

**BUSINESS AFFAIRS AND HUMAN RESOURCES
JUNE 19-20, 2008**

TAB	DESCRIPTION	ACTION
1	BOISE STATE UNIVERSITY Request for New Position Appointment - Distinguished Educator in Residence	Motion to approve
2	BOISE STATE UNIVERSITY Employment Contract - Distinguished Educator in Residence	Motion to approve
3	BOISE STATE UNIVERSITY Employment Contract - Head Men's Basketball Coach	Motion to approve
4	IDAHO STATE UNIVERSITY Employment Contract - Head Women's Volleyball Coach	Motion to approve
5	IDAHO STATE UNIVERSITY Employment Contract - Head Women's Basketball Coach	Motion to approve

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BOISE STATE UNIVERSITY

SUBJECT

Distinguished Educator in Residence position

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section II.
B.3.c and II.F.b.(4)

DISCUSSION

The Distinguished Educator in Residence position is needed to provide vision and leadership to state educators in the areas of science, technology, engineering and math. Boise State University intends to appoint Barbara Morgan as the Distinguished Educator in Residence in accordance with the terms and conditions in the proposed employment contract submitted separately.

IMPACT

Salary range is \$150,000 annually.

STAFF COMMENTS AND RECOMMENDATIONS

This agenda item sets up the position of Distinguished Educator in Residence at Boise State University. The next agenda approves the selection of Barbara Morgan for this position with a four year agreement. The funding for this position will come from local revenues. The university will use Fiesta Bowl proceeds to fund the first year of the four year contract and is fundraising for the final three years, sufficient Fiesta Bowl revenues are set aside should those funds not be raised.

A multi year agreement is desired to secure her commitment to provide educational resources to Boise State University and to provide community outreach and K-12 education to the Treasure Valley and the State of Idaho.

BOARD ACTION

A motion to approve the Distinguished Educator in Residence position.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

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Position Title	Distinguished Educator in Residence
Type of Position	Professional
FTE	1.0 FTE
Term of Appointment	12 months (4 years pending Board approval)
Effective Date	August 18, 2008
Salary Range	\$150,000
Funding Source	Local Reallocation
Area/Department of Assignment	College of Engineering
Duties and Responsibilities	This position will provide leadership and vision for Boise State and state of Idaho on science, technology, engineering, and math (STEM) education, including development, advocacy, community outreach, and university enrichment.
Justification of position	The importance of STEM education to the future of our state, nation and economy is evident. This position will provide leadership and focus on these disciplines at Boise State and beyond.

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REFERENCE – APPLICABLE STATUTE, RULE OR POLICY

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: II. HUMAN RESOURCES POLICIES AND PROCEDURES

Subsection: B. Appointment Authority and Procedures

August 2002

B. Appointment Authority and Procedures

1. Nothing herein may be construed to be in limitation of the powers of the Board as defined by Sections 33-3006, 33-3104, 33-2806, and 33-4005, Idaho Code, or as otherwise defined in the Idaho Constitution or Code.
2. **Delegation of Authority**
The Board delegates all authority for personnel management not specifically retained to the executive director and the chief executive officers consistent with the personnel policies and procedures adopted by the Board. In fulfilling this responsibility, the executive director and chief executive officers, or their designees, may exercise their authority consistent with these policies and procedures. Provided, however, that the Board retains the authority for taking final action on any matter so identified anywhere in these policies and procedures.
3. **Specifically Reserved Board Authority**
(Note: This is not an exclusive or exhaustive list and other reservations of Board authority may be found in other areas of these policies and procedures.) Board approval is required for the following:
 - a. **Position Authorizations**
(1) Any permanent new position, regardless of funding source, requires Board approval. Agenda Item Format: Requests for new position authorizations must include the following information:
 - (a) position title;
 - (b) type of position;
 - (c) FTE
 - (d) Term of appointment;
 - (e) Effective date;
 - (f) approximate salary range;
 - (g) funding source;
 - (h) area or department of assignment;
 - (i) a description of the duties and responsibilities of the position; and
 - (j) a complete justification for the position

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(2) Any permanent position being deleted. The affected position should be identified by type, title, salary, area or department of assignment, and funding source.

b. The initial appointment of all employees to any type of position at a salary that is equal to or higher than 75% of the chief executive officer's annual salary.

c. The employment agreement of any head coach or athletic director (at the institutions only) longer than one year, and all amendments thereto.

d. The criteria established by the institutions for initial appointment to faculty rank and for promotion in rank, as well as any additional faculty ranks and criteria as may be established by an institution other than those provided for in these policies (see subsection G.) Any exceptions to the approved criteria also require Board approval.

e. The procedures established for periodic performance review of tenured faculty members. (see subsection G.)

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: II. HUMAN RESOURCES POLICIES AND PROCEDURES

Subsection: F. Policies Regarding Non-classified Employees

April 2002

F. Policies Regarding Non-classified Employees

1. Employment Terms

b. Employment Contracts

(4) No contract of employment with such an employee may exceed one (1) year without the prior express approval of the Board. Employment beyond the contract period may not be legally presumed. Renewal of an employment contract is subject solely to the discretion of the chief executive officer of the institution or school, and, where applicable, of the Board.

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BOISE STATE UNIVERSITY

SUBJECT

Approval of a multi-year employment contract for astronaut Barbara Morgan as a Distinguished Educator in Residence.

APPLICABLE STATUTE, RULE OR POLICY

Idaho State Board of Education Governing Policies and Procedures, Section II.F.1.b.4.

DISCUSSION

Boise State University has the opportunity to hire a Distinguished Educator in Residence. Barbara Morgan, current Educator Astronaut with NASA and former Idaho teacher, is uniquely qualified to serve in this capacity and to provide leadership, vision and a strong voice of advocacy for science, technology, engineering and math education. A multi-year contract is necessary to convey our strong interest and commitment to her service in this capacity.

IMPACT

Exhibit "A" to the proposed contract, on pages 7, 8 and 9 notes the duties that Barbara will perform for the University. As noted, Barbara will work with the Colleges of Engineering and Education, both areas of expertise for her. The vision of her work is to provide vision and leadership to the State of Idaho on science, technology, engineering, and math (STEM) education. She will provide a strong voice to advocate for the importance of STEM education to benefit our children, our economy, and our nation. As a respected teacher, mission specialist and astronaut, Barbara is uniquely qualified to provide this voice and this leadership

She will work developing gift and grants, policy leadership and advocacy, community outreach, University enrichment and other areas that promote the University and education in Idaho.

ATTACHMENTS

Attachment 1 – Proposed Contract

Page 3

STAFF AND COMMENTS AND RECOMMENDATIONS

The funding for this position will come from local revenues. The university will use Fiesta Bowl proceeds to fund the first year of the four year contract and is fundraising for the final three years, but sufficient Fiesta Bowl revenues are set aside should those funds not be raised.

A multi year agreement is desired to secure her commitment to provide educational resources to Boise State University and to provide community outreach and K-12 education to the Treasure Valley and the State of Idaho.

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BOARD ACTION

A motion to approve the request by Boise State University to enter into a four-year contract with Barbara Morgan as Distinguished Educator in Residence, in substantial conformance to the form submitted to the Board, and to authorize the President of Boise State University to execute the contract.

Moved by _____ Seconded by _____ Carried Yes_____ No_____

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between Boise State University (University) and Barbara Morgan (Employee).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Employee as a "Distinguished Educator in Residence." Employee represents and warrants that Employee is fully qualified to serve, and is available for employment, in this capacity.

1.2. Reporting Relationship. Employee shall report and be responsible to the Dean of the College of Engineering, the Dean of the College of Education and the University President. Employee shall abide by the reasonable instructions of Deans. Employee shall also be under the general supervision of the University's President.

1.3. Duties. Employee shall perform such duties in the University as the President or Dean may assign and as may be described elsewhere in this Agreement. The University shall have the right, at any time, to reassign Employee to duties at the University other than as set forth herein, provided that Employee's compensation and benefits shall not be affected by any such reassignment. Specifically, but not by way of limitation, the Employee shall have the duties as outlined in attached Exhibit A.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of four (4) years, commencing on _____ and terminating, without further notice to Employee, on _____ unless sooner terminated in accordance with other provisions of this Agreement

2.2. Extension or Renewal. This Agreement is renewable solely upon an offer from the University and an acceptance by Employee, both of which must be in writing and signed by the parties. Any renewal is subject to the prior approval of University's Board of Trustees. This Agreement in no way grants to Employee a claim to tenure in employment, nor shall Employee's service pursuant to this agreement count in any way toward tenure at the University.

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ARTICLE 3

3.1 Regular Compensation.

3.1.1 In consideration of Employee's services and satisfactory performance of this Agreement, the University shall provide to Employee:

- a) An annual salary of \$150,000 per year, payable in biweekly installments in accordance with normal University procedures, and such salary increases as may be determined appropriate by the President as consistent with the raises granted to other employees of the University annually;
- b) The opportunity to receive such employee benefits calculated on the above salary as the University provides generally to non-faculty exempt employees.

3.2 Supplemental Compensation.

3.2.1. Employee may receive outside supplemental compensation consistent with State Board of Education Policy and Boise State University Policy. Such pay is not from the University, will not be used to calculate University benefits and is the sole responsibility of the paying entity and not the University. Such supplemental compensation may be due in part to Employee's status and prior employment with the Federal Government. Such service and compensation is hereby approved by the University as not being in conflict with Employee's service to the University as long as all applicable State Board of Education and University policies are followed.

3.3 General Conditions of University Based Compensation. All compensation provided by the University to Employee is subject to deductions and withholdings as required by law or the terms and conditions of any fringe benefit in which Employee participates.

ARTICLE 4

4.1. Employee's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Employee, in addition to the obligations set forth elsewhere in this Agreement, shall:

4.1.1. Devote Employee's full time and best efforts to the performance of Employee's duties under this Agreement. Employee's outside service, as referenced in section 3.2.1 above shall not be deemed to be in conflict with this provision as long as all applicable State Board of Education and University policies are followed.

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4.2 Outside Activities. Except as allowed herein as consistent with 4.1.1 and Exhibit A, Employee shall not undertake any business, professional or personal activities, or pursuits that would prevent Employee from fulfilling Employee's performance duties under this Agreement, or that, in the opinion of the University, would reflect adversely upon the University. Employee may not use the University's name, logos, or trademarks in connection with any such arrangements without the prior written approval of the President.

ARTICLE 5

5.1 Termination of Employee for Cause. The University may, in its discretion, suspend Employee from some or all of Employee's duties, temporarily or permanently, and with or without pay; reassign Employee to other duties; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in applicable policies, rules and regulations.

5.1.1 In the event of any termination for good or adequate cause, the University's obligation to provide compensation and benefits to Employee, whether direct, indirect, supplemental or collateral, shall cease as of the date of such termination, and the University shall not be liable for the loss of any collateral business opportunities or other benefits, perquisites, or income resulting from outside activities or from any other sources.

5.2 Termination of Employee for Convenience of University.

5.2.1 At any time after commencement of this Agreement, University, for its own convenience, may terminate this Agreement by giving ten (10) days prior written notice to Employee.

5.2.2 In the event that University terminates this Agreement for its own convenience, University shall be obligated to pay Employee, as liquidated damages and not a penalty, the salary set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of University until the term of this Agreement ends or until Employee obtains reasonably comparable employment, whichever occurs first. In addition, Employee will be entitled to continue Employee's health insurance plan and group life insurance as if Employee remained a University employee until the term of this Agreement ends or until Employee obtains reasonably comparable employment, whichever occurs first. Employee shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law.

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5.3 Termination due to Disability or Death of Employee.

5.3.1 Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically if Employee becomes totally or permanently disabled as defined by the University's disability insurance carrier, becomes unable to perform the essential functions of the position of head Employee, or dies.

5.3.2 If this Agreement is terminated because of Employee's death, Employee's salary and all other benefits shall terminate as of the last day worked, except that the Employee's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University and due to the Employee's estate or beneficiaries thereunder.

5.3.3 If this Agreement is terminated because the Employee becomes totally or permanently disabled as defined by the University's disability insurance carrier, or becomes unable to perform the essential functions of the position of head Employee, all salary and other benefits shall terminate, except that the Employee shall be entitled to receive any compensation due or unpaid and any disability-related benefits to which he is entitled by virtue of employment with the University.

5.4 No Liability. The University shall not be liable to Employee for the loss of any collateral business opportunities or any other benefits, perquisites or income from any sources that may ensue as a result of any termination of this Agreement by either party or due to death or disability or the suspension or reassignment of Employee, regardless of the circumstances.

5.5 Waiver of Rights. Because the Employee is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University employees, if the University suspends or reassigns Employee, or terminates this Agreement for good or adequate cause or for convenience, Employee shall have all the rights provided for in this Agreement but hereby releases the University from compliance with the notice, appeal, and similar employment-related rights provide for in the State Board of Education and Board or Regents of the University of Idaho Rule Manual (IDAPA 08) and Governing Policies and Procedures Manual, and the University Policy or Faculty-Staff Handbook.

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ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the University's Board of Trustees and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the University's Board of Trustees and the President; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such compensation is paid; and the Board of Trustees and University's rules or policies regarding financial exigency.

6.3 Assignment. Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party.

6.4 Waiver. No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a particular breach in the performance of this Agreement shall not constitute a waiver of any other or subsequent breach. The resort to a particular remedy upon a breach shall not constitute a waiver of any other available remedies.

6.5 Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall remain in effect.

6.6 Governing Law. This Agreement shall be subject to and construed in accordance with the laws of the state of Idaho as an agreement to be performed in Idaho. Any action based in whole or in part on this Agreement shall be brought in the courts of the state of Idaho.

6.7 Oral Promises. Oral promises of an increase in annual salary or of any supplemental or other compensation shall not be binding upon the University.

6.8 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

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6.15 Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by University's Board of Trustees.

UNIVERSITY

EMPLOYEE

Bob Kustra, President Date

Barbara Morgan Date

Approved by the Board on the ____ day of _____, 20__.

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Exhibit A to the Employment Agreement between
Barbara Morgan and Boise State University

**The Barbara Morgan Endeavor
For
Idaho Teachers and Students**

Title: Distinguished Educator in Residence

Plan: Joint appointment between colleges of Engineering and Education with primary appointment in the College of Engineering

Vision: Barbara Morgan will provide vision and leadership to the State of Idaho on science, technology, engineering, and math (STEM) education. We live in a time when our state needs a strong voice to advocate for the importance of STEM education to benefit our children, our economy, and our nation. As a respected teacher, mission specialist and astronaut, Barbara is uniquely qualified to provide this voice and this leadership.

Scope of position will include: (in priority order)

- **Development** (gifts and grants)
 - Represent Boise State University to foundations related to higher education STEM initiatives.
 - Assist with fundraising and grantsmanship for STEM programs and student scholarships for those interested in teacher certification.
 - Team with development directors in Engineering and Education as a spokesperson for STEM education to strategically build relationships with donors and prospects.
 - Provide vision and participate in proposal submission to corporate, government, foundation and other private sources to obtain funding for programs involving STEM major recruitment, retention and success.
- **Policy Leadership and Advocacy**
 - Serve as ambassador for scientific literacy to guide education policy in Idaho, specifically the development of a strategic plan for STEM education.
 - Represent the university in contributing toward developing a statewide initiative to train more STEM teachers for Idaho's schools.
 - Liaise with State Department of Education on matters influencing secondary education endorsements in STEM disciplines.
 - Accept speaking engagements to promote scientific education in Idaho.
 - Address concerns about science and the arts as competing interests by expressing curricular connections among reading, STEM, and the arts through creativity and innovation.

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- Serve on the National Science Board, or other similar organizations as appointed by appropriate officials as long as the position is consistent with the goals of the University.
- **Community Outreach**
 - Represent Boise State University at high visibility STEM outreach activities (e.g. Discover Engineering Day, Jason Project, science and engineering camps, e-Girls, etc).
 - Provide leadership on bringing NASA education programs to area school districts – NASA classroom teaching materials, explorer schools, etc.
 - Serve on the Boise State University team for K-12 STEM mentoring and recruitment.
 - Work with the College of Engineering and Idaho school districts to develop freshman engineering and computer science dual enrollment coursework in Idaho high schools.
- **University Enrichment**
 - Present guest lectures in departments across campus, primarily those focused on the sciences, education, and engineering.
 - As a team teacher, assist the College of Education in instruction of science methods.
 - Provide input to the Teacher Education Coordinating Council (TECC) regarding design and implementation of education policies related to STEM disciplines.
 - Assist with freshman level student success courses such as ENGR 110, 120 (introductory engineering courses) and other STEM freshman courses.
 - Assist with teaching Engineering for Educators course, which is integrated into ENGR 120.
 - Coordinate with Boise State University Center for Teaching and Learning to provide workshops for faculty involved in STEM secondary education.
 - Work with interns and student teachers in math and the sciences.
 - Mentor students and coordinate teacher certification for STEM professionals and students.
 - Supervise the coordinator for Boise State University MentorNet (national online mentoring network for women and ethnic minorities in STEM).
 - Explore the possibility of Boise State University students participating in the NASA pre-service project.
 - Explore how Boise State University can form appropriate research partnerships with NASA and other government agencies.
- **Aviation and Aerospace**
 - Pursue opportunities to develop aviation and/or aerospace cross-disciplinary programs, such as a minor or certificate program. (Dependent on SBOE approval and funding.)

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- Lead an interdisciplinary team of Boise State University students and faculty to create an interactive exhibit for the Discovery Center of Idaho.

REFERENCE – APPLICABLE STATUTE, RULE OR POLICY

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: II. HUMAN RESOURCES POLICIES AND PROCEDURES

Subsection: F. Policies Regarding Non-classified Employees

April 2002

Subsection: F. Policies Regarding Non-classified Employees

1. Employment Terms

b. Employment Contracts

(4) No contract of employment with such an employee may exceed one (1) year without the prior express approval of the Board. Employment beyond the contract period may not be legally presumed. Renewal of an employment contract is subject solely to the discretion of the chief executive officer of the institution or school, and, where applicable, of the Board.

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BOISE STATE UNIVERSITY

SUBJECT

New employment contract for head men's basketball coach

APPLICABLE STATUTE, RULE OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section II.H.1.

DISCUSSION

Coach Graham is nearing the end of his existing contract. Following the recent season, the University and Coach Graham began negotiating a new contract.

IMPACT

The base contract is for three years. The base compensation is a 21% increase over the current compensation and moves the compensation to \$345,000.

The major change in this contract is that the coach may earn extensions to the term of the contract based upon the performance of the program during the initial three year term. Performance after the initial three year term does not earn any extensions.

There are three categories where extension years can be earned (see section 2.3 starting at the bottom of page 1 and continuing to the top of page 3). Certain performance measures will earn one, two or three year extensions to the contract. No more than one category can be earned in a single year, the highest applicable. The results over the three years are cumulative. An example is found in section 2.3.4.

The maximum length of the contract, assuming the team met the 2.3.1 criteria for all three years of the initial term, would be 12 years. However, if that were the case, that would mean that the men's basketball team would have made it to the NCAA Tournament for four straight years (the current year 2008 and all three of the years of the initial term).

ATTACHMENTS

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Attachment 3 – Model Contract Matrix Changes	Page 37

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STAFF AND COMMENTS AND RECOMMENDATIONS

The supplemental compensation based on Academic Achievement would be \$10,000 based on the 2006-2007 APR score for men's basketball of 70%-80% of national ranking.

The termination by coach for convenience has been increased from \$200,000 to \$250,000 for the first year and from \$100,000 to \$125,000 for the second year.

Staff recommends approval.

BOARD ACTION

A motion to approve the request by Boise State University to enter into a long term employment agreement as submitted with Greg Graham as head men's basketball coach.

Moved by _____ Seconded by _____ Carried Yes_____ No_____

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between Boise State University (University), and Don Gregory Graham (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the head coach of its intercollegiate Men's Basketball team (Team). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

1.2. Reporting Relationship. Coach shall report and be responsible directly to the University's Director of Athletics (Director) or the Director's designee. Coach shall abide by the reasonable instructions of Director or the Director's designee and shall confer with the Director or the Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the University's President (President).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The University shall have the right, at any time, to reassign Coach to duties at the University other than as head coach of the Team, provided that Coach's compensation and benefits shall not be affected by any such reassignment, except that the opportunity to earn supplemental compensation as provided in section 3.2 shall cease.

ARTICLE 2

2.1. Initial Term. This Agreement is for a fixed-term appointment of three (3) years, commencing on April 1, 2008 and terminating on March 31, 2011 unless extended (in section 2.3 only) or sooner terminated in accordance with other provisions of this Agreement.

2.2. Renewal. This Agreement is renewable solely upon an offer from the University and an acceptance by Coach, both of which must be in writing and signed by the parties. Any renewal is subject to the prior approval of University's Board of Trustees. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this agreement count in any way toward tenure at the University.

2.3. Extensions to Initial Term. During the Initial Term, this contract shall be extended by the addition of years to the contract if the conditions below are met. The

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additional years may only be earned during the Initial Term of three years, not during an extension year. The subsections below may yield extensions cumulative over three years but are not cumulative in any one year. Only the highest number of additional years (either 2.3.1, 2.3.2, or 2.3.3) may apply in any one season (year). None of the following includes pre-season games. If the conference (currently the Western Athletic Conference) changes or the number of conference games (currently 16 per regular season) changes during the contract, the below criteria will be adjusted accordingly.

2.3.1. The contract will be extended for three (3) years upon the occurrence of either of the following (not cumulative, no more that three years extension in any one season):

- Winning the regular season championship and an NCAA Tournament berth, or
- Wining 12 conference regular season games, winning 21 games overall and getting an NCAA Tournament berth.

2.3.2 The contract will be extended for two (2) years upon the occurrence of any of the following (not cumulative, no more that two years extension in any one season):

- Win 21 games and get and an NCAA Tournament berth, or
- Win the conference tournament and have 22 wins overall, or
- Win 10 conference regular season games and get an NCAA Tournament berth, or
- Win the conference regular season championship and get to the NIT second round, or,
- Win 10 conference regular season games and win the conference tournament, or
- Win 10 conference regular season games and get to the NIT third round, or
- Win 21 games and win the conference regular season championship, or
- Win 10 regular season conference games and 21 wins overall, or
- Win 21 games overall and get to the NIT second round.

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2.3.3 The contract will be extended for one (1) year upon the occurrence of any of the following (not cumulative, no more than one year extension in any one season):

- NCAA Tournament berth at large, or
- Win regular season conference champion, or
- Win conference tournament championship, or
- NIT second round appearance, or
- 10 regular season conference wins, or
- 21 wins during regular season, WAC Tournament, or NIT Tournament.

2.3.4 Example. By way of example only, a 21 win season in the 08-09 season would add one year (2.3.3); a 21 win season and an NCAA Tournament berth in the 09-10 season would add two years (2.3.2); and a 21 win season with 12 conference regular season wins and an NCAA Tournament berth in the 10-11 season would add three years (2.3.1), for a total of six added years. This would result in a total contract term of nine years maximum as successive performance does not earn additional years.

ARTICLE 3

3.1 Regular Compensation.

3.1.1 In consideration of Coach's services and satisfactory performance of this Agreement, the University shall provide to Coach:

- a) An annual salary of \$174,900 per year, payable in biweekly installments in accordance with normal University procedures, and such salary increases as may be determined appropriate by the Director and President and approved by the University's Board of Trustees;
- b) The opportunity to receive such employee benefits as the University provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the University's Department of Athletics (Department) provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.

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3.2 Supplemental Compensation. Coach may earn supplemental compensation as follows:

3.2.1. Athletic Achievement

- | | | |
|----|--|------------------|
| a) | WAC Regular Season Champions | \$5,000 |
| b) | The greater of the following two: | |
| | WAC Tournament Finalist | \$3,000 |
| | WAC Tournament Champions | \$10,000 |
| c) | NCAA Tournament appearances | \$5,000 per game |
| d) | NIT appearances | \$3,000 per game |
| e) | 20 Wins | \$4,000 |
| f) | Winning Record (more wins than losses) | \$4,000 |
| g) | NIT Championship | \$12,000 |
| h) | NCAA Tournament "Sweet 16" | \$10,000 |

3.2.2 Academic Achievement

- | | | |
|----|--|----------|
| a) | Coach shall qualify for supplemental pay annually if the four year Academic Progress Rate ("APR", meaning the measurement as used by the NCAA to track academic progress of NCAA eligible student athletes and NCAA athletic programs) for that year meets the following levels in the National Ranking within men's basketball: | |
| | i. 50% to 60% | \$5,000 |
| | ii. 60% to 70% | \$7,500 |
| | iii. 70% to 80% | \$10,000 |
| | iv. 80% or above | \$12,500 |
| b) | The team must win a minimum of 9 games during the academic year being considered. | |

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3.2.3 Conditions for payment of Academic and Athletic Achievement supplemental compensation.

- a) Payment Date for Academic and Athletic Supplemental Compensation shall be made July 1st of each year following the completion of the season in which it is earned. Coach must remain employed with the University on said July 1 in order to receive any amounts due under section 3.2.1. and 3.2.2.
- b) In order to receive the 3.2.1 supplemental compensation, the basketball team's retention rate must be at least 50 percent for the academic year in which the supplemental pay is earned. The retention rate will be calculated anew each year and will not be cumulative.

3.2.4 Each year Coach may be eligible to receive supplemental compensation based on the overall development of the intercollegiate men's basketball program; ticket sales; fundraising; outreach by Coach to various constituency groups, including University students, staff, faculty, alumni and boosters; and any other factors the President wishes to consider. The determination of whether Coach will receive such supplemental compensation and the timing of the payment(s) shall be at the sole discretion of the President in consultation with the Director.

3.2.5 Supplemental Compensation for Media. The Coach shall receive \$170,100 from the University, the University's designated media outlet(s), or from public appearance fees or a combination thereof (at the discretion of the University and the Media outlets), each year during the term of this Agreement in compensation for participation in media programs and public appearances (Programs). This sum may be paid either through the University by-weekly payroll or may be paid monthly directly from the media outlets. The Coach will be advised annually, or at other times as needed, as to the source of payment. Coach acknowledges that the differing sources of payment changes the nature of the benefits attached to such payments. Agreements requiring the Coach to participate in Programs related to his duties as an employee of University are the property of the University. The University shall have the exclusive right to negotiate and contract with all producers of media productions and all parties desiring public appearances by the Coach. Coach agrees to cooperate with the University in order for the Programs to be successful and agrees to provide his services to and perform on the Programs and to cooperate in their production, broadcasting, and telecasting. It is understood that neither Coach nor any assistant coaches shall appear without the prior written approval of the Director on any competing radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Director, Coach shall not appear in any commercial

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endorsements which are broadcast on radio or television that conflict with those broadcast on the University's designated media outlets.

3.2.6 Merit raises. Merit increases shall be made to Coach's compensation annually based upon performance in the last immediate regular and post season. The merit raise amount is determined by multiplying the applicable percentage below times the immediate last year's amount for the total of salary (in 3.1.1(a)) plus supplemental compensation for media (in 3.2.5.):

- Winning Record (more wins than losses) = 5% increase
- 20 wins = 10% increase
- 23 wins = 15% increase
- 25 wins = 19% increase

3.2.7 Summer Camp. The University may operate a summer youth basketball camp using University facilities, and in so doing, the University shall allow Coach the opportunity to earn supplemental compensation by assisting the University in his capacity as a University employee. In considering whether to operate a summer youth camp, the University may consider the following conditions:

- a) The summer youth camp operation reflects positively on the University and the Department;
- b) The summer youth camp is operated as a University activity in which the University shall pay Coach a reasonable supplemental income based in part upon the revenue and expenses of the summer camp. The camp operation will have the opportunity to internally lease University facilities for the summer camp which will be charged as an operating expense of the camp;
- c) The Coach complies with all NCAA, Conference, and University rules and regulations related, directly or indirectly, to the operation of summer youth camps;
- d) All revenues and expenses of the camp shall be deposited with and paid by the University.

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- e) If required by the University, Coach shall secure through University risk management as an expense of the camp, supplemental liability insurance as follows: (1) liability coverage: spectator and staff--\$1 million; (2) catastrophic coverage: camper and staff--\$1 million maximum coverage with \$100 deductible;

In the event of termination of this Agreement, suspension, or reassignment, University shall not be under any obligation to hold a summer youth camp with the Coach after the effective date of such termination, suspension, or reassignment, and the University shall be released from all obligations relating thereto.

3.2.8 Coach agrees that the University has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University. Coach recognizes that the University has the authority to enter into an agreement with a company to supply the University with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University's reasonable request, Coach will consult with appropriate parties concerning a product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by the University's designated company, or give a lecture at an event sponsored in whole or in part by said company, or make other educationally-related appearances as may be reasonably requested by the University. Notwithstanding the foregoing sentence, Coach shall retain the right to decline such appearances as Coach reasonably determines to conflict with or hinder his duties and obligations as head basketball coach. In order to avoid entering into an agreement with a competitor of the University's designated company, Coach shall submit all outside consulting agreements to the University for review and approval prior to execution. Coach shall also report such outside income to the University in accordance with NCAA rules.

3.3 General Conditions of Compensation. All compensation provided by the University to Coach is subject to deductions and withholdings as required by law or the terms and conditions of any fringe benefit in which Coach participates. However, if any fringe benefit is based in whole or in part upon the compensation provided by the University to Coach, such fringe benefit shall be based only on the salary provided pursuant to section 3.1.1, except to the extent required by the terms and conditions of a specific fringe benefit program.

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ARTICLE 4

4.1. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall:

4.1.1. Devote Coach's full time and best efforts to the performance of Coach's duties under this Agreement;

4.1.2. Develop and implement programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team members which enable them to compete successfully and reasonably protect their health, safety, and well-being;

4.1.3. Observe and uphold all academic standards, requirements, and policies of the University and encourage Team members to perform to their highest academic potential and to graduate in a timely manner; and

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's governing board, the conference, and the NCAA; supervise and take appropriate steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Director and to the Department's Director of Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall cooperate fully with the University and Department at all times. The names or titles of employees whom Coach supervises are attached as Exhibit C. The applicable laws, policies, rules, and regulations include: (a) State Board of Education Governing Policies and Procedures and Rule Manual; (b) University's Policies; (c) University's Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA rules and regulations; and (f) the rules and regulations of the Western Athletic Conference (WAC).

4.2 Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of the University, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach may not use the University's name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President.

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4.3 NCAA Rules. In accordance with NCAA rules, Coach shall obtain prior written approval from the University's President for all athletically related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits to the University's President whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular University work day preceding June 30th. The report shall be in a format reasonably satisfactory to University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's governing board, the conference, or the NCAA.

4.4 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of President and the University's Board of Trustees.

4.5 Scheduling. Coach shall consult with, and may make recommendations to, the Director or the Director's designee with respect to the scheduling of Team competitions, but the final decision shall be made by the Director or the Director's designee.

4.7 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team, requiring performance of duties prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not unreasonably be withheld.

4.8 Specific Duties of Coach. The Coach is expected to devote full time to coaching and recruitment involving the Men's Basketball team as the Head Coach. The Coach will attend all staff meetings, public relation functions, dinners, awards banquet and make appearances as directed by Athletic Director unless excused by Athletic Director. Such functions shall include, but are not limited to, the following:

- a) The annual BAA Bar-B-que;
- b) The weekly BAA noon luncheons during the relevant season;
- c) The annual BAA Endowment dinner;
- d) The BSU Athletic Hall of Fame dinner;
- e) The BAA Bronze Bronco Award banquet;
- f) The BAA/Alumni Auction dinner;
- g) All Athletic Department staff meetings called by Athletic Director;
- h) Athletic Department Graduation Reception;
- i) Bronco Series Golf Tournaments.

ARTICLE 5

5.1 Termination of Coach for Cause. The University may, in its discretion, suspend Coach from some or all of Coach's duties, temporarily or permanently, and with or without pay; reassign Coach to other duties; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in applicable policies, rules and regulations.

5.1.1 In addition to the definitions contained in applicable policies, rules and regulations, University and Coach hereby specifically agree that the following shall constitute good or adequate cause for suspension, reassignment, or termination of this Agreement:

- a) A deliberate or major violation of Coach's duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach's abilities;
- b) The failure of Coach to remedy any violation of any of the terms of this agreement within 30 days after written notice from the University;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference or the NCAA, including but not limited to any such violation which may have occurred during the employment of Coach at another NCAA member institution;
- d) Ten (10) working days' absence of Coach from duty without the University's consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University's judgment, reflect adversely on the University or its athletic programs;
- f) The failure of Coach to represent the University and its athletic programs positively in public and private forums;
- g) The failure of Coach to fully and promptly cooperate with the NCAA or the University in any investigation of possible violations of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA;
- h) The failure of Coach to report a known violation of any applicable law or the policies, rules or regulations of the University, the

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University's governing board, the conference, or the NCAA, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

- i) A violation of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team if Coach knew or should have known of the violation and could have prevented it by ordinary supervision.

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the Director or his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, University shall notify Coach whether, and if so when, the action will be effective.

5.1.3 In the event of any termination for good or adequate cause, the University's obligation to provide compensation and benefits to Coach, whether direct, indirect, supplemental or collateral, shall cease as of the date of such termination, and the University shall not be liable for the loss of any collateral business opportunities or other benefits, perquisites, or income resulting from outside activities or from any other sources.

5.1.4 If found in violation of NCAA regulations, Coach shall, in addition to the provisions of Section 5.1, be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures. This section applies to violations occurring at the University or at previous institutions at which the Coach was employed.

5.2 Termination of Coach for Convenience of University.

5.2.1 At any time after commencement of this Agreement, University, for its own convenience, may terminate this Agreement by giving ten (10) days prior written notice to Coach.

5.2.2 In the event that University terminates this Agreement for its own convenience, University shall be obligated to pay Coach, as liquidated damages and not a penalty, the salary set forth in section 3.1.1(a), and the amounts set forth in section 3.2.5, excluding all deductions required by law, on the regular paydays of University until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. If Coach finds reasonably comparable employment, the amounts due to Coach under this paragraph shall be reduced by the amount of money received by the Coach pursuant to Coach's employment. Coach will be entitled

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to continue his health insurance plan and group life insurance as if he remained a University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law.

5.2.3 The parties have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the Coach may lose certain benefits, supplemental compensation, or outside compensation relating to his employment with University, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by University and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by University. The liquidated damages are not, and shall not be construed to be, a penalty. Coach has been given an opportunity to consult with legal counsel of his own choosing and has not relied upon the advice of any legal counsel acting on behalf of the University.

5.3 Termination by Coach for Convenience.

5.3.1 The Coach recognizes that his promise to work for University for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the University is making a highly valuable investment in his employment by entering into this Agreement and that its investment would be lost were he to resign or otherwise terminate his employment with the University before the end of the contract term.

5.3.2 The Coach, for his own convenience, may terminate this Agreement during its term by giving prior written notice to the University. Termination shall be effective ten (10) days after notice is given to the University.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University shall cease as of the effective date of the termination. If the Coach terminates this Agreement for his convenience he shall pay to the University, as liquidated damages and not a penalty, for the breach of this Agreement the following sum: (a) if the Agreement is terminated on or before April 30, 2009, the sum of \$250,000; (b) if the Agreement is terminated between May 1, 2009 and April 30, 2010 inclusive, the sum of \$125,000. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid.

5.3.4 The parties have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the University will incur administrative and recruiting costs in obtaining a replacement for Coach, in addition to potentially increased compensation costs if Coach terminates this

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Agreement for convenience, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Coach and the acceptance thereof by University shall constitute adequate and reasonable compensation to University for the damages and injury suffered by it because of such termination by Coach. The liquidated damages are not, and shall not be construed to be, a penalty. This section 5.3.4 shall not apply if Coach terminates this Agreement because of a material breach by the University. Coach has been given an opportunity to consult with legal counsel of his own choosing and has not relied upon the advice of any legal counsel acting on behalf of the University.

5.3.5 Except as provide elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit to the extent permitted by law his right to receive all supplemental compensation and other payments.

5.4 Termination due to Disability or Death of Coach.

5.4.1 Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically if Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, becomes unable to perform the essential functions of the position of head coach, or dies.

5.4.2 If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits shall terminate as of the last day worked, except that the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University and due to the Coach's estate or beneficiaries thereunder.

5.4.3 If this Agreement is terminated because the Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, or becomes unable to perform the essential functions of the position of head coach, all salary and other benefits shall terminate, except that the Coach shall be entitled to receive any compensation due or unpaid and any disability-related benefits to which he is entitled by virtue of employment with the University.

5.5 Interference by Coach. In the event of termination, suspension, or reassignment, Coach agrees that Coach will not interfere with the University's student-athletes or otherwise obstruct the University's ability to transact business or operate its intercollegiate athletics program.

5.7 No Liability. The University shall not be liable to Coach for the loss of any collateral business opportunities or any other benefits, perquisites or income from any sources that may ensue as a result of any termination of this Agreement by either party or due to death or disability or the suspension or reassignment of Coach, regardless of the circumstances.

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5.8 Waiver of Rights. Because the Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University employees, if the University suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the University from compliance with the notice, appeal, and similar employment-related rights provide for in the State Board of Education and Board Rule Manual (IDAPA 08) and Governing Policies and Procedures Manual, and the University Policies.

5.9 Use of Annual Leave. In the event of non-renewal or termination Coach will use all accumulated annual leave prior to the end of the contract period.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the University's Board of Trustees and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the University's Board of Trustees, the President, and the Director; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such compensation is paid; and the Board of Trustees and University's rules regarding financial exigency.

6.2 University Property. All personal property (excluding vehicle(s) provided through the Courtesy Car program), material, and articles of information, including, without limitation, keys, credit cards, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to Coach by the University or developed by Coach on behalf of the University or at the University's direction or for the University's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University. Within twenty-four (24) hours of the expiration of the term of this agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the Director.

6.3 Assignment. Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party.

6.4 Waiver. No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a particular breach in the performance of this Agreement shall not constitute a waiver of any other or subsequent breach. The resort to a particular remedy upon a breach shall not constitute a waiver of any other available remedies.

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6.5 Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall remain in effect.

6.6 Governing Law. This Agreement shall be subject to and construed in accordance with the laws of the state of Idaho as an agreement to be performed in Idaho. Any action based in whole or in part on this Agreement shall be brought in the courts of the state of Idaho.

6.7 Oral Promises. Oral promises of an increase in annual salary or of any supplemental or other compensation shall not be binding upon the University.

6.8 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

6.9 Confidentiality. The Coach hereby consents and agrees that this document may be released and made available to the public after it is signed by the Coach. The Coach further agrees that all documents and reports he is required to produce under this Agreement may be released and made available to the public at the University's sole discretion.

6.10 Notices. Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

the University:	Director of Athletics 1910 University Drive Boise, ID 83725-1020
with a copy to:	President 1910 University Drive Boise, ID 83725-100
the Coach:	Don Gregory Graham Last known address on file with University's Human Resource Services

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Any notice shall be deemed to have been given on the earlier of: (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day facsimile delivery is verified. Actual notice, however and from whomever received, shall always be effective.

6.11 Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

6.12 Binding Effect. This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.

6.13 Non-Use of Names and Trademarks. The Coach shall not, without the University's prior written consent in each case, use any name, trade name, trademark, or other designation of the University (including contraction, abbreviation or simulation), except in the course and scope of his official University duties.

6.14 No Third Party Beneficiaries. There are no intended or unintended third party beneficiaries to this Agreement.

6.15 Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by University's Board of Trustees.

6.16 Opportunity to Consult with Attorney. The Coach acknowledges that he has had the opportunity to consult and review this Agreement with an attorney, and has not relied upon the advice of any legal counsel acting on behalf of the University. Accordingly, in all cases, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.

UNIVERSITY

COACH

Robert Kustra, President Date

Don Gregory Graham Date

Approved by the Board of Trustees on the ____ day of June, 2008.

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between Boise State University (University), and ~~Don Gregory Graham~~ (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the head coach of its intercollegiate ~~-(Sport)-~~ Men's Basketball team (Team). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

1.4. Reporting Relationship. Coach shall report and be responsible directly to the University's Director of Athletics (Director) or the Director's designee. Coach shall abide by the reasonable instructions of Director or the Director's designee and shall confer with the Director or the Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the University's President (President).

1.5. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The University shall have the right, at any time, to reassign Coach to duties at the University other than as head coach of the Team, provided that Coach's compensation and benefits shall not be affected by any such reassignment, except that the opportunity to earn supplemental compensation as provided in sections ~~3.2-1 through~~ (Depending on supplemental pay provisions used) shall cease.

ARTICLE 2

2.4. Initial Term. This Agreement is for a fixed-term appointment of three (3) years, commencing on April 1, 2008 and terminating ~~, without further notice to Coach,~~ on March 31, 2011 unless extended (in section 2.3 only) or sooner terminated in accordance with other provisions of this Agreement.

2.5. ~~Extension or~~ Renewal. This Agreement is renewable solely upon an offer from the University and an acceptance by Coach, both of which must be in writing and signed by the parties. Any renewal is subject to the prior approval of University's Board of Trustees. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this agreement count in any way toward tenure at the University.

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2.6. Extensions to Initial Term. During the Initial Term, this contract shall be extended by the addition of years to the contract if the conditions below are met. The additional years may only be earned during the Initial Term of three years, not during an extension year. The subsections below may yield extensions cumulative over three years but are not cumulative in any one year. Only the highest number of additional years (either 2.3.1, 2.3.2, or 2.3.3) may apply in any one season (year). None of the following includes pre-season games. If the conference (currently the Western Athletic Conference) changes or the number of conference games (currently 16 per regular season) changes during the contract, the below criteria will be adjusted accordingly.

2.6.1. The contract will be extended for three (3) years upon the occurrence of either of the following (not cumulative, no more than three years extension in any one season):

- Winning the regular season championship and an NCAA Tournament berth, or
- Winning 12 conference regular season games, winning 21 games overall and getting an NCAA Tournament berth.

2.3.4 The contract will be extended for two (2) years upon the occurrence of any of the following (not cumulative, no more than two years extension in any one season):

- Win 21 games and get an NCAA Tournament berth, or
- Win the conference tournament and have 22 wins overall, or
- Win 10 conference regular season games and get an NCAA Tournament berth, or
- Win the conference regular season championship and get to the NIT second round, or,
- Win 10 conference regular season games and win the conference tournament, or
- Win 10 conference regular season games and get to the NIT third round, or
- Win 21 games and win the conference regular season championship, or
- Win 10 regular season conference games and 21 wins overall, or
- Win 21 games overall and get to the NIT second round.

2.3.5 The contract will be extended for one (1) year upon the occurrence of any of the following (not cumulative, no more than one year extension in any one season):

- NCAA Tournament berth at large, or
- Win regular season conference champion, or
- Win conference tournament championship, or
- NIT second round appearance, or
- 10 regular season conference wins, or
- 21 wins during regular season, WAC Tournament, or NIT Tournament.

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2.3.4 Example. By way of example only, a 21 win season in the 08-09 season would add one year (2.3.3); a 21 win season and an NCAA Tournament berth in the 09-10 season would add two years (2.3.2); and a 21 win season with 12 conference regular season wins and an NCAA Tournament berth in the 10-11 season would add three years (2.3.1), for a total of six added years. This would result in a total contract term of nine years maximum as successive performance does not earn additional years.

ARTICLE 3

3.1 Regular Compensation.

3.1.1 ~~In consideration of Coach's services and satisfactory performance of this Agreement, the University shall provide to Coach:~~

- a) An annual salary of \$~~_____~~ 174,900 per year, payable in biweekly installments in accordance with normal University procedures, and such salary increases as may be determined appropriate by the Director and President and approved by the University's Board of Trustees;
- b) The opportunity to receive such employee benefits ~~calculated on the "base salary"~~ as the University provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the University's Department of Athletics (Department) provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.

3.3 Supplemental Compensation. Coach may earn supplemental compensation as follows:

~~3.2.2. Each year the Team is the conference champion or co-champion and also becomes eligible for a bowl game pursuant to NCAA Division I guidelines or post-season tournament or post-season playoffs, and if Coach continues to be employed as University's head _____ (Sport) coach as Athletic Achievement~~

a) WAC Regular Season Champions \$5,000

~~3.2.1. b) _____ The greater of the ensuing July 1st, the University shall pay to Coach supplemental compensation in an amount equal to _____ (amount or computation) _____ of Coach's Annual Salary during the fiscal year in which the championship and _____ (bowl or other post-season) eligibility are achieved. The University~~

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~~shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.~~

~~3.2.2 Each year the Team is ranked in the top 25 in the (national rankings, such as final ESPN/USA Today coaches poll of Division IA football teams), and if Coach continues to be employed as University's head (Sport) coach as of the ensuing July 1st, the University shall pay Coach supplemental compensation in an amount equal to (amount or computation) of Coach's Annual Salary in effect on the date of the final poll. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.~~

~~3.2.3 Each year Coach shall be eligible to receive supplemental compensation in an amount up to (amount or computation) based on the academic achievement and behavior of Team members. The determination of whether Coach will receive such supplemental compensation and the timing of the payment(s) shall be at the sole discretion of the President in consultation with the Director. The determination shall be based on the following factors: grade point averages; difficulty of major course of study; honors such as scholarships, designation as~~two:

<u>WAC Tournament Finalist</u>	<u>\$3,000</u>
<u>WAC Tournament Champions</u>	<u>\$10,000</u>

c) NCAA Tournament appearances \$5,000 per game

<u>d) NIT appearances</u>	<u>\$3,000 per game</u>
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<u>e) 20 Wins</u>	<u>\$4,000</u>
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<u>f) Winning Record (more wins than losses)</u>	<u>\$4,000</u>
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<u>g) NIT Championship</u>	<u>\$12,000</u>
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<u>h) NCAA Tournament "Sweet 16"</u>	<u>\$10,000</u>
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~~3.2.2 Academic All-American, and conference academic recognition; progress toward graduation for all athletes, but particularly those who entered the University as academically at-risk students; the conduct of Team members on the University campus, at authorized University activities, in the community, and elsewhere. Any such supplemental compensation paid to Coach shall be accompanied with a detailed justification for the supplemental compensation based on the factors listed above and such justification shall be separately reported to the Board of Trustees as a document available to the public under the Idaho Public Records Act.~~Achievement

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- c) Coach shall qualify for supplemental pay annually if the four year Academic Progress Rate ("APR", meaning the measurement as used by the NCAA to track academic progress of NCAA eligible student athletes and NCAA athletic programs) for that year meets the following levels in the National Ranking within men's basketball:
- | | | |
|------|--------------|----------|
| i. | 50% to 60% | \$5,000 |
| ii. | 60% to 70% | \$7,500 |
| iii. | 70% to 80% | \$10,000 |
| iv. | 80% or above | \$12,500 |
- d) The team must win a minimum of 9 games during the academic year being considered.

3.2.4 Conditions for payment of Academic and Athletic Achievement supplemental compensation.

- d) Payment Date for Academic and Athletic Supplemental Compensation shall be made July 1st of each year following the completion of the season in which it is earned. Coach must remain employed with the University on said July 1 in order to receive any amounts due under section 3.2.1. and 3.2.2.
- e) In order to receive the 3.2.1 supplemental compensation, the basketball team's retention rate must be at least 50 percent for the academic year in which the supplemental pay is earned. The retention rate will be calculated anew each year and will not be cumulative.

3.2.4- Each year Coach ~~shall~~may be eligible to receive supplemental compensation ~~in an amount up to (amount or computation)~~ based on the overall development of the intercollegiate men's basketball program; ticket sales; fundraising; outreach by Coach to various constituency groups, including University students, staff, faculty, alumni and boosters; and any other factors the President wishes to consider. The determination of whether Coach will receive such supplemental compensation and the timing of the payment(s) shall be at the sole discretion of the President in consultation with the Director.

3.2.5 Supplemental Compensation for Media. The Coach shall receive ~~the sum of (amount or computation) \$170,100~~ from the University ~~or~~ the University's designated media outlet(s), or from public appearance fees or a combination thereof (at the discretion of the University and the Media outlets), each year during the term of this Agreement in compensation for participation in media programs and public appearances (Programs). ~~Coach's right to receive such a payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later. This sum shall be paid (terms or conditions of payment)~~. This sum may

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be paid either through the University by-weekly payroll or may be paid monthly directly from the media outlets. The Coach will be advised annually, or at other times as needed, as to the source of payment. Coach acknowledges that the differing sources of payment changes the nature of the benefits attached to such payments. Agreements requiring the Coach to participate in Programs related to his duties as an employee of University are the property of the University. The University shall have the exclusive right to negotiate and contract with all producers of media productions and all parties desiring public appearances by the Coach. Coach agrees to cooperate with the University in order for the Programs to be successful and agrees to provide his services to and perform on the Programs and to cooperate in their production, broadcasting, and telecasting. It is understood that neither Coach nor any assistant coaches shall appear without the prior written approval of the Director on any competing radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Director, Coach shall not appear in any commercial endorsements which are broadcast on radio or television that conflict with those broadcast on the University's designated media outlets.

~~3.2.6 SUMMER CAMP—OPERATED BY UNIVERSITY~~ ~~Coach agrees that the~~ 3.2.6 Merit raises. Merit increases shall be made to Coach's compensation annually based upon performance in the last immediate regular and post season. The merit raise amount is determined by multiplying the applicable percentage below times the immediate last year's amount for the total of salary (in 3.1.1(a)) plus supplemental compensation for media (in 3.2.5.):

- Winning Record (more wins than losses) = 5% increase
- 20 wins = 10% increase
- 23 wins = 15% increase
- 25 wins = 19% increase

3.2.7 Summer Camp. The University ~~has the exclusive right to~~ may operate youth (Sport) camps on its campus a summer youth basketball camp using University facilities. ~~The, and in so doing, the~~ University shall allow Coach the opportunity to earn supplemental compensation by assisting ~~with the University's camps in Coach's his~~ capacity as a University employee. ~~Coach hereby agrees to assist in the marketing, supervision, and general administration of the University's football camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the University's summer football camps, the University shall pay Coach (amount) per year as supplemental compensation during each year of his employment as head (Sport) coach at the University. This amount shall be paid (terms of payment).~~ In considering whether to operate a summer youth camp, the University may consider the following conditions:

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- a) The summer youth camp operation reflects positively on the University and the Department;
- b) The summer youth camp is operated as a University activity in which the University shall pay Coach a reasonable supplemental income based in part upon the revenue and expenses of the summer camp. The camp operation will have the opportunity to internally lease University facilities for the summer camp which will be charged as an operating expense of the camp;
- f) The Coach complies with all NCAA, Conference, and University rules and regulations related, directly or indirectly, to the operation of summer youth camps;
- d) All revenues and expenses of the camp shall be deposited with and paid by the University.
- e) If required by the University, Coach shall secure through University risk management as an expense of the camp, supplemental liability insurance as follows: (1) liability coverage: spectator and staff--\$1 million; (2) catastrophic coverage: camper and staff--\$1 million maximum coverage with \$100 deductible;

In the event of termination of this Agreement, suspension, or reassignment, University shall not be under any obligation to hold a summer youth camp with the Coach after the effective date of such termination, suspension, or reassignment, and the University shall be released from all obligations relating thereto.

3.2.8 Coach agrees that the University has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University. Coach recognizes that the University ~~is negotiating or has entered~~ has the authority to enter into an agreement with ~~—(Company Name)—a company~~ to supply the University with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University's reasonable request, Coach will consult with appropriate parties concerning an ~~—(Company Name)—~~ product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by ~~(Company Name)~~ the University's designated company, or give a lecture at an event sponsored in whole or in part by ~~—(Company Name)—said company~~, or make other educationally-related appearances as may be reasonably requested by the University. Notwithstanding the foregoing sentence, Coach shall retain the right to decline such appearances as Coach reasonably determines to conflict with or hinder his duties and

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obligations as head ~~—(Sport)—~~basketball coach. In order to avoid entering into an agreement with a competitor of ~~—(Company Name)—~~the University's designated company, Coach shall submit all outside consulting agreements to the University for review and approval prior to execution. Coach shall also report such outside income to the University in accordance with NCAA rules. ~~Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including (Company Name), and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products.~~

3.3 General Conditions of Compensation. All compensation provided by the University to Coach is subject to deductions and withholdings as required by law or the terms and conditions of any fringe benefit in which Coach participates. However, if any fringe benefit is based in whole or in part upon the compensation provided by the University to Coach, such fringe benefit shall be based only on the ~~compensation~~salary provided pursuant to section 3.1.1, except to the extent required by the terms and conditions of a specific fringe benefit program.

ARTICLE 4

4.2. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall:

4.2.1. Devote Coach's full time and best efforts to the performance of Coach's duties under this Agreement;

4.2.2. Develop and implement programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team members which enable them to compete successfully and reasonably protect their health, safety, and well-being;

4.2.3. Observe and uphold all academic standards, requirements, and policies of the University and encourage Team members to perform to their highest academic potential and to graduate in a timely manner; and

4.2.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's governing board, the conference, and the NCAA; supervise and take appropriate steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Director and to the Department's Director of Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations.

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Coach shall cooperate fully with the University and Department at all times. The names or titles of employees whom Coach supervises are attached as Exhibit C. The applicable laws, policies, rules, and regulations include: (a) State Board of Education Governing Policies and Procedures and Rule Manual; (b) University's ~~Policy Handbook~~Policies; (c) University's Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA rules and regulations; and (f) the rules and regulations of the ~~(Sport) — conference of which the University is a member~~Western Athletic Conference (WAC).

4.3 Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of the University, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach may not use the University's name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President.

4.3 NCAA Rules. In accordance with NCAA rules, Coach shall obtain prior written approval from the University's President for all athletically related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits to the University's President whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular University work day preceding June 30th. The report shall be in a format reasonably satisfactory to University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's governing board, the conference, or the NCAA.

4.4 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of President and the University's Board of Trustees.

4.5 Scheduling. Coach shall consult with, and may make recommendations to, the Director or the Director's designee with respect to the scheduling of Team competitions, but the final decision shall be made by the Director or the Director's designee.

BUSINESS AFFAIRS AND HUMAN RESOURCES
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4.7 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team, requiring performance of duties prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not unreasonably be withheld.

4.8 Specific Duties of Coach. The Coach is expected to devote full time to coaching and recruitment involving the Men's Basketball team as the Head Coach. The Coach will attend all staff meetings, public relation functions, dinners, awards banquet and make appearances as directed by Athletic Director unless excused by Athletic Director. Such functions shall include, but are not limited to, the following:

- j) The annual BAA Bar-B-que;
- k) The weekly BAA noon luncheons during the relevant season;
- l) The annual BAA Endowment dinner;
- m) The BSU Athletic Hall of Fame dinner;
- n) The BAA Bronze Bronco Award banquet;
- o) The BAA/Alumni Auction dinner;
- p) All Athletic Department staff meetings called by Athletic Director;
- q) Athletic Department Graduation Reception;
- r) Bronco Series Golf Tournaments.

ARTICLE 5

5.1 Termination of Coach for Cause. The University may, in its discretion, suspend Coach from some or all of Coach's duties, temporarily or permanently, and with or without pay; reassign Coach to other duties; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in applicable policies, rules and regulations.

5.1.1 In addition to the definitions contained in applicable policies, rules and regulations, University and Coach hereby specifically agree that the following shall constitute good or adequate cause for suspension, reassignment, or termination of this Agreement:

- g) A deliberate or major violation of Coach's duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach's abilities;
- h) The failure of Coach to remedy any violation of any of the terms of this agreement within 30 days after written notice from the University;

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- i) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference or the NCAA, including but not limited to any such violation which may have occurred during the employment of Coach at another NCAA ~~or NAIA~~ member institution;
- j) Ten (10) working days' absence of Coach from duty without the University's consent;
- k) Any conduct of Coach that constitutes moral turpitude or that would, in the University's judgment, reflect adversely on the University or its athletic programs;
- l) The failure of Coach to represent the University and its athletic programs positively in public and private forums;
- g) The failure of Coach to fully and promptly cooperate with the NCAA or the University in any investigation of possible violations of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA;
- h) The failure of Coach to report a known violation of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or
- i) A violation of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team if Coach knew or should have known of the violation and could have prevented it by ordinary supervision.

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the Director or his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, University shall notify Coach whether, and if so when, the action will be effective.

5.1.3 In the event of any termination for good or adequate cause, the University's obligation to provide compensation and benefits to Coach, whether direct,

BUSINESS AFFAIRS AND HUMAN RESOURCES
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indirect, supplemental or collateral, shall cease as of the date of such termination, and the University shall not be liable for the loss of any collateral business opportunities or other benefits, perquisites, or income resulting from outside activities or from any other sources.

5.1.4 If found in violation of NCAA regulations, Coach shall, in addition to the provisions of Section 5.1, be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures. This section applies to violations occurring at the University or at previous institutions at which the Coach was employed.

5.2 Termination of Coach for Convenience of University.

5.2.1 At any time after commencement of this Agreement, University, for its own convenience, may terminate this Agreement by giving ten (10) days prior written notice to Coach.

5.2.2 In the event that University terminates this Agreement for its own convenience, University shall be obligated to pay Coach, as liquidated damages and not a penalty, the ~~"total salary"~~ set forth in section 3.1.1(a), and the amounts set forth in section 3.2.5, excluding all deductions required by law, on the regular paydays of University until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. ~~In addition, If Coach finds reasonably comparable employment, the amounts due to Coach under this paragraph shall be reduced by the amount of money received by the Coach pursuant to Coach's employment.~~ Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law.

5.2.3 The parties have ~~both been represented by, or had opportunity to consult with, legal counsel in the contract negotiations and have~~ bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the Coach may lose certain benefits, supplemental compensation, or outside compensation relating to his employment with University, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by University and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by University. The liquidated damages are not, and shall not be construed to be, a penalty. Coach has been given an opportunity to consult with legal counsel of his own choosing and has not relied upon the advice of any legal counsel acting on behalf of the University.

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5.3 Termination by Coach for Convenience.

5.3.1 The Coach recognizes that his promise to work for University for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the University is making a highly valuable investment in his employment by entering into this Agreement and that its investment would be lost were he to resign or otherwise terminate his employment with the University before the end of the contract term.

5.3.2 The Coach, for his own convenience, may terminate this Agreement during its term by giving prior written notice to the University. Termination shall be effective ten (10) days after notice is given to the University.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University shall cease as of the effective date of the termination. If the Coach terminates this Agreement for his convenience he shall pay to the University, as liquidated damages and not a penalty, for the breach of this Agreement the following sum: (a) if the Agreement is terminated on or before April 30, 2009, the sum of ~~\$30,250,000.00~~; (b) if the Agreement is terminated between May 1, 2009 and April 30, 2010 inclusive, the sum of ~~\$20,125,000.00~~; (c) ~~if the Agreement is terminated between~~ and ~~inclusive, the sum of \$10,000.00.~~ The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid.

5.3.4 The parties have ~~both been represented by, or had opportunity to consult with, legal counsel in the contract negotiations and have~~ bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the University will incur administrative and recruiting costs in obtaining a replacement for Coach, in addition to potentially increased compensation costs if Coach terminates this Agreement for convenience, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Coach and the acceptance thereof by University shall constitute adequate and reasonable compensation to University for the damages and injury suffered by it because of such termination by Coach. The liquidated damages are not, and shall not be construed to be, a penalty. This section 5.3.4 shall not apply if Coach terminates this Agreement because of a material breach by the University. Coach has been given an opportunity to consult with legal counsel of his own choosing and has not relied upon the advice of any legal counsel acting on behalf of the University.

5.3.5 Except as provide elsewhere in this Agreement, if Coach

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terminates this Agreement for convenience, he shall forfeit to the extent permitted by law his right to receive all supplemental compensation and other payments.

5.4 Termination due to Disability or Death of Coach.

5.4.1 Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically if Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, becomes unable to perform the essential functions of the position of head coach, or dies.

5.4.2 If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits shall terminate as of the last day worked, except that the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University and due to the Coach's estate or beneficiaries thereunder.

5.4.3 If this Agreement is terminated because the Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, or becomes unable to perform the essential functions of the position of head coach, all salary and other benefits shall terminate, except that the Coach shall be entitled to receive any compensation due or unpaid and any disability-related benefits to which he is entitled by virtue of employment with the University.

5.5 Interference by Coach. In the event of termination, suspension, or reassignment, Coach agrees that Coach will not interfere with the University's student-athletes or otherwise obstruct the University's ability to transact business or operate its intercollegiate athletics program.

5.7 No Liability. The University shall not be liable to Coach for the loss of any collateral business opportunities or any other benefits, perquisites or income from any sources that may ensue as a result of any termination of this Agreement by either party or due to death or disability or the suspension or reassignment of Coach, regardless of the circumstances.

5.8 Waiver of Rights. Because the Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University employees, if the University suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the University from compliance with the notice, appeal, and similar employment-related rights provide for in the State Board of Education and Board Rule Manual (IDAPA 08) and Governing Policies and Procedures Manual, and the University [Policies](#).

BUSINESS AFFAIRS AND HUMAN RESOURCES

JUNE 19-20, 2008

5.9 Use of Annual Leave. In the event of non-renewal or termination Coach will use all accumulated annual leave prior to the end of the contract period.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the University's Board of Trustees and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the University's Board of Trustees, the President, and the Director; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such compensation is paid; and the Board of Trustees and University's rules regarding financial exigency.

6.2 University Property. All personal property (excluding vehicle(s) provided through the ~~_____~~ Courtesy Car program), material, and articles of information, including, without limitation, keys, credit cards, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to Coach by the University or developed by Coach on behalf of the University or at the University's direction or for the University's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University. Within twenty-four (24) hours of the expiration of the term of this agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the Director.

6.3 Assignment. Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party.

6.4 Waiver. No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a particular breach in the performance of this Agreement shall not constitute a waiver of any other or subsequent breach. The resort to a particular remedy upon a breach shall not constitute a waiver of any other available remedies.

6.5 Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall remain in effect.

6.6 Governing Law. This Agreement shall be subject to and construed in accordance with the laws of the state of Idaho as an agreement to be performed in Idaho. Any action based in whole or in part on this Agreement shall be brought in the courts of the state of Idaho.

6.10 Notices. Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

BUSINESS AFFAIRS AND HUMAN RESOURCES
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6.11 Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

6.12 Binding Effect. This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.

6.13 Non-Use of Names and Trademarks. The Coach shall not, without the University's prior written consent in each case, use any name, trade name, trademark, or other designation of the University (including contraction, abbreviation or simulation), except in the course and scope of his official University duties.

6.14 No Third Party Beneficiaries. There are no intended or unintended third party beneficiaries to this Agreement.

6.15 Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by University's Board of Trustees.

6.16 Opportunity to Consult with Attorney. The Coach acknowledges that he has had the opportunity to consult and review this Agreement with an attorney, and has not relied upon the advice of any legal counsel acting on behalf of the University. Accordingly, in all cases, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.

UNIVERSITY_

COACH

Robert Kustra, President Date _____
Don Gregory Graham Date _____

Approved by the Board of Trustees on the ____ day of _____, ~~20~~ June, 2008.

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Greg Graham, Boise State University, Head Men's Basketball Coach – Multi-Year Contract

	Model Contract Section	Contract Section	Justification for Modification
1.3	Duties	1.3 Duties	Deleted the reassignment clause (Also effects 5.1, 5.1.1, 5.1.2, 5.5 and 5.8)
2.3	None	2.3 Extensions – This is a new provision that allows for an extension to the term of years of the contract based on the performance of the program	This allows for a shorter contract to start, but the Coach may earn more years based on performance.
3.2	Supplemental Compensation	3.2.1 Supplemental Compensation; language added	Language provides specific criteria for athletic achievement supplemental compensation.
3.2	Supplemental Compensation	3.2.2 & 3.2.3 Supplemental Compensation; language added	Language provides specific criteria for athletic and academic achievement supplemental compensation.
3.2	Supplemental Compensation	3.2.4 Supplemental Compensation; language deleted	More details regarding the apparel contracts are found in the addendum.
3.2	Supplemental Compensation	3.2.5 Supplemental Compensation; language added	Removed the vesting language and inserted that such payments may be made directly from media sponsors to the Coach.
3.2	Supplemental Compensation	3.2.6 New	This provision build merit raises into the contract based on the performance of the program.
3.2	Supplemental	3.2.7 Supplemental Compensation; summer camp	Language provides criteria and

Greg Graham, Boise State University, Head Men's Basketball Coach – Multi-Year Contract

	Compensation		conditions applicable to coach's operation of a summer youth camp and deletes the ability of the coach to operate the camp independent of the university.
4.8	None	4.8 Specific Duties	Outlines some specific obligations of the Coach.
5.3	Termination by coach for convenience	5.3.2, 5.3.3, 5.3.4, Termination by coach for convenience; language added	Language provides that the termination cannot occur during the season; that the buyout terms for pursuing other employment is \$250,000 for year one and \$125,000 for year two.
5.3	Termination by coach for convenience	5.3.5, Supplemental pay for performance upon termination by Coach for convenience	Removal allows Coach to be paid the earned performance incentive pay if earned before the termination.

REFERENCE – APPLICABLE STATUTE, RULE OR POLICY

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: II. HUMAN RESOURCES POLICIES AND PROCEDURES

Subsection: H. Policies Regarding Coaching Personnel and Athletic Directors April 2002

H. Policies Regarding Coaching Personnel and Athletic Directors (Institution Employees Only)

1. Agreements Longer Than One Year

The chief executive officer of an institution is authorized to enter into a contract for the services of a head coach or athletic director with that institution for a term of more than one (1) year, but not more than five (5) years, subject to approval by the Board as to the terms, conditions, and compensation thereunder, and subject further to the condition that the contract of employment carries terms and conditions of future obligations of the coach or athletic director to the institution for the performance of such contracts. Each contract for the services shall follow the general form approved by the Board as a model contract. Such contract shall define the entire employment relationship between the Board and the coach or athletic director and may incorporate by reference applicable Board and institutional policies and rules, and applicable law.

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BUSINESS AFFAIRS AND HUMAN RESOURCES
JUNE 19-20, 2008

IDAHO STATE UNIVERSITY

SUBJECT

Approval of multi-year employment agreement for Head Women's Volleyball coach

APPLICABLE STATUTE, RULE OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section II.H.1.

DISCUSSION

Idaho State University is requesting approval for a two-year, eight-month employment agreement for Chad Teichert, Head Women's Volleyball Coach (see Attachment 1) The employment agreement contains the duties, responsibilities and conditions of the employment. A Model Contract Matrix and red-line version of the Employment Agreement that identifies departures from the model contract form and provides justification for these changes is included as Attachments 2 and 3. This position is funded by state appropriated funds.

IMPACT

This contract will provide a stable coaching environment for the Volleyball program as well as stability and consistency for the Athletic Department as a whole.

ATTACHMENTS

Attachment 1 – Contract	Page 3
Attachment 2 – Contract – Redline to Model	Page 15
Attachment 3 – Model Contract Matrix Changes	Page 33

STAFF AND COMMENTS AND RECOMMENDATIONS

Incentive for academic achievement is based on GPA, retention and graduation rates which is not consistent with other coaching contracts that tie academic achievement to the NCAA Academic Progress Rate.

The agreement adds a courtesy car to be provided to Coach.

Staff recommends approval.

BOARD ACTION

A motion to approve the request by Idaho State University for a multi-year employment agreement as submitted for Chad Teicher, the Head Women's Volleyball Coach (1.0 FTE).

Moved by _____ Seconded by _____ Carried Yes_____ No_____

BUSINESS AFFAIRS AND HUMAN RESOURCES
JUNE 19-20, 2008

HEAD COACH OR ATHLETIC DIRECTOR EMPLOYMENT AGREEMENTS

Chad Teichert	Attachments 1, 2 & 3
Position Title	Head Women's Volleyball Coach
FTE	1.0
Term	32 months
Term of Contract	May 30, 2008 – January 31, 2011
Annual Salary	\$54,995.20
Funding Source	State Funds
Area/Department of Assignment	Intercollegiate Athletics
Supplemental Compensation	See Attachment 2, Article 3.2.

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between Idaho State University (University), and Chad Teichert, Head Women's Volleyball Coach (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the head coach of its intercollegiate Women's Volleyball team (Team). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

1.2. Reporting Relationship. Coach shall report and be responsible directly to the University's Director of Athletics (Director) or the Director's designee. Coach shall abide by the reasonable instructions of Director or the Director's designee and shall confer with the Director or the Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the University's President (President).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The University shall have the right, at any time, to reassign Coach to duties at the University other than as head coach of the Team, provided that Coach's compensation and benefits shall not be affected by any such reassignment, except that the opportunity to earn supplemental compensation as provided in sections 3.2.1 through 3.2.8 shall cease. The right of the University to reassign Coach to duties other than as head coach of the Team as set forth herein shall not require good or adequate cause, and shall be independent of the University's right to terminate, suspend or reassign Coach for good or adequate cause as set forth in Article 5.1 of this Agreement.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of two (2) years, eight (8) months, commencing on May 30, 2008 and terminating, without further notice to Coach, on January 31, 2011 unless sooner terminated in accordance with other provisions of this Agreement

2.2. Extension or Renewal. This Agreement is renewable solely upon an offer from the University and an acceptance by Coach, both of which must be in writing and signed by the parties. Any renewal is subject to the prior approval of University's Board of Trustees. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this agreement count in any way toward tenure at the University.

ARTICLE 3

3.1 Regular Compensation.

3.1.1 In consideration of Coach's services and satisfactory performance of this Agreement, the University shall provide to Coach:

- a) An annual salary of \$54,995.20 per year, payable in biweekly installments in accordance with normal University procedures, and such salary increases as may be determined appropriate by the Director and President and approved by the University's Board of Trustees;
- b) The opportunity to receive such employee benefits as the University provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the University's Department of Athletics (Department) provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.
- d) Subject to availability, a courtesy car will be provided to Coach during employment as Head Women's Volleyball Coach through the Courtesy Car Program as assigned by Director.

3.2 Supplemental Compensation

3.2.1. Each year the Team wins the regular season Big Sky Conference Championship the University shall pay to coach one week's pay of Coach's Annual Salary.

3.2.2 Each year the Team wins the Big Sky Conference Women's Volleyball Tournament and the subsequent automatic NCAA Conference berth at the conclusion of the regular season, the University shall pay to Coach one week's pay of Coach's Annual Salary.

3.2.3 In the event the Team, either by automatic qualification or as an at-large choice competes in the NCAA Women's Volleyball Post-Season Tournament, the University shall compensate Coach for advancing in the tournament bracket as follows:

Round 1	64 teams	1 st win	\$ 1,000
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Round 2	32 teams	2 nd win	\$ 2,000
Round 3	16 teams	3 rd win	\$ 4,000
Round 4	8 teams	4 th win	\$ 6,000
Round 5	4 teams	5 th win	\$ 8,000
Round 6	2 teams	6 th win	<u>\$10,000</u>
Possible bonus computation total for winning National Championship.			\$31,000

3.2.4 Coach will be eligible to receive supplemental compensation equivalent to one week's salary for winning twenty (20) or more regular season volleyball games.

3.2.5 Each year Coach shall be eligible to receive supplemental compensation of one week's pay for reaching all three of the following academic achievements of the Team members:

(1) the cumulative GPA of the entire Team as computed at the end of the academic year is 3.2 or higher; (2) the retention rate for all freshmen through junior Team members who are scholarship athletes is 80% or higher; (3) the graduation rate is 90% or higher for all Team members who have exhausted eligibility in any given academic year.

3.2.6 Summer Camp operated by University. Coach agrees that the University has the exclusive right to operate girls' youth volleyball camps on its campus using University facilities. The University shall allow Coach the opportunity to earn supplemental compensation by directing or administrating University's camps in Coach's capacity as a University employee. Coach hereby agrees to direct the marketing, supervision, and general administration of the University's Women's Volleyball camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the University's summer Women's Volleyball camps, the University shall pay Coach the net revenues resulting from each summer camp as supplemental compensation during each year of his employment as head Women's Volleyball coach at the University. This amount shall be paid within 30 days of the end of each summer camp. Alternatively, Coach may direct that such net revenues be used to enhance the budget of the Women's Volleyball program.

In the event of termination of this Agreement, suspension, or reassignment, University shall not be under any obligation to permit a summer youth camp to be held by the Coach after the effective date of such termination, suspension, or reassignment, and the University shall be released from all obligations relating hereto.

3.2.7 If the opportunity becomes available, the Coach may participate in radio or television broadcast programs and may receive additional compensation therefore. Any such participation shall be at the direction of the Director and the University.

3.2.8 Coach agrees that the University has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University. Coach agrees that, upon the University's reasonable request, Coach will consult with appropriate parties concerning company's product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by such company, or give a lecture at an event sponsored in whole or in part by such company, or make other educationally-related appearances as may be reasonably requested by the University. Notwithstanding the foregoing sentence, Coach shall retain the right to decline such appearances as Coach reasonably determines to conflict with or hinder his duties and obligations as head Women's Volleyball coach. In order to avoid entering into an agreement with a competitor of such company, Coach shall submit all outside consulting agreements to the University for review and approval by the director prior to execution. Coach shall also report such outside income to the University in accordance with NCAA rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel, equipment, and products, including such company, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products.

3.3 General Conditions of Compensation. All compensation provided by the University to Coach is subject to deductions and withholdings as required by law or the terms and conditions of any fringe benefit in which Coach participates. However, if any fringe benefit is based in whole or in part upon the compensation provided by the University to Coach, such fringe benefit shall be based only on the compensation provided pursuant to section 3.1.1, except to the extent required by the terms and conditions of a specific fringe benefit program.

ARTICLE 4

4.1. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall:

4.1.1. Devote Coach's full time and best efforts to the performance of Coach's duties under this Agreement;

4.1.2. Develop and implement programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team members which enable them to compete successfully and reasonably protect their health, safety, and well-being;

4.1.3. Observe and uphold all academic standards, requirements, and policies of the University and encourage Team members to perform to their highest academic potential and to graduate in a timely manner; and

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's governing board, the conference, and the NCAA; supervise and take appropriate steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Director and to the Department's Director of Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall cooperate fully with the University and Department at all times. The names or titles of employees whom Coach supervises are attached as Exhibit C. The applicable laws, policies, rules, and regulations include: (a) State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual; (b) University's Handbook; (c) University's Administrative Procedures Manual; (d) the policies and procedure of the Athletic Department; (e) NCAA (or NAIA) rules and regulations; and (f) the rules and regulations of the Big Sky Conference of which the University is a member.

4.2 Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of the University, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach may not use the University's name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President.

4.3 NCAA Rules. In accordance with NCAA rules, Coach shall obtain prior written approval from the University's President for all athletically related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits to the University's President whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular University work day preceding June 30th. The report shall be in a format reasonably satisfactory to University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's governing board, the conference, or the NCAA.

4.4 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of President and the University's Board of Trustees.

4.5 Scheduling. Coach shall consult with, and may make recommendations to, the Director or the Director's designee with respect to the scheduling of Team competitions, but the final decision shall be made by the Director or the Director's designee.

4.6 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team, requiring performance of duties prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not be unreasonably withheld.

ARTICLE 5

5.1 Termination of Coach for Cause. The University may, in its discretion, suspend Coach from some or all of Coach's duties, temporarily or permanently, with or without pay; reassign Coach to other duties; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in applicable rules and regulations.

5.1.1 In addition to the definitions contained in applicable rules and regulations, University and Coach hereby specifically agree that the following shall constitute good or adequate cause for suspension, reassignment, or termination of this Agreement:

- a) A deliberate or major violation of Coach's duties under this Agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach's abilities;
- b) The failure of Coach to remedy any violation of any of the terms of this Agreement within 30 days after written notice from the University;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference or the NCAA, including but not limited to any such violation which may have occurred during the employment of Coach at another NCAA or NAIA member institution;

- d) Ten (10) working days' absence of Coach from duty without the University's consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University's judgment, reflect adversely on the University or its athletic programs;
- f) The failure of Coach to represent the University and its athletic programs positively in public and private forums;
- g) The failure of Coach to fully and promptly cooperate with the NCAA or the University in any investigation of possible violations of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA;
- h) The failure of Coach to report a known violation of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or
- i) A violation of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team if Coach knew or should have known of the violation and could have prevented it by ordinary supervision.

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the Director or his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, University shall notify Coach whether, and if so when, the action will be effective.

5.1.3 In the event of any termination for good or adequate cause, the University's obligation to provide compensation and benefits to Coach, whether direct, indirect, supplemental or collateral, shall cease as of the date of such termination, and the University shall not be liable for the loss of any collateral business opportunities or other benefits, perquisites, or income resulting from outside activities or from any other sources.

5.1.4 If found in violation of NCAA regulations, Coach shall, in addition to the provisions of Section 5.1, be subject to disciplinary or corrective action as set forth

in the provisions of the NCAA enforcement procedures. This section applies to violations occurring at the University or at previous institutions at which the Coach was employed.

5.2 Termination of Coach for Convenience of University.

5.2.1 At any time after commencement of this Agreement, University, for its own convenience, may terminate this Agreement by giving ten (10) days prior written notice to Coach.

5.2.2 In the event that University terminates this Agreement for its own convenience, University shall be obligated to pay Coach, as liquidated damages and not a penalty, the salary set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of University until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law.

5.3 Termination by Coach for Convenience.

5.3.1 The Coach recognizes that his promise to work for University for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the University is making a highly valuable investment in his employment by entering into this Agreement and that its investment would be lost were he to resign or otherwise terminate his employment with the University before the end of the contract term.

5.3.2 The Coach, for his own convenience, may terminate this Agreement during its term by giving prior written notice to the University. Termination shall be effective ten (10) days after notice is given to the University.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University shall cease as of the effective date of the termination. If the Coach terminates this Agreement for his convenience he shall pay to the University, as liquidated damages and not a penalty, for the breach of this Agreement the following sum: (a) if the Agreement is terminated on or before January 31, 2009, the sum of \$6,000.00; (b) if the Agreement is terminated between February 1, 2009 and January 31, 2010 inclusive, the sum of \$4,000.00; (c) if the Agreement is terminated between February 1, 2010 and January 30, 2011 inclusive, the sum of \$2,000.00. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate of eight (8) percent per annum until paid.

5.3.4 Except as provide elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit to the extent permitted by law his right to receive all supplemental compensation and other payments.

5.4 Termination due to Disability or Death of Coach.

5.4.1 Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically if Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, becomes unable to perform the essential functions of the position of head coach, or dies.

5.4.2 If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits shall terminate as of the last day worked, except that the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University and due to the Coach's estate or beneficiaries thereunder.

5.4.3 If this Agreement is terminated because the Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, or becomes unable to perform the essential functions of the position of head coach, all salary and other benefits shall terminate, except that the Coach shall be entitled to receive any compensation due or unpaid and any disability-related benefits to which he is entitled by virtue of employment with the University.

5.5 Interference by Coach. In the event of termination, suspension, or reassignment, Coach agrees that Coach will not interfere with the University's student-athletes or otherwise obstruct the University's ability to transact business or operate its intercollegiate athletics program.

5.6 No Liability. The University shall not be liable to Coach for the loss of any collateral business opportunities or any other benefits, perquisites or income from any sources that may ensue as a result of any termination of this Agreement by either party or due to death or disability or the suspension or reassignment of Coach, regardless of the circumstances.

5.7 Waiver of Rights. Because the Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University employees, if the University suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the University from compliance with the notice, appeal, and similar employment-related rights provided for in the State Board of Education Governing Policies and Procedures Manual, and the University Faculty-Staff Handbook.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the State Board of Education and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the University's State Board of Education, the President, and the Director; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such compensation is paid; and the State Board of Education and University's rules regarding financial exigency.

6.2 University Property. All personal property (excluding vehicle(s) provided through the Courtesy Car Program), material, and articles of information, including, without limitation, keys, credit cards, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to Coach by the University or developed by Coach on behalf of the University or at the University's direction or for the University's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University. Within twenty-four (24) hours of the expiration of the term of this Agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the Director.

6.3 Assignment. Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party.

6.4 Waiver. No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a particular breach in the performance of this Agreement shall not constitute a waiver of any other or subsequent breach. The resort to a particular remedy upon a breach shall not constitute a waiver of any other available remedies.

6.5 Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall remain in effect.

6.6 Governing Law. This Agreement shall be subject to and construed in accordance with the laws of the state of Idaho as an agreement to be performed in Idaho. Any action based in whole or in part on this Agreement shall be brought in the courts of the state of Idaho.

6.7 Oral Promises. Oral promises of an increase in annual salary or of any supplemental or other compensation shall not be binding upon the University.

6.8 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations,

governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

6.9 Confidentiality. The Coach hereby consents and agrees that this document may be released and made available to the public after it is signed by the Coach. The Coach further agrees that all documents and reports he is required to produce under this Agreement may be released and made available to the public at the University's sole discretion.

6.10 Notices. Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

the University: Director of Athletics
 Campus Box 8173
 Idaho State University
 Pocatello, ID 83209-8173

with a copy to: President
 Campus Box 8310
 Idaho State University
 Pocatello, ID 83209-8310

the Coach: Chad Teichert
 Last known address on file with
 University's Human Resource Services

Any notice shall be deemed to have been given on the earlier of: (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day facsimile delivery is verified. Actual notice, however and from whomever received, shall always be effective.

6.11 Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

6.12 Binding Effect. This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.

6.13 Non-Use of Names and Trademarks. The Coach shall not, without the University's prior written consent in each case, use any name, trade name, trademark,

or other designation of the University (including contraction, abbreviation or simulation), except in the course and scope of his official University duties.

6.14 No Third Party Beneficiaries. There are no intended or unintended third party beneficiaries to this Agreement.

6.15 Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by University's Board of Trustees.

6.16 Opportunity to Consult with Attorney. The Coach acknowledges that he has had the opportunity to consult and review this Agreement with an attorney and has not relied upon the advice of any legal counsel acting on behalf of the University. Accordingly, in all cases, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.

UNIVERSITY

COACH

Arthur C. Vailas, Date
President

Chad Teichert Date

Approved by the Board of Trustees on the ____ day of _____, 20____.

(MODEL ATHLETICS CONTRACT)**EMPLOYMENT AGREEMENT**

This Employment Agreement (Agreement) is entered into by and between
Idaho State University (University ~~(College)~~), and
Chad Teichert, Head Women's Volleyball Coach (Coach).

ARTICLE 1

1.1. **Employment.** Subject to the terms and conditions of this Agreement, the ~~University (College)~~ University shall employ Coach as the head coach of its intercollegiate ~~(Sport)~~ Women's Volleyball team (Team). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

1.2. **Reporting Relationship.** Coach shall report and be responsible directly to the ~~University (College)~~ University's Director of Athletics (Director) or the Director's designee. Coach shall abide by the reasonable instructions of Director or the Director's designee and shall confer with the Director or the Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the ~~University (College)~~ University's President (President).

1.3. **Duties.** Coach shall manage and supervise the Team and shall perform such other duties in the ~~University (College)~~ University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The ~~University (College)~~ University shall have the right, at any time, to reassign Coach to duties at the ~~University (College)~~ University other than as head coach of the Team, provided that Coach's compensation and benefits shall not be affected by any such reassignment, except that the opportunity to earn supplemental compensation as provided in sections 3.2.1 through ~~3.2.8 (Depending on supplemental pay provisions used)~~ shall cease. The right of the University to reassign Coach to duties other than as head coach of the Team as set forth herein shall not require good or adequate cause, and shall be independent of the University's right to terminate, suspend or reassign Coach for good or adequate cause as set forth in Article 5.1 of this Agreement.

ARTICLE 2

2.1. **Term.** This Agreement is for a fixed-term appointment of two (~~—~~ 2) years, eight (8) months commencing on May 30, 2008 and terminating, without further notice to Coach, on January 31, 2011 unless sooner terminated in accordance with other provisions of this Agreement

2.2. Extension or Renewal. This Agreement is renewable solely upon an offer from the ~~University (College)~~University and an acceptance by Coach, both of which must be in writing and signed by the parties. Any renewal is subject to the prior approval of ~~University (College)~~University's Board of ~~__(Regents or Trustees)~~Trustees. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this agreement count in any way toward tenure at the ~~University (College)~~University.

ARTICLE 3

3.1 Regular Compensation.

3.1.1 In consideration of Coach's services and satisfactory performance of this Agreement, the ~~University (College)~~University shall provide to Coach:

- a) An annual salary of \$~~_____~~\$54,995.20 per year, payable in biweekly installments in accordance with normal ~~University (College)~~University procedures, and such salary increases as may be determined appropriate by the Director and President and approved by the ~~University (College)~~University's Board of ~~__(Regents or Trustees)~~Trustees;
- b) The opportunity to receive such employee benefits as the ~~University (College)~~University provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the ~~University (College)~~University's Department of Athletics (Department) provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.
- d) Subject to availability, a courtesy car will be provided to Coach during employment as Head Women's Volleyball Coach through the Courtesy Car Program as assigned by Director.

3.2 Supplemental Compensation

3.2.1. Each year the Team wins the regular season Big Sky Conference Championship the University shall pay to coach one week's pay of Coach's Annual Salary.

~~is the conference champion or co-champion and also becomes eligible for a (bowl game pursuant to NCAA Division I guidelines or post-season tournament or post-season playoffs) , and if Coach continues to be employed as University (College)'s head ____ (Sport) coach as of the ensuing July 1st, the University (College) shall pay to Coach supplemental compensation in an amount equal to ____ (amount or computation) of Coach's Annual Salary during the fiscal year in which the championship and (bowl or other post-season) eligibility are achieved. The University (College) shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.~~

3.2.2 Each year the Team wins the Big Sky Conference Women's Volleyball Tournament and the subsequent automatic NCAA Conference berth at the conclusion of the regular season, the University shall pay to Coach one week's pay of Coach's Annual Salary.

3.2.3 In the event the Team, either by automatic qualification or as an at-large choice competes in the NCAA Women's Volleyball Post-Season Tournament, the
~~is ranked in the top 25 in the (national rankings, such as final ESPN/USA Today coaches poll of Division IA football teams) , and if Coach continues to be employed as University (College)'s head (Sport) coach as of the ensuing July 1st, the University (College) shall pay Coach supplemental compensation in an amount equal to (amount or computation) of Coach's Annual Salary in effect on the date of the final poll. The University (College) shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.~~University shall compensate Coach for advancing in the tournament bracket as follows:

Round 1	64 teams	1 st win	\$ 1,000
Round 2	32 teams	2 nd win	\$ 2,000
Round 3	16 teams	3 rd win	\$ 4,000
Round 4	8 teams	4 th win	\$ 6,000
Round 5	4 teams	5 th win	\$ 8,000
Round 6	2 teams	6 th win	\$10,000
Possible bonus computation total			\$31,000
for winning National Championship.			

~~3.2.3— _____ Each year Coach shall be eligible to receive supplemental compensation in an amount up to _____ (amount or computation) _____ based on the academic achievement and behavior of Team members. The determination of whether Coach will receive such supplemental compensation and the timing of the payment(s) shall be at~~

~~the sole discretion of the President in consultation with the Director. The determination shall be based on the following factors: grade point averages; difficulty of major course of study; honors such as scholarships, designation as Academic All-American, and conference academic recognition; progress toward graduation for all athletes, but particularly those who entered the University (College) as academically at-risk students; the conduct of Team members on the University (College) campus, at authorized University (College) activities, in the community, and elsewhere. Any such supplemental compensation paid to Coach shall be accompanied with a detailed justification for the supplemental compensation based on the factors listed above and such justification shall be separately reported to the Board of (Regents or Trustees) as a document available to the public under the Idaho Public Records Act.~~

~~3.2.4~~ 4 Coach will be eligible to receive supplemental compensation equivalent to one week's salary for winning twenty (20) or more regular season Volleyball games.

~~3.2.5~~ Each year Coach shall be eligible to receive supplemental compensation of one week's pay for reaching all three of the following academic achievements of the Team members:

~~(1) the cumulative GPA of the entire Team as computed at the end of the academic year is 3.2 or higher; (2) the retention rate for all freshmen through junior Team members who are scholarship athletes is 80% or higher; (3) the graduation rate is 90% or higher for all Team members who have exhausted eligibility in any given academic year.~~

~~Each year Coach shall be eligible to receive supplemental compensation in an amount up to (amount or computation) based on the overall development of the intercollegiate (men's/women's) (Sport) program; ticket sales; fundraising; outreach by Coach to various constituency groups, including University (College) students, staff, faculty, alumni and boosters; and any other factors the President wishes to consider. The determination of whether Coach will receive such supplemental compensation and the timing of the payment(s) shall be at the sole discretion of the President in consultation with the Director.~~

~~3.2.5 The Coach shall receive the sum of (amount or computation) from the University (College) or the University (College)'s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (Programs). Coach's right to receive such a payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later. This sum shall be paid (terms or conditions of payment). Agreements requiring the Coach to participate in Programs related to his duties as an employee of University (College) are the property of the University (College). The University (College) shall have the exclusive right to negotiate and contract with all producers of media productions and all parties desiring~~

~~public appearances by the Coach. Coach agrees to cooperate with the University (College) in order for the Programs to be successful and agrees to provide his services to and perform on the Programs and to cooperate in their production, broadcasting, and telecasting. It is understood that neither Coach nor any assistant coaches shall appear without the prior written approval of the Director on any competing radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Director, Coach shall not appear in any commercial endorsements which are broadcast on radio or television that conflict with those broadcast on the University (College)'s designated media outlets.~~

3.2.66 (SUMMER CAMPG__OPERATED BY UNIVERSITY (COLLEGE)UNIVERSITY) Coach agrees that the University (College)University has the exclusive right to operate girls' youth ~~_(Sport)Volleyball_~~ camps on its campus using University (College)University facilities. The University (College)University shall allow Coach the opportunity to earn supplemental compensation by ~~assisting with the~~directing or administrating University (College)University's camps in Coach's capacity as a University (College)University employee. Coach hereby agrees to ~~assist in~~direct the marketing, supervision, and general administration of the University (College)University's ~~football-Women's Volleyball~~ camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the University (College)University's summer ~~football-Women's Volleyball~~ camps, ~~the, the~~ University (College)University shall pay Coach ~~_(amount)_~~the net revenues resulting from each summer camp~~per year~~ as supplemental compensation during each year of his employment as head ~~_(Sport)Women's Volleyball~~ coach at the University (College)University. This amount shall be paid ~~_(terms of payment)_~~within 30 days of the end of each summer camp. Alternatively, Coach may direct that such net revenues be used to enhance the budget of the Women's Volleyball program-.

In the event of termination of this Agreement, suspension, or reassignment, University shall not be under any obligation to permit a summer youth camp to be held by the Coach after the effective date of such termination, suspension, or reassignment, and the University shall be released from all obligations relating hereto.

~~**(SUMMER CAMPGOPERATED BY COACH)** Coach may operate a summer youth~~ ~~_(Sport)_~~ ~~camp at the University (College) under the following conditions:~~

- ~~a) The summer youth camp operation reflects positively on the University (College) and the Department;~~

- ~~b) The summer youth camp is operated by Coach directly or through a private enterprise owned and managed by Coach. The Coach shall not use University (College) personnel, equipment, or facilities without the prior written approval of the Director;~~
- ~~c) Assistant coaches at the University (College) are given priority when the Coach or the private enterprise selects coaches to participate;~~
- ~~d) The Coach complies with all NCAA (NAIA), Conference, and University (College) rules and regulations related, directly or indirectly, to the operation of summer youth camps;~~
- ~~e) The Coach or the private enterprise enters into a contract with University (College) and _____ (campus concessionaire) for all campus goods and services required by the camp.~~
- ~~f) The Coach or private enterprise pays for use of University (College) facilities including the _____.~~
- ~~g) Within thirty days of the last day of the summer youth camp(s), Coach shall submit to the Director a preliminary "Camp Summary Sheet" containing financial and other information related to the operation of the camp. Within ninety days of the last day of the summer youth camp(s), Coach shall submit to Director a final accounting and "Camp Summary Sheet." A copy of the "Camp Summary Sheet" is attached to this Agreement as an exhibit.~~
- ~~h) The Coach or the private enterprise shall provide proof of liability insurance as follows: (1) liability coverage: spectator and staff--\$1 million; (2) catastrophic coverage: camper and staff--\$1 million maximum coverage with \$100 deductible;~~
- ~~i) To the extent permitted by law, the Coach or the private enterprise shall defend and indemnify the University (College) against any claims, damages, or liabilities arising out of the operation of the summer youth camp(s)~~
- ~~j) All employees of the summer youth camp(s) shall be employees of the Coach or the private enterprise and not the University (College) while engaged in camp activities. The Coach and all other University (College) employees involved in the operation of the camp(s) shall be on annual leave~~

~~status or leave without pay during the days the camp is in operation. The Coach or private enterprise shall provide workers' compensation insurance in accordance with Idaho law and comply in all respects with all federal and state wage and hour laws~~

~~In the event of termination of this Agreement, suspension, or reassignment, University (College) shall not be under any obligation to permit a summer youth camp to be held by the Coach after the effective date of such termination, suspension, or reassignment, and the University (College) shall be released from all obligations relating thereto.~~

3.2.78 Coach agrees that the ~~University (College)~~University has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of ~~University (College)~~University. ~~Coach recognizes that the University (College) is negotiating or has entered into an agreement with (Company Name) to supply the University (College) with athletic footwear, apparel and/or equipment.~~ Coach agrees that, upon the ~~University (College)~~University's reasonable request, Coach will consult with appropriate parties concerning ~~an (Company Name) company's~~ product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by ~~(Company Name) such company~~, or give a lecture at an event sponsored in whole or in part by ~~(Company Name) such company~~, or make other educationally-related appearances as may be reasonably requested by the ~~University (College)~~University. Notwithstanding the foregoing sentence, Coach shall retain the right to decline such appearances as Coach reasonably determines to conflict with or hinder his duties and obligations as head ~~(Sport)Women's Volleyball~~—coach. In order to avoid entering into an agreement with a competitor of ~~(Company Name) such company~~—, Coach shall submit all outside consulting agreements to the ~~University (College)~~University for review and approval ~~by the director~~ prior to execution. Coach shall also report such outside income to the ~~University (College)~~University in accordance with NCAA ~~(or NAIA)~~ rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel, ~~and/or~~ equipment, ~~and~~ products, including ~~(Company Name) such company~~, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products.

3.3 General Conditions of Compensation. All compensation provided by the ~~University (College)~~University to Coach is subject to deductions and withholdings as required by law or the terms and conditions of any fringe benefit in which Coach participates. However, if any fringe benefit is based in whole or in part upon the compensation provided by the ~~University (College)~~University to Coach, such fringe benefit shall be based only on the compensation provided pursuant to section 3.1.1,

except to the extent required by the terms and conditions of a specific fringe benefit program.

ARTICLE 4

4.1. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall:

4.1.1. Devote Coach's full time and best efforts to the performance of Coach's duties under this Agreement;

4.1.2. Develop and implement programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team members which enable them to compete successfully and reasonably protect their health, safety, and well-being;

4.1.3. Observe and uphold all academic standards, requirements, and policies of the ~~University (College)~~University and encourage Team members to perform to their highest academic potential and to graduate in a timely manner; and

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference, and the NCAA ~~(or NAIA)~~; supervise and take appropriate steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Director and to the Department's Director of Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the ~~University (College)~~University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall cooperate fully with the ~~University (College)~~University and Department at all times. The names or titles of employees whom Coach supervises are attached as Exhibit C. The applicable laws, policies, rules, and regulations include: (a) State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual; (b) ~~University (College)~~University's Handbook; (c) ~~University (College)~~University's Administrative Procedures Manual; (d) the policies and procedure of the Athletic Department; (e) NCAA (or NAIA) rules and regulations; and (f) the rules and regulations of the ~~(Sport)~~Big Sky Conference of which the ~~University (College)~~University is a member.

4.2 Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of the

~~University—(College)University~~, would reflect adversely upon the ~~University (College)University~~ or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach may not use the ~~University—(College)University~~'s name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President.

4.3 NCAA ~~(or NAIA)~~ Rules. In accordance with NCAA ~~(or NAIA)~~ rules, Coach shall obtain prior written approval from the ~~University—(College)University~~'s President for all athletically related income and benefits from sources outside the ~~University (College)University~~ and shall report the source and amount of all such income and benefits to the ~~University—(College)University~~'s President whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular ~~University—(College)University~~ work day preceding June 30th. The report shall be in a format reasonably satisfactory to ~~University (College)University~~. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, ~~University—(College)University~~ booster club, ~~University—(College)University~~ alumni association, ~~University—(College)University~~ foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the ~~University—(College)University~~, the ~~University—(College)University~~'s governing board, the conference, or the NCAA ~~(or NAIA)~~.

4.4 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of President and the ~~University—(College)University~~'s Board of ~~—(Trustees or Regents)~~ Trustees.

4.5 Scheduling. Coach shall consult with, and may make recommendations to, the Director or the Director's designee with respect to the scheduling of Team competitions, but the final decision shall be made by the Director or the Director's designee.

4.76 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team, requiring performance of duties prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not be unreasonably ~~be~~ withheld.

ARTICLE 5

5.1 Termination of Coach for Cause. The ~~University (College)~~University may, in its discretion, suspend Coach from some or all of Coach's duties, temporarily or permanently, ~~and~~ with or without pay; reassign Coach to other duties; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in applicable rules and regulations.

5.1.1 In addition to the definitions contained in applicable rules and regulations, ~~University (College)~~University and Coach hereby specifically agree that the following shall constitute good or adequate cause for suspension, reassignment, or termination of this Agreement:

- a) A deliberate or major violation of Coach's duties under this ~~A~~Agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach's abilities;
- b) The failure of Coach to remedy any violation of any of the terms of this ~~a~~Agreement within 30 days after written notice from the ~~University (College)~~University;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference or the NCAA (~~NAIA~~), including but not limited to any such violation which may have occurred during the employment of Coach at another NCAA or NAIA member institution;
- d) Ten (10) working days' absence of Coach from duty without the ~~University (College)~~University's consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the ~~University (College)~~University's judgment, reflect adversely on the ~~University (College)~~University or its athletic programs;
- f) The failure of Coach to represent the ~~University (College)~~University and its athletic programs positively in public and private forums;
- g) The failure of Coach to fully and promptly cooperate with the NCAA (~~NAIA~~) or the ~~University (College)~~University in any investigation of possible violations of any applicable law or the policies, rules or

regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference, or the NCAA ~~(NAIA)~~;

- h) The failure of Coach to report a known violation of any applicable law or the policies, rules or regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference, or the NCAA ~~(NAIA)~~, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or
- i) A violation of any applicable law or the policies, rules or regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference, or the NCAA ~~(NAIA)~~, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team if Coach knew or should have known of the violation and could have prevented it by ordinary supervision.

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the ~~University (College)~~University as follows: before the effective date of the suspension, reassignment, or termination, the Director or his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, ~~University (College)~~University shall notify Coach whether, and if so when, the action will be effective.

5.1.3 In the event of any termination for good or adequate cause, the ~~University (College)~~University's obligation to provide compensation and benefits to Coach, whether direct, indirect, supplemental or collateral, shall cease as of the date of such termination, and the ~~University (College)~~University shall not be liable for the loss of any collateral business opportunities or other benefits, perquisites, or income resulting from outside activities or from any other sources.

5.1.4 If found in violation of NCAA ~~(NAIA)~~ regulations, Coach shall, in addition to the provisions of Section 5.1, be subject to disciplinary or corrective action as set forth in the provisions of the NCAA ~~(NAIA)~~ enforcement procedures. This section applies to violations occurring at the ~~University (College)~~University or at previous institutions at which the Coach was employed.

5.2 Termination of Coach for Convenience of ~~University (College)~~University.

5.2.1 At any time after commencement of this Agreement, ~~University~~ ~~(College)~~University, for its own convenience, may terminate this Agreement by giving ten (10) days prior written notice to Coach.

5.2.2 In the event that ~~University~~ ~~(College)~~University terminates this Agreement for its own convenience, ~~University~~ ~~(College)~~University shall be obligated to pay Coach, as liquidated damages and not a penalty, the salary set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of ~~University~~ ~~(College)~~University until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a ~~University~~ ~~(College)~~University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law.

~~5.2.3 The parties have both been represented by legal counsel in the contract negotiations and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the Coach may lose certain benefits, supplemental compensation, or outside compensation relating to his employment with University (College), which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by University (College) and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by University (College). The liquidated damages are not, and shall not be construed to be, a penalty.~~

5.3 Termination by Coach for Convenience.

5.3.1 The Coach recognizes that his promise to work for ~~University~~ ~~(College)~~University for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the ~~University~~ ~~(College)~~University is making a highly valuable investment in his employment by entering into this Agreement and that its investment would be lost were he to resign or otherwise terminate his employment with the ~~University~~ ~~(College)~~University before the end of the contract term.

5.3.2 The Coach, for his own convenience, may terminate this Agreement during its term by giving prior written notice to the ~~University~~ ~~(College)~~University. Termination shall be effective ten (10) days after notice is given to the ~~University~~ ~~(College)~~University.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University ~~(College)~~ shall cease as of the effective date of the termination. If the Coach terminates this Agreement for his convenience he shall pay to the University ~~(College)~~, as liquidated damages and not a penalty, for the breach of this Agreement the following sum: (a) if the Agreement is terminated on or before _____, January 31, 2009, the sum of \$~~306~~,000.00; (b) if the Agreement is terminated between _____ February 1, 2009 and _____ January 31, 2010 inclusive, the sum of \$~~204~~,000.00; (c) if the Agreement is terminated between February 1, 2010 _____ and January 30, 2011 _____ inclusive, the sum of \$~~102~~,000.00. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate of eight (8) percent per annum until paid.

~~5.3.4 The parties have both been represented by legal counsel in the contract negotiations and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the University (College) will incur administrative and recruiting costs in obtaining a replacement for Coach, in addition to potentially increased compensation costs if Coach terminates this Agreement for convenience, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Coach and the acceptance thereof by University (College) shall constitute adequate and reasonable compensation to University (College) for the damages and injury suffered by it because of such termination by Coach. The liquidated damages are not, and shall not be construed to be, a penalty. This section 5.3.4 shall not apply if Coach terminates this Agreement because of a material breach by the University (College).~~

5.3.~~54~~ Except as provide elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit to the extent permitted by law his right to receive all supplemental compensation and other payments.

5.4 Termination due to Disability or Death of Coach.

5.4.1 Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically if Coach becomes totally or permanently disabled as defined by the ~~University (College)~~ University's disability insurance carrier, becomes unable to perform the essential functions of the position of head coach, or dies.

5.4.2 If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits shall terminate as of the last day worked, except that the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any

fringe benefit plan now in force or hereafter adopted by the ~~University~~ ~~(College)~~University and due to the Coach's estate or beneficiaries thereunder.

5.4.3 If this Agreement is terminated because the Coach becomes totally or permanently disabled as defined by the ~~University~~ ~~(College)~~University's disability insurance carrier, or becomes unable to perform the essential functions of the position of head coach, all salary and other benefits shall terminate, except that the Coach shall be entitled to receive any compensation due or unpaid and any disability-related benefits to which he is entitled by virtue of employment with the ~~University~~ ~~(College)~~University.

5.5 Interference by Coach. In the event of termination, suspension, or reassignment, Coach agrees that Coach will not interfere with the ~~University~~ ~~(College)~~University's student-athletes or otherwise obstruct the ~~University~~ ~~(College)~~University's ability to transact business or operate its intercollegiate athletics program.

5.76 No Liability. The ~~University~~ ~~(College)~~University shall not be liable to Coach for the loss of any collateral business opportunities or any other benefits, perquisites or income from any sources that may ensue as a result of any termination of this Agreement by either party or due to death or disability or the suspension or reassignment of Coach, regardless of the circumstances.

5.87 Waiver of Rights. Because the Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to ~~University~~ ~~(College)~~University employees, if the ~~University~~ ~~(College)~~University suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the ~~University~~ ~~(College)~~University from compliance with the notice, appeal, and similar employment-related rights provided for in the State Board of Education ~~and Board or Regents of the University of Idaho Rule Manual (IDAPA 08) and~~ Governing Policies and Procedures Manual, and the ~~University~~ ~~(College)~~University Faculty-Staff Handbook.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the ~~University~~ ~~(College)~~'s State Board of ~~(Regents or Trustees)~~ Education and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the ~~University~~ ~~(College)~~University's State Board of ~~(Regents or Trustees)~~ Education, the President, and the Director; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such

compensation is paid; and the State Board of ~~=(Regents or Trustees)=~~ Education and ~~University (College)~~ University's rules regarding financial exigency.

6.2 University (College) University Property. All personal property (excluding vehicle(s) provided through the ~~=====~~ Courtesy Car pProgram), material, and articles of information, including, without limitation, keys, credit cards, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to Coach by the ~~University (College)~~ University or developed by Coach on behalf of the ~~University (College)~~ University or at the ~~University (College)~~ University's direction or for the ~~University (College)~~ University's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the ~~University (College)~~ University. Within twenty-four (24) hours of the expiration of the term of this ~~a~~ Agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the Director.

6.3 Assignment. Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party.

6.4 Waiver. No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a particular breach in the performance of this Agreement shall not constitute a waiver of any other or subsequent breach. The resort to a particular remedy upon a breach shall not constitute a waiver of any other available remedies.

6.5 Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall remain in effect.

6.6 Governing Law. This Agreement shall be subject to and construed in accordance with the laws of the state of Idaho as an agreement to be performed in Idaho. Any action based in whole or in part on this Agreement shall be brought in the courts of the state of Idaho.

6.7 Oral Promises. Oral promises of an increase in annual salary or of any supplemental or other compensation shall not be binding upon the ~~University (College)~~ University.

6.8 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes ~~therefore~~ therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to

perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

6.9 Confidentiality. The Coach hereby consents and agrees that this document may be released and made available to the public after it is signed by the Coach. The Coach further agrees that all documents and reports he is required to produce under this Agreement may be released and made available to the public at the ~~University (College)~~University's sole discretion.

6.10 Notices. Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

the ~~University (College)~~University: _____ Director of Athletics

Campus Box 8173
Idaho State University
Pocatello, ID 83209-8173

with a copy to: _____ President _____ Campus _____ Box _____

8310 _____

_____ Idaho State University _____

_____ Pocatello, ID 83209-8310 _____

the Coach: Chad Treichert
Last known address on file with
~~University (College)~~ University's Human Resource Services

Any notice shall be deemed to have been given on the earlier of: (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day facsimile delivery is verified. Actual notice, however and from whomever received, shall always be effective.

6.11 Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

6.12 Binding Effect. This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.

6.13 Non-Use of Names and Trademarks. The Coach shall not, without the ~~University (College)~~University's prior written consent in each case, use any name, trade name, trademark, or other designation of the ~~University (College)~~University (including contraction, abbreviation or simulation), except in the course and scope of his official ~~University (College)~~University duties.

6.14 No Third Party Beneficiaries. There are no intended or unintended third party beneficiaries to this Agreement.

6.15 Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by ~~University (College)~~University's Board of ~~-(Regents or Trustees)~~Trustees—.

6.16 Opportunity to Consult with Attorney. The Coach acknowledges that he has had the opportunity to consult and review this Agreement with an attorney and has not relied upon the advice of any legal counsel acting on behalf of the University. Accordingly, in all cases, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.

~~UNIVERSITY (COLLEGE)~~UNIVERSITY

COACH

<u>Arthur C. Vailas,</u>	<u>Date</u>	<u>Chad Teichert</u>	<u>Date</u>
_____, President	_____ Date		Date

Approved by the Board of ~~-(Regents or Trustees)~~Trustees o— on the ____ day of _____, ~~2000~~20_____.

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CHAD TEICHERT, HEAD WOMEN'S VOLLEYBALL COACH - MULTI-YEAR CONTRACT CHANGES			
	MODEL CONTRACT SECTION	ISU CONTRACT SECTION	JUSTIFICATION FOR MODIFICATION
1	1.3 Duties	1.3 Duties	Language added clarifying University's right to reassign is independent of right to terminate for cause or to reassign duties.
2	3.1.1 Regular Compensation	3.1.1 (d) Regular Compensation language added	Additional language specifying courtesy car benefits to Coach through ISU's Courtesy Car Program.
3	3.2 Supplemental Compensation	3.2 Supplemental Compensation Language added	Language specifies compensation for team performance and measurable academic achievement.
4	3.2.6 Summer Camp Operated by University	3.2.6 Summer Camp Operated by University; language added	University has decided to provide a University-operated summer camp only. Coach has the right to direct net revenues from summer camps to be used to enhance the budget of the Women's Basketball Program.
5	6.16. Opportunity to Consult with Attorney	6.16. Opportunity to Consult with Attorney; language added	Additional language added "and has not relied upon the advice of legal counsel acting on behalf of the University."

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REFERENCE – APPLICABLE STATUTE, RULE OR POLICY

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: II. HUMAN RESOURCES POLICIES AND PROCEDURES

Subsection: H. Policies Regarding Coaching Personnel and Athletic Directors

April 2002

H. Policies Regarding Coaching Personnel and Athletic Directors (Institution Employees Only)

1. Agreements Longer Than One Year

The chief executive officer of an institution is authorized to enter into a contract for the services of a head coach or athletic director with that institution for a term of more than one (1) year, but not more than five (5) years, subject to approval by the Board as to the terms, conditions, and compensation thereunder, and subject further to the condition that the contract of employment carries terms and conditions of future obligations of the coach or athletic director to the institution for the performance of such contracts. Each contract for the services shall follow the general form approved by the Board as a model contract. Such contract shall define the entire employment relationship between the Board and the coach or athletic director and may incorporate by reference applicable Board and institutional policies and rules, and applicable law.

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BUSINESS AFFAIRS AND HUMAN RESOURCES
JUNE 19-20, 2008

IDAHO STATE UNIVERSITY

SUBJECT

Approval of multi-year employment agreement for Head Women's Basketball coach

APPLICABLE STATUTE, RULE OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section II.H.1.

DISCUSSION

Idaho State University is requesting approval for a three-year, eleven-month employment agreement for Seton Sobolewski, Head Women's Basketball Coach, (see Attachment 1). The employment agreement contains the duties, responsibilities and conditions of the employment. A Model Contract Matrix and red-line version of the Employment Agreement that identifies departures from the model contract form and provides justification for these changes is included as Attachments 2 and 3. This position is funded by state appropriated funds.

IMPACT

This contract will provide a stable coaching environment for the Basketball program as well as stability and consistency for the Athletic Department as a whole.

ATTACHMENTS

Attachment 1 – Contract	Page 3
Attachment 2 – Contract – Redline to Model	Page 15
Attachment 3 – Model Contract Matrix Changes	Page 33

STAFF AND COMMENTS AND RECOMMENDATIONS

The incentive for academic achievement contained in the agreement would provide \$3,000 of supplemental compensation.

The agreement adds a courtesy car to be provided to Coach.

Staff recommends approval.

BOARD ACTION

A motion to approve the request by Idaho State University for a multi-year employment agreement as submitted for Seton Sobolewski, the Head Women's Basketball Coach (1.0 FTE).

Moved by _____ Seconded by _____ Carried Yes_____ No_____

BUSINESS AFFAIRS AND HUMAN RESOURCES
JUNE 19-20, 2008

HEAD COACH OR ATHLETIC DIRECTOR EMPLOYMENT AGREEMENTS

Seton Sobolewski	Attachments 1, 2 & 3
Position Title	Head Women's Basketball Coach
FTE	1.0
Term	47 months
Term of Contract	June 16, 2008 – May 10, 2012
Annual Salary	\$85,612.80
Funding Source	State Funds
Area/Department of Assignment	Intercollegiate Athletics
Supplemental Compensation	See Attachment 1, Article 3.2.

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between Idaho State University (University), and Seton Sobolewski, Head Women's Basketball Coach (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the head coach of its intercollegiate Women's Basketball team (Team). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

1.2. Reporting Relationship. Coach shall report and be responsible directly to the University's Director of Athletics (Director) or the Director's designee. Coach shall abide by the reasonable instructions of Director or the Director's designee and shall confer with the Director or the Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the University's President (President).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The University shall have the right, at any time, to reassign Coach to duties at the University other than as head coach of the Team, provided that Coach's compensation and benefits shall not be affected by any such reassignment, except that the opportunity to earn supplemental compensation as provided in sections 3.2.1 through 3.2.8 shall cease. The right of the University to reassign Coach to duties other than as head coach of the Team as set forth herein shall not require good or adequate cause, and shall be independent of the University's right to terminate, suspend or reassign Coach for good or adequate cause as set forth in Article 5.1 of this Agreement.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of three (3) years, eleven (11) months, commencing on June 16, 2008 and terminating, without further notice to Coach, on May 10, 2012 unless sooner terminated in accordance with other provisions of this Agreement

2.2. Extension or Renewal. This Agreement is renewable solely upon an offer from the University and an acceptance by Coach, both of which must be in writing and signed by the parties. Any renewal is subject to the prior approval of University's Board of Trustees. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this agreement count in any way toward tenure at the University.

ARTICLE 3

3.1 Regular Compensation.

3.1.1 In consideration of Coach's services and satisfactory performance of this Agreement, the University shall provide to Coach:

- a) An annual salary of \$85,612.80 per year, payable in biweekly installments in accordance with normal University procedures, and such salary increases as may be determined appropriate by the Director and President and approved by the University's Board of Trustees;
- b) The opportunity to receive such employee benefits as the University provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the University's Department of Athletics (Department) provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.
- d) Subject to availability, a courtesy car will be provided to Coach during employment as Head Women's Basketball Coach through the Courtesy Car Program as assigned by Director.

3.2 Supplemental Compensation

3.2.1. Each year the Team wins the regular season Big Sky Conference Championship the University shall pay to coach one week's pay of Coach's Annual Salary.

3.2.2 Each year the Team wins the Big Sky Conference Women's Basketball Tournament and the subsequent automatic NCAA Conference berth at the conclusion of the regular season, the University shall pay to Coach one week's pay of Coach's Annual Salary.

3.2.3 In the event the Team, either by automatic qualification or as an at-large choice competes in the NCAA Women's Basketball Post-Season Tournament, the University shall compensate Coach for advancing in the tournament bracket as follows:

Round 1	64 teams	1 st win	\$ 1,000
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Round 2	32 teams	2 nd win	\$ 2,000
Round 3	16 teams	3 rd win	\$ 4,000
Round 4	8 teams	4 th win	\$ 6,000
Round 5	4 teams	5 th win	\$ 8,000
Round 6	2 teams	6 th win	<u>\$10,000</u>
Possible bonus computation total for winning National Championship.			\$31,000

3.2.4 In the event the Team, competes in the WNIT Women's Basketball Post-Season Tournament, the University shall compensate Coach for advancing in the tournament bracket as follows:

Round 1	32 teams	1 st win	\$ 1,000
Round 2	16 teams	2 nd win	\$ 2,000
Round 3	8 teams	3 rd win	\$ 3,000
Round 4	4 teams	4 th win	\$ 4,000
Round 5	2 teams	5 th win	<u>\$ 5,000</u>
Possible bonus computation total for winning WNIT National Championship.			\$15,000

3.2.5 Coach will be eligible to receive supplemental compensation equivalent to one week's salary for winning twenty (20) or more regular season basketball games.

3.2.6 Each year Coach shall be eligible to receive supplemental compensation for the academic achievements of the Team members. The following incentives will be used following NCAA APR scores to determine the applicable incentives:

<u>Team APR Score</u>	<u>Incentive Pay</u>
940-944	\$ 1,000
945-949	\$ 1,500
950-954	\$ 2,000
955-959	\$ 2,500
960-964	\$ 3,000
965-969	\$ 3,500
970 or above	\$ 4,000

3.2.7 Coach shall receive \$5,000 annual compensation for participation in radio and television appearances.

3.2.8 Summer Camp operated by University. Coach agrees that the University has the exclusive right to operate girls' youth basketball camps on its campus using University facilities. The University shall allow Coach the opportunity to earn supplemental compensation by directing or administrating University's camps in Coach's capacity as a University employee. Coach hereby agrees to direct the

marketing, supervision, and general administration of the University's Women's Basketball camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the University's summer Women's Basketball camps, the University shall pay Coach the net revenues resulting from each summer camp as supplemental compensation during each year of his employment as head Women's Basketball coach at the University. This amount shall be paid within 30 days of the end of each summer camp. Alternatively, Coach may direct that such net revenues be used to enhance the budget of the Women's Basketball program.

In the event of termination of this Agreement, suspension, or reassignment, University shall not be under any obligation to permit a summer youth camp to be held by the Coach after the effective date of such termination, suspension, or reassignment, and the University shall be released from all obligations relating hereto.

3.2.9 Coach agrees that the University has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University. Coach agrees that, upon the University's reasonable request, Coach will consult with appropriate parties concerning company's product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by such company, or give a lecture at an event sponsored in whole or in part by such company, or make other educationally-related appearances as may be reasonably requested by the University. Notwithstanding the foregoing sentence, Coach shall retain the right to decline such appearances as Coach reasonably determines to conflict with or hinder his duties and obligations as head Women's Basketball coach. In order to avoid entering into an agreement with a competitor of such company, Coach shall submit all outside consulting agreements to the University for review and approval by the director prior to execution. Coach shall also report such outside income to the University in accordance with NCAA rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel, equipment, and products, including such company, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products. Coach shall receive \$1,500 in personal apparel from Nike.

3.3 General Conditions of Compensation. All compensation provided by the University to Coach is subject to deductions and withholdings as required by law or the terms and conditions of any fringe benefit in which Coach participates. However, if any fringe benefit is based in whole or in part upon the compensation provided by the University to Coach, such fringe benefit shall be based only on the compensation provided pursuant to section 3.1.1, except to the extent required by the terms and conditions of a specific fringe benefit program.

ARTICLE 4

4.1. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall:

4.1.1. Devote Coach's full time and best efforts to the performance of Coach's duties under this Agreement;

4.1.2. Develop and implement programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team members which enable them to compete successfully and reasonably protect their health, safety, and well-being;

4.1.3. Observe and uphold all academic standards, requirements, and policies of the University and encourage Team members to perform to their highest academic potential and to graduate in a timely manner; and

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's governing board, the conference, and the NCAA; supervise and take appropriate steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Director and to the Department's Director of Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall cooperate fully with the University and Department at all times. The names or titles of employees whom Coach supervises are attached as Exhibit C. The applicable laws, policies, rules, and regulations include: (a) State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual; (b) University's Handbook; (c) University's Administrative Procedures Manual; (d) the policies and procedure of the Athletic Department; (e) NCAA (or NAIA) rules and regulations; and (f) the rules and regulations of the Big Sky Conference of which the University is a member.

4.2 Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of the University, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach may not use the University's name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President.

4.3 NCAA Rules. In accordance with NCAA rules, Coach shall obtain prior written approval from the University's President for all athletically related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits to the University's President whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular University work day preceding June 30th. The report shall be in a format reasonably satisfactory to University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's governing board, the conference, or the NCAA.

4.4 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of President and the University's Board of Trustees.

4.5 Scheduling. Coach shall consult with, and may make recommendations to, the Director or the Director's designee with respect to the scheduling of Team competitions, but the final decision shall be made by the Director or the Director's designee.

4.6 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team, requiring performance of duties prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not be unreasonably withheld.

ARTICLE 5

5.1 Termination of Coach for Cause. The University may, in its discretion, suspend Coach from some or all of Coach's duties, temporarily or permanently, with or without pay; reassign Coach to other duties; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in applicable rules and regulations.

5.1.1 In addition to the definitions contained in applicable rules and regulations, University and Coach hereby specifically agree that the following shall

constitute good or adequate cause for suspension, reassignment, or termination of this Agreement:

- a) A deliberate or major violation of Coach's duties under this Agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach's abilities;
- b) The failure of Coach to remedy any violation of any of the terms of this Agreement within 30 days after written notice from the University;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference or the NCAA, including but not limited to any such violation which may have occurred during the employment of Coach at another NCAA or NAIA member institution;
- d) Ten (10) working days' absence of Coach from duty without the University's consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University's judgment, reflect adversely on the University or its athletic programs;
- f) The failure of Coach to represent the University and its athletic programs positively in public and private forums;
- g) The failure of Coach to fully and promptly cooperate with the NCAA or the University in any investigation of possible violations of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA;
- h) The failure of Coach to report a known violation of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or
- i) A violation of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team if Coach knew or should have known of the violation and could have prevented it by ordinary supervision.

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the Director or his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, University shall notify Coach whether, and if so when, the action will be effective.

5.1.3 In the event of any termination for good or adequate cause, the University's obligation to provide compensation and benefits to Coach, whether direct, indirect, supplemental or collateral, shall cease as of the date of such termination, and the University shall not be liable for the loss of any collateral business opportunities or other benefits, perquisites, or income resulting from outside activities or from any other sources.

5.1.4 If found in violation of NCAA regulations, Coach shall, in addition to the provisions of Section 5.1, be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures. This section applies to violations occurring at the University or at previous institutions at which the Coach was employed.

5.2 Termination of Coach for Convenience of University.

5.2.1 At any time after commencement of this Agreement, University, for its own convenience, may terminate this Agreement by giving ten (10) days prior written notice to Coach.

5.2.2 In the event that University terminates this Agreement for its own convenience, University shall be obligated to pay Coach, as liquidated damages and not a penalty, the salary set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of University until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law.

5.3 Termination by Coach for Convenience.

5.3.1 The Coach recognizes that his promise to work for University for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the University is making a highly valuable investment in his employment by entering into this Agreement and that its investment would be lost were he to resign or otherwise terminate his employment with the University before the end of the contract term.

5.3.2 The Coach, for his own convenience, may terminate this Agreement during its term by giving prior written notice to the University. Termination shall be effective ten (10) days after notice is given to the University.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University shall cease as of the effective date of the termination. If the Coach terminates this Agreement for his convenience he shall pay to the University, as liquidated damages and not a penalty, for the breach of this Agreement the following sum: (a) if the Agreement is terminated on or before May 10, 2009, the sum of \$9,000.00; (b) if the Agreement is terminated between May 11, 2009 and May 10, 2010 inclusive, the sum of \$6,000.00; (c) if the Agreement is terminated between May 11, 2010 and May 10, 2011 inclusive, the sum of \$4,000.00; (d) if the Agreement is terminated between May 11, 2011 and May 10, 2012 inclusive, the sum of \$2,000. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate of eight (8) percent per annum until paid.

5.3.4 Except as provide elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit to the extent permitted by law his right to receive all supplemental compensation and other payments.

5.4 Termination due to Disability or Death of Coach.

5.4.1 Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically if Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, becomes unable to perform the essential functions of the position of head coach, or dies.

5.4.2 If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits shall terminate as of the last day worked, except that the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University and due to the Coach's estate or beneficiaries thereunder.

5.4.3 If this Agreement is terminated because the Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, or becomes unable to perform the essential functions of the position of head coach, all salary and other benefits shall terminate, except that the Coach shall be entitled to receive any compensation due or unpaid and any disability-related benefits to which he is entitled by virtue of employment with the University.

5.5 Interference by Coach. In the event of termination, suspension, or reassignment, Coach agrees that Coach will not interfere with the University's student-

athletes or otherwise obstruct the University's ability to transact business or operate its intercollegiate athletics program.

5.6 No Liability. The University shall not be liable to Coach for the loss of any collateral business opportunities or any other benefits, perquisites or income from any sources that may ensue as a result of any termination of this Agreement by either party or due to death or disability or the suspension or reassignment of Coach, regardless of the circumstances.

5.7 Waiver of Rights. Because the Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University employees, if the University suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the University from compliance with the notice, appeal, and similar employment-related rights provided for in the State Board of Education Governing Policies and Procedures Manual, and the University Faculty-Staff Handbook.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the State Board of Education and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the University's State Board of Education, the President, and the Director; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such compensation is paid; and the State Board of Education and University's rules regarding financial exigency.

6.2 University Property. All personal property (excluding vehicle(s) provided through the Courtesy Car Program), material, and articles of information, including, without limitation, keys, credit cards, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to Coach by the University or developed by Coach on behalf of the University or at the University's direction or for the University's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University. Within twenty-four (24) hours of the expiration of the term of this Agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the Director.

6.3 Assignment. Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party.

6.4 Waiver. No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a

particular breach in the performance of this Agreement shall not constitute a waiver of any other or subsequent breach. The resort to a particular remedy upon a breach shall not constitute a waiver of any other available remedies.

6.5 Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall remain in effect.

6.6 Governing Law. This Agreement shall be subject to and construed in accordance with the laws of the state of Idaho as an agreement to be performed in Idaho. Any action based in whole or in part on this Agreement shall be brought in the courts of the state of Idaho.

6.7 Oral Promises. Oral promises of an increase in annual salary or of any supplemental or other compensation shall not be binding upon the University.

6.8 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

6.9 Confidentiality. The Coach hereby consents and agrees that this document may be released and made available to the public after it is signed by the Coach. The Coach further agrees that all documents and reports he is required to produce under this Agreement may be released and made available to the public at the University's sole discretion.

6.10 Notices. Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

the University: Director of Athletics
 Campus Box 8173
 Idaho State University
 Pocatello, ID 83209-8173

with a copy to: President
 Campus Box 8310
 Idaho State University
 Pocatello, ID 83209-8310

the Coach: Seton Sobolewski
Last known address on file with
University's Human Resource Services

Any notice shall be deemed to have been given on the earlier of: (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day facsimile delivery is verified. Actual notice, however and from whomever received, shall always be effective.

6.11 Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

6.12 Binding Effect. This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.

6.13 Non-Use of Names and Trademarks. The Coach shall not, without the University's prior written consent in each case, use any name, trade name, trademark, or other designation of the University (including contraction, abbreviation or simulation), except in the course and scope of his official University duties.

6.14 No Third Party Beneficiaries. There are no intended or unintended third party beneficiaries to this Agreement.

6.15 Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by University's Board of Trustees.

6.16 Opportunity to Consult with Attorney. The Coach acknowledges that he has had the opportunity to consult and review this Agreement with an attorney and has not relied upon the advice of any legal counsel acting on behalf of the University. Accordingly, in all cases, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.

UNIVERSITY

COACH

Arthur C. Vailas, Date
President

Seton Sobolewski Date

Approved by the Board of Trustees on the ____ day of _____, 20____.

(MODEL ATHLETICS CONTRACT)**EMPLOYMENT AGREEMENT**

This Employment Agreement (Agreement) is entered into by and between _____ Idaho State University (University ~~(College)~~), and _____ Seton Sobolewski, Head Women's Basketball Coach (Coach).

ARTICLE 1

1.1. **Employment.** Subject to the terms and conditions of this Agreement, the ~~University (College)~~ University shall employ Coach as the head coach of its intercollegiate ~~-(Sport)-~~ Women's Basketball team (Team). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

1.2. **Reporting Relationship.** Coach shall report and be responsible directly to the ~~University (College)~~ University's Director of Athletics (Director) or the Director's designee. Coach shall abide by the reasonable instructions of Director or the Director's designee and shall confer with the Director or the Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the ~~University (College)~~ University's President (President).

1.3. **Duties.** Coach shall manage and supervise the Team and shall perform such other duties in the ~~University (College)~~ University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The ~~University (College)~~ University shall have the right, at any time, to reassign Coach to duties at the ~~University (College)~~ University other than as head coach of the Team, provided that Coach's compensation and benefits shall not be affected by any such reassignment, except that the opportunity to earn supplemental compensation as provided in sections 3.2.1 through ~~3.2.8 (Depending on supplemental pay provisions used)~~ _____ shall cease. The right of the University to reassign Coach to duties other than as head coach of the Team as set forth herein shall not require good or adequate cause, and shall be independent of the University's right to terminate, suspend or reassign Coach for good or adequate cause as set forth in Article 5.1 of this Agreement.

ARTICLE 2

2.1. **Term.** This Agreement is for a fixed-term appointment of ~~three~~ _____ (~~=~~ 3) years, eleven (11) months commencing on _____ June 16, 2008 and terminating, without further notice to Coach, on _____ May 10, 2012 unless sooner terminated in accordance with other provisions of this Agreement

2.2. Extension or Renewal. This Agreement is renewable solely upon an offer from the ~~University (College)~~University and an acceptance by Coach, both of which must be in writing and signed by the parties. Any renewal is subject to the prior approval of ~~University (College)~~University's Board of ~~—(Regents or Trustees) Trustees—~~. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this agreement count in any way toward tenure at the ~~University (College)~~University.

ARTICLE 3

3.1 Regular Compensation.

3.1.1 In consideration of Coach's services and satisfactory performance of this Agreement, the ~~University (College)~~University shall provide to Coach:

- a) An annual salary of \$~~—————~~\$85,612.80 per year, payable in biweekly installments in accordance with normal ~~University (College)~~University procedures, and such salary increases as may be determined appropriate by the Director and President and approved by the ~~University (College)~~University's Board of ~~—(Regents or Trustees) Trustees~~;
- b) The opportunity to receive such employee benefits as the ~~University (College)~~University provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the ~~University (College)~~University's Department of Athletics (Department) provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.
- d) Subject to availability, a courtesy car will be provided to Coach during employment as Head Women's Basketball Coach through the Courtesy Car Program as assigned by Director.

3.2 Supplemental Compensation

3.2.1. Each year the Team wins the regular season Big Sky Conference Championship the University shall pay to coach one week's pay of Coach's

Annual Salary ~~is the conference champion or co-champion and also becomes eligible for a (bowl game pursuant to NCAA Division I guidelines or post-season tournament or post-season playoffs) , and if Coach continues to be employed as University (College)'s head (Sport) coach as of the ensuing July 1st, the University (College) shall pay to Coach supplemental compensation in an amount equal to (amount or computation) of Coach's Annual Salary during the fiscal year in which the championship and (bowl or other post-season) eligibility are achieved. The University (College) shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.~~

3.2.2 Each year the Team wins the Big Sky Conference Women's Basketball Tournament and the subsequent automatic NCAA Conference berth at the conclusion of the regular season, the University shall pay to Coach one week's pay of Coach's Annual Salary.

3.2.3 In the event the Team, either by automatic qualification or as an at-large choice competes in the NCAA Women's Basketball Post-Season Tournament, the is ranked in the top 25 in the (national rankings, such as final ESPN/USA Today coaches poll of Division IA football teams) , and if Coach continues to be employed as University (College)'s head (Sport) coach as of the ensuing July 1st, the University (College) shall pay Coach supplemental compensation in an amount equal to (amount or computation) of Coach's Annual Salary in effect on the date of the final poll. The University (College) shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation. University shall compensate Coach for advancing in the tournament bracket as follows:

Round 1	64 teams	1 st win	\$ 1,000
Round 2	32 teams	2 nd win	\$ 2,000
Round 3	16 teams	3 rd win	\$ 4,000
Round 4	8 teams	4 th win	\$ 6,000
Round 5	4 teams	5 th win	\$ 8,000
Round 6	2 teams	6 th win	\$10,000
Possible bonus computation total			\$31,000
for winning National Championship.			

3.2.34 In the event the Team, competes in the WNIT Women's Basketball Post-Season Tournament, the University shall compensate Coach for advancing in the tournament bracket as follows:

Round 1	32 teams	1 st win	\$ 1,000
Round 2	16 teams	2 nd win	\$ 2,000
Round 3	8 teams	3 rd win	\$ 3,000
Round 4	4 teams	4 th win	\$ 4,000
Round 5	2 teams	5 th win	\$ 5,000

Possible bonus computation total \$15,000
for winning WNIT National Championship.

~~Each year Coach shall be eligible to receive supplemental compensation in an amount up to ____ (amount or computation) based on the academic achievement and behavior of Team members. The determination of whether Coach will receive such supplemental compensation and the timing of the payment(s) shall be at the sole discretion of the President in consultation with the Director. The determination shall be based on the following factors: grade point averages; difficulty of major course of study; honors such as scholarships, designation as Academic All-American, and conference academic recognition; progress toward graduation for all athletes, but particularly those who entered the University (College) as academically at-risk students; the conduct of Team members on the University (College) campus, at authorized University (College) activities, in the community, and elsewhere. Any such supplemental compensation paid to Coach shall be accompanied with a detailed justification for the supplemental compensation based on the factors listed above and such justification shall be separately reported to the Board of (Regents or Trustees) as a document available to the public under the Idaho Public Records Act.~~

3.2.45 Coach will be eligible to receive supplemental compensation equivalent to one week's salary for winning twenty (20) or more regular season basketball games.

3.2.6 Each year Coach shall be eligible to receive supplemental compensation for the academic achievements of the Team members. The following incentives will be used following NCAA APR scores to determine the applicable incentives:

<u>Team APR Score</u>	<u>Incentive Pay</u>
<u>940-944</u>	<u>\$ 1,000</u>
<u>945-949</u>	<u>\$ 1,500</u>
<u>950-954</u>	<u>\$ 2,000</u>
<u>955-959</u>	<u>\$ 2,500</u>
<u>960-964</u>	<u>\$ 3,000</u>
<u>965-969</u>	<u>\$ 3,500</u>
<u>970 or above</u>	<u>\$ 4,000</u>

~~Each year Coach shall be eligible to receive supplemental compensation in an amount up to ____ (amount or computation) based on the overall development of the intercollegiate (men's/women's) __ (Sport) __ program; ticket sales; fundraising; outreach by Coach to various constituency groups, including University (College) students, staff, faculty, alumni and boosters; and any other factors the President wishes to consider. The determination of whether Coach will receive such supplemental compensation and the timing of the~~

~~payment(s) shall be at the sole discretion of the President in consultation with the Director.~~

~~3.2.57 Coach shall receive \$5,000 annual compensation for participation in radio and television appearances. The Coach shall receive the sum of —(amount or computation)— from the University (College) or the University (College)'s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (Programs). Coach's right to receive such a payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later. This sum shall be paid —(terms or conditions of payment)—. Agreements requiring the Coach to participate in Programs related to his duties as an employee of University (College) are the property of the University (College). The University (College) shall have the exclusive right to negotiate and contract with all producers of media productions and all parties desiring public appearances by the Coach. Coach agrees to cooperate with the University (College) in order for the Programs to be successful and agrees to provide his services to and perform on the Programs and to cooperate in their production, broadcasting, and telecasting. It is understood that neither Coach nor any assistant coaches shall appear without the prior written approval of the Director on any competing radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Director, Coach shall not appear in any commercial endorsements which are broadcast on radio or television that conflict with those broadcast on the University (College)'s designated media outlets.~~

~~3.2.68 (SUMMER CAMPC__ OPERATED BY UNIVERSITY (COLLEGE)UNIVERSITY) Coach agrees that the University (College)University has the exclusive right to operate girls' youth —(Sport)basketball— camps on its campus using University (College)University facilities. The University (College)University shall allow Coach the opportunity to earn supplemental compensation by assisting with the directing or administrating University (College)University's camps in Coach's capacity as a University (College)University employee. Coach hereby agrees to assist in direct the marketing, supervision, and general administration of the University (College)University's football—Women's Basketball camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the University (College)University's summer football—Women's Basketball camps, the, the University (College)University shall pay Coach —(amount)— the net revenues resulting from each summer camp per year as supplemental compensation during each year of his employment as head —(Sport)Women's Basketball coach at the University (College)University. This amount shall be paid —(terms of payment)— within 30 days of the end of each summer camp. Alternatively, Coach may direct that such net revenues be used to enhance the budget of the Women's Basketball program—.~~

In the event of termination of this Agreement, suspension, or reassignment, University shall not be under any obligation to permit a summer youth camp to be held by the Coach after the effective date of such termination, suspension, or reassignment, and the University shall be released from all obligations relating hereto.

~~(SUMMER CAMPCOPERATED BY COACH) Coach may operate a summer youth (Sport) camp at the University (College) under the following conditions:~~

- ~~a) The summer youth camp operation reflects positively on the University (College) and the Department;~~
- ~~b) The summer youth camp is operated by Coach directly or through a private enterprise owned and managed by Coach. The Coach shall not use University (College) personnel, equipment, or facilities without the prior written approval of the Director;~~
- ~~c) Assistant coaches at the University (College) are given priority when the Coach or the private enterprise selects coaches to participate;~~
- ~~d) The Coach complies with all NCAA (NAIA), Conference, and University (College) rules and regulations related, directly or indirectly, to the operation of summer youth camps;~~
- ~~e) The Coach or the private enterprise enters into a contract with University (College) and _____ (campus concessionaire) for all campus goods and services required by the camp.~~
- ~~f) The Coach or private enterprise pays for use of University (College) facilities including the _____.~~
- ~~g) Within thirty days of the last day of the summer youth camp(s), Coach shall submit to the Director a preliminary "Camp Summary Sheet" containing financial and other information related to the operation of the camp. Within ninety days of the last day of the summer youth camp(s), Coach shall submit to Director a final accounting and "Camp Summary Sheet." A copy of the "Camp Summary Sheet" is attached to this Agreement as an exhibit.~~
- ~~h) The Coach or the private enterprise shall provide proof of liability insurance as follows: (1) liability coverage: spectator~~

~~and staff--\$1 million; (2) catastrophic coverage: camper and staff--\$1 million maximum coverage with \$100 deductible;~~

- ~~i) To the extent permitted by law, the Coach or the private enterprise shall defend and indemnify the University (College) against any claims, damages, or liabilities arising out of the operation of the summer youth camp(s)~~
- ~~j) All employees of the summer youth camp(s) shall be employees of the Coach or the private enterprise and not the University (College) while engaged in camp activities. The Coach and all other University (College) employees involved in the operation of the camp(s) shall be on annual leave status or leave without pay during the days the camp is in operation. The Coach or private enterprise shall provide workers' compensation insurance in accordance with Idaho law and comply in all respects with all federal and state wage and hour laws~~

~~In the event of termination of this Agreement, suspension, or reassignment, University (College) shall not be under any obligation to permit a summer youth camp to be held by the Coach after the effective date of such termination, suspension, or reassignment, and the University (College) shall be released from all obligations relating thereto.~~

3.2.79 Coach agrees that the ~~University (College)~~University has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of ~~University (College)~~University. ~~Coach recognizes that the University (College) is negotiating or has entered into an agreement with (Company Name) to supply the University (College) with athletic footwear, apparel and/or equipment.~~ Coach agrees that, upon the ~~University (College)~~University's reasonable request, Coach will consult with appropriate parties concerning ~~an (Company Name)~~ company's product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by ~~(Company Name)~~ such company, or give a lecture at an event sponsored in whole or in part by ~~(Company Name)~~ such company, or make other educationally-related appearances as may be reasonably requested by the ~~University (College)~~University. Notwithstanding the foregoing sentence, Coach shall retain the right to decline such appearances as Coach reasonably determines to conflict with or hinder his duties and obligations as head ~~(Sport)Women's Basketball~~ coach. In order to avoid entering into an agreement with a competitor of ~~(Company Name)~~ such company, Coach shall submit all outside consulting agreements to the ~~University (College)~~University for review and approval by the director prior to execution. Coach shall also report such outside income to the ~~University (College)~~University in accordance with NCAA ~~(or NAIA)~~ rules. Coach further

agrees that Coach will not endorse any athletic footwear, apparel, ~~and/or~~ equipment, and products, including ~~—(Company Name)—such company~~, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products. Coach shall receive \$1,500 in personal apparel from Nike.

3.3 General Conditions of Compensation. All compensation provided by the ~~University (College)~~University to Coach is subject to deductions and withholdings as required by law or the terms and conditions of any fringe benefit in which Coach participates. However, if any fringe benefit is based in whole or in part upon the compensation provided by the ~~University (College)~~University to Coach, such fringe benefit shall be based only on the compensation provided pursuant to section 3.1.1, except to the extent required by the terms and conditions of a specific fringe benefit program.

ARTICLE 4

4.1. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall:

4.1.1. Devote Coach's full time and best efforts to the performance of Coach's duties under this Agreement;

4.1.2. Develop and implement programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team members which enable them to compete successfully and reasonably protect their health, safety, and well-being;

4.1.3. Observe and uphold all academic standards, requirements, and policies of the ~~University (College)~~University and encourage Team members to perform to their highest academic potential and to graduate in a timely manner; and

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference, and the NCAA ~~(or NAIA)~~; supervise and take appropriate steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Director and to the Department's Director of Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the ~~University (College)~~University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall cooperate fully with the ~~University (College)~~University and Department at all times. The names or titles of employees whom Coach supervises are

attached as Exhibit C. The applicable laws, policies, rules, and regulations include: (a) State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual; (b) ~~University (College)~~University's Handbook; (c) ~~University (College)~~University's Administrative Procedures Manual; (d) the policies and procedure of the Athletic Department; (e) NCAA (or NAIA) rules and regulations; and (f) the rules and regulations of the ~~—(Sport)—~~eBig Sky Conference of which the ~~University (College)~~University is a member.

4.2 Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of the ~~University (College)~~University, would reflect adversely upon the ~~University (College)~~University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach may not use the ~~University (College)~~University's name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President.

4.3 NCAA ~~(or NAIA)~~ Rules. In accordance with NCAA ~~(or NAIA)~~ rules, Coach shall obtain prior written approval from the ~~University (College)~~University's President for all athletically related income and benefits from sources outside the ~~University (College)~~University and shall report the source and amount of all such income and benefits to the ~~University (College)~~University's President whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular ~~University (College)~~University work day preceding June 30th. The report shall be in a format reasonably satisfactory to ~~University (College)~~University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, ~~University (College)~~University booster club, ~~University (College)~~University alumni association, ~~University (College)~~University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference, or the NCAA-~~(or NAIA)~~.

4.4 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of President and the ~~University (College)~~University's Board of ~~—(Trustees or Regents)~~ Trustees.

4.5 Scheduling. Coach shall consult with, and may make recommendations to, the Director or the Director's designee with respect to the scheduling of Team competitions, but the final decision shall be made by the Director or the Director's designee.

4.76 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team, requiring performance of duties prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not be unreasonably ~~-be~~ withheld.

ARTICLE 5

5.1 Termination of Coach for Cause. The ~~University (College)~~University may, in its discretion, suspend Coach from some or all of Coach's duties, temporarily or permanently, ~~and~~ with or without pay; reassign Coach to other duties; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in applicable rules and regulations.

5.1.1 In addition to the definitions contained in applicable rules and regulations, ~~University (College)~~University and Coach hereby specifically agree that the following shall constitute good or adequate cause for suspension, reassignment, or termination of this Agreement:

- a) A deliberate or major violation of Coach's duties under this ~~A~~agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach's abilities;
- b) The failure of Coach to remedy any violation of any of the terms of this ~~a~~Agreement within 30 days after written notice from the ~~University (College)~~University;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference or the NCAA (~~NAIA~~), including but not limited to any such violation which may have occurred during the employment of Coach at another NCAA or NAIA member institution;
- d) Ten (10) working days' absence of Coach from duty without the ~~University (College)~~University's consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the ~~University (College)~~University's judgment, reflect

adversely on the ~~University (College)~~University or its athletic programs;

- f) The failure of Coach to represent the ~~University (College)~~University and its athletic programs positively in public and private forums;
- g) The failure of Coach to fully and promptly cooperate with the NCAA ~~(NAIA)~~ or the ~~University (College)~~University in any investigation of possible violations of any applicable law or the policies, rules or regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference, or the NCAA ~~(NAIA)~~;
- h) The failure of Coach to report a known violation of any applicable law or the policies, rules or regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference, or the NCAA ~~(NAIA)~~, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or
- i) A violation of any applicable law or the policies, rules or regulations of the ~~University (College)~~University, the ~~University (College)~~University's governing board, the conference, or the NCAA ~~(NAIA)~~, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team if Coach knew or should have known of the violation and could have prevented it by ordinary supervision.

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the ~~University (College)~~University as follows: before the effective date of the suspension, reassignment, or termination, the Director or his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, ~~University (College)~~University shall notify Coach whether, and if so when, the action will be effective.

5.1.3 In the event of any termination for good or adequate cause, the ~~University (College)~~University's obligation to provide compensation and benefits to Coach, whether direct, indirect, supplemental or collateral, shall cease as of the date of such termination, and the ~~University (College)~~University shall not be liable for the loss of any collateral business opportunities or other benefits, perquisites, or income resulting from outside activities or from any other sources.

5.1.4 If found in violation of NCAA ~~(NAIA)~~ regulations, Coach shall, in addition to the provisions of Section 5.1, be subject to disciplinary or corrective action as

set forth in the provisions of the NCAA-~~(NAIA)~~ enforcement procedures. This section applies to violations occurring at the ~~University (College)~~University or at previous institutions at which the Coach was employed.

5.2 Termination of Coach for Convenience of ~~University (College)~~University.

5.2.1 At any time after commencement of this Agreement, ~~University (College)~~University, for its own convenience, may terminate this Agreement by giving ten (10) days prior written notice to Coach.

5.2.2 In the event that ~~University (College)~~University terminates this Agreement for its own convenience, ~~University (College)~~University shall be obligated to pay Coach, as liquidated damages and not a penalty, the salary set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of ~~University (College)~~University until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a ~~University (College)~~University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law.

~~5.2.3 The parties have both been represented by legal counsel in the contract negotiations and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the Coach may lose certain benefits, supplemental compensation, or outside compensation relating to his employment with ~~University (College)~~, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by ~~University (College)~~ and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by ~~University (College)~~. The liquidated damages are not, and shall not be construed to be, a penalty.~~

5.3 Termination by Coach for Convenience.

5.3.1 The Coach recognizes that his promise to work for ~~University (College)~~University for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the ~~University (College)~~University is making a highly valuable investment in his employment by entering into this Agreement and that its investment would be lost were he to resign or otherwise terminate his employment with the ~~University (College)~~University before the end of the contract term.

5.3.2 The Coach, for his own convenience, may terminate this Agreement during its term by giving prior written notice to the ~~University (College)~~University. Termination shall be effective ten (10) days after notice is given to the ~~University (College)~~University.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University ~~(College)~~ shall cease as of the effective date of the termination. If the Coach terminates this Agreement for his convenience he shall pay to the University ~~(College)~~, as liquidated damages and not a penalty, for the breach of this Agreement the following sum: (a) if the Agreement is terminated on or before _____, May 10, 2009, the sum of ~~\$309~~,000.00; (b) if the Agreement is terminated between _____ May 11, 2009 and _____ May 10, 2010 inclusive, the sum of ~~\$206~~,000.00; (c) if the Agreement is terminated between May 11, 2010 _____ and May 10, 2011 _____ inclusive, the sum of ~~\$104~~,000.00; (d) if the Agreement is terminated between May 11, 2011 and May 10, 2012 inclusive, the sum of \$2,000. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate of eight (8) percent per annum until paid.

~~5.3.4 The parties have both been represented by legal counsel in the contract negotiations and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the University (College) will incur administrative and recruiting costs in obtaining a replacement for Coach, in addition to potentially increased compensation costs if Coach terminates this Agreement for convenience, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Coach and the acceptance thereof by University (College) shall constitute adequate and reasonable compensation to University (College) for the damages and injury suffered by it because of such termination by Coach. The liquidated damages are not, and shall not be construed to be, a penalty. This section 5.3.4 shall not apply if Coach terminates this Agreement because of a material breach by the University (College).~~

5.3.~~5~~4 Except as provide elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit to the extent permitted by law his right to receive all supplemental compensation and other payments.

5.4 Termination due to Disability or Death of Coach.

5.4.1 Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically if Coach becomes totally or permanently disabled as defined by the ~~University (College)~~University's disability insurance carrier, becomes unable to perform the essential functions of the position of head coach, or dies.

5.4.2 If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits shall terminate as of the last day worked, except that the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the ~~University~~ ~~(College)~~University and due to the Coach's estate or beneficiaries thereunder.

5.4.3 If this Agreement is terminated because the Coach becomes totally or permanently disabled as defined by the ~~University~~ ~~(College)~~University's disability insurance carrier, or becomes unable to perform the essential functions of the position of head coach, all salary and other benefits shall terminate, except that the Coach shall be entitled to receive any compensation due or unpaid and any disability-related benefits to which he is entitled by virtue of employment with the ~~University~~ ~~(College)~~University.

5.5 Interference by Coach. In the event of termination, suspension, or reassignment, Coach agrees that Coach will not interfere with the ~~University~~ ~~(College)~~University's student-athletes or otherwise obstruct the ~~University~~ ~~(College)~~University's ability to transact business or operate its intercollegiate athletics program.

5.76 No Liability. The ~~University~~ ~~(College)~~University shall not be liable to Coach for the loss of any collateral business opportunities or any other benefits, perquisites or income from any sources that may ensue as a result of any termination of this Agreement by either party or due to death or disability or the suspension or reassignment of Coach, regardless of the circumstances.

5.87 Waiver of Rights. Because the Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to ~~University~~ ~~(College)~~University employees, if the ~~University~~ ~~(College)~~University suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the ~~University~~ ~~(College)~~University from compliance with the notice, appeal, and similar employment-related rights provided for in the State Board of Education ~~and Board or Regents of the University of Idaho Rule Manual (IDAPA 08) and~~ Governing Policies and Procedures Manual, and the ~~University~~ ~~(College)~~University Faculty-Staff Handbook.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the ~~University~~ ~~(College)~~'s State Board of ~~(Regents or Trustees)~~ Education and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the ~~University~~ ~~(College)~~University's State Board of ~~(Regents or Trustees)~~.

~~Trustees)~~ Education, the President, and the Director; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such compensation is paid; and the State Board of ~~=(Regents or Trustees)=~~ Education and ~~University (College)~~ University's rules regarding financial exigency.

6.2 ~~University (College)~~ University Property. All personal property (excluding vehicle(s) provided through the ~~=====~~ Courtesy Car pProgram), material, and articles of information, including, without limitation, keys, credit cards, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to Coach by the ~~University (College)~~ University or developed by Coach on behalf of the ~~University (College)~~ University or at the ~~University (College)~~ University's direction or for the ~~University (College)~~ University's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the ~~University (College)~~ University. Within twenty-four (24) hours of the expiration of the term of this ~~a~~ Agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the Director.

6.3 Assignment. Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party.

6.4 Waiver. No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a particular breach in the performance of this Agreement shall not constitute a waiver of any other or subsequent breach. The resort to a particular remedy upon a breach shall not constitute a waiver of any other available remedies.

6.5 Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall remain in effect.

6.6 Governing Law. This Agreement shall be subject to and construed in accordance with the laws of the state of Idaho as an agreement to be performed in Idaho. Any action based in whole or in part on this Agreement shall be brought in the courts of the state of Idaho.

6.7 Oral Promises. Oral promises of an increase in annual salary or of any supplemental or other compensation shall not be binding upon the ~~University (College)~~ University.

6.8 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to

perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

6.9 Confidentiality. The Coach hereby consents and agrees that this document may be released and made available to the public after it is signed by the Coach. The Coach further agrees that all documents and reports he is required to produce under this Agreement may be released and made available to the public at the ~~University (College)~~ University's sole discretion.

6.10 Notices. Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

the ~~University (College)~~ University: _____ Director of Athletics

Campus Box 8173
Idaho State University
Pocatello, ID 83209-8173

with a copy to: _____ President _____ Campus _____ Box
8310 _____

Idaho State University
Pocatello, ID 83209-8310

the Coach: _____ Seton Sobolewski
 Last known address on file with
~~University (College)~~ University's Human Resource Services

Any notice shall be deemed to have been given on the earlier of: (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day facsimile delivery is verified. Actual notice, however and from whomever received, shall always be effective.

6.11 Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

6.12 Binding Effect. This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.

6.13 Non-Use of Names and Trademarks. The Coach shall not, without the ~~University (College)~~University's prior written consent in each case, use any name, trade name, trademark, or other designation of the ~~University (College)~~University (including contraction, abbreviation or simulation), except in the course and scope of his official ~~University (College)~~University duties.

6.14 No Third Party Beneficiaries. There are no intended or unintended third party beneficiaries to this Agreement.

6.15 Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by ~~University (College)~~University's Board of ~~-(Regents or Trustees)~~Trustees.

6.16 Opportunity to Consult with Attorney. The Coach acknowledges that he has had the opportunity to consult and review this Agreement with an attorney and has not relied upon the advice of any legal counsel acting on behalf of the University. Accordingly, in all cases, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.

~~UNIVERSITY (COLLEGE)~~UNIVERSITY

COACH

<u>Arthur C. Vailas,</u>	<u>Date</u>	<u>Seton Sobolewski</u>	<u>Date</u>
<u>_____, President</u>	<u>_____ Date _____</u>		<u>_____ Date _____</u>

Approved by the Board of ~~-(Regents or Trustees)~~Trustees o on the ____ day of _____, ~~2000~~20.

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SETON SOBOLEWSKI, HEAD WOMEN'S BASKETBALL COACH - MULTI-YEAR CONTRACT CHANGES			
	MODEL CONTRACT SECTION	ISU CONTRACT SECTION	JUSTIFICATION FOR MODIFICATION
1	1.3 Duties	1.3 Duties	Language added clarifying University's right to reassign is independent of right to terminate for cause or to reassign duties.
2	3.1.1 Regular Compensation	3.1.1 (d) Regular Compensation language added	Additional language specifying courtesy car benefits to Coach through ISU's Courtesy Car Program.
3	3.2 Supplemental Compensation	3.2 Supplemental Compensation Language added	Language specifies compensation for team performance and measurable academic achievement.
4	3.2.6 Supplemental Compensation Media Language	3.2.6 Supplemental Compensation Media Language; modified language	ISU provides \$5,000 annual compensation for radio and television appearances.
5	3.2.7 Summer Camp Operated by University	3.2.7 Summer Camp Operated by University; language added	University has decided to provide a University-operated summer camp only. Coach has the right to direct net revenues from summer camps to be used to enhance the budget of the Women's Basketball Program.
6	3.2.8 Language specifying Footwear/Apparel Contract	3.2.7 Footwear/Apparel Contract; language deleted	ISU has the right to select apparel sponsor; Coach receives \$1500 apparel allowance from Nike.
7	6.16. Opportunity to Consult with Attorney	6.16. Opportunity to Consult with Attorney; language added	Additional language added "and has not relied upon the advice of legal counsel acting on behalf of the University."

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REFERENCE – APPLICABLE STATUTE, RULE OR POLICY

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: II. HUMAN RESOURCES POLICIES AND PROCEDURES

Subsection: H. Policies Regarding Coaching Personnel and Athletic Directors

April 2002

H. Policies Regarding Coaching Personnel and Athletic Directors (Institution Employees Only)

1. Agreements Longer Than One Year

The chief executive officer of an institution is authorized to enter into a contract for the services of a head coach or athletic director with that institution for a term of more than one (1) year, but not more than five (5) years, subject to approval by the Board as to the terms, conditions, and compensation thereunder, and subject further to the condition that the contract of employment carries terms and conditions of future obligations of the coach or athletic director to the institution for the performance of such contracts. Each contract for the services shall follow the general form approved by the Board as a model contract. Such contract shall define the entire employment relationship between the Board and the coach or athletic director and may incorporate by reference applicable Board and institutional policies and rules, and applicable law.

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