

**BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010**

TAB	DESCRIPTION	ACTION
1	IDAHO STATE UNIVERSITY Employment Agreement – Head Women’s Soccer Coach	Motion to approve
2	UNIVERSITY of IDAHO Employment Agreement – Director of Tennis	Motion to approve
3	UNIVERSITY of IDAHO Employment Agreement – Head Swim Team Coach	Motion to approve
4	UNIVERSITY of IDAHO Employment Agreement – Head Men’s Basketball Coach	Motion to approve
5	UNIVERSITY of IDAHO Employment Agreement – Head Women’s Basketball Coach	Motion to approve

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BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

IDAHO STATE UNIVERSITY

SUBJECT

Revised multi-year employment agreement for the Head Women's Soccer Coach

APPLICABLE STATUTE, RULE OR POLICY

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

BACKGROUND/DISCUSSION

Idaho State University is requesting approval for a revised three-year, three-week employment agreement for Allison Gibson, Head Women's Soccer Coach (see Attachment 1). The employment agreement was originally entered into with Coach Gibson in January, 2009 with an ending date of January 20, 2012. The revisions to the agreement do not alter these dates. Rather, they are made to take advantage of the Model Coaching Contract now used by Idaho State University and to increase the amount of compensation available for NCAA Tournament wins and to change the bonus available for measurable academic achievement from being based on raw with NCAA APR scores to being based on achievement of specified NCAA national ranking levels. The primary terms of the agreement are set forth below. The entire contract, a redlined version showing changes from the Board model contract, and a matrix comparison to the Board model contract are attached.

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

IMPACT

The annual base salary is \$55,640. The position is funded by state appropriated funds. Coach's salary is subject to increase as approved by the athletic director, president and the Board.

Coach is entitled to use of a courtesy car subject to availability.

Coach is entitled to receive the following incentive/supplemental compensation:

- Regular Season Title: An additional one week's pay ($1/52 \times$ annual salary)
- Big Sky Conference win or automatic NCAA Tournament berth: An additional one week's pay ($1/52 \times$ annual salary)
- NCAA Tournament cumulative bonuses based on advancing through the tournament brackets as follows:

Round 1	\$3,000
Round 2	\$5,000
Round 3	\$7,000
Round 4	\$9,000
Round 5	\$11,000

BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

Round 6 \$13,000

- Record Bonus: An additional one week's pay ($1/52 \times$ annual salary) for 20 or more regular season wins.
- Academic achievement of team based on APR national rank:
 - 50% - 59% = \$1,000
 - 60% - 69% = \$2,000
 - 70% - 79% = \$3,000
 - 80% or above = \$5,000
- Coach of the Year: An additional one week's pay ($1/52 \times$ annual salary)

Maximum potential annual compensation (base salary and maximum potential incentive) is \$112,920.

Coach may participate in youth camps as follows:

- Net revenues resulting from the camp; OR
- in the event the University elects not to operate a camp, coach may do so within Board guidelines for such camps.

ATTACHMENTS

Attachment 1 – Employment Contract – clean	Page 3
Attachment 2 – Employment Contract – redline	Page 25
Attachment 3 – Contract Comparison Matrix	Page 47

STAFF AND COMMENTS AND RECOMMENDATIONS

Coach's base pay remains unchanged, but maximum potential annual compensation increases from \$83,850 to \$112,920. The fund source for all incentive pay is non-appropriated funds.

This employment contract follows the Board's model coach contract with changes delineated in the comparison matrix. The contract provides for liquidated damages, under certain conditions, should the coach terminate her employment for convenience.

Staff recommends approval.

BOARD ACTION

I move to approve Idaho State University's revised multi-year employment agreement for the Head Women's Soccer Coach as submitted.

EMPLOYMENT AGREEMENT

This Agreement between Idaho State University (“*University*”) and Allison Gibson, head women’s soccer coach (“*Coach*”) (each individually a “*Party*” and collectively, the “*Parties*”), takes effect on January 1, 2009 (“*Effective Date*”).

I. Engagement.

A. Definitions.

1. “*Director*” means University’s director of athletics.
2. “*Head*” means head coach of the Team (defined below).
2. “*President*” means University’s president.
3. “*Team*” means University’s intercollegiate women’s soccer team.

B. Employment. Under this Agreement, the University appoints Coach as its Head under a fixed term described below. Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

C. Reporting Relationship. Coach reports and is responsible directly to the Director or the Director’s designee. Coach is also under the general supervision of the President. Coach must:

1. abide by any reasonable instruction of Director or the Director’s designee; and
2. confer with the Director or the Director’s designee on all administrative and technical matters.

D. Duties.

1. *In General.* Coach must:
 - a. manage and supervise the Team; and
 - b. perform any other duty in the University’s athletic program that the Director assigns and as this Agreement elsewhere describes.
2. *Non-Team Activity.* The University at any time has a right to reassign Coach to any duty at the University other than as Head. That reassignment:
 - a. does not affect Coach’s primary compensation and benefits, but
 - b. does cease Coach’s opportunity to earn supplemental compensation as provided in sections III.C.1 through III.C.7.

E. Suspension; Reassignment. The University has discretion at any time to suspend Coach from part or all of Coach’s duties, temporarily or permanently, with or without pay, or to reassign Coach to other duties.

II. **Effective Period.**

A. Definitions.

1. “*Board*” means the Idaho State Board of Education.
2. “*Term*” means a period during which the Agreement is in effect.

B. Term. The Term is three years, three weeks, beginning on Effective Date, and expiring, without further notice to Coach, on January 20, 2012, unless earlier terminated as set forth further below.

C. Extension and Renewal.

1. *Procedure.* 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 Board’s prior approval.
2. *No Tenure Right.* This Agreement in no way grants to Coach a claim to tenure in employment. Coach’s service under this Agreement does not count in any way toward tenure at the University.

III. **Financial Matters.**

A. Definitions.

1. “*Annual Salary*” means a primary compensation amount corresponding to each consecutive twelve month period during the Term.
2. “*APR*” means a measurement that the NCAA (defined below) uses to track academic progress of NCAA-eligible student athletes and NCAA athletic programs.
3. “*Car Program*” means a University-administered program that provides vehicles for specified University personnel.
4. “*Conference*” means Big Sky conference.
5. “*Department*” means University’s athletics department.
6. “*NCAA*” means the National Collegiate Athletic Association.
7. “*Next Tier*” means Next Tier Tournament.
8. “*Personnel*” means Coach’s assistant coaches, any other employee for whom Coach is administratively responsible and Team members.
9. “*Tournament*” means soccer post-season tournament.
10. “*Vesting Date*” means the later date of the last regular game or post-season competition.
11. “*Youth Camp*” means a girls’ youth soccer camp that the University operates at any location.

- B. Regular Compensation. In exchange for Coach's services and satisfactory performance of this Agreement, the University during the Term must provide to Coach:
1. **\$55,640.00** per year as an Annual Salary, payable in biweekly installments according to normal University procedures, subject to increase upon:
 - a. appropriate Director and President determination; and
 - b. Board approval;
 2. an opportunity to receive any employee benefit that the University makes generally available to its non-faculty exempt employees;
 3. an opportunity to receive any employee benefit that the Department makes generally available to its employees of a comparable level; and
 4. subject to availability, a courtesy car that the Director assigns to Coach through the Car Program during Coach's assignment as Head.
- C. Supplemental Compensation. Subject to conditions stated below, Coach has an opportunity to obtain additional compensation during the Term.
1. *Eligibility.* Eligibility and payments shall be determined at the discretion of the President in consultation with the Director and approved by the Board. Coach's right to receive any compensation item set forth under this section III.C and its subsections is contingent on the Coach's and Personnel's acceptable conduct:
 - a. on the University campus;
 - b. at University activities;
 - c. in the surrounding community; and
 - d. generally elsewhere.
 2. *Regular Season Title Bonus.* The University must pay to Coach an additional one (1) week's pay of Coach's Annual Salary (*i.e.*, 1/52 x Annual Salary) for each year during which the Team wins a regular season Conference championship.
 3. *Tournament Bonuses.*
 - a. *Big Sky.* The University must pay to Coach an additional one (1) week's pay of Coach's Annual Salary for each year during the Term at which the Team upon the regular season's conclusion has either:
 - i. won the Conference Tournament; or
 - ii. obtained an automatic NCAA Tournament berth otherwise (including any so-called "play-in" game in the NCAA tournament).

- b. NCAA Tournament. If the Team – either by automatic qualification or as an at-large choice – competes in the NCAA’s Tournament, then University cumulatively also must pay Coach for advancing the tournament bracket as follows:

Round 1	64 teams	1 st win	\$ 3,000.00
Round 2	32 teams	2 nd win	\$ 5,000.00
Round 3	16 teams	3 rd win	\$ 7,000.00
Round 4	8 teams	4 th win	\$ 9,000.00
Round 5	4 teams	5 th win	\$11,000.00
Round 6	2 teams	6 th win	\$13,000.00

Possible national championship winner computation bonus total: **\$48,000.00**

4. *Record Bonus.* The University must pay to Coach an additional one (1) week’s pay of Coach’s Annual Salary (*i.e.*, 1/52 x Annual Salary) for each year during which the Team wins twenty (20) or more regular season soccer matches.
5. *Team APR Bonus.* University’s payment deadline for any amount specified under this paragraph is June 30th of a year after the Team has completed a season in which the Team has earned a specified APR ranking. Coach annually is eligible contingently to receive supplemental compensation for Team members’ academic achievements. University must pay to Coach as indicated below for any year during the Term that the Team’s four-year APR meets a NCAA’s national ranking range within women’s soccer listed below:

<u>Team APR Ranking</u>	<u>Incentive Pay</u>
50%-59%	\$ 1,000.00
60%-69%	\$ 2,000.00
70%-79%	\$ 3,000.00
80% or above	\$ 5,000.00

6. During any year under the Term that the Conference names Coach as its so-called “Coach of the Year,” University additionally must pay Coach one week’s salary (*i.e.*, 1/52 x Annual Salary).
7. *Summer Camp operated by University.* Despite its exclusive right to operate any Youth Camp, the University must allow Coach an opportunity as a University employee to earn compensation related to that camp.
- a. Duties. For any Youth Camp in which Coach chooses to participate, Coach’s duties include:
- directing that camp’s marketing, supervision, and general administration; and
 - performing any other related obligation that the Parties mutually choose.

- b. Payment. In exchange for Coach's participation in any Youth Camp, the University additionally must:
 - i. pay Coach any net revenues resulting from that camp, payable no later than thirty days after the camp ends; or
 - ii. upon the Coach's instruction, direct those net revenues as an enhancement to the soccer program budget at the University.
 - c. Interruption. Upon any suspension, reassignment or Agreement termination, University:
 - i. is not under any obligation to permit Coach to hold a Youth Camp after that termination, suspension, or reassignment takes effect; and
 - ii. is released from all obligations relating to that camp.
8. *If No University Camp.* Alternatively, if University in writing notifies Coach that it does not intend to operate a Youth Camp for a particular period of time during the Term, then Coach has a right to operate a Youth Camp:
- a. during that time period on University's campus; and
 - b. using University's facilities under Alternative Conditions (defined below).

D. Alternative Camp.

- 1. *Definitions.*
 - a. "Alternative Conditions" means an arrangement described under this Paragraph D (defined below), which arrangement applies only to Section III.C.8.
 - b. "Camp Summary Sheet" means a report containing financial and other information related to the Youth Camp's operation substantially as described in Exhibit C (attached and incorporated into this Agreement).
 - c. "Paragraph D" means Section III.D and its subparts.
- 2. *Private Enterprise.* Coach must operate the Youth Camp directly or through a private enterprise that Coach owns and manages for the Youth Camp. Coach must cause each requirement upon the Coach under Paragraph D to apply also to that private enterprise.
- 3. *Appropriate Image.* Coach must cause the Youth Camp's operation to reflect positively on University and its department of athletics.
- 4. *Direction.* Coach must obtain the Director's written approval before using any University personnel, equipment, or facility.

5. *Staffing.*
 - a. Priority. Coach must give priority to the University's assistant coaches when selecting any coach to participate in the Youth Camp.
 - b. Status. Coach must ensure that all Youth Camp personnel are employees of the Coach (or the private enterprise) and not employed by University while engaged in any Youth Camp activity. Each of Coach and any other University employee involved in the Youth Camp's operation is on annual leave status or leave without pay during any day that the Youth Camp is in operation.
 6. *Compliance.* Coach must comply with all applicable NCAA (NAIA), Conference, and University rules and regulations related in any way to operating any summer youth camp.
 7. *Suppliers.* Coach must enter into a contract with University and each applicable campus concessionaire to the University for each campus product or service that the Youth Camp requires.
 8. *Facility.* Coach must pay for use of each applicable University facility including Davis Field.
 9. *Reports.* No later than thirty days after the Youth Camp's last day, Coach must submit to the Director a preliminary Camp Summary Sheet version. No later than ninety days after the Youth Camp's last day, Coach must submit to Director a final accounting and fully-complete Camp Summary Sheet.
 10. *Insurance.* The Coach or the private enterprise must provide proof of liability insurance coverage as follows:
 - a. liability coverage: spectator and staff: no less than **\$1,000,000**;
 - b. catastrophic coverage: camper and staff: no less than \$1,000,000 maximum coverage with **\$100.00** deductible;
 11. *Indemnity.* To the extent permitted by law, the Coach will defend and indemnify University against any claim, damage, or liability arising out of the Summer Camp's operation.
 12. *Worker's Compensation.* 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
- E. General Conditions of Compensation.

1. *Deductions; Withholdings.* All compensation that University provides to Coach is subject to deductions and withholdings as required by law or the requirements of any fringe benefit in which Coach participates.
2. *Employee Benefits.* Any employee fringe benefit – based in whole or in part upon compensation that the University provides to Coach – is so based only under section III.B, unless a specific fringe benefit program requires otherwise. Coach’s right to that benefit through the University or Department is conditioned upon Coach having fulfilled each current or later-amended requirement set forth by that benefit’s provider.

IV. **Coach’s Professional Obligations.** Coach must cooperate fully with the University and Department at all times.

A. Definitions.

1. “*Benefactor*” means any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor providing any benefit to Coach.
2. “*Company*” means any entity that the University to has selected to provide footwear, apparel or equipment applicable to the Agreement.
3. “*Deadline*” means the close of business on June 30th of each year or the last regular University work day preceding June 30th.
4. “*Mark*” means any University name, logo, trademark, trade name, or other University designation (including contraction, abbreviation or simulation).
5. “*Requirement*” means any applicable law or any policy, rule or regulation of the University, the Board, the Conference, or the NCAA, as further described in Exhibit A (attached and incorporated into this Agreement).
6. “*Violation Incident*” means any instance in which Coach has reasonable cause to believe that any person or entity has violated or is likely to violate any Requirement.

B. Coach’s Specific Duties and Responsibilities. In exchange for the compensation specified in this Agreement, and in addition to each obligation set forth elsewhere in this Agreement, Coach must:

1. devote Coach’s full time and best efforts to performing Coach’s Agreement duties;
2. develop and implement programs and procedures with respect to evaluating, recruiting, training, and coaching Team members that enable them to:
 - a. compete successfully; and
 - b. reasonably protect their health, safety, and well-being; and
3. observe and uphold the University’s academic standards, requirements, and policies and encourage Team members to:

- a. perform to their highest academic potential; and
- b. graduate in a timely manner.

C. Outside Activities.

- 1. *Distractions.* Coach must not undertake any business, professional or personal activity or pursuit that would:
 - a. prevent Coach from devoting Coach's full time and best efforts to performing Coach's Agreement duties;
 - b. detract from those duties in any manner otherwise; or
 - c. at University's sole determination, reflect adversely upon the University or its athletic program.
- 2. *Allowable Involvement.* Upon prior written approval from the Director (who may consult with the President), Coach has a right to enter into any separate arrangement for an outside activity or endorsement that is consistent with this Agreement. Coach must obtain prior written approval from the Director and the President before using any Mark in connection with that arrangement.

D. NCAA Rules.

- 1. *Outside Income.* Under NCAA rules, Coach must:
 - a. obtain the President's written approval before receiving any athletically-related income or benefit from any source outside the University; and
 - b. provide a detailed written account of the source and amount of all that income and benefits to the University's President:
 - i. whenever reasonably requested; but
 - ii. in no event less than annually before the Deadline.
- 2. *Format.* Coach must cause the above outside income report to be in a format reasonably satisfactory to University.
- 3. *Allowable Sources.* Sources from which Coach rightfully may receive outside income or benefits include, without limitation, any:
 - a. annuity income;
 - b. sports camp;
 - c. housing benefit, including any preferential housing arrangement;
 - d. country club membership;
 - e. complimentary ticket sale;
 - f. television or radio program; or

- g. endorsement or consultation contract with any athletic shoe, apparel or equipment manufacturer.
- 4. *Prohibited Sources.* Coach directly or indirectly must not accept or receive from any Benefactor any money, benefit, or gratuity, if its acceptance or receipt by Coach would violate any Requirement.
- E. Hiring Authority. Coach has the responsibility and sole authority to recommend to the Director any hiring or termination of any assistant coach for the Team. The Director makes any final decision to hire or terminate an assistant coach and – when necessary or appropriate – that decision may be subject to the President’s and Board’s the advance approval.
- F. Personnel Changes. A listing of each name or title of any employee whom Coach supervises is attached as Exhibit B (attached and incorporated into this Agreement). Coach promptly throughout the Term must provide an update to this listing upon any employment change under Coach’s supervision. That updated listing supersedes each prior Exhibit B version and is automatically incorporated into this Agreement.
- G. Scheduling. Coach must propose to the Director or the Director’s designee all scheduling of Team’s competitions. As the University’s signatory for each scheduling agreement, the Director or the Director’s designee makes any final scheduling decision, which decision must not unreasonably contradict Coach’s scheduling proposal.
- H. Other Coaching Opportunities. Coach during the Term must obtain the Director’s approval before actively seeking, negotiating for, or accepting any soccer coaching employment at any other higher education institution. The University must ensure that the Director does not unreasonably withhold any approval described under this paragraph. Coach timely must keep the Director informed regarding any negotiation that Coach has begun as set forth above.
- I. Product Tie-Ins.
 - 1. *Exclusivity.* University has an exclusive right to select footwear, apparel or equipment for Coach, other staff and student-athletes to use during:
 - a. any official practices or game; and
 - b. any time when Coach or the Team is:
 - i. being filmed by motion picture or video camera; or
 - ii. posing for any photograph in Coach’s and/or Team’s capacity as University’s representative.
 - 2. *Consultation.* Upon the University’s reasonable request, Coach must provide services including the following:
 - a. consulting with appropriate parties concerning Company’s product’s design or performance;

- b. instructing at a clinic sponsored in whole or in part by that Company;
 - c. presenting a lecture at an event sponsored in whole or in part by that Company, and
 - d. making any other educationally-related appearance that University reasonably requests.
- 3. *Conflicts*. Despite the preceding sentence, Coach retains a right to decline any appearance that Coach reasonably considers to conflict with or hinder Coach's Agreement duties and obligations.
 - a. *Competitive Transactions*. Coach diligently must avoid entering into any binding arrangement with a competitor of that Company. Coach must submit each proposed outside consulting agreement to the University for the Director's review and approval before signing it.
 - b. *Outside Income*. Coach must also report that outside income to the University according to NCAA rules. Coach must not:
 - i. endorse any athletic footwear, apparel or equipment product, including its manufacturer or other merchandizing entity; or
 - ii. participate in any message or promotional appearance that contains a comparative or qualitative description of athletic footwear, apparel or equipment product.

J. Compliance. Coach must:

- 1. know, recognize, and comply with each Requirement;
- 2. supervise and take appropriate steps to ensure Personnel's knowledge, recognition and compliance of each Requirement; and
- 2. immediately report to the Director and to the Department's Director of Compliance any Violation Incident arising from any representative of the University's athletic interests.

V. **Termination**. Any for-cause ground, remedy or prohibition described under this Article also applies – at the University's discretion – to suspending or reassigning Coach as described in section I.E.

A. By University.

- 1. *For Cause*. The University at any time has a right to terminate this Agreement for good or adequate cause, as those terms are defined in applicable rules and regulations.
 - a. *Additional Grounds*. University's for-cause grounds to terminate also include the following:

- i. any deliberate and major violation of Coach's Agreement duties or the refusal or unwillingness of Coach to perform them in good faith and to the best of Coach's abilities;
 - ii. Coach's failure to remedy any Agreement violation as of thirty days after University's written notice to Coach of that violation;
 - iii. any deliberate or major Requirement violation by Coach under this Agreement or during Coach's employment at another NCAA or NAIA member institution;
 - iv. ten working days' absence of Coach from duty under the Agreement without the University's consent;
 - v. any conduct of Coach that constitutes moral turpitude or that University considers to reflect adversely on the University or its athletic programs;
 - vi. Coach's failure to represent positively the University and its athletic programs in any public or private forum;
 - vii. Coach's failure of Coach fully and promptly to cooperate with the NCAA or the University in any investigation of any Requirement's possible violation;
 - viii. Coach's failure to report a known Requirement violation by any Personnel; or
 - ix. any Violation Incident arising from Personnel, if Coach knew or should have known of the violation and could have prevented it by ordinary supervision.
- b. Procedure. University has a right to terminate for good or adequate cause as follows:
- i. before the termination takes effect, the Director or his designee provides Coach with notice as set forth in this Agreement, include any reason for the contemplated action;
 - ii. Coach then has an opportunity to respond; and
 - iii. after Coach responds or fails to respond, University must notify Coach whether, and if so, when the action has effect.
- c. Effect of Termination. Upon University's termination for good or adequate cause:
- i. the University's obligation to provide compensation and benefits to Coach, whether direct, indirect, supplemental or collateral, ceases as of the date of that termination; and
 - ii. University is not liable for the loss of any collateral business opportunity or other benefit, perquisite, or income resulting from any outside activity or other source.

- d. NCAA Sanction. If Coach is found to violate any NCAA regulation, then along with Section V.A, Coach is subject to disciplinary or corrective action under NCAA enforcement procedures. This paragraph applies to any violation occurring at the University or at any previous institution at which the Coach was employed.
- 2. For Convenience. At any time during the Term, University has a right to terminate this Agreement for University's convenience by giving ten days' prior written notice to Coach. If University terminates this Agreement for its convenience, then:
 - a. University must pay Coach any due amount under sections III.B.1 and III.B.2.a, excluding any deduction that law requires, on each regular University payday until the first of the following occurs:
 - i. the Term expires; or
 - ii. Coach obtains other employment;
 - b. Coach is entitled to continue Coach's health insurance plan and group life insurance as if Coach remained a University employee until the first of the following occurs:
 - i. the Term expires; or
 - ii. Coach obtains reasonably comparable employment or any other employment providing Coach with a reasonably comparable health plan and group life insurance;
 - c. Coach is entitled to no other compensation or fringe benefit, unless this Agreement provides or law requires otherwise;
 - d. if Coach obtains employment at any lesser amount after that termination, then:
 - i. the amount that University must pay is adjusted and reduced by that lesser amount; and
 - ii. that adjusted compensation is to be calculated for each University pay-period by the following steps:
 - STEP 1: reducing the section III.B.1 amount (before any deduction that law requires) by Coach's gross compensation under the lesser employment; and
 - STEP 2: from this adjusted gross compensation, subtracting each legally-required deduction.
 - e. Coach specifically must:
 - i. inform University no later than ten business days after obtaining any other employment; and

- ii. advise University of the employment's nature, location, salary, compensation, health insurance, life insurance, other fringe benefits and each other relevant provision;
- f. any failure by Coach to so inform and advise University constitutes a material Agreement breach that ends University's payment obligation under this for-convenience termination provision; and
- g. Coach further must repay to University any compensation that University has paid to Coach:
 - i. after the date Coach obtains that other employment; and
 - ii. to which Coach is not entitled under this for-convenience termination provision.

B. Termination by Coach for Convenience.

1. *University Investment Interest.* The Coach recognizes that Coach's promise to work for University for the entire Term is this Agreement's essence. The Coach also recognizes that:
 - a. the University is making a highly valuable investment in Coach's employment by entering into this Agreement; and
 - b. University's investment would be lost if Coach resigns or terminates Coach's employment with the University before Term's expiration otherwise.
2. *Termination Right; Buyout.* The Coach has a right to terminate for Coach's convenience during the Term by giving prior written notice to the University. That termination takes effect ten days after Coach delivers that notice to the University. Unless that termination occurs in connection with Coach accepting a position with a professional-league franchise or team after the Team has completed a then-current season and no later than the next Fall semester begins:
 - a. each University obligation ceases immediately when the termination takes effect;
 - b. Coach must pay to the University, as liquidated damages and not a penalty, for the breach of this Agreement an applicable amount as described below:
 - i. **\$14,000.00** if Coach terminates the Agreement on or before January 19, 2010;
 - ii. **\$12,000.00**, if the Agreement is terminated between January 20, 2010, and January 19, 2011, inclusive; or
 - iii. **\$10,000.00**, if the Agreement is terminated between January 20, 2011 and January 19, 2012, inclusive; and

- c. liquidated damages are due and payable no later than twenty days after the termination takes effect and any unpaid amount bears simple interest at a rate of eight percent *per annum* until paid.
 3. *Legal Consultation.* University is represented by counsel, and Coach has either been represented by legal counsel or has chosen to proceed without legal counsel in this Agreement's negotiation. The parties have bargained for and negotiated Sections V.A.2 and V.B.2 and their subparts, in recognition that Coach may lose certain benefits, supplemental compensation, or outside compensation related to employment at University, which loss is difficult to determine with certainty. The payment of any amount described under Sections V.A.2 and V.B.2 and their subparts, and Coach's acceptance of that payment, constitutes adequate compensation for Coach. That compensation is not, and is not to be construed as, a penalty.
- C. Termination due to Disability or Death of Coach. "*Function*" means an essential Head function under the Agreement.
 1. *Automatic Termination.* Despite any other Agreement provision, this Agreement terminates automatically if Coach:
 - a. becomes totally or permanently disabled as the University's disability insurance carrier so defines;
 - b. becomes unable to perform any Function; or
 - c. dies.
 2. *Death.* If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits cease as of the last day worked. But the University must pay the Coach's personal representative or other designated beneficiary any:
 - a. compensation due or unpaid; and
 - b. death benefit – due to the Coach's estate or any beneficiary under that estate – that is:
 - i. contained in any fringe benefit plan currently in force; or
 - ii. later adopted by the University as of that termination date.
 3. *Disability.* If this Agreement terminates because the Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, or becomes unable to perform any Function, then:
 - a. University's duty to pay any salary or other benefit ceases; although:
 - b. the Coach remains entitled to receive:
 - i. any compensation due or unpaid; and

- ii. any disability-related benefit to which Coach is entitled by virtue of employment with the University.
 - D. Interference by Coach. Upon any termination by either Party, Coach must not:
 - 1. interfere with the University's student-athletes; or
 - 2. obstruct the University's ability to transact business or operate its intercollegiate athletics program otherwise.
 - E. No Liability. Irrespective of any circumstance, the University is not liable to Coach for any loss of any collateral business opportunity or other benefit, perquisite or income from any source that ensues:
 - 1. as a result of any Agreement termination:
 - a. by either party; or
 - b. due to death or disability; or
 - 2. Coach's suspension or reassignment.
 - F. Waiver of Rights.
 - 1. *Unique Circumstances.* The Coach under this Agreement is receiving a multi-year commitment and an opportunity to receive supplemental compensation. Commitments and opportunities of this type are not customarily afforded to University employees.
 - 2. *Impact.* Recognizing that commitment and opportunity, under any circumstance that the University suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach:
 - a. retains each right that this Agreement provides to Coach under that circumstance; but
 - b. releases the University from compliance with the notice, appeal, and similar employment-related rights provided for in:
 - i. the Board's governing policies and procedures manual; and
 - ii. the University's faculty-staff handbook.
- VI. **Miscellaneous.**
- A. Definitions.
 - 1. "Force Majeure" means any prevention, delay or stoppage of a Party's Agreement performance due to any:
 - a. strike;
 - b. lockout;
 - c. labor dispute;
 - d. act of God;

- e. inability to obtain labor or any material (or reasonable substitute for that labor or material);
 - f. governmental restriction;
 - g. governmental regulation;
 - h. governmental control;
 - i. enemy or hostile governmental action;
 - j. civil commotion;
 - k. fire; or
 - l. other casualty or cause beyond the Party's reasonable control.
- 2. "*Property*" means any key, credit card, personnel record, recruiting record, team information, film, statistic, material, data, information article, courtesy car or other personal property.
- B. Board Approval. This Agreement has effect only after being approved by the Board and signed by both Parties as set forth below. In addition, University's duty to pay any Agreement compensation is subject to:
 - 1. approval of the Board, the President, and the Director;
 - 2. sufficiency of legislative appropriations;
 - 3. University's receipt of sufficient funds in any account from which that compensation is to be paid; and
 - 4. the Board's and University's rules regarding financial exigency.
- C. University Property.
 - 1. *Scope*. University owns any Property:
 - a. that University has furnished to Coach; or
 - b. that Coach develops:
 - i. on the University's behalf;
 - ii. at the University's direction;
 - iii. for the University's use; or
 - iv. in connection with Agreement employment otherwise.
 - 2. *Return*. No later than twenty-four hours after the Term's expires or the Agreement earlier terminates, Coach immediately must cause any Property in Coach's possession or control to be delivered to the Director.
- D. Assignment. Each Party must obtain the other Party's written consent before assigning its rights or delegating its obligations under this Agreement.
- E. Waiver. A waiver of any default in performing under this Agreement takes effect only if in writing and signed by the waiving Party. That waiver does not constitute

a waiver of any other or later breach. Resorting to a particular remedy upon a breach does not constitute a waiver of any other available remedy.

- F. Severability. If any Agreement provision is determined to be invalid or unenforceable, then the remainder of the Agreement is not affected and remains in effect.
- G. Governing Law. This Agreement is subject to and is to be construed according to the laws of the state of Idaho as an agreement to be performed in Idaho. A Party must bring any action based in whole or in part on this Agreement in the courts of the state of Idaho.
- H. Oral Promises. The University is not bound to any oral promise of any increase in Annual Salary or of any supplemental or other compensation.
- I. Force Majeure. A Party obligated to perform (including financial inability) under the Agreement is excused from performing during any Force Majeure occurrence period.
- J. Confidentiality. The Coach consents to this document being released and made available to the public after the Coach has signed it. The University has sole discretion to release or make available to the public any document or report that Coach is required to produce under this Agreement.
- K. Notices.
 - 1. *Procedure*. Actual notice, however and from whomever received, is always effective.
 - a. *Means*. A Party must cause each Agreement notice to be in writing and delivered:
 - i. in person;
 - ii. by public or private courier service (including U.S. Postal Service Express Mail);
 - ii. by certified mail with return receipt requested; or
 - iv. by facsimile.
 - b. *Relevant Date*. Any notice is considered to have been given on the earliest of:
 - i. actual delivery or refusal to accept delivery;
 - ii. the date of mailing by certified mail; or
 - iii. the day facsimile delivery is verified.
 - 2. *Party Addresses*. 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:
 - a. if to the University: Director of Athletics
Campus Box 8173

Idaho State University
Pocatello, ID 83209-8173

with a copy to: President
921 South 8th Ave. Stop 8310
Idaho State University
Pocatello, ID 83209-8310

b. if to the Coach: Allison Gibson
1553 Pointview Drive
Pocatello, ID 83201

- L. Headings. Each heading contained in this Agreement is for reference purposes only and does not in any way affect the Agreement's meaning or interpretation.
- M. Binding Effect. This Agreement is for the benefit only of the Parties and inures to the benefit of and binds the Parties and their respective heirs, legal representatives, successors and assigns.
- N. Non-Use of Names and Trademarks. The Coach in each case must obtain the University's written consent before using any Mark, except in the course and scope of Coach's official University duties.
- O. No Third Party Beneficiaries. The Agreement has no intended or unintended third party beneficiary.
- P. Entire Agreement; Amendments. This Agreement constitutes the Parties' entire understanding and supersedes any prior agreement or understanding with respect to the same subject matter. An amendment or modification of this Agreement is effective only if in writing, signed by both Parties, and approved by University's Board Trustees.
- Q. Opportunity to Consult with Attorney. The Coach acknowledges that Coach has had an 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 is to be construed simply, according to its fair meaning, and not strictly for or against any party.

Signed:

UNIVERSITY

COACH

Arthur Vailas, President

Date

Allison Gibson

Date

Approved by the Board of Trustees, on the _____.

Exhibit A

Requirements

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) Department policies;
- (e) NCAA rules and regulations; and
- (f) Conference rules and regulations.

Exhibit B

Listing of Employees under Coach's Supervision

Assistant Coach

Becky Hogan

Exhibit C

Camp Summary Sheet

To be inserted later.

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EMPLOYMENT AGREEMENT

This Agreement between Idaho State University (“*University*”) and Allison Gibson, head women’s soccer coach (“*Coach*”) (each individually a “*Party*” and collectively, the “*Parties*”), takes effect on January 1, 2009 (“*Effective Date*”).

I. Engagement.

A. Definitions.

1. “*Director*” means University’s director of athletics.
2. “*Head*” means head coach of the Team (defined below).
2. “*President*” means University’s president.
3. “*Team*” means University’s intercollegiate women’s soccer team.

B. Employment. Under this Agreement, the University appoints Coach as its Head under a fixed term described below. Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

C. Reporting Relationship. Coach reports and is responsible directly to the Director or the Director’s designee. Coach is also under the general supervision of the President. Coach must:

1. abide by any reasonable instruction of Director or the Director’s designee; and
2. confer with the Director or the Director’s designee on all administrative and technical matters.

D. Duties.

1. *In General.* Coach must:
 - a. manage and supervise the Team; and
 - b. perform any other duty in the University’s athletic program that the Director assigns and as this Agreement elsewhere describes.
2. *Non-Team Activity.* The University at any time has a right to reassign Coach to any duty at the University other than as Head. That reassignment:
 - a. does not affect Coach’s primary compensation and benefits, but
 - b. does cease Coach’s opportunity to earn supplemental compensation as provided in sections III.C.1 through III.C.7.

E. Suspension; Reassignment. The University has discretion at any time to suspend Coach from part or all of Coach’s duties, temporarily or permanently, with or without pay, or to reassign Coach to other duties.

II. **Effective Period.**

A. Definitions.

1. “*Board*” means the Idaho State Board of Education.
2. “*Term*” means a period during which the Agreement is in effect.

B. Term. The Term is three years, three weeks, beginning on Effective Date, and expiring, without further notice to Coach, on January 20, 2012, unless earlier terminated as set forth further below.

C. Extension and Renewal.

1. *Procedure.* 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 Board’s prior approval.
2. *No Tenure Right.* This Agreement in no way grants to Coach a claim to tenure in employment. Coach’s service under this Agreement does not count in any way toward tenure at the University.

III. **Financial Matters.**

A. Definitions.

1. “*Annual Salary*” means a primary compensation amount corresponding to each consecutive twelve month period during the Term.
2. “*APR*” means a measurement that the NCAA (defined below) uses to track academic progress of NCAA-eligible student athletes and NCAA athletic programs.
3. “*Car Program*” means a University-administered program that provides vehicles for specified University personnel.
4. “*Conference*” means Big Sky conference.
5. “*Department*” means University’s athletics department.
6. “*NCAA*” means the National Collegiate Athletic Association.
7. “*Next Tier*” means Next Tier Tournament.
8. “*Personnel*” means Coach’s assistant coaches, any other employee for whom Coach is administratively responsible and Team members.
9. “*Tournament*” means soccer post-season tournament.
10. “*Vesting Date*” means the later date of the last regular game or post-season competition.
11. “*Youth Camp*” means a girls’ youth soccer camp that the University operates at any location.

- B. Regular Compensation. In exchange for Coach's services and satisfactory performance of this Agreement, the University during the Term must provide to Coach:
1. \$55,640.00 per year as an Annual Salary, payable in biweekly installments according to normal University procedures, subject to increase upon:
 - a. appropriate Director and President determination; and
 - b. Board approval;
 - ~~2. for Coach's actual participation in radio and television appearances:~~
 - ~~a. each following per year amount, which is considered salary for purposes of section V.A.2.a:~~
 - ~~i. \$ _____ for the Team's _____ {first} season;~~
 - ~~ii. \$ _____ for the Team's _____ {second} season; and~~
 - ~~iii. \$ _____ for the Team's _____ {third} season; and~~
 - ~~b. each above amount being payable:~~
 - ~~i. one half before each respective season;~~
 - ~~ii. the remainder one half no later than two weeks after the Vesting Date (Coach's right to receive the remainder vesting on the Vesting Date); and~~
 - ~~iii. with Coach's coordination;~~
 2. an opportunity to receive any employee benefit that the University makes generally available to its non-faculty exempt employees;
 3. an opportunity to receive any employee benefit that the Department makes generally available to its employees of a comparable level; and
 4. subject to availability, a courtesy car that the Director assigns to Coach through the Car Program during Coach's assignment as Head.
- C. Supplemental Compensation. Subject to conditions stated below, Coach has an opportunity to obtain additional compensation during the Term.
1. *Eligibility.* Eligibility and payments shall be determined at the discretion of the President in consultation with the Director and approved by the Board. Coach's right to receive any compensation item set forth under this section V.C and its subsections is contingent on the Coach's and Personnel's acceptable conduct:
 - a. on the University campus;
 - b. at University activities;
 - c. in the surrounding community; and
 - d. generally elsewhere.

2. *Regular Season Title Bonus.* The University must pay to Coach an additional one (1) week's pay of Coach's Annual Salary (*i.e.*, $\frac{1}{52}$ x Annual Salary) for each year during which the Team wins a regular season Conference championship.

3. *Tournament Bonuses.*

- a. Big Sky. The University must pay to Coach an additional one (1) week's pay of Coach's Annual Salary for each year during the Term at which the Team upon the regular season's conclusion has either:

- i. won the Conference Tournament; or
- ii. obtained an automatic NCAA Tournament berth otherwise (including any so-called "play-in" game in the NCAA tournament).

- b. NCAA Tournament. If the Team – either by automatic qualification or as an at-large choice – competes in the NCAA's Tournament, then University cumulatively also must pay Coach for advancing the tournament bracket as follows:

Round 1	64 teams	1 st win	\$ <u>3,000.00</u>
Round 2	32 teams	2 nd win	\$ <u>5,000.00</u>
Round 3	16 teams	3 rd win	\$ <u>7,000.00</u>
Round 4	8 teams	4 th win	\$ <u>9,000.00</u>
Round 5	4 teams	5 th win	\$ <u>11,000.00</u>
Round 6	2 teams	6 th win	\$ <u>13,000.00</u>

Possible national championship

winner computation bonus total: \$48,000

- ~~c. Next Tier Tournament. If the Team competes in the Next Tier's Tournament, then University cumulatively additionally must pay Coach for advancing the tournament bracket as follows:~~

Round 1	32 teams	1st win	\$ _____
Round 2	16 teams	2nd win	\$ _____
Round 3	8 teams	3rd win	\$ _____
Round 4	4 teams	4th win	\$ _____
Round 5	2 teams	5th win	\$ _____
Possible bonus computation total			\$ _____

~~for winning Next Tier National Championship.~~

4. *Record Bonus.* ~~Coach is eligible to receive non-cumulatively supplemental compensation for winning the following number of mega-victory games during any regular season.~~

~~18 wins _____ \$ _____~~

~~19 wins _____ \$ _____~~

20 wins	\$ _____
21 wins	\$ _____
22 wins	\$ _____
23 wins	\$ _____
24 wins	\$ _____
25 wins	\$ _____

The University must pay to Coach an additional one (1) week's pay of Coach's Annual Salary (i.e., 1/52 x Annual Salary) for each year during which the Team wins twenty (20) or more regular season soccer matches.

5. *Team APR Bonus.* University's payment deadline for any amount specified under this paragraph is June 30th of a year after the Team has completed a season in which the Team has earned a specified APR ranking. Coach annually is eligible contingently to receive supplemental compensation for Team members' academic achievements. University must pay to Coach as indicated below for any year during the Term that the Team's four-year APR meets a NCAA's national ranking range within women's soccer listed below:

<u>Team APR Ranking</u>	<u>Incentive Pay</u>
50%-59%	\$ <u>1,000.00</u>
60%-69%	\$ <u>3,000.00</u>
70%-79%	\$ <u>4,000.00</u>
80% or above	\$ <u>5,000.00</u>

6. During any year under the Term that the Conference names Coach as its so-called "Coach of the Year," University additionally must pay Coach one week's salary (ie., 1/52 x Annual Salary).

- ~~6. *Home Attendance Bonus.* University must pay Coach as follows for any Term year that the official average Team game attendance that University reports to Conference officials for non-exhibition home games meets a range listed below:~~

<u>Average Attendance</u>	<u>Incentive Pay</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____ +	\$ _____

7. *Summer Camp operated by University.* Despite its exclusive right to operate any Youth Camp, the University must allow Coach an opportunity as a University employee to earn compensation related to that camp.
- a. Duties. For any Youth Camp in which Coach chooses to participate, Coach's duties include:
- i. directing that camp's marketing, supervision, and general administration; and

- ii. performing any other related obligation that the Parties mutually choose.
 - b. Payment. In exchange for Coach's participation in any Youth Camp, the University additionally must:
 - i. pay Coach any net revenues resulting from that camp, payable no later than thirty days after the camp ends; or
 - ii. upon the Coach's instruction, direct those net revenues as an enhancement to the soccer program budget at the University.
 - c. Interruption. Upon any suspension, reassignment or Agreement termination, University:
 - i. is not under any obligation to permit Coach to hold a Youth Camp after that termination, suspension, or reassignment takes effect; and
 - ii. is released from all obligations relating to that camp.
- 7. *If No University Camp.* Alternatively, if University in writing notifies Coach that it does not intend to operate a Youth Camp for a particular period of time during the Term, then Coach has a right to operate a Youth Camp:
 - a. during that time period on University's campus; and
 - b. using University's facilities under Alternative Conditions (defined below).

D. Alternative Camp.

- 1. *Definitions.*
 - a. "Alternative Conditions" means an arrangement described under this Paragraph D (defined below), which arrangement applies only to Section III.C.8.
 - b. "Camp Summary Sheet" means a report containing financial and other information related to the Youth Camp's operation substantially as described in Exhibit C (attached and incorporated into this Agreement).
 - c. "Paragraph D" means Section III.D and its subparts.
- 2. *Private Enterprise.* Coach must operate the Youth Camp directly or through a private enterprise that Coach owns and manages for the Youth Camp. Coach must cause each requirement upon the Coach under Paragraph D to apply also to that private enterprise.
- 3. *Appropriate Image.* Coach must cause the Youth Camp's operation to reflect positively on University and its department of athletics.

4. *Direction.* Coach must obtain the Director's written approval before using any University personnel, equipment, or facility.
 5. *Staffing.*
 - a. Priority. Coach must give priority to the University's assistant coaches when selecting any coach to participate in the Youth Camp.
 - b. Status. Coach must ensure that all Youth Camp personnel are employees of the Coach (or the private enterprise) and not employed by University while engaged in any Youth Camp activity. Each of Coach and any other University employee involved in the Youth Camp's operation is on annual leave status or leave without pay during any day that the Youth Camp is in operation.
 6. *Compliance.* Coach must comply with all applicable NCAA (NAIA), Conference, and University rules and regulations related in any way to operating any summer youth camp.
 7. *Suppliers.* Coach must enter into a contract with University and each applicable campus concessionaire to the University for each campus product or service that the Youth Camp requires.
 8. *Facility.* Coach must pay for use of each applicable University facility including ~~the~~ [Davis Field](#).
 9. *Reports.* No later than thirty days after the Youth Camp's last day, Coach must submit to the Director a preliminary Camp Summary Sheet version. No later than ninety days after the Youth Camp's last day, Coach must submit to Director a final accounting and fully-complete Camp Summary Sheet.
 10. *Insurance.* The Coach or the private enterprise must provide proof of liability insurance coverage as follows:
 - a. liability coverage: spectator and staff: no less than **\$1,000,000**;
 - b. catastrophic coverage: camper and staff: no less than \$1,000,000 maximum coverage with **\$100.00** deductible;
 11. *Indemnity.* To the extent permitted by law, the Coach will defend and indemnify University against any claim, damage, or liability arising out of the Summer Camp's operation.
 12. *Worker's Compensation.* 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
- E. General Conditions of Compensation.

1. *Deductions; Withholdings.* All compensation that University provides to Coach is subject to deductions and withholdings as required by law or the requirements of any fringe benefit in which Coach participates.
2. *Employee Benefits.* Any employee fringe benefit – based in whole or in part upon compensation that the University provides to Coach – is so based only under section III.B, unless a specific fringe benefit program requires otherwise. Coach’s right to that benefit through the University or Department is conditioned upon Coach having fulfilled each current or later-amended requirement set forth by that benefit’s provider.

IV. **Coach’s Professional Obligations.** Coach must cooperate fully with the University and Department at all times.

A. Definitions.

1. “*Benefactor*” means any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor providing any benefit to Coach.
2. “*Company*” means any entity that the University has selected to provide footwear, apparel or equipment applicable to the Agreement.
3. “*Deadline*” means the close of business on June 30th of each year or the last regular University work day preceding June 30th.
4. “*Mark*” means any University name, logo, trademark, trade name, or other University designation (including contraction, abbreviation or simulation).
5. “*Requirement*” means any applicable law or any policy, rule or regulation of the University, the Board, the Conference, or the NCAA, as further described in Exhibit A (attached and incorporated into this Agreement).
6. “*Violation Incident*” means any instance in which Coach has reasonable cause to believe that any person or entity has violated or is likely to violate any Requirement.

B. Coach’s Specific Duties and Responsibilities. In exchange for the compensation specified in this Agreement, and in addition to each obligation set forth elsewhere in this Agreement, Coach must:

1. devote Coach’s full time and best efforts to performing Coach’s Agreement duties;
2. develop and implement programs and procedures with respect to evaluating, recruiting, training, and coaching Team members that enable them to:
 - a. compete successfully; and
 - b. reasonably protect their health, safety, and well-being; and
3. observe and uphold the University’s academic standards, requirements, and policies and encourage Team members to:
 - a. perform to their highest academic potential; and

- b. graduate in a timely manner.

C. Outside Activities.

1. *Distractions.* Coach must not undertake any business, professional or personal activity or pursuit that would:
 - a. prevent Coach from devoting Coach's full time and best efforts to performing Coach's Agreement duties;
 - b. detract from those duties in any manner otherwise; or
 - c. at University's sole determination, reflect adversely upon the University or its athletic program.
2. *Allowable Involvement.* Upon prior written approval from the Director (who may consult with the President), Coach has a right to enter into any separate arrangement for an outside activity or endorsement that is consistent with this Agreement. Coach must obtain prior written approval from the Director and the President before using any Mark in connection with that arrangement.

D. NCAA Rules.

1. *Outside Income.* Under NCAA rules, Coach must:
 - a. obtain the President's written approval before receiving any athletically-related income or benefit from any source outside the University; and
 - b. provide a detailed written account of the source and amount of all that income and benefits to the University's President:
 - i. whenever reasonably requested; but
 - ii. in no event less than annually before the Deadline.
2. *Format.* Coach must cause the above outside income report to be in a format reasonably satisfactory to University.
3. *Allowable Sources.* Sources from which Coach rightfully may receive outside income or benefits include, without limitation, any:
 - a. annuity income;
 - b. sports camp;
 - c. housing benefit, including any preferential housing arrangement;
 - d. country club membership;
 - e. complimentary ticket sale;
 - f. television or radio program; or
 - g. endorsement or consultation contract with any athletic shoe, apparel or equipment manufacturer.

4. *Prohibited Sources.* Coach directly or indirectly must not accept or receive from any Benefactor any money, benefit, or gratuity, if its acceptance or receipt by Coach would violate any Requirement.
- E. Hiring Authority. Coach has the responsibility and sole authority to recommend to the Director any hiring or termination of any assistant coach for the Team. The Director makes any final decision to hire or terminate an assistant coach and – when necessary or appropriate – that decision may be subject to the President’s and Board’s the advance approval.
- F. Personnel Changes. A listing of each name or title of any employee whom Coach supervises is attached as Exhibit B (attached and incorporated into this Agreement). Coach promptly throughout the Term must provide an update to this listing upon any employment change under Coach’s supervision. That updated listing supersedes each prior Exhibit B version and is automatically incorporated into this Agreement.
- G. Scheduling. Coach must propose to the Director or the Director’s designee all scheduling of Team’s competitions. As the University’s signatory for each scheduling agreement, the Director or the Director’s designee makes any final scheduling decision, which decision must not unreasonably contradict Coach’s scheduling proposal.
- H. Other Coaching Opportunities. Coach during the Term must obtain the Director’s approval before actively seeking, negotiating for, or accepting any soccer coaching employment at any other higher education institution. The University must ensure that the Director does not unreasonably withhold any approval described under this paragraph. Coach timely must keep the Director informed regarding any negotiation that Coach has begun as set forth above.
- I. Product Tie-Ins.
 1. *Exclusivity.* University has an exclusive right to select footwear, apparel or equipment for Coach, other staff and student-athletes to use during:
 - a. any official practices or game; and
 - b. any time when Coach or the Team is:
 - i. being filmed by motion picture or video camera; or
 - ii. posing for any photograph in Coach’s and/or Team’s capacity as University’s representative.
 2. *Consultation.* Upon the University’s reasonable request, Coach must provide services including the following:
 - a. consulting with appropriate parties concerning Company’s product’s design or performance;
 - b. instructing at a clinic sponsored in whole or in part by that Company;

- c. presenting a lecture at an event sponsored in whole or in part by that Company, and
 - d. making any other educationally-related appearance that University reasonably requests.
3. *Conflicts.* Despite the preceding sentence, Coach retains a right to decline any appearance that Coach reasonably considers to conflict with or hinder Coach's Agreement duties and obligations.
- a. *Competitive Transactions.* Coach diligently must avoid entering into any binding arrangement with a competitor of that Company. Coach must submit each proposed outside consulting agreement to the University for the Director's review and approval before signing it.
 - b. *Outside Income.* Coach must also report that outside income to the University according to NCAA rules. Coach must not:
 - i. endorse any athletic footwear, apparel or equipment product, including its manufacturer or other merchandizing entity; or
 - ii. participate in any message or promotional appearance that contains a comparative or qualitative description of athletic footwear, apparel or equipment product.

J. Compliance. Coach must:

- 1. know, recognize, and comply with each Requirement;
- 2. supervise and take appropriate steps to ensure Personnel's knowledge, recognition and compliance of each Requirement; and
- 2. immediately report to the Director and to the Department's Director of Compliance any Violation Incident arising from any representative of the University's athletic interests.

V. **Termination.** Any for-cause ground, remedy or prohibition described under this Article also applies – at the University's discretion – to suspending or reassigning Coach as described in section I.E.

A. By University.

- 1. *For Cause.* The University at any time has a right to terminate this Agreement for good or adequate cause, as those terms are defined in applicable rules and regulations.
 - a. *Additional Grounds.* University's for-cause grounds to terminate also include the following:
 - i. any deliberate and major violation of Coach's Agreement duties or the refusal or unwillingness of Coach to perform them in good faith and to the best of Coach's abilities;

- ii. Coach's failure to remedy any Agreement violation as of thirty days after University's written notice to Coach of that violation;
 - iii. any deliberate or major Requirement violation by Coach under this Agreement or during Coach's employment at another NCAA or NAIA member institution;
 - iv. ten working days' absence of Coach from duty under the Agreement without the University's consent;
 - v. any conduct of Coach that constitutes moral turpitude or that University considers to reflect adversely on the University or its athletic programs;
 - vi. Coach's failure to represent positively the University and its athletic programs in any public or private forum;
 - vii. Coach's failure of Coach fully and promptly to cooperate with the NCAA or the University in any investigation of any Requirement's possible violation;
 - viii. Coach's failure to report a known Requirement violation by any Personnel; or
 - ix. any Violation Incident arising from Personnel, if Coach knew or should have known of the violation and could have prevented it by ordinary supervision.
- b. Procedure. University has a right to terminate for good or adequate cause as follows:
- i. before the termination takes effect, the Director or his designee provides Coach with notice as set forth in this Agreement, include any reason for the contemplated action;
 - ii. Coach then has an opportunity to respond; and
 - iii. after Coach responds or fails to respond, University must notify Coach whether, and if so, when the action has effect.
- c. Effect of Termination. Upon University's termination for good or adequate cause:
- i. the University's obligation to provide compensation and benefits to Coach, whether direct, indirect, supplemental or collateral, ceases as of the date of that termination; and
 - ii. University is not liable for the loss of any collateral business opportunity or other benefit, perquisite, or income resulting from any outside activity or other source.
- d. NCAA Sanction. If Coach is found to violate any NCAA regulation, then along with Section V.A, Coach is subject to disciplinary or corrective action under NCAA enforcement

procedures. This paragraph applies to any violation occurring at the University or at any previous institution at which the Coach was employed.

2. For Convenience. At any time during the Term, University has a right to terminate this Agreement for University's convenience by giving ten days' prior written notice to Coach. If University terminates this Agreement for its convenience, then:
 - a. University must pay Coach any due amount under sections III.B.1 and III.B.2.a, excluding any deduction that law requires, on each regular University payday until the first of the following occurs:
 - i. the Term expires; or
 - ii. Coach obtains other employment;
 - b. Coach is entitled to continue Coach's health insurance plan and group life insurance as if Coach remained a University employee until the first of the following occurs:
 - i. the Term expires; or
 - ii. Coach obtains reasonably comparable employment or any other employment providing Coach with a reasonably comparable health plan and group life insurance;
 - c. Coach is entitled to no other compensation or fringe benefit, unless this Agreement provides or law requires otherwise;
 - d. if Coach obtains employment at any lesser amount after that termination, then:
 - i. the amount that University must pay is adjusted and reduced by that lesser amount; and
 - ii. that adjusted compensation is to be calculated for each University pay-period by the following steps:

STEP 1: reducing the section III.B.1 amount (before any deduction that law requires) by Coach's gross compensation under the lesser employment; and

STEP 2: from this adjusted gross compensation, subtracting each legally-required deduction.
 - e. Coach specifically must:
 - i. inform University no later than ten business days after obtaining any other employment; and
 - ii. advise University of the employment's nature, location, salary, compensation, health insurance, life insurance, other fringe benefits and each other relevant provision;

- f. any failure by Coach to so inform and advise University constitutes a material Agreement breach that ends University's payment obligation under this for-convenience termination provision; and
- g. Coach further must repay to University any compensation that University has paid to Coach:
 - i. after the date Coach obtains that other employment; and
 - ii. to which Coach is not entitled under this for-convenience termination provision.

B. Termination by Coach for Convenience.

1. *University Investment Interest.* The Coach recognizes that Coach's promise to work for University for the entire Term is this Agreement's essence. The Coach also recognizes that:
 - a. the University is making a highly valuable investment in Coach's employment by entering into this Agreement; and
 - b. University's investment would be lost if Coach resigns or terminates Coach's employment with the University before Term's expiration otherwise.
2. *Termination Right; Buyout.* The Coach has a right to terminate for Coach's convenience during the Term by giving prior written notice to the University. That termination takes effect ten days after Coach delivers that notice to the University. Unless that termination occurs in connection with Coach accepting a position with a professional-league franchise or team after the Team has completed a then-current season and no later than the next Fall semester begins:
 - a. each University obligation ceases immediately when the termination takes effect;
 - b. Coach must pay to the University, as liquidated damages and not a penalty, for the breach of this Agreement an applicable amount as described below:
 - i. \$14,000 ~~the whole amount set forth in section III.B.1 for the then-current Term~~, if Coach terminates the Agreement on or before January 19, 2010; ~~{initial tournament date}~~
 - ii. \$12,000.00, ~~{lesser amount}~~ if the Agreement is terminated between January 20, 2010, and January 19, 2011, inclusive; ~~{initial tournament date}~~ and
 - iii. \$10,000.00, ~~{half of lesser amount}~~ if the Agreement is terminated between _____ {end of next year's national tournament date} and _____ {end of subsequent year's national

~~tournament date~~}, inclusive January 20, 2011 and January 19, 2012, inclusive.

- c. liquidated damages are due and payable no later than twenty days after the termination takes effect and any unpaid amount bears simple interest at a rate of eight percent *per annum* until paid.
 3. *Legal Consultation.* University is represented by counsel, and Coach has either been represented by legal counsel or has chosen to proceed without legal counsel in this Agreement's negotiation. The parties have bargained for and negotiated Sections V.A.2 and V.B.2 and their subparts, in recognition that Coach may lose certain benefits, supplemental compensation, or outside compensation related to employment at University, which loss is difficult to determine with certainty. The payment of any amount described under Sections V.A.2 and V.B.2 and their subparts, and Coach's acceptance of that payment, constitutes adequate compensation for Coach. That compensation is not, and is not to be construed as, a penalty.
- C. Termination due to Disability or Death of Coach. "*Function*" means an essential Head function under the Agreement.
1. *Automatic Termination.* Despite any other Agreement provision, this Agreement terminates automatically if Coach:
 - a. becomes totally or permanently disabled as the University's disability insurance carrier so defines;
 - b. becomes unable to perform any Function; or
 - c. dies.
 2. *Death.* If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits cease as of the last day worked. But the University must pay the Coach's personal representative or other designated beneficiary any:
 - a. compensation due or unpaid; and
 - b. death benefit – due to the Coach's estate or any beneficiary under that estate – that is:
 - i. contained in any fringe benefit plan currently in force; or
 - ii. later adopted by the University as of that termination date.
 3. *Disability.* If this Agreement terminates because the Coach becomes totally or permanently disabled as defined by the University's disability insurance carrier, or becomes unable to perform any Function, then:
 - a. University's duty to pay any salary or other benefit ceases; although:

- b. the Coach remains entitled to receive:
 - i. any compensation due or unpaid; and
 - ii. any disability-related benefit to which Coach is entitled by virtue of employment with the University.
- D. Interference by Coach. Upon any termination by either Party, Coach must not:
 - 1. interfere with the University's student-athletes; or
 - 2. obstruct the University's ability to transact business or operate its intercollegiate athletics program otherwise.
- E. No Liability. Irrespective of any circumstance, the University is not liable to Coach for any loss of any collateral business opportunity or other benefit, perquisite or income from any source that ensues:
 - 1. as a result of any Agreement termination:
 - a. by either party; or
 - b. due to death or disability; or
 - 2. Coach's suspension or reassignment.
- F. Waiver of Rights.
 - 1. *Unique Circumstances.* The Coach under this Agreement is receiving a multi-year commitment and an opportunity to receive supplemental compensation. Commitments and opportunities of this type are not customarily afforded to University employees.
 - 2. *Impact.* Recognizing that commitment and opportunity, under any circumstance that the University suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach:
 - a. retains each right that this Agreement provides to Coach under that circumstance; but
 - b. releases the University from compliance with the notice, appeal, and similar employment-related rights provided for in:
 - i. the Board's governing policies and procedures manual; and
 - ii. the University's faculty-staff handbook.

VI. **Miscellaneous.**

- A. Definitions.
 - 1. "*Force Majeure*" means any prevention, delay or stoppage of a Party's Agreement performance due to any:
 - a. strike;
 - b. lockout;

- c. labor dispute;
 - d. act of God;
 - e. inability to obtain labor or any material (or reasonable substitute for that labor or material);
 - f. governmental restriction;
 - g. governmental regulation;
 - h. governmental control;
 - i. enemy or hostile governmental action;
 - j. civil commotion;
 - k. fire; or
 - l. other casualty or cause beyond the Party's reasonable control.
- 2. "*Property*" means any key, credit card, personnel record, recruiting record, team information, film, statistic, material, data, information article, courtesy car or other personal property.
- B. Board Approval. This Agreement has effect only after being approved by the Board and signed by both Parties as set forth below. In addition, University's duty to pay any Agreement compensation is subject to:
 - 1. approval of the Board, the President, and the Director;
 - 2. sufficiency of legislative appropriations;
 - 3. University's receipt of sufficient funds in any account from which that compensation is to be paid; and
 - 4. the Board's and University's rules regarding financial exigency.
- C. University Property.
 - 1. *Scope*. University owns any Property:
 - a. that University has furnished to Coach; or
 - b. that Coach develops:
 - i. on the University's behalf;
 - ii. at the University's direction;
 - iii. for the University's use; or
 - iv. in connection with Agreement employment otherwise.
 - 2. *Return*. No later than twenty-four hours after the Term's expires or the Agreement earlier terminates, Coach immediately must cause any Property in Coach's possession or control to be delivered to the Director.
- D. Assignment. Each Party must obtain the other Party's written consent before assigning its rights or delegating its obligations under this Agreement.

- E. Waiver. A waiver of any default in performing under this Agreement takes effect only if in writing and signed by the waiving Party. That waiver does not constitute a waiver of any other or later breach. Resorting to a particular remedy upon a breach does not constitute a waiver of any other available remedy.
- F. Severability. If any Agreement provision is determined to be invalid or unenforceable, then the remainder of the Agreement is not affected and remains in effect.
- G. Governing Law. This Agreement is subject to and is to be construed according to the laws of the state of Idaho as an agreement to be performed in Idaho. A Party must bring any action based in whole or in part on this Agreement in the courts of the state of Idaho.
- H. Oral Promises. The University is not bound to any oral promise of any increase in Annual Salary or of any supplemental or other compensation.
- I. Force Majeure. A Party obligated to perform (including financial inability) under the Agreement is excused from performing during any Force Majeure occurrence period.
- J. Confidentiality. The Coach consents to this document being released and made available to the public after the Coach has signed it. The University has sole discretion to release or make available to the public any document or report that Coach is required to produce under this Agreement.
- K. Notices.
 - 1. *Procedure*. Actual notice, however and from whomever received, is always effective.
 - a. *Means*. A Party must cause each Agreement notice to be in writing and delivered:
 - i. in person;
 - ii. by public or private courier service (including U.S. Postal Service Express Mail);
 - ii. by certified mail with return receipt requested; or
 - iv. by facsimile.
 - b. *Relevant Date*. Any notice is considered to have been given on the earliest of:
 - i. actual delivery or refusal to accept delivery;
 - ii. the date of mailing by certified mail; or
 - iii. the day facsimile delivery is verified.
 - 2. *Party Addresses*. 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:
 - a. if to the University: Director of Athletics

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

with a copy to: President
921 South 8th Ave. Stop 8310
Idaho State University
Pocatello, ID 83209-8310

b. if to the Coach: Allison Gibson
1553 Pointview Drive
Pocatello, ID 83201

- L. Headings. Each heading contained in this Agreement is for reference purposes only and does not in any way affect the Agreement's meaning or interpretation.
- M. Binding Effect. This Agreement is for the benefit only of the Parties and inures to the benefit of and binds the Parties and their respective heirs, legal representatives, successors and assigns.
- N. Non-Use of Names and Trademarks. The Coach in each case must obtain the University's written consent before using any Mark, except in the course and scope of Coach's official University duties.
- O. No Third Party Beneficiaries. The Agreement has no intended or unintended third party beneficiary.
- P. Entire Agreement; Amendments. This Agreement constitutes the Parties' entire understanding and supersedes any prior agreement or understanding with respect to the same subject matter. An amendment or modification of this Agreement is effective only if in writing, signed by both Parties, and approved by University's Board Trustees.
- Q. Opportunity to Consult with Attorney. The Coach acknowledges that Coach has had an 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 is to be construed simply, according to its fair meaning, and not strictly for or against any party.

Signed:

UNIVERSITY

COACH

Arthur Vailas, President

Date

Allison Gibson

Date

Approved by the Board of Trustees, on the _____.

Exhibit A

Requirements

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) Department policies;
- (e) NCAA rules and regulations; and
- (f) Conference rules and regulations.

Exhibit B

Listing of Employees under Coach's Supervision

Assistant Coach

Becky Hogan

Exhibit C

Camp Summary Sheet

To Be Determined

ALLISON GIBSON, HEAD WOMEN'S SOCCER COACH - MULTI-YEAR CONTRACT CHANGES			
	MODEL CONTRACT SECTION	NEW CONTRACT SECTION	JUSTIFICATION FOR MODIFICATION
	III.B.2	N/A	Coach Wilson's contract does not include a bonus for radio and television appearances.
	III.C.2	III.C.2	The bonus amount for winning a regular season title is 1 week's salary.
	III.C.3	III.C.3	In subsection a) the bonus amount for winning the Big Sky Tournament was set at 1 week's salary. In subsection b) the amounts inserted for NCAA Tournament play were increased from Coach Gibson's prior contract and are not set at a maximum of \$48,000 (the prior maximum was \$21,000). Subsection c) relating to Next Tier Bonuses was not included in this contract.
	III.C.3	III.C.4	The bonus for the number of team wins was set at one week's pay for winning 20 or more matches, as opposed to a sliding scale.
	III.C.4	III.C.5	The bonus amounts for APR achievement were set at \$1,000 to \$5,000.
	III.C.6	N/A	A bonus for home match attendance was not included.
	III.C.5	III.C.6	The bonus for being names Coach of the Year was set at one week's salary.
	V.B.2.b	V.B.2.b	Liquidated damages for termination by Coach for convenience were set at a range of \$14,000 to \$10,000 based on the date on which the termination occurs.

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BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

UNIVERSITY OF IDAHO

SUBJECT

Multi-year contract for the Director of Tennis

APPLICABLE STATUTE, RULE, OR POLICY

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

DISCUSSION

The University of Idaho has agreed, subject to Regents' approval, to terms extending employment of the Director of Tennis effective July 1, 2010 through June 30, 2013. The University submits the attached multi-year contract to the Regents for approval. The primary terms of the agreement are set forth below. The entire contract, a redlined version showing changes from the Board model contract, and a matrix comparison to the Board model contract are attached.

IMPACT

The extended term of the employment contract is three years, commencing on July 1, 2010, and terminating on June 30, 2013.

The annual base salary is \$36,275.20. Coach is eligible to participate in university-wide changes in employee compensation as approved by the athletic director, president and the Board of Regents.

Coach is entitled to receive the following incentive/supplemental compensation:

- Conference champions or co-champion - 1/13th of annual salary for each team.
- Bid to participate in the NCAA tournament - \$500 per team per round of participation in the tournament.
- Academic achievement and behavior of team based on APR national rank:
 - 50th - 60th % = \$250 per team
 - 60th - 70th % = \$300 per team
 - 70th - 80th % = \$400 per team
 - 80th % or above = \$450 per team
- Conference Coach/Co-coach of the Year = \$1,000 for each team.

Annual media payments are \$6,000.

Maximum potential annual compensation (base salary, media payment and maximum potential incentive) is \$51,755 plus any approved university-wide changes in compensation.

BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

Coach may participate in youth tennis camps as follows:

- Remaining income from any university operated camp, less \$500, after all claims, insurance, and expenses of camp have been paid.

ATTACHMENTS

Attachment 1 – Employment Contract – clean	Page 3
Attachment 2 – Employment Contract – redline	Page 15
Attachment 3 – Contract Comparison Matrix	Page 29

STAFF COMMENTS AND RECOMMENDATIONS

This is the first multi-year contract for the Director of Tennis. Prior to this, the Director has been on annual agreements for each fiscal year. The term of employment for the University of Idaho's Director of Tennis commenced July 1, 2010, subject to Board approval. The employment contract follows the Board's model coach contract with only minor modifications, which are delineated in the comparison matrix.

The base compensation amount provided in this new agreement is funded entirely with state appropriated General Funds.

Staff recommends approval.

BOARD ACTION

I move to approve the University of Idaho's multi-year employment contract for Jeff Beaman, Director of Tennis, for a term commencing on July 1, 2010 and terminating on June 30, 2013 in substantial conformance to the contract submitted to the Board in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between the University of Idaho, and Jeff Beaman (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University of Idaho shall employ Coach as the Director of Tennis of its intercollegiate men's and women's tennis Teams (Team or Teams). 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 of Idaho'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 Director of Tennis of the Teams, 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 3.2.7 shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of three (3) years, effective July 1, 2010, and terminating, without further notice to Coach, on June 30, 2013, 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 Regents. 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 of Idaho shall provide to Coach:

- a) An annual salary of \$36,275.20 per year, payable in biweekly installments in accordance with normal University procedures. Coach will be eligible to receive University-wide changes in employee compensation upon approval by the Director, the President, and the Board of Regents;
- 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.

3.2 Supplemental Compensation.

3.2.1. Each year one of the Teams is the conference champion or co-champion and if Coach continues to be employed as University's Director of Tennis as of the ensuing July 1st, the University shall pay to Coach supplemental compensation in an amount equal to 1/13th of Coach's annual salary during the fiscal year in which the championship is achieved. If both the men's and women's Teams are conference champions or co-champions, the University shall pay to Coach supplemental compensation in an amount equal to 1/13th of Coach's annual salary for each championship or co-championship. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.2. Each year one of the Teams receives a bid to participate in the NCAA tournament and if Coach continues to be employed as University's Director of Tennis as of the ensuing July 1st, the University shall pay to Coach supplemental compensation of \$500 per team for each round of participation in the NCAA tournament.

3.2.3 Coach shall be eligible to receive supplemental compensation each year based on the academic achievement and behavior of Team members of each team if the Team's cumulative APR ranks nationally at the 50th percentile or higher as follows:

National rank within sport
50th - 60th % = \$250 per team
60th - 70th % = \$300 per team
70th – 80th % = \$400 per team
80th % or above = \$450 per team

3.2.4 Each year the University of Idaho head men's or women's tennis coach is named Conference Coach of the Year or Conference Co-Coach of the year, Coach shall receive supplemental compensation of \$1,000 for each Team whose coach wins the award. The

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

3.2.5 The Coach shall receive the sum of \$6,000 from the University or the University'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). Each year, one-half of this sum shall be paid in July and one-half shall be paid after the last date of competition. Coach's right to receive the second half of such payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later, and contingent upon Coach's continued employment as of that date. Coach's right to receive any such media payment under this Paragraph is expressly contingent on Coach's compliance with University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25. 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 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, through a media outlet that is not University-designated, 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 that are broadcast on radio or television that conflict with those broadcast on the University's designated media outlets.

3.2.6 Coach agrees that the University has the exclusive right to operate youth tennis camps on its campus using University facilities. The University shall allow Coach the opportunity to earn supplemental compensation by assisting with the University's camps in Coach's capacity as a University employee. Coach hereby agrees to assist in the marketing, supervision, and general administration of the University's youth tennis 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 youth tennis camps, the University shall pay Coach the remaining income from the youth tennis camps, less \$500, after all claims, insurance, and expenses of such camps have been paid.

3.2.7 Coach agrees that the University of Idaho 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 Teams is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University of Idaho. Coach recognizes that the University of Idaho has entered into an agreement with Nike to supply the University of Idaho with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University of Idaho's reasonable request, Coach will consult with appropriate parties concerning a Nike product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by Nike, or give a lecture at an event sponsored in whole or in part by Nike, or make other educationally-related appearances as may

be reasonably requested by the University of Idaho. 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 Director of Tennis. In order to avoid entering into an agreement with a competitor of Nike, Coach shall submit all outside consulting agreements to the University of Idaho for review and approval prior to execution. Coach shall also report such outside income to the University of Idaho in accordance with NCAA rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including Nike, and will not participate in any messages or promotional appearances that 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 that 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 of Idaho 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 Teams 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 of Idaho's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall cooperate fully with the University of Idaho and Department at all times. 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 of Idaho's Faculty Staff Handbook; (c) University of Idaho's Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA rules and regulations; and (f) the rules and regulations of the women's and men's tennis conference of which the University of Idaho 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 that 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 provide a written detailed account 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. Sources of such income include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;
- (c) Housing benefits, including preferential housing arrangements;
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs; and
- (g) Endorsement or consultation contracts with athletics shoe, apparel or equipment manufacturers.

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 Teams, 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 Regents.

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 Teams' 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 unreasonably be 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, 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 or regulations of the University, the University's governing board, the conference, or the NCAA.

5.1.1 In addition to the definitions contained in applicable policies, rules or regulations of the University, the University's governing board, the conference or the NCAA, 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 that 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 Teams; 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 Teams 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, including suspension without pay or termination of employment for significant or repetitive violations. This section applies to violations occurring at the University of Idaho or at previous institutions at which the Coach was employed.

5.2 Termination of Coach for Convenience of University of Idaho.

5.2.1 At any time after commencement of this Agreement, University of Idaho, 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 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 other employment, whichever occurs first; provided however, in the event Coach obtains lesser employment after such termination, then the amount of compensation University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such lesser employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the lesser employment, then subtracting from this adjusted gross compensation deductions according to law. In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a University of Idaho employee until the term of this Agreement ends or until Coach obtains other employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform University within ten business days of obtaining other employment and to advise University of all relevant terms of such employment, including without limitation the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise University shall constitute a material breach of this Agreement and University's obligation to pay compensation under this provision shall end. Coach further agrees to repay to University all compensation paid to him by University after the date he obtains other employment, to which he is not entitled under this provision.

5.2.3 University has been represented by legal counsel, and Coach has either been represented by legal counsel or has chosen to proceed without legal counsel in the contract negotiations. The parties have bargained for and agreed to the foregoing 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 compensation by University and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach. Such compensation is 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 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 of Idaho 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 of Idaho.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University of Idaho shall cease as of the effective date of the termination. If the Coach terminates this Agreement for his convenience prior to June 30, 2013 he shall pay to the University the sum of \$3,000.00. Payment 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 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 costs are extremely difficult to determine with certainty. The parties further agree that the payment of such sum by Coach and the acceptance thereof by University shall constitute adequate and reasonable compensation to University. Such payment is 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.

5.3.5 Except as provided elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit his right to receive all supplemental compensation and other payments unpaid as of the date Coach gives notice of termination, unless Coach's right to receive those payments has vested pursuant to the terms of this Agreement.

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 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 and Board of Regents of the University of Idaho Rule Manual (IDAPA 08) and 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 by the University's Board of Regents 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 Regents, 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 Regents and University's rules regarding financial exigency.

6.2 University Property. All personal property (excluding vehicle(s) provided through the Vandal Wheels 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 therefor, 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
University of Idaho
P.O. Box 442302
Moscow, Idaho 83844-2302

with a copy to: President
University of Idaho
P.O. Box 443151
Moscow, ID 83844-3151

the Coach: Jeff Beaman
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 Regents.

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 either consulted with legal counsel or chosen not to. 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 OF IDAHO

COACH

M. Duane Nellis, President
Date: _____

Jeff Beaman
Date: _____

Approved by the Board of Regents on the day of , 2010.

~~Approved by the SBOE March 18, 2000 (applies to all Board governed institutions).~~

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between _____ ~~(the University (College) of Idaho,~~ and _____ ~~Jeff~~
Beaman (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University ~~(College) of Idaho~~ shall employ Coach as the ~~head coach~~ Director of Tennis of its intercollegiate ~~-(Sport) — team~~ men's and women's tennis Teams (Team or Teams). 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)'s~~ 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)'s of Idaho's~~ President (President).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the ~~University (College)'s~~ University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The University ~~(College)~~ shall have the right, at any time, to reassign Coach to duties at the University ~~(College)~~ other than as ~~head coach~~ Director of Tennis of the ~~Team~~ Teams, 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) —~~ 3.2.7 shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of _____ ~~(— three (3)~~ years, ~~commencing on~~ effective July 1, 2010, and terminating, without further notice to Coach, on June 30, 2013, 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)~~ 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)'s University's Board of ~~-(Regents or 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)~~.

~~2.2.~~

ARTICLE 3

3.1 Regular Compensation.

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

- a) An annual salary of \$ ~~_____~~ \$36,275.20 per year, payable in biweekly installments in accordance with normal University ~~(College)~~ procedures, ~~and such salary increases as may.~~ Coach will be determined appropriate eligible to receive University-wide changes in employee compensation upon approval by the Director ~~and, the President, and approved by the University (College)'s~~ Board of ~~(Regents or Trustees)~~;
- b) The opportunity to receive such employee benefits as the University ~~(College)~~ provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the ~~University (College)'s~~ 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.

3.2 Supplemental Compensation.

3.2.1. Each year one of the Team Teams 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~~ University's Director of Tennis as of the ensuing July 1st, the University ~~(College)~~ shall pay to Coach supplemental compensation in an amount equal to ~~(amount or computation) of 1/13th of Coach's Annual Salary~~ annual salary during the fiscal year in which the championship ~~and (bowl or other post-season) eligibility are is~~ achieved. ~~The University (College)~~ If both the men's and women's Teams are conference champions or co-champions, the University shall pay to Coach supplemental compensation in an amount equal to 1/13th of Coach's annual salary for each championship or co-championship. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

~~3.2.2 _____~~

3.2.2. Each year the Team is ranked in the top 25 one of the Teams receives a bid to participate in the (national rankings, such as final ESPN/USA Today coaches poll of Division IA football teams), NCAA tournament and if Coach continues to be employed as University (College)'s head (Sport) coach University's Director of Tennis 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 in effect on \$500 per team for each round of participation in the date of the final poll. The University (College) shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation NCAA tournament.

~~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 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.~~

3.2.3 Coach shall be eligible to receive supplemental compensation each year based on the academic achievement and behavior of Team members of each team if the Team's cumulative APR ranks nationally at the 50th percentile or higher as follows:

National rank within sport
50th - 60th % = \$250 per team
60th - 70th % = \$300 per team
70th - 80th % = \$400 per team
80th % or above = \$450 per team

3.2.4 Each year the University of Idaho head men's or women's tennis coach is named Conference Coach of the Year or Conference Co-Coach of the year, Coach shall receive

supplemental compensation of \$1,000 for each Team whose coach wins the award. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.5—~~The Coach shall receive the sum of -(amount or computation)-\$6,000~~ from the University ~~(College)~~ or the ~~University (College)s~~University'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~~Each year, one-half of this sum shall be paid in July and one-half shall be paid after the last date of competition. ~~Coach's~~ right to receive the second half of such ~~a~~ payment shall vest on the date of the ~~Team's~~Team's last regular season or post-season competition, whichever occurs later. ~~This sum shall be paid~~ ~~—(terms or conditions of, and contingent upon Coach's continued employment as of that date. Coach's right to receive any such media payment)—~~ under this Paragraph is expressly contingent on Coach's compliance with University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25. 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, through a media outlet that is not University-designated, 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~~that are broadcast on radio or television that conflict with those broadcast on the ~~University (College)s~~University's designated media outlets.

3.2.6 ~~(SUMMER CAMP OPERATED BY UNIVERSITY (COLLEGE))~~
Coach agrees that the University ~~(College)~~ has the exclusive right to operate youth ~~(Sport)~~ tennis camps on its campus using University ~~(College)~~ facilities. The University ~~(College)~~ shall allow Coach the opportunity to earn supplemental compensation by assisting with the ~~University (College)s~~University's camps in Coach's capacity as a University ~~(College)~~ employee. Coach hereby agrees to assist in the marketing, supervision, and general administration of the ~~University (College)s football~~University's youth tennis 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 youth tennis camps, the University ~~(College)s~~ ~~summer football camps, the University (College)~~ shall pay Coach ~~-(amount)-~~ per year as supplemental compensation during each year the remaining income from the youth tennis camps, less \$500, after all claims, insurance, and expenses of his employment as head (Sport) coach at the University (College). ~~This amount shall be~~ such camps have been paid ~~—(terms of payment)—~~.

3.2.7 Coach agrees that the University ~~(College)~~of Idaho 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~~Teams is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University ~~(College)~~of Idaho. Coach recognizes that the University ~~(College)~~ is negotiating ~~or of~~ Idaho has entered into an agreement with ~~—(Company Name)—~~Nike to supply the University ~~(College)~~of Idaho with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University ~~(College)~~'s of Idaho's reasonable request, Coach will consult with appropriate parties concerning an ~~—(Company Name)—~~a Nike product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by ~~(Company Name)—~~Nike, or give a lecture at an event sponsored in whole or in part by ~~(Company Name)—~~Nike, or make other educationally-related appearances as may be reasonably requested by the University ~~(College)~~of Idaho. 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)—~~coach.Director of Tennis. In order to avoid entering into an agreement with a competitor of ~~—(Company Name)—~~Nike, Coach shall submit all outside consulting agreements to the University ~~(College)~~of Idaho for review and approval prior to execution. Coach shall also report such outside income to the University ~~(College)~~of Idaho in accordance with NCAA ~~(or NAIA)~~ rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including ~~—(Company Name)—~~Nike, and will not participate in any messages or promotional appearances ~~which~~that 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)~~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)~~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~~that 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)~~of Idaho 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)~~, the ~~University (College)'s~~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~~Teams 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)~~'sof Idaho'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)~~of Idaho and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit A.~~ 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)~~'sof Idaho's Faculty Staff Handbook; (c) University ~~(College)~~'sof Idaho's Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA ~~(or NAIA)~~ rules and regulations; and (f) the rules and regulations of the ~~(Sport)~~ women's and men's tennis conference of which the University ~~(College)~~of Idaho 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)~~, would reflect adversely upon the University ~~(College)~~ 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~~that are consistent with Coach's obligations under this Agreement. Coach may not use the ~~University (College)'s~~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 ~~4.3~~ NCAA (or NAIA) Rules. In accordance with NCAA ~~(or NAIA)~~ rules, Coach shall obtain prior written approval from the ~~University (College)'s~~University's President for all athletically related income and benefits from sources outside the University ~~(College)~~ and shall ~~report the source and amount~~provide a written detailed account of all such income and benefits to the ~~University (College)'s~~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)~~ work day preceding June 30th. The report shall be in a format reasonably satisfactory to University ~~(College)~~. Sources of such income include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;

- (c) Housing benefits, including preferential housing arrangements;
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs; and
- (g) Endorsement or consultation contracts with athletics shoe, apparel or equipment manufacturers.

In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University ~~(College)~~-booster club, University ~~(College)~~-alumni association, University ~~(College)~~ 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)—~~, the University ~~(College)'s~~ 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~~ Teams, 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)'s~~ University's Board of ~~(Trustees or Regents)~~.

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~~ Teams' competitions, but the final decision shall be made by the Director or the Director's designee.

~~4.7~~ 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 unreasonably be withheld.

ARTICLE 5

5.1 Termination of Coach for Cause. The University ~~(College)~~ 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/or regulations— of the University, the University's governing board, the conference, or the NCAA.

5.1.1 In addition to the definitions contained in applicable policies, rules and/or regulations; of the University ~~(College), the University's governing board, the conference or the NCAA, 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 ~~(College);~~;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University ~~(College);~~, the University ~~(College)~~'s governing board, the conference or the NCAA ~~(NAIA);~~, including but not limited to any such violation ~~which~~that 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)'s~~University's consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the ~~University (College)'s~~University's judgment, reflect adversely on the University ~~(College)~~ or its athletic programs;
- f) The failure of Coach to represent the University ~~(College)~~ 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)~~ in any investigation of possible violations of any applicable law or the policies, rules or regulations of the University ~~(College);~~, the ~~University (College)'s~~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);~~, the ~~University (College)'s~~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~~Teams; or
- i) A violation of any applicable law or the policies, rules or regulations of the University ~~(College);~~, the ~~University (College)'s~~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~~Teams 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)~~ 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)~~ 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)~~'s ~~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)~~ 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, including suspension without pay or termination of employment for significant or repetitive violations. This section applies to violations occurring at the University ~~(College)~~ of Idaho or at previous institutions at which the Coach was employed.

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

5.2.1 At any time after commencement of this Agreement, University ~~(College)~~ of Idaho, 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)~~ terminates this Agreement for its own convenience, University ~~(College)~~ 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)~~ until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. ~~until the term of this Agreement ends or until Coach obtains other employment, whichever occurs first; provided however, in the event Coach obtains lesser employment after such termination, then the amount of compensation University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such lesser employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the lesser employment, then subtracting from this adjusted gross compensation deductions according to law.~~ In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a University ~~(College)~~ of Idaho employee until the term of this Agreement ends or until Coach obtains other employment providing Coach with a reasonably comparable employment health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform University within ten business days of obtaining other employment and to advise University of all relevant terms of such employment, including without limitation the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise University shall constitute a material breach of this Agreement

and University's obligation to pay compensation under this provision shall end. Coach further agrees to repay to University all compensation paid to him by University after the date he obtains other employment, to which he is not entitled under this provision.

5.2.3 ~~The parties have both~~ University has been represented by legal counsel, and Coach has either been represented by legal counsel or has chosen to proceed without legal counsel in the contract negotiations ~~and. 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 ~~(College)~~, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such ~~liquidated damages compensation~~ 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.~~ Such compensation is 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)~~ for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the University ~~(College)~~ 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)~~ of Idaho 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)~~. Termination shall be effective ten (10) days after notice is given to the University ~~(College)~~ of Idaho.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University ~~(College)~~ of Idaho 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 _____, the sum of \$30,000.00; (b) if the Agreement is terminated between _____ and _____ inclusive, the sum of \$20,000.00; (c) if the Agreement is terminated between _____ and _____ inclusive, the sum of \$10,000.00. The liquidated damages~~ prior to June 30, 2013 he shall pay to the University the sum of \$3,000.00. Payment 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 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~~ costs

are extremely difficult to determine with certainty. The parties further agree that the payment of such ~~liquidated damages~~ sum 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.~~ Such payment is 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 Except as ~~provide~~ provided 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 unpaid as of the date Coach gives notice of termination, unless Coach's right to receive those payments has vested pursuant to the terms of this Agreement.

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)'s~~ 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)~~ 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)'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)~~.

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

5.6- No Liability. The University ~~(College)~~ 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 ~~(College)~~ employees, if the University ~~(College)~~

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)~~ from compliance with the notice, appeal, and similar employment-related rights ~~provide~~provided for in the State Board of Education and Board ~~or~~of Regents of the University of Idaho Rule Manual (IDAPA 08) and Governing Policies and Procedures Manual, and the University ~~(College)~~ Faculty-Staff Handbook.

ARTICLE 6

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

6.2 University ~~(College)~~ Property. All personal property (excluding vehicle(s) provided through the ~~_____~~Vandal Wheels 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 ~~(College)~~ or developed by Coach on behalf of the University ~~(College)~~ or at the ~~University (College)'s~~University's direction or for the ~~University (College)'s~~University's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University ~~(College)~~. Within twenty-four (24) hours of the expiration of the term of this ~~agreement~~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)~~.

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 therefor, 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)s~~ 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)~~: _____ Director of Athletics
 _____ University of Idaho
 _____ P.O. Box 442302
 _____ Moscow, Idaho 83844-2302

with a copy to: President
 _____ University of Idaho
 _____ P.O. Box 443151
 _____ Moscow, ID 83844-3151

the Coach: _____ Jeff Beaman
 Last known address on file with
~~University (College)s~~ 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)'s~~ University's prior written consent in each case, use any name, trade name, trademark, or other designation of the University ~~(College)~~ (including contraction, abbreviation or simulation), except in the course and scope of his official University ~~(College)~~ 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)'s~~ University's Board of ~~(Regents or 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 either consulted with legal counsel or chosen not to.~~ 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)~~ OF IDAHO

COACH

_____M. Duane Nellis, President

Date: _____

_____Jeff Beaman

Date: _____

Approved by the Board of ~~(Regents or Trustees)~~ on the ____ day of _____, ~~2000~~ , 2010.

JEFF BEAMAN – DIRECTOR OF TENNIS MULTI-YEAR CONTRACT – SUBSTANTIVE MODIFICATIONS FROM SBOE FORM		
Model Contract Section	UI Contract Section	Modification/Justification for Modification
3.1.1 Regular Compensation	3.1.1 Regular Compensation	Allows for annual increases consistent with University-wide salary increases.
3.2.1 Supplemental Compensation	3.2.1 Supplemental Compensation	Allows for supplemental compensation if either men's or women's team, or both, are conference champion or co-champion.
3.2.2 Supplemental Compensation	3.2.2 Supplemental Compensation	Deletes section providing for supplemental compensation based on ranking in national poll. Adds provision for supplemental compensation if either men's or women's team, or both, receive NCAA tournament bids.
3.2.3 Supplemental Compensation	3.2.3 Supplemental Compensation	Allows for supplemental compensation if teams' cumulative APRs rank at certain levels nationally. This language establishes a more objective standard for academic achievement and has been used in past contracts approved by the Board.
3.2.4 Supplemental Compensation	3.2.4 Supplemental Compensation	Deletes existing provisions for supplemental compensation based on ticket sales, fundraising and outreach largely because tennis is not a revenue-generating sport. Adds language allowing for additional compensation if either the men's or women's coach, or both, are named Conference Coach or Co-Coach of the Year.
3.2.5 Supplemental Compensation	3.2.5 Supplemental Compensation	Language calls for media compensation to be paid ½ at the beginning of the regular season and ½ after the last date of competition. This recognizes that much media work has been done by the coach prior to commencement of the season, and at the same time retains ½ of the payment as motivation for completing the season. Payment is made contingent on coach's compliance with University financial stewardship policies.
4.3 NCAA Rules	4.3 NCAA Rules	Revised to conform to NCAA Rule 11.2.2 effective 3/8/06. Rule requires a written detailed account of athletically related income and identifies some of the sources that must be reported as "including but not limited to..."
5.1.4 Termination of Coach for Cause	5.1.4 Termination of Coach for Cause	Adds suspension without pay and termination for significant or repetitive violations as possible disciplinary/corrective actions.
5.2.2 University Termination for Convenience	5.2.2 University Termination for Convenience	Language allows the University to offset salary received by Coach for lesser employment obtained after University termination for convenience. Prior language would allow coach to take lesser employment and continue to receive full termination payment. Language also requires Coach to inform University of the terms of any new employment so University can accurately determine the compensation, if any, to which Coach is entitled. References to liquidated damages are deleted because the compensation due upon termination for

JEFF BEAMAN – DIRECTOR OF TENNIS MULTI-YEAR CONTRACT – SUBSTANTIVE MODIFICATIONS FROM SBOE FORM		
		convenience flows from a contractual right to terminate and not from a breach of the contract. The non-terminating party is entitled to compensation, not damages for breach.
5.2.3 Representation by Counsel	5.2.3 Representation by Counsel; compensation for termination	Language clarifies that the parties have been represented by counsel or that Coach <u>chose to proceed without counsel</u> during the negotiations. The underlined language is new and recognizes the fact that we cannot require candidates to retain counsel. References to liquidated damages are deleted for the same reason as in 5.2.2.
5.3.3 Coach Termination for Convenience	5.3.3 Coach Termination for Convenience	References to liquidated damages are deleted for the same reason as in 5.2.2.
5.3.4 Compensation for termination	5.3.4 Compensation for termination	References to liquidated damages are deleted for the same reason as in 5.2.2.
6.16 Opportunity to Consult with Attorney	6.16 Opportunity to Consult with Attorney	Adds language similar to 5.2.2 to make clear that Coach had the opportunity to consult with counsel and either did or chose not to.

BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

UNIVERSITY OF IDAHO

SUBJECT

Multi-year contract for Women's Swim Team Head Coach

APPLICABLE STATUTE, RULE, OR POLICY

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

BACKGROUND/DISCUSSION

The University of Idaho has agreed, subject to Regents' approval, to terms extending employment of the Women's Swim Team Head Coach effective August 15, 2010, through August 14, 2014. The University submits the attached multi-year contract to the Regents for approval. The primary terms of the agreement are set forth below. The entire contract, a redlined version showing changes from the Board model contract, and a matrix comparison to the Board model contract are attached.

IMPACT

The extended term of the employment contract is four (4) years, commencing on August 15, 2010, and terminating on August 14, 2014.

The annual base salary is \$53,518.40. Coach is eligible to participate in university-wide changes in employee compensation as approved by the athletic director, president and the Board of Regents.

Coach is entitled to receive the following incentive/supplemental compensation:

- Conference champions or co-champion or team becomes eligible for the NCAA regional tournament - \$1,000.
- Academic achievement and behavior of team based on APR national rank:
 - 50th - 60th % = \$250
 - 60th - 70th % = \$300
 - 70th - 80th % = \$400
 - 80th % or above = \$450
- Conference Coach/Co-coach of the Year = \$1,000.

Annual media payments are \$15,000.

Maximum potential annual compensation (base salary, media payment and maximum potential incentive) is \$70,968.40 plus any approved university-wide changes in compensation.

BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

ATTACHMENTS

Attachment 1 – Employment Contract – clean	Page 3
Attachment 2 – Employment Contract – redline	Page 15
Attachment 3 – Contract Comparison Matrix	Page 29

STAFF COMMENTS AND RECOMMENDATIONS

This employment contract follows the Board's model coach contract with only minor modifications, which are delineated in the comparison matrix.

Coach's base salary in the 2005 contract was \$44,899.60. The base compensation amount provided in this new agreement is funded entirely with state appropriated General Funds.

Staff recommends approval.

BOARD ACTION

A motion to approve the University of Idaho's multi-year employment contract for the Women's Swim Team Head Coach for a term commencing on August 15, 2010, and terminating on August 14, 2014, in substantial conformance to the contract submitted to the Board in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between the University of Idaho, and Tom Jager (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University of Idaho shall employ Coach as the head coach of its intercollegiate women's swim 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 of Idaho'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 3.2.5 shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of four (4) years, commencing on August 15, 2010, and terminating, without further notice to Coach, on August 14, 2014, 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 Regents. 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 of Idaho shall provide to Coach:

- a) An annual salary of \$53,518.40 per year, payable in biweekly installments in accordance with normal University procedures. Coach will be eligible to receive University-wide changes in employee compensation upon approval by the Director, the President, and the Board of Regents;
- 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.

3.2 Supplemental Compensation.

3.2.1. Each year the women's swim team is the conference champion or co-champion or becomes eligible for the NCAA regional tournament pursuant to NCAA Division I guidelines, and if Coach continues to be employed as University's head women's swim coach as of the ensuing July 1st, the Coach shall receive supplemental compensation of \$1000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.2 Coach shall be eligible to receive supplemental compensation each year based on the academic achievement and behavior of Team members if either Team's cumulative APR ranks nationally at the 50th percentile or higher for women's swim teams as follows:

National rank within sport
50th - 60th % = \$250
60th - 70th % = \$300
70th - 80th % = \$400
80th % or above = \$450

3.2.3 Each year Coach is named Conference Coach of the Year or Conference Co-Coach of the year, Coach shall receive supplemental compensation of \$1,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.4 The Coach shall receive the sum of \$15,000 from the University or the University'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). Each year, one-half of this sum shall be paid in July and one-half shall be paid after the last date of competition. Coach's right to receive the second half of such payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later,

and contingent upon Coach's continued employment as of that date. Coach's right to receive any such media payment under this Paragraph is expressly contingent on Coach's compliance with University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25. 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 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, through a media outlet that is not University-designated, 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 that are broadcast on radio or television that conflict with those broadcast on the University's designated media outlets.

3.2.5 Coach agrees that the University of Idaho 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 Teams is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University of Idaho. Coach recognizes that the University of Idaho has entered into an agreement with Nike to supply the University of Idaho with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University of Idaho's reasonable request, Coach will consult with appropriate parties concerning a Nike product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by Nike, or give a lecture at an event sponsored in whole or in part by Nike, or make other educationally-related appearances as may be reasonably requested by the University of Idaho. 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 swim coach. In order to avoid entering into an agreement with a competitor of Nike, Coach shall submit all outside consulting agreements to the University of Idaho for review and approval prior to execution. Coach shall also report such outside income to the University of Idaho in accordance with NCAA rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including Nike, and will not participate in any messages or promotional appearances that 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 that 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 of Idaho 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 Teams 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 of Idaho's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall cooperate fully with the University of Idaho and Department at all times. 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 of Idaho's Faculty-Staff Handbook; (c) University of Idaho's Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA rules and regulations; and (f) the rules and regulations of the women's swim conference of which the University of Idaho 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 that 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 provide a detailed written account 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. Sources of such income include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;
- (c) Housing benefits, including preferential housing arrangements;
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs; and
- (g) Endorsement or consultation contracts with athletics shoe, apparel or equipment manufacturers.

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 Teams, 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 Regents.

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 Teams' 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 unreasonably be 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, 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 or regulations of the University, the University's governing board, the conference or the NCAA.

5.1.1 In addition to the definitions contained in applicable policies, rules or regulations of the University, the University's governing board, the conference or the NCAA,

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 Teams; 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 Teams 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, including suspension without pay or termination of employment for significant or repetitive violations. This section applies to violations occurring at the University of Idaho or at previous institutions at which the Coach was employed.

5.2 Termination of Coach for Convenience of University of Idaho.

5.2.1 At any time after commencement of this Agreement, University of Idaho, 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 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 other employment, whichever occurs first; provided however, in the event Coach obtains lesser employment after such termination, then the amount of compensation University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such lesser employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the lesser employment, then subtracting from this adjusted gross compensation deductions according to law. In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a University of Idaho employee until the term of this Agreement ends or until Coach obtains other employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform University within ten business days of obtaining other employment and to advise University of all relevant terms of such employment, including without limitation the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise University shall constitute a material breach of this Agreement and University's obligation to pay compensation under this provision shall end. Coach further agrees to repay to University all compensation paid

to him by University after the date he obtains other employment, to which he is not entitled under this provision.

5.2.3 University has been represented by legal counsel, and Coach has either been represented by legal counsel or has chosen to proceed without legal counsel in the contract negotiations. The parties have bargained for and agreed to the foregoing 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 compensation by University and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach. Such compensation is 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 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 of Idaho 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 of Idaho.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University of Idaho shall cease as of the effective date of the termination. If the Coach terminates this Agreement for his convenience prior to August 14, 2014 he shall pay to the University the sum of \$5,000.00. Payment 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 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 costs are extremely difficult to determine with certainty. The parties further agree that the payment of such sum by Coach and the acceptance thereof by University shall constitute adequate and reasonable compensation to University. Such payment is 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.

5.3.5 Except as provided elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit his right to receive all supplemental compensation and other payments unpaid as of the date Coach gives notice of termination, unless Coach's right to receive those payments has vested pursuant to the terms of this Agreement.

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 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 and Board of Regents of the University of Idaho Rule Manual (IDAPA 08) and 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 University's Board of Regents 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 Regents, 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 Regents and University's rules regarding financial exigency.

6.2 University Property. All personal property (excluding vehicle(s) provided through the Vandal Wheels 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 therefor, 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
University of Idaho
P.O. Box 442302
Moscow, Idaho 83844-2302

with a copy to: President
University of Idaho
P.O. Box 443151
Moscow, ID 83844-3151

the Coach: Tom Jager
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 Regents.

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 either consulted

with legal counsel or chosen not to. 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 OF IDAHO

COACH

M. Duane Nellis, President
Date: _____

Tom Jager
Date: _____

Approved by the Board of Regents on the day of , 2010.

~~Approved by the SBOE March 18, 2000 (applies to all Board governed institutions).~~

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between _____~~(the~~ University ~~(College)~~of Idaho, and _____Tom Jager (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University ~~(College)~~of Idaho shall employ Coach as the head coach of its intercollegiate ~~(Sport)~~women's swim 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)'s~~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)'s~~of Idaho's President (President).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the ~~University (College)'s~~University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The University ~~(College)~~ shall have the right, at any time, to reassign Coach to duties at the University~~(College)~~ 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)~~3.2.5 shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of ~~_____ (~~four (4) years, commencing on ~~_____~~August 15, 2010, and terminating, without further notice to Coach, on ~~_____~~August 14, 2014, 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)~~ 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)'s~~University's Board of ~~(Regents or 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)~~.

~~2.2.~~

ARTICLE 3

3.1 Regular Compensation.

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

- a) An annual salary of \$ ~~_____~~ \$53,518.40 per year, payable in biweekly installments in accordance with normal University ~~(College)~~ procedures, ~~and such salary increases as may be determined appropriate~~ Coach will be eligible to receive University-wide changes in employee compensation upon approval by the Director and, the President, and approved by the University (College)'s Board of ~~(Regents or Trustees)~~;
- b) The opportunity to receive such employee benefits as the University ~~(College)~~ provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the ~~University (College)'s~~ 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.

3.2 Supplemental Compensation.

3.2.1. Each year the ~~Team~~ women's swim team is the conference champion or co-champion ~~and also~~ becomes eligible for a ~~(bowl game the NCAA regional tournament 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~~ University's head ~~(Sport) women's swim~~ coach as of the ensuing July 1st, the ~~University (College) Coach~~ shall ~~pay to Coach~~ receive 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. \$1000.~~ 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 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)~~

3.2.2 Coach shall be eligible to receive supplemental compensation each year based on the academic achievement and behavior of Team members if either Team's cumulative APR ranks nationally at the 50th percentile or higher for women's swim teams as follows:

National rank within sport

50th - 60th % = \$250

60th - 70th % = \$300

70th – 80th % = \$400

80th % or above = \$450

3.2.3 Each year Coach is named Conference Coach of the Year or Conference Co-Coach of the year, Coach shall receive supplemental compensation of \$1,000. 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 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—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~~3.2.4 The Coach shall receive the sum of \$15,000 from the University or the University'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~~Each year, one-half of this sum shall be paid in July and one-half shall be paid after the last date of competition. Coach's right to receive the second half of such ~~a~~ payment shall vest on the date of the ~~Team's~~Team's last regular season or post-season competition, whichever occurs later. ~~This sum shall be paid (terms or~~

~~conditions of, and contingent upon Coach's continued employment as of that date. Coach's right to receive any such media payment)_____.~~ under this Paragraph is expressly contingent on Coach's compliance with University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25. 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, through a media outlet that is not University-designated, 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~~that are broadcast on radio or television that conflict with those broadcast on the ~~University (College)'s~~University's designated media outlets.

~~3.2.6 (SUMMER CAMP OPERATED BY UNIVERSITY (COLLEGE))~~
~~Coach agrees that the University (College) has the exclusive right to operate youth (Sport) camps on its campus using University (College) facilities. The University (College) shall allow Coach the opportunity to earn supplemental compensation by assisting with the University (College)'s camps in Coach's capacity as a University (College) employee. Coach hereby agrees to assist in the marketing, supervision, and general administration of the University (College)'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 (College)'s summer football camps, the University (College) shall pay Coach (amount) per year as supplemental compensation during each year of his employment as head (Sport) coach at the University (College). This amount shall be paid (terms of payment)_____.~~

~~3.2.7 Coach agrees that the University (College)~~3.2.5 Coach agrees that the University of Idaho 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~~Teams is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University ~~(College) of Idaho~~. Coach recognizes that the University ~~(College) is negotiating or of Idaho~~ has entered into an agreement with ~~(Company Name) Nike~~ to supply the University ~~(College) of Idaho~~ with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University ~~(College)'s of Idaho's~~ reasonable request, Coach will consult with appropriate parties concerning ~~an (Company Name) a Nike~~ product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by ~~(Company Name) Nike~~, or give a lecture at an event sponsored in whole or in part by ~~(Company Name) Nike~~, or make other educationally-related appearances as may be reasonably requested by the University ~~(College) of Idaho~~. 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 swim coach. In order to avoid entering into an agreement with a competitor of ~~(Company Name)~~ Nike, Coach shall submit all outside consulting agreements to the University ~~(College)~~ of Idaho for review and approval prior to execution. Coach shall also report such outside income to the University ~~(College)~~ of Idaho in accordance with NCAA ~~(or NAIA)~~ rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including ~~(Company Name)~~ Nike, and will not participate in any messages or promotional appearances ~~which~~ that 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)~~ 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)~~ 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~~ that 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)~~ of Idaho 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)~~, the ~~University (College)'s~~ 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~~ Teams 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)~~ of Idaho'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)~~ of Idaho and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit A.~~ 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)'s~~ of Idaho's Faculty-Staff Handbook; (c) University ~~(College)'s~~ of Idaho's Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA ~~(or NAIA)~~ rules and regulations; and (f) the rules and regulations of the ~~—(Sport)~~ women's swim conference of which the University ~~(College)~~ of Idaho 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)~~, would reflect adversely upon the University ~~(College)~~ 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~~ that are consistent with Coach's obligations under this Agreement. Coach may not use the ~~University (College)'s~~ 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~~ 4.3—NCAA (or NAIA) Rules. In accordance with NCAA ~~(or NAIA)~~ rules, Coach shall obtain prior written approval from the ~~University (College)'s~~ University's President for all athletically related income and benefits from sources outside the University ~~(College)~~ and shall ~~report the source and amount~~ provide a detailed written account of all such income and benefits to the ~~University (College)'s~~ 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)~~ work day preceding June 30th. The report shall be in a format reasonably satisfactory to University ~~(College)~~. Sources of such income include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;
- (c) Housing benefits, including preferential housing arrangements;
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs; and
- (g) Endorsement or consultation contracts with athletics shoe, apparel or equipment manufacturers.

In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University ~~(College)~~ booster club, University ~~(College)~~ alumni association, University ~~(College)~~ 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)~~, the ~~University (College)'s~~ 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~~ Teams,

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)'s~~ University's Board of ~~(Trustees or Regents)~~.

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~~ Teams' 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 unreasonably be withheld.

ARTICLE 5

5.1 Termination of Coach for Cause. The University ~~(College)~~ 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/or regulations ~~of the University, the University's governing board, the conference or the NCAA.~~

5.1.1 In addition to the definitions contained in applicable policies, rules and/or regulations ~~of the University (College), the University's governing board, the conference or the NCAA, 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 ~~(College);~~;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University ~~(College);~~, the University ~~(College)'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)'s University's consent;

- e) Any conduct of Coach that constitutes moral turpitude or that would, in the ~~University (College)'s~~University's judgment, reflect adversely on the University ~~(College)~~ or its athletic programs;
- f) The failure of Coach to represent the University ~~(College)~~ 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)~~ in any investigation of possible violations of any applicable law or the policies, rules or regulations of the University ~~(College)~~; the ~~University (College)'s~~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)~~; the ~~University (College)'s~~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), the University (College)'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 Teams; 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 Teams 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)~~ 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)~~ 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)'s~~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)~~ 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, including suspension without pay or termination of employment for significant or repetitive violations. This section applies to violations occurring at the University ~~(College)~~ of Idaho or at previous institutions at which the Coach was employed.

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

5.2.1 At any time after commencement of this Agreement, University ~~(College)~~ of Idaho, 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)~~ terminates this Agreement for its own convenience, University ~~(College)~~ 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)~~ until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first. until the term of this Agreement ends or until Coach obtains other employment, whichever occurs first; provided however, in the event Coach obtains lesser employment after such termination, then the amount of compensation University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such lesser employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the lesser employment, then subtracting from this adjusted gross compensation deductions according to law. In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a University ~~(College)~~ of Idaho employee until the term of this Agreement ends or until Coach obtains other employment providing Coach with a reasonably comparable employment health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform University within ten business days of obtaining other employment and to advise University of all relevant terms of such employment, including without limitation the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise University shall constitute a material breach of this Agreement and University's obligation to pay compensation under this provision shall end. Coach further agrees to repay to University all compensation paid to him by University after the date he obtains other employment, to which he is not entitled under this provision.

5.2.3 ~~The parties have both~~ University has been represented by legal counsel, and Coach has either been represented by legal counsel or has chosen to proceed without legal counsel in the contract negotiations ~~and. 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 ~~(College)~~, which damages are extremely difficult to determine with

certainty. The parties further agree that the payment of such ~~liquidated damages compensation~~ 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.~~ Such compensation is 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)~~ for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the University ~~(College)~~ 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)~~ of Idaho 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)~~. Termination shall be effective ten (10) days after notice is given to the University ~~(College)~~ of Idaho.

5.3.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University ~~(College)~~ of Idaho 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 _____, the sum of \$30,000.00; (b) if the Agreement is terminated between _____ and _____ inclusive, the sum of \$20,000.00; (c) if the Agreement is terminated between _____ and _____ inclusive, the sum of \$10,000.00. The liquidated damages prior to August 14, 2014 he shall pay to the University the sum of \$5,000.00. Payment~~ 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 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 costs~~ are extremely difficult to determine with certainty. The parties further agree that the payment of such ~~liquidated damages sum~~ 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.~~ Such payment is 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 Except as ~~provide~~ provided 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 unpaid as of the date Coach

gives notice of termination, unless Coach's right to receive those payments has vested pursuant to the terms of this Agreement.

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)s~~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)~~ 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)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)~~.

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

5.6- No Liability. The University ~~(College)~~ 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 ~~(College)~~employees, if the University ~~(College)~~ 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)~~ from compliance with the notice, appeal, and similar employment-related rights ~~provide~~provided for in the State Board of Education and Board ~~or~~of Regents of the University of Idaho Rule Manual (IDAPA 08) and Governing Policies and Procedures Manual, and the University ~~(College)~~ Faculty-Staff Handbook.

ARTICLE 6

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

6.2 University (College) Property. All personal property (excluding vehicle(s) provided through the ~~_____~~ Vandal Wheels 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 ~~(College)~~ or developed by Coach on behalf of the University ~~(College)~~ or at the ~~University (College)'s~~ University's direction or for the ~~University (College)'s~~ University's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University ~~(College)~~. Within twenty-four (24) hours of the expiration of the term of this ~~agreement~~ 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)~~.

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 therefor, 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)'s~~ 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):~~ _____ Director of Athletics
 _____ University of Idaho
 _____ P.O. Box 442302
 _____ Moscow, Idaho 83844-2302

with a copy to: President
 _____ University of Idaho
 _____ P.O. Box 443151
 _____ Moscow, ID 83844-3151

the Coach: _____ Tom Jager
 Last known address on file with
~~University (College)'s~~ 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)'s~~ University's prior written consent in each case, use any name, trade name, trademark, or other designation of the University (~~College~~) (including contraction, abbreviation or simulation), except in the course and scope of his official University (~~College~~) 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)'s~~ University's Board of ~~(Regents or 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 either consulted with legal counsel or chosen not to.~~ 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)~~ OF IDAHO

COACH

~~_____~~ M. Duane Nellis, President
 Date: _____

Tom Jager
 Date: _____

Approved by the Board of ~~(Regents or Trustees)~~ on the ____ day of _____, ~~2000~~ , 2010.

TOM JAGER – HEAD WOMEN’S SWIMMING COACH MULTI-YEAR CONTRACT – SUBSTANTIVE MODIFICATIONS FROM SBOE FORM		
Model Contract Section	UI Contract Section	Modification/Justification for Modification
3.1.1 Regular Compensation	3.1.1 Regular Compensation	Allows for annual increases consistent with University-wide salary increases.
3.2.1 Supplemental Compensation	3.2.1 Supplemental Compensation	Allows for supplemental compensation if team is conference champion or co-champion, or becomes eligible for the NCAA regional tournament.
3.2.2 Supplemental Compensation	None	Deletes section providing for supplemental compensation based on ranking in national poll.
3.2.3 Supplemental Compensation	3.2.2 Supplemental Compensation	Allows for supplemental compensation if team’s cumulative APR ranks at certain levels nationally. This language establishes a more objective standard for academic achievement and has been used in past contracts approved by the Board.
3.2.4 Supplemental Compensation	3.2.3 Supplemental Compensation	Deletes existing provisions for supplemental compensation based on ticket sales, fundraising and outreach because swimming is not a revenue-generating sport and these provisions are therefore not applicable. Adds language allowing for additional compensation if coach is named Conference Coach or Co-Coach of the Year.
3.2.5 Supplemental Compensation	3.2.4 Supplemental Compensation	Language calls for media compensation to be paid ½ at the beginning of the regular season and ½ after the last date of competition. This recognizes that much media work has been done by the coach prior to commencement of the season, and at the same time retains ½ of the payment as motivation for completing the season. Payment is made contingent on coach’s compliance with University financial stewardship policies.
3.2.6 Summer Camps	none	Neither the University nor the Coach have interest in running summer camps
4.3 NCAA Rules	4.3 NCAA Rules	Revised to conform to NCAA Rule 11.2.2 effective 3/8/06. Rule requires a written detailed account of athletically related income and identifies some of the sources that must be reported as “including but not limited to...”
5.1.4 Termination of Coach for Cause	5.1.4	Adds suspension without pay and termination for significant or repetitive violations as possible disciplinary/corrective actions.
5.2.2 University Termination for Convenience	5.2.2 University Termination for Convenience	Language allows the University to offset salary received by Coach for lesser employment obtained after University termination for convenience. Prior

TOM JAGER – HEAD WOMEN’S SWIMMING COACH MULTI-YEAR CONTRACT – SUBSTANTIVE MODIFICATIONS FROM SBOE FORM		
		language would allow coach to take lesser employment and continue to receive full termination payment. Language also requires Coach to inform University of the terms of any new employment so University can accurately determine the compensation, if any, to which Coach is entitled. References to liquidated damages are deleted because the compensation due upon termination for convenience flows from a contractual right to terminate and not from a breach of the contract. The non-terminating party is entitled to compensation, not damages for breach.
5.2.3 Representation by Counsel	5.2.3 Representation by Counsel; compensation for termination	Language clarifies that the parties have been represented by counsel or that Coach <u>chose to proceed without counsel</u> during the negotiations. The underlined language is new and recognizes the fact that we cannot require candidates to retain counsel. References to liquidated damages are deleted for the same reason as in 5.2.2.
5.3.3 Coach Termination for Convenience	5.3.3 Coach Termination for Convenience	References to liquidated damages are deleted for the same reason as in 5.2.2.
5.3.4 Compensation for termination	5.3.4 Compensation for termination	References to liquidated damages are deleted for the same reason as in 5.2.2.
6.16 Opportunity to Consult with Attorney	6.16 Opportunity to Consult with Attorney	Adds language similar to 5.2.2 to make clear that Coach had the opportunity to consult with counsel and either did or chose not to.

BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

UNIVERSITY OF IDAHO

SUBJECT

Multi-year contract for Men's Basketball Team Head Coach

APPLICABLE STATUTE, RULE, OR POLICY

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

DISCUSSION

The University of Idaho has agreed, subject to Regents' approval, to terms extending employment of the Men's Basketball Team Head Coach effective March 24, 2010, through March 23, 2015. The University submits the attached multi-year contract to the Regents for approval. The primary terms of the agreement are set forth below. The entire contract, a redlined version showing changes from the Board model contract, and a matrix comparison to the Board model contract are attached.

IMPACT

The extended term of the employment contract is five (5) years, commencing on March 24, 2010 and terminating on March 23, 2015.

The annual base salary is as follows:

- | | |
|-----------|-----------|
| • 2010-11 | \$132,808 |
| • 2011-12 | \$140,816 |
| • 2012-13 | \$148,824 |
| • 2013-14 | \$156,832 |
| • 2014-15 | \$164,840 |

The salary increases are expressly contingent upon the following: (1) academic achievement and behavior of team members, as described in Paragraph 3.2.4 of this agreement; (2) appropriate behavior by, and supervision of, all assistant coaches, as determined by the director; (3) compliance with the University's financial stewardship policies as set forth in university's Administrative Procedures Manual Chapter 25; and (4) approval by the president, in the president's sole discretion.

Coach is entitled to receive the following incentive/supplemental compensation:

1. Conference champions or co-champion or team becomes eligible for the NCAA tournament – 1/13th of annual salary.
2. Team ranked in the top 25 in any published national final poll – 1/13th of annual salary.
3. Conference Coach of the Year = \$5,000.

BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

4. Academic achievement and behavior of team based on APR national rank exceeding the NCAA Division 1 average for men's basketball teams - \$5,000.
5. Annual media payments are \$60,000.00.
6. Team Victories
 - a. \$5,000 for 14 victories
 - b. additional \$5,000 for 17 victories
 - c. additional \$5,000 for 20 victories
7. Team progresses to the Round of 16 in the NCAA tournament - \$25,000.
8. Supplemental Increase for Repeat Performance – any of the supplements under items 2, 3, 4, 6 or 7 will be increased by 25% if the coach achieves the same goal in the next succeeding year.
9. Gate Receipts – 20% of gate receipts in excess of \$35,000 up to \$50,000 and 25% of gate receipts in excess of \$50,000.
10. Net Game Guarantee – From the gross revenues paid to the University by all non-conference opponents during the regular season, the University will deduct the base amount of \$65,000 plus any game guarantees (including travel, hotel or other support) paid by the University to non-conference opponents. The remaining balance shall be the net game guarantee paid to Coach.

Maximum potential annual compensation (base salary, media payment and maximum potential incentive not including net game guarantee) is as follows:

• 2010-11	\$266,240
• 2011-12	\$287,980
• 2012-13	\$312,845
• 2013-14	\$341,616
• 2014-15	\$375,270

Coach may participate in youth basketball camps as follows:

- Remaining income from any University operated camp, less \$500, after all claims, insurance, and expenses of camp have been paid, OR
- In the event the University elects not to operate a camp, coach may do so within Board guidelines for such camps.

ATTACHMENTS

Attachment 1 – Employment Contract – clean	Page 5
Attachment 2 – Employment Contract – redline	Page 21
Attachment 3 – Contract Comparison Matrix	Page 39

STAFF COMMENTS AND RECOMMENDATIONS

This employment contract follows the Board's model coach contract with changes delineated in the comparison matrix. The base compensation amount provided in this agreement is funded entirely with state appropriated General Funds. The contract includes several unique forms of supplemental

BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

compensation outside of the model contract including: (1) a 25% escalator clause for supplemental compensation if earned again in subsequent seasons; (2) up to 25% of gate receipts; and (3) payment of a net game guarantee.

Staff recommends approval.

BOARD ACTION

I move to approve the University of Idaho's multi-year employment contract for the Men's Basketball Team Head Coach for a term commencing on March 24, 2010, and terminating on March 23, 2015, in substantial conformance to the form submitted to the Board in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

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EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between the University of Idaho (University), and Don Verlin (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. 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 3.2.11 shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of five (5) years, effective March 24, 2010, and terminating, without further notice to Coach, on March 23, 2015, 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 Regents. 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 as follows;
 - i. From March 24, 2010 through March 23, 2011: \$132,808.
 - ii. From March 24, 2011 through March 23, 2012: \$140,816.
 - iii. From March 24, 2012 through March 23, 2013: \$148,824.
 - iv. From March 24, 2013 through March 23, 2014: \$156,832.
 - v. From March 24, 2014 through March 23, 2015: \$164,840.

The above salary amounts are payable in biweekly installments in accordance with normal University procedures. The salary increases in paragraphs ii, iii, and iv are expressly contingent upon the following: (1) academic achievement and behavior of Team members, as described in Paragraph 3.2.4 of this Agreement; (2) appropriate behavior by, and supervision of, all assistant coaches, as determined by the Director; (3) compliance with the University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25; and (4) approval by the President, in the President's sole discretion.

- 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.

3.2 Supplemental Compensation

3.2.1. Each year the Team is the conference champion or co-champion or becomes eligible for the NCAA tournament pursuant to NCAA Division I guidelines, and if Coach continues to be employed as University's head men's basketball coach as of the ensuing

July 1st, the University shall pay to Coach supplemental compensation in an amount equal to one-thirteenth (1/13) of Coach's Annual Salary during the fiscal year in which the championship or NCAA tournament eligibility is achieved. The University 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 any published national final poll of intercollegiate men's basketball teams and if Coach continues to be employed as University's head men's basketball coach as of the ensuing July 1st, the University shall pay Coach supplemental compensation in an amount equal to one-thirteenth (1/13) 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 is named Conference Coach of the Year, and if Coach continues to be employed as University's head men's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of \$5,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.4 Coach shall be eligible to receive supplemental compensation each year based on the academic achievement and behavior of Team members. If the Team's annual APR (for the previous fall and spring semesters) exceeds the NCAA Division 1 average for men's basketball teams, and if Coach continues to be employed as University's head football coach as of the ensuing July 1st, Coach shall receive supplemental compensation of \$5,000. Any such supplemental compensation paid to Coach shall be accompanied with a justification for the supplemental compensation based on the factors listed above, and such justification shall be separately reported to the Board of Regents as a document available to the public under the Idaho Public Records Act.

3.2.5 The Coach shall receive the sum of \$60,000 from the University or the University'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). Each year, one-half of this sum shall be paid prior to the first regular season men's basketball game, and one-half shall be paid no later than two weeks after the last regular season men's basketball game or post season game, whichever occurs later. Coach's right to receive the second half of such payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later, and contingent upon Coach's continued employment as of that date. Coach's right to receive any such media payment under this Paragraph is expressly contingent on Coach's compliance with University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25. 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 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, through a media outlet that is not University-designated, 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 that are broadcast on radio or television that conflict with those broadcast on the University's designated media outlets.

3.2.6 If Coach continues to be employed as University's head men's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of \$5,000 for 14 victories; an additional \$5,000 for 17 victories; and an additional \$5,000 for 20 victories. The victories will include contests in both non-conference and conference competition. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.7 Each year the Team progresses to the Round of 16 in the NCAA tournament, the Coach shall receive supplemental compensation of \$25,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.8 If the Coach earns any of the forms of supplemental compensation described in paragraphs 3.2.2, 3.2.3, 3.2.4, 3.2.6, or 3.2.7, such supplemental compensation will increase by 25% in the next contract year. For example, if Coach is named conference coach of the year, and the conditions of Paragraph 3.2.3 are otherwise met, he will receive supplemental compensation of \$5000 in the year he is named. If he is again named conference coach of the year, his supplemental compensation will be \$6250 ($\$5000 + 25\%$).

3.2.9 Each year gate receipts for men's basketball exceed \$35,000, and if Coach continues to be employed as University's head men's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of 20% of the gate receipts that exceed \$35,000 and 25% of the gate receipts that exceed \$50,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.10 Non-Conference Basketball Net Game Guarantee

- a. Each year Coach continues to be employed as University's head coach of its intercollegiate men's basketball team as of the ensuing May 1st following the end of the competitive season, the University shall pay to Coach supplemental compensation equal to a Net Game Guarantee (as defined in paragraph b below). Such supplemental compensation will be paid to Coach prior to the end of the current fiscal year in an appropriate manner as determined by the University.
- b. The Net Game Guarantee will be calculated as follows: from the gross revenue paid to the University by all non-conference opponents during the regular competitive season, the University will deduct a base amount of \$65,000, and will further deduct any game guarantees (including travel, hotel or other support provided

to an opponent) paid out to non-conference opponents during the same regular competitive season. The remaining balance shall be the Net Game Guarantee paid to Coach.

- c. Coach shall schedule at least one non-conference game each regular competitive season, in consultation with the Director of Athletics, that will generate net revenue to the University of a minimum of \$65,000.

3.2.11 Coach agrees that the University has the exclusive right to operate youth basketball camps on its campus using University facilities. The University shall allow Coach the opportunity to earn supplemental compensation by assisting with the University's camps in Coach's capacity as a University employee. Coach hereby agrees to assist in the marketing, supervision, and general administration of the University's youth 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 youth basketball camps, the University shall pay Coach the remaining income from the youth basketball camps, less \$500, after all claims, insurance, and expenses of such camps have been paid.

Alternatively, in the event the University notifies Coach, in writing that it does not intend to operate youth basketball camps for a particular period of time during the term of this Agreement, then, during such time period, Coach shall be permitted to operate youth basketball camps on the University's campus and using its facilities under the following terms and conditions:

:

- a) The summer youth camp operation reflects positively on the University of Idaho 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 of Idaho personnel, equipment, or facilities without the prior written approval of the Director;
- c) Assistant coaches at the University of Idaho are given priority when the Coach or the private enterprise selects coaches to participate;
- d) The Coach complies with all NCAA, Conference, and University of Idaho 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 of Idaho and Sodexo for all campus goods and services required by the camp.
- f) The Coach or private enterprise pays for use of University of Idaho facilities.

- 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."
- 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 of Idaho 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 of Idaho while engaged in camp activities. The Coach and all other University of Idaho 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 of Idaho 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 of Idaho shall be released from all obligations relating thereto.

3.2.12 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 into an agreement with Nike 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 Nike product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by Nike, or give a lecture at an event sponsored in whole or in part by Nike, 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 men's basketball coach. In order to avoid entering into an agreement with a competitor

of Nike, 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 Nike, and will not participate in any messages or promotional appearances that 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 that 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 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 Faculty Staff Handbook; (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 men's basketball 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 that 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 provide a written detailed account 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. Sources of such income include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;
- (c) Housing benefits, including preferential housing arrangements;
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs; and
- (g) Endorsement or consultation contracts with athletics shoe, apparel or equipment manufacturers.

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 Regents.

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 unreasonably be 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, and with or without pay, or terminate this Agreement at any time for good or adequate cause, as those terms are defined in applicable policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA..

5.1.1 In addition to the definitions contained in applicable policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA, University and Coach hereby specifically agree that the following shall constitute good or adequate cause for suspension 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 that 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 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 employment, whichever occurs first; provided however, in the event Coach obtains lesser employment after such termination, then the amount of compensation the University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such lesser employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the lesser employment, then subtracting from this adjusted gross compensation deductions according to law. 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 employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform University within ten business days of obtaining other employment, and to advise University of all relevant terms of such employment, including without limitation the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise University shall constitute a material breach of this Agreement and University's obligation to pay compensation under this provision shall end. Coach agrees not to accept employment for compensation at less than the fair value of Coach's services, as determined by all circumstances existing at the time of employment. Coach further agrees to repay to University all compensation paid to him by University after the date he obtains other employment, to which he is not entitled under this provision.

5.2.3 University has been represented by legal counsel, and coach has either been represented by legal counsel or has chosen to proceed without legal counsel, in the contract negotiations. The parties have bargained for and agreed to the foregoing provision, giving consideration to the fact that the Coach may lose certain benefits, supplemental compensation, or outside compensation relating to his employment with University that are extremely difficult to determine with certainty. The parties further agree that the payment of such sums by University and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach. Such compensation is 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 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 the following sum: (a) if the Agreement is terminated on or before March 24, 2011, the sum of \$175,000.00; (b) if the Agreement is terminated between March 24, 2011 and March 23, 2012 inclusive, the sum of \$100,000.00; (c) if the Agreement is terminated between March 24, 2012 and March 23, 2013 inclusive, the sum of \$50,000.00; (d) if the Agreement is terminated between March 24, 2013 and March 23, 2014 inclusive, the sum of \$25,000; (e) if the Agreement is terminated between March 24, 2014 and March 23, 2015 inclusive, the sum of \$0. The applicable sum 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 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 costs are extremely difficult to determine with certainty. The parties further agree that the payment of such sums by Coach and the acceptance thereof by University shall constitute adequate and reasonable compensation to University. Such payments 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.

5.3.5 Except as provided elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit his right to receive all supplemental compensation and other payments unpaid as of the date Coach gives notice of termination, unless Coach's right to receive those payments has vested pursuant to the terms of this Agreement.

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 or suspension, 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 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 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 and Board of Regents of the University of Idaho Rule Manual (IDAPA 08) and 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 by the University's Board of Regents 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 Regents, 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 Regents and University's rules regarding financial exigency.

6.2 University Property. All personal property (excluding vehicle(s) provided through the Vandal Wheels 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
University of Idaho
P.O. Box 442302
Moscow, Idaho 83844-2302

with a copy to: President
University of Idaho
P.O. Box 443151
Moscow, ID 83844-3151

the Coach: Don Verlin
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 Regents.

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 either consulted with legal counsel or chosen not to. 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

M. Duane Nellis, President Date

Don Verlin Date

Approved by the Board of Regents on the day of , 2010.

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~~Approved by the SBOE March 18, 2000 (applies to all Board governed institutions).~~

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between _____ ~~(the~~ University ~~(College of Idaho (University))~~, and _____ ~~Don Verlin~~ (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University ~~(College)~~ 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.

1.2. Reporting Relationship. Coach shall report and be responsible directly to the ~~University (College)'s~~ 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)'s~~ University's President (President).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the ~~University (College)'s~~ University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The University ~~(College)~~ shall have the right, at any time, to reassign Coach to duties at the University ~~(College)~~ 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)~~ 3.2.11 shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of _____ ~~(=~~ five (5) years, ~~commencing on~~ _____ effective March 24, 2010, and terminating, without further notice to Coach, on _____ March 23, 2015, 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)~~ 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)'s~~ University's Board of ~~(Regents or 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)~~.

ARTICLE 3

3.1 Regular Compensation.

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

- a) An annual salary ~~of \$_____ per year,~~ as follows:
 - i. From March 24, 2010 through March 23, 2011: \$132,808.
 - ii. From March 24, 2011 through March 23, 2012: \$140,816.
 - iii. From March 24, 2012 through March 23, 2013: \$148,824.
 - iv. From March 24, 2013 through March 23, 2014: \$156,832.
 - v. From March 24, 2014 through March 23, 2015: \$164,840.

The above salary amounts are payable in biweekly installments in accordance with normal University ~~(College)~~ procedures, ~~and such.~~ The salary increases ~~as may be determined in paragraphs ii, iii, and iv~~ are expressly contingent upon the following: (1) academic achievement and behavior of Team members, as described in Paragraph 3.2.4 of this Agreement; (2) appropriate behavior by, and supervision of, all assistant coaches, as ~~determined~~ by the Director ~~and~~; (3) compliance with the University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25; and (4) approval by the President ~~and approved by the University (College)'s Board of (Regents or Trustees)~~ ; in the President's sole discretion.
- b) The opportunity to receive such employee benefits as the University ~~(College)~~ provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the ~~University (College)'s~~ 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.

3.2 Supplemental Compensation

3.2.1. Each year the Team is the conference champion or co-champion ~~and also~~ or becomes eligible for ~~a (bowl game the NCAA tournament)~~ 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~~ University's head ~~—(Sport)—~~ men's basketball 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 one-thirteenth (1/13) of Coach's Annual Salary during the fiscal year in which the championship ~~and —(bowl or other post season)—~~ or NCAA tournament eligibility ~~are~~ is achieved. The University ~~(College)~~ shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

~~3.2.1.~~ 3.2.2 Each year the Team is ranked in the top 25 in any published national final poll of intercollegiate men's basketball teams and if Coach continues to be employed as University's head men's basketball coach as of the ensuing July 1st, the University shall pay Coach supplemental compensation in an amount equal to one-thirteenth (1/13) 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.

3.2.23 Each year Coach is named Conference Coach of 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)—~~ Year, and if Coach continues to be employed as University (College)'s University's head ~~—(Sport)—~~ men's basketball coach as of the ensuing July 1st, ~~the University (College) Coach~~ shall ~~pay Coach~~ receive supplemental compensation ~~in an amount equal to —(amount or computation)— of Coach's Annual Salary in effect on the date of the final poll.~~ \$5,000. The University ~~(College)~~ shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

~~3.2.3~~ Each year ~~4~~ Coach shall be eligible to receive supplemental compensation ~~in an amount up to —(amount or computation)—~~ each year based on the academic achievement and behavior of Team members. ~~The determination of whether~~ If the Team's annual APR (for the previous fall and spring semesters) exceeds the NCAA Division 1 average for men's basketball teams, and if Coach ~~will~~ continues to be employed as University's head football coach as of the ensuing July 1st, Coach shall 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.~~ \$5,000. 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~~ 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)-~~ \$60,000 from the University ~~(College)~~ or the ~~University (College)'s~~ University'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~~ Each year, one-half of this sum shall be paid prior to the first regular season men's basketball game, and one-half shall be paid no later than two weeks after the last regular season men's basketball game or post season game, whichever occurs later. Coach's right to receive the second half of such a payment shall vest on the date of the ~~Team's~~ Team's last regular season or post-season competition, whichever occurs later. ~~This sum shall be paid —(terms or conditions of—, and contingent upon Coach's continued employment as of that date. Coach's right to receive any such media payment)——.~~ under this Paragraph is expressly contingent on Coach's compliance with University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25. 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, through a media outlet that is not University-designated, 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~~ that are broadcast on radio or television that conflict with those broadcast on the ~~University (College)'s~~ University's designated media outlets.

3.2.6 ~~(SUMMER CAMP—OPERATED BY UNIVERSITY (COLLEGE))~~ If Coach continues to be employed as University's head men's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of \$5,000 for 14 victories; an additional \$5,000 for 17 victories; and an additional \$5,000 for 20 victories. The victories will include contests in both non-conference and conference competition. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.7 Each year the Team progresses to the Round of 16 in the NCAA tournament, the Coach shall receive supplemental compensation of \$25,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.8 If the Coach earns any of the forms of supplemental compensation described in paragraphs 3.2.2, 3.2.3, 3.2.4, 3.2.6, or 3.2.7, such supplemental compensation will increase by 25% in the next contract year. For example, if Coach is named conference coach of the year, and the conditions of Paragraph 3.2.3 are otherwise met, he will receive supplemental compensation of \$5000 in the year he is named. If he is again named conference coach of the year, his supplemental compensation will be \$6250 (\$5000 + 25%).

3.2.9 Each year gate receipts for men's basketball exceed \$35,000, and if Coach continues to be employed as University's head men's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of 20% of the gate receipts that exceed \$35,000 and 25% of the gate receipts that exceed \$50,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.10 Non-Conference Basketball Net Game Guarantee

- a. Each year Coach continues to be employed as University's head coach of its intercollegiate men's basketball team as of the ensuing May 1st following the end of the competitive season, the University shall pay to Coach supplemental compensation equal to a Net Game Guarantee (as defined in paragraph b below). Such supplemental compensation will be paid to Coach prior to the end of the current fiscal year in an appropriate manner as determined by the University.
- b. The Net Game Guarantee will be calculated as follows: from the gross revenue paid to the University by all non-conference opponents during the regular competitive season, the University will deduct a base amount of \$65,000, and will further deduct any game guarantees (including travel, hotel or other support provided to an opponent) paid out to non-conference opponents during the same regular competitive season. The remaining balance shall be the Net Game Guarantee paid to Coach.
- c. Coach shall schedule at least one non-conference game each regular competitive season, in consultation with the Director of Athletics, that will generate net revenue to the University of a minimum of \$65,000.

3.2.11 Coach agrees that the University ~~(College)~~ has the exclusive right to operate youth ~~(Sport)~~ basketball camps on its campus using University ~~(College)~~ facilities. The University ~~(College)~~ shall allow Coach the opportunity to earn supplemental compensation by assisting with the ~~University (College)'s~~ University's camps in Coach's capacity as a University ~~(College)~~ employee. Coach hereby agrees to assist in the marketing, supervision, and general administration of the ~~University (College)'s football~~ University's youth 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 youth basketball camps, the University (College)'s summer football camps, the University (College)~~ shall pay Coach ~~(amount) per year as supplemental compensation during each year~~ the remaining income from the youth

basketball camps, less \$500, after all claims, insurance, and expenses of his employment as head (Sport) coach at the University (College). This amount shall be such camps have been paid (terms of payment).

Alternatively, in the event the University notifies Coach, in writing that it does not intend to operate youth basketball camps for a particular period of time during the term of this Agreement, then, during such time period, Coach shall be permitted to operate youth basketball camps on the University's campus and using its facilities under the following terms and conditions:

:

- a) The summer youth camp operation reflects positively on the University of Idaho 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 of Idaho personnel, equipment, or facilities without the prior written approval of the Director;
- c) Assistant coaches at the University of Idaho are given priority when the Coach or the private enterprise selects coaches to participate;
- d) The Coach complies with all NCAA, Conference, and University of Idaho 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 of Idaho and Sodexo for all campus goods and services required by the camp.
- f) The Coach or private enterprise pays for use of University of Idaho facilities.
- 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."
- 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 of Idaho 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 of Idaho while engaged in camp activities. The Coach and all other University of Idaho 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 of Idaho 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 of Idaho shall be released from all obligations relating thereto.

3.2.7—12 Coach agrees that the University ~~(College)~~ 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)~~. Coach recognizes that the University ~~(College)~~ is negotiating or has entered into an agreement with ~~—(Company Name)—~~ Nike to supply the University ~~(College)~~ with athletic footwear, apparel and/or equipment. Coach agrees that, upon the ~~University (College)'s~~ University's reasonable request, Coach will consult with appropriate parties concerning ~~an —(Company Name)—~~ a Nike product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by ~~—(Company Name)—~~ Nike, or give a lecture at an event sponsored in whole or in part by ~~—(Company Name)—~~ Nike, or make other educationally-related appearances as may be reasonably requested by the University ~~(College)~~. 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)—~~ men's basketball coach. In order to avoid entering into an agreement with a competitor of ~~—(Company Name)—~~ Nike, Coach shall submit all outside consulting agreements to the University ~~(College)~~ for review and approval prior to execution. Coach shall also report such outside income to the University ~~(College)~~ in accordance with NCAA ~~(or NAIA)~~ rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including ~~—(Company Name)—~~ Nike, and will not participate in any messages or promotional appearances ~~which~~ that 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)~~ 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)~~ 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~~that 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)~~ 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)~~, the ~~University (College)s~~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)s~~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)~~ and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit A.~~ 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)s~~University's Faculty Staff Handbook; (c) ~~University (College)s~~University's Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA ~~(or NAIA)~~ rules and regulations; and (f) the rules and regulations of the ~~(Sport) men's basketball~~ conference of which the University ~~(College)~~ 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)~~, would reflect adversely upon the University ~~(College)~~ 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~~that are consistent with Coach's obligations under this Agreement. Coach may not use the ~~University (College)'s~~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~~ 4.3 ~~—NCAA (or NAIA) Rules.~~ In accordance with NCAA ~~(or NAIA)~~ rules, Coach shall obtain prior written approval from the ~~University (College)'s~~University's President for all athletically related income and benefits from sources outside the University ~~(College)~~ and shall ~~report the source and amount~~provide a written detailed account of all such income and benefits to the ~~University (College)'s~~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)~~ work day preceding June 30th. The report shall be in a format reasonably satisfactory to University ~~(College)~~. Sources of such income include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;
- (c) Housing benefits, including preferential housing arrangements;
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs; and
- (g) Endorsement or consultation contracts with athletics shoe, apparel or equipment manufacturers.

In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University ~~(College)~~ booster club, University ~~(College)~~ alumni association, University ~~(College)~~ 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)~~. the ~~University (College)'s~~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)'s~~University's Board of ~~(Trustees or Regents)~~.

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~~ 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 unreasonably be withheld.

ARTICLE 5

5.1 Termination of Coach for Cause. The University ~~(College)~~ 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/or regulations; of the University, the University's governing board, the conference, or the NCAA.

5.1.1 In addition to the definitions contained in applicable policies, rules and/or regulations; of the University (College), the University's governing board, the conference, or the NCAA, 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 ~~(College);~~;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University ~~(College);~~, the University ~~(College)~~'s governing board, the conference or the NCAA ~~(NAIA);~~, including but not limited to any such violation ~~which~~ that 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)'s~~ University's consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the ~~University (College)'s~~ University's judgment, reflect adversely on the University ~~(College)~~ or its athletic programs;
- f) The failure of Coach to represent the University ~~(College)~~ 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)~~ in any investigation of possible violations of any applicable law or the policies, rules or regulations of the

University ~~-(College)-~~, the ~~University (College)s~~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)-~~, the ~~University (College)s~~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)-~~, the ~~University (College)s~~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)-~~ 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)-~~ 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)s~~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)-~~ 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)-~~ or at previous institutions at which the Coach was employed.

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

5.2.1 At any time after commencement of this Agreement, University ~~-(College)-~~, 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)~~ terminates this Agreement for its own convenience, University ~~(College)~~ 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) until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first.~~until the term of this Agreement ends or until Coach obtains employment, whichever occurs first; provided however, in the event Coach obtains lesser employment after such termination, then the amount of compensation the University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such lesser employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the lesser employment, then subtracting from this adjusted gross compensation deductions according to law. In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a University ~~(College)~~ employee until the term of this Agreement ends or until Coach obtains employment providing Coach with a reasonably comparable ~~employment~~health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform University within ten business days of obtaining other employment, and to advise University of all relevant terms of such employment, including without limitation the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise University shall constitute a material breach of this Agreement and University's obligation to pay compensation under this provision shall end. Coach agrees not to accept employment for compensation at less than the fair value of Coach's services, as determined by all circumstances existing at the time of employment. Coach further agrees to repay to University all compensation paid to him by University after the date he obtains other employment, to which he is not entitled under this provision.

5.2.3 ~~The parties have both~~University has been represented by legal counsel, and coach has either been represented by legal counsel or has chosen to proceed without legal counsel, in the contract negotiations ~~and~~. 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 ~~(College), which damages that~~ are extremely difficult to determine with certainty. The parties further agree that the payment of such ~~liquidated damages~~sums 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.~~ Such compensation is 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)~~ for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the University ~~(College)~~ 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)~~ 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)~~. Termination shall be effective ten (10) days after notice is given to the University ~~(College)~~.

____ 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 _____, March 24, 2011, the sum of \$~~30175~~,000.00; (b) if the Agreement is terminated between _____ March 24, 2011 and _____ March 23, 2012 inclusive, the sum of \$~~20100~~,000.00; (c) if the Agreement is terminated between _____ March 24, 2012 and March 23, 2013 inclusive, the sum of \$50,000.00; (d) if the Agreement is terminated between March 24, 2013 and _____ March 23, 2014 inclusive, the sum of \$~~10,000.00~~25,000; (e) if the Agreement is terminated between March 24, 2014 and March 23, 2015 inclusive, the sum of \$0. The ~~liquidated damages~~applicable sum 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 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~~costs are extremely difficult to determine with certainty. The parties further agree that the payment of such ~~liquidated damages~~sums 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.~~ Such payments 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 Except as ~~provide~~provided 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 unpaid as of the date Coach gives notice of termination, unless Coach's right to receive those payments has vested pursuant to the terms of this Agreement.

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)'s~~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)~~ 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)'s~~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)~~.

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

5.6- No Liability. The University ~~(College)~~ 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 ~~(College)~~ employees, if the University ~~(College)~~ 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)~~ from compliance with the notice, appeal, and similar employment-related rights ~~provide~~provided for in the State Board of Education and Board ~~or of~~ Regents of the University of Idaho Rule Manual (IDAPA 08) and Governing Policies and Procedures Manual, and the University ~~(College)~~ Faculty-Staff Handbook.

ARTICLE 6

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

6.2 University (College)–Property. All personal property (excluding vehicle(s) provided through the ~~_____~~ Vandal Wheels 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 ~~(College)~~ or developed by Coach on behalf of the University ~~(College)~~ or at the ~~University (College)'s~~ University's direction or for the ~~University (College)'s~~ University's use or otherwise in connection with Coach's employment hereunder, are and shall remain the sole property of the University ~~(College)~~. Within twenty-four (24) hours of the expiration of the term of this ~~agreement~~ 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)~~.

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 ~~therefor~~ 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)s~~ 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)s~~ _____ Director of Athletics
 _____ University of Idaho
 _____ P.O. Box 442302
 _____ Moscow, Idaho 83844-2302

with a copy to: President
 _____ University of Idaho
 _____ P.O. Box 443151
 _____ Moscow, ID 83844-3151

the Coach: _____ Don Verlin
 Last known address on file with
~~University (College)s~~ 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)s~~ University's prior written consent in each case, use any name, trade name, trademark, or other designation of the University ~~(College)~~ (including contraction, abbreviation or simulation), except in the course and scope of his official University ~~(College)~~ 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)'s~~University's Board of ~~(Regents or 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 either consulted with legal counsel or chosen not to. 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)~~

COACH

_____M. Duane Nellis, President Date _____Don Verlin
Date

Approved by the Board of ~~(Regents or Trustees)~~ on the ____ day of _____, ~~2000~~.
_____, 2010.

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DON VERLIN – HEAD MEN’S BASKETBALL COACH MULTI-YEAR CONTRACT – SUBSTANTIVE MODIFICATIONS FROM SBOE FORM		
Model Contract Section	UI Contract Section	Modification/Justification for Modification
3.1.1 Regular Compensation	3.1.1 Regular Compensation	Provides for annual increases contingent on academic performance and behavior of athletes, conduct of assistant coaches, compliance with financial stewardship policies, and approval of the President.
3.2.1 Supplemental Compensation	3.2.1 Supplemental Compensation	Allows for supplemental compensation if team is conference champion or co-champion, or becomes eligible for the NCAA tournament.
3.2.3 Supplemental Compensation	3.2.3 Supplemental Compensation	Allows for supplemental compensation if Coach is named Conference Coach of the Year; moves supplemental compensation for academic achievement to section 3.2.4.
3.2.3 Supplemental Compensation	3.2.4 Supplemental Compensation	Provides for supplemental compensation if team’s cumulative APR ranks at certain levels nationally. This language establishes a more objective standard for academic achievement and has been used in past contracts approved by the Board.
3.2.4 Supplemental Compensation	deleted	Deletes existing provisions for supplemental compensation based on ticket sales, fundraising and outreach. Replaced by 3.2.9.
3.2.5 Supplemental Compensation	3.2.5 Supplemental compensation	Language calls for media compensation to be paid ½ at the beginning of the regular season and ½ after the last date of competition. This recognizes that much media work has been done by the coach prior to commencement of the season, and at the same time retains ½ of the payment as motivation for completing the season. Payment is made contingent on coach’s compliance with University financial stewardship policies.
3.2.6 Summer Camps	3.2.11 Summer camps	Renumbered. Amount of compensation for participation in University’s summer basketball camps not specified. Coach will receive balance of income from camp, less \$500, after all operational expenses have been paid. Includes alternative provision allowing coach to operate summer camps as a private enterprise if the University opts not to run them. The Board has previously approved these provisions.
3.2 Supplemental Compensation	3.2.6 Supplemental Compensation	Provides for payment of \$5000 for 14 wins, an additional \$5000 for 17 wins, and an additional \$5000 for 20 wins.
3.2 Supplemental Compensation	3.2.7 Supplemental Compensation	Provides for payment of \$25000 if Team reaches Sweet Sixteen at NCAA tournament.
3.2 Supplemental Compensation	3.2.8 Supplemental Compensation	Provides for an escalator. If Coach earns any form of supplemental compensation, and earns it again in a subsequent season, it is increased by 25%.
3.2 Supplemental Compensation	3.2.9 Supplemental Compensation	Provides for payment to Coach of 25% of gate receipts above \$35000.

DON VERLIN – HEAD MEN’S BASKETBALL COACH MULTI-YEAR CONTRACT – SUBSTANTIVE MODIFICATIONS FROM SBOE FORM		
3.2 Supplemental Compensation	3.2.10 Supplemental Compensation	Provides for payment of a Net Game Guarantee from revenue for non-conference basketball games, after deduction of a base amount of \$65,000. Coach is required to schedule at least one non-conference game that will generate net revenue to the University of at least \$65,000.
3.2.7 Supplemental Compensation	3.2.12 Supplemental Compensation	Renumbered. No substantive changes.
4.3 NCAA Rules	4.3 NCAA Rules	Revised to conform to NCAA Rule 11.2.2 effective 3/8/06. Rule requires a written detailed account of athletically related income and identifies some of the sources that must be reported as “including but not limited to...”
5.1.4 Termination of Coach for Cause	5.1.4 Termination of Coach for Cause	Adds suspension without pay and termination for significant or repetitive violations as possible disciplinary/corrective actions.
5.2.2 University Termination for Convenience	5.2.2 University Termination for Convenience	Language allows the University to offset salary received by Coach for lesser employment obtained after University termination for convenience. Prior language would allow coach to take lesser employment and continue to receive full termination payment. Language also requires Coach to inform University of the terms of any new employment so University can accurately determine the compensation, if any, to which Coach is entitled. References to liquidated damages are deleted because the compensation due upon termination for convenience flows from a contractual right to terminate and not from a breach of the contract. The non-terminating party is entitled to compensation, not damages for breach.
5.2.3 Representation by Counsel	5.2.3 Representation by Counsel; compensation for termination	Language clarifies that the parties have been represented by counsel or that Coach <u>chose to proceed without counsel</u> during the negotiations. The underlined language is new and recognizes the fact that we cannot require candidates to retain counsel. References to liquidated damages are deleted for the same reason as in 5.2.2.
5.3.3 Coach Termination for Convenience	5.3.3 Coach Termination for Convenience	References to liquidated damages are deleted for the same reason as in 5.2.2.
5.3.4 Compensation for termination	5.3.4 Compensation for termination	References to liquidated damages are deleted for the same reason as in 5.2.2.
6.16 Opportunity to Consult with Attorney	6.16 Opportunity to Consult with Attorney	Adds language similar to 5.2.2 to make clear that Coach had the opportunity to consult with counsel and either did or chose not to.

BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 12, 2010

UNIVERSITY OF IDAHO

SUBJECT

Multi-year contract for Women's Basketball Team Head Coach

APPLICABLE STATUTE, RULE, OR POLICY

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

DISCUSSION

The University of Idaho has agreed, subject to Regents' approval, to terms extending employment of the Women's Basketball Team Head Coach effective March 27, 2010, through March 26, 2015. The University submits the attached multi-year contract to the Regents for approval. The primary terms of the agreement are set forth below. The entire contract, a redlined version showing changes from the Board model contract, and a matrix comparison to the Board model contract are attached.

IMPACT

The extended term of the employment contract is five (5) years, commencing on March 27, 2010, and terminating on March 26, 2015.

The annual base salary is \$90,000. Coach is eligible to participate in university-wide changes in employee compensation as approved by the athletic director, president and the Board of Regents.

Coach is entitled to receive the following incentive/supplemental compensation:

- Conference champions or co-champion or team becomes eligible for the NCAA tournament: 1/13th of annual salary.
- Team ranked in the top 25 in any published national final poll: 1/13th of annual salary.
- Conference Coach of the Year: \$2,000.
- Academic achievement and behavior of team based on APR national rank:
 - 50th - 60th % = \$500
 - 60th - 70th % = \$750
 - 70th - 80th % = \$1,000
 - 80th % or above = \$1,250
- Annual media payments are \$15,000
- Team victories:
 - \$3,000 for 14 victories
 - Additional \$3,000 for 17 victories
 - Additional \$3,000 for 20 victories
- Gate Receipts: 25% of gate receipts in excess of \$15,000.
- Team Progresses to the Round of 16 in the NCAA tournament: \$5,000

BUSINESS AFFAIRS AND HUMAN RESOURCES

AUGUST 12, 2010

OR

- Team invited to participate and team plays in the Women's National Invitation Tournament (WNIT): \$2,500.

OR

- Team invited to participate and team plays in the Women's Basketball Invitational (WBI): \$1,000.
- Net Game Guarantee: From the gross revenues paid to the University by all non-conference opponents during the regular season, the University will deduct the base amount of \$10,000 plus any game guarantees (including travel, hotel or other support) paid by the University to non-conference opponents. The remaining balance shall be the net game guarantee paid to Coach.

Maximum potential annual compensation (base salary, media payment and maximum potential incentive) is \$136,096 plus any approved university-wide changes in compensation. Note that the Gate Receipts supplement and the Net Game Guaranty supplement are not included in this maximum as they are not calculable at this juncture.

Coach may participate in youth basketball camps as follows:

- Remaining income from any university operated camp, less \$500, after all claims, insurance, and expenses of camp have been paid, OR
- in the event the University elects not to operate a camp, coach may do so within Board guidelines for such camps.

ATTACHMENTS

Attachment 1 – Employment Contract – clean	Page 3
Attachment 2 – Employment Contract – redline	Page 19
Attachment 3 – Contract Comparison Matrix	Page 37

STAFF COMMENTS AND RECOMMENDATIONS

This employment contract follows the Board's model coach contract with changes delineated in the comparison matrix. The contract includes several unique forms of supplemental compensation outside of the model contract including: (1) up to 25% of gate receipts; and (2) payment of a net game guarantee. The coach's current annual base salary is \$90,000. The base compensation amount provided in this new agreement is funded entirely with state appropriated General Funds. Staff recommends approval.

BOARD ACTION

I move to approve the University of Idaho's multi-year employment contract for the Women's Basketball Team Head Coach for a term commencing on March 27, 2010, and terminating on March 26, 2015, in substantial conformance to the contract submitted to the Board in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between the University of Idaho (University), and Jon Newlee (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. 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 3.2.12 shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of five (5) years, effective March 27, 2010, and terminating, without further notice to Coach, on March 26, 2015, 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 Regents. 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 \$90,000 per year, payable in biweekly installments in accordance with normal University procedures. Coach will be eligible to receive University-wide changes in employee compensation upon approval by the Director, the President, and the Board of Regents;
- 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.

3.2 Supplemental Compensation

3.2.1. Each year the Team is the conference champion or co-champion or becomes eligible for the NCAA tournament pursuant to NCAA Division I guidelines, and if Coach continues to be employed as University's head women's basketball coach as of the ensuing July 1st, the University shall pay to Coach supplemental compensation in an amount equal to one-thirteenth (1/13) of Coach's Annual Salary during the fiscal year in which the championship or NCAA tournament eligibility is achieved. The University 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 any published national final poll of intercollegiate women's basketball teams and if Coach continues to be employed as University's head women's basketball coach as of the ensuing July 1st, the University shall pay Coach supplemental compensation in an amount equal to one-thirteenth (1/13) 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 is named Conference Coach of the Year, and if Coach continues to be employed as University's head women's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of \$2,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.4 Coach shall be eligible to receive supplemental compensation each year based on the academic achievement and behavior of Team members if the Team's cumulative APR ranks nationally above the 50th percentile for women's basketball teams as follows:

National rank within sport
50th - 60th % = \$500
60th - 70th % = \$750
70th – 80th % = \$1,000
80th % or above = \$1,250

Any such supplemental compensation paid to Coach shall be accompanied with a justification for the supplemental compensation based on the factors listed above, and such justification shall be separately reported to the Board of Regents as a document available to the public under the Idaho Public Records Act.

3.2.5 The Coach shall receive the sum of \$15,000 from the University or the University'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). Each year, one-half of this sum shall be paid prior to the first regular season women's basketball game, and one-half shall be paid no later than two weeks after the last regular season women's basketball game or post season game, whichever occurs later. Coach's right to receive the second half of such payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later, and contingent upon Coach's continued employment as of that date. Coach's right to receive any such media payment under this Paragraph is expressly contingent on Coach's compliance with University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25. 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 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, through a media outlet that is not University-designated, 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 that are broadcast on radio or television and that conflict with those broadcast on the University's designated media outlets.

3.2.6 If Coach continues to be employed as University's head women's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of \$3,000 for 14 victories; an additional \$3,000 for 17 victories; and an additional \$3,000 for 20 victories. The victories will include contests in both non-conference and conference competition. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.7 Each year gate receipts for women's basketball exceed \$15,000, and if Coach continues to be employed as University's head women's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of 25% of the gate receipts that exceed \$15,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.8 Each year the Team progresses to the Round of 16 in the NCAA tournament, the Coach shall receive supplemental compensation of \$5,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.9 Each year the Team receives an invitation to participate and plays in the WNIT, the Coach shall receive supplemental compensation of \$2,500. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.10 Each year the Team receives an invitation to participate and plays in the WBI, the Coach shall receive supplemental compensation of \$1,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.11 Non-Conference Basketball Net Game Guarantee

- a. Each year Coach continues to be employed as University's head coach of its intercollegiate women's basketball team as of the ensuing May 1st following the end of the competitive season, the University shall pay to Coach supplemental compensation equal to a Net Game Guarantee (as defined in paragraph b below). Such supplemental compensation will be paid to Coach prior to the end of the current fiscal year in an appropriate manner as determined by the University.
- b. The Net Game Guarantee will be calculated as follows: from the gross revenue paid to the University by all non-conference opponents during the regular competitive season, the University will deduct a base amount of \$10,000, and will further deduct any game guarantees (including travel, hotel or other support provided to an opponent) paid out to non-conference opponents during the same regular competitive season. The remaining balance shall be the Game Guarantee paid to the Coach.
- c. The Coach shall schedule at least one non-conference game, in consultation with the Director of Athletics, that will generate net revenue to the University of a minimum of \$10,000.

3.2.12 Coach agrees that the University has the exclusive right to operate youth basketball camps on its campus using University facilities. The University shall allow Coach the opportunity to earn supplemental compensation by assisting with the University's camps in Coach's capacity as a University employee. Coach hereby agrees to assist in the marketing, supervision, and general administration of the University's youth 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 youth basketball camps, the University shall pay Coach the remaining income from the youth basketball camps, less \$500, after all claims, insurance, and expenses of such camps have been paid.

Alternatively, in the event the University notifies Coach, in writing that it does not intend to operate youth basketball camps for a particular period of time during the term of this Agreement, then, during such time period, Coach shall be permitted to operate youth basketball camps on the University's campus and using its facilities under the following terms and conditions:

:

- a) The summer youth camp operation reflects positively on the University of Idaho 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 of Idaho personnel, equipment, or facilities without the prior written approval of the Director;
- c) Assistant coaches at the University of Idaho are given priority when the Coach or the private enterprise selects coaches to participate;
- d) The Coach complies with all NCAA, Conference, and University of Idaho 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 of Idaho and Sodexo for all campus goods and services required by the camp.
- f) The Coach or private enterprise pays for use of University of Idaho facilities.
- 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."

- 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 of Idaho 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 of Idaho while engaged in camp activities. The Coach and all other University of Idaho 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 of Idaho 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 of Idaho shall be released from all obligations relating thereto.

3.2.13 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 into an agreement with Nike 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 Nike products design or performance, shall act as an instructor at a clinic sponsored in whole or in part by Nike, or give a lecture at an event sponsored in whole or in part by Nike, 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 Nike, 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 Nike, and will not participate in any messages or promotional appearances that 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 that 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 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 Faculty-Staff Handbook; (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 women's basketball 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 that 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 provide a written detailed account of 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. Sources of such income include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;
- (c) Housing benefits, including preferential housing arrangements;
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs; and
- (g) Endorsement or consultation contracts with athletics shoe, apparel or equipment manufacturers.

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 the President and the University's Board of Regents.

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, and with or without pay; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in applicable policies, rules or regulations of the University, the University's governing board, the conference, or the NCAA.

5.1.1 In addition to the definitions contained in applicable policies, rules or regulations of the University, the University's governing board, the conference or the NCAA, 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 that 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, including suspension without pay or termination of employment for significant or repetitive violations. 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 pay to Coach 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 employment, whichever occurs first; provided however, in the event Coach obtains lesser employment after such termination, then the amount of compensation the University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such lesser employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the lesser employment, then subtracting from this adjusted gross compensation deductions according to law. 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 employment providing Coach with a reasonably comparable health plan and

group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform University within ten business days of obtaining other employment and to advise University of all relevant terms of such employment, including without limitation the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise University shall constitute a material breach of this Agreement and University's obligation to pay compensation under this provision shall end. Coach further agrees to repay to University all compensation paid to him by University after the date he obtains other employment, to which he is not entitled under this provision.

5.2.3 University has been represented by legal counsel, and coach has either been represented by legal counsel or has chosen to proceed without legal counsel in the contract negotiations. The parties have bargained for and agreed to the foregoing provision, giving consideration to the fact that the Coach may lose certain benefits, supplemental compensation, or outside compensation relating to his employment with University that are extremely difficult to determine with certainty. The parties further agree that the payment of such compensation by University and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach. Such compensation is 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 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 the following sum: (a) if the Agreement is terminated on or before March 26, 2011, the sum of \$90,000.00; (b) if the Agreement is terminated between March 27, 2011 and March 26, 2012 inclusive, the sum of \$50,000.00; (c) if the Agreement is terminated between March 27, 2012 and March 26, 2013 inclusive, the sum of \$25,000.00; (d) if the Agreement is terminated between March 27, 2013 and March 26, 2014 inclusive, the sum of \$15,000; (e) if the Agreement is terminated between March 27, 2014 and March 26, 2015 inclusive, the sum of \$0. Any sum payable under the terms of this provision 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 bargained for and agreed to the foregoing 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 costs are extremely difficult to determine with certainty. The parties further agree that the payment of such sums by Coach and the acceptance thereof by University shall constitute adequate and reasonable compensation to University. Such payments 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.

5.3.5 Except as provided elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit his right to receive all supplemental compensation and other payments unpaid as of the date Coach gives notice of termination, unless Coach's right to receive those payments has vested pursuant to the terms of this Agreement.

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 provide for in the State Board of Education and Board of Regents of the University of Idaho Rule Manual (IDAPA 08) and 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 by the University's Board of Regents 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 Regents, 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 Regents and University's rules regarding financial exigency.

6.2 University Property. All personal property (excluding vehicle(s) provided through the Vandal Wheels 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
University of Idaho
P.O. Box 442302
Moscow, Idaho 83844-2302

with a copy to: President
University of Idaho
P.O. Box 443151
Moscow, ID 83844-3151

the Coach: Jon Newlee
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 Regents.

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 either consulted with legal counsel or chosen not to. 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

M. Duane Nellis, President Date

Jon Newlee Date

Approved by the Board of Regents on the ____ day of _____, 2010.

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~~Approved by the SBOE March 18, 2000 (applies to all Board governed institutions).~~

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between _____~~(the~~ University ~~(College of~~ Idaho ~~(University)~~, and _____~~Jon Newlee~~ (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University ~~(College)~~ 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)'s~~ 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)'s~~ University's President (President).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the ~~University (College)'s~~ University's athletic program as the Director may assign and as may be described elsewhere in this Agreement. The University ~~(College)~~ shall have the right, at any time, to reassign Coach to duties at the University ~~(College)~~ 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)~~ 3.2.12 shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of _____ ~~(=~~ five (5) years, ~~commencing on~~ _____ effective March 27, 2010, and terminating, without further notice to Coach, on _____ March 26, 2015, 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)~~ 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)'s Board of ~~(Regents or 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)~~.

ARTICLE 3

3.1 Regular Compensation.

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

- a) An annual salary of \$~~_____~~\$90,000 per year, payable in biweekly installments in accordance with normal University ~~(College)~~ procedures, ~~and such salary increases as may.~~ Coach will be determined appropriate eligible to receive University-wide changes in employee compensation upon approval by the Director ~~and, the~~ President, and ~~approved by the~~ University (College)'s Board of ~~-(Regents or Trustees)-~~;
- b) The opportunity to receive such employee benefits as the University ~~(College)~~ provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the ~~University (College)'s~~ 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.

3.2 Supplemental Compensation

~~3.2.1.~~ 3.2.1. Each year the Team is the conference champion or co-champion ~~and also or~~ becomes eligible for ~~a (bowl game the NCAA tournament 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 University's head ~~—(Sport)—~~ women's basketball 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 one-thirteenth (1/13) of Coach's Annual Salary during the fiscal year in which the championship ~~and —(bowl or other post season)—or NCAA tournament~~ eligibility ~~are~~ is achieved. The University ~~(College)~~ shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

~~3.2.1.~~ 3.2.2. Each year the Team is ranked in the top 25 in any published national final poll of intercollegiate women's basketball teams and if Coach continues to be employed as University's head women's basketball coach as of the ensuing July 1st, the University shall pay Coach supplemental compensation in an amount equal to one-thirteenth (1/13) 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.

3.2.23 Each year Coach is named Conference Coach of 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)~~ Year, and if Coach continues to be employed as University (College)'s University's head ~~(Sport)~~ women's basketball coach as of the ensuing July 1st, ~~the University (College) Coach~~ shall ~~pay Coach~~ receive supplemental compensation ~~in an amount equal to~~ ~~(amount or computation)~~ of ~~Coach's Annual Salary in effect on the date of the final poll~~ \$2,000. The University ~~(College)~~ shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.3 ~~Each year~~ Each year Coach shall be eligible to receive supplemental compensation ~~in an amount up to~~ ~~(amount or computation)~~ each year based on the academic achievement and behavior of Team members. ~~The determination of whether Coach will receive such supplemental compensation and if the timing of~~ Team's cumulative APR ranks nationally above 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~~ 50th percentile 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.~~ women's basketball teams as follows:

National rank within sport

50th - 60th % = \$500

60th - 70th % = \$750

70th - 80th % = \$1,000

80th % or above = \$1,250

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 ~~Each 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)~~ \$15,000 from the University ~~(College)~~ or the University (College)'s University'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~~ Each year, one-

half of this sum shall be paid prior to the first regular season women's basketball game, and one-half shall be paid no later than two weeks after the last regular season women's basketball game or post season game, whichever occurs later. Coach's right to receive the second half of 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, and contingent upon Coach's continued employment as of that date. Coach's right to receive any such media payment)~~, under this Paragraph is expressly contingent on Coach's compliance with University's financial stewardship policies as set forth in University's Administrative Procedures Manual Chapter 25. 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, through a media outlet that is not University-designated, 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 that~~ are broadcast on radio or television and that conflict with those broadcast on the University (College)'s University's designated media outlets.

3.2.6 ~~(SUMMER CAMP—OPERATED BY UNIVERSITY (COLLEGE))~~If Coach continues to be employed as University's head women's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of \$3,000 for 14 victories; an additional \$3,000 for 17 victories; and an additional \$3,000 for 20 victories. The victories will include contests in both non-conference and conference competition. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.7 Each year gate receipts for women's basketball exceed \$15,000, and if Coach continues to be employed as University's head women's basketball coach as of the ensuing July 1st, Coach shall receive supplemental compensation of 25% of the gate receipts that exceed \$15,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.8 Each year the Team progresses to the Round of 16 in the NCAA tournament, the Coach shall receive supplemental compensation of \$5,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.9 Each year the Team receives an invitation to participate and plays in the WNIT, the Coach shall receive supplemental compensation of \$2,500. The University shall

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

3.2.10 Each year the Team receives an invitation to participate and plays in the WBI, the Coach shall receive supplemental compensation of \$1,000. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.11 Non-Conference Basketball Net Game Guarantee

- a. Each year Coach continues to be employed as University's head coach of its intercollegiate women's basketball team as of the ensuing May 1st following the end of the competitive season, the University shall pay to Coach supplemental compensation equal to a Net Game Guarantee (as defined in paragraph b below). Such supplemental compensation will be paid to Coach prior to the end of the current fiscal year in an appropriate manner as determined by the University.
- b. The Net Game Guarantee will be calculated as follows: from the gross revenue paid to the University by all non-conference opponents during the regular competitive season, the University will deduct a base amount of \$10,000, and will further deduct any game guarantees (including travel, hotel or other support provided to an opponent) paid out to non-conference opponents during the same regular competitive season. The remaining balance shall be the Game Guarantee paid to the Coach.
- c. The Coach shall schedule at least one non-conference game, in consultation with the Director of Athletics, that will generate net revenue to the University of a minimum of \$10,000.

3.2.12 Coach agrees that the University ~~(College)~~ has the exclusive right to operate youth ~~-(Sport)-~~ basketball camps on its campus using University ~~(College)~~ facilities. The University ~~(College)~~ shall allow Coach the opportunity to earn supplemental compensation by assisting with the ~~University (College)'s~~ University's camps in Coach's capacity as a University ~~(College)~~ employee. Coach hereby agrees to assist in the marketing, supervision, and general administration of the ~~University (College)'s football~~ University's youth 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 youth basketball camps, the~~ University ~~(College)'s summer football camps, the University (College)~~ shall pay Coach ~~-(amount)-~~ per year as supplemental compensation during each year ~~the remaining income from the youth basketball camps, less \$500, after all claims, insurance, and expenses of his employment as head (Sport) coach at the University (College). This amount shall be~~ such camps have been paid ~~-(terms of payment)-~~.

Alternatively, in the event the University notifies Coach, in writing that it does not intend to operate youth basketball camps for a particular period of time during the term of this Agreement, then, during such time period, Coach shall be permitted to operate youth basketball camps on the University's campus and using its facilities under the following terms and conditions:

:

- a) The summer youth camp operation reflects positively on the University of Idaho 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 of Idaho personnel, equipment, or facilities without the prior written approval of the Director;
- c) Assistant coaches at the University of Idaho are given priority when the Coach or the private enterprise selects coaches to participate;
- d) The Coach complies with all NCAA, Conference, and University of Idaho 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 of Idaho and Sodexo for all campus goods and services required by the camp.
- f) The Coach or private enterprise pays for use of University of Idaho facilities.
- 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."
- 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 of Idaho 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 of Idaho while engaged in camp activities. The Coach and all other University of Idaho 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 of Idaho 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 of Idaho shall be released from all obligations relating thereto.

3.2.7—13 Coach agrees that the University ~~(College)~~ 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)~~. Coach recognizes that the University ~~(College)~~ is negotiating or has entered into an agreement with ~~—(Company Name)—~~ Nike to supply the University ~~(College)~~ with athletic footwear, apparel and/or equipment. Coach agrees that, upon the ~~University (College)'s~~ University's reasonable request, Coach will consult with appropriate parties concerning an ~~—(Company Name)—~~ product's Nike products design or performance, shall act as an instructor at a clinic sponsored in whole or in part by ~~—(Company Name)—~~ Nike, or give a lecture at an event sponsored in whole or in part by ~~—(Company Name)—~~ Nike, or make other educationally-related appearances as may be reasonably requested by the University ~~(College)~~. 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)—~~ Nike, Coach shall submit all outside consulting agreements to the University ~~(College)~~ for review and approval prior to execution. Coach shall also report such outside income to the University ~~(College)~~ in accordance with NCAA ~~(or NAIA)~~ rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including ~~—(Company Name)—~~ Nike, and will not participate in any messages or promotional appearances ~~which~~ that 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)~~ 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)~~ 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~~ that 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)~~ 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)~~, the ~~University (College)'s~~ 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)'s~~ 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)~~ and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit A.~~ 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)'s~~ University's Faculty-Staff Handbook; (c) ~~University (College)'s~~ University's Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA ~~(or NAIA)~~ rules and regulations; and (f) the rules and regulations of the ~~(Sport)~~ women's basketball conference of which the University ~~(College)~~ 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)~~, would reflect adversely upon the University ~~(College)~~ 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~~ that are consistent with Coach's obligations under this Agreement. Coach may not use the ~~University (College)'s~~ 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)'s~~ University's President for all athletically related income and benefits from sources outside the University ~~(College)~~ and shall ~~report~~ provide a written detailed account of the source and amount of all such income and benefits to the ~~University (College)'s~~ 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)~~ work day preceding June 30th. The report shall be in a format reasonably satisfactory to University ~~(College)~~. Sources of such income include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;
- (c) Housing benefits, including preferential housing arrangements;
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs; and
- (g) Endorsement or consultation contracts with athletics shoe, apparel or equipment manufacturers.

In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University ~~(College)~~ booster club, University ~~(College)~~ alumni association, University ~~(College)~~ 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)~~, the ~~University (College)'s~~ 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 the President and the ~~University (College)'s~~ University's Board of ~~(Trustees or Regents)~~.

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)~~ 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/or regulations of the University, the University's governing board, the conference, or the NCAA.

5.1.1 In addition to the definitions contained in applicable policies, rules and/or regulations, of the University ~~(College)~~, the University's governing board, the conference or the NCAA, 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 ~~(College);~~;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University ~~(College);~~, the University ~~(College)~~'s governing board, the conference or the NCAA ~~(NAIA);~~, including but not limited to any such violation ~~which~~ that 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)'s~~ University's consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the ~~University (College)'s~~ University's judgment, reflect adversely on the University ~~(College)~~ or its athletic programs;
- f) The failure of Coach to represent the University ~~(College)~~ 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)~~ in any investigation of possible violations of any applicable law or the policies, rules or regulations of the University ~~(College);~~, the ~~University (College)'s~~ 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);~~, the ~~University (College)'s~~ 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)~~, the ~~University (College)'s~~ 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)~~ 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)~~ 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)'s~~ 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)~~ 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, including suspension without pay or termination of employment for significant or repetitive violations. This section applies to violations occurring at the University ~~(College)~~ or at previous institutions at which the Coach was employed.

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

5.2.1 At any time after commencement of this Agreement, University ~~(College)~~, 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)~~ terminates this Agreement for its own convenience, University ~~(College)~~ shall ~~be obligated to pay to~~ 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)~~ ~~until the term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first.~~ until the term of this Agreement ends or until Coach obtains employment, whichever occurs first; provided however,

in the event Coach obtains lesser employment after such termination, then the amount of compensation the University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such lesser employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the lesser employment, then subtracting from this adjusted gross compensation deductions according to law. In addition, Coach will be entitled to continue his health insurance plan and group life insurance as if he remained a University ~~(College)~~-employee until the term of this Agreement ends or until Coach obtains employment providing Coach with a reasonably comparable ~~employment~~health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform University within ten business days of obtaining other employment and to advise University of all relevant terms of such employment, including without limitation the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise University shall constitute a material breach of this Agreement and University's obligation to pay compensation under this provision shall end. Coach further agrees to repay to University all compensation paid to him by University after the date he obtains other employment, to which he is not entitled under this provision.

5.2.3 ~~The parties have both~~University has been represented by legal counsel, and coach has either been represented by legal counsel or has chosen to proceed without legal counsel in the contract negotiations ~~and. 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 ~~(College), which damages that~~ are extremely difficult to determine with certainty. The parties further agree that the payment of such ~~liquidated damages~~ compensation 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. Such compensation is~~ 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)~~ for the entire term of this Agreement is of the essence of this Agreement. The Coach also recognizes that the University ~~(College)~~ 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)~~ 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)~~. Termination shall be effective ten (10) days after notice is given to the University ~~(College)~~.

———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 ~~_____~~, March 26, 2011, the sum of ~~\$3090,000.00~~; (b) if the Agreement is terminated between ~~_____~~ March 27, 2011 and ~~_____~~ March 26, 2012 inclusive, the sum of ~~\$2050,000.00~~; (c) if the Agreement is terminated between ~~_____~~ March 27, 2012 and March 26, 2013 inclusive, the sum of \$25,000.00; (d) if the Agreement is terminated between March 27, 2013 and ~~_____~~ March 26, 2014 inclusive, the sum of ~~\$10,000.00. The liquidated damages 15,000;~~ (e) if the Agreement is terminated between March 27, 2014 and March 26, 2015 inclusive, the sum of \$0. Any sum payable under the terms of this provision 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 costs~~ are extremely difficult to determine with certainty. The parties further agree that the payment of such ~~liquidated damages sums~~ 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. Such payments~~ 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 Except as ~~provide~~ provided 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 unpaid as of the date Coach gives notice of termination, unless Coach's right to receive those payments has vested pursuant to the terms of this Agreement.

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)'s~~ 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)~~ 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)'s~~ 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)~~.

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

5.6- No Liability. The University ~~(College)~~ 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 ~~(College)~~ employees, if the University ~~(College)~~ 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)~~ from compliance with the notice, appeal, and similar employment-related rights provide for in the State Board of Education and Board ~~or~~ of Regents of the University of Idaho Rule Manual (IDAPA 08) and Governing Policies and Procedures Manual, and the University ~~(College)~~ Faculty-Staff Handbook.

ARTICLE 6

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

6.2 University ~~(College)~~ Property. All personal property (excluding vehicle(s) provided through the _____ Vandal Wheels 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 ~~(College)~~ or developed by Coach on behalf of the University ~~(College)~~ or at the ~~University (College)'s~~ University's direction or for the ~~University (College)'s~~ University's use or otherwise in connection with Coach's employment hereunder, are and shall remain the sole property of the University ~~(College)~~. Within twenty-four (24) hours of the expiration of the

term of this ~~agreement~~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)~~.

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 ~~therefor~~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)s~~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)~~: _____ Director of Athletics
 _____ University of Idaho
 _____ P.O. Box 442302
 _____ Moscow, Idaho 83844-2302

with a copy to: President
 _____ University of Idaho
 _____ P.O. Box 443151
 _____ Moscow, ID 83844-3151

the Coach: _____ Jon Newlee
 Last known address on file with
University (College)'s 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)'s University's prior written consent in each case, use any name, trade name, trademark, or other designation of the University ~~(College)~~ (including contraction, abbreviation or simulation), except in the course and scope of his official University ~~(College)~~ 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)'s University's Board of ~~(Regents or 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 either consulted with legal counsel or chosen not to. 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)~~

COACH

Date M. Duane Nellis, President Date _____
_____ Jon Newlee

Approved by the Board of ~~Regents or Trustees~~ on the ____ day of _____,
~~2000~~ _____, 2010.

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JON NEWLEE – HEAD WOMEN’S BASKETBALL COACH MULTI-YEAR CONTRACT – SUBSTANTIVE MODIFICATIONS FROM SBOE FORM		
Model Contract Section	UI Contract Section	Modification/Justification for Modification
3.1.1 Regular Compensation	3.1.1 Regular Compensation	Allows for annual increases consistent with University-wide salary increases.
3.2.1 Supplemental Compensation	3.2.1 Supplemental Compensation	Allows for supplemental compensation if team is conference champion or co-champion, or becomes eligible for the NCAA tournament.
3.2.3 Supplemental Compensation	3.2.3 Supplemental Compensation	Allows for supplemental compensation if Coach is named Conference Coach of the Year; moves supplemental compensation for academic achievement to section 3.2.4.
3.2.3 Supplemental Compensation	3.2.4 Supplemental Compensation	Provides for supplemental compensation if team’s cumulative APR ranks at certain levels nationally. This language establishes a more objective standard for academic achievement and has been used in past contracts approved by the Board.
3.2.4 Supplemental Compensation	deleted	Deletes existing provisions for supplemental compensation based on ticket sales, fundraising and outreach. Replaced by 3.2.7.
3.2.5 Supplemental Compensation	3.2.5 Supplemental compensation	Language calls for media compensation to be paid ½ at the beginning of the regular season and ½ after the last date of competition. This recognizes that much media work has been done by the coach prior to commencement of the season, and at the same time retains ½ of the payment as motivation for completing the season. Payment is made contingent on coach’s compliance with University financial stewardship policies.
3.2.6 Summer Camps	3.2.12 Summer camps	Renumbered. Amount of compensation for participation in University’s summer basketball camps not specified. Coach will receive balance of income from camp, less \$500, after all operational expenses have been paid. Includes alternative provision allowing coach to operate summer camps as a private enterprise if the University opts not to run them. The Board has previously approved these provisions.
3.2.6 Summer camps	3.2.6 Supplemental compensation	Provides for payment of \$3000 for 14 wins, an additional \$3000 for 17 wins, and an additional \$3000 for 20 wins.
3.2 Supplemental Compensation	3.2.7 Supplemental Compensation	Provides for payment to Coach of 25% of gate receipts above \$15000.
3.2 Supplemental Compensation	3.2.8 Supplemental Compensation	Provides for payment of \$5000 if Team reaches Sweet Sixteen at NCAA tournament.
3.2 Supplemental Compensation	3.2.9 Supplemental Compensation	Provides for payment of \$2500 if Team plays in Women’s National Invitational Tournament (WNIT).

JON NEWLEE – HEAD WOMEN’S BASKETBALL COACH MULTI-YEAR CONTRACT – SUBSTANTIVE MODIFICATIONS FROM SBOE FORM		
3.2 Supplemental Compensation	3.2.10 Supplemental Compensation	Provides for payment of \$1000 if Team plays in Women’s Basketball Invitational tournament (WBI).
3.2 Supplemental Compensation	3.2.11 Supplemental Compensation	Provides for payment of a Net Game Guarantee from revenue for non-conference basketball games, after deduction of a base amount of \$10,000. Coach is required to schedule at least one non-conference game that will generate net revenue to the University of at least \$10,000.
3.2.7 Supplemental Compensation	3.2.13 Supplemental Compensation	Renumbered. No substantive changes.
4.3 NCAA Rules	4.3 NCAA Rules	Revised to conform to NCAA Rule 11.2.2 effective 3/8/06. Rule requires a written detailed account of athletically related income and identifies some of the sources that must be reported as “including but not limited to...”
5.1.4 Termination of Coach for Cause	5.1.4 Termination of Coach for Cause	Adds suspension without pay and termination for significant or repetitive violations as possible disciplinary/corrective actions.
5.2.2 University Termination for Convenience	5.2.2 University Termination for Convenience	Language allows the University to offset salary received by Coach for lesser employment obtained after University termination for convenience. Prior language would allow coach to take lesser employment and continue to receive full termination payment. Language also requires Coach to inform University of the terms of any new employment so University can accurately determine the compensation, if any, to which Coach is entitled. References to liquidated damages are deleted because the compensation due upon termination for convenience flows from a contractual right to terminate and not from a breach of the contract. The non-terminating party is entitled to compensation, not damages for breach.
5.2.3 Representation by Counsel	5.2.3 Representation by Counsel; compensation for termination	Language clarifies that the parties have been represented by counsel or that Coach <u>chose to proceed without counsel</u> during the negotiations. The underlined language is new and recognizes the fact that we cannot require candidates to retain counsel. References to liquidated damages are deleted for the same reason as in 5.2.2.
5.3.3 Coach Termination for Convenience	5.3.3 Coach Termination for Convenience	References to liquidated damages are deleted for the same reason as in 5.2.2.
5.3.4 Compensation for termination	5.3.4 Compensation for termination	References to liquidated damages are deleted for the same reason as in 5.2.2.
6.16 Opportunity to Consult with Attorney	6.16 Opportunity to Consult with Attorney	Adds language similar to 5.2.2 to make clear that Coach had the opportunity to consult with counsel and either did or chose not to.