visiting Team shall be furnished 100 complimentary game programs, to be delivered to its dressing room at least one hour before game time.
- 12. Concession, Parking and Program Income The Home Team shall have the exclusive rights to sell programs and run concessions and parking. All income from program sales, concessions and parking shall be the sole property of the Home Team.
- 13. **Settlement** Payment due under this Agreement shall be made 90 days following the date of each Game.
- 14. **Arrival of Teams** The Teams shall present themselves at the site of the Game in condition to play at least 30 minutes before the time advertised as the starting time of the Game.
- 15. Impossibility If an unforeseen catastrophe or disaster such as, without limitation, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, or unusually severe weather makes impossible the playing of a Game by either party, that Game shall be canceled, and neither party shall be responsible to the other for any loss or damage. Notwithstanding the preceding sentence, any financial obligations incurred by either party for promotion of the Game shall not be deemed a breach of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible. No such cancellation shall affect the parties' obligations as to subsequent Games covered by this Agreement.

#### 16. Damages

- A. If this Agreement is breached by the Visiting Team, and no Game occurs between the Home Team and the Visiting Team as a result of such breach, then the Visiting Team shall pay to the Home Team:
  - (i) expenses incurred by the Home Team, if any, in preparing for the event, which expenses shall include actual expenditures prior to the breach, and expenses obligated prior to the breach which cannot be avoided after the breach upon reasonable effort by the Home Team; and

- (ii) a sum of \$350,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$350,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of damages for the Home Team's loss of revenue.
- B. If this Agreement is breached by the Home Team, and no Game occurs between the Home and Visiting Teams as a result of such breach, then the Home Team shall pay the Visiting Team a sum of \$350,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$350,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of represent liquidated damages for the Visiting Team's loss of revenue.
- 17. Miscellaneous This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes in all respects all other agreements either written or oral. No amendment to this Agreement shall be valid unless reduced to writing and signed by both parties hereto. No condition, covenant, duty or obligation contained in this Agreement can be waived except by written agreement signed by authorized representatives of each party. Forbearance or indulgence in any form or manner by either party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. The interests, rights, powers, duties and liabilities of the parties hereto shall attach to the benefit of and shall be binding upon each party's respective successors, assigns and other legal representatives. If one or more paragraphs or provisions of this Agreement shall be declared invalid, illegal or unenforceable under applicable laws, said invalid, illegal or unenforceable paragraphs or provisions shall be severed from this Agreement and the remaining paragraphs and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto by their respective officers duly authorized, have caused this Agreement to be executed as of the date first above written.

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS

on behalf of West Virginia University

as

Michael S. Garrison, President

Ed Pastilong

Director of Athletics

COASTAL CAROLINA UNIVERSI

Warren Koegel

Director of Athletics

DAUIDA- De Genza President

## **WEST VIRGINIA UNIVERSITY**

## UNIVERSITY OF NEVADA, LAS VEGAS

## Football Game Agreement

THIS AGREEMENT entered into this 1<sup>st</sup> day of May 2009, by and between the West Virginia University Board of Governors, on behalf of West Virginia University, and the Nevada System of Higher Education (NSHE) on behalf of UNLV Athletics:

- 1. Purpose The purpose of this Agreement is to confirm the arrangements and conditions under which West Virginia University ("Home Team") and the University of Nevada, Las Vegas ("Visiting Team") will compete in one game of football as set forth in Section 2. This Agreement will supercedes any and all previous football agreements.
- 2. Event Each party shall cause its varsity football Team to play the other in a game of football (a "Game or "Games") in accordance with the terms of this Agreement. The games shall be held as set forth below:

Date	Place	Time	Home Team
October 9, 2010	Morgantown, W.Va.	TBA	West Virginia

- 3. Rules of Contest Each Game shall be governed by the applicable rules of the National Collegiate Athletic Association ("NCAA") as in effect at the time of the Game.
- 4. Eligibility of Team Members The eligibility of each Team member to participate in the Game shall be governed by the rules and regulations of the NCAA, its institution and the rules of the athletic conference, if any, of which each institution is a member.
- 5. Officials The officials for the contest shall be a solid crew appointed by the official's association representing the Home Team.
- 6. Compensation to Visiting Team That in consideration of playing the game, the Visiting Team shall receive a guarantee of \$740,000.00, payable within 90 days following the date of the contest.

#### 7. Tickets

- A. Ticket prices will be set by the Home Team.
- B. The Visiting Team shall be allowed 300 complimentary tickets.
- C. Bands, cheerleaders and mascots for each Team shall be admitted without charge when in uniform and shall not be included in the complimentary ticket allotment. Seating for the Visiting Team band may come from the Visiting Team's ticket allotment and seats for the band shall not be in the coaching area.

- D. The Visiting Team shall be allotted 1,000 tickets for sale to its fans. The Visiting Team shall retain no more than 500 unsold tickets form the original allotment two weeks prior to the date of the game. Three days prior to game day the Visiting Team may return no more than 150 unsold tickets which shall be overnighted to the Home Team.
- B. Sideline Passes The Visiting Team shall be allowed 60 sideline passes at no charge, which passes shall be in addition to complimentary tickets and to the admission of bands, cheerleaders and mascots. Such passes are for use by coaches, trainers and working personnel only. Sideline passes must be worn by all personnel with the exception of Team players in uniform. All visiting team sideline passes will be restricted to the Visiting Team area (between the 25-yard lines).

#### 9. Radio Rights

- A. Except as stated in Section 9(B), the Home Team shall retain the revenue from, and shall have full control of, all locally originating and national radio rights to broadcast the Game, however disseminated, including, without limitation, by radio, satellite radio and/or internet.
- B. The Visiting Team shall be allowed two free radio outlets: one for a live, commercial, locally originated radio broadcast however disseminated including, without limitation, by radio, satellite radio and/or internet for which the Visiting Team shall retain the revenue from such broadcast; and one student non-commercial radio broadcast. The Home Team shall provide adequate space for each radio outlet. All other radio broadcast rights and privileges, and receipts therefrom, shall belong exclusively to the Home Team.
- C. Only those stations which carry more than fifty percent (50%) of the locally originated radio broadcasts of a Team shall be permitted to carry that Team's locally originated radio broadcast of any Game under this Agreement.

#### 10. Television, Film and Video Rights

- A. National Live Telecasts The right to negotiate national television contracts (such as ABC, CBS, NBC, FOX, ESPN, Turner, USA or other network whose distribution is national rather than regional) shall belong to the Home Team and/or its Conference and all revenue shall be distributed according to existing or future agreements between the conferences within which each team plays at the time of each Game.
- B. Regional Telecasts In the event the Game is not telecast live nationally, the Home Team has the right to authorize syndicated television coverage. All rights fees from syndications shall be distributed according to existing or future agreements between the conference within which each team plays at the time of each Game.
- C. Delay and Highlight Shows Subject to conference agreements, each Team shall have the right to produce one or more delayed television broadcasts of the Game and/or use video of the Game in its regular television program(s). Each Team shall retain all income it may receive from such opportunities.
- D. Other Audio and Video Rights Except as specified in Sections 9 and 10, above, the Home Team shall retain any and all of its rights to the commercial exploitation of all audio and all video transmission or dissemination by any and all means (including without limitation internet transmission or dissemination), now known or hereafter existing.

- E. Game Film or Tape Each Team shall have the right to produce films/videotapes of the Game for coaches' analysis ("Coaches' films"). The Home Team shall provide reasonable facilities for equipment and personnel. Except as explicitly agreed in writing signed by both Parties, under no circumstances shall the Coaches' films be used for commercial or promotional purposes or for any other purpose other than coaches' analysis.
- 11. **Programs** The Visiting Team shall be furnished 100 complimentary game programs, to be delivered to its dressing room at least one hour before game time.
- 12. **Concession, Parking and Program Income** The Home Team shall have the exclusive rights to sell programs and run concessions and parking. All income from program sales, concessions and parking shall be the sole property of the Home Team.
- 13. Settlement Payment due under this Agreement shall be made 90 days following the date of each Game.
- 14. **Arrival of Teams** The Teams shall present themselves at the site of the Game in condition to play at least 30 minutes before the time advertised as the starting time of the Game.
- 15. Impossibility If an unforeseen catastrophe or disaster—such as, without limitation, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, or unusually severe weather—makes impossible the playing of a Game by either party, that Game shall be canceled, and neither party shall be responsible to the other for any loss or damage. Notwithstanding the preceding sentence, any financial obligations incurred by either party for promotion of the Game shall not be deemed a breach of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible. No such cancellation shall affect the parties' obligations as to subsequent Games covered by this Agreement.

#### 16. Damages

- A. If this Agreement is breached by the Visiting Team, and no Game occurs between the Home Team and the Visiting Team as a result of such breach, then the Visiting Team shall pay to the Home Team:
  - (I) expenses incurred by the Home Team, if any, in preparing for the event, which expenses shall include actual expenditures prior to the breach, and expenses obligated prior to the breach which cannot be avoided after the breach upon reasonable effort by the Home Team;
  - (ii) a sum of \$300,000,00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$300,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of damages for the Home Team's loss of revenue.
- B. If this Agreement is breached by the Home Team, and no Game occurs between the Home and Visiting Teams as a result of such breach, then the Home Team shall pay the Visiting Team a sum of \$300,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$300,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of represent liquidated damages for the Visiting Team's loss of revenue.

17. Miscellaneous This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes in all respects all other agreements either written or oral. No amendment to this Agreement shall be valid unless reduced to writing and signed by both parties hereto. No condition, covenant, duty or obligation contained in this Agreement can be waived except by written agreement signed by authorized representatives of each party. Forbearance or indulgence in any form or manner by either party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. The interests, rights, powers, duties and liabilities of the parties hereto shall attach to the benefit of and shall be binding upon each party's respective successors, assigns and other legal representatives. If one or more paragraphs or provisions of this Agreement shall be declared invalid, illegal or unenforceable under applicable laws, said invalid, illegal or unenforceable paragraphs or provisions shall be severed from this Agreement and the remaining paragraphs and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto by their respective officers duly authorized, have caused this Agreement to be executed as of the date first above written.

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS

on behalf of West Virginia University C. Peter Magrath, Interim President

Ed Pastilono

**Director of Athletics** 

NEVADA SYSTEM OF HIGHER EDUCATION

on behalf of UNLVAthletics

Mike Hamrick

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Director of Athletics

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#### WEST VIRGINIA UNIVERSITY

#### NORFOLK STATE UNIVERSITY

#### Football Game Agreement

THIS AGREEMENT entered into this 1st day of August 2008, by and between the West Virginia University Board of Governors, on behalf of West Virginia University, and Norfolk State University:

- 1. Purpose The purpose of this Agreement is to confirm the arrangements and conditions under which West Virginia University and Norfolk State University to compete in one or more games of football as set forth in Section 2.
- 2. Event Each party shall cause its varsity football Team to play the other in a game of football (a "Game or "Games") in accordance with the terms of this Agreement. The games shall be held as set forth below:

Date	Place	Time	Home Team
September 10, 2011	Morgantown, W.Va	TBA	West Virginia

- 3. Rules of Contest Each Game shall be governed by the applicable rules of the National Collegiate Athletic Association ("NCAA") as in effect at the time of the Game.
- 4. Eligibility of Team Members The eligibility of each Team member to participate in the Game shall be governed by the rules and regulations of the NCAA, its institution and the rules of the athletic conference, if any, of which each institution is a member.
- 5. **Officials** The officials for the contest shall be a solid crew appointed by the official's association representing the Home Team.
- 6. **Compensation to Visiting Team** That in consideration of playing the game, the Visiting Team shall receive compensation in the amount of \$325,000,00, payable within 90 days following the date of the contest.

#### 7. Tickets

- A. Ticket prices will be set by the Home Team.
- B. The Visiting Team shall be allowed 400 complimentary tickets.
- C. Bands, cheerleaders and mascots for each Team shall be admitted without charge when in uniform and shall not be included in the complimentary ticket allotment. Seating for the Visiting Team band may come from the Visiting Team's ticket allotment and seats for the band shall not be in the coaching area. Unused tickets allocated for band seating will be returned to the Home Team prior to the game at no cost to the Visiting Team, unless said tickets are not returned to and received by the Home Team at least ten (10) days before the date of the Game, in which case the Visiting Team will be responsible for paying to the Home Team for said unused tickets.

- D. The Visiting Team shall be allotted 2,500 tickets for sale to its fans. The Visiting Team shall pay the Home Team for all said tickets other than tickets utilized by the Visiting Team's band pursuant to Section 7.C which are not returned to and received by the Home Team per the following schedule: i) One month prior to the date of the game, the Visiting Team should retain no more than 500 unsold tickets from the original allotment sent by the home team; ii) Two weeks prior to the date of the game, the Visiting Team should retain no more than 200 unsold tickets from the original allotment sent by the home team; iii) On the night before the game, the Visiting Team may return no more than 100 unsold tickets from the original allotment sent by the home team; iv) With prior approval of the Home Team ticket manager, this policy may be amended to allow the Visiting Team more flexibility in returning unsold tickets. The Visiting Team shall be solely responsible for any and all costs it may incur as a result of the sale and distribution of said tickets.
- 8. Sideline Passes The Visiting Team shall be allowed 60 sideline passes at no charge, which passes shall be in addition to complimentary tickets and to the admission of bands, cheerleaders and mascots. Such passes are for use by coaches, trainers and working personnel only. Sideline passes must be worn by all personnel with the exception of Team players in uniform. All visiting team sideline passes will be restricted to the Visiting Team area (between the 25-yard lines).

#### 9. Radio Rights

- A. Except as stated in Section 9.B, the Home Team shall retain the revenue from, and shall have full control of, all locally originating and national radio rights to broadcast the Game, however disseminated, including, without limitation, by radio, satellite radio and/or internet.
- B. The Visiting Team shall be allowed two free radio outlets: one for a live, commercial, locally originated radio broadcast however disseminated including, without limitation, by radio, satellite radio and/or internet for which the Visiting Team shall retain the revenue from such broadcast; and one student non-commercial radio broadcast. The Home Team shall provide adequate space for each radio outlet. All other radio broadcast rights and privileges, and receipts therefrom, shall belong exclusively to the Home Team.
- C. Only those stations which carry more than fifty percent (50%) of the locally originated radio broadcasts of a Team shall be permitted to carry that Team's locally originated radio broadcast of any Game under this Agreement.

#### 10. Television, Film and Video Rights

- A. **National Live Telecasts** The right to negotiate national television contracts (such as ABC, CBS, NBC, FOX, ESPN, Turner, USA or other network whose distribution is national rather than regional) shall belong to the Home Team and/or its Conference and all revenue shall be distributed according to existing or future agreements between the conferences within which each team plays at the time of each Game.
- B. **Regional Telecasts** In the event the Game is not telecast live nationally, the Home Team has the right to authorize syndicated television coverage. All rights fees from syndications shall be distributed according to existing or future agreements between the conference within which each team plays at the time of each Game.
- C. Delay and Highlight Shows Subject to conference agreements, each Team shall have the right to produce one or more delayed television broadcasts of the Game and/or use video of the

Game in its regular television program(s). Each Team shall retain all income it may receive from such opportunities.

- D. Other Audio and Video Rights Except as specified in Sections 9 and 10, above, the Home Team shall retain any and all of its rights to the commercial exploitation of all audio and all video transmission or dissemination by any and all means (including without limitation internet transmission or dissemination), now known or hereafter existing.
- E. Game Film or Tape Each Team shall have the right to produce films/videotapes of the Game for coaches' analysis ("Coaches' films"). The Home Team shall provide reasonable facilities for equipment and personnel. Except as explicitly agreed in writing signed by both Parties, under no circumstances shall the Coaches' films be used for commercial or promotional purposes or for any other purpose other than coaches' analysis.
- 11. Programs The Visiting Team shall be furnished 100 complimentary game programs, to be delivered to its dressing room at least one hour before game time.
- 12. Concession, Parking and Program Income The Home Team shall have the exclusive rights to sell programs and run concessions and parking. All income from program sales, concessions and parking shall be the sole property of the Home Team.
- 13. **Settlement** Payment due under this Agreement shall be made 90 days following the date of each Game.
- 14. Arrival of Teams The Teams shall present themselves at the site of the Game in condition to play at least 30 minutes before the time advertised as the starting time of the Game.
- 15. Impossibility If an unforeseen catastrophe or disaster such as, without limitation, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, or unusually severe weather makes impossible the playing of a Game by either party, that Game shall be canceled, and neither party shall be responsible to the other for any loss or damage. Notwithstanding the preceding sentence, any financial obligations incurred by either party for promotion of the Game shall not be deemed a breach of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible. No such cancellation shall affect the parties' obligations as to subsequent Games covered by this Agreement.

#### 16. Damages

A. If this Agreement is breached by the Visiting Team, and no Game occurs between the Home Team and the Visiting Team as a result of such breach, then the Visiting Team shall pay to the Home Team:

- (I) expenses incurred by the Home Team, if any, in preparing for the event, which expenses shall include actual expenditures prior to the breach, and expenses obligated prior to the breach which cannot be avoided after the breach upon reasonable effort by the Home Team; and
- (ii) a sum of \$325,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$325,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of damages for the Home Team's loss of revenue.

B. If this Agreement is breached by the Home Team, and no Game occurs between the Home and Visiting Teams as a result of such breach, then the Home Team shall pay the Visiting Team a sum of \$325,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$325,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of represent liquidated damages for the Visiting Team's loss of revenue.

17. Miscellaneous This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes in all respects all other agreements either written or oral. No amendment to this Agreement shall be valid unless reduced to writing and signed by both parties hereto. No condition, covenant, duty or obligation contained in this Agreement can be waived except by written agreement signed by authorized representatives of each party. Forbearance or indulgence in any form or manner by either party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. The interests, rights, powers, duties and liabilities of the parties hereto shall attach to the benefit of and shall be binding upon each party's respective successors, assigns and other legal representatives. If one or more paragraphs or provisions of this Agreement shall be declared invalid, illegal or unenforceable under applicable laws, said invalid, illegal or unenforceable paragraphs or provisions shall be severed from this Agreement and the remaining paragraphs and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto by their respective officers duly authorized, have caused this Agreement to be executed as of the date first above written.

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS

on behalf of West Virginia University

C. Peter Magrath, Interim President

Ed Pastilong

Director of Athletics

NORFOLK STATE UNIVERSITY

Marty Miller

## WEST VIRGINIA UNIVERSITY

#### **BOWLING GREEN STATE UNIVERSITY**

## Football Game Agreement

THIS AGREEMENT entered into this 24th day of August 2010, by and between the West Virginia University Board of Governors, on behalf of West Virginia University, and Bowling Green State University:

- 1. **Purpose** The purpose of this Agreement is to confirm the arrangements and conditions under which West Virginia University ("Home Team") and Bowling Green State University ("Visiting Team") will compete in one game of football as set forth in Section 2. This Agreement will supercedes any and all previous football agreements.
- 2. **Event** Each party shall cause its varsity football Team to play the other in a game of football (a "Game or "Games") in accordance with the terms of this Agreement. The games shall be held as set forth below:

Date	Place	Time	Home Team
October 1, 2011	Morgantown, W.Va.	TBA	West Virginia

- 3. **Rules of Contest** Each Game shall be governed by the applicable rules of the National Collegiate Athletic Association ("NCAA") as in effect at the time of the Game.
- 4. **Eligibility of Team Members** The eligibility of each Team member to participate in the Game shall be governed by the rules and regulations of the NCAA, its institution and the rules of the athletic conference, if any, of which each institution is a member.
- 5. **Officials** The officials for the contest shall be a solid crew appointed by the official's association representing the Home Team.
- 6. Compensation to Visiting Team That in consideration of playing the game, the Visiting Team shall receive compensation in the amount of Seven Hundred Seventy Five Thousand Dollars (\$775,000.00), payable within ninety (90) days following the date of the contest.

#### 7. Tickets

- A. Ticket prices will be set by the Home Team.
- B. The Visiting Team shall be allowed four hundred (400) complimentary tickets.
- C. Bands, cheerleaders and mascots for each Team shall be admitted without charge when in uniform and shall not be included in the complimentary ticket allotment. Seating for the Visiting Team band may come from the Visiting Team's ticket allotment and seats for the band shall not be in the coaching area.

- D. The Visiting Team shall be allotted two thousand (2,000) tickets for sale to its fans. The Visiting Team shall retain no more than five hundred (500) unsold tickets form the original allotment two weeks prior to the date of the game. Three days prior to game day the Visiting Team may return no more than one hundred fifty (150) unsold tickets which shall be overnighted to the Home Team.
- 8. **Sideline Passes** The Visiting Team shall be allowed sixty (60) sideline passes at no charge, which passes shall be in addition to complimentary tickets and to the admission of bands, cheerleaders and mascots. Such passes are for use by coaches, trainers and working personnel only. Sideline passes must be worn by all personnel with the exception of Team players in uniform. All visiting team sideline passes will be restricted to the Visiting Team area (between the 25-yard lines).

#### 9. Radio Rights

- A. Except as stated in Section 9 (B), the Home Team shall retain the revenue from, and shall have full control of, all locally originating and national radio rights to broadcast the Game, however disseminated, including, without limitation, by radio, satellite radio and/or internet.
- B. The Visiting Team shall be allowed two free radio outlets: one for a live, commercial, locally originated radio broadcast however disseminated including, without limitation, by radio, satellite radio and/or internet for which the Visiting Team shall retain the revenue from such broadcast; and one student non-commercial radio broadcast. The Home Team shall provide adequate space for each radio outlet. All other radio broadcast rights and privileges, and receipts therefrom, shall belong exclusively to the Home Team.
- C. Only those stations which carry more than fifty percent (50%) of the locally originated radio broadcasts of a Team shall be permitted to carry that Team's locally originated radio broadcast of any Game under this Agreement.

## 10. Television, Film and Video Rights

- A. **National Live Telecasts** The right to negotiate national television contracts (such as ABC, CBS, NBC, FOX, ESPN, Turner, USA or other network whose distribution is national rather than regional) shall belong to the Home Team and/or its Conference and all revenue shall be distributed according to existing or future agreements between the conferences within which each team plays at the time of each Game.
- B. **Regional Telecasts** In the event the Game is not telecast live nationally, the Home Team has the right to authorize syndicated television coverage. All rights fees from syndications shall be distributed according to existing or future agreements between the conference within which each team plays at the time of each Game,
- C. **Delay and Highlight Shows** Subject to conference agreements, each Team shall have the right to produce one or more delayed television broadcasts of the Game and/or use video of the Game in its regular television program(s). Each Team shall retain all income it may receive from such opportunities.
- D. **Other Audio and Video Rights** Except as specified in Sections 9 and 10, above, the Home Team shall retain any and all of its rights to the commercial exploitation of all audio and all video transmission or dissemination by any and all means (including without limitation internet transmission or dissemination), now known or hereafter existing.

- E. Game Film or Tape Each Team shall have the right to produce films/videotapes of the Game for coaches' analysis ("Coaches' films"). The Home Team shall provide reasonable facilities for equipment and personnel. Except as explicitly agreed in writing signed by both Parties, under no circumstances shall the Coaches' films be used for commercial or promotional purposes or for any other purpose other than coaches' analysis.
- 11. **Programs** The Visiting Team shall be furnished one hundred (100) complimentary game programs, to be delivered to its dressing room at least one hour before game time.
- 12. Concession, Parking and Program Income The Home Team shall have the exclusive rights to sell programs and run concessions and parking. All income from program sales, concessions and parking shall be the sole property of the Home Team.
- 13. **Settlement** Payment due under this Agreement shall be made ninety (90) days following the date of each Game.
- 14. **Arrival of Teams** The Teams shall present themselves at the site of the Game in condition to play at least thirty (30) minutes before the time advertised as the starting time of the Game.
- 15. **Impossibility** If an unforeseen catastrophe or disaster such as, without limitation, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, or unusually severe weather makes impossible the playing of a Game by either party, that Game shall be canceled, and neither party shall be responsible to the other for any loss or damage. Notwithstanding the preceding sentence, any financial obligations incurred by either party for promotion of the Game shall not be deemed a breach of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible. No such cancellation shall affect the parties' obligations as to subsequent Games covered by this Agreement.

#### 16. Damages

A. If this Agreement is breached by the Visiting Team, and no Game occurs between the Home Team and the Visiting Team as a result of such breach, then the Visiting Team shall pay to the Home Team:

- (I) expenses incurred by the Home Team, if any, in preparing for the event, which expenses shall include actual expenditures prior to the breach, and expenses obligated prior to the breach which cannot be avoided after the breach upon reasonable effort by the Home Team; and
- (ii) a sum of Three Hundred Thousand Dollars (\$300,000.00) as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of Five Hundred Thousand Dollars (\$500,000.00). The parties agree that it is difficult to predict attendance and revenues for any event, and that such Three Hundred Thousand Dollars (\$300,000.00) (or, where relevant, Five Hundred Thousand Dollars (\$500,000.00)) is a reasonable estimate of damages for the Home Team's loss of revenue.
- B. If this Agreement is breached by the Home Team, and no Game occurs between the Home and Visiting Teams as a result of such breach, then the Home Team shall pay the Visiting Team a sum of Three Hundred Thousand Dollars (\$300,000.00) as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of Five Hundred Thousand Dollars (\$500,000.00). The parties agree that

it is difficult to predict attendance and revenues for any event, and that such Three Hundred Thousand Dollars (\$300,000.00) (or, where relevant, Five Hundred Thousand Dollars (\$500,000.00)) is a reasonable estimate of represent liquidated damages for the Visiting Team's loss of revenue.

17. **Miscellaneous** This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes in all respects all other agreements either written or oral. No amendment to this Agreement shall be valid unless reduced to writing and signed by both parties hereto. No condition, covenant, duty or obligation contained in this Agreement can be waived except by written agreement signed by authorized representatives of each party. Forbearance or indulgence in any form or manner by either party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. The interests, rights, powers, duties and liabilities of the parties hereto shall attach to the benefit of and shall be binding upon each party's respective successors, assigns and other legal representatives. If one or more paragraphs or provisions of this Agreement shall be declared invalid, illegal or unenforceable under applicable laws, said invalid, illegal or unenforceable paragraphs or provisions shall be severed from this Agreement and the remaining paragraphs and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto by their respective officers duly authorized, have caused this Agreement to be executed as of the date first above written.

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS on behalf of West Virginia University James P. Clements, President

by / 54/

Director of Athletics

**BOWLING GREEN STATE UNIVERSITY** 

Greg/Christopher

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Director of Athletics

## WFI STADIUM, INC.

#### WEST VIRGINIA UNIVERSITY

## LICENSE AND OPERATING AGREEMENT

LICENSE AND OPERATING AGREEMENT (this "Agreement") dated as of the 29th day of June, 2011 by and between WFI STADIUM, INC., a Delaware corporation duly authorized to do business in Maryland, with its principal office at FedExField, 1600 FedEx Way, Landover, Maryland, 20785 ("WFI") and West Virginia University Board of Governors on behalf of West Virginia University and its Department of Intercollegiate Athletics, located in Morgantown, West Virginia 26506 ("WVU").

#### WITNESSETH

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WHEREAS, WFI owns and operates FedExField (the "Stadium") located in Prince George's County, Maryland; and

WHEREAS, WVU desires to enter into this Agreement to participate in a live college football game versus James Madison University ("<u>JMU</u>") to be played on September 15, 2012 (the "<u>Event</u>"), (WVU and JMU shall collectively be referred to as the "<u>Teams</u>") and;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## 1. <u>SETTLEMENT</u>.

- A. In consideration for WVU's use of the Stadium and WFI's provision of the Stadium, WFI shall pay WVU the sum of Two Million Three Hundred Thousand Dollars (\$2,300,000.00) (the "Settlement"), such Settlement to be made within forty-five (45) consecutive days following the Event.
- B. In addition, WVU shall receive Seven Dollars and Fifty Cents (\$7.50) (the "Bonus Settlement") per ticket for any tickets sold in excess of forty-five thousand (45,000) tickets, an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00). "Tickets sold" includes any ticket that has been purchased and for which money has been collected; this shall include, but not limited to, tickets associated with General Admission and Premium tickets. "Tickets sold" do not include complimentary tickets, suite tickets, obstructed view seats, tickets included in sponsorship agreements, handicap seats, barter transactions and

camera locations. Such Bonus Settlement will be made within forty-five (45) consecutive days following the Event.

- C. WVU shall not be entitled to any additional fees beyond the Settlement and Bonus Settlement amounts, including, but not limited to, Suite licensing fees; parking fees; Ticketmaster rebates; concessions; merchandise sales; and Admissions and Amusement Taxes.
- D. WFI will be responsible for all fees, guarantees or settlements made to JMU.

# 2. <u>EVENT CONFIRMATION AND TICKET SALES.</u>

A. On or before \_\_\_\_\_\_\_\_, 2011 (the "Confirmation Date"), WFI shall deliver to WVU sufficient and satisfactory written documentation (the "Event Confirmation"), such Event Confirmation shall confirm that JMU has executed a written agreement to participate in the Event as the visiting team. If the Event is not confirmed on or before the Confirmation Date, this Agreement shall terminate immediately with respect to the Event, without any liability of either party to the other.

# B. Event ticket sales shall be in accordance with the following:

- i. The average ticket price for General Admission (General Admission consists of the lower bowl (excluding Dream Seats) and the upper bowl) tickets will not exceed Eighty Dollars (\$80.00) per ticket for the Event exclusive of any and all applicable taxes, parking fees, shipping and handling, and any other applicable service charges.
- ii. The average ticket price for Premium tickets (i.e. Club Level, Loge Level, and Dream Seats (rows 1-3 in lower bowl)) shall not exceed One Hundred Twenty Five Dollars (\$125.00) per ticket for the Event exclusive of any and all applicable taxes, parking fees, shipping and handling, and any other applicable service charges.
  - iii. Suites shall be priced in the sole discretion of WFI.
- iv. WFI shall provide WVU with access to up to fifteen thousand (15,000) tickets for sale to WVU's season ticket holders. The location of such tickets shall be negotiated by the parties. WVU shall use its best efforts to sell all tickets provided to WVU pursuant to this Section 2(B)(iv). Not later than ninety (90) days prior to the Event, WVU shall report to WFI the status of ticket sales by WVU. WFI shall have the right, upon receipt of such report, to require WVU to return any or all unsold tickets to WFI for sale by WFI, WVU shall be permitted to sell tickets at face value and retain all income from the sale of those tickets, including taxes, parking fees, shipping and handling, and any other applicable

service charges. WFI shall deduct all such income retained by WVU from the Settlement. In the event that such income exceeds Two Million Three Hundred Thousand Dollars (\$2,300,000.00), WVU shall pay WFI all monies in excess of Two Million Three Hundred Thousand Dollars (\$2,300,000.00) within thirty (30) consecutive days of the Event.

- v. WVU acknowledges and agrees that the Event is a WVU home game.
- 3. <u>COMPLIMENTARY TICKETS</u>. WFI will provide WVU with nine hundred (900) complimentary tickets to the Event with all such tickets located in the lower bowl of the Stadium in a section reasonably acceptable to WVU. The WVU band and cheerleading squad (including mascots) shall receive complimentary admission to the Stadium for the Event from among the nine hundred (900) complimentary tickets provided to WVU herein. WVU is prohibited from selling any complimentary tickets provided pursuant to this Agreement.
- 4. <u>PARKING</u>. A parking fee shall be added to the ticket price for each ticket available for sale for the Event (there is no parking fee added to complimentary tickets). In addition, WFI reserves the right to add additional parking fees for VIP, limousine, RV, and bus parking. WFI shall retain all parking revenues.
- 5. <u>REVENUES.</u> WFI shall retain all revenues, less the Settlement, from the Event.
- 6. <u>HOSPITALITY</u>. WFI shall have the right to create and sell hospitality packages, which may include tickets, food, beverages, and other items at WFI's sole discretion. WFI shall retain all revenues from any and all such hospitality packages. The pricing of any such hospitality packages shall be determined in the reasonable discretion of WFI, but in no event shall such pricing exceed the then-current pricing for similar hospitality packages available during Washington Redskins home football games. WFI will provide to WVU for use by its Alumni Association one (1) hospitality tent for up to five hundred (500) persons, which shall open three (3) hours before game kickoff and close at game kickoff. WFI shall not charge WVU for the tent; however, WVU shall be responsible for all expenses associated with the tent, including, but not limited to food, beverage, entertainment, staffing, etc., all of which must be procured through WFI. WVU is prohibited from charging admission to the hospitality tent in any form (i.e. tickets, passes, etc.).

## 7. GAME DAY OPERATIONS.

A. For all purposes related to the Event, WVU shall be designated as the home team and JMU shall be designated as the visiting team. As the home team, WVU shall retain all of the standard rights and obligations of the home

team of an NCAA college football game including, but not limited to, use of the Washington Redskins home team locker room at FedEx Field. JMU shall have use of the visiting team locker room at FedEx Field.

- B. WFI will provide (at WFI's own expense) reasonable and customary game day operations and services, including security, police, ticket takers, ushers, scoreboard, video board, and public address operations. WFI will also provide locker room attendants, liaisons for WVU equipment, and training and medical staff.
- C. WVU and JMU have mutually agreed to use Big East Conference officials for the Event. Payment of officials (including any replay officials) will be the responsibility of WFI, but in no case shall WFI be required to spend in excess of Seventeen Thousand Dollars (\$17,000.00) for officials, which sum shall include any travel, lodging, food, etc. for such officials.
- D. WFI shall not be responsible for any Team travel, transportation, lodging, meals, parties, or any other Team related expenses.
- E. WVU may elect, at its own cost and expense, produce its standard game day program for the Event, provide all labor involved in selling the program or distributing the program at no charge, and retain all revenue from the advertising and/or gameday sales thereof. If WVU desires to have WFI assist with the sale or distribution of programs, WVU shall pay WFI for all staff provided by WFI.
- 8. <u>SALE OF ALCOHOL</u>. WFI shall have the right to sell alcohol during the Event in its sole discretion.

## 9. <u>ALTERATIONS, SIGNS, ADVERTISING, ETC.</u>

- A. WVU shall not mark, paint, drill into or in any way mar or deface any part of the Stadium or make any alterations or improvements in or to the Stadium without the prior written consent of WFI. Notwithstanding the foregoing, WFI shall allow WVU to designate and/or approve the painting of the surface of the field in a manner customary with all other WVU home football games. WFI will be responsible for any costs associated with painting the surface of the field. WFI shall not paint or otherwise place any game specific sponsorship materials on the playing field without prior approval by WVU which will not be unreasonably withheld, conditioned, or delayed.
- B. No advertising, whether by scoreboard, poster, placard, sign, handbills or audible transmission shall be permitted anywhere in the Stadium without the prior written approval of WFI which shall not be unreasonably withheld, conditioned, or delayed. No banner shall be displayed in the Stadium unless the banner, the banner contents, and the place in which the banner is to

be displayed are approved in advance and in writing by WFI. However, in no event shall any banners cover existing Stadium signage.

C. WFI shall have the right to obtain and use WVU's name and/or logo for inclusion in approved Event related advertising, merchandising, and/or material. Any use of the logos shall be subject to the prior written approval of WVU Trademark Licensing Services, which shall not be unreasonably withheld. This authorization is limited in scope and duration to this Agreement and shall not be construed as an assignment to WFI of any rights, title or interest in said name and/or logos.

## 10. MEDIA RIGHTS.

- A. The right to negotiate national, regional and/or local television broadcast rights agreements for the Event, including the exploitation of all audio and all video transmission or dissemination by any and all means and without limitation internet transmission or dissemination now known or hereafter existing, shall belong to WVU and/or its Conference and all revenue shall be distributed to the Teams according to existing or future agreements between the conferences within which each Team participates at the time of Event.
- B. The right to negotiate national radio broadcast rights and satellite radio rights agreements for the Event shall belong to WVU and/or its Conference and all revenue shall be retained by WVU and/or its Conference.
- C. Notwithstanding the foregoing, each Team shall be allowed two free outlets, one for a live commercial radio broadcast for which it shall retain the revenue from such broadcast and one student non-commercial radio broadcast. WFI shall provide adequate space for each radio outlet. A network station of either Team may be designated only if it is carrying more than fifty (50) percent of the games being played by the Teams.
- D. WFI shall have the right to photograph, video, and otherwise record the Event, and use such photos, video, and recordings in WFI's marketing and promotional materials for future Stadium events in WFI's sole discretion. The parties agree that such photograph, video, other recordings shall not be used by WFI directly in for-profit applications (i.e. in for-profit applications not designed to market or promote future Stadium events).
- 11. <u>SPONSORSHIP RIGHTS</u>. WFI shall have the sole right to sell sponsorships to the Event, including, but not limited to, procuring a "title" or "name" sponsor for the Event. In light of WVU's preexisting contractual obligations, WVU shall have the right to approve the "title" or "name" sponsor for the Event in advance, which approval may not be unreasonably withheld, conditioned or delayed.

- 12. <u>MERCHANDISE SALES.</u> WFI reserves the right to operate all of its merchandise locations during the Event. WFI shall retain all revenue from all merchandise sales for the Event. The manufacture and/or sale by WFI of any promotional product or merchandise bearing the WVU name and/or logos in association with this Agreement must be under license from WVU Trademark Licensing Services.
- 13. <u>FIELD/LOCKER ROOM USE</u>. WVU shall have access to the playing field at FedEx Field for a sixty (60) minute walk-thru during a mutually agreed upon time on the day prior to the Event. Such walk-thru shall be limited to WVU's coaches, players, and other necessary personnel.
- 14. <u>CREDENTIALS</u>. WFI and WVU will mutually agree upon the number of credential passes for admission to and from the Stadium on the Event date to be used by the media, school participants and other parties reasonably determined by the parties to require access to the Stadium.
- 15. WVU MARKETING OBLIGATION. In connection with its obligation to use best efforts to sell tickets pursuant to Section 2(b)(iv) WVU shall market the Event via e-mail, direct mail, campus publications, billing statements, and other means to lists controlled by the WVU Department of Intercollegiate Athletics which contain students, alumni, faculty and staff, supporters, and donors beginning September 16, 2011 through the date of the Event (the "Marketing Period").
- 16. <u>DAMAGE PROVISIONS</u>. All contracts, orders, purchase commitments or other arrangements with suppliers, material men or laborers for the production of the Event (including, without limitation, the loading and unloading of WVU's equipment, set-up and tear down of, catering, locker room items, and Team security) shall be made by and in the name of WVU or its agents, with WFI having no liability therefor. WVU shall use reasonable efforts required in any such contract with any relevant party to take all actions or means necessary as reasonably determined by WFI to protect the Stadium, including its surface, walls, gates, ramps, or environs, from damage while performing that party's contractual obligations and to be responsible for any damage occasioned thereto by such party or its agents.

## 17. PROHIBITED ITEMS/ SECURITY.

A. No weapons or other items prohibited by WFI (e.g. guns, bottles, alcohol, etc.) of any kind or nature shall be permitted to be brought into the Stadium and WFI shall have the right, in its sole discretion, to request an advance weapon check for any person entering the Stadium. Any person found carrying a weapon shall not be permitted to enter the Stadium. To the extent allowed by Maryland law, the forgoing prohibition shall not apply to any

commissioned law enforcement officer of the State of West Virginia assigned to escort the WVU team and its personnel.

- B. It is hereby understood and agreed that WFI, in its sole discretion, after consultation with WVU, shall be entitled to utilize special security equipment anywhere in the Stadium, including, but not limited to, any entrances to be utilized by the public or WVU or their employees, agents or guests.
- C. As between the parties, any and all security requirements or problems will be brought to the attention of, and will be subject to the ultimate authority and control of WFI's security personnel.
- 18. <u>REMOVAL OF PERSONS</u>. WFI reserves the right to eject or cause to be ejected from the Stadium, any person or persons violating the rules or regulations of the Stadium or any City, County or State law and neither WFI nor any of its officers, agents or employees shall be liable to WVU for any damages that may be sustained by WVU through the exercise by WFI of such right.

## TERMINATION OF AGREEMENT: EVENT CANCELLATION.

- A. If JMU i) notifies either WFI or WVU of their intention to not participate in the Event, or ii) JMU fails to participate in the Event for any reason whatsoever (other than a force majeure event which is described in Section 22) and WFI is not able to procure a replacement opponent of similar caliber within sixty (60) days of WFI's receipt of notice from JMU, this Agreement shall terminate immediately with respect to the Event, without any liability of either party to the other. In case of such termination, WFI shall not be obligated to pay to WVU any portion of the Settlement; provided, however, that WFI shall be obligated to pay WVU an appropriate amount calculated pursuant to Section 20(c) below.
- B. If the Event is cancelled for any reason whatsoever and the Settlement has already been paid to WVU, WVU shall immediately refund the entire Settlement, less an appropriate amount calculated pursuant to Section 20(c) below, to WFI within forty-eight (48) hours of notice of such termination.
- C. If the Event is cancelled by WFI or JMU (and WFI is not able to procure a replacement opponent of similar caliber, which must be approved in advance by WVU, such approval not to be unreasonably withheld, within sixty (60) days of WFI's receipt of notice from JMU) then WFI shall pay to WVU:
- i. Third party expenses incurred by WVU, if any, in preparing for the Event which expenses shall include actual expenditures prior to the breach, and expenses accrued prior to the breach which cannot be avoided after the breach. WVU shall provide receipts and other documentation to WFI

evidencing any such actual expenditures and WFI shall have the right to conduct an audit to confirm the validity of each such expenditure; and

- ii. A sum of One Million Dollars (\$1,000,000.00) as liquidated damages if such cancellation occurs between the execution of this Agreement and September 15, 2012. The parties agree that it is difficult to predict attendance and revenues for any event, and that such One Million Dollars (\$1,000,000.00) is a reasonable estimate of damages for WVU's loss of revenue
- D. If WVU i) notifies either WFI or JMU of their intention to not participate in the Event, or ii) WVU fails to participate in the Event for any reason whatsoever (other than a force majeure event which is described in Section 22), this Agreement shall terminate immediately with respect to the Event, without any liability of WFI to WVU. In case of such termination, WFI shall not be obligated to pay to WVU any portion of the Settlement as provided herein. In addition, WVU shall be obligated to pay WFI an appropriate amount calculated pursuant to Section 20(F) below.
- E. If the Event is cancelled for any reason whatsoever and the Settlement has already been paid to WVU, WVU shall immediately refund the entire Settlement, plus an appropriate amount calculated pursuant to Section 20(c) below, to WFI within forty-eight (48) hours of notice of such termination.
  - F. If the Event is cancelled by WVU, then WVU shall pay to WFI:
- i. Third party expenses incurred by WFI, if any, in preparing for the Event which expenses shall include actual expenditures prior to the breach, and expenses accrued prior to the breach which cannot be avoided after the breach. WFI shall provide receipts and other documentation to WVU evidencing any such actual expenditures and WVU shall have the right to conduct an audit to confirm the validity of each such expenditure; and
- ii. A sum of One Million Dollars (\$1,000,000.00) as liquidated damages if such cancellation occurs between the execution of this Agreement and September 15, 2012. The parties agree that it is difficult to predict attendance and revenues for any event, and that such One Million Dollars (\$1,000,000.00) is a reasonable estimate of damages for WFI's loss of revenue.
- 20. <u>INDEMNIFICATION OF WFI BY WVU</u>. To the extent permissible by law, WVU covenants and agrees that it shall protect, indemnify, save harmless and defend WFI, its directors, shareholders, officers, employees and agents, from and against any and all loss, cost, damages, expense, and claims for damage, death or injury of any kind whatsoever to any person or any property howsoever occurring in, upon or about the Stadium in connection with the Event arising from WVU's acts or omissions (unless contributed to by the willful misconduct of WFI, its agents, representatives, employees, or contractors), or arising out of any

accident, injury or damage occurring outside of the Stadium where such accident, damage or injury results from an act or omission on the part of WVU or its contractors, contracted employees, licensees, agents, representatives. servants or employees (unless contributed to by the willful misconduct of WFI, its agents, representatives, employees or contractors). The foregoing indemnity and hold harmless agreement shall include indemnity arising from any accident, injury or damage to the person or property of WFI, its respective employees and agents, the public attending the Event and all other persons in the Stadium at WVU's invitation and shall include indemnity against all costs, claims, expenses, penalties, liens, attorneys' fees and liabilities reasonably incurred in or in connection with any claim or preceding brought thereon and the defense thereof. If any action or proceeding is brought against WFI and its designated concessionaire of any of their respective directors, shareholders, officers, agents or employees, by reason of any of the aforementioned causes, and subject to the indemnification defenses of WVU, WVU, upon written notice of the claim from WFI, shall assume the defense thereof with counsel reasonably acceptable to WFI. Upon such assumption of the defense by WVU, WFI may continue to participate in the defense of any such action or proceeding at WFI's expense; regardless of its decision to participate, WFI shall be obligated to fully cooperate with WVU in WVU's defense of any such action or proceeding by making available any document in its possession or control, its agents, representatives, employees, or contractors. WVU and WFI agree to consult the other party to this Agreement prior to settling any claims arising out of this Agreement. Participation in settlement discussions by WVU and its express written consent shall be required for any settlement pursuant to which WVU shall have any responsibility. whether monetary or nonmonetary; and the express written consent of WFI (or the indemnitee) shall be required for any settlement the terms of which provide for any non-monetary relief or for any monetary relief that will not be paid solely by WVU. In addition, in no event shall WFI have any liability with respect to any injuries suffered by players on either Team relating to the Event. Notwithstanding the foregoing, WVU shall not be responsible for the negligent acts or omissions of third parties. This paragraph shall survive the expiration or termination of this Agreement.

21. FORCE MAJEURE. If, through no fault of WFI, the Stadium or any other part thereof are damaged, destroyed or rendered unusable by fire or other casualty or unforeseen occurrence to the extent that it is unsafe or impossible to hold the Event at the Stadium or for any other reason beyond WFI's, JMU's or WVU's reasonable control, or if there exists a public emergency or another type of force majeure event occurs outside of the control of the parties (including, without limitation, war, act of terrorism, illness, injury or death) rendering performance of this Agreement by WFI, JMU or WVU impossible, including, without limitation, the requisitioning of the Stadium by the United States, the State of Maryland, or any other authority, this Agreement shall terminate with respect to the Event, without any liability of either party to the other. In any such event, the parties shall in good faith discuss and attempt to agree upon a re-

scheduling of the Event (it being understood that neither party shall be obligated so to agree), and WFI shall not be obligated to pay to WVU, any portion of the Settlement as provided herein.

22. <u>NOTICES</u>. Each notice, request, demand, payment, consent, approval or other communication required or permitted under this Agreement (collectively, "notices") shall be in writing and shall be deemed to be given if hand delivered, sent by Federal Express, or sent by facsimile transmission (with confirmation of receipt). Any such notice shall be deemed given when received or when delivery is refused. All notices shall be sent to:

WFI:

Redskin Park

Attention: General Counsel 21300 Redskin Park Drive Ashburn, VA 20147 Fax (703) 726-7206

WVU:

West Virginia University

Department of Intercollegiate Athletics

Attn: Director of Athletics

PO Box 0877

Morgantown, WV 26507 Fax (304) 293-4105

Copy to:

West Virginia University Office for Legal Affairs

PO Box 6201

Morgantown, WV 26506-6201

Fax (304)

23. <u>TIME IS OF THE ESSENCE</u>. The parties acknowledge and agree that time and exact performances are of the essence of this Agreement.

## 24. APPROVALS.

A. WVU further represents to WFI that it has the power to enter into this Agreement, to license certain portions of the Stadium and the right to present, produce and/or promote the Event at the Stadium on the Event Date set forth herein, that the consent of no other person or entity (governmental or otherwise) is required in connection therewith, and that this Agreement constitutes a valid and binding obligation of WVU, enforceable against WVU in accordance with the terms hereof and has been signed by a duly authorized officer or representative of WVU.

B. Any prior written requests for approvals required to be given hereunder shall not be unreasonably withheld or delayed.

## 25. DEFAULT/CURE PERIOD.

- A. WVU shall be in default if WVU fails to perform any of its material obligations herein and such failure continues for a period of five (5) business days following notice of WFI to WVU of such breach. This cure period is not applicable to breaches incapable of being cured within such time frame and shall be extended for any such period of time as reasonably necessary.
- B. WFI shall be in default if (i) WFI fails to make required payments and such failure continues for five (5) business days, or (ii) WFI fails to perform any of its other material obligations herein and such failure continues for a period of five (5) business days following notice of WVU to WFI of such breach. This cure period is not applicable to breaches incapable of being cured within such time frame and shall be extended for any such period of time as reasonably necessary.
- 26. CONFIDENTIALITY. In connection with the activities under this Agreement, each party may, from time to time be exposed to certain proprietary business and financial information of the other party hereto ("Confidential Information"). Each party agrees to the extend permissible by law to keep the Confidential Information of the other party hereto strictly confidential and not to release or divulge such information to any person (other than to agents or employees of such party who have reasonable need to know such information in connection with the performance of such party's obligation hereunder who agree to keep such information confidential in accordance with the terms hereof and for whose compliance herewith such party shall be liable) except as required by law and except in the case of WFI for disclosures to or as required by the National Football League and for WVU for disclosures as required by the NCAA. For purposes hereof the term "Confidential Information" does not include information that (i) is already in the recipient's possession or control prior to the date of disclosure (provided that such information is not known by the recipient to be subject to another confidentiality agreement with, or other contractual, legal or fiduciary obligation of secrecy to, the disclosing party), (ii) was or becomes generally available to the public other than as a result of a disclosure by the recipient or any of its representatives by reason of any default with respect to a confidentiality obligation under this Agreement or (iii) becomes available to the recipient on a non-confidential basis from a source other than the disclosing party, provided that such source is not prohibited by a confidentiality agreement with or other contractual, legal or fiduciary obligation of non-disclosure to the disclosing party. This paragraph shall survive the expiration or termination of this Agreement.

Notwithstanding the terms or conditions of Section 26, all records, documents or information in WVU's possession could possibly be subject to disclosure under the West Virginia Freedom of Information Act ("WVFOIA") (W.Va. Code §29B-1-1 et. Seq.). In the event that a WVFOIA request is received by WVU, WVU will, in accordance with the terms contained herein, provide notice of such a request to WFI; at that point, WFI at its own expense may take appropriate legal or procedural steps to frustrate the release of any requested information. In the event that the requested records, documents, or information are clearly marked as "Confidential," "Proprietary," or "Trade Secret," WVU will, as is appropriate, at the request of WFI, redact the records, documents, or information from disclosure under the WVFOIA; so long as, WFI agrees, in writing, to either affirmatively defend WVU and pay any costs, including legal fees, associated with WVU's legal defense of said redaction.

- 27. <u>ENTIRE AGREEMENT</u>. This Agreement constitutes the sole and entire agreement between the parties and supersedes any prior oral or written communications between them and no alteration, amendment or modification hereof shall be valid unless evidence by an instrument in writing executed by the parties hereto.
- 28. <u>GOVERNING LAW</u>. This Agreement shall be construed under and in accordance with laws of the State of West Virginia, without regard to its conflicts of laws principles.
- 29. <u>NO WAIVER OF RIGHTS</u>. If either party fails to enforce any of the provisions of this Agreement or any rights or fails to exercise any election provided in the Agreement, it will not be considered to be a waiver of those provisions, rights or elections or in any way affect the validity of this Agreement. The failure of either party to exercise any of these provisions, rights or elections will not preclude or prejudice such party from later enforcing or exercising the same or any other provision, right or election which it may have under this Agreement
- 30. <u>SEVERABILITY</u>. The provisions of this Agreement are severable, and if any one or more of the provisions are held invalid or unenforceable, in whole or in part, the remaining provisions and any partially enforceable provisions shall be binding and enforceable
- 31. <u>HEADINGS</u>. The section headings in this Agreement have been provided solely for convenience of reference and are not a part of, nor are they intended to govern, limit, or aid in the construction or interpretation of any term or provision hereof

IN WITNESS WHEREOF, WFI and WVU have executed this Agreement in multiple counterpart copies, each of which shall be deemed an original as of the date first set forth above.

WFI STADIUM, INC.

By:

Name: Mitch Oursh man

Title: Chief Marketing Officer

LEGAL D

WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS ON BEHALF OF
WEST VIRGINIA UNIVERSITY AND ITS
DEPARTMENT OF INTERCOLLEGIATE ATHLETICS
James P. Clements, President

Rv

Öliver Luck

Director of Athletics

## **COLLEGE OF WILLIAM AND MARY**

## Football Game Agreement

THIS AGREEMENT entered into this 1st day of April 2009, by and between the West Virginia University Board of Governors, on behalf of West Virginia University, and the College of Willam and Mary:

- 1. **Purpose** The purpose of this Agreement is to confirm the arrangements and conditions under which West Virginia University and the College of William and Mary to compete in one or more games of football as set forth in Section 2.
- 2. **Event** Each party shall cause its varsity football Team to play the other in a game of football (a "Game or "Games") in accordance with the terms of this Agreement. The games shall be held as set forth below:

Date	Place	Time	Home Team
August 31, 2013	Morgantown, W.Va	TBA	West Virginia

- 3. **Rules of Contest** Each Game shall be governed by the applicable rules of the National Collegiate Athletic Association ("NCAA") as in effect at the time of the Game.
- 4. **Eligibility of Team Members** The eligibility of each Team member to participate in the Game shall be governed by the rules and regulations of the NCAA, its institution and the rules of the athletic conference, if any, of which each institution is a member.
- 5. **Officials** The officials for the contest shall be a solid crew appointed by the official's association representing the Home Team.
- 6. **Compensation to Visiting Team** That in consideration of playing the game, the Visiting Team shall receive compensation in the amount of \$300,000.00, payable within 90 days following the date of the contest.

## 7. Tickets

- A. Ticket prices will be set by the Home Team.
- B. The Visiting Team shall be allowed 400 complimentary tickets.
- C. Bands, cheerleaders and mascots for each Team shall be admitted without charge when in uniform and shall not be included in the complimentary ticket allotment. Seating for the Visiting Team band may come from the Visiting Team's ticket allotment and seats for the band shall not be in the coaching area. Unused tickets allocated for band seating will be returned to the Home Team prior to the game at no cost to the Visiting Team, unless said tickets are not returned to and received by the Home Team at least ten (10) days before the date of the Game, in which case the Visiting Team will be responsible for paying to the Home Team for said unused tickets.

- D. The Visiting Team shall be allotted 1,000 tickets for sale to its fans. The Visiting Team shall pay the Home Team for all said tickets other than tickets utilized by the Visiting Team's band pursuant to Section 7.C which are not returned to and received by the Home Team per the following schedule: i) One month prior to the date of the game, the Visiting Team should retain no more than 500 unsold tickets from the original allotment sent by the home team; ii) Two weeks prior to the date of the game, the Visiting Team should retain no more than 200 unsold tickets from the original allotment sent by the home team; iii) On the night before the game, the Visiting Team may return no more than 100 unsold tickets from the original allotment sent by the home team; iv) With prior approval of the Home Team ticket manager, this policy may be amended to allow the Visiting Team more flexibility in returning unsold tickets. The Visiting Team shall be solely responsible for any and all costs it may incur as a result of the sale and distribution of said tickets.
- 8. **Sideline Passes** The Visiting Team shall be allowed 60 sideline passes at no charge, which passes shall be in addition to complimentary tickets and to the admission of bands, cheerleaders and mascots. Such passes are for use by coaches, trainers and working personnel only. Sideline passes must be worn by all personnel with the exception of Team players in uniform. All visiting team sideline passes will be restricted to the Visiting Team area (between the 25-yard lines).

## 9. Radio Rights

- A. Except as stated in Section 9.B, the Home Team shall retain the revenue from, and shall have full control of, all locally originating and national radio rights to broadcast the Game, however disseminated, including, without limitation, by radio, satellite radio and/or internet.
- B. The Visiting Team shall be allowed two free radio outlets: one for a live, commercial, locally originated radio broadcast however disseminated including, without limitation, by radio, satellite radio and/or internet for which the Visiting Team shall retain the revenue from such broadcast; and one student non-commercial radio broadcast. The Home Team shall provide adequate space for each radio outlet. All other radio broadcast rights and privileges, and receipts therefrom, shall belong exclusively to the Home Team.
- C. Only those stations which carry more than fifty percent (50%) of the locally originated radio broadcasts of a Team shall be permitted to carry that Team's locally originated radio broadcast of any Game under this Agreement.

## 10. Television, Film and Video Rights

- A. **National Live Telecasts** The right to negotiate national television contracts (such as ABC, CBS, NBC, FOX, ESPN, Turner, USA or other network whose distribution is national rather than regional) shall belong to the Home Team and/or its Conference and all revenue shall be distributed according to existing or future agreements between the conferences within which each team plays at the time of each Game.
- B. **Regional Telecasts** In the event the Game is not telecast live nationally, the Home Team has the right to authorize syndicated television coverage. All rights fees from syndications shall be distributed according to existing or future agreements between the conference within which each team plays at the time of each Game.
- C. Delay and Highlight Shows Subject to conference agreements, each Team shall have the right to produce one or more delayed television broadcasts of the Game and/or use video of the

Game in its regular television program(s). Each Team shall retain all income it may receive from such opportunities.

- D. **Other Audio and Video Rights** Except as specified in Sections 9 and 10, above, the Home Team shall retain any and all of its rights to the commercial exploitation of all audio and all video transmission or dissemination by any and all means (including without limitation internet transmission or dissemination), now known or hereafter existing.
- E. Game Film or Tape Each Team shall have the right to produce films/videotapes of the Game for coaches' analysis ("Coaches' films"). The Home Team shall provide reasonable facilities for equipment and personnel. Except as explicitly agreed in writing signed by both Parties, under no circumstances shall the Coaches' films be used for commercial or promotional purposes or for any other purpose other than coaches' analysis.
- 11. **Programs** The Visiting Team shall be furnished 100 complimentary game programs, to be delivered to its dressing room at least one hour before game time.
- 12. Concession, Parking and Program Income The Home Team shall have the exclusive rights to sell programs and run concessions and parking. All income from program sales, concessions and parking shall be the sole property of the Home Team.
- 13. **Settlement** Payment due under this Agreement shall be made 90 days following the date of each Game.
- 14. **Arrival of Teams** The Teams shall present themselves at the site of the Game in condition to play at least 30 minutes before the time advertised as the starting time of the Game.
- 15. Impossibility If an unforeseen catastrophe or disaster such as, without limitation, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, or unusually severe weather makes impossible the playing of a Game by either party, that Game shall be canceled, and neither party shall be responsible to the other for any loss or damage. Notwithstanding the preceding sentence, any financial obligations incurred by either party for promotion of the Game shall not be deemed a breach of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible. No such cancellation shall affect the parties' obligations as to subsequent Games covered by this Agreement.

## 16. Damages

A. If this Agreement is breached by the Visiting Team, and no Game occurs between the Home Team and the Visiting Team as a result of such breach, then the Visiting Team shall pay to the Home Team:

- (I) expenses incurred by the Home Team, if any, in preparing for the event, which expenses shall include actual expenditures prior to the breach, and expenses obligated prior to the breach which cannot be avoided after the breach upon reasonable effort by the Home Team; and
- (ii) a sum of \$300,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$300,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of damages for the Home Team's loss of revenue.

- B. If this Agreement is breached by the Home Team, and no Game occurs between the Home and Visiting Teams as a result of such breach, then the Home Team shall pay the Visiting Team a sum of \$300,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$300,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of represent liquidated damages for the Visiting Team's loss of revenue.
- 17. **Miscellaneous** This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes in all respects all other agreements either written or oral. No amendment to this Agreement shall be valid unless reduced to writing and signed by both parties hereto. No condition, covenant, duty or obligation contained in this Agreement can be waived except by written agreement signed by authorized representatives of each party. Forbearance or indulgence in any form or manner by either party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. The interests, rights, powers, duties and liabilities of the parties hereto shall attach to the benefit of and shall be binding upon each party's respective successors, assigns and other legal representatives. If one or more paragraphs or provisions of this Agreement shall be declared invalid, illegal or unenforceable under applicable laws, said invalid, illegal or unenforceable paragraphs or provisions shall be severed from this Agreement and the remaining paragraphs and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto by their respective officers duly authorized, have caused this Agreement to be executed as of the date first above written.

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS on behalf of West Virginia University C. Peter Magrath, Interim President

Ed Pastilong

Director of Athletics

COLLEGE OF WILLIAM AND MARY

Terry Driscoll

Director of Athletics

## **TOWSON UNIVERSITY**

# First Amendment to the Football Game Agreement

THIS FIRST AMENDMENT TO THE FOOTBALL GAME AGREEMENT, made and entered into this on April 23, 2012 by and between the West Virginia University Board of Governors, on behalf of the West Virginia University for its Department of Intercollegiate Athletics and Towson University.

1. Section 2 of the Football Game Agreement, dated July 1, 2009, shall be deleted and replaced with the following:

**Event.** That the football teams representing both parties on this Agreement shall compete under the terms of this Agreement on the date and location listed below:

Date	Location	Time	Home Team
September 6, 2014	Morgantown, W.Va.	TBA	West Virginia

- 2. This Amendment supercedes any and all other written or verbal agreements to the scheduled date of the Game.
- 3. All other terms and conditions of the Football Game Agreement not modified by this First Amendment shall remain in full force and effect.

THIS AGREEMENT is executed in duplicate with each to be considered an original for all purposes.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day, month, and year above written:

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS on behalf of West Virginia University James P. Clements, President by

Oliver Luck
Director of Athletics

**TOWSON UNIVERSITY** 

Mike Waddell Director of Athletics MW

## TOWSON UNIVERSITY

# Football Game Agreement

THIS AGREEMENT entered into this 1st day of July 2009, by and between the West Virginia University Board of Governors, on behalf of West Virginia University, and Towson University:

- 1. Purpose The purpose of this Agreement is to confirm the arrangements and conditions under which West Virginia University ("Home Team") and Towson University ("Visiting Team") will compete in one game of football as set forth in Section 2. This Agreement will supercedes any and all previous football agreements.
- 2. Event Each party shall cause its varsity football Team to play the other in a game of football (a "Game or "Games") in accordance with the terms of this Agreement. The games shall be held as set forth below:

Date	Place	Time	Home Team
August 30, 2014	Morgantown, W.Va.	TBA	West Virginia

- 3. Rules of Contest Each Game shall be governed by the applicable rules of the National Collegiate Athletic Association ("NCAA") as in effect at the time of the Game.
- 4. Eligibility of Team Members The eligibility of each Team member to participate in the Game shall be governed by the rules and regulations of the NCAA, its institution and the rules of the athletic conference, if any, of which each institution is a member.
- 5. **Officials** The officials for the contest shall be a solid crew appointed by the official's association representing the Home Team.
- 6. Compensation to Visiting Team That in consideration of playing the game, the Visiting Team shall receive compensation in the amount of Three Hundred Thousand Dollars (\$300,000.00), payable within ninety (90) days following the date of the contest.

#### 7. Tickets

- A. Ticket prices will be set by the Home Team.
- B. The Visiting Team shall be allowed 300 complimentary tickets.
- C. Bands, cheerleaders and mascots for each Team shall be admitted without charge when in uniform and shall not be included in the complimentary ticket allotment. Seating for the Visiting Team band may come from the Visiting Team's ticket allotment and seats for the band shall not be in the coaching area.

- D. The Visiting Team shall be allotted 1,000 tickets for sale to its fans. The Visiting Team shall retain no more than 500 unsold tickets form the original allotment two weeks prior to the date of the game. Three days prior to game day the Visiting Team may return no more than 150 unsold tickets which shall be overnighted to the Home Team.
- 8. Sideline Passes The Visiting Team shall be allowed 60 sideline passes at no charge, which passes shall be in addition to complimentary tickets and to the admission of bands, cheerleaders and mascots. Such passes are for use by coaches, trainers and working personnel only. Sideline passes must be worn by all personnel with the exception of Team players in uniform. All visiting team sideline passes will be restricted to the Visiting Team area (between the 25-yard lines).

## 9. Radio Rights

- A. Except as stated in Section 9 (B), the Home Team shall retain the revenue from, and shall have full control of, all locally originating and national radio rights to broadcast the Game, however disseminated, including, without limitation, by radio, satellite radio and/or internet.
- B. The Visiting Team shall be allowed two free radio outlets: one for a live, commercial, locally originated radio broadcast however disseminated including, without limitation, by radio, satellite radio and/or internet for which the Visiting Team shall retain the revenue from such broadcast; and one student non-commercial radio broadcast. The Home Team shall provide adequate space for each radio outlet. All other radio broadcast rights and privileges, and receipts therefrom, shall belong exclusively to the Home Team.
- C. Only those stations which carry more than fifty percent (50%) of the locally originated radio broadcasts of a Team shall be permitted to carry that Team's locally originated radio broadcast of any Game under this Agreement.

#### 10. Television, Film and Video Rights

- A. **National Live Telecasts** The right to negotiate national television contracts (such as ABC, CBS, NBC, FOX, ESPN, Turner, USA or other network whose distribution is national rather than regional) shall belong to the Home Team and/or its Conference and all revenue shall be distributed according to existing or future agreements between the conferences within which each team plays at the time of each Game.
- B. Regional Telecasts In the event the Game is not telecast live nationally, the Home Team has the right to authorize syndicated television coverage. All rights fees from syndications shall be distributed according to existing or future agreements between the conference within which each team plays at the time of each Game.
- C. Delay and Highlight Shows Subject to conference agreements, each Team shall have the right to produce one or more delayed television broadcasts of the Game and/or use video of the Game in its regular television program(s). Each Team shall retain all income it may receive from such opportunities.
- D. Other Audio and Video Rights Except as specified in Sections 9 and 10, above, the Home Team shall retain any and all of its rights to the commercial exploitation of all audio and all video transmission or dissemination by any and all means (including without limitation internet transmission or dissemination), now known or hereafter existing.

- E. Game Film or Tape Each Team shall have the right to produce films/videotapes of the Game for coaches' analysis ("Coaches' films"). The Home Team shall provide reasonable facilities for equipment and personnel. Except as explicitly agreed in writing signed by both Parties, under no circumstances shall the Coaches' films be used for commercial or promotional purposes or for any other purpose other than coaches' analysis.
- 11. **Programs** The Visiting Team shall be furnished 100 complimentary game programs, to be delivered to its dressing room at least one hour before game time.
- 12. **Concession, Parking and Program Income** The Home Team shall have the exclusive rights to sell programs and run concessions and parking. All income from program sales, concessions and parking shall be the sole property of the Home Team.
- 13. **Settlement** Payment due under this Agreement shall be made 90 days following the date of each Game.
- 14. **Arrival of Teams** The Teams shall present themselves at the site of the Game in condition to play at least 30 minutes before the time advertised as the starting time of the Game.
- 15. Impossibility If an unforeseen catastrophe or disaster such as, without limitation, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, or unusually severe weather makes impossible the playing of a Game by either party, that Game shall be canceled, and neither party shall be responsible to the other for any loss or damage. Notwithstanding the preceding sentence, any financial obligations incurred by either party for promotion of the Game shall not be deemed a breach of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible. No such cancellation shall affect the parties' obligations as to subsequent Games covered by this Agreement.

## 16. Damages

A. If this Agreement is breached by the Visiting Team, and no Game occurs between the Home Team and the Visiting Team as a result of such breach, then the Visiting Team shall pay to the Home Team:

- (I) expenses incurred by the Home Team, if any, in preparing for the event, which expenses shall include actual expenditures prior to the breach, and expenses obligated prior to the breach which cannot be avoided after the breach upon reasonable effort by the Home Team; and
- (ii) a sum of \$300,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$300,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of damages for the Home Team's loss of revenue.
- B. If this Agreement is breached by the Home Team, and no Game occurs between the Home and Visiting Teams as a result of such breach, then the Home Team shall pay the Visiting Team a sum of \$300,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$300,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of represent liquidated damages for the Visiting Team's loss of revenue.

17. **Miscellaneous** This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes in all respects all other agreements either written or oral. No amendment to this Agreement shall be valid unless reduced to writing and signed by both parties hereto. No condition, covenant, duty or obligation contained in this Agreement can be waived except by written agreement signed by authorized representatives of each party. Forbearance or indulgence in any form or manner by either party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. The interests, rights, powers, duties and liabilities of the parties hereto shall attach to the benefit of and shall be binding upon each party's respective successors, assigns and other legal representatives. If one or more paragraphs or provisions of this Agreement shall be declared invalid, illegal or unenforceable under applicable laws, said invalid, illegal or unenforceable paragraphs or provisions shall be severed from this Agreement and the remaining paragraphs and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto by their respective officers duly authorized, have caused this Agreement to be executed as of the date first above written.

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS on behalf of West Virginia University

James P. Clements, Interim President

Ed Pastilong

Director of Athletics

TOWSON STATE UNIVERSITY

Mike Hermann

Director of Athletics

7/10/09



Jeff Barber Director of Athletics 1971 University Boulevard Lynchburg, VA 24502-2269

June 16, 2010

Dear Mike,

Please find enclosed the signed game contract for the Liberty vs. WVU game on Sept. 5, 2015. I appreciate your help with this.

Thanks again for allowing our football team the opportunity to compete in Morgantown.

All my best,

Jeff Barber

Director of Athletics Liberty University 1971 University Blvd Lynchburg, VA 24502

(434) 582-2100 (434) 582-2205 (fax)

## LIBERTY UNIVERSITY

# Football Game Agreement

THIS AGREEMENT entered into this 10th day of June 2010, by and between the West Virginia University Board of Governors, on behalf of West Virginia University, and Liberty University:

- 1. **Purpose** The purpose of this Agreement is to confirm the arrangements and conditions under which West Virginia University ("Home Team") and Liberty University ("Visiting Team") will compete in one game of football as set forth in Section 2. This Agreement will supercedes any and all previous football agreements.
- 2. **Event** Each party shall cause its varsity football Team to play the other in a game of football (a "Game or "Games") in accordance with the terms of this Agreement. The games shall be held as set forth below:

Date	Place	Time	Home Team
September 5, 2015	Morgantown, W.Va.	TBA	West Virginia

- 3. **Rules of Contest** Each Game shall be governed by the applicable rules of the National Collegiate Athletic Association ("NCAA") as in effect at the time of the Game.
- 4. **Eligibility of Team Members** The eligibility of each Team member to participate in the Game shall be governed by the rules and regulations of the NCAA, its institution and the rules of the athletic conference, if any, of which each institution is a member.
- 5. **Officials** The officials for the contest shall be a solid crew appointed by the official's association representing the Home Team.
- 6. **Compensation to Visiting Team** That in consideration of playing the game, the Visiting Team shall receive compensation in the amount of Four Hundred Thousand Dollars (\$400,000.00), payable within ninety (90) days following the date of the contest.

### 7. Tickets

- A. Ticket prices will be set by the Home Team.
- B. The Visiting Team shall be allowed 400 complimentary tickets.
- C. Bands, cheerleaders and mascots for each Team shall be admitted without charge when in uniform and shall not be included in the complimentary ticket allotment. Seating for the Visiting Team band may come from the Visiting Team's ticket allotment and seats for the band shall not be in the coaching area.
- D. The Visiting Team shall be allotted 2000 tickets for sale to its fans. The Visiting Team shall retain no more than 500 unsold tickets form the original allotment two weeks prior to the date of the

game. Three days prior to game day the Visiting Team may return no more than 150 unsold tickets which shall be overnighted to the Home Team.

8. **Sideline Passes** The Visiting Team shall be allowed 60 sideline passes at no charge, which passes shall be in addition to complimentary tickets and to the admission of bands, cheerleaders and mascots. Such passes are for use by coaches, trainers and working personnel only. Sideline passes must be worn by all personnel with the exception of Team players in uniform. All visiting team sideline passes will be restricted to the Visiting Team area (between the 25-yard lines).

## 9. Radio Rights

- A. Except as stated in Section 9 (B), the Home Team shall retain the revenue from, and shall have full control of, all locally originating and national radio rights to broadcast the Game, however disseminated, including, without limitation, by radio, satellite radio and/or internet.
- B. The Visiting Team shall be allowed two free radio outlets: one for a live, commercial, locally originated radio broadcast however disseminated including, without limitation, by radio, satellite radio and/or internet for which the Visiting Team shall retain the revenue from such broadcast; and one student non-commercial radio broadcast. The Home Team shall provide adequate space for each radio outlet. All other radio broadcast rights and privileges, and receipts therefrom, shall belong exclusively to the Home Team.
- C. Only those stations which carry more than fifty percent (50%) of the locally originated radio broadcasts of a Team shall be permitted to carry that Team's locally originated radio broadcast of any Game under this Agreement.

# 10. Television, Film and Video Rights

- A. **National Live Telecasts** The right to negotiate national television contracts (such as ABC, CBS, NBC, FOX, ESPN, Turner, USA or other network whose distribution is national rather than regional) shall belong to the Home Team and/or its Conference and all revenue shall be distributed according to existing or future agreements between the conferences within which each team plays at the time of each Game.
- B. **Regional Telecasts** In the event the Game is not telecast live nationally, the Home Team has the right to authorize syndicated television coverage. All rights fees from syndications shall be distributed according to existing or future agreements between the conference within which each team plays at the time of each Game.
- C. **Delay and Highlight Shows** Subject to conference agreements, each Team shall have the right to produce one or more delayed television broadcasts of the Game and/or use video of the Game in its regular television program(s). Each Team shall retain all income it may receive from such opportunities.
- D. Other Audio and Video Rights Except as specified in Sections 9 and 10, above, the Home Team shall retain any and all of its rights to the commercial exploitation of all audio and all video transmission or dissemination by any and all means (including without limitation internet transmission or dissemination), now known or hereafter existing.

- E. Game Film or Tape Each Team shall have the right to produce films/videotapes of the Game for coaches' analysis ("Coaches' films"). The Home Team shall provide reasonable facilities for equipment and personnel. Except as explicitly agreed in writing signed by both Parties, under no circumstances shall the Coaches' films be used for commercial or promotional purposes or for any other purpose other than coaches' analysis.
- 11. **Programs** The Visiting Team shall be furnished 100 complimentary game programs, to be delivered to its dressing room at least one hour before game time.
- 12. Concession, Parking and Program Income The Home Team shall have the exclusive rights to sell programs and run concessions and parking. All income from program sales, concessions and parking shall be the sole property of the Home Team.
- 13. **Settlement** Payment due under this Agreement shall be made 90 days following the date of each Game.
- 14. Arrival of Teams The Teams shall present themselves at the site of the Game in condition to play at least 30 minutes before the time advertised as the starting time of the Game.
- 15. **Impossibility** If an unforeseen catastrophe or disaster such as, without limitation, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, or unusually severe weather makes impossible the playing of a Game by either party, that Game shall be canceled, and neither party shall be responsible to the other for any loss or damage. Notwithstanding the preceding sentence, any financial obligations incurred by either party for promotion of the Game shall not be deemed a breach of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible. No such cancellation shall affect the parties' obligations as to subsequent Games covered by this Agreement.

### 16. Damages

A. If this Agreement is breached by the Visiting Team, and no Game occurs between the Home Team and the Visiting Team as a result of such breach, then the Visiting Team shall pay to the Home Team:

- (I) expenses incurred by the Home Team, if any, in preparing for the event, which expenses shall include actual expenditures prior to the breach, and expenses obligated prior to the breach which cannot be avoided after the breach upon reasonable effort by the Home Team; and
- (ii) a sum of \$300,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$300,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of damages for the Home Team's loss of revenue.
- B. If this Agreement is breached by the Home Team, and no Game occurs between the Home and Visiting Teams as a result of such breach, then the Home Team shall pay the Visiting Team a sum of \$300,000.00 as liquidated damages, unless the breach occurs within twelve (12) months of the scheduled date of the Game, in which case liquidated damages shall be a sum of \$500,000.00. The parties agree that it is difficult to predict attendance and revenues for any event, and that such \$300,000.00 (or, where relevant, \$500,000.00) is a reasonable estimate of represent liquidated damages for the Visiting Team's loss of revenue.

17. **Miscellaneous** This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes in all respects all other agreements either written or oral. No amendment to this Agreement shall be valid unless reduced to writing and signed by both parties hereto. No condition, covenant, duty or obligation contained in this Agreement can be waived except by written agreement signed by authorized representatives of each party. Forbearance or indulgence in any form or manner by either party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. The interests, rights, powers, duties and liabilities of the parties hereto shall attach to the benefit of and shall be binding upon each party's respective successors, assigns and other legal representatives. If one or more paragraphs or provisions of this Agreement shall be declared invalid, illegal or unenforceable under applicable laws, said invalid, illegal or unenforceable paragraphs or provisions shall be severed from this Agreement and the remaining paragraphs and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto by their respective officers duly authorized, have caused this Agreement to be executed as of the date first above written.

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS on behalf of West Virginia University James P. Clements, Interim President

Ed Pastilong

Director of Athletics

LIBERTY UNIVERSITY

Director of Athletics