



SPONSORSHIP AGREEMENT

This Sponsorship Agreement (“Agreement”) is made and entered as of _____, _____, between _____ (“Sponsor”) and the University of South Alabama, by and through its division Jaguar Sports Properties (“Provider”). Sponsor and Provider (each, a “Party” and together, the “Parties”) agree as follows:

1. **Term of Agreement.** This Agreement shall be effective as of the date hereof and continue through June 30, _____ (the “Term”).
2. **Sponsorship Benefits.** During the Term, provided that Sponsor fulfills all of its obligations to Provider, including, but not limited to its payment obligations, Sponsor will receive the benefits described on Exhibit A attached to this Agreement and made a part hereof (the “Benefits”).
 - a. **Sponsor Modifications of Benefits.** If during the Term, Sponsor wishes to modify the Benefits in any manner, Sponsor shall provide written notice of its request to Provider that includes Sponsor’s reasons for the requested modification. Provider shall respond to Sponsor in writing within fourteen (14) days of Provider’s receipt of Sponsor’s request to inform Sponsor whether Provider, in its sole discretion, has elected to grant or disallow Sponsor’s request for modifications. If Provider and Sponsor agree to a modification of the Benefits, the Parties shall adopt the modification in accordance with Paragraph 11(c) hereof.
 - b. **Make-Good Benefits.** If Provider is unable to provide Sponsor with a Benefit described in Exhibit A, Provider will notify Sponsor and offer Sponsor make-good benefits (“Make-Good Benefits”) in lieu of the Benefit(s) Provider is unable to provide. Notwithstanding the foregoing, Sponsor shall not be entitled to Make-Good Benefits if Provider’s inability to provide the Benefits is, directly or indirectly, caused by, in whole or in part, or the result of an act or omission of Sponsor. In no event will Make-Good Benefits include tickets, hospitality, catering, or similar benefits that involve an out-of-pocket cost to Provider, though Provider will make commercially reasonable efforts to provide Make-Good Benefits of approximately the same value as the Benefits that Provider was unable to provide. Make-Good Benefits will be subject to Sponsor’s approval, which shall not be unreasonably withheld, delayed, or conditioned. If Sponsor determines in good faith that the Make-Good Benefits offered are not sufficiently compensatory, then Sponsor shall notify Provider as soon as reasonably possible and the Parties shall confer in good faith to negotiate a resolution, which, if agreed upon, shall result in a written amendment to this Agreement in accordance with Paragraph 11(c). In no event shall Sponsor have the right to terminate this Agreement or withhold payment of all or any portion of the sponsorship fee without Provider’s written consent.

3. Payment Obligations of Sponsor. In consideration of the Benefits to be provided to Sponsor by Provider, Sponsor will pay Provider in accordance with the schedule and additional terms set forth on the attached Exhibit B. Sponsor acknowledges that, for its convenience, Provider permits equal periodic payments during each contract year despite the value of services received varying considerably from period to period (e.g., month to month, quarter to quarter, etc.). For that reason, should this agreement be terminated pursuant to Section 9(a), Sponsor shall owe the value of services received through the termination date, as determined in Provider's reasonable discretion. Each payment shall be due no later than thirty (30) days after the date of the invoice applicable to such payment.
4. Postseason Radio. If any of the Benefits include radio broadcast advertisements, then the Benefits relating to such advertisements shall only include regular season radio broadcasts in the applicable sport. If Provider's radio network broadcasts postseason contests during the Term, Sponsor shall be charged the Regular Season Rate, as set forth on the attached Exhibit A, for each such postseason radio broadcast including Sponsor's radio broadcast advertisements. Sponsor will be invoiced separately for any such postseason charges at the conclusion of the applicable sport's postseason.
5. Right of First Refusal. If Sponsor is not in default under this Agreement, Sponsor may elect to reserve the right to purchase the Benefits for the academic year immediately following the Term (the "Right of First Refusal") by providing notice to Provider on or before February 1 of the last calendar year of the Term. If Sponsor exercises its Right of First Refusal, the Parties must mutually agree in writing upon the terms and conditions of the purchase of such Benefits on or before March 1 of the last calendar year of the Term, unless the Parties mutually agree in writing to an alternate date (the "Expiration Date"). If the Parties fail to enter into a written agreement by the Expiration Date, Sponsor understands that Provider may not be able to offer the same Benefits to Provider for any subsequent academic year.
6. Force Majeure. Neither Party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond the non-performing Party's control and without such Party's fault or negligence, such as power failures, strikes, pandemics, severe weather conditions, riots, war, or other unforeseen circumstances beyond the control of either party (each a "Force Majeure Event"). For the avoidance of doubt and purpose of clarification, any changes in the global, national, or local economy shall not under any circumstances be considered a Force Majeure Event. Notwithstanding the foregoing, in the event that Provider is unable to provide the Benefits due to a Force Majeure Event, Provider may, but is not obligated to, offer Make Good Benefits to Sponsor. In no event will such Make-Good Benefits include tickets, hospitality, catering, or similar benefits that involve an out-of-pocket cost to Provider, though Provider, if Provider has elected to offer Make-Good Benefits, will make commercially reasonable efforts to provide Make-Good Benefits of approximately the same value as the Benefits that Provider was unable to provide. Make-Good Benefits will be subject to Sponsor's approval, which shall not be unreasonably withheld, delayed, or conditioned. If Sponsor determines in good faith that the Make-Good Benefits offered, if

any, are not sufficiently compensatory or if Provider offers no Make-Good Benefits, then the Parties shall confer in good faith to negotiate a resolution, which, if agreed upon, shall result in a written amendment to this Agreement in accordance with Paragraph 12(c). In no event shall Sponsor have the right to terminate this Agreement or withhold payment of all or any portion of the sponsorship fee as a result of a Force Majeure Event without Provider's written consent.

7. University Marks; Sponsor Marks. To the extent that any Benefits include the right to make use of athletics logos or trademarks of the University of South Alabama ("University Marks"), Sponsor agrees that its use of University Marks is non-exclusive, limited and non-transferable and must be approved by Provider prior to its use. Sponsor further agrees that it may not make use of University Marks in any retail promotion of a product/service or sale of a product/service without the advanced written approval of the Provider and the payment of any required license fee. All right, title and interest in and to the University Marks are and shall remain the sole and exclusive property of the Provider. Sponsor grants to Provider a non-exclusive, limited and non-transferable license to use Sponsor's trademarks and logos as provided by Sponsor ("Sponsor Marks") to carry out the terms of this Agreement. All right, title and interest in and to the Sponsor Marks are and shall remain the sole and exclusive property of Sponsor.
8. Indemnification. Sponsor shall indemnify and hold Provider harmless against and in respect of any and all claims, loss, damage, liability, cost, and expense, including reasonable attorney's fees, suffered or incurred by Provider, by reason of, relating to, or arising out of the breach of any representation, warranty, agreement, or covenant of Sponsor contained in this Agreement.
9. Termination and Survivability.
 - a. **Termination.** This agreement may be terminated with or without cause by either Party by submitting notice of such intent in writing at least sixty (60) days in advance. Sponsor shall be responsible for all payments due hereunder until the effective date of the termination. In the event of a termination or expiration of this Agreement except as may be otherwise provided herein, each Party shall cease displaying the other Party's Marks immediately upon termination or expiration of this Agreement.
 - b. **Survival.** Sponsor's representations and warranties contained herein, as well as the terms of Paragraphs 7, 8, 10, and 11 shall survive the expiration or termination of this Agreement.
10. Limitation of Liability. Neither party to this Agreement shall be liable for any consequential, special, indirect, incidental, exemplary or punitive damages of any kind or nature whatsoever, or any lost income or profits, regardless of whether arising from breach of contract or tort, even if advised of the possibility of such loss or damage or if such loss or damage could have been reasonably foreseen.

11. Confidentiality. Sponsor acknowledges that the terms of this Agreement (the “Confidential Information”) are strictly confidential, and Sponsor will not disclose any Confidential Information to any third party without the prior written consent of Provider, except for disclosures required by law. Failure to comply with this obligation shall be considered a material breach of this Agreement.

12. Miscellaneous.

- a. **Compliance**. Sponsor and Provider will comply with all applicable federal, state, and local laws, as well as the rules of the athletics conference to which the University belongs and National Collegiate Athletic Association rules and regulations in connection with their respective performance under this Agreement.
- b. **Assignment**. Sponsor shall not have the right to transfer or assign its rights or obligations under this Agreement without the express prior written consent of Provider. This Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and permitted assigns.
- c. **Entire Agreement; amendment; waiver; authorship; severability; counterparts**. This Agreement and any exhibit attached to this Agreement constitutes and contains the entire agreement of the Parties relating to the subject matter hereof and supersedes any and all prior contemporaneous written or oral understandings or agreements with respect thereto. No amendment to this Agreement shall be valid unless in writing and signed by each of the Parties hereto. The failure of any Party to exercise any of its rights under this Agreement shall not be deemed a waiver of such right and any other rights. Sponsor and Provider are independent contracting parties and nothing in this Agreement shall be deemed to create a partnership, joint venture, or agency relationship between them, nor does it grant either Party any authority to assume or create obligation on behalf of or in the name of the other Party. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event any ambiguity or question of intent or interpretation arises regarding this Agreement, this Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring either Party by virtue of the authorship of any the provisions of this Agreement. To the extent permitted by law, if any provision or term of this Agreement is held to be void, illegal, or unenforceable, the Parties agree that the remaining terms shall nonetheless remain valid and in full force. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. Signatures transmitted by facsimile or electronic mail shall be treated as and deemed to be original signatures for all purposes and will have the same binding effect as if they were original, signed instruments delivered in person.
- d. **Sponsor’s representations and warranties**. Sponsor represents and warrants that the person whose signature appears below for Sponsor is duly authorized to execute this Agreement and legally bind Sponsor under this Agreement. Sponsor further

represents and warrants to Provider that any person employed by Sponsor and acting with apparent authority for Sponsor in connection with this Agreement both before and after it is fully executed is duly authorized by Sponsor to do so and bind Sponsor irrespective of whether that person is the person who executed this Agreement for Sponsor. Sponsor further agrees that any defense of non-authority by such person (or any similar defense) which Sponsor might raise in connection with this Agreement is hereby waived by Sponsor.

- e. **Signature authority.** This Agreement shall not be binding upon Provider until and unless it is executed by Provider's Director of Athletics. Provider's Account Executive is not authorized to sign the Agreement on behalf of Provider.

The Remainder of this Page is Intentionally Blank; Signature Page to Follow

ACCEPTED AND AGREED AS OF THE ABOVE DATE AND, IF NO DATE IS INSERTED, THEN THE FIRST DAY OF THE CONTRACT YEAR OF THE TERM SHALL BE THE DATE OF THIS AGREEMENT:

SPONSOR:

By: _____

Name: _____

Title: _____

Date: _____

PROVIDER:

**UNIVERSITY OF SOUTH ALABAMA,
by its division Jaguar Sports Properties**

By: _____

Name: _____

Title: _____

Date: _____

By: _____
[Signature of Director of Athletics]

Name: Joel Erdmann, Ph.D.

Title: Director of Athletics

Date: _____

EXHIBIT A

BENEFITS



