



Charlotte 49ers Athletics

Intercollegiate Football Game Agreement

Date of Agreement: January 17, 2014

Parties: University of North Carolina Charlotte
Appalachian State University

Date/Location of Game(s): September 8, 2018 – Charlotte, NC
September 7, 2019 – Boone, NC

Time of Game(s): TBD

Stadium: (Charlotte) Jerry Richardson Stadium
(Appalachian State University) Kidd Brewer Stadium

Game Consideration to Visiting Team: \$0

Complimentary Tickets to Visiting Team: 350

Tickets Available for Sale to Visiting Team: TBD

All other obligations of this intercollegiate football game are set forth in the terms and conditions below.

This Intercollegiate Football Game Agreement ("Agreement") is made and entered into as of the Date of Agreement set forth above, by and between the Parties. With respect to any intercollegiate football game contest ("Game") played hereunder one Party shall be the "Home Team" and the other the "Visiting Team" as applicable based on the location of the Game. In consideration of obligations and covenants set forth herein, and other good and valuable consideration as set forth in this Agreement, the Parties hereby agree as follows:

1. **Purpose:** The purpose of this Agreement is to confirm the arrangements, terms, conditions, and mutually understood agreements under which the Home Team and Visiting Team will conduct and compete in one or more Games as set forth herein.
2. **Event:** The Parties agree to have their respective intercollegiate varsity football team ("Teams") compete with one another in one or more Games in accordance with the terms of this Agreement.

3. **Rules of Contest:** Each Game shall be governed in all respects, including player eligibility, by the applicable rules of the National Collegiate Athletic Association ("NCAA"), the respective athletic conference of which each institution is a member, and any institutional rules of each Party, as applicable and in effect at the time of each Game.
4. **Officials:** Game officials shall include all on-field and replay officials appointed by the conference of the Home Team. The Home Team shall make payment necessary for the assigned game officials.
5. **Consideration:** In consideration of and upon the Visiting Team fulfilling its obligations under the terms of this Agreement, Home Team agrees to make payment to Visiting Team, as full and complete consideration for participation in the Game, the fixed sum payment set forth above ("Game Consideration"). Game Consideration is due and payable within ninety (90) days of the date of the applicable Game. Visiting Team will provide Home Team with an invoice evidencing the amount due under this Section subsequent to Game for issuance of payment.
6. **Tickets:** Tickets for admission to the Game will be handled as follows:
 - a) Ticket prices will be set and revenue generated from the sale of tickets will be retained by Home Team.
 - b) Home Team will provide the number of complimentary admission tickets set forth above ("Complimentary Tickets") to Visiting Team for the Game at no cost. Any and all tickets utilized by Visiting Team in excess of the Complimentary Tickets will be charged to Visiting Team in the aggregate sum ("Excess Ticket Usage Charge") of the utilized tickets' face value price. Home Team retains the right to collect Excess Ticket Usage Charge, if applicable, by withholding the Excess Ticket Usage Charge from the Game Consideration payable to Visiting Team described in Section 5.
 - c) Tickets shall not be required for Visiting Team's cheerleaders, dance team, and/or mascots appearing in uniform and on the sideline.
7. **Game Workers:** Provided a Party's employee has an active, specific, and necessary game-related duty and responsibility to perform at the Game ("Game Worker"), such Game Worker shall be admitted to the Game by pass list and credential and not through use or need of an admission ticket.
8. **Radio Rights:**
 - a) Except as stated in Section 8(b) below, the Home Team shall retain any revenue from, and shall have full right and 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) Notwithstanding the foregoing, Visiting Team shall be allowed one (1) rights-free radio outlet for the live, commercial or non-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. The broadcasting station is to be designated by the Visiting Team and must be situated in the Visiting Team's local home market area. The Home Team shall provide adequate space for the radio outlet. All other radio broadcast rights and privileges, and receipts therefrom, shall belong exclusively to the Home Team.

10. **Concessions, Parking, and Program Income:** As between the Parties, the Home Team shall have the exclusive rights to concessions, parking, and program income associated with the Game.
 11. **Impossibility:** If an unforeseen catastrophe or disaster – such as, without limitation, acts of God or of a public enemy, fire floods, epidemics, war, terrorism, invasion, hostilities, rebellion, insurrection, confiscation by order of the government, strikes, lockouts, riots, military or public authority or prohibitory or governmental authority, quarantine restrictions, or unusually severe weather – makes it impossible or impractical to play the Game as agreed to by either Party, that Game shall be canceled or rescheduled, and neither Party shall be responsible to the other for any loss, damages, or other obligations of this Agreement. Notice of such a catastrophe or disaster shall be given as soon as possible.
 12. **Cancellation or Breach of Agreement:**
 - a) If this Agreement is unilaterally canceled or the Agreement's terms and conditions are materially breached by the Visiting Team for any reason, including but not limited to, failure to participate in the Game, then the Visiting Team shall make a payment to the Home Team equal to the total of the following amounts:
 - i. Total expenses incurred by the Home Team, if any, in preparing for the Game 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 equal to \$500,000.
 - b) If this Agreement is unilaterally canceled or the Agreement's terms and conditions are materially breached by the Home Team for any reason, including but not limited to, failure to participate in the Game, then the Home Team shall make payment to the Visiting Team a sum equal to \$500,000.
 - c) The Parties agree that it is difficult, with any fairness or certainty, to estimate actual or consequential damages, and that any amounts due under this Section 12 are a reasonable and contemplated estimate of damages and are not considered penalties.
 - d) Amounts due under this Section 12 shall be paid by the canceling or breaching Party within thirty (30) days of the effective date of 1) notice of cancellation or 2) date of breach, whichever is earlier.
 - e) If cancellation is by mutual consent, this Agreement shall be null and void.
 13. **Corporate Sponsor Restrictions:** The Visiting Team acknowledges and agrees that the Home Team and/or the venue for the Game may have agreements with certain corporate sponsors and that such agreements may prevent the Visiting Team from bringing certain products or items in to the Home Team's stadium or displaying such items openly in and around the field of play. Visiting Team agrees to consult with the Home Team before the Game to ensure that the Visiting Team does not bring prohibited products or items into the Home Team's stadium that violate the Home Team's or the venue's corporate sponsor agreements.
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14. **Other Assessments:** Each Party shall be solely responsible for payment of any assessments due to each Party's respective conference or any other governing body, including taxing authorities.
15. **NCAA Bylaws:** Each of Home Team and Visiting Team warrants that their respective Football programs will be a full FBS or FCS member and eligible per NCAA Bylaw 20.9.7 or 20.9.8 during the applicable academic year and at the time of each Game.
16. **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 regarding this Agreement between the Home Team and the Visiting Team. 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 matter 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 or 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 by their respective duly authorized representatives have caused this Intercollegiate Football Game Agreement to be executed as of the date first written above.

**UNIVERSITY OF NORTH CAROLINA AT
CHARLOTTE**

Signed: Judy W. Rose
Printed: Judy W. Rose
Title: Dir. of Athletics
Date: 1/30/14
Signed: Brad Lombert
Printed: Brad Lombert
Title: Head Coach
Date: 1/31/14

APPALACHIAN STATE UNIVERSITY

Signed: Charlie Cobb
Printed: CHARLIE COBB
Title: DIRECTOR OF ATHLETICS
Date: 1/29/14
Signed: _____
Printed: _____
Title: _____
Date: _____