

**BUSINESS AFFAIRS AND HUMAN RESOURCES
DECEMBER 13, 2012**

TAB	DESCRIPTION	ACTION
	AMENDMENT TO BOARD POLICY	
1	Section II.G. – Policies Regarding Faculty – Second Reading	Motion to approve
	AMENDMENT TO BOARD POLICY	
2	Section II.H. – Coaching Personnel – Second Reading	Motion to approve
	BOISE STATE UNIVERSITY	
3	Multi-Year Employment Agreement – Neil Resnick, Co-Head Women’s Gymnastics Coach	Motion to approve
	BOISE STATE UNIVERSITY	
4	Amendment to Boise State University Supplemental Pension Plan	Motion to approve
	BOISE STATE UNIVERSITY	
5	Salary Continuation Benefit for Adjunct Faculty	Motion to approve
	UNIVERSITY of IDAHO	
6	Multi- Year Employment Agreement – Jeff Beaman Director of Tennis	Motion to approve

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BUSINESS AFFAIRS AND HUMAN RESOURCES
DECEMBER 13, 2012

SUBJECT

II.G. Policies Regarding Faculty (Institutional Faculty Only) – Second Reading

REFERENCE

February 2012	Board approved second reading for II.G. Policies Regarding Faculty (Institutional Faculty Only)
October 2012	Board approved first reading for II.G. Policies Regarding Faculty (Institutional Faculty Only)

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section II.G. Policies Regarding Faculty (Institutional Faculty Only)

BACKGROUND/DISCUSSION

Board Policy II.G.6 is intended to provide coverage for the acquisition and evaluation of tenure for institutional faculty. Specifically, Board Policy II.G.6 (e), provides that in granting tenure, the chief executive officer will consider the evaluations of each candidate by a committee appointed for the purpose of annual evaluations and tenure status.

Currently, Board Policy II.G.6 (e) requires the composition of the committee to include students and non-tenured faculty. Institutions would like to amend the policy to make that representation optional. In May 2012, the Council on Academic Affairs and Programs considered the proposed policy amendments and recommended approval.

IMPACT

The amendments to Board Policy II.G.6 (e) will allow institutions to begin reorganizing their tenure evaluation committees.

ATTACHMENTS

Attachment 1 – II.G Policies Regarding Faculty, 2nd reading Page 3

STAFF COMMENTS AND RECOMMENDATIONS

There were no changes between first and second reading. Staff recommends approval as presented.

BOARD ACTION

I move to approve the second reading of amendments to Board Policy II.G. Policies Regarding Faculty (Institutional Faculty Only) as presented.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

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GOVERNING POLICIES AND PROCEDURES**SECTION: II. HUMAN RESOURCES POLICIES AND PROCEDURES****Subsection: G. Policies Regarding Faculty (Institutional Faculty Only) December 2012**

1. Letters of Employment

- a. All faculty employees serve pursuant to employment contracts. The employment contract must include the period of the appointment, salary, pay periods, position title, employment status and such other information as the institution may elect to include in order to define the contract of employment. Non-tenured faculty employees have no continued expectation of employment beyond their current contract of employment. Each faculty employee must acknowledge receipt and acceptance of the terms of the employment contract by signing and returning a copy to the institution initiating the offer of appointment. Failure or refusal of the faculty employee to sign and return a copy of the employment contract within the time specified in the contract is deemed to be a rejection of the offer of employment unless the parties have mutually agreed in writing to extend the time. Nothing in this paragraph prohibits the institution from extending another offer to the employee in the event the initial offer was not signed and returned in a timely manner. Any alteration by the employee of the offer is deemed a counter-offer requiring an affirmative act of acceptance by an officer authorized to enter into contracts of employment binding the institution. Each contract of employment must include a statement to the following effect and intent: "The terms of employment set forth in this letter (contract) of employment are also subject to the Governing Policies and Procedures of the State Board of Education (or the Board of Regents of the University of Idaho, in the case of the University of Idaho), and the policies and procedures of (the institution)."
- b. Term of Appointment - All non-tenure faculty employees have fixed terms of employment. Except as provided herein, no contract of employment with such an employee may exceed one (1) year. The institutions may implement policies allowing for multi-year contracts for certain classifications of non-tenure track faculty members. Such policies must include, at a minimum, the following requirements: (1) no contract of appointment may exceed three (3) years without prior Board approval; (2) all multi-year employment contracts shall be approved in writing by the institution's Chief Executive Officer or designee; and (3) all multi-year contracts must be reported to the Board at the next regular meeting. Employment is subject to satisfactory annual performance review with informal review at the end of each semester.

A multi-year contract shall also state that it may be terminated at any time for adequate cause, as defined in Section II.L. of Board policy, or when the Board declares a state of financial exigency, as defined in Section II.N. of Board policy. The contract shall also state that it may be non-renewed pursuant to Section II.G.5. of Board policy.

Employment beyond the contract period may not be legally presumed. Reappointment of a faculty employment contract is subject solely to the discretion of the chief executive officer of the institution, and, where applicable, of the Board.

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- c. Non-tenured faculty and tenured faculty, who serve pursuant to contracts of employment or notices (letters) of appointment containing a stated salary are not guaranteed such salary in subsequent contracts or appointments, and such salary is subject to adjustment during the contract period due to financial exigency (as provided for in Section II.N of Board Policy) or through furlough or work hour adjustments (as provided for in section II.B.2.c of Board Policy).

- d. Faculty Rank and Promotion
 - i. There are four (4) primary faculty ranks at each institution: (a) professor, (b) associate professor, (c) assistant professor, and (d) instructor. Each institution may establish additional faculty ranks, specify the title of each rank, and delineate the requirements for each faculty rank so established. Recommendations for additional faculty ranks must be submitted by the chief executive officer to the Board for approval.

 - ii. Faculty rank, including initial appointment to faculty rank and any promotion to a higher rank at an institution, is located in a department or equivalent unit.

 - iii. Each institution must establish criteria for initial appointment to faculty rank and for promotion in rank at the institution. Such criteria must be submitted to the Board for approval, and upon approval must be published and made available to the faculty.

 - iv. Persons who have made substantial contributions to their fields of specialization or who have demonstrated exceptional scholarship and competence or appropriate creative accomplishment of recognized outstanding quality may be appointed to faculty rank without satisfying established institutional criteria for initial appointment or promotion, provided that the qualifications of such individuals have been reviewed in accordance with institutional procedures and the appointment is recommended by the chief executive officer and approved by the Board.

 - v. A non-classified employee may hold faculty rank in a department or equivalent unit in which rank has previously been established by the institution. A non-classified employee may be granted rank at the time of appointment or subsequent thereto, or may be promoted in rank, if such employee meets the criteria for rank as established by the institution and approved by the Board.

GOVERNING POLICIES AND PROCEDURES**SECTION: II. HUMAN RESOURCES POLICIES AND PROCEDURES****Subsection: G. Policies Regarding Faculty (Institutional Faculty Only) December 2012****2. Compensation****a. Salary**

All initial salaries for faculty employees are established by the chief executive officer, subject to approval by the Board where applicable. Payment in addition to regular salaries must be authorized by the chief executive officer and reported to the Board. The Board may make subsequent changes for faculty employee positions or may set annual salary guidelines and delegate to its executive director authority to review compliance with its annual guidelines. Any annual salary increase outside Board guidelines requires specific and prior Board approval before such increase may be effective and paid to the employee. With the exception of the chief executive officers, and other positions whose appointment is a reserved Board Authority, approval of salaries shall be effective concurrently with Board approval of annual operating budgets for that fiscal year.

b. Salaries, Increases and other Compensation related items

- i. For purposes of categorizing faculty employees for salary and reporting purposes, the following definition applies: Faculty includes all persons whose specific assignments customarily are made for the purpose of conducting instruction, research, or public service as a principal activity (or activities), and who hold the following academic rank or titles of professor, associate professor, assistant professor, instructor, lecturer, or the equivalent of any of these academic ranks. Report in this category deans, directors, or the equivalents, as well as associate deans, assistant deans, and executive officers of academic departments (chairpersons, heads, or the equivalent) if their principal activity is instructional. Do not include student teaching or research assistants or medical interns or residents. (For reporting purposes, deans, associate deans, and assistant deans are included in the executive/administrative category.)
- ii. Credited State Service/Full Time Status - A faculty member employed for an academic year and paid over a twelve-month period will be credited with twelve (12) months of state service. For all benefit status determinations and calculations, faculty members shall be considered full time, year round employees of the employing institution as long as the employee's teaching; research and service duties are commensurate with the full time faculty work load assignment as defined by the employing institution.
- iii. Pay Periods - All faculty employees, including those on academic year appointments, are paid in accordance with a schedule established by the state controller.

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Subsection: G. Policies Regarding Faculty (Institutional Faculty Only) December 2012

- iv. Automobile Exclusion - Unless expressly authorized by Board policy, no faculty employee will receive an automobile or automobile allowance as part of his/her compensation.

3. Annual Leave

- a. Only faculty members serving twelve (12) month appointments earn annual leave. Such annual leave shall be earned in the same manner as for non-classified employees.
- b. Pursuant to section 59-1606(3), Idaho Code, when a faculty member has accrued annual leave for service on a 12 month appointment, and subsequently such faculty member returns to a faculty position of less than 12 months where annual leave does not accrue, then the institution may pay the faculty member, as supplemental pay, the accrued annual leave balance.

c. Sabbatical Leave

i. Eligibility

A sabbatical leave may be granted at the discretion of the chief executive officer to a tenured faculty member (or a professional-technical faculty member) who has completed at least six (6) years of full-time service at an institution. A sabbatical leave may not be awarded to the same faculty member more than once in any six (6) academic years and sabbatical leave time is not cumulative. Sabbatical leave proposals must be submitted, reviewed, and processed according to policies and procedures established at each institution. A sabbatical leave may be used for the purpose of acquiring new professional skills and updating professional skills or conducting research. Sabbatical leave awards are fully dependent on the availability of appropriate funding.

ii. Term

The term of a sabbatical leave is either one (1) academic semester at full pay or two (2) semesters at half pay.

iii. Condition

Each faculty member who is granted a sabbatical leave must serve at the institution for at least one (1) academic year after completion of the sabbatical unless the chief executive officer approves a waiver of the requirement.

iv. Report on Sabbatical Leave

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By the end of the first semester following return to the institution from a sabbatical leave, the faculty member must submit a written account of sabbatical activities and accomplishments to the academic vice president.

v. Report to the Board

The chief executive officer must report the names of faculty members awarded sabbatical leaves and a brief statement of the purposes of each sabbatical in their semi-annual report to the Board

4. Performance Evaluation

- a. Annual Evaluation - Each year the chair of a department must submit to the dean of the chair's college an evaluation of each faculty member in the department. This evaluation, together with the input of higher administrators, will be used as (1) basis for the final recommendation relative to reappointment, non-reappointment, acquisition of tenure, or other personnel action, whichever is appropriate. The chairman must communicate an assessment of strengths and weaknesses to each faculty member evaluated.
- b. Evaluation Criteria - Evaluation of faculty should be made in terms of the individual's effectiveness. Each institution shall publish its criteria for annual evaluation and ensure that all members of the faculty have access to the criteria.
- c. Any written recommendations that result from evaluation of a faculty employee will be given to the employee and a copy will be placed in the employee's file.
- d. Each institution must develop policies, procedures, and measurement instruments to be used in the evaluation by students of faculty teaching effectiveness.

5. Non-renewal of Non-tenured Faculty Members

- a. Notice of non-renewal must be given in writing and in accordance with the following standards:
 - i. First Year Of Service - Not later than March 1 of the first full academic year of service if the appointment is not to be renewed at the end of the academic year; or if a one-year appointment terminates during an academic year and is not to be renewed, at least three (3) months in advance of its termination.
 - ii. Second Year of Service - Not later than December 15 of the second full academic year of service if the appointment is not to be renewed at the end of the academic year; or, if the appointment terminates during an academic year and is not to be renewed, at least six (6) months in advance of its termination.

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- iii. Three (3) Or More Years Of Service – Not later than July 15 preceding the academic year at the end of which the appointment is to be terminated; or, if the appointment terminates during an academic year and is not to be renewed, at least twelve (12) months in advance of its termination.
- iv. Failure to provide timely notice of non-renewal because of mechanical, clerical, or mailing error does not extend or renew the letter or contract of employment for another term, but the existing term of employment will be extended to provide the employee with a timely notice of non-renewal.
- v. Financial Exigency - Notice of non-renewal is not required when the Board has authorized a reduction in force resulting from a declaration of financial exigency and a non-tenured faculty member is to be laid off. In that event, notice of layoff must be given as provided under the policies for reduction in force.

b. Request For Review

- i. Non-renewal is not subject to investigation or review except that the employee may request an investigation or review to establish that written notice was or was not received in accordance with the time requirements set forth in this section. In such cases, the investigation or review will be concerned only with manner and date of notification of non-renewal. The employee must request such investigation or review in writing of the chief executive officer within fifteen (15) days of receipt of the written notice of non-renewal.
 - ii. Provided, however, that if the non-tenured faculty member presents bona fide allegations and evidence in writing to the chief executive officer of the institution that the non-reappointment was the result of discrimination prohibited by applicable law, the non-tenured faculty member is entitled to use the internal discrimination grievance procedure to test the allegation. In such cases, the same procedures, burden of proof, time limits etc. as set forth for the grievance of non-renewal by non-classified employees shall be used (see subsection F).
- c. Non-tenured faculty members who are notified that they will not be reappointed or that the succeeding academic year will be the terminal year of appointment are not entitled to a statement of reasons upon which the decision for such action is based. No hearing to review such a decision will be held.

6. Tenure

- a. Tenure Defined - Tenure is a condition of presumed continuous employment following the expiration of a probationary period and after meeting the appropriate criteria. After tenure has been awarded, the faculty member's

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service may be terminated only for adequate cause; except in the case of retirement or financial exigency as declared by the Board; in situations where extreme shifts of enrollment have eliminated the justification for a position; or where the Board has authorized elimination or substantial reduction in a program. Tenure status is available only to eligible, full-time institutional faculty members, as defined by the institution. All faculty appointments are subject to the approvals as required in Board policy. Nontenured members of the faculty are appointed to term appointments pursuant to subsection G1. Any commitment to employ a nontenured member of the faculty beyond the period of his or her current term of appointment is wholly ineffective.

b. Acquisition of Tenure

- i. Professional-Technical Faculty hired under the division of professional-technical education prior to July 1, 1993 who were granted tenure may retain tenure in accordance with these policies. Individuals hired under the Division of Professional-Technical education subsequent to July 1, 1993 are hired and employed as nontenure track faculty and will:
 - 1) be afforded the right to pursue promotion; and
 - 2) be considered and granted an employment contract in accordance with these policies and be subject to continued acceptable performance and/or the needs of the institution; and
 - 3) be afforded an opportunity to serve on institutional committees.
- ii. Academic faculty members, after meeting certain requirements, established by the employing institution, may acquire tenure. Each institution shall develop policies for the acquisition of tenure that are consistent with this general philosophy and policy statement of the Board. Acquisition of tenure is not automatic, by default or defacto, but requires an explicit judgment, decision, and approval. A faculty member is eligible to be evaluated for the acquisition of tenure after having completed four (4) full years of academic employment at the institution, although tenure may be awarded prior to completion of this initial eligibility period in certain exceptional cases as provided in Board Policy II.G.6.d.iv.1). In addition, an academic faculty member must be evaluated for the acquisition of tenure not later than the faculty member's sixth (6th) full academic year of employment at the institution. In certain exceptional cases a faculty member may petition for extension of the timeline for tenure due to extenuating circumstances as provided in Board Policy II.g.6.d.iv.2).

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- c. Notification - An individual eligible for tenure must be informed, by proffered written contract, of appointment or nonappointment to tenure not later than June 30 after the academic year during which the decision is made. In case of denial of tenure, the faculty member must be given a written notice that tenure was denied.

- d. Standards of Eligibility for Tenure
 - i. Annual Appointments - Until the acquisition of tenure, all appointments are made for a period not to exceed one (1) year. Prior to the award of tenure, employment beyond the annual term of appointment may not be legally presumed.

 - ii. Service in Professional Rank - All satisfactory service in any professorial rank may be used to fulfill the time requirement for acquiring tenure. Each institution must develop criteria and rules by which prior service may be evaluated for inclusion in experience necessary for acquiring tenure.

 - iii. Service in Instructor Rank - A maximum of two (2) years satisfactory service in the rank of instructor at the institution will be allowed in partial fulfillment of the time requirement in the professorial ranks. Faculty members who hold the rank of instructor may be eligible for tenure status if provided for by the institution even though they teach in fields that have established professorial ranks.

 - iv. Exceptional Cases
 - 1) Tenure may be awarded prior to completion of the usual eligibility period in certain exceptional cases. In such cases, the burden of proof rests with the individual.
 - 2) Extension of the tenure review period may be granted in certain exceptional cases. In such cases the faculty member must formally request such an extension and indicate the reason for the request. An institution that permits an extension of the tenure review period must include in its policies the procedure a faculty member must follow to request such an extension, and the basis for determining the modified timeline for review.

- e. Evaluation For Tenure - It is expected that the chief executive officer, in granting tenure, will have sought and considered evaluations of each candidate by a committee appointed for the purpose of annual evaluations or tenure status. Such committee must include tenured faculty. It may also include non-tenured faculty; student representation; and one (1) or more representatives from outside the department. Each member of the committee

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- has an equal vote on all matters. The committee must give proper credence and weight to collective student evaluations of faculty members, as evidenced by an auditing procedure approved by the chief executive officer. The recommendation of the committee will be forwarded in writing through appropriate channels, along with written recommendations of the department chairperson or unit head, dean, and appropriate vice president, to the chief executive officer, who is responsible for making the final decision.
- f. Award of Tenure - The awarding of tenure to an eligible faculty member is made only by a positive action of the chief executive officer of the institution. The president must give notice in writing to the faculty member of the approval or denial of tenure. Notwithstanding any provisions in these policies to the contrary, no person will be deemed to have been awarded tenure because notice is not given
- g. Periodic Performance Review of Tenured Faculty Members - It is the policy of the Board that at intervals not to exceed five (5) years following the award of tenure to faculty members, the performance of tenured faculty must be reviewed by members of the department or unit and the department chairperson or unit head. The review must be conducted in terms of the tenured faculty member's continuing performance in the following general categories: teaching effectiveness, research or creative activities, professional related services, other assigned responsibilities, and overall contributions to the department.
- i. Procedures for periodic review - Each institution must establish procedures for the performance review of tenured faculty members at the institution. Such procedures are subject to the review and approval of the Board. Each year the academic vice president or designee is responsible for designating in writing those tenured faculty members whose performance is subject to review during the year.
- ii. Review standards - Each institution may establish its own internal review standards subject to approval by the Board. Absent such institutional standards, the institution must use the following standards.

If during the periodic review, the performance of a tenured faculty member is questioned in writing by a majority of members of the department or unit, the department chairperson or unit head, the appropriate dean, the appropriate vice president, or the chief executive officer, then the appropriate vice president or equivalent administrator must decide whether a full and complete review must be conducted in accordance with the procedures established for the initial evaluation for tenure at the institution. If during the periodic review, the performance of a tenured faculty member is not questioned in writing, members of the department or unit and the department chairperson or unit head must prepare a written

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review statement that the performance review has been conducted and that a full and complete review is not required.

- iii. Exception for Associate Professors in the Promotion Process - Generally, the promotion from the rank of associate professor to full professor is considered no earlier than the fifth full year after attaining the rank of associate professor, which is generally contemporaneous with the granting of tenure. In such cases, if review for promotion to full professor is scheduled during the fifth, sixth or seventh full year after the award of tenure then the promotion review may, if it meets substantially similar criteria and goals of the post tenure review, take the place of the periodic performance review described here.
- iv. Termination of employment - If, following a full and complete review, a tenured faculty member's performance is judged to have been unsatisfactory or less than adequate during the period under review, the chief executive officer may initiate termination of employment procedures for the faculty member. In other words, an unsatisfactory or less than adequate performance rating shall constitute adequate cause for dismissal.
- h. Dismissal for Adequate Cause - Tenured faculty members may be dismissed for adequate cause as provided for in Subsection L of this Section.
- i. Tenure for Academic Administrators
 - i. "Academic administrators," for purposes of this topic, means the chief executive officer/presidents, chief academic officers/provosts, vice provosts or equivalent of the institutions, the deans, associate/assistant deans, and department chairs of the academic units of the institutions, and the vice presidents for research of the institutions, and shall not include persons occupying other administrative positions.
 - ii. An employee with tenure in an academic department or equivalent unit who is appointed to an academic administrator position retains tenure in that department or equivalent unit
 - iii. An individual hired for or promoted to an academic administrator may be considered for a tenured faculty rank in the appropriate department or equivalent unit. Such consideration is contingent upon approval by the institution's president.
 - iv. Upon termination of employment as an academic administrator, an employee with tenure may, at his or her option, return to employment in the department or equivalent unit in which he or she holds tenure unless such employee resigns, retires, or is terminated for adequate cause.

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- v. An individual hired for a non-academic administrator position from outside the institution will not be considered for tenured faculty rank in conjunction with such appointment. However, he or she may be granted an adjunct faculty appointment, upon the recommendation of the appropriate department and dean and with the approval of the provost or chief academic officer and president, if the individual will teach and otherwise contribute to that department.
- vi. Notwithstanding the above, each administrative employee who is granted tenure shall be reviewed in accordance to policies established at each institution for the evaluation of an academic administrator.
- j. Terminal Contract of Employment - If a faculty member is not awarded tenure, the chief executive officer must notify the faculty member of the decision not to recommend tenure and may, at his or her discretion, either issue to the faculty member a contract for a terminal year of employment, or, at the sole discretion of the chief executive officer, issue to the faculty member contracts of employment for successive periods of one (1) year each. Such appointment for faculty members not awarded tenure must be on an annual basis, and such temporary appointments do not vest in the faculty member any of the rights inherent in tenure and there shall be no continued expectation of employment beyond the annual appointment.
- k. When authorized by the chief executive officer, or his or her designee, the year in which the tenure decision is made may be the terminal year of employment.
- l. Effect of lapse in service, transfer, reassignment, reorganization, and administrative responsibilities.
 - i. A non-tenured faculty member who has left the institution and is subsequently reappointed after a lapse of not more than three (3) years may have his or her prior service counted toward eligibility for the award of tenure. Eligibility for the award of tenure must be clarified in writing before reappointment. A tenured faculty member who has left the institution and is subsequently reappointed after a lapse of not more than three (3) years must have tenure status clarified in writing by the president or his designee before appointment. The faculty member may be reappointed with tenure, or may be required to serve additional years before being reviewed for tenure status.
 - ii. Before a non-tenured faculty member holding academic rank is moved from one position in the institution to another, the member must be informed in writing by the academic vice president, after consultation with

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the receiving department, as to the extent to which prior service may count toward eligibility for tenure status.

- iii. No faculty member's tenure in a discipline may be adversely affected by the reorganization of the administrative structure. A faculty member's tenure is not affected by reassignment of administrative responsibilities.

- iv. When a tenured faculty member is serving as department chairman, college dean, or in some other administrative or service capacity, retention of membership, academic rank, and tenure in the subject-matter department or similar unit is maintained. Should the administrative or service responsibilities terminate, the member takes up regular duties in the discipline within which membership, academic rank, and tenure was retained.

**BUSINESS AFFAIRS AND HUMAN RESOURCES
DECEMBER 13, 2012**

SUBJECT

Idaho State Board of Education Policy II.H. – second reading

REFERENCE

October 2012

Board approved 1st reading limiting multi-year coach contracts to not more than three years.

APPLICABLE STATUTE, RULE, OR POLICY

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

BACKGROUND/DISCUSSION

At the October 2011 Board meeting, the chair of the Athletic Committee indicated the Committee wanted the institutions to be aware the Board is looking for four criteria when looking at contracts: 1) timelines, 2) meaningful academic incentives, 3) three-year terms (with some exceptions) and 4) liquidated damages. The chair reiterated that future contracts need to contain these criteria to be considered and follow the model contract in Board policy.

IMPACT

This policy revision would limit multi-year coach contracts to not more than three years, absent extraordinary circumstances. All such employment contracts would require prior Board approval.

ATTACHMENTS

Attachment 1 – Policy II.H. – second reading

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STAFF COMMENTS AND RECOMMENDATIONS

There were no changes from first to second reading. Staff recommends approval.

BOARD ACTION

I move to approve the second reading of proposed amendments to Board Policy Section II.H., Policies Regarding Coaching Personnel and Athletic Directors with all revisions as presented.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

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GOVERNING POLICIES AND PROCEDURES

1. Agreements Longer Than One Year

The chief executive officer of an institution is authorized to enter into a contract for the services of a head coach or athletic director with that institution for a term of more than one (1) year, but not more than three (3) years, subject to approval by the Board as to the terms, conditions, and compensation there under, and subject further to the condition that the contract of employment carries terms and conditions of future obligations of the coach or athletic director to the institution for the performance of such contracts. A contract in excess of three (3) years, or a rolling three (3) year contract, may be considered by the Board upon the documented showing of extraordinary circumstances. All contracts must be submitted for Board approval prior to the contract effective date. Each contract for the services shall follow the general form approved by the Board as a model contract. Such contract shall define the entire employment relationship between the Board and the coach or athletic director and may incorporate by reference applicable Board and institutional policies and rules, and applicable law. The December 9, 2010 Board revised and approved multiyear model contract is adopted by reference into this policy. The model contract may be found on the Board's website at <http://boardofed.idaho.gov/>.

2. Agreements For One Year Or Less

The chief executive officer of an institution is authorized to enter into a contract for the services of a head coach or athletic director with that institution for a term of one (1) year or less without Board approval. Each contract shall follow the general form approved by the Board as a model contract. Such contract shall define the entire employment relationship between the Board and the coach or athletic director and may incorporate by reference applicable Board and institutional policies and rules, and applicable law. The December 9, 2010 Board revised and approved model contract is adopted by reference into this policy. The single-year model contract may be found on the Board's website at <http://boardofed.idaho.gov/>.

3. Academic Incentives

Each contract for a head coach shall include incentives, separate from any other incentives, based upon the academic performance of the student athletes whom the coach supervises. The chief executive officer of the institution shall determine such incentives.

4. Part-time Coaches Excepted

The chief executive officer of an institution is authorized to hire part-time head coaches as provided in the policies of the institution. Applicable Board policies shall be followed.

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Subsection: H. Policies Regarding Coaching Personnel and Athletic Directors

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5. Assistant Coaches

The chief executive officer of the institution is authorized to hire assistant coaches as provided in the policies of the institution. Applicable Board policies shall be followed.

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BOISE STATE UNIVERSITY

SUBJECT

Three (3) year contract for Neil Resnick, Co-Head Women's Gymnastics Coach

APPLICABLE STATUTE, RULE, OR POLICY

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

BACKGROUND/DISCUSSION

Boise State University is requesting approval of a multi-year contract for its Co-Head Women's Gymnastics Coach. The contract will be for three (3) years.

IMPACT

The annual base salary from appropriated funds is \$71,400 the first year and \$76,500 each consecutive year with incentives as follows:

Athletic Incentive Pay may be earned as follows:

- | | |
|--|------------|
| – Conference Tournament Championships | \$2,000 |
| – or – | (Only One) |
| – Qualify Team for NCAA Regionals | \$1,500 |
| – Qualify Team for NCAA Nationals | \$3,000 |
| – Conference Coach of the Year | \$2,000 |
| – NCAA Regional Coach of the Year | \$3,000 |
| – NCAA National Coach of the Year | \$5,000 |
| – Top 25 National Ranking at End of Season | \$2,000 |
| – or – | (Only One) |
| – Top 12 National Ranking at End of Season | \$4,000 |
| – or – | (Only One) |
| – Top 6 National Ranking at End of Season | \$5,000 |

Academic Incentive Pay may be earned if the team Academic Progress Rate (APR) is as follows:

National Score Within Sport		
50% – 59.9%	=	\$1,400
60% – 69.9%	=	\$1,600
70% – 79.9%	=	\$1,800
80% or higher	=	\$2,000

Total potential annual compensation (base salary and incentives) is \$93,400 the first year and \$98,500 for years two and three.

BUSINESS AFFAIRS AND HUMAN RESOURCES
DECEMBER 13, 2012

ATTACHMENTS

Attachment 1 – Proposed Contract	Page 3
Attachment 2 – Proposed Addendum #1	Page 17
Attachment 3 – Redline from the SBOE Model	Page 21
Attachment 4 – Matrix	Page 37

STAFF COMMENTS AND RECOMMENDATIONS

The employment agreement follows the Board-approved model contract. The academic incentives are strong – with the highest amount equivalent to incentive pay for “conference tournament championships,” “conference coach of the year” and “top 25 national ranking.” The contract also contains adequate liquidated damages in favor of the University:

- If Agreement is terminated on or before June 30, 2013, the sum of \$20,000.
- If the Agreement is terminated between July 1, 2013 and June 30, 2014, the sum of \$10,000.

Staff recommends approval.

BOARD ACTION

I move to approve the request by Boise State University to enter into the employment contract with Neil Resnick, as Co-Head Women’s Gymnastics Coach as set forth in the materials presented to the Board, in substantial conformance with the terms of contract set forth in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this _____ day of _____, 2012 (“Effective Date”) by and between Boise State University (“University”) and Neil Resnick (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the co-head coach of its intercollegiate women’s gymnastics team (the “Position”). 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 (the “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 (the “President”).

1.3. Duties. Coach shall manage and supervise the University’s intercollegiate women’s gymnastics team (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 and any addenda hereto. Coach shall, to the best of Coach’s ability, and consistent with University policies and procedures, perform all duties and responsibilities customarily associated with the Position. Coach shall share in these duties with co-head coach Tina Bird.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of three (3) years, commencing on July 1, 2013 and terminating, without further notice to Coach, on June 30, 2016 (the “Term”), unless sooner terminated in accordance with other provisions of this Agreement.

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

ARTICLE 3

3.1 Regular Compensation.

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

- a) A salary in the amount set forth in the attached Addendum, payable in biweekly installments in accordance with normal University procedures (except as provided in the Addendum), and such salary increases as may be determined appropriate by the Director and President and approved by the University's Board of Trustees;
- b) The opportunity to receive such employee benefits calculated on the "base salary" as the University provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the University's Department of Athletics (the "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. University may provide supplemental compensation, as set forth in the attached Addendum.

3.2.1 Any such supplemental compensation paid to Coach shall be accompanied with a detailed justification for the supplemental compensation and such justification shall be separately reported to the Board of Trustees as a document available to the public under the Idaho Public Records Act.

3.2.2 The Coach may receive the compensation hereunder 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 (collectively, "Programs"). Agreements requiring the Coach to participate in Programs related to Coach's 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 Coach's services to and appear on the Programs and to cooperate in their production, broadcasting, and telecasting. It is understood that neither Coach nor any assistant coach 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, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Director, Coach shall not appear in any commercial endorsements which are broadcast on radio or television that conflict with those broadcast on the University's designated media outlets.

3.2.3 Coach agrees that the University has the exclusive right to operate athletic camps ("Camps") on its campus using University facilities. The University shall allow Coach the opportunity to earn supplemental compensation by assisting with the Camps in Coach's capacity as a University employee. Coach hereby agrees to assist in the marketing, supervision, and general administration of the Camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the Camps, the University shall pay Coach supplemental compensation.

3.2.4 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. In order to avoid entering into an agreement with a competitor of any University selected vendors, 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 National Collegiate Athletic Association (the "NCAA") rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel, or equipment products.

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

ARTICLE 4

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

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

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

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

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's governing board, the conference of which the University is a member (the "Conference"), and the NCAA; supervise and take appropriate steps with the co-head coach to ensure that any 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 University's Executive 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 the following, as they may be amended from time-to-time: (a) State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual; (b) University's Policy 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 Conference.

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

4.3 Outside Income. In accordance with NCAA rules, Coach shall obtain prior written approval from the President and Director for all athletically-related income and benefits from sources outside the University. Coach shall report the source and amount of all such income and benefits to the President whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular University work day preceding June 30th. The report shall be in a format reasonably satisfactory to University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person,

association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's governing board, the Conference, or the NCAA. Sources of such income shall include, but are not limited to, the following: (a) income from annuities; (b) sports camps, clinics, speaking engagements, consultations, directorships, or related activities; (c) housing benefits (including preferential housing arrangements); (d) country club membership(s); (e) complimentary tickets (i.e., tickets to a Stampede game); (f) television and radio programs; (g) endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers.

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

4.5 Scheduling. Coach shall consult with, and may make recommendations to, the Director or the Director's designee with respect to the scheduling of Team's 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 set forth herein prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not unreasonably be withheld. Coach shall not negotiate for or accept employment, under any circumstances, as a coach at any other institution of higher education or with any professional sports team requiring the performance of the duties set forth herein without first giving ten (10) days prior written notice to the Director.

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 rules, regulations, and policies.

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

ATTACHMENT 1

- 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 thirty (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 National Association of Intercollegiate Athletics ("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 by ordinary supervision of the violation and could have prevented it by such 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 Director's 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 to Coach, as liquidated damages and not a penalty, the "base salary" set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of the University until the Term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first, provided however, in the event Coach obtains other 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 other 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 the Coach under the other employment, then subtracting from this adjusted gross compensation deductions according to law. In addition, Coach will be entitled to continue the health insurance plan and group life insurance as if Coach remained a University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment or any 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 (10) 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 market 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 by University after the date Coach obtains other employment, to which Coach is not entitled under this provision.

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

5.2.4 In the event of non-renewal or termination of Coach's employment, Coach will use all accumulated annual leave prior to the end of the contract period.

5.3 Termination by Coach for Convenience.

5.3.1 The Coach recognizes that Coach's 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 Coach's employment by entering into this Agreement and that its investment would be lost were Coach to resign or otherwise terminate Coach's employment with the University before the end of the contract Term.

5.3.2 The Coach may terminate this Agreement for convenience during its term by giving prior written notice to the University. Termination shall be effective ten (10) days after such written notice is given to the University. Such termination must occur at a time outside the Team's season (including NCAA post-season competition) so as to minimize the impact on the program.

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 convenience, Coach shall pay to the University, as liquidated damages and not a penalty, for the breach of this Agreement the following sum: (a) if the Agreement is terminated on or before June 30, 2013, the sum of \$20,000.00; (b) if the Agreement is terminated between July 1, 2013 and June 30, 2014 inclusive, the sum of \$10,000.00. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid.

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

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

5.4 Termination Due to Disability or Death of Coach.

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

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

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 Coach is entitled by virtue of employment with the University.

5.5 Interference by Coach. In the event of suspension, reassignment or termination, 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 or Regents of the University of Idaho Rule Manual (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures Manual, and the University Policies or 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 Trustees and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this Agreement shall be subject to: the approval of the University's Board of Trustees, the President, and the Director; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such compensation is paid; and the Board of Trustees and University's rules or policies regarding financial exigency.

6.2 University Property. All personal property, 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.

with a copy to: Boise State University
Office of the President
1910 University Drive
Boise, Idaho 83725-1000

the Coach: Neil Resnick
1910 University Drive
Boise, Idaho 83725-1025

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 whoever 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 Coach's 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, and the attached Addendum, constitute the entire agreement between the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by University's Board of Trustees.

6.16 Opportunity to Consult with Attorney. The Coach acknowledges that Coach has had the opportunity to consult and review this Agreement with an attorney. 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.

IN WITNESS WHEREOF, the parties agree to the terms and conditions of this Agreement and the incorporated documents attached hereto and have executed this Agreement freely and agree to be bound hereby as of the Effective Date.

UNIVERSITY

COACH

Mark Coyle, Director of Athletics

Neil Resnick

Dr. Robert Kustra, President

Approved by the Board on the ____ day of _____, 2012.

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**Addendum to Employment Agreement between
Boise State University and Neil Resnick**

This Addendum (the “Addendum”) to the Employment Agreement (the “Agreement”) dated _____, 2013, by and between Boise State University (the “University”) and Neil Resnick (“Coach”), is entered into this _____ day of _____, 2013 (“Effective Date”).

NOW THEREFORE, in consideration of the foregoing, and for good and valuable consideration, the parties make the following additions to the Agreement.

1. NCAA Compliance. Coach shall have a strong working knowledge and understanding of all National Collegiate Athletic Association (the “NCAA”) Rules and Regulations (“NCAA Rules”) regarding compliance issues. Per NCAA policy, Coach must annually pass the NCAA Coaches Certification Test before contacting any prospects off-campus.
2. NCAA Violations. In the event Coach or Coach’s Team (as that term is defined in Section 1.3 of the Agreement) is found in violation of NCAA Rules, Coach shall be subject to disciplinary or corrective action up to and including as provided for in Section 5.1 of the Agreement.
3. University Name/Logo. Coach shall not use, directly or by implication, the University name or logo in the endorsement of commercial products or services for personal gain without obtaining prior written approval from the Director and University President.
4. Additional Rules and Regulations. Coach shall be subject to the State Board of Education Rules (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures Manual, Boise State University policies, the rules of the conference of which the University is a member, and the NCAA Rules as they now exist, and as they may be amended from time-to-time during the term of Coach’s employment. Material violation of any of the above rules shall constitute cause for which the University may in its discretion institute discipline up to and including termination of employment as provided in Section 5.1 of the Agreement.
5. Specific Duties of Coach. In addition to the duties outlined in the Agreement, Coach is expected to devote full-time to recruitment and coaching duties as appropriate. Coach will attend all staff meetings, public relations functions, dinners, awards banquets, and will make appearances as directed by the Director.

6. Compensation. University shall provide to Coach an annual salary of \$71,400 during the first year, \$76,500 in the second year, and \$76,500 in the third year.

7. Athletic Incentive Pay. Coach may qualify for Athletic Incentive Pay as follows:

Conference Tournament Champions	\$2,000.00
OR	
Qualify team for NCAA Regionals	\$1,500.00
Quality team for NCAA Nationals	\$3,000.00
Conference Coach of the Year	\$2,000.00
NCAA Regional Coach of the Year	\$3,000.00
NCAA National Coach of the Year	\$5,000.00
Top 25 National Ranking at End of Season:	\$2,000.00
OR	
Top 12 National Ranking at End of Season:	\$4,000.00
OR	
Top 6 National Ranking at End of Season:	\$5,000.00

Supplemental pay earned pursuant to this paragraph shall be paid on or before July 1st following the academic year in which it is earned, if Coach is still employed by the University on that date.

8. Academic Incentive Pay. Coach may qualify for Academic Incentive Pay if the annual Academic Progress Rate (“APR”) for the Team meets the following levels of the 4 year National Ranking:

<i>National Rank within Sport</i>		
50 th -59.9%	=	\$1,400
60 th - 69.9 %	=	\$1,600
70 th – 79.9 %	=	\$1,800
80 th % or above	=	\$2,000

If Coach qualifies for Academic Incentive Pay, it will be paid as soon as reasonably practical following APR rating determination and verification by the NCAA, if Coach is still employed by the University on that date.

9. Effect on Agreement. No other terms or conditions of the Agreement shall be negated or changed as a result of this Addendum.

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

IN WITNESS WHEREOF, the parties hereto agree to the terms and conditions of this Addendum and have executed this Addendum freely and agree to be bound hereby as of the date first above written.

Signed:

Dr. Robert Kustra
President

Mark Coyle, Athletic Director

Neil Resnick
Co-Head Coach - Women's Gymnastics

Approved by the Board on the ____ day of _____, 2012.

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~~(MODEL ATHLETICS CONTRACT)~~

EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this _____ day of _____, 2012 (“Effective Date”) by and between Boise State University (“University”) and Neil Resnick (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the co-head coach of its intercollegiate women’s gymnastics team (the “Position”). 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 (the “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 (the “President”).

1.3. Duties. Coach shall manage and supervise the University’s intercollegiate women’s gymnastics team (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 and any addenda hereto. Coach shall, to the best of Coach’s ability, and consistent with University policies and procedures, perform all duties and responsibilities customarily associated with the Position. Coach shall share in these duties with co-head coach Tina Bird.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of three (3) years, commencing on July 1, 2013 and terminating, without further notice to Coach, on June 30, 2016 (the “Term”), unless sooner terminated in accordance with other provisions of this Agreement.

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

ARTICLE 3

3.1 Regular Compensation.

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

- a) A salary in the amount set forth in the attached Addendum, payable in biweekly installments in accordance with normal University procedures (except as provided in the Addendum), and such salary increases as may be determined appropriate by the Director and President and approved by the University's Board of Trustees;
- b) The opportunity to receive such employee benefits calculated on the "base salary" as the University provides generally to non-faculty exempt employees; and
- c) The opportunity to receive such employee benefits as the University's Department of Athletics (the "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. University may provide supplemental compensation, as set forth in the attached Addendum.

~~3.2.1. Each year the Team is the conference champion or co-champion and also becomes eligible for a (bowl game pursuant to NCAA Division I guidelines or post season tournament or post season playoffs), and if Coach continues to be employed as University (College)'s head (Sport) coach as of the ensuing July 1st, the University (College) shall pay to Coach supplemental compensation in an amount equal to (amount or computation) of Coach's Annual Salary during the fiscal year in which the championship and (bowl or other post season) eligibility are achieved. The University (College) shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.~~

~~3.2.2. Each year the Team is ranked in the top 25 in the (national rankings, such as final ESPN/USA Today coaches poll of Division IA football teams), and if Coach continues to be employed as University (College)'s head (Sport) coach as of the ensuing July 1st, the University (College) shall pay Coach supplemental~~

~~compensation in an amount equal to (amount or computation) of Coach's Annual Salary in effect on the date of the final poll. The University (College) shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.~~

~~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 discretion of the President in consultation with the Director and approved by the University (College)'s Board of (Regents or Trustees). 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 discretion of the President in consultation with the Director and approved by the University (College)'s Board of (Regents or Trustees).~~

~~3.2.5 The Coach shall receive the sum of (amount or computation) 3.2.2 The Coach may receive the compensation hereunder 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 (collectively, "Programs Coach's right to receive such a payment shall vest on the date of the Team's last regular season or post season competition, whichever occurs later. This sum shall be paid (terms or conditions of payment).").~~ Agreements requiring the Coach to participate in Programs related to ~~his~~ Coach's 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 Coach's services to and appear on the Programs and to cooperate in their production, broadcasting, and telecasting. It is understood that neither Coach nor any assistant coach 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, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Director, Coach shall not appear in any commercial endorsements which are broadcast on radio or television that conflict with those broadcast on the University's designated media outlets.

~~3.2.6 (SUMMER CAMP OPERATED BY UNIVERSITY (COLLEGE))~~ 3 Coach agrees that the University has the exclusive right to operate athletic camps ("Camps") on its campus using University facilities. The University shall allow Coach the opportunity to earn supplemental compensation by assisting with the Camps in Coach's capacity as a University employee. Coach hereby agrees to assist in the marketing, supervision, and general administration of the Camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the Camps, the University shall pay Coach ~~(amount)~~ per year as supplemental compensation during each year of his employment as head (Sport) coach at the University (College). This amount shall be paid (terms of payment)

~~(SUMMER CAMP OPERATED BY COACH)~~ 3.2.4 Coach may operate a summer youth ~~(Sport)~~ (Sport) camp at the University (College) under the following conditions:

- ~~a) The summer youth camp operation reflects positively on the University (College) and the Department;~~
- ~~b) The summer youth camp is operated by Coach directly or through a private enterprise owned and managed by Coach. The Coach shall not use University (College) personnel, equipment, or facilities without the prior written approval of the Director;~~
- ~~c) Assistant coaches at the University (College) are given priority when the Coach or the private enterprise selects coaches to participate;~~
- ~~d) The Coach complies with all NCAA (NAIA), Conference, and University (College) rules and regulations related, directly or indirectly, to the operation of summer youth camps;~~
- ~~e) The Coach or the private enterprise enters into a contract with University (College) and _____ (campus concessionaire) for all campus goods and services required by the camp.~~

- ~~f) — The Coach or private enterprise pays for use of University (College) facilities including the _____.~~
- ~~g) — Within thirty days of the last day of the summer youth camp(s), Coach shall submit to the Director a preliminary "Camp Summary Sheet" containing financial and other information related to the operation of the camp. Within ninety days of the last day of the summer youth camp(s), Coach shall submit to Director a final accounting and "Camp Summary Sheet." A copy of the "Camp Summary Sheet" is attached to this Agreement as an exhibit.~~
- ~~h) — The Coach or the private enterprise shall provide proof of liability insurance as follows: (1) liability coverage: spectator and staff \$1 million; (2) catastrophic coverage: camper and staff \$1 million maximum coverage with \$100 deductible;~~
- ~~i) — To the extent permitted by law, the Coach or the private enterprise shall defend and indemnify the University (College) against any claims, damages, or liabilities arising out of the operation of the summer youth camp(s)~~
- ~~j) — All employees of the summer youth camp(s) shall be employees of the Coach or the private enterprise and not the University (College) while engaged in camp activities. The Coach and all other University (College) employees involved in the operation of the camp(s) shall be on annual leave status or leave without pay during the days the camp is in operation. The Coach or private enterprise shall provide workers' compensation insurance in accordance with Idaho law and comply in all respects with all federal and state wage and hour laws~~

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

~~3.2.7 ————— 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 (College). Coach recognizes that the University (College) is negotiating or has entered into an agreement with _____ (Company~~

~~Name) to supply the University (College) with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University (College)'s reasonable request, Coach will consult with appropriate parties concerning an (Company Name) product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by (Company Name), or give a lecture at an event sponsored in whole or in part by (Company Name), 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) coach. In order to avoid entering into an agreement with a competitor of (Company Name), Coach shall submit all outside consulting agreements to the University (College). In order to avoid entering into an agreement with a competitor of any University selected vendors, 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 National Collegiate Athletic Association (the "NCAA") rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel, or equipment products.~~

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

ARTICLE 4

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

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

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

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

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's governing board, the conference of which the University is a member (the "Conference"), and the NCAA; supervise and take appropriate steps with the co-head coach to ensure that any 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 University's Executive 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 the following, as they may be amended from time-to-time: (a) State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual; (b) University's Policy 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 Conference.

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

4.3 NCAA (or NAIA) Rules: Outside Income. In accordance with NCAA rules, Coach shall obtain prior written approval from the President and Director for all athletically-related income and benefits from sources outside the University. Coach shall report the source and amount of all such income and benefits to the President whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular University work day preceding June 30th. The report shall be in a format reasonably satisfactory to University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's governing board, the Conference, or the NCAA. Sources of such income shall include, but are not limited to, the following: (a) income from annuities; (b) sports camps, clinics, speaking engagements, consultations, directorships, or related activities; (c) housing benefits (including preferential housing arrangements); (d) country club membership(s); (e) complimentary tickets (i.e., tickets to

a Stampede game); (f) television and radio programs; (g) endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers.

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

4.5 Scheduling. Coach shall consult with, and may make recommendations to, the Director or the Director's designee with respect to the scheduling of Team's 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 set forth herein prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not unreasonably be withheld. Coach shall not negotiate for or accept employment, under any circumstances, as a coach at any other institution of higher education or with any professional sports team requiring the performance of the duties set forth herein without first giving ten (10) days prior written notice to the Director.

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 rules, regulations, and policies.

5.1.1 In addition to the definitions contained in applicable rules and policies, 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 thirty (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 National Association of Intercollegiate Athletics ("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 by ordinary supervision of the violation and could have prevented it by such 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 Director's 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 to Coach, as liquidated damages and not a penalty, the "base salary" set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of the University until the Term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first, provided however, in the event Coach obtains other employment ~~of any kind or nature~~ 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 other 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 the Coach under the other employment, then subtracting from this adjusted gross compensation deductions according to law. In addition, Coach will be entitled to continue the health insurance plan and group life insurance as if Coach remained a University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment or any 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 (10) 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 market 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 by University after the date Coach obtains other employment, to which Coach is not entitled under this provision.

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

5.2.4 In the event of non-renewal or termination of Coach's employment, Coach will use all accumulated annual leave prior to the end of the contract period.

5.3 Termination by Coach for Convenience.

5.3.1 The Coach recognizes that Coach's 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 Coach's employment by entering into this Agreement and that its investment would be lost were Coach to resign or otherwise terminate Coach's employment with the University before the end of the contract Term.

5.3.2 The Coach may terminate this Agreement for convenience during its term by giving prior written notice to the University. Termination shall be effective ten (10) days after such written notice is given to the University. Such termination must occur at a time outside the Team's season (including NCAA post-season competition) so as to minimize the impact on the program.

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 convenience, Coach shall pay to the University, as liquidated damages and not a penalty, for the breach of this Agreement the following sum: (a) if the Agreement is terminated on or before June 30, 2013, the sum of \$20,000.00; (b) if the Agreement is terminated between ————July 1, 2013 and

~~_____ inclusive, the sum of \$20,000.00; (e) if the Agreement is terminated between _____ and _____ June 30, 2014~~ inclusive, the sum of \$10,000.00. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid.

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

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

5.4 Termination Due to Disability or Death of Coach.

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

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

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 Coach is entitled by virtue of employment with the University.

5.5 Interference by Coach. In the event of suspension, reassignment or termination, 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 or Regents of the University of Idaho Rule Manual (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures Manual, and the University Policies or 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 Trustees and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this Agreement shall be subject to: the approval of the University's Board of Trustees, the President, and the Director; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such compensation is paid; and the Board of Trustees and University's rules or policies regarding financial exigency.

6.2 University Property. All personal property, 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.

with a copy to: Boise State University
Office of the President
1910 University Drive
Boise, Idaho 83725-1000

the Coach: Neil Resnick
1910 University Drive
Boise, Idaho 83725-1025

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 whoever 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 Coach's 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, [and the attached Addendum, constitute](#) the entire agreement between the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by University's Board of Trustees.

6.16 Opportunity to Consult with Attorney. The Coach acknowledges that Coach has had the opportunity to consult and review this Agreement with an attorney. 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.

IN WITNESS WHEREOF, the parties agree to the terms and conditions of this Agreement and the incorporated documents attached hereto and have executed this Agreement freely and agree to be bound hereby as of the Effective Date.

UNIVERSITY

COACH

Mark Coyle, Director of Athletics

Neil Resnick

Dr. Robert Kustra, President

Approved by the Board on the ____ day of _____, 2012.

Neil Resnick, Boise State University, Co-Head Gymnastics Coach – 2012 – Multi-Year Contract

	Model Contract Section	Contract Section	Justification for Modification
3.2	Supplemental Compensation	3.2.1 Supplemental Compensation; language added	Language provides specific supplemental compensation information to be provided in the attached Addenda
3.2.1, 3.2.2, 3.2.3, 3.2.4	Supplemental Compensation	3.2 Supplemental Compensation; language deleted	Language deleted, as specific supplemental compensation information is provided in attached Addenda.
3.2.5	Supplemental Compensation	3.2.2 Supplemental Compensation; language deleted	Deleted language specific to Coach’s right to receive payments for participation in media programs and public appearances.
3.2.4	Supplemental Compensation; Summer Camp Operated by University	3.2.4 Supplemental Compensation; summer camp; language deleted	Deleted language regarding summer camp operated by coach.
3.2.7	Supplemental Compensation	3.2.4 Supplemental Compensation; language deleted	Deleted unnecessary language regarding athletic footwear, apparel and equipment contracts.
4.3	Outside Income	4.3 Outside Income; added language	Added a list of sources of outside income that must receive prior approval by the President and the Athletic Director.
4.7	Other Coaching Opportunities	4.6 Other Coaching Opportunities; added language	Added language providing that Coach cannot pursue other employment without prior notice.
5.2	Termination of Coach for Convenience of University	5.2.4 Termination of Coach for Convenience of University; added language	Added language requiring Coach to use all accumulated annual leave

Neil Resnick, Boise State University, Co-Head Gymnastics Coach – 2012 – Multi-Year Contract

			prior to the end of the contract year, if the Coach’s contract is non-renewed or terminated.
5.3	Termination by Coach for Convenience	5.3.2 Termination by Coach for Convenience; added language	Added language requiring any termination of convenience by Coach to occur outside the team’s season and post-season competition.
6.15	Entire Agreement; Amendments	6.15 Entire Agreement; Amendments; added language	Added language clarifying that the attached Addendum is also a part of the entire agreement between the parties.

BUSINESS AFFAIRS & HUMAN RESOURCES
DECEMBER 13, 2012

BOISE STATE UNIVERSITY

SUBJECT

Amendment to Boise State University Supplemental Pension Plan

REFERENCE

April 2012

Board approved Boise State University Supplemental Pension Plan

APPLICABLE STATUTE, RULE, OR POLICY

Section 33-107C, Idaho Code

BACKGROUND/DISCUSSION

In April 2012 the Board approved Boise State University's request to establish a 401(a) Supplemental Pension Plan ("Plan") as part of head football coach Chris Petersen's compensation package. Currently Mr. Petersen is the only plan participant. At the time the Plan was submitted for Board approval, the University had not yet selected an annuity product that could be used to determine earnings on Plan contributions. As a result, the Plan provisions related to earnings intentionally did not address this issue.

The University has since selected a fixed index annuity offered by Allianz Life Insurance Company of North America, a corporation licensed to sell insurance in Idaho, as the funding vehicle for Plan contributions. The annuity is designed to provide flexible payout options as well as an enhanced withdrawal benefit if held in deferral for at least 10 years.

With the identification of this funding vehicle, Plan provisions related to the determination of earnings on Plan assets can now be made more specific as required by the Internal Revenue Service. The proposed First Amendment to the Plan accomplishes this by amending the definition of "Contract," restating the section on Plan earnings credits (Section 3.03), and adding an Appendix B in which the annuity contract is identified. The University, in its capacity as Plan administrator, requests Board approval to select any future annuity contract or contracts in accordance with Section 3.03 of the Plan as amended. Finally, the First Amendment to the Plan amends the definition of "Trust" and "Trustee" to allow the University to appoint a Plan trustee at its discretion.

IMPACT

The revised Plan language makes it clear that the benefit under the Plan will be equal to the benefit provided by the annuity contract identified in Appendix B. Once amended, the University will submit an application for determination for the Plan to the Internal Revenue Service. The University requests Board approval to adopt any reasonable amendments requested by the Internal Revenue Service as a condition of granting a favorable determination letter.

ATTACHMENTS

Attachment 1 – First Amendment to Supplemental Pension Plan

Page 3

STAFF COMMENTS AND RECOMMENDATIONS

This is a request by Boise State University (BSU) to approve an amendment to its Supplemental Pension Plan. The amendment identifies an investment product for the Plan and specifies determination of earnings. BSU also requests authorization to select future annuity contracts in accordance with Plan provisions and to make Plan amendments as required by the IRS as a condition of granting a favorable determination letter of the Plan.

Staff recommends approval.

BOARD ACTION

I move to approve the request by Boise State University to adopt the First Amendment to the Supplemental Pension Plan, to authorize the University to select any future annuity contracts in accordance with Plan provisions, to seek a determination letter for the Plan, to adopt any reasonable amendments requested by the Internal Revenue Service as a condition of granting a favorable determination letter and to authorize the Vice President for Finance and Administration to execute all necessary related documents.

The Board cannot comment on the tax consequences of the supplemental pension plan pending IRS action. No assurances or guarantees are made regarding the performance of any investment product selected for this Supplemental Pension Plan.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

**FIRST AMENDMENT OF
BOISE STATE UNIVERSITY SUPPLEMENTAL PENSION PLAN**

Boise State University ("Employer") hereby adopts this First Amendment of Boise State University Supplemental Pension Plan ("Plan"), effective February 1, 2012.

BACKGROUND

The Employer adopted the Plan, effective February 1, 2012, and it wishes to amend the Plan as provided in this Amendment.

In consideration of the premises, the Employer amends the Plan, effective February 1, 2012, as follows:

AMENDMENT

1. Section 1.01(k) is amended to read as follows:

(k) "Contract" means the applicable annuity contract or contracts selected by the Administrator pursuant to Section 3.03. Each Contract shall be an annuity contract issued by an insurance company qualified to do business in the state of Idaho, and no such Contract shall be structured to provide an interest crediting rate of return that is in excess of a market rate of return, as determined pursuant to Treasury Regulation Section 1.411(b)(5)-1(d)(5)(iii) and other applicable guidance of the Internal Revenue Service.

2. Section 1.01(ee) is amended to read as follows:

(ee) "Trust" means the trust established and maintained to hold the assets of the Plan. If all assets of the Plan are held by an insurance company pursuant to one or more annuity contracts, and a trust is not established to hold such contracts, "Trust" shall refer to such annuity contract or contracts.

3. Section 1.01(ff) is amended to read as follows:

(ff) "Trustee" means the trust established and maintained to hold the assets of the Plan. If all assets of the of the Plan are held by an insurance company pursuant to one or more annuity contracts, and a trust is not established to hold such annuity contracts, "Trustee" shall refer to such insurance company.

4. Section 3.03 is amended to read as follows:

Section 3.03. Earnings Credits. The Administrator shall select a Contract in which an amount equal to each Principal Credit shall be invested at or before the time such Principal Credit is credited; provided, however, the Administrator may select different Contracts with respect to Principal Credits for different years. The Contract in which amounts are invested for a Plan Year's Principal Credits shall provide for annuity benefits with respect to each

Participant who receives Principal Credits for such Plan Year. Each Participant's Account shall be adjusted as of the end of each determination period applicable to the Participant (without regard to whether the Participant remains an Eligible Employee) with credits under the Contract(s) applicable to the Participant until the Participant's Annuity Starting Date. The initial Contract shall be specified in Appendix B, and any subsequent Contract (and the Principal Credits to which it applies) shall be specified by an amendment of Appendix B.

5. A new Appendix B is added in the form attached hereto.

IN WITNESS WHEREOF, the Employer has caused this First Amendment of Boise State University Supplemental Pension Plan to be adopted, effective February 1, 2012.

BOISE STATE UNIVERSITY

By: _____

Title: _____

Date: _____

**APPENDIX B
ANNUITY CONTRACTS SELECTED PURSUANT TO SECTION 3.03**

1. Initial Annuity Contract. Contract No. _____ issued by Allianz Life Insurance Company of North America.

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**BOISE STATE UNIVERSITY
SUPPLEMENTAL PENSION PLAN**

Effective February 1, 2012

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BOISE STATE UNIVERSITY SUPPLEMENTAL PENSION PLAN

Boise State University ("Employer") hereby establishes the Boise State University Pension Plan ("Plan"), effective February 1, 2012, for the benefit of Eligible Employees who become Participants.

BACKGROUND

The Plan is a defined benefit pension plan intended to provide retirement benefits for Participants to supplement benefits provided through existing retirement plans sponsored by the Employer. The Plan is intended to qualify under Section 401(a) of the Internal Revenue Code of 1986, as amended ("Code"), and to constitute a "governmental plan" within the meaning of Code Section 414(d) and Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The Plan also is intended to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), the Job Creation and Worker Assistance Act of 2002 ("JCWAA"), the Pension Protection Act of 2006, Heroes Earnings Assistance and Relief Act of 2008 ("HEART Act"), and the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), as well as the regulatory guidance included in the 2010 Cumulative List under IRS Notice 2010-90 to the extent applicable to the Plan.

ARTICLE I DEFINITIONS AND CONSTRUCTION

Section 1.01. Definitions. When the initial letter of a word or phrase is capitalized herein, the meaning of such word or phrase shall be as follows:

(a) "Account" means, with respect to a Participant, the bookkeeping account established pursuant to Section 3.01 to determine the amount of the Participant's Accrued Retirement Benefit under the Plan. Where the context so permits, "Account" also means the balance credited to the Account.

(b) "Accrued Retirement Benefit" means, with respect to a Participant, the balance credited to his Account as of his Annuity Starting Date, if payable as a lump sum, or an Actuarially Equivalent benefit available under the Plan, if payable other than as a lump sum. If there are any surrender charges applicable under the Contract, a Participant's Accrued Retirement Benefit shall be net of those charges, subject to the provisions of Section 3.04.

(c) "Actuarial Equivalent" or "Actuarially Equivalent" means an alternative form of payment having the same actuarial value, based on the actuarial assumptions under the Contract.

(d) "Administrator" means the Employer.

(e) "Affiliated Employer" means any employer that is treated as a single employer with the Employer pursuant to Code Section 414(b), (c), or (m), provided that an Affiliated Employer shall be treated as such only to the extent required by the Code.

(f) "Annuity Starting Date" means the first day of the first period for which a benefit is payable to or with respect to a Participant as an annuity or any other form of benefit.

(g) "Applicable Form" means the appropriate form as designated and furnished by the Administrator or its designee to make the election or provide the notice required by the Plan. In those circumstances where a written election or consent is not required by the Plan or the Code, the Administrator or its designee may prescribe an oral, electronic, or telephonic form in lieu of or in addition to a written form.

(h) "Beneficiary" means the person determined in accordance with Subsection 5.05(b) who is entitled to receive benefits pursuant to the Plan on account of a Participant's death before his Annuity Starting Date.

(i) "Board" means the Board of Trustees of the Employer.

(j) "Code" means the Internal Revenue Code of 1986, as amended from time to time.

(k) "Contract" means the contract referred to in Section 3.03.

(l) "Cost of Living Adjustment" means the cost of living adjustment prescribed by the Secretary of the Treasury under Code Section 415(d) or 401(a)(17), as applicable for any year.

(m) "Earnings Credit" means a credit to a Participant's Account pursuant to Section 3.03.

(n) "Effective Date" means February 1, 2012, the original effective date of the Plan.

(o) "Eligible Employee" means an Employee specified in Appendix A, but only during the time in which such person holds the position specified in Appendix A.

(p) "Employee" means an employee of the Employer.

(q) "Employer" means Boise State University, or if applicable, any successor employer that may adopt and assume sponsorship of the Plan.

(r) "FMLA" means the "Family and Medical Leave Act of 1993," as amended from time to time.

(s) "Normal Form" means a Single Life Annuity.

(t) "Normal Retirement Date" means the first day of the month coincident with or next following the date on which the Participant reaches age sixty-two (62), the normal retirement age under the Plan.

(u) "Optional Form" means a form of benefit available under the Plan other than the Normal Form, consisting of (i) a lump sum distribution or (ii) another form of distribution

provided under the Contract, provided that such form complies with the requirements of Section 5.09.

(v) "Participant" means a current or former Eligible Employee whose Accrued Retirement Benefit has not been distributed..

(w) "Plan" means the plan embodied herein, as amended from time to time, known as the "Boise State University Supplemental Pension Plan."

(x) "Plan Year" means the period beginning on the Effective Date and ending on December 31, 2012, and each calendar year thereafter.

(y) "Principal Credit" means a credit to a Participant's Account pursuant to Section 3.02.

(z) "Section," when not referring to a section of the Code or ERISA, means a section of the Plan.

(aa) "Separation Date" means the date on which the Participant Separates from Employment.

(bb) "Separation from Employment," "Separates from Employment," or any variation of such term means that a Participant was discharged from, retired, or quit the service of the Employer and all Affiliated Employers; provided, however, such terms shall not include (i) a temporary absence due to an authorized leave of absence, vacation, sickness, or accident; (ii) military service, to the extent required under USERRA and Code Section 414(u)(8)(A); or (iii) a leave that qualifies as a family or medical leave under the FMLA.

(cc) "Single Life Annuity" means, with respect to a Participant, a level monthly annuity beginning as of his Annuity Starting Date and payable for his life that is the Actuarial Equivalent of the Participant's Account.

(dd) "Spouse" means the person to whom the Participant is legally married on the applicable date, as determined under the internal laws of the State of Idaho without regard to conflict of law principles.

(ee) "Trust" means the trust established and maintained to hold the assets of the Plan. If all assets of the Plan are held by an insurance company pursuant to one or more annuity contracts, "Trust" shall refer to such annuity contract or contracts.

(ff) "Trustee" means the original or any successor trustee designated and appointed under the Trust. If all assets of the Plan are held by an insurance company pursuant to one or more annuity contracts, "Trustee" shall refer to such insurance company.

(gg) "Trust Fund" means the assets of the Plan held by the Trustee.

(hh) "USERRA" means "Uniformed Services Employment and Reemployment Rights Act of 1994," as amended from time to time.

(ii) "Vested" means a right of the Participant or his beneficiary that is unconditional, legally enforceable, and non-forfeitable.

Section 1.02. Construction and Governing Law. The following rules of construction shall govern any interpretation of the Plan:

(a) The Plan shall be construed, enforced, and administered and the validity thereof determined in accordance with the Code and, when not inconsistent with the Code, the laws of the State of Idaho.

(b) Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.

(c) The headings and subheadings in the Plan are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Plan.

(d) If any provision of the Plan shall be held to violate the Code or be illegal or invalid for any other reason, that provision shall be deemed to be null and void, but the invalidation of that provision shall not otherwise impair or affect the Plan.

ARTICLE II PARTICIPATION

Section 2.01. Participation Standards. An Eligible Employee shall become a Participant as of the date specified in Appendix A.

Section 2.02. Separation from Employment. If a Participant Separates from Employment or ceases to be an Eligible Employee, he shall cease to be an active Participant for all purposes except for any benefit to which he or his joint annuitant or Beneficiary may be entitled under Article V. A Participant shall cease to be a Participant upon the distribution of his entire interest under the Plan.

Section 2.03. Completion of Forms by Participants and Beneficiaries. A Participant and any joint annuitant or Beneficiary eligible to receive, or claiming a right to receive, any benefits under the Plan shall complete such Applicable Forms and furnish such proofs and information as may be required at any time by an insurance company, the Trustee, or the Administrator or its designee. If any fact relating to the Participant or his joint annuitant or Beneficiary has been misstated or is incorrect, the correct fact shall be used to determine the amount of any benefits hereunder. If overpayments or underpayments have been made because of such misstatements or incorrect facts, the amount of any future payments may be appropriately adjusted or the Employer may require repayment of any overpayment.

ARTICLE III CALCULATION OF BENEFITS

Section 3.01. Participant Account. The Administrator shall establish and maintain a bookkeeping account to determine each Participant's benefit under the Plan. It shall make credits

and charges to such Account as provided in this Section. A Participant's Account is solely a bookkeeping entry to determine the amount of the Participant's benefits, and its existence shall not give the Participant the right to any specific asset of the Plan. The Participant's Accrued Retirement Benefit shall be equal to his Account balance as of his Annuity Starting Date.

Section 3.02. Principal Credits.

(a) As of the last day of the Plan Year ending December 31, 2012, the Administrator shall credit a Principal Credit \$114,583.82 to each Participant's Account, provided that the Participant is employed by the Employer as an Eligible Employee on such date.

(b) As of the last day of each Plan Year after 2012, the Administrator shall credit a Principal Credit of \$125,000 to each Participant's Account, provided that the Participant is employed by the Employer as an Eligible Employee on such date.

(c) If the Participant Separates from Employment or ceases to be an Eligible Employee during a Plan Year, the Administrator shall credit to such Participant's Account as of the Separation Date a pro-rata portion of the Principal Credit that would otherwise apply for such year, based on the number of days in such Plan Year during which the Participant was employed by the Employer as an Eligible Employee.

Section 3.03. Earnings Credits.

(a) Each Participant's Account shall be adjusted as of the end of each determination period applicable to the Participant (without regard to whether the Participant remains an Eligible Employee) until the Participant's Annuity Starting Date to reflect the rate of return that would have been earned by the Account had it been deposited under an annuity contract issued on the life of the Participant by an insurance company qualified to do business under the laws of Idaho, as selected by the Administrator. For this purpose, the Administrator shall not select an annuity contract that the Internal Revenue Service has determined to have been structured to provide an interest crediting rate that is in excess of a market rate of return as provided in Treasury Regulation Section 1.411(b)(5)-1(d)(5)(iii).

(b) The expenses of administering the Plan and Trust paid by the Trust shall reduce the Earnings Credits.

Section 3.04. Minimum Account Balance. Notwithstanding any provision of the Plan to the contrary, in no event shall a Participant's Account as of his Annuity Starting Date be less than the sum all Principal Credits to such Account.

ARTICLE IV VESTING

Section 4.01. Vesting at Retirement or Termination of Service. A Participant shall be Vested in his Accrued Retirement Benefit at all times.

Section 4.02. Vesting Due to Plan Termination. In the case of the termination of the Plan by action of the Board or otherwise, the Accrued Retirement Benefit of each Participant

shall be irrevocably Vested, but only to the extent funded. On a termination of the Plan, no unfunded benefit with respect to any Participant or beneficiary shall be due or payable.

ARTICLE V PAYMENT OF BENEFITS

Section 5.01. General Provisions.

(a) All forms of distribution under the Plan are Actuarially Equivalent. Distributions shall be made in the Normal Form, unless the Participant elects an Optional Form pursuant to Subsection (b).

(b) The Participant may elect for his benefit to be distributed in an Optional Form in accordance with procedures established by the Administrator. The Administrator may prescribe rules, procedures, and forms for electing commencement of benefits and the form of distribution and for the revocation or change of such elections.

Section 5.02. Separation from Employment On or After Normal Retirement Date.

If the Participant Separates from Employment on or after his Normal Retirement Date for a reason other than his death, he may elect for distribution of this Accrued Retirement Benefit to commence, in which case distribution shall be made in accordance with the Participant's election. Distribution of the Participant's benefit must commence not later April 1 of the year following the year in which he Separates from Employment.

Section 5.03. Separation from Employment Before Normal Retirement Date. If the Participant Separates from Employment before his Normal Retirement Date, he may elect for distribution of his Accrued Retirement Benefit to commence as of the first day of any month after his Separation Date and on or before his Normal Retirement Date. Unless the Participant elects an earlier Annuity Starting Date, his Annuity Starting Date shall be his Normal Retirement Date. Notwithstanding the preceding sentence, except in the event of a Participant's earlier death, his Annuity Starting Date may not occur before the earlier of (i) the end of the fifth Plan Year after the Plan Year in which he commenced participation under the Plan or (ii) his Normal Retirement Date.

Section 5.04. Annuity Contract. Any benefit payable as an annuity may be payable through the medium of an annuity contract (providing a fixed annuity) purchased at the direction of the Administrator from an insurance company qualified to do business in the State of Idaho; provided, however, any such annuity contract shall be subject to the limitations under Section 5.09, shall be endorsed so as to be nontransferable, and shall be purchased at the sole discretion of the Administrator or its designee. The distribution of an annuity contract to the Participant or his beneficiaries, if any, shall be in full satisfaction of any and all obligations of the Plan, the Trust and the Employer, to such Participant and beneficiaries.

Section 5.05. Death of Participant.

(a) In the event of a Participant's death, neither the Participant nor any beneficiary of the Participant shall be entitled to any benefit under the Plan except as follows:

(1) If the Participant dies on or after his Annuity Starting Date, his joint annuitant, if any, shall be entitled to the survivor annuity or benefit under the form of distribution in effect on the date of the Participant's death.

(2) If the Participant dies before his Annuity Starting Date, his Beneficiary shall be paid a single sum amount equal to the Participant's Account balance as soon as administratively feasible after the Participant's death or such other form of benefit provided for under the Contract, provided that such distribution complies with the requirements of Section 5.09.

(b) If the Participant is married on the date of his death, his surviving Spouse shall be his Beneficiary. If the Participant is not married on the date of his death, the person or persons that he has designated as his Beneficiary on an Applicable Form shall be his Beneficiary, provided, however, if the Participant has not designated such a Beneficiary or if all designated Beneficiaries pre-decease him, his Beneficiary shall be his estate.

Section 5.06. Notification of Retirement Date and Address. As soon as possible before his Annuity Starting Date, a Participant shall certify his wish to commence distribution and his current mailing address in writing to the Administrator or its designee. Failure of the Participant to provide such certification shall not forfeit his right, if any, to any benefit hereunder, but, if it is administratively justified, it may result in the Administrator or its designee postponing the commencement of benefit payments, and no interest shall be paid on account of such postponement. If the mailing address of any person entitled to receive benefits hereunder is not known by the Administrator or its designee, it shall be the duty of any such person to inform the Administrator or its designee of his/her current mailing address and any subsequent changes thereto. The Participant is responsible for informing the Administrator or its designee of any change in his address. All notices to any person from the Administrator or its designee may be sent to the last address filed by the Participant with the Administrator or its designee. Neither the Administrator nor its designee has any further obligation in the event such notice is not received by such person.

Section 5.07. Payments at Direction of Administrator. Benefits payable under the Plan shall be paid at the direction of the Administrator or its designee in accordance with the terms of the Plan. There is no obligation of the Plan, Trust, or Employer to pay any such benefits except out of the assets of the Plan.

Section 5.08. Persons Under Legal Disability. If the Administrator is advised in writing that any benefit is payable to a minor or other person under legal disability, the Administrator or its designee may direct that such payments be made to the legal guardian of such person or to such other person or organization as a court of competent jurisdiction may direct in full satisfaction of any payment due under the Plan.

Section 5.09. Limitations on Distributions. Notwithstanding any provision in the Plan to the contrary, any distribution under the Plan shall be made in accordance with Code Section 401(a)(9) and regulations sections 1.401(a)(9)-2 through 1.401(a)(9)-9 and the incidental death benefit requirements under Code Section 401(a)(9)(G). The distribution of the entire interest of the Participant under the Plan shall commence at his Normal Retirement Date or Late Retirement

Date, or, if later, by April 1 of the calendar year following the calendar year in which such Participant retires and in accordance with the applicable requirements of Code Section 401(a)(9).

Section 5.10. Eligible Rollover Distributions.

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit the election of a Distributee under this Section, a Distributee may elect, at the time and in the manner prescribed by the Administrator or its designee, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(b) The following definitions shall apply to this Section:

(1) An "Eligible Rollover Distribution" is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the designated beneficiary of the Distributee, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); or (iii) that is made upon the hardship of the Participant. A portion of a distribution does not fail to be an eligible rollover distribution merely because it consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code Section 408(a) or (b), or to a qualified plan described in Code Section 401(a) or 403(a), or to an annuity contract described in Code Section 403(b), provided such plan or contract agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) An "Eligible Retirement Plan" is an individual retirement account described in Code Section 408(a), a Roth individual retirement account described in Code Section 408A, an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that accepts the Eligible Rollover Distribution of the Distributee. An Eligible Retirement Plan shall also mean an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p). With respect to a non-spouse Beneficiary, Eligible Retirement Plan means an individual retirement account, a Roth individual retirement account or an individual retirement annuity established for purposes of receiving a distribution on behalf of the

designated beneficiary as an inherited individual retirement account or individual retirement annuity within the meaning of Code Section 408(d)(3)(C).

(3) A "Distributee" means the Participant when eligible to receive a distribution from the Plan, or the Participant's surviving spouse who is eligible to receive a distribution from the Plan, or the Participant's non-spouse Beneficiary who is eligible to receive a distribution from the Plan.

(4) A "Direct Rollover" is a payment by the Plan to the eligible retirement plan specified by the Distributee.

(c) Not fewer than thirty (30) days nor more than one-hundred-eighty (180) days before a Participant's Annuity Starting Date, the Administrator or its designee shall provide the Participant with the written explanation required by Code Section 402(f), if applicable, including an explanation of the rules: (i) under which a Distributee may elect to have an Eligible Rollover Distribution paid in a Direct Rollover to an Eligible Retirement Plan; (ii) that require the withholding of tax on an Eligible Rollover Distribution if it is not paid in a Direct Rollover to an Eligible Retirement Plan; (iii) that provide that a distribution shall not be subject to tax if the distribution is rolled over to an Eligible Retirement Plan within sixty (60) days after the date the Distributee receives the distribution; and (iv) if applicable, certain special rules regarding taxation of the distribution as described in Code Section 402(d) and (e).

(d) The Distributee may designate only one (1) Eligible Retirement Plan to receive a Direct Rollover of all or a portion of the Eligible Rollover Distribution to be made. The portion of the Eligible Rollover Distribution to be paid in a Direct Rollover must be not less than the lesser of Five Hundred Dollars (\$500) or the entire Eligible Rollover Distribution.

(e) If the Distributee fails to elect affirmatively or decline the Direct Rollover payment option before the Annuity Starting Date, the Administrator or its designee shall instruct the Trustee to make the distribution assuming the Distributee elected not to take a Direct Rollover. A distribution shall not be made pursuant to the default procedure described in the preceding sentence, unless the Participant received proper notice regarding the direct rollover payment option at least thirty (30) days before the date of the distribution.

(f) The Administrator or its designee shall prescribe procedures as allowed by the regulations to implement the provisions of this Section.

**ARTICLE VI
LIMITATIONS ON BENEFITS**

Section 6.01. Maximum Annual Benefit.

(a) The limitations of Code Section 415(b) shall apply to the Plan. For this purpose:

(1) The "applicable mortality table" means the mortality table based on the prevailing standard table specified by the Commissioner (described in Code Section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date as of which the actuarial equivalent amount is being determined (without regard to any

other subparagraph of Code Section 807(d)(5)), as prescribed by the Internal Revenue Service. The applicable mortality table is the table prescribed in Rev. Rul. 2007-67; provided, however, any new mortality table prescribed by the Internal Revenue Service shall become effective under the Plan as of the last day on which the Plan is required to adopt such table, unless an earlier date is adopted hereunder.

(2) The "defined benefit dollar limitation" is Two Hundred Thousand Dollars for 2012, as increased by the Cost of Living Adjustment thereafter, and payable in the form of a straight life annuity. This adjusted limitation shall apply to each Plan Year.

(3) The "maximum permissible benefit" is the defined benefit dollar limitation adjusted where required, as provided in (A) and, if applicable, in (B), (C), or (D) below.

(A) If the Participant has fewer than ten (10) years of participation in the Plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the Plan and (ii) the denominator of which is ten (10).

(B) If the benefit of the Participant begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the Participant at age sixty-two (62) (adjusted under (A) above, if required). To determine the defined benefit dollar limitation for an age prior to age sixty (62), the defined benefit dollar limitation shall be adjusted by using the applicable mortality table and an interest rate not less than the greater of (i) 5% or (ii) the rate specified in the Plan. Any decrease in the defined benefit dollar limitation determined in accordance with this (B) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(C) If the benefit of the Participant begins after the Participant attains age sixty-five (65), the defined benefit dollar limitation applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Participant at age sixty-five (65) (adjusted under (A) above, if required). To determine the defined benefit dollar limitation for an age later than age sixty-five (65), the defined benefit dollar limitation shall be adjusted by using the applicable mortality table and an interest rate not greater than the lesser of (i) 5% or (ii) the rate specified in the Plan. For these purposes, mortality between age sixty-five (65) and the age at which benefits commence shall be ignored.

(D) If the retirement income benefit under the Plan is payable in a form of benefit that would otherwise be subject to 417(e)(3) if the Plan were not a governmental plan, the defined benefit dollar limitation shall be adjusted by using

the applicable mortality table and an interest rate not less than the greatest of (1) the interest rate under the Plan, (2) the rate that provides a benefit of not more than 105 percent of the benefit that would be provided if the applicable interest rate (as defined in Code Section 417(e)(3)) were the interest rate assumption or (3) five and one-half percent (5½ %) interest.

(b) For purposes of this Section, all defined benefit plans of the Employer, whether or not terminated, are to be treated as a single defined benefit plan, and all defined contribution plans of the Employer are to be treated as a single defined contribution plan.

(c) The Employer and all Affiliated Employers shall be considered as a single employer for purposes of applying the limitations of this Article VI.

(d) For purposes of this Article VI, the limitation year for any qualified plan of the Employer shall be the Plan Year.

ARTICLE VII FUNDING OF PLAN AND PAYMENT OF COSTS

Section 7.01. Funds. All contributions under the Plan shall be paid or transferred to the Trustee to be held, managed, invested and distributed by the Trustee in accordance with the provisions of the Plan and Trust. All benefits under the Plan shall be distributed solely from the Trust Fund and the Employer shall have no liability therefore other than the obligation to make contributions to the Plan as provided in Section 7.02.

Section 7.02. Employer Contributions. As of the date on which a Principal Credit is to be made under the Plan or as soon as administratively feasible thereafter, the Administrator shall make a contribution to the Plan equal to the Principal Credit. All expenses incident to the operation and management of this Plan shall be paid by the Trustee out of the Trust Fund. The Employer shall have no further obligation to make any contributions to the Plan on or after the Plan's termination date, as established pursuant to Article IX of the Plan.

ARTICLE VIII ADMINISTRATION OF THE PLAN

Section 8.01. Administrator. The Employer is the Plan Administrator, and shall act through action of the Board, except as the Board's authority to act is delegated as provided in Section 8.03. The Administrator shall have authority to control and manage the operation and administration of the Plan. The Administrator shall have all powers necessary or convenient to enable it to exercise such authority. In connection therewith, the Administrator may provide rules and regulations, not inconsistent with the provisions hereof, for the operation and management of the Plan and may from time to time amend or rescind such rules or regulations. The Administrator is authorized to accept service of legal process for the Plan.

Section 8.02. Powers of the Administrator. Except as may be otherwise specifically provided in the Plan, the Administrator shall have the discretionary power to construe and interpret the Plan and to determine all questions of fact or law arising hereunder. The Administrator may correct any defect, supply any omission or reconcile any inconsistency in the

Plan in such manner and to such extent as it may deem expedient and, subject to provisions of the Plan regarding claims to benefits, the Administrator should be the sole and final judge of such expediency.

Section 8.03. Delegation by Administrator. The Administrator may delegate one or more specified duties or responsibilities under the Plan to one or more other persons in writing, and may revoke such delegated authority at any time without cause or advance notice.

Section 8.04. Advice to Administrator. The Administrator may employ or contract with one or more persons to render legal or other advice with regard to its duties, responsibilities and authority under the Plan, the cost of which may be paid pursuant to Section 8.09.

Section 8.05. Fiduciary Insurance. The Administrator may purchase fiduciary liability insurance for any employees of the Administrator to cover liability or losses occurring by reason of the act or omission of an employee with respect to the Plan.

Section 8.06. Limitation on Recovery. A Participant and any beneficiary may not seek recovery against the Board, Employer, Administrator or Trustee, or any employee, contractor, or agent of the Board, Employer, Administrator or Trustee, for any loss sustained by the Participant or beneficiary due to the nonperformance of their duties, negligence, or any other misconduct of the above named persons.

Section 8.07. Benefit Payments. The Administrator, or its designee, if in doubt regarding the correctness of its action with respect to a benefit payment, may direct suspension of payment until satisfied as to the correctness of the payment or the person to receive the payment. Alternatively, the Administrator, or its designee, may file, in any state court of competent jurisdiction, a suit, in the form it deems appropriate, for legal determination of the benefits to be paid and the persons to receive them. The Administrator, or its designee, may also bring a suit, or take other action as it deems appropriate, to resolve questions involving investment directions. The Administrator shall comply with the final order of the court in any such suit, and any affected Participant or beneficiary, and the Administrator shall be bound by such an order, insofar as it affects the benefits payable under this Plan, or the method or manner of payment.

Section 8.08. Unclaimed Benefit Payments. If any payment of a benefit hereunder, which has been mailed by regular United States first-class mail to the last address of the payee furnished to the Trustee by the Administrator, or its designee, is returned unclaimed, the Trustee shall notify the Administrator and shall discontinue further payments to such payee until it receives further instructions from the Administrator, subject to any applicable Unclaimed Property Act provisions.

Section 8.09. Payment of Expenses. All expenses and costs associated with the administration and investments of the Plan shall be paid from the Trust Fund.

**ARTICLE IX
TERMINATION OF PLAN**

Section 9.01. Termination of Plan. The Employer may terminate the Plan in whole or in part by action of its Board at any time effective as of the Plan's termination date, as determined by the Board in its sole and final discretion. Subject only to Section 4.02, termination of the Plan shall not reduce the Participant's Accrued Retirement Benefit.

Section 9.02. Allocation of Assets on Termination. On termination of the Plan, accruals of benefits by the Participant shall cease as of the Plan termination date. The Administrator or its designee, after all expenses of the Plan have been paid or provision has been made therefore, shall distribute a nontransferable annuity or make a lump sum payment or payments for the benefit of the Participant and any beneficiaries with respect to the Accrued Retirement Benefit of the Participant and any beneficiaries, to the extent funded. The distribution of any annuity or lump sum payment or any combination of such distributions and payments of all Trust Fund assets to the Participant or his beneficiaries, if any, shall be in full satisfaction of any and all obligations of the Plan, the Trust and the Employer, to such Participant and beneficiaries.

**ARTICLE X
AMENDMENT PROCEDURE**

Section 10.01. Amendment for Qualification of Plan. It is the intent of the Employer that the Plan shall be and remain qualified for tax purposes under the Code. The Administrator may submit the Plan for approval under the Code and all expenses incident thereto shall be borne by the Employer. The Employer may make any modification, alterations or amendments to the Plan necessary to obtain and retain approval of the Secretary of Treasury or his delegate as may be necessary to establish and maintain the status of the Plan as qualified under the provisions of the Code or other federal legislation, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration or amendment of the Plan, made in accordance with this Section, may be made retroactively, if necessary or appropriate. A certified copy of the resolution of Employer making any amendment shall be delivered to the Trustee, and the Plan shall be amended in the manner and effective as of the date set forth in such resolution, and the Employer, the Participant and his beneficiaries, and all others having any interest under this Plan shall be bound thereby.

Section 10.02. Plan Amendments. The Employer reserves the right, in its sole and final discretion, by action of its Board, to approve any amendment or modification of the Plan; provided, however, that no such amendment shall reduce the Participant's Accrued Retirement Benefit, except to the extent consistent with changes to the qualification requirements under Code Section 401(a). By resolution, the Board may delegate its authority to make Plan amendments or modifications to the Administrator. A certified copy of any resolution of the Board or the Administrator, if authorized, making a Plan amendment shall be delivered to the Trustee. The Plan shall be amended in the manner and effective as of the date set forth in such resolution, and the Employer, Board, Administrator, Trustee, and the Eligible Employee, Participant, beneficiary, insurance company and any others having or claiming to have any interest under this Plan shall be bound thereby.

ARTICLE XI
NON-ALIENATION OF BENEFITS AND DOMESTIC RELATIONS ORDERS

Section 11.01. Non-alienation of Benefits.

(a) Except as provided in Subsection (b) or (c), no benefit under the Plan, prior to actual receipt thereof by the Participant or a beneficiary, shall be subject to any debt, liability, contract, engagement, or tort of the Participant or his beneficiary, nor subject to anticipation, sale, assignment, transfer, encumbrance, pledge, charge, attachment, garnishment, execution, alienation, or other voluntary or involuntary alienation or other legal or equitable process, nor transferable by operation of law.

(b) The benefits of the Participant shall be paid to an "Alternate Payee" as defined in Code Section 414(p) pursuant to the applicable requirements of any "Qualified Domestic Relations Order." "Qualified Domestic Relations Order" means a domestic relations order which creates or recognizes the existence of, or assigns to an Alternate Payee, a right to receive all or a portion of the benefits payable to the Participant under the Plan and which satisfies the following:

(1) The domestic relations order must be a court order, judgment or decree, including a property settlement agreement incorporated in such an order, judgment or decree by a court of competent jurisdiction.

(2) The domestic relations order (A) must relate to the provision of child support, alimony payment, or marital property rights to an Alternate Payee, and (B) be made pursuant to a State domestic relations law (including community property laws).

(3) The domestic relations order must clearly specify (A) the name and last known address, if any, of the Participant and the name and mailing address of each Alternate Payee covered by the domestic relations order; (B) the amount or percentage of the Accrued Retirement Benefit of the Participant to be paid by the Plan to each Alternate Payee, or the manner in which such amount or percentage is to be determined; (C) the number of payments or period time to which such domestic relations order applies; and (D) the name of the Plan to which the domestic relations order applies.

(4) The domestic relations order cannot require that the Plan (A) provide any type or form of benefit, or any option, not otherwise provided under the Plan; or (B) provide increased benefits (determined on the basis of actuarial value); or (C) provide for the payment of benefits to an Alternate Payee which are required to be paid to another Alternate Payee under another domestic relations order previously determined under the Plan to be a Qualified Domestic Relations Order.

(5) Notwithstanding any other provision of the Plan, the Plan may make a distribution to an Alternate Payee pursuant to a Qualified Domestic Relations Order prior to the date the Participant attains his earliest retirement age, as defined in Code Section 414(p)(4)(B) only if the following conditions are satisfied: (A) the payment of benefits is as if the Participant is to actually retire on the date on which such payments are ordered to begin; and (B) the payment of benefits is in a form in which such benefits may be paid

under the Plan to the Participant (other than in the form of a Joint and Survivor Annuity with respect to the Alternate Payee and spouse).

(6) "Earliest retirement age" means the earlier of (A) the date on which the Participant is entitled to a distribution under the Plan; or (B) the later of age fifty (50) or the earliest date the Participant could begin receiving benefits under the Plan if he terminated employment.

(7) The domestic relations order may require that the former spouse of the Participant be treated as the surviving spouse with respect to any survivor benefits payable under the Plan pursuant to the domestic relations order, if the Participant dies.

(c) The benefits of the Participant may be reduced to satisfy the Participant's liability to the Plan due to (i) the Participant's conviction of a crime involving the Plan, or (ii) a judgment, order, decree, or settlement agreement that expressly provides for offset of all or part of the amount ordered or required to be paid to the Plan against the Participant's benefits provided under the Plan.

(d) Notwithstanding any other provision of the Plan, any benefit payable to the Participant or a beneficiary of the Participant shall be reduced by any benefit paid or payable from the benefits of the Participant under the Plan pursuant to Subsection (b) or (c). The Administrator or its designee, in its sole discretion, may direct the Trustee to separately account for any benefit payable pursuant to Subsection (b) or (c).

Section 11.02. Procedures Regarding Domestic Relations Orders.

(a) If the Plan receives any order which may be a Qualified Domestic Relations Order, the Administrator or its designee shall:

(1) promptly notify the Participant and any prospective Alternate Payee of (i) the receipt of such order, and (ii) the procedures under the Plan for determining whether such order is a Qualified Domestic Relations Order; and

(2) within a reasonable period after receipt of such order, determine whether such order is a Qualified Domestic Relations Order and notify the Participant and each Alternate Payee of such decision.

(b) The Administrator or its designee shall establish reasonable procedures to determine whether any order is a Qualified Domestic Relations Order and to administer the distribution of benefits with respect to such orders. The procedures shall (i) be in writing, (ii) provide prompt notice of such procedures to each person specified in the order as entitled to the payment of benefits, at the address specified in the order, and (iii) permit an Alternate Payee to designate a representative for receipt of copies of notices that are sent to Alternate Payees with respect to a Qualified Domestic Relations Order.

(c) During any period of time in which the issue of whether an order is a Qualified Domestic Relations Order is being determined by the Administrator or its designee, a court of competent jurisdiction, or otherwise, the Administrator or its designee shall provide the Trustee

with written direction to separately account under the Trust for the amounts, if any, which would be payable to an Alternate Payee during such period if such order is determined to be a Qualified Domestic Relations Order. If within the eighteen (18) month period beginning on the date on which the first payment would be required to be made under the order, the order, or modification thereof, is determined to be a Qualified Domestic Relations Order, the Plan shall pay such separately accounted amounts, plus any interest thereon, to the Alternate Payee or Payees entitled thereto. If within the eighteen (18) month period the order is determined to not be a Qualified Domestic Relations Order, or if such issue has not been resolved, the Administrator or its designee shall direct the Trustee to pay such separately accounted amounts, plus any interest thereon, to the Participant or beneficiary entitled to such amounts as if there had been no order. Any determination that an order is a Qualified Domestic Relations Order after the close of the eighteen (18) month period shall have only prospective application. Notwithstanding the preceding provisions, the Administrator or its designee, in its sole discretion, may delay payment of any amounts payable under the Plan to the Participant (i) to the end of said eighteen (18) month period, if an order is found to be defective within said eighteen (18) month period and the Administrator or its designee has notice that the parties with respect to the order are attempting to rectify any defects in the order, or (ii) for a reasonable period of time, if the Administrator or its designee receives notice that an order which may be a Qualified Domestic Relations Order is being sought with respect to the Participant; provided, however, for these purposes, a court stay to the Administrator or its designee during the time an appeal is pending is notice that the parties with respect to an order are attempting to cure any defects in an order, and the Administrator or its designee shall honor a restraining order prohibiting the disposition of any amounts with respect to the Participant pending resolution of a dispute with respect to an order which may be a Qualified Domestic Relations Order.

Section 11.03. Surviving Spouse. To the extent so provided in any Qualified Domestic Relations Order, the former spouse of the Participant shall be treated as the surviving spouse of the Participant under the Plan and the spouse of the Participant shall not be treated as a surviving spouse of the Participant for such purposes.

ARTICLE XII CLAIMS PROCEDURE

Section 12.01. Claims. Any person who believes that he is entitled to any benefits under the Plan shall present such claim in writing to the Administrator. The Administrator shall within ninety (90) days provide adequate notice in writing to any claimant as to the decision on any such claim. If such claim has been denied, in whole or in part, such notice shall set forth (i) the specific reasons for such denial, (ii) the specific reference to any pertinent provisions of the Plan on which denial is based, (iii) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary, and (iv) an explanation of the review procedure for the Plan. Such notice shall be written in a manner calculated to be reasonably understood by the claimant. Within sixty (60) days after receipt by the claimant of notification of denial, the claimant shall have the right to present a written appeal to the Administrator. If such appeal is not filed within said sixty (60) day period, the decision of the Administrator shall be final and binding. The Administrator shall conduct a full and fair review of such denial. The claimant or his duly authorized representative may review any Plan documents that are pertinent to the claim and may

submit issues and comments to the Administrator in writing. A decision by the Administrator shall be made promptly, and in any event not later than sixty (60) days after its receipt of the appeal.

Section 12.02. Reliance. If the Administrator or any other person with respect to the Plan acts in reliance on an election, consent, or revocation made pursuant to this Plan, the election, consent, or revocation shall be treated as valid for purposes of discharging the Plan from liability to the extent of payments made pursuant to such acts.

Section 12.03. Disputes. In the event there is a dispute over any terms and conditions of this Plan affecting any individual, such individual shall notify the Administrator in writing of his position. The decision of the Administrator shall be final and binding on all parties, and this appeal shall be the sole and exclusive remedy in any such dispute.

ARTICLE XIII MISCELLANEOUS

Section 13.01. Non-Diversion. The assets of the Plan shall never inure to the benefit of the Employer and shall be held for the exclusive purpose of providing benefits to the Participant and beneficiaries and defraying reasonable expenses of administering the Plan.

(a) In the case of a contribution which is made by the Employer under a mistake of fact, such contribution shall be returned to Employer, upon demand, within one year after the payment of the contribution; and

(b) Contributions by the Employer are conditioned on the initial qualification of the Plan, and if the Plan does not so qualify initially, then such contributions shall be returned to the Employer, upon demand, within one year after the date of denial of qualification of the Plan.

Section 13.02. Merger, Consolidation of Plans, Transfer of Plan Assets, or Assumption of Plan by Successor Employer. In the case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan, or the assumption of the Plan by a successor employer, the Participant in the Plan shall be entitled to a benefit (as if the Plan had been terminated) immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (as if the Plan had been terminated).

Section 13.03. Limitation of Rights and Obligations. Neither the establishment nor maintenance of the Plan nor any amendment thereof, nor the purchase of any annuity contract, nor any act or omission under the Plan or resulting from the operation of the Plan shall be construed:

(a) As conferring upon the Participant or beneficiary, or any other person any right or claim against the Board, Employer, Administrator or Trustee except to the extent that such right or claim shall be specifically expressed and provided in the Plan.

(b) As an agreement, consideration, or inducement of employment or as effecting in any manner or to any extent whatsoever the rights or obligations of the Employer or any Eligible Employee to continue or terminate the employment relationship at any time.

(c) As creating any responsibility or liability for any taxes or tax consequences on the accrual or payment of benefits under this Plan.

Section 13.04. Qualified Military Service. Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u). Further, if the Participant dies while performing qualified military service, his Beneficiary shall be entitled to receive any additional benefit provided under the Plan to which the Participant would have been entitled had he resumed employment with the Employer and then died.

Section 13.05. Counterparts. This Plan may be executed in any number of counterparts, each of which shall be deemed to be an original. All the counterparts shall constitute but one and the same instrument and shall be sufficiently evidenced by any one counterpart.

IN WITNESS WHEREOF, the Employer has caused this Plan to be established as of the date and year first above written.

BOISE STATE UNIVERSITY

By: _____

Title: _____

Date: _____

**APPENDIX A
ELIGIBLE EMPLOYEES**

1. Chris Petersen, Head Men's Football Coach, effective February 1, 2012.

BUSINESS AFFAIRS AND HUMAN RESOURCES
DECEMBER 13, 2012

BOISE STATE UNIVERSITY

SUBJECT

Salary continuation for adjunct faculty for absence due to unforeseen illness or injury

APPLICABLE STATUTE, RULE, OR POLICY

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

BACKGROUND/DISCUSSION

Boise State University (BSU) is undertaking a concerted effort to professionalize its adjunct faculty. Adjuncts (including visiting and affiliate faculty) are often not benefit-eligible employees and as such have no sick leave. In order to attract, retain, and incentivize a professional adjunct faculty, the University would like to extend assistance to adjuncts who are absent due to unforeseen illness or injury.

Since Boise State University does not currently provide any form of paid leave to the majority of its adjunct faculty, the University would like to establish a limited benefit for adjunct faculty members who experience unforeseen illnesses or injury but are not eligible for leave benefits. Specifically, the University will continue paying the salary of such adjunct faculty members for up to two weeks in a semester if they are absent due to unforeseen illness or injury. In addition to the two-week limit, the University intends to limit this benefit by providing it only to adjunct faculty who have previously been employed by the University for at least one full academic semester. It plans to further limit this benefit by requiring medical certification (without diagnostic details) of the illness or injury from a health care provider.

IMPACT

Adjunct faculty are the lowest compensated members of the University faculty. The budgets for adjuncts are set for an entire semester's pay for each course taught. Thus, continuing an adjunct's pay for two weeks during an illness will not impact the budget as each adjunct's pay is already budgeted. There may be some reduced salary savings by not stopping pay during those two weeks, but the impact is expected to be minimal.

The University intends to adopt policy language similar to the following:

Part-time adjunct faculty are not benefit-eligible and do not earn sick leave. However, in the event of unforeseen personal illness or injury lasting one week or more, part-time adjunct faculty who have been employed by the University for at least one full academic semester are eligible for limited continuation of regular salary. With medical certification (without diagnostic details) of the injury or illness from a health care provider and approval of the department chairperson,

**BUSINESS AFFAIRS AND HUMAN RESOURCES
DECEMBER 13, 2012**

continuation of regular salary may be provided for a period not to exceed two weeks in any semester. Multiple absences may be approved up to the combined two-week maximum. It is the responsibility of the employee to notify their immediate supervisor without delay to arrange for class coverage.

STAFF COMMENTS AND RECOMMENDATIONS

This is a request by BSU to approve the establishment of a limited fringe benefit for adjunct faculty, with an aim towards enhancing recruitment and retention. The fiscal impact would be largely budget-neutral because adjunct salary is already budgeted for an entire semester. Staff recommends approval.

BOARD ACTION

I move to approve the request by Boise State University to establish a limited salary continuation benefit for adjunct faculty in the event of absence due to unforeseen illness or injury.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

BUSINESS AFFAIRS AND HUMAN RESOURCES
DECEMBER 13, 2012

UNIVERSITY OF IDAHO

SUBJECT

Request for approval, Director of Tennis, Jeff Beaman, employment contract

REFERENCE

August 12, 2010 Board approval of multi-year coaching contract

APPLICABLE STATUTE, RULE, OR POLICY

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

BACKGROUND/DISCUSSION

The University of Idaho (UI) wishes to extend the contract with its Director of Tennis, Jeff Beaman, for a period commencing with the approval of the proposed contract and ending June 30, 2015. The current contract term expires June 30, 2013. The primary terms of the agreement are set forth below, and the entire contract and comparison to the Board model contract are attached.

IMPACT

The annual base salary from appropriated funds is \$37,003.20; with eligibility to receive university-wide changes in employee compensation approved by the Director of Athletics and the President. Any other salary increases require approval of the Regents.

There is an annual media payment of \$13,000 and the following incentive/supplemental compensation provisions:

- Conference champions or co-champion = 1/13th of salary per team (Men's and Women's) for each conference championship or co-championship team (total of 2 possible)
- Team qualifies for NCAA tournament = \$500 per team
- Academic achievement and behavior of team (categorized using APR) =:
 - National score within sport
 - 975 – 979 = \$200 per team
 - 980 – 985 = \$250 per team
 - 986 – 990 = \$300 per team
 - 990 and above = \$400 per team
- Conference Coach of the Year = \$1,000 per team
- Regional Coach of the Year = \$1,000 per team
- Division I National Coach of the year = 1/13th of salary
- Top 20 national ranking at season end = \$500 per team
- Singles player or doubles team participating in the NCAA national indoor or outdoor national tennis championships = \$250 per individual or team (estimate maximum 8 per year) = \$2,000

BUSINESS AFFAIRS AND HUMAN RESOURCES
DECEMBER 13, 2012

- Singles player or doubles team winning a NCAA national indoor or outdoor national tennis championship \$1,000 per player or team (estimate maximum 8 per year)

Total potential annual compensation (base salary, media payment and incentive) is \$75,342.40 (using the estimated number of NCAA tournament appearances and championships set out above in any given year).

ATTACHMENTS

Attachment 1 – Employment Contract Page 3
Attachment 2 – Comparison to Board Model Contract Page 17

STAFF COMMENTS AND RECOMMENDATIONS

This is a request for approval of a two-year contract extension for UI's Director of Tennis. The academic incentives are adequate – with the highest amount almost equivalent to incentive pay for a NCAA tournament team qualifier. The contract also contains adequate liquidated damages in favor of the University. The employment agreement follows the Board-approved model contract.

Changes from the current contract include an increase in base salary; additional media payment; academic achievement incentives changed to be consistent with the other recent contract renewals; sections 3.2.5 through 3.2.9 have been added as incentives; and an increase in the liquidated damages.

Staff recommends approval.

BOARD ACTION

I move to approve the request by the University of Idaho to extend the university's employment contract with Jeff Beaman, as Director of Tennis, for a term commencing on the expiration of the existing contract and expiring on June 30, 2015 with an annual base salary of \$37,003.20 and such contingent base salary increases, annual media payments, and incentive/supplemental compensation provisions as set forth in the materials presented to the Board, in substantial conformance with the terms of contract set forth 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 Jeff Beaman (Coach).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University 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'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 commencing on _____, and terminating, without further notice to Coach, on June 30, 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 \$37,003.20 per year, payable in biweekly installments in accordance with normal University procedures. Coach will be able to receive University wide changes in employee compensation approved by the Director and President; any other salary increases shall also require approval by the University's 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 Each year Coach shall be eligible to receive supplemental compensation based on the academic achievement and behavior of Team members if either Team's cumulative Academic Progress Rate ("APR") ranks nationally within the applicable sport at the 50th percentile or higher, and with national scores as follows:

National score within sport
975 – 979 = \$200 per team
980 – 985 = \$250 per team
986 – 990 = \$300 per team
990 and above = \$400 per team

3.2.4 Each year the University head men's or women's tennis coach is named Conference Coach of the Year or Conference Co-Coach of the year for either Team, Coach shall receive supplemental compensation of \$1,000 per team. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.5 Each year the University Idaho head men's or women's tennis coach is named Regional Coach of the Year for either team, Coach shall receive supplemental compensation of \$1,000 per team. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.6 Each year the University Idaho head men's or women's tennis coach is named Division I National Coach of the year for either team, Coach shall receive supplemental compensation of $\frac{1}{13}^{\text{th}}$ of annual salary. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.7 Each year one of the teams finishes in the top 20 in the final rankings as determined by Intercollegiate Tennis Association and if Coach continues to be employed as University's head coach of its intercollegiate tennis programs as of the ensuing July 1st, the University shall pay to Coach supplemental compensation of \$500. If both teams are ranked in the top 20 in the final rankings, the Coach will earn supplemental compensation of \$500 for each Top 20 finish. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.8. For each singles player or doubles team participating in the NCAA national indoor or outdoor national tennis championships and if Coach continues to be employed as University's head of its intercollegiate tennis programs as of the ensuing July 1st, the University shall pay to Coach supplemental compensation of \$250 for each singles player or doubles team participating in the NCAA national championships.

3.2.9 For each singles player or doubles team winning a NCAA national indoor or outdoor national tennis championship and if Coach continues to be employed as University's head of its intercollegiate tennis programs as of the ensuing July 1st, the University shall pay to Coach supplemental compensation of \$1000 for each singles player or doubles team winning an NCAA national championship.

3.2.10 The Coach shall receive the sum of \$13,000 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 competing radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Director, Coach shall not appear in any commercial endorsements which are broadcast on radio or television that conflict with those broadcast on the University's designated media outlets.

3.2.11 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.

3.2.12 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 Teams is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University. Coach recognizes that the University has 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 an 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 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 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 which contain a comparative or qualitative description of athletic footwear, apparel or equipment products.

3.3 General Conditions of Compensation. All compensation provided by the University to Coach is subject to deductions and withholdings as required by law or the terms

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

ARTICLE 4

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

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

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

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

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's governing board, the conference, and the NCAA; supervise and take appropriate steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the 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'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 Governing Policies and Procedures and Rule Manual; (b) University 's 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 and men's tennis conference of which the University is a member.

4.2. Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of the University, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach may not use the University's

name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President

4.3. NCAA Rules. In accordance with NCAA rules, Coach shall obtain prior written approval from the University's President for all athletically related income and benefits from sources outside the University and shall 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 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 rules and regulations, including but not limited to the University's Faculty-Staff Handbook, Policies and Procedures of the Regents of the University, and the University's Administrative Procedures Manual.

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

- a) A deliberate or major violation of Coach's duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach's abilities;
- b) The failure of Coach to remedy any violation of any of the terms of this agreement within 30 days after written notice from the University;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University's governing board, the conference or the NCAA, including but not limited to any such violation which may have occurred during the employment of Coach at another NCAA or NAIA member institution;
- d) Ten (10) working days' absence of Coach from duty without the University 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 or her 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 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 reasonably comparable employment, whichever occurs first, provided however, in the event Coach obtains other employment of any kind or nature 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 other 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 other 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 reasonably comparable employment or any 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 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, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by University and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by University. The liquidated damages are not, and shall not be construed to be, a penalty.

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 prior to June 30, 2015 he shall pay to the University the sum of \$6,000.00. 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 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 both 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, that are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Coach and the acceptance thereof by University shall constitute adequate and reasonable compensation to University for the damages and injury suffered by it because of such termination by Coach. The liquidated damages are not, and shall not be construed to be, a penalty. This section 5.3.4 shall not apply if Coach terminates this Agreement because of a material breach by the University.

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 provide for in the State Board of Education and Board or Regents of the University 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: 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

Duane Nellis, President
Date: _____

Jeff Beaman
Date: _____

Approved by the Board of Regents on the __th day of _____, 2012.

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~~(MODEL ATHLETICS CONTRACT)~~

EMPLOYMENT AGREEMENT

This Employment Agreement (Agreement) is entered into by and between _____
~~(the~~ University ~~(College)~~ of Idaho ~~(University)~~, and _____ Jeff Beaman (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~~ director of tennis of its intercollegiate ~~(Sport) —~~ 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 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 President (President).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the University ~~(College)~~'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 ~~of _____ () years,~~ commencing on _____, and terminating, without further notice to Coach, on June 30, 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 \$ ~~_____~~ 37,003.20 per year, payable in biweekly installments in accordance with normal University ~~(College) procedures, and such salary increases as may be determined appropriate~~ procedures. Coach will be able to receive University wide changes in employee compensation approved by the Director and President and approved; any other salary increases shall also require approval 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 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. 3.2.1. Each year the Team is the conference champion or co-champion and also becomes eligible for a (bowl game pursuant to NCAA Division I guidelines or post season one of the Teams receives a bid to participate in the NCAA tournament or post season playoffs); and if Coach continues to be employed as University (College)'s head (Sport) coach'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 during the fiscal year in which the championship and (bowl or other post season) eligibility are achieved. The University (College) shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.~~

~~3.2.2 Each year the Team 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~~

~~Model Contract version: 12/9/2010~~ Employment Agreement

University of Idaho/Jeff Beaman

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~~employed as University (College)'s head (Sport) coach as of the ensuing July 1st, the University (College) shall pay Coach supplemental compensation in an amount equal to (amount or computation) of Coach's Annual Salary in effect on the date of the final poll. The University (College) shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation~~ of \$500 per team for each round of participation in the 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 discretion of the President in consultation with the Director and approved by the University (College)'s Board of (Regents or Trustees)~~. ~~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.~~ if either Team's cumulative Academic Progress Rate ("APR") ranks nationally within the applicable sport at the 50th percentile or higher, and with national scores as follows:

National score within sport
975 – 979 = \$200 per team
980 – 985 = \$250 per team
986 – 990 = \$300 per team
990 and above = \$400 per team

3.2.4 Each year ~~Coach shall be eligible to~~ the University head men's or women's tennis coach is named Conference Coach of the Year or Conference Co-Coach of the year for either Team, Coach shall 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~~ of \$1,000 per team. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation ~~and the timing of the payment(s) shall be at the discretion of the President in consultation with the Director and approved by the University (College)'s Board of (Regents or Trustees)~~.

3.2.5 Each year the University Idaho head men's or women's tennis coach is named Regional Coach of the Year for either team, Coach shall receive supplemental

compensation of \$1,000 per team. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.6 Each year the University Idaho head men's or women's tennis coach is named Division I National Coach of the year for either team, Coach shall receive supplemental compensation of \$1/13th of annual salary. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.7 Each year one of the teams finishes in the top 20 in the final rankings as determined by Intercollegiate Tennis Association and if Coach continues to be employed as University's head coach of its intercollegiate tennis programs as of the ensuing July 1st, the University shall pay to Coach supplemental compensation of \$500. If both teams are ranked in the top 20 in the final rankings, the Coach will earn supplemental compensation of \$500 for each Top 20 finish. The University shall determine the appropriate manner in which it shall pay Coach any such supplemental compensation.

3.2.8. For each singles player or doubles team participating in the NCAA national indoor or outdoor national tennis championships and if Coach continues to be employed as University's head of its intercollegiate tennis programs as of the ensuing July 1st, the University shall pay to Coach supplemental compensation of \$250 for each singles player or doubles team participating in the NCAA national championships.

3.2.9 For each singles player or doubles team winning a NCAA national indoor or outdoor national tennis championship and if Coach continues to be employed as University's head of its intercollegiate tennis programs as of the ensuing July 1st, the University shall pay to Coach supplemental compensation of \$1000 for each singles player or doubles team winning an NCAA national championship.

3.2.10 The Coach shall receive the sum of ~~-(amount or computation)-~~ \$13,000 from the University ~~(College)~~ or the University ~~(College)~~'s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (Programs). ~~Coach~~ 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 last regular season or post-season competition, whichever occurs later. ~~This sum shall be paid (terms or conditions of payment) _____,~~ 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, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Director, Coach shall not appear in any commercial endorsements which are broadcast on radio or television that conflict with those broadcast on the University ~~(College)~~'s designated media outlets.

~~3.2.6 (SUMMER CAMP OPERATED BY UNIVERSITY (COLLEGE))~~

~~3.2.11~~ 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 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'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 ~~(College)~~'s ~~summer football's youth tennis~~ 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) the remaining income from the youth tennis camps, less \$500, after all claims, insurance, and expenses of such camps have been paid.~~

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

- ~~a) The summer youth camp operation reflects positively on the University (College) and the Department;~~
- ~~b) The summer youth camp is operated by Coach directly or through a private enterprise owned and managed by Coach. The Coach shall not use University (College) personnel, equipment, or facilities without the prior written approval of the Director;~~
- ~~c) Assistant coaches at the University (College) are given priority when the Coach or the private enterprise selects coaches to participate;~~
- ~~d) The Coach complies with all NCAA (NAIA), Conference, and University (College) rules and regulations related, directly or indirectly, to the operation of summer youth camps;~~
- ~~e) The Coach or the private enterprise enters into a contract with University (College) and _____ (campus concessionaire) for all campus goods and services required by the camp.~~
- ~~f) The Coach or private enterprise pays for use of University (College) facilities including the _____.~~

- g) ~~Within thirty days of the last day of the summer youth camp(s), Coach shall submit to the Director a preliminary "Camp Summary Sheet" containing financial and other information related to the operation of the camp. Within ninety days of the last day of the summer youth camp(s), Coach shall submit to Director a final accounting and "Camp Summary Sheet." A copy of the "Camp Summary Sheet" is attached to this Agreement as an exhibit.~~
- h) ~~The Coach or the private enterprise shall provide proof of liability insurance as follows: (1) liability coverage: spectator and staff \$1 million; (2) catastrophic coverage: camper and staff \$1 million maximum coverage with \$100 deductible;~~
- i) ~~To the extent permitted by law, the Coach or the private enterprise shall defend and indemnify the University (College) against any claims, damages, or liabilities arising out of the operation of the summer youth camp(s)~~
- j) ~~All employees of the summer youth camp(s) shall be employees of the Coach or the private enterprise and not the University (College) while engaged in camp activities. The Coach and all other University (College) employees involved in the operation of the camp(s) shall be on annual leave status or leave without pay during the days the camp is in operation. The Coach or private enterprise shall provide workers' compensation insurance in accordance with Idaho law and comply in all respects with all federal and state wage and hour laws~~

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

3.2.73.2.12 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 Teams 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 reasonable request, Coach will consult with appropriate parties concerning an ~~—(Company Name)—~~ 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) 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)~~ 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 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 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 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)~~'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 C.~~ The applicable laws, policies, rules, and regulations include: (a) State Board of Education and Board of Regents of the University ~~of Idaho~~ Governing Policies and Procedures and Rule Manual; (b) University ~~(College)~~'s Handbook; (c) University ~~(College)~~'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)~~ is a member.

4.2. ~~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 are consistent with Coach's obligations under this Agreement. Coach may not use the University ~~(College)~~'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 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 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), the 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 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~~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-~~(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 rules and regulations, including but not limited to the University's Faculty-Staff Handbook, Policies and Procedures of the Regents of the University, and the University's Administrative Procedures Manual.

5.1.1 In addition to the definitions contained in applicable rules and regulations, University-~~(College)~~ 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 consent;

- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University ~~(College)~~'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 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 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 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 or her 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 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 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, provided; however, in the event Coach obtains other employment of any kind or nature 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 other 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 other employment, then subtracting from this adjusted gross compensation ~~deduction~~ 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 reasonably comparable employment or any 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 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 are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by University ~~(College)~~ and the acceptance thereof by Coach shall constitute adequate and reasonable

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compensation to Coach for the damages and injury suffered by Coach because of such termination by University ~~(College)~~. The liquidated damages are not, and shall not be construed to be, a penalty.

5.3 Termination by Coach for Convenience.

5.3.1 The Coach recognizes that his promise to work for University ~~(College)~~ 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 prior to June 30, 2015 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 the sum of \$6,000.00. 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~~ 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 both 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 that~~ are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Coach and the acceptance thereof by University ~~(College)~~ shall constitute adequate and reasonable compensation to University ~~(College)~~ for the damages and injury suffered by it because of such termination by Coach. The liquidated damages are not, and shall not be construed to be, a penalty. This section 5.3.4 shall not apply if Coach terminates this Agreement because of a material breach by the University ~~(College)~~.

5.3.5 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

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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 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 student-athletes or otherwise obstruct the University ~~(College)~~'s ability to transact business or operate its intercollegiate athletics program.

~~5.7~~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.

~~5.8~~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 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 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 shall be subject to the approval of the University ~~(College)~~'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 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 direction or for the University ~~(College)~~'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 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 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 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 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 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

Duane Nellis, President
Date: _____

Jeff Beaman

Date: _____

Approved by the Board of ~~(Regents or Trustees)~~ on the ~~__th~~ day of _____, 2010, 2012.