



THE UNIVERSITY of
NEW MEXICO FOUNDATION

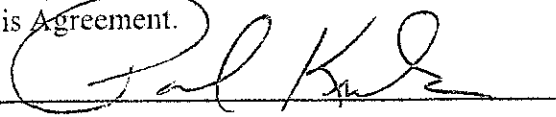
GIFT AGREEMENT
Between
UNIVERSITY OF NEW MEXICO FOUNDATION, INC.
And
WISEPIES FRANCHISE SERVICES LLC

This Gift Agreement ("Agreement") sets forth the understanding between **WisePies Franchise Services LLC**, a New Mexico domestic limited liability company (the "Donor") and The University of New Mexico Foundation, a New Mexico nonprofit corporation organized and operated exclusively for educational, scientific, literary, and charitable purposes within the meaning of Section 501(c) (3) of the Internal Revenue Code of 1986, as amended (the "Foundation"), with respect to the Donor's creation and the Foundation's administration of the **WisePies Fund** (the "Fund").

- 1. Purpose of the Gift:** After the initial establishment of the Fund, Donor hereby pledges to make and transfer a gift of \$5,000,000 over a period of ten years to create the WisePies Fund to support the UNM Athletics Department and to name the University Arena as the "WisePies Arena" for a period of up to ten years.

The Fund shall be administered by the UNM Foundation in accordance with its Articles of Incorporation and Bylaws and the laws of the State of New Mexico. The Fund shall be identified as the WisePies Fund and all expenditures from the Fund shall carry the name of the Fund.

The University of New Mexico has appointed the following named University official and his or her successors to be responsible for administering this discretionary Fund and ensuring that all expenditures made from the Fund are consistent with the Donor's intention as expressed in this Agreement.



University Official
Paul Krebs, Vice President and Athletics Director

Date: 11/19/14

The establishment of this Fund and the naming of the University Arena in honor of this contribution is also subject to the approval of the Board of Regents under Regents' Policy 2.11, "Naming University Facilities, Spaces, Endowments and Programs" and University Business Policy 1020, "Naming Facilities, Spaces, Endowments and Programs" and will be administered in accordance with these and any subsequently adopted naming rights policies.

- 2. Payment Schedule:** If approved, the naming rights shall be effective following receipt of the first payment (see Attachment A Schedule of Payments). If Donor fails to make any payment required in Attachment A by the date specified, all naming rights granted herein shall be canceled and Donor will be required to reimburse the Athletics Department for all costs incurred for the removal of the WisePies name.



In the event that Donor sells all or part of its business, Donor will either pay in full the remaining amount of this irrevocable commitment or assign this irrevocable Agreement to the new owner of the business. However, Donor may only assign this Agreement with the written approval of the Foundation and the assurance that the Foundation will retain all rights to enforce the terms of this Agreement. Any transfer of this Agreement that would require the University to change the name of the WisePies Arena will be subject to the approval of the Board of Regents under Regents' Policy 2.11, "Naming University Facilities, Spaces, Endowments and Programs" and University Business Policy 1020, "Naming Facilities, Spaces, Endowments and Programs" and will be administered in accordance with these and any subsequently adopted naming rights policies.

3. **Intent:** Notwithstanding that Donor intends for the annual contribution to be generated by the proceeds of the WisePies franchises, it is the intent of the parties that this Agreement shall be enforceable at law and equity, including without limitation, against the Donor and its successors and assigns. The Donor acknowledges that the University is relying, and shall continue to rely, on the Fund being fully paid and satisfied as set forth herein.
4. **Announcement of the Fund:** The initial announcement of this gift will be made only after the execution of this gift agreement and the University's approval of the naming rights sought in this Agreement. After the announcement of the gift, all payments are irrevocable. Subsequently, the Foundation or the University of New Mexico may announce the Fund, including amount, descriptions of contributions, and pertinent details in any of their publications.
5. **Information on Use of Funds:** University Athletics will respond to requests for information made by the Donor, the Donor's immediate family or other individuals identified by the Donor about the activities and programs funded by the WisePies Fund.
6. **Duration of the Fund:** If the purpose for which the Fund has been instituted becomes impossible to perform or impractical to the extent that the University is unable to use the support generated by the Fund under the existing terms of the Agreement or if the University President concludes that carrying out the purpose exposes the University to an unacceptable risk of legal exposure, the University shall consult with the Donor to modify the Fund. If the Donor is not available, the University's President may recommend to the Foundation's Board of Trustees for approval an alternative purpose for the Fund as close to and consistent with the Donor's original intent.
7. **Representatives and Successors Bound:** This Agreement shall be binding upon and inure to the benefit of the parties hereto, the University of New Mexico, the Donor and their representatives and their lawful successors.
8. **Governing Law:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Mexico, excluding that body of law concerning choice of law.



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9. **Modification of Agreement:** The terms and conditions of this Agreement may not be orally amended, modified, or altered but may be amended, modified, or altered only in writing signed by the Donor(s) and the Foundation and approved by the University.
10. **Extension of Naming Rights.** After the completion of the terms of the naming rights granted and the Donor's satisfaction of all payment obligations identified in this Agreement, the University will give Donor the right of first refusal on the next subsequent naming rights at the University Arena.

DONOR

Steven B. Clay / Michael A. Burt Date: 11/18/14
WisePies Franchise Services LLC

UNIVERSITY OF NEW MEXICO FOUNDATION, INC.

Henry Nemeik Date: 11-19-14
Henry Nemeik, President & CEO



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ATTACHMENT A
SCHEDULE OF PAYMENTS

<u>Due Date</u>	<u>Amount of Payment by Donor</u>
December 1, 2014	\$100,000
December 31, 2015	\$100,000
December 31, 2016	\$600,000
December 31, 2017	\$600,000
December 31, 2018	\$600,000
December 31, 2019	\$600,000
December 31, 2020	\$600,000
December 31, 2021	\$600,000
December 31, 2022	\$600,000
December 31, 2023	<u>\$600,000</u>
Total Gift	\$5,000,000