

BUSINESS AFFAIRS AND HUMAN RESOURCES
APRIL 20, 2017

TAB	DESCRIPTION	ACTION
<hr/>		
	BOISE STATE UNIVERSITY	
1	Amendment to Multi-Year Contract for Head Football Coach – Bryan Harsin	Motion to approve
<hr/>		
	BOISE STATE UNIVERSITY	
2	Extension to Multi-Year Coach Contract for Football - Defensive Coordinator – Andrew Avalos	Motion to approve
<hr/>		
	BOISE STATE UNIVERSITY	
3	Multi-Year Coach Contract for Football Offensive Coordinator – Zachary Hill	Motion to approve
<hr/>		

THIS PAGE INTENTIONALLY LEFT BLANK

BUSINESS AFFAIRS AND HUMAN RESOURCES
APRIL 20, 2017

BOISE STATE UNIVERSITY

SUBJECT

Amendment to Multi-year contract for Bryan Harsin, Head Coach Football

REFERENCE

December 2013	The Idaho Board of Education (Board) approved material term sheet and directed Boise State University (BSU) to return with a contract for February
February 2014	Board approved employment agreement for 2014-2019
February 2015	Board approved amended employment agreement for 2015-2020

APPLICABLE STATUTE, RULE, OR POLICY

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

BACKGROUND/DISCUSSION

In February 2015, the Board approved a new five-year Employment Agreement for Bryan Harsin as Head Coach for BSU's football team terminating on January 10, 2020. Coach Harsin's employment contract extends by one (1) additional year for each season in which the football team has at least eight (8) victories in a season (including bowl games). Meaning, one (1) additional year is added for each eight (8) win season. Accordingly, Coach Harsin currently has an employment contract through January 10, 2022. His contract extended to 2021 in the fall of 2015 and it extended to 2022 in the fall of 2016.

BSU is requesting approval of an amendment to the current multi-year contract with Coach Harsin to reflect the football team's success under his leadership. The amended contract makes substantive changes only to the bonus structure for the coach.

This past season, Harsin guided the Broncos to a 10-3 record, helping the Broncos reach their 15th-straight bowl game, tied for the sixth-longest streak in the country. BSU also climbed to thirteenth in both the AP and Coaches' Polls, the school's highest ranking in each since finishing eighth and sixth, respectively, at the conclusion of the 2011 season.

The contract is similar to the standard issued by BSU, including the extension year language based on eight games.

BUSINESS AFFAIRS AND HUMAN RESOURCES
APRIL 20, 2017

IMPACT

The amended contract maintains the original five (5) year contract terms, January 11, 2015 – January 10, 2020, and salary amounts, including automatic extension with eight wins; however, the bonus structure has changed. Terms are as follows:

Base Compensation:

Year 1 - \$1,350,000

Year 2 - \$1,450,000

Year 3 - \$1,550,000

Year 4 - \$1,650,000

Year 5 - \$1,750,000

Subsequent years - increase of at least \$100,000 over previous year

Academic Achievement:

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

National Score Within Sport

955-959 = \$20,000

960-964 = \$30,000

965-969 = \$35,000

970 or higher = \$50,000

Athletic Achievement

Athletic Incentive Pay may be earned as follows:

1) Mountain Division Champion \$50,000

and

2) Participation in non-CFP bowl game \$35,000 or

Conference Champion \$75,000 or

Participation in one of the six CFP bowl games \$100,000 or

Participation in one of the semi-final CFP playoff games \$125,000

and

3) Participation in CFP championship bowl game \$150,000 or

CFP Champion \$250,000

In the event Bryan Harsin terminates prior to January 10, 2018 without cause, he is required to pay liquidated damages of \$500,000.

No state funds are used and these amounts are paid only from program revenues, media, donations and other non-state funds.

BUSINESS AFFAIRS AND HUMAN RESOURCES
APRIL 20, 2017

ATTACHMENTS

Attachment 1 – Proposed Contract	Page 5
Attachment 2 – Redline of Proposed Contract to Model Agreement	Page 23
Attachment 3 – Redline of Proposed Contract to Current Contract	Page 45
Attachment 4 – 2012-2016 APR Summary	Page 63
Attachment 5 – Maximum Compensation Calculation	Page 64
Attachment 6 – Base Salary and Incentive Comparison	Page 65
Attachment 7 – Coach Contract Checklist	Page 66

STAFF COMMENTS AND RECOMMENDATIONS

The proposed amended contract retains the same base salary provisions which were included in the current contract (reflecting a base salary increase of \$100,000 from the previous year, as a result of achieving at least eight wins for the season which just ended), and an increase of up to an additional \$60,000 in potential bonus payments (\$50,000 for a Mountain Division championship, vice \$15,000 in the current contract—a \$35,000 increase; and \$125,000 for participation in a semi-final College Football Playoff (CFP) Playoff Bowl game, vice \$100,000 in the current contract—a \$25,000 increase). The maximum Academic Achievement bonus (\$50,000) has not changed from the current contract, and is equal to the Division Championship payoff, in accordance with previous Board guidance. The liquidated damages provisions in the amended contract (\$500,000 if the coach terminates for convenience before January 11, 2018) has not changed from the liquidation amounts specified in the current Board-approved contract. The maximum potential annual compensation for the first year of the amended contract, including base pay, bonuses, and royalties, is \$2,025,004. This maximum annual potential figure increases by \$100,000 per year for the remaining years of the agreement, in accordance with the existing base salary provisions, culminating in a maximum potential annual compensation of \$2,425,004 for the final year of the contract. Base and bonus compensation are budgeted entirely from non-state funds.

Staff recommends approval.

BOARD ACTION

I move to approve the request by Boise State University to enter into an amended multi-year employment agreement, with a fixed-term of four years and nine months, commencing on April 23, 2017 and terminating on January 10, 2022, as detailed in the proposed contract, included as Attachment 1, with Bryan Harsin, Head Football Coach.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

THIS PAGE INTENTIONALLY LEFT BLANK

**EMPLOYMENT AGREEMENT
2017-2022**

This Employment Agreement (“Agreement”) is entered into by and between Boise State University (“University”) and Bryan Harsin (“Coach”).

ARTICLE 1

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

1.2. Reporting Relationship. Coach shall report and be responsible directly to the University’s Director of Athletics (Director). 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 Program and shall perform such other duties in the University’s athletic Department (Department) as the Director may reasonably assign and as may be described elsewhere in this Agreement. Coach shall, to the best of his ability and consistent with University policies, perform all duties and responsibilities customarily associated with an NCAA Football Bowl Subdivision head football coach.

1.3.1 Coach is expected to devote full-time to Coaching and recruitment involving the Team as the head Coach. If Coach is reasonably required to perform any such additional duties that are not defined in the Agreement, Coach will be notified of his responsibility to perform these duties within a reasonable time frame.

1.3.2 Coach will attend staff meetings, public relation functions, dinners, awards banquets and make appearances as reasonably directed by the Director unless excused by the Director. The Director shall not unreasonably withhold approval for non-attendance. Such functions shall include, but are not limited, to the following:

- a) Television, radio and other public appearances as in the Agreement
- b) The annual BAA Bar-b-que
- c) The BAA/Alumni Auction Dinner
- d) Athletic Department staff meetings called by the Director
- e) Athletic Department Graduation Reception
- f) Bronco Golf Series Tournaments
- g) Other similar Department activities and events

1.3.3 Coach agrees to supervise any staff serving under Coach and to insure, to the best of his ability, that all staff persons follow all applicable University policies, NCAA, and Conference rules and regulations at all times. Director will keep Coach informed, in writing, of

which persons serve under Coach.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of four (4) years and nine (9) months, commencing on April 23, 2017, and terminating, without further notice to Coach, on January 10, 2022, 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.

2.3. Extensions to Initial Term. The term of this Agreement shall be extended by one (1) additional year for each season in which the football team has at least eight (8) victories in a Season (including bowl games). Meaning, one (1) additional year is added for each eight (8) win season on contract terms no less favorable to Coach than the contract terms then applicable to the final year of this Agreement prior to the extension, provided, however, the base salary for the additional year will reflect a raise of \$100,000 over the base salary then applicable to the final year of this Agreement prior to the extension.

2.3.1. By way of example, and for the avoidance of doubt, section 2.3 is to be interpreted so that the term of this Agreement will function as a rolling five year term as long as the football team wins eight (8) games in a Season. If any Season results in less than eight (8) victories, then the term shall not extend for an additional year, rendering this Agreement as a potential rolling four (4) year term if a Season with eight (8) victories follows such year or a potential rolling three (3) year term if a subsequent Season is fewer than eight (8) victories. Subsequent seasons of eight (8) victories or more, or fewer than eight (8) victories, will have the same effects as described in this section until this Agreement is terminated as otherwise provided herein.

ARTICLE 3

3.1 Regular Compensation.

3.1.1 In consideration of Coach's services, the University shall provide to Coach:

- a) A base salary as follows:
 - January 11, 2017 to January 10, 2018 - \$1,350,000;
 - January 11, 2018 to January 10, 2019 - \$1,450,000;
 - January 11, 2019 to January 10, 2020 - \$1,550,000;

January 11, 2020 to January 10, 2021 - \$1,650,000;
January 11, 2021 to January 10, 2022 - \$1,750,000.

all generally payable in biweekly installments in accordance with normal University procedures and all of which is to be paid from non-appropriated funds;

- b) The opportunity to receive such employee benefits calculated on the base salary (within the limits of such plans and benefits) as the University provides generally to non-faculty, non-classified, professional staff employees; and
- c) The opportunity to receive such employee benefits as the Department provides generally to its employees of a comparable level, including moving expenses. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.
- d) The opportunity to receive additional benefits as the Director deems necessary and appropriate including a vehicle, complimentary tickets, and club membership, as set forth in a separate letter.

3.2 Supplemental Compensation

3.2.1 Additional Pay based upon performance relating to regular Season and post-Season competition shall be based on the following:

Category 1

- a) \$50,000 if the Team is the Mountain Division Champion

Category 2

- b) \$35,000 if the Team participates in a bowl game; or
- c) \$75,000 if the team is the Conference Champion; or
- d) \$100,000 if the Team participates in a Host Bowl as part of the CFP; or
- e) \$125,000 if the Team participates in one of the two semi-final Playoff Bowl games in the CFP.

Category 3

- f) \$150,000 if the Team participates in the CFP Championship Bowl game; or

- g) \$250,000 if the Team wins the CFP Championship Bowl game.

Coach shall be eligible for supplemental compensation from each Category listed above. Coach shall only be eligible to earn one amount (the highest amount) from each Category. Any additional pay for performance earned pursuant to this section shall be paid on February 1st following the football Season in which earned, as long as Coach remains continuously employed as head Coach to that date.

3.2.2 Academic Incentive Pay may be earned as follows:

- a) \$20,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 955 or higher; and
- b) \$10,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 975 or higher; and
- c) \$5,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 985 or higher; and
- d) \$15,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 990 or higher.

These amounts are cumulative. By way of example, and for the avoidance of doubt, if the Team APR equals 990 or higher, Coach will earn \$50,000 in Academic Incentive Pay. Any pay earned pursuant to this section shall be paid on October 1st each year as long as Coach remains continuously employed as head Coach to that date.

3.3 Media Programs, Public Appearances and Endorsements.

3.3.1 Coach shall appear on or participate in, as requested by the Director, and make all reasonable efforts to make successful University sanctioned television, radio and internet Productions concerning the University and the Program. Agreements requiring the Coach to participate in Productions and public appearances 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 Coach. Coach agrees to cooperate with the University's reasonable requests in order for the Productions to be successful and agrees to provide his services to and perform on the Productions and to cooperate with the University's reasonable requests related to their performance, broadcasting, and telecasting.

3.3.2 It is understood that neither Coach nor any assistant coaches shall appear, without the prior written approval of the Director (such approval not to be unreasonably withheld), on any competing Production (including but not limited to a coach's show, call-in show, or interview show) or news segment, except that this prohibition shall not apply to news media interviews and appearances which are non-recurring and for which no compensation is received.

3.3.3 Coach or any assistant coaches shall have no right, title or interest of any kind or nature whatsoever in or to any materials, works or results related to the Productions, or in

any component part thereof and the University shall own all rights to the Productions and shall be entitled, at its option, to produce and market the Productions or negotiate with third parties for the production and marketing of the Productions. The University shall be entitled to retain all revenue generated by the Productions. Upon prior written approval of the Director (such written approval not to be unreasonably withheld), Coach may use the materials, works or results related to the Productions so long as such use does not violate University or NCAA policy and does not result in Coach receiving compensation for such use.

3.3.4 Without the prior written approval of the Director (such written approval not to be unreasonably withheld), Coach shall not appear in any form of Production for commercial endorsement or compensation.

3.4 Intellectual Property Rights.

3.4.1 Coach may not use the marks or intellectual property of the University, including without limitation its logos, slogans, trademarks, service marks, copyrights, trade dress, color scheme, or other indicia, without a specific, written licensing agreement relating to the same. Coach agrees that all logos, slogans, trademarks, service marks, copyrights, trade dress, color scheme, or other indicia, including all copyright and other intellectual property rights therein, which relate to the University, including any of its athletic programs, or which would compete with the University's registered marks, that are developed or created by Coach or by others at Coach's direction, shall be owned solely by the University. Coach may, upon written approval of Director (such written approval not to be unreasonably withheld) develop or create such intellectual property rights that are not related to the University and that would not compete with the University's registered marks.

3.4.2 Coach hereby grants University a perpetual, worldwide, royalty-free, non-exclusive, limited license to use Coach's name, image, nickname, signature, voice, likeness, "celebrity rights" and photograph for historical and archival purposes in records and publications related to Coach's performance of his duties as the University's head football coach. Further, Coach hereby grants University a perpetual, worldwide, royalty-free, non-exclusive, limited license to use his name, image, nickname, signature, voice and photograph for the limited purpose of selling or distributing commemorative items which depict him during his tenure as the head coach of the Team in a historically accurate and positive light, so long as his name, image, nickname, signature, voice and photograph, as the case may be, (i) is displayed on the item together with former Team members and/or coaches, or (ii) is not shown predominantly on the item. Coach consents to the University's appropriation of his privacy rights in connection with the grant of the limited license in this section.

3.4.3 During the term of this Agreement, including an extension or renewal pursuant to Section 2.2 or 2.3, the use of Coach's name, image, nickname, signature, voice, likeness, "celebrity rights" and photograph for any other purposes than those outlined in Section 3.4.2 of this Agreement shall be governed by a separate agreement.

3.5 Summer Camp—Operated By University. Coach agrees that the University has the exclusive right to operate youth football 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 with reasonable requests related to the marketing, supervision, and general administration of the University's football camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the University's summer football camps, the University shall pay Coach supplemental compensation during each year of his employment as head football coach at the University.

3.6 Apparel and/or Equipment. 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 interests to the University in accordance with Section 4.3 of this Agreement. 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.

3.7 General Conditions of Compensation. All compensation provided by the University to Coach is subject to deductions and withholdings as required by applicable 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(a) and paid directly from the University to Coach, and within any applicable compensation limits established by such plans and 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 and reasonably protect their health, safety, and well-being;

4.1.3. Observe and work reasonably to 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 reasonable steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Director and to the Department's director of compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall cooperate fully with the University and Department at all times. The names or titles of employees whom Coach supervises are attached as Exhibit A. The applicable laws, policies, rules, and regulations include: (a) State Board of Education Governing Policies and Procedures and Rule Manual; (b) University's Policy Handbook; (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 unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, would reflect adversely upon the University, the Department or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director (such approval not to be unreasonably withheld), 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 shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to 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 (such approval not to be unreasonably withheld).

4.3 Outside Income. Coach shall obtain prior written approval from the University's President (such approval not to be unreasonably withheld) for all athletically-related and other business-related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits in accordance with the Department's Outside Income Reporting Form. Notwithstanding the limitations in Sections 4.2 and 4.3, Coach's obligation under Section 4.2 and this Section 4.3 shall not extend to and shall specifically exclude buying, selling, owning, holding, investing in and otherwise receiving and deriving income from debt and/or equity investments that consist of or are in the nature of non-controlling interests in publicly traded securities or non-controlling interests in private equity funds and similar investments entities or vehicles that are managed, directed or controlled by brokerage firms, registered investment advisors, private equity firms, hedge funds and similar advisors and managers whereby Coach has no more than a direct or indirect non-controlling minority stake with limited rights, authority or ability to control or influence business decisions and management. The report shall be in a format reasonably satisfactory to University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the

monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's governing board, the Conference, or the NCAA.

4.4 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Program, 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. Coach shall be provided an annual budget of \$2,200,000 per year for the employment of the nine (9) on-field assistant coaches.

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

4.7 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports franchise requiring performance of duties set forth herein prior to the expiration of this Agreement, without giving prior notice to the Director. Coach shall deliver such notice in writing, or by electronic mail, and shall give such notice as soon as reasonably practical but no less than 48 hours prior to such activity.

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 in the event he engages in conduct which amounts to good or adequate cause to terminate Coach; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in this Agreement, Boise State University policies, and Idaho State Board of Education policies.

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

- a) A deliberate or major or repetitive violation of Coach's duties under this Agreement or the intentional 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 receiving written notice from the University;
- c) A deliberate or major or repetitive violation by Coach of any applicable law (other than minor traffic offenses) or the policies, rules or regulations of the University, the University's governing board, the Conference or the NCAA, including but not limited to any such violation which may have

occurred during the employment of Coach at another NCAA or NAIA member institution;

- d) Ten (10) working days' absence of Coach from duty without the University's consent (such consent not to be unreasonably withheld);
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University's reasonable judgment, reflect adversely on the University, the Department or its athletic programs;
- f) 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;
- g) 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
- h) A deliberate or major or repetitive 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 or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the Director or his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond within at least 14 days after the receipt of the University's written notice. 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 or continue to pay Coach, as applicable, as liquidated damages and not a penalty, the applicable regular compensation as set forth in section 3.1.1(a) plus an additional amount at the annual rate of \$200,000, excluding all deductions required by law, payable on the regular paydays of the University until the expiration of 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 to the Coach as a result of such other employment, such adjusted compensation to be calculated for each University pay-period by reducing the applicable 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 his health insurance plan and group life insurance of 3.1.1(b) as if he remained a University employee until the term of this Agreement ends or until Coach obtains other employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits outside of section 3.1.1 (a) and (b), except as otherwise 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 Coach by University after the date Coach obtains other employment, to which Coach is not entitled under this provision. Coach acknowledges that the University will withhold taxes and other payroll deductions from the payments due Coach pursuant to this Section 5.2.2, in such amounts and at such times as required by applicable law.

5.2.3 The parties have both been represented by, or had the opportunity to consult with, legal counsel in the negotiations of this Agreement and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the Coach may lose certain benefits, supplemental compensation, or outside compensation relating to his employment with University, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by University

and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by University. The liquidated damages are not, and shall not be construed to be, a penalty.

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 if he resigns before the end of the term of the Agreement.

5.3.2 The Coach, for his own convenience, may terminate this Agreement during its term by giving prior written notice to the University. Such termination shall be effective ten (10) days after written notice is given to the University unless otherwise agreed to by the parties. Such termination must occur at a time outside the Team's Regular Season (excluding bowl game) so as to minimize the impact on the Program.

5.3.3 If the Coach terminates this Agreement for convenience, all obligations of the University shall cease as of the effective date of the termination. If the Coach terminates this Agreement for convenience prior to January 10, 2022, to commence, or enter into an agreement to commence, "Similar or Related Employment" (as defined in this section 5.3.3), then he (or his designee) shall pay to the University, as liquidated damages and not a penalty, the following sum: if the termination occurs between January 11, 2017 and January 10, 2018, the sum of five-hundred-thousand dollars (\$500,000). The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid. For purposes of this Section 5.3.3, "Similar or Related Employment" means employment in football, coaching, or any capacity in sports (whether by title of the position or by performing the duties regularly associated with such position), including, but not limited to, employment (a) as a coach in any division of NCAA or NAIA athletics, (b) with a National Football League (NFL) team, or (c) in sports related media. If Coach terminates for convenience and does not immediately commence Similar or Related Employment, and therefore does not pay the liquidated damages, but then at a future date within twelve (12) months of termination for convenience commences, or enters into an agreement to commence in the future, employment as a collegiate head football coach, or professional (NFL) head football coach, or as an assistant coach at a university that is a member of the Conference, then liquidated damages will still be owed by Coach and the amount of liquidated damages owed shall be calculated as of the date Coach accepts, or agrees to accept, such employment as a collegiate or professional head coach or assistant coach at a member institution of the Conference. By way of example only and for the avoidance of doubt, if Coach terminates for convenience on May 1, 2017, and accepts employment as a collegiate or professional head coach on January 5, 2018, Coach, or his designee, would owe the University five hundred thousand dollars (\$500,000). However, if Coach terminates for convenience on May 1, 2017, and accepts employment as a collegiate or professional football head coach on March 1, 2018, neither Coach nor his designee would owe the University any liquidated damages.

5.3.4 The parties have both been represented by, or had the opportunity to consult with, legal counsel in the negotiation of this Agreement 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, that the University will lose the benefit of its investment in the Coach, and that the University may face potentially increased compensation costs if Coach terminates this Agreement for convenience, all of which amounts 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 any and all 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.

5.3.5 Except as provide elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit to the extent permitted by law his right to receive all supplemental compensation and other payments with the exception of any amounts earned by the date of termination but not yet paid due to normal payroll procedures.

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 he is entitled by virtue of employment with the University.

5.5 Interference by Coach. In the event of termination or suspension, Coach shall comply with all reasonable requests relating to the University's ability to transact business or operate its intercollegiate athletics program.

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

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

5.9 Annual Leave Upon Termination. In the event of non-renewal or termination of Coach's employment under any provision of this section 5, Coach will use or forfeit all accumulated annual leave prior to the final date of employment and terminate Coach's employment with no annual leave balance.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved by 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 furloughs or financial exigency.

6.2 University Property. All personal property, material, and articles of information, including, without limitation, keys, credit cards, vehicles, 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. However, Coach shall be entitled to retain copies of any practice scripts, playbooks, statistics, or recruiting records (to the extent allowed under applicable privacy and confidentiality laws) utilized during his employment by the University. Further, Coach shall be entitled to retain any other personal property developed by Coach prior to his employment by the University or developed on his own time and not for use in his position as the Program's head football coach.

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

6.8 Non-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 so long as such production by the University is consistent with applicable law, NCAA, University or Conference policy.

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

the University: Director of Athletics
 1910 University Drive
 Boise, Idaho 83725-1020

with a copy to: President
 1910 University Drive
 Boise, Idaho 83725-1000

the Coach: Bryan Harsin
 Last known address on file with
 University's Human Resource Services

with a copy to: Russ Campbell and Patrick Strong
 Balch Sports
 1901 Sixth Avenue North, Suite 1500
 Birmingham, Alabama 35203

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

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

6.11 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.

6.12 Non-Use of Names and Trademarks. The Coach shall not, without the University's prior written consent in each case (such consent not to be unreasonably withheld), 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.

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

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

6.15 Opportunity to Consult with Attorney. Both parties acknowledge that they have 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.

ARTICLE 7

7.1. Definitions. The following terms as used in the Agreement will be defined as indicated:

- a) "APR" means Academic Progress Rate as used by the NCAA to track academic progress of NCAA eligible student athletes and NCAA athletic programs.
- b) "Athletic Director" or "Director" means the Boise State University Director of Athletics.
- c) "BAA" means the Bronco Athletic Association.

- d) “CFP” mean the College Football Playoff (as the successor to the Bowl Championship Series organization) and its affiliated or contracted Host Bowls, semi-final Playoff Bowls and Championship Bowl games.
- e) “Coaching” means to direct, supervise, mentor and lead the athletes participating on the Team and/or in the Program.
- f) “Conference” means the athletic conference in which the University is a member for purposes of inter-collegiate Football competition as of the date of the applicable event. At the time of the execution of this Agreement, the Conference is the Mountain West Conference. Change of Conference affiliation is at the sole discretion of the University President.
- g) “Department” means the Boise State University Department of Intercollegiate Athletics.
- h) “FBS” means the Football Bowl Subdivision membership category and participation level of the NCAA.
- i) “NCAA” means the National Collegiate Athletic Association.
- j) “Position” will mean the position of head football coach.
- k) “President” means the Boise State University President.
- l) “Productions” means any and all television, radio, podcast, website, webcast, digital, electronic and/or internet (or other similar or newly developed media format) productions or programs concerning or affiliated in any way with the University, the Team, the Program or the Department.
- m) “Program” shall mean the Football program, including the Team and the staff, equipment and operations assigned to, or affiliated with, the Team as decided at the sole, reasonable discretion of the Director. Non-capitalized use of the term “program” in reference to fringe benefit programs, media programs or to athletic programs generally are defined by the ordinary use in context.
- n) “Season” will mean the NCAA regulated football season commencing on the first day of fall practice and ending immediately after the last game of the football regular season or, if applicable to the Team being selected to play in a post-season bowl (“bowl eligible”), after the post-season bowl game involving the University Team.
- o) “Team” means the Boise State University Broncos intercollegiate football team.

In witness whereof the parties have hereunto set their hands on the date below noted:

UNIVERSITY

COACH

Robert Kustra, President Date

Bryan Harsin Date

Approved by the Board on the _____ day of _____, 201__.

THIS PAGE INTENTIONALLY LEFT BLANK

~~(Form Used When Board Approval Required)~~
(MODEL ATHLETICS CONTRACT)

EMPLOYMENT AGREEMENT
2017-2022

This Employment Agreement (~~("Agreement")~~) is entered into by and between Boise State
~~(University~~ (University)~~(College))~~, and Bryan Harsin
~~("Coach").~~

ARTICLE 1

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

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

1.3. Duties. Coach shall manage and supervise the Team and Program and shall perform such other duties in the University's~~University (College)'s~~ athletic Department~~(Department)program~~ as the Director may reasonably assign and as may be described elsewhere in this Agreement. ~~The University (College) shall have the right, at any time, to reassign Coach shall, to the best of his ability and consistent with University policies, perform all to duties and responsibilities customarily associated with an NCAA Football Bowl Subdivision at the University (College) other than as head football coach.~~

1.3.1 Coach is expected to devote full-time to Coaching and recruitment involving the ~~of the Team as the head Coach.~~ If Coach is reasonably required to perform ~~provided that Coach's compensation and benefits shall not be affected by any such additional duties that are not defined~~ reassignment, except that the opportunity to earn supplemental compensation as provided in the Agreement, Coach will be notified of his responsibility to perform these duties within a reasonable time frame.

~~1.3.~~ 1.sections-3.2 Coach will attend staff meetings, public relation functions, dinners, awards banquets and make appearances as reasonably directed by the Director unless excused by the Director. The Director shall not unreasonably withhold approval for non-attendance. Such functions ~~1 through (Depending on supplemental pay provisions used)~~ shall include, but are not limited, to the following:
ease.

- a) Television, radio and other public appearances as in the Agreement
- b) The annual BAA Bar-b-que
- c) The BAA/Alumni Auction Dinner
- d) Athletic Department staff meetings called by the Director
- e) Athletic Department Graduation Reception
- f) Bronco Golf Series Tournaments
- g) Other similar Department activities and events

1.3.3 Coach agrees to supervise any staff serving under Coach and to insure, to the best of his ability, that all staff persons follow all applicable University policies, NCAA, and Conference rules and regulations at all times. Director will keep Coach informed, in writing, of which persons serve under Coach.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of four (4) (—) (—) years and nine (9) months, commencing on April 23, 2017, ——— and terminating, without further notice to Coach, on January 10, 2022, ——— 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's ~~the~~ Board of ~~Trustees~~ Education. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this Agreement count in any way toward tenure at the University. (College).

2.3. Extensions to Initial Term. The term of this Agreement shall be extended by one (1) additional year for each season in which the football team has at least eight (8) victories in a Season (including bowl games). Meaning, one (1) additional year is added for each eight (8) win season on contract terms no less favorable to Coach than the contract terms then applicable to the final year of this Agreement prior to the extension, provided, however, the base salary for the additional year will reflect a raise of \$100,000 over the base salary then applicable to the final year of this Agreement prior to the extension.

2.3.1. By way of example, and for the avoidance of doubt, section 2.3 is to be interpreted so that the term of this Agreement will function as a rolling five year term as long as the football team wins eight (8) games in a Season. If any Season results in less than eight (8) victories, then the term shall not extend for an additional year, rendering this Agreement as a potential rolling four (4) year term if a Season with eight (8) victories follows such year or a potential rolling three (3) year term if a subsequent Season is fewer than eight (8) victories. Subsequent seasons of eight (8) victories or more, or fewer than eight (8) victories, will have the same effects as described in this section until this Agreement is terminated as

otherwise provided herein.

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) A base~~An annual~~ salary as follows:

January 11, 2017 to January 10, 2018 - \$1,350,000;

January 11, 2018 to January 10, 2019 - \$1,450,000;

January 11, 2019 to January 10, 2020 - \$1,550,000;

January 11, 2020 to January 10, 2021 - \$1,650,000;

January 11, 2021 to January 10, 2022 - \$1,750,000.

all generally of \$_____ per year, payable in biweekly installments in accordance with normal University (College) procedures, and all of which is to such salary increases as may be paid from non-appropriated funds determined appropriate by the Director and Chief executive officer and approved by the University (College)'s Board of (Regents or Trustees)_____;

b) The opportunity to receive such employee benefits calculated on the base salary (within the limits of such plans and benefits) as the University (College) provides generally to non-faculty, non-classified, professional staff-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, including moving expenses. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.

d) The opportunity to receive additional benefits as the Director deems necessary and appropriate including a vehicle, complimentary tickets, and club membership, as set forth in a separate letter.

3.2 Supplemental Compensation

3.2.1 Additional Pay based upon performance relating to regular Season and post-Season competition shall be based on the following:

Category 1

- a) \$50,000 if the Team is the Mountain Division Champion

Category 2

- b) \$35,000 if the Team participates in a bowl game; or
 c) \$75,000 if the team is the Conference Champion; or
 d) \$100,000 if the Team participates in a Host Bowl as part of the CFP; or
 e) \$125,000 if the Team participates in one of the two semi-final Playoff Bowl games in the CFP.

Category 3

- f) \$150,000 if the Team participates in the CFP Championship Bowl game; or
 g) \$250,000 if the Team wins the CFP Championship Bowl game.

Coach shall be eligible for supplemental compensation from each Category listed above. Coach shall only be eligible to earn one amount (the highest amount) from each Category. Any additional pay for performance earned pursuant to this section shall be paid on February 1st following the football Season in which earned, as long as Coach remains continuously employed as head Coach to that date.

3.2.2 Academic Incentive Pay may be earned as follows:

- a) \$20,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 955 or higher; and
 b) \$10,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 975 or higher; and
 c) \$5,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 985 or higher; and
 d) \$15,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 990 or higher.

These amounts are cumulative. By way of example, and for the avoidance of doubt, if the Team APR equals 990 or higher, Coach will earn \$50,000 in Academic Incentive Pay. Any pay earned pursuant to this section~~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 of sport's division), 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 Chief executive officer in consultation with the Director. The determination shall be based on the following factors: the Academic Progress Rate set by the Board, 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 Chief executive officer 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 Chief executive officer in consultation with the Director.~~

~~3.2.5 The Coach shall receive the sum of (amount or computation) from the University (College) or the University (College)'s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (Programs). Coach's right to receive such a payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later. This sum shall be paid on October 1st each year as long as Coach remains continuously employed as head Coach to that date.~~

3.3 Media Programs, Public Appearances and Endorsements.

3.3.1 Coach shall appear on or participate in, as requested by the Director, and make all reasonable efforts to make successful University sanctioned television, radio and internet Productions concerning the University and the Program. (terms or conditions of

~~payment)~~ Agreements requiring the Coach to participate in Productions and public appearances 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 ~~p~~roductions and all parties desiring public appearances by ~~the~~ Coach. Coach agrees to cooperate with the University's reasonable requests ~~University (College)~~ in order for the Productions Programs to be successful and agrees to provide his services to and perform on the Productions Programs and to cooperate with the University's reasonable requests related to ~~in~~ their performance production, broadcasting, and telecasting.

3.3.2 ~~-~~It is understood that neither Coach nor any assistant coaches shall appear, without the prior written approval of the Director (such approval not to be unreasonably withheld), on ~~on~~ any competing Production 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 and appearances which are non-recurring and for which no compensation is received.

3.3.3 Coach or any assistant coaches shall have no right, title or interest of any kind or nature whatsoever in or to any materials, works or results related to the Productions, or in any component part thereof and the University shall own all rights to the Productions and shall be entitled, at its option, to produce and market the Productions or negotiate with third parties for the production and marketing of the Productions. The University shall be entitled to retain all revenue generated by the Productions. Upon prior written approval of the Director (such written approval not to be unreasonably withheld), Coach may use the materials, works or results related to the Productions so long as such use does not violate University or NCAA policy and does not result in Coach receiving compensation for such use.

3.3.4 Without the prior written approval of the Director (such written approval not to be unreasonably withheld), Coach shall not appear in any form of Production for commercial endorsement endorsements which are broadcast on radio or compensation television that conflict with those broadcast on the University (College)'s designated media outlets.

3.4 Intellectual Property Rights.

3.4.1 Coach may not use the marks or intellectual property of the University, including without limitation its logos, slogans, trademarks, service marks, copyrights, trade dress, color scheme, or other indicia, without a specific, written licensing agreement relating to the same. ~~2.6 (SUMMER CAMP OPERATED BY UNIVERSITY (COLLEGE))~~ Coach agrees that all logos, slogans, trademarks, service marks, copyrights, trade dress, color scheme, or other indicia, including all copyright and other intellectual property rights therein, which relate to the University, including any of its athletic programs, or which would compete with the University's registered marks, that are developed or created by Coach or by others at Coach's direction, shall be owned solely by the University. Coach may, upon written approval of Director (such written approval not to be unreasonably withheld) develop or create such

intellectual property rights that are not related to the University and that would not compete with the University's registered marks.

3.4.2 Coach hereby grants University a perpetual, worldwide, royalty-free, non-exclusive, limited license to use Coach's name, image, nickname, signature, voice, likeness, "celebrity rights" and photograph for historical and archival purposes in records and publications related to Coach's performance of his duties as the University's head football coach. Further, Coach hereby grants University a perpetual, worldwide, royalty-free, non-exclusive, limited license to use his name, image, nickname, signature, voice and photograph for the limited purpose of selling or distributing commemorative items which depict him during his tenure as the head coach of the Team in a historically accurate and positive light, so long as his name, image, nickname, signature, voice and photograph, as the case may be, (i) is displayed on the item together with former Team members and/or coaches, or (ii) is not shown predominantly on the item. Coach consents to the University's appropriation of his privacy rights in connection with the grant of the limited license in this section.

3.4.3 During the term of this Agreement, including an extension or renewal pursuant to Section 2.2 or 2.3, the use of Coach's name, image, nickname, signature, voice, likeness, "celebrity rights" and photograph for any other purposes than those outlined in Section 3.4.2 of this Agreement shall be governed by a separate agreement.

3.5 Summer Camp—Operated By University. Coach agrees that the Universitythe University (College) has the exclusive right to operate youth football(Sport) camps on its campus using University (College) facilities. The University (College) shall allow Coach the opportunity to earn supplemental compensation by assisting with the University'sUniversity (College)'s camps in Coach's capacity as a University (College) employee. Coach hereby agrees to assist with reasonable requests related toin the marketing, supervision, and general administration of the University'sUniversity (College)'s football camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the University'sUniversity (College)'s summer football camps, -the University (College) shall pay Coach (amount) per year as supplemental compensation during each year of his employment as head football(Sport) coach at the University (College). This amount shall be paid (terms of payment).

3.6 Apparel and/or Equipment.(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;

- e) ~~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 ~~(College)~~ has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University ~~(College)~~. ~~Coach recognizes that the University (College) is negotiating or has entered into an agreement with (Company Name) 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 any University selected vendors ~~(Company Name)~~, Coach shall submit all outside consulting agreements to the University ~~(College)~~ for review and approval prior to execution. Coach shall also report such outside ~~interests/income~~ to the University ~~(College)~~ in accordance with Section 4.3 of this Agreement ~~NCAA (or NAIA) rules~~. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, ~~including (Company Name)~~, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products.

~~3.73~~ General Conditions of Compensation. All compensation provided by the University ~~(College)~~ to Coach is subject to deductions and withholdings as required by applicable 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 (a) and paid directly from the University to Coach, and within any applicable compensation limits established by such plans and; 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 work reasonably to 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's ~~University (College)'s~~ governing board, the Conference, and the NCAA ~~(or NAIA)~~; supervise and take reasonable ~~appropriate~~ steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Director and to the Department's director of compliance ~~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 ~~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 A ~~C~~. The applicable laws, policies, rules, and regulations include: (a) State Board of Education and Board of Regents of the University of Idaho ~~Governing Policies and Procedures and Rule Manual~~; (b) University's Policy ~~University (College)'s Handbook~~; (c) University's ~~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 Conference (Sport) ~~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 unreasonably ~~otherwise~~ detract from those duties in any manner, or that, in the reasonable opinion of the University ~~(College)~~, would reflect adversely upon the University, the Department (College) or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director (such approval not to be unreasonably withheld), who may consult with the President ~~Chief executive officer~~, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to use, the University's ~~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 (such approval not to be unreasonably withheld). ~~Chief executive officer.~~

4.3 Outside Income. ~~NCAA (or NAIA) Rules. In accordance with NCAA (or NAIA) rules,~~ Coach shall obtain prior written approval from the University's President (such approval not to be unreasonably withheld) ~~University (College)'s Chief executive officer~~ for all

athletically-related and other business—related income and benefits from sources outside the University ~~(College)~~ and shall report the source and amount of all such income and benefits in accordance with to the Department's Outside Income Reporting Form. Notwithstanding the limitations in Sections 4.2 and 4.3, Coach's obligation under Section 4.2 and this Section 4.3 shall not extend to and shall specifically exclude buying, selling, owning, holding, investing in and otherwise receiving and deriving income from debt and/or equity investments that consist of or are in the nature of non-controlling interests in publicly traded securities or non-controlling interests in private equity funds and similar investments entities or vehicles that are managed, directed or controlled by brokerage firms, registered investment advisors, private equity firms, hedge funds and similar advisors and managers whereby Coach has University (College)'s Chief executive officer whenever reasonably requested, but in no more event less than a direct or indirect non-controlling minority stake with limited rights, authority or ability to control or influence business decisions and management, 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)~~. 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's University (College)'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 Program 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 Chief executive officer and the University's University (College)'s Board of ~~—(Trustees. Coach shall be provided an annual budget of \$2,200,000 per year for the employment of the nine (9) on-field assistant coaches or Regents)—~~.

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

4.76 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports franchiseteam, requiring performance of duties set forth herein prior to the expiration of this Agreement, without giving the prior notice to approval of the Director. Coach Such approval shall deliver such notice in writing, or by electronic mail, and shall give such notice as soon as reasonably practical but no less than 48 hours prior to such activity. 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 in the event he engages in conduct which amounts to good or adequate cause to terminate Coach; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in this Agreement, Boise State University policies, applicable rules and Idaho State Board of Education policies/regulations.

5.1.1 In addition to the definitions contained in applicable policies/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 or repetitive violation of Coach's duties under this Agreement or the intentional 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 receiving written notice from the University ~~;(College);~~
- c) A deliberate or major or repetitive violation by Coach of any applicable law (other than minor traffic offenses) or the policies, rules or regulations of the University ~~;(College);~~ the University's/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's/University (College)'s consent (such consent not to be unreasonably withheld);
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University's reasonable/University (College)'s judgment, reflect adversely on the University, the Department (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's/University (College)'s governing board, the Conference, or the NCAA ~~;(NAIA);~~
- ~~g—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's/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; or

h) ~~A deliberate or major or repetitive~~ ~~i)~~ ~~A~~ violation of any applicable law or the policies, rules or regulations of the University, ~~(College)~~, the ~~University's~~ ~~University (College)s~~ governing board, the ~~C~~onference, or the NCAA, ~~(NAIA)~~, by one of Coach's assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team if Coach knew or should have known 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 ~~(College)~~ as follows: before the effective date of the suspension, reassignment, or termination, the Director or his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond within at least 14 days after the receipt of the University's written notice. 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's~~ ~~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. 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 or continue to pay Coach, as applicable, as liquidated damages and not a penalty, the applicable regular compensation assalary set forth in section 3.1.1(a) plus an additional amount at the annual rate of \$200,000., excluding all deductions required by law, payable on the regular paydays of the University ~~(College)~~ until the expiration of 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 to the Coach as a result of such other employment, such adjusted compensation to be calculated for each University pay-period by reducing the applicable 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 his health insurance plan and group life insurance of 3.1.1(b) 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 outside of section 3.1.1 (a) and (b), 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 Coach by University after the date Coach obtains other employment, to which Coach is not entitled under this provision. Coach acknowledges that the University will withhold taxes and other payroll deductions from the payments due Coach pursuant to this Section 5.2.2, in such amounts and at such times as required by applicable law.

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

5.3- Termination by Coach for Convenience.

5.3.1 The Coach recognizes that his promise to work for University ~~(College)~~ 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 ifwere he resignsto resign or otherwise terminate his employment with the University (College) before the

end of the ~~contract~~ term of the Agreement.

5.3.2 The Coach, for his own convenience, may terminate this Agreement during its term by giving prior written notice to the University. Such termination-(College)-Termination shall be effective ten (10) days after written notice is given to the University unless otherwise agreed to by the parties. Such termination must occur at a time outside the Team's Regular Season (excluding bowl game) so as to minimize the impact on the Program.(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 January 10, 2022, to commence, or enter into an agreement to commence, "Similar or Related Employment" (as defined in this section 5.3.3), then he (or his designee) shall pay to the University, -(College), as liquidated damages and not a penalty, the following sum: if the termination occurs between January 11, 2017 and January 10, 2018, the sum of five-hundred-thousand dollars (\$500,000). The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid. For purposes of this Section 5.3.3, "Similar or Related Employment" means employment in football, coaching, or any capacity in sports (whether by title of the position or by performing the duties regularly associated with such position), including, but not limited to, employment (a) as a coach in any division of NCAA or NAIA athletics, (b) with a National Football League (NFL) team, or (c) in sports related media. If Coach terminates for convenience and does not immediately commence Similar or Related Employment, and therefore does not pay the liquidated damages, but then at a future date within twelve (12) months of termination for convenience commences, or enters into an agreement to commence in the future, employment as a collegiate head football coach, or professional (NFL) head football coach, or as an assistant coach at a university that is a member of the Conference, then liquidated damages will still be owed by Coach and the amount of liquidated damages owed shall be calculated as of the date Coach accepts, or agrees to accept, such employment as a collegiate or professional head coach or assistant coach at a member institution of the Conference. By way of example only and for the avoidance of doubt, if Coach terminates for convenience on May 1, 2017, and accepts employment as a collegiate or professional head coach on January 5, 2018, Coach, or his designee, would owe the University five hundred thousand dollars (\$500,000). However, if Coach terminates for convenience on May 1, 2017, and accepts employment as a collegiate or professional football head coach on March 1, 2018, neither Coach nor his designee would owe the University any liquidated damages.

5.3.4 The parties have both been represented by or had the opportunity to consult with, legal counsel in the negotiation of this Agreement~~contract negotiations~~ and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the University ~~(College)~~ will incur administrative and recruiting costs in obtaining a replacement for Coach, that the University will lose the benefit of its investment in the Coach, and that the University may face~~in addition to~~ potentially increased compensation costs if Coach terminates this Agreement for convenience, all of which amounts~~damages~~ are extremely difficult to determine with certainty. ~~—~~ The parties further agree that the payment of such liquidated damages by Coach and the acceptance thereof by University ~~(College)~~ shall constitute adequate

and reasonable compensation to University ~~(College)~~ for any and all 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 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 with the exception of any amounts earned by the date of termination but not yet paid due to normal payroll procedures.

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

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

5.76 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.

5.87 Waiver of Rights. Because the Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University ~~(College)~~ 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 Rule Manual (IDAPA 08) and Governing Policies and Procedures Manual, IDAPA 08.01.01 et seq., and the University Policies(College) Faculty Staff Handbook.

5.9 Annual Leave Upon Termination. In the event of non-renewal or termination of Coach's employment under any provision of this section 5, Coach will use or forfeit all accumulated annual leave prior to the final date of employment and terminate Coach's employment with no annual leave balance.

ARTICLE 6

6.1 Board Approval. ~~(if required—multiyear employment agreements which require Board approval are defined in Section II.H. of Board Policy).~~ This Agreement shall not be effective until and unless approved ~~by~~ of the University'sUniversity (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'sUniversity (College)'s Board of ~~(Regents or Trustees.)~~, the PresidentChief executive officer, 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'sUniversity (College)'s rules or policies regarding furloughs or financial exigency.

6.2 University (College) Property. All personal property, ~~(excluding vehicle(s) provided through the _____ program),~~ material, and articles of information, including, without limitation, keys, credit cards, vehicles, 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'sUniversity (College)'s direction or for the University'sUniversity (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. However, Coach shall be entitled to retain copies of any practice scripts, playbooks, statistics, or recruiting records (to the extent allowed under applicable privacy and confidentiality laws) utilized during his employment by the University. Further, Coach shall be entitled to retain any other personal property developed by Coach prior to his employment by the University or developed on his own time and not for use in his position as the Program's head football coach.

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~~ 6.7.7 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.

~~6.8~~ Non-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 so long as such production by the University is consistent with applicable law, NCAA, University or Conference policy ~~University (College)'s sole discretion~~.

~~6.9~~ 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
1910 University Drive
Boise, Idaho 83725-1020

with a copy to: President ~~Chief executive officer~~
1910 University Drive
Boise, Idaho 83725-1000

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

with a copy to: Russ Campbell and Patrick Strong
Balch Sports
1901 Sixth Avenue North, Suite 1500
Birmingham, Alabama 35203

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 is signed for, or (c) the day facsimile delivery is verified. Actual notice, however and from whomever received, shall always be effective.

6.1011 Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

6.1112 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.

6.1213 Non-Use of Names and Trademarks. The Coach shall not, without the ~~University's~~University (College)'s prior written consent in each case (such consent not to be unreasonably withheld), 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.

6.1314. No Third Party Beneficiaries. There are no intended or unintended third party beneficiaries to this Agreement.

6.1415. 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~~University (College)'s Board of ~~(Regents or Trustees)~~, if required under Section II.H. of Board Policy.

6.1516 Opportunity to Consult with Attorney. ~~Both parties acknowledge~~The Coach acknowledges that ~~they have~~he 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.

ARTICLE 7

7.1. Definitions. The following terms as used in the Agreement will be defined as indicated:

- a) "APR" means Academic Progress Rate as used by the NCAA to track academic progress of NCAA eligible student athletes and NCAA athletic programs.

- b) “Athletic Director” or “Director” means the Boise State University Director of Athletics.
- c) “BAA” means the Bronco Athletic Association.
- d) “CFP” mean the College Football Playoff (as the successor to the Bowl Championship Series organization) and its affiliated or contracted Host Bowls, semi-final Playoff Bowls and Championship Bowl games.
- e) “Coaching” means to direct, supervise, mentor and lead the athletes participating on the Team and/or in the Program.
- f) “Conference” means the athletic conference in which the University is a member for purposes of inter-collegiate Football competition as of the date of the applicable event. At the time of the execution of this Agreement, the Conference is the Mountain West Conference. Change of Conference affiliation is at the sole discretion of the University President.
- g) “Department” means the Boise State University Department of Intercollegiate Athletics.
- h) “FBS” means the Football Bowl Subdivision membership category and participation level of the NCAA.
- i) “NCAA” means the National Collegiate Athletic Association.
- j) “Position” will mean the position of head football coach.
- k) “President” means the Boise State University President.
- l) “Productions” means any and all television, radio, podcast, website, webcast, digital, electronic and/or internet (or other similar or newly developed media format) productions or programs concerning or affiliated in any way with the University, the Team, the Program or the Department.
- m) “Program” shall mean the Football program, including the Team and the staff, equipment and operations assigned to, or affiliated with, the Team as decided at the sole, reasonable discretion of the Director. Non-capitalized use of the term “program” in reference to fringe benefit programs, media programs or to athletic programs generally are defined by the ordinary use in context.
- n) “Season” will mean the NCAA regulated football season commencing on the first day of fall practice and ending immediately after the last game of the football regular season or, if applicable to the Team being selected to

play in a post-season bowl ("bowl eligible"), after the post-season bowl game involving the University Team.

- o) "Team" means the Boise State University Broncos intercollegiate football team.

In witness whereof the parties have hereunto set their hands on the date below noted:

UNIVERSITY (COLLEGE)

COACH

Robert Kustra, President
Date

Chief executive officer Date Bryan Harsin

*Approved by the Board of (Regents or Trustees) on the ____ day of
____, 201____, 2010.

[*Note: Multiyear employment agreements which require Board approval are defined in Section
H.H. of Board Policy]

THIS PAGE INTENTIONALLY LEFT BLANK

EMPLOYMENT AGREEMENT

2017-20222015-2020

This Employment Agreement ("Agreement") is entered into by and between Boise State University ("University") and Bryan Harsin ("Coach").

ARTICLE 1

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

1.2. Reporting Relationship. Coach shall report and be responsible directly to the University's Director of Athletics (Director). 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 Program and shall perform such other duties in the University's athletic Department (Department) as the Director may reasonably assign and as may be described elsewhere in this Agreement. Coach shall, to the best of his ability and consistent with University policies, perform all duties and responsibilities customarily associated with an NCAA Football Bowl Subdivision head football coach.

1.3.1 Coach is expected to devote full-time to Coaching and recruitment involving the Team as the head Coach. If Coach is reasonably required to perform any such additional duties that are not defined in the Agreement, Coach will be notified of his responsibility to perform these duties within a reasonable time frame.

1.3.2 Coach will attend staff meetings, public relation functions, dinners, awards banquets and make appearances as reasonably directed by the Director unless excused by the Director. The Director shall not unreasonably withhold approval for non-attendance. Such functions shall include, but are not limited, to the following:

- a) Television, radio and other public appearances as in the Agreement
- b) The annual BAA Bar-b-que
- c) The BAA/Alumni Auction Dinner
- d) Athletic Department staff meetings called by the Director
- e) Athletic Department Graduation Reception
- f) Bronco Golf Series Tournaments
- g) Other similar Department activities and events

1.3.3 Coach agrees to supervise any staff serving under Coach and to insure, to the best of his ability, that all staff persons follow all applicable University policies, NCAA, and

Conference rules and regulations at all times. Director will keep Coach informed, in writing, of which persons serve under Coach.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of ~~four (4) five (5) years and nine (9) months~~, commencing on ~~April 23, 2017~~~~January 11, 2015~~, and terminating, without further notice to Coach, on January 10, 2022~~20~~, 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.

2.3. Extensions to Initial Term. The term of this Agreement shall be extended by one (1) additional year for each season in which the football team has at least eight (8) victories in a Season (including bowl games). Meaning, one (1) additional year is added for each eight (8) win season on contract terms no less favorable to Coach than the contract terms then applicable to the final year of this Agreement prior to the extension, provided, however, the base salary for the additional year will reflect a raise of \$100,000 over the base salary then applicable to the final year of this Agreement prior to the extension.

2.3.1. By way of example, and for the avoidance of doubt, section 2.3 is to be interpreted so that the term of this Agreement will function as a rolling five year term as long as the football team wins eight (8) games in a Season. If any Season results in less than eight (8) victories, then the term shall not extend for an additional year, rendering this Agreement as a potential rolling four (4) year term if a Season with eight (8) victories follows such year or a potential rolling three (3) year term if a subsequent Season is fewer than eight (8) victories. Subsequent seasons of eight (8) victories or more, or fewer than eight (8) victories, will have the same effects as described in this section until this Agreement is terminated as otherwise provided herein.

ARTICLE 3

3.1 Regular Compensation.

3.1.1 In consideration of Coach's services, the University shall provide to Coach:

- a) A base salary as follows:
~~January 11, 2015 to January 10, 2016 \$800,000;~~
~~January 11, 2016 to January 10, 2017 \$1,100,000;~~

January 11, 2017 to January 10, 2018 - \$1,350,000;
 January 11, 2018 to January 10, 2019 - \$1,450,000;
 January 11, 2019 to January 10, 2020 - \$1,550,000;
January 11, 2020 to January 10, 2021 - \$1,650,000;
January 11, 2021 to January 10, 2022 - \$1,750,000.

all generally payable in biweekly installments in accordance with normal University procedures and all of which is to be paid from non-appropriated funds;

~~bb) A one-time payment of \$100,000, which shall be paid after execution of this Agreement, but prior to March 1, 2015.~~

e) The opportunity to receive such employee benefits calculated on the base salary (within the limits of such plans and benefits) as the University provides generally to non-faculty, non-classified, professional staff employees; and

~~cd)~~ The opportunity to receive such employee benefits as the Department provides generally to its employees of a comparable level, including moving expenses. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.

~~de)~~ The opportunity to receive additional benefits as the Director deems necessary and appropriate including a vehicle, complimentary tickets, and club membership, as set forth in a separate letter.

3.2 Supplemental Compensation

3.2.1 Additional Pay based upon performance relating to regular Season and post-Season competition shall be based on the following:

Category 1

a) ~~\$5015,000~~ if the Team is the Mountain Division Champion; ~~or~~

Category 2

b) \$35,000 if the Team participates in a bowl game; or

c) ~~\$7550,000~~ if the team is the Conference Champion; or

~~d) \$75,000 if the Team participates in a Host Bowl as part of the CFP;~~
~~or~~

d) \$100,000 if the Team participates in a Host Bowl as part of the CFP; or

- e) \$125,000 if the Team participates in one of the two semi-final Playoff Bowl games in the CFP.

Category 32

- f) \$150,000 if the Team participates in the CFP Championship Bowl game; or
- g) \$250,000 if the Team wins the CFP Championship Bowl game.

Coach shall be eligible for supplemental compensation from each Category listed above. Coach shall only be eligible to earn one amount (the highest amount) from each Category. Any additional pay for performance earned pursuant to this section shall be paid on February 1st following the football Season in which earned, as long as Coach remains continuously employed as head Coach to that date.

3.2.2 Academic Incentive Pay may be earned as follows:

- a) \$20,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 955 or higher; and
- b) \$10,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 975 or higher; and
- c) \$5,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 985 or higher; and
- d) \$15,000 if the annual football Team APR rating (for the previous fall and spring semesters) equals 990 or higher.

These amounts are cumulative. By way of example, and for the avoidance of doubt, if the Team APR equals 990 or higher, Coach will earn \$50,000 in Academic Incentive Pay. Any pay earned pursuant to this section shall be paid on October 1st each year as long as Coach remains continuously employed as head Coach to that date.

3.3 Media Programs, Public Appearances and Endorsements.

3.3.1 Coach shall appear on or participate in, as requested by the Director, and make all reasonable efforts to make successful University sanctioned television, radio and internet Productions concerning the University and the Program. Agreements requiring the Coach to participate in Productions and public appearances 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 Coach. Coach agrees to cooperate with the University's reasonable requests in order for the Productions to be successful and agrees to provide his services to and perform on the Productions and to cooperate with the University's reasonable requests related to their performance, broadcasting, and telecasting.

3.3.2 It is understood that neither Coach nor any assistant coaches shall appear, without the prior written approval of the Director (such approval not to be unreasonably

withheld), on any competing Production (including but not limited to a coach's show, call-in show, or interview show) or news segment, except that this prohibition shall not apply to news media interviews and appearances which are non-recurring and for which no compensation is received.

3.3.3 Coach or any assistant coaches shall have no right, title or interest of any kind or nature whatsoever in or to any materials, works or results related to the Productions, or in any component part thereof and the University shall own all rights to the Productions and shall be entitled, at its option, to produce and market the Productions or negotiate with third parties for the production and marketing of the Productions. The University shall be entitled to retain all revenue generated by the Productions. Upon prior written approval of the Director (such written approval not to be unreasonably withheld), Coach may use the materials, works or results related to the Productions so long as such use does not violate University or NCAA policy and does not result in Coach receiving compensation for such use.

3.3.4 Without the prior written approval of the Director (such written approval not to be unreasonably withheld), Coach shall not appear in any form of Production for commercial endorsement or compensation.

3.4 Intellectual Property Rights.

3.4.1 Coach may not use the marks or intellectual property of the University, including without limitation its logos, slogans, trademarks, service marks, copyrights, trade dress, color scheme, or other indicia, without a specific, written licensing agreement relating to the same. Coach agrees that all logos, slogans, trademarks, service marks, copyrights, trade dress, color scheme, or other indicia, including all copyright and other intellectual property rights therein, which relate to the University, including any of its athletic programs, or which would compete with the University's registered marks, that are developed or created by Coach or by others at Coach's direction, shall be owned solely by the University. Coach may, upon written approval of Director (such written approval not to be unreasonably withheld) develop or create such intellectual property rights that are not related to the University and that would not compete with the University's registered marks.

3.4.2 Coach hereby grants University a perpetual, worldwide, royalty-free, non-exclusive, limited license to use Coach's name, image, nickname, signature, voice, likeness, "celebrity rights" and photograph for historical and archival purposes in records and publications related to Coach's performance of his duties as the University's head football coach. Further, Coach hereby grants University a perpetual, worldwide, royalty-free, non-exclusive, limited license to use his name, image, nickname, signature, voice and photograph for the limited purpose of selling or distributing commemorative items which depict him during his tenure as the head coach of the Team in a historically accurate and positive light, so long as his name, image, nickname, signature, voice and photograph, as the case may be, (i) is displayed on the item together with former Team members and/or coaches, or (ii) is not shown predominantly on the item. Coach consents to the University's appropriation of his privacy rights in connection with the grant of the limited license in this section.

3.4.3 During the term of this Agreement, including an extension or renewal pursuant to Section 2.2 or 2.3, the use of Coach's name, image, nickname, signature, voice, likeness, "celebrity rights" and photograph for any other purposes than those outlined in Section 3.4.2 of this Agreement shall be governed by a separate agreement.

3.5 Summer Camp—Operated By University. Coach agrees that the University has the exclusive right to operate youth football 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 with reasonable requests related to the marketing, supervision, and general administration of the University's football camps. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the University's summer football camps, the University shall pay Coach supplemental compensation during each year of his employment as head football coach at the University.

3.6 Apparel and/or Equipment. 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 ~~interests~~~~income~~ to the University in accordance with [Section 4.3 of this Agreement](#)~~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.

3.7 General Conditions of Compensation. All compensation provided by the University to Coach is subject to deductions and withholdings as required by applicable 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(a) and paid directly from the University to Coach, and within any applicable compensation limits established by such plans and 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 and reasonably protect their health, safety, and well-being;

4.1.3. Observe and work reasonably to 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 reasonable steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Director and to the Department's director of compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall cooperate fully with the University and Department at all times. The names or titles of employees whom Coach supervises are attached as Exhibit A. The applicable laws, policies, rules, and regulations include: (a) State Board of Education Governing Policies and Procedures and Rule Manual; (b) University's Policy Handbook; (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 unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, would reflect adversely upon the University, the Department or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director (such approval not to be unreasonably withheld), 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 shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to 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 (such approval not to be unreasonably withheld).

4.3 ~~Outside Income.~~ 4.3 ~~NCAA Rules.~~ ~~In accordance with NCAA rules,~~ Coach shall obtain prior written approval from the University's President (such approval not to be unreasonably withheld) for all athletically-related and other business--related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits in accordance with the Department's Outside Income Reporting Form. Notwithstanding the limitations in Sections 4.2 and 4.3, Coach's obligation under Section 4.2 and this Section 4.3 shall not extend to and shall specifically exclude buying, selling, owning, holding, investing in and otherwise receiving and deriving income from debt and/or equity investments that consist of or are in the nature of non-controlling interests in publicly traded

securities or non-controlling interests in private equity funds and similar investments entities or vehicles that are managed, directed or controlled by brokerage firms, registered investment advisors, private equity firms, hedge funds and similar advisors and managers whereby Coach has no more than a direct or indirect non-controlling minority stake with limited rights, authority or ability to control or influence business decisions and management to the University's President whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular University work day preceding June 30th. The report shall be in a format reasonably satisfactory to University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's governing board, the Conference, or the NCAA.

4.4 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Program, 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. Coach shall be provided an annual budget of \$2,200,000 per year for the employment of the nine (9) on-field assistant coaches.

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

4.7 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports franchise requiring performance of duties set forth herein prior to the expiration of this Agreement, without giving prior notice to the Director. Coach shall deliver such notice in writing, or by electronic mail, and shall give such notice as soon as reasonably practical but no less than 48 hours prior to such activity.

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 in the event he engages in conduct which amounts to good or adequate cause to terminate Coach; or terminate this Agreement at any time for good or adequate cause, as those terms are defined in this Agreement, Boise State University policies, and Idaho State Board of Education policies.

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

- a) A deliberate or major or repetitive violation of Coach's duties under this Agreement or the intentional 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 receiving written notice from the University;
- c) A deliberate or major or repetitive violation by Coach of any applicable law (other than minor traffic offenses) or the policies, rules or regulations of the University, the University's governing board, the Conference or the NCAA, including but not limited to any such violation which may have occurred during the employment of Coach at another NCAA or NAIA member institution;
- d) Ten (10) working days' absence of Coach from duty without the University's consent (such consent not to be unreasonably withheld);
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University's reasonable judgment, reflect adversely on the University, the Department or its athletic programs;
- f) 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;
- g) 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
- h) A deliberate or major or repetitive 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 or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the Director or his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond within at least 14 days

after the receipt of the University's written notice. 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 or continue to pay Coach, as applicable, as liquidated damages and not a penalty, the applicable regular compensation as set forth in section 3.1.1(a) plus an additional amount at the annual rate of \$200,000, excluding all deductions required by law, payable on the regular paydays of the University until the expiration of 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 to the Coach as a result of such other employment, such adjusted compensation to be calculated for each University pay-period by reducing the applicable 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 his health insurance plan and group life insurance of 3.1.1(b) as if he remained a University employee until the term of this Agreement ends or until Coach obtains other employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits outside of section 3.1.1 (a) and (b), except as otherwise 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 Coach by

University after the date Coach obtains other employment, to which Coach is not entitled under this provision. Coach acknowledges that the University will withhold taxes and other payroll deductions from the payments due Coach pursuant to this Section 5.2.2, in such amounts and at such times as required by applicable law.

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

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 if he resigns before the end of the term of the Agreement.

5.3.2 The Coach, for his own convenience, may terminate this Agreement during its term by giving prior written notice to the University. Such termination shall be effective ten (10) days after written notice is given to the University unless otherwise agreed to by the parties. Such termination must occur at a time outside the Team's Regular Season (excluding bowl game) so as to minimize the impact on the Program.

5.3.3 If the Coach terminates this Agreement for convenience, all obligations of the University shall cease as of the effective date of the termination. If the Coach terminates this Agreement for convenience prior to January 10, 2022~~18~~, to commence, or enter into an agreement to commence, "Similar or Related Employment" (as defined in this section 5.3.3), then he (or his designee) shall pay to the University, as liquidated damages and not a penalty, the following sums: if the termination occurs between January 11, 2015 and January 10, 2016, the sum of two million dollars (\$2,000,000); if the termination occurs between January 11, 2016 and January 10, 2017, the sum of one million seven hundred fifty thousand dollars (\$1,750,000); and if the termination occurs between January 11, 2017 and January 10, 2018, the sum of five hundred-thousand dollars (\$500,000). The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid. For purposes of this Section 5.3.3, "Similar or Related Employment" means employment in football, coaching, or any capacity in sports (whether by title of the position or by performing the duties regularly associated with such position), including, but not limited to, employment (a) as a coach in any division of NCAA or NAIA athletics, (b) with a National Football League (NFL) team, or (c) in sports related media. If Coach terminates for convenience and does not immediately commence

Similar or Related Employment, and therefore does not pay the liquidated damages, but then at a future date within twelve (12) months of termination for convenience commences, or enters into an agreement to commence in the future, employment as a collegiate head football coach, or professional (NFL) head football coach, or as an assistant coach at a university that is a member of the Conference, then liquidated damages will still be owed by Coach and the amount of liquidated damages owed shall be calculated as of the date Coach accepts, or agrees to accept, such employment as a collegiate or professional head coach or assistant coach at a member institution of the Conference. By way of example only and for the avoidance of doubt, if Coach terminates for convenience on ~~May~~^{February} 1, 201~~7~~⁶, and accepts employment as a collegiate or professional head coach on January ~~5, 2018~~^{15, 2017}, Coach, or his designee, would owe the University five hundred thousand dollars (\$500,000). However, if Coach terminates for convenience on ~~May~~^{February} 1, 201~~7~~⁶, and accepts employment as a collegiate or professional football head coach on ~~March~~^{July} 1, 201~~8~~⁷, neither Coach nor his designee would owe the University any liquidated damages.

5.3.4 The parties have both been represented by, or had the opportunity to consult with, legal counsel in the negotiation of this Agreement 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, that the University will lose the benefit of its investment in the Coach, and that the University may face potentially increased compensation costs if Coach terminates this Agreement for convenience, all of which amounts 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 any and all 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.

5.3.5 Except as provide elsewhere in this Agreement, if Coach terminates this Agreement for convenience, he shall forfeit to the extent permitted by law his right to receive all supplemental compensation and other payments with the exception of any amounts earned by the date of termination but not yet paid due to normal payroll procedures.

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 he is entitled by virtue of employment with the University.

5.5 Interference by Coach. In the event of termination or suspension, Coach shall comply with all reasonable requests relating to the University's ability to transact business or operate its intercollegiate athletics program.

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

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

5.9 Annual Leave Upon Termination. In the event of non-renewal or termination of Coach's employment under any provision of this section 5, Coach will use or forfeit all accumulated annual leave prior to the final date of employment and terminate Coach's employment with no annual leave balance.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved by 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 furloughs or financial exigency.

6.2 University Property. All personal property, material, and articles of information, including, without limitation, keys, credit cards, vehicles, 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. However, Coach shall be entitled to retain copies of any practice scripts, playbooks, statistics, or recruiting records (to the extent allowed under applicable privacy and confidentiality laws) utilized during his employment by the University. Further, Coach shall be entitled to retain any other personal property developed by Coach prior to his employment by the University or developed on his own time and not for use in his position as the Program's head football coach.

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

6.8 Non-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 so long as such production by the University is consistent with applicable law, NCAA, University or Conference policy.

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

the University:

Director of Athletics

1910 University Drive
Boise, Idaho 83725-1020

with a copy to: President
1910 University Drive
Boise, Idaho 83725-1000

the Coach: Bryan Harsin
Last known address on file with
University's Human Resource Services

with a copy to: Russ Campbell ~~and~~ Patrick Strong
Balch Sports
1901 Sixth Avenue North, Suite 1500
Birmingham, Alabama 35203

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

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

6.11 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.

6.12 Non-Use of Names and Trademarks. The Coach shall not, without the University's prior written consent in each case (such consent not to be unreasonably withheld), 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.

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

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

6.15 Opportunity to Consult with Attorney. Both parties acknowledge that they have 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.

ARTICLE 7

7.1. Definitions. The following terms as used in the Agreement will be defined as indicated:

- a) “APR” means Academic Progress Rate as used by the NCAA to track academic progress of NCAA eligible student athletes and NCAA athletic programs.
- b) “Athletic Director” or “Director” means the Boise State University Director of Athletics.
- c) “BAA” means the Bronco Athletic Association.
- d) “CFP” mean the College Football Playoff (as the successor to the Bowl Championship Series organization) and its affiliated or contracted Host Bowls, semi-final Playoff Bowls and Championship Bowl games.
- e) “Coaching” means to direct, supervise, mentor and lead the athletes participating on the Team and/or in the Program.
- f) “Conference” means the athletic conference in which the University is a member for purposes of inter-collegiate Football competition as of the date of the applicable event. At the time of the execution of this Agreement, the Conference is the Mountain West Conference. Change of Conference affiliation is at the sole discretion of the University President.
- g) “Department” means the Boise State University Department of Intercollegiate Athletics.
- h) “FBS” means the Football Bowl Subdivision membership category and participation level of the NCAA.
- i) “NCAA” means the National Collegiate Athletic Association.
- j) “Position” will mean the position of head football coach.
- k) “President” means the Boise State University President.
- l) “Productions” means any and all television, radio, podcast, website, webcast, digital, electronic and/or internet (or other similar or newly developed media format) productions or programs concerning or affiliated in any way with the University, the Team, the Program or the Department.
- m) “Program” shall mean the Football program, including the Team and the staff, equipment and operations assigned to, or affiliated with, the Team as

decided at the sole, reasonable discretion of the Director. Non-capitalized use of the term “program” in reference to fringe benefit programs, media programs or to athletic programs generally are defined by the ordinary use in context.

- n) “Season” will mean the NCAA regulated football season commencing on the first day of fall practice and ending immediately after the last game of the football regular season or, if applicable to the Team being selected to play in a post-season bowl (“bowl eligible”), after the post-season bowl game involving the University Team.
- o) “Team” means the Boise State University Broncos intercollegiate football team.

In witness whereof the parties have hereunto set their hands on the date below noted:

UNIVERSITY

COACH

Robert Kustra, President Date

Bryan Harsin Date

Approved by the Board on the _____ day of _____, 201__.

THIS PAGE INTENTIONALLY LEFT BLANK

BOISE STATE UNIVERSITY

Football APR History and National Percentile Rank

SINGLE YEAR NCAA ACADEMIC PROGRESS RATE (APR) SCORES

	2011-12	2012-13	2013-14	2014-15	2015-16
Football	985	980	973	991	968*
<i>National % Rank by Sport</i>	<i>90-100</i>	<i>90-100</i>	<i>70-80</i>	<i>80-90</i>	<i>*</i>

MULTI-YEAR (4-Year Rolling Average)

Football	993	988	981	982	979*
-----------------	-----	-----	-----	-----	------

REPORT YEAR

Raw Score for single year

Percentile Rank for Sport

* for release May 2017

Coach Bryan Harsin Maximum Compensation Calculation -
2017-2022

		Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
3.1.1a	Annual Base Salary	\$ 1,350,000.00	\$ 1,450,000.00	\$ 1,550,000.00	\$ 1,650,000.00	\$ 1,750,000.00
3.2.1	Additional Pay based on Performance Category 1	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
3.2.1	Additional Pay based on Performance Category 2	\$ 125,000.00	\$ 125,000.00	\$ 125,000.00	\$ 125,000.00	\$ 125,000.00
3.2.1	Additional Pay based on Performance Category 3	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00
3.2.2	Additional Pay based on Academic Achievement	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
	Total potential annual compensation under Employment Agreement	\$ 1,825,000.00	\$ 1,925,000.00	\$ 2,025,000.00	\$ 2,125,000.00	\$ 2,225,000.00
	Royalties under License Agreement with Bryan Harsin Enterprises LLC	\$ 200,004.00	\$ 200,004.00	\$ 200,004.00	\$ 200,004.00	\$ 200,004.00
	Total potential annual compensation	\$ 2,025,004.00	\$ 2,125,004.00	\$ 2,225,004.00	\$ 2,325,004.00	\$ 2,425,004.00

MW Football Salaries (from Fall 2016 USA Today Survey)

Institution	Salary
Colorado State	\$ 1,450,000
Fresno State *	\$ 1,548,480
Boise State	\$ 1,300,004
Air Force	\$ 885,000
UNLV	\$ 510,000
Wyoming	\$ 909,000
San Diego State	\$ 810,632
New Mexico	\$ 823,940
Hawaii	\$ 400,008
Utah State	\$ 800,000
Nevada	\$ 578,000
San Jose State	\$ 546,745

*Former Coach's Salary

IDAHO STATE BOARD OF EDUCATION

Athletic Director-Coach Contract Checklist

To be Submitted by Institutions with Employment Agreements Requiring Board Approval*

[* Board approval is required for contracts longer than three years or for any contracts with total annual compensation of \$200,000 or higher. See Board Policy II.H.]

Institution: Boise State University

Name of employee and position: Bryan Harsin, Head Football Coach

Date of submission to State Board Office: March 17, 2017

Proposed effective date of employment agreement: April 2017

- ☒ The proposed contract has been reviewed to ensure compliance with Board Policy II.H.
- ☒ The proposed contract has been reviewed by institution general counsel

Supporting Documents (Check and attach all that apply): [All required items need to be provided either within the agenda item cover sheet, or as attachments to the agenda item.]

- ☒ A summary of all supplemental **compensation incentives**
- ☒ Quantification of the **maximum potential annual compensation** (i.e. base salary plus maximum incentive pay)
- ☒ **Employment agreement—clean version**
- ☒ **Employment agreement—redline version** comparing contract to Board-approved **model** contract (model contract is available on Board website <http://boardofed.idaho.gov>)
- ☒ **Employment agreement—redline version** (for current coaches receiving new contracts) comparing proposed employment agreement to **current** agreement
- ☒ In the case of NCAA institutions, a 4-year history of the institution's **Academic Progress Rate** (APR) raw scores and national average APR scores for the applicable sport.
- ☒ A schedule of **base salaries and incentive payments** of all other same sport coaches in the institution's conference
- ☒ Documentation/description of how the institution determined the proposed **liquidated damages** amount(s), and a summary of publically-available liquidated damages and buyout provisions for coaches of the same sport at the other public institutions in the conference.

Notes/Comments (provide explanation of any items/boxes which were not checked or other key points for Board consideration):

Point of contact at Institution (phone number, email address): Texie Montoya, Assistant General Counsel (208) 426-1231

BUSINESS AFFAIRS AND HUMAN RESOURCES
APRIL 20, 2017

BOISE STATE UNIVERSITY

SUBJECT

Multi-year contract for Andrew Avalos, Defensive Coordinator of Football

REFERENCE

April 2016

The Idaho State Board of Education (Board) approved a two-year employment agreement with Defensive Coordinator Andrew Avalos

APPLICABLE STATUTE, RULE, OR POLICY

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

BACKGROUND/DISCUSSION

In April 2016, the Board approved a two (2) year employment contract with Andrew Avalos as the defensive coordinator for the Boise State University (BSU) football team terminating March 31, 2018. BSU is requesting approval of an extension of the multi-year contract for its defensive coordinator of football.

In 2016, his first season as defensive coordinator, six players earned All-Mountain West honors, including two linebackers. The Broncos ranked 29th nationally and second in the Mountain West in scoring defense in 2016.

The defensive coordinator is one of the primary assistant coaches for the football team. Multi-year contracts (two, three and even five year contracts) for the offensive, defensive and special teams coordinator positions have become common in successful Division I Football Bowl Subdivision (FBS) programs.

The Athletics department recently revised the bonus structure for coaches in the football program, as reflected in Coach Avalos' contract. The contract is similar to the standard issued by BSU and in conformance with the Board-approved Model Agreement.

IMPACT

The new contract will be for one year, nine months, April 23, 2017 – February 28, 2019. The annual base salary is \$315,000, with incentives as follows:

Academic Achievement

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

National Score Within Sport		
955-959	=	up to \$2,000
960-964	=	up to \$3,000

BUSINESS AFFAIRS AND HUMAN RESOURCES
APRIL 20, 2017

965-969	=	up to \$4,000
970 or higher	=	up to \$5,000

Athletic Achievement

Athletic Incentive Pay may be earned as follows:

Mountain Division Champion	\$5,000
Participation in Conference Championship Game	\$5,000
Conference Champion	\$5,000
Participation in non-CFP bowl game	\$5,000
Team wins non-CFP bowl game	\$1,000
Participation in one of the six CFP bowl games	\$15,750

In the event Andrew Avalos terminates early without cause, the following liquidated damages shall be due:

- If agreement is terminated on or before February 28, 2018, the sum \$75,000.
- If agreement is terminated on or before February 28, 2019, the sum of \$25,000.

The contract contains a provision that the contract is terminable on 30 days' notice if the head coach is no longer employed by the University.

No state funds will be used and the agreed amounts are paid only from program revenues, media, donations and other non-state funds. The overall budget for assistant football coaches remains the same as last year – staffing changes have allowed salary adjustments.

ATTACHMENTS

Attachment 1 – Proposed Contract	Page 5
Attachment 2 – Redline from Model	Page 19
Attachment 3 – Redline from Current Contract	Page 39
Attachment 4 – APR Summary (2011-2016)	Page 53
Attachment 5 – Salary and Incentive Chart	Page 54
Attachment 6 – Maximum Compensation Calculation	Page 55
Attachment 7 – Coach Contract Checklist	Page 56

STAFF COMMENTS AND RECOMMENDATIONS

Board Policy II.H. requires Board approval for coach/athletic director employment agreements with terms of more than three years or when maximum potential annual compensation is \$200,000 or greater. This particular (less than two-year) contract is being submitted for approval based on the annual compensation criterion.

BUSINESS AFFAIRS AND HUMAN RESOURCES
APRIL 20, 2017

The proposed contract includes a \$10,000 increase in base salary over the previous contract (new base salary of \$315,000 vice \$305,000 in current contract), and an increase in maximum potential bonus payments of \$13,500 over the previous contract [the figures in the "Athletic Achievement" bonus section represent an increase of \$3,000 for a Mountain Division championship; a possible \$10,000 increase for playing in and winning a Conference championship game; and a possible \$500 increase for participating in a College Football Playoff game. There was no change to the possible Academic Achievement payoffs.] Liquidated damages in the event of termination of the contract for the convenience of the coach (\$75,000 if termination occurs prior to March 1, 2018) represents a one-year extension of the liquidated damages specified in the current Board-approved contract. The liquidated damage amounts are matched for both the Offensive and Defensive Coordinator positions. [Note: Conference reports on liquidated damage provisions in Offensive/Defensive Coordinator positions are not publically available within the conference.]

Maximum annual compensation if all available bonus requirements were attained would be \$350,750. The compensation package is budgeted entirely from non-state funds.

Staff recommends approval.

BOARD ACTION

I move to approve the request by Boise State University to enter into a one year, nine months multi-year agreement with Andrew Avalos as its defensive coordinator of football, commencing on April 23, 2017 and terminating on February 28, 2019, at a base salary of \$315,000 and supplemental compensation provisions, as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

THIS PAGE INTENTIONALLY LEFT BLANK

EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this _____ day of _____, 2017 (“Effective Date”) by and between Boise State University (“the University”) and Andrew Avalos (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the Defensive Coordinator (the “Position”) of its intercollegiate football team (the “Team”). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

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

1.3. Duties. Coach shall serve as the Defensive Coordinator for the Team and shall perform such other duties in the University’s athletic program as the Head Coach may assign and as may be described elsewhere in this Agreement. 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.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of one year, nine months, commencing on April 23, 2017 and terminating, without further notice to Coach, on February 28, 2019 (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 the 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 base salary in the amount of \$315,000 per year, payable in biweekly installments in accordance with normal University procedures, and such salary increases as may be determined appropriate by the Head Coach and Director 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;
- c) Assignment of one vehicle through the Department's trade-out program during the term of this Agreement, subject to and according to the policy of the University's Board of Trustees. Insurance premiums for the assigned vehicle shall be paid by Coach. Any vehicle assigned shall be returned in the same or similar condition as it was upon being assigned, reasonable wear and tear excepted; and
- d) 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. Coach may earn supplemental compensation as follows:

3.2.1. Athletic Achievement Incentive Pay.

- a) If the football team is the Mountain Division Champion, Coach will receive a \$5,000 bonus.
- b) If the football team participates in the Conference Championship Game, Coach will receive a \$5,000 bonus.
- c) If the football team is the Conference Champion, Coach will receive a \$5,000 bonus.

In addition,

- d) If the football team participates in a non-CFP bowl game, Coach will receive a \$5,000 bonus; **and**
- e) If the football team wins the non-CFP bowl game, Coach will receive a \$1,000 bonus; **or**

- f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a \$15,750 bonus.

If Coach qualifies for Athletic Achievement Incentive Pay under this Section, the University will pay Coach on the first regular pay date in the following February if Coach is still employed by the University on that date.

3.2.2. Academic Achievement Incentive Pay.

- a) If the annual Academic Progress Rate (“APR”) rating is between 955-959, Coach will receive a sum of \$2,000; **or**
- b) If the annual APR rating is between 960-964, Coach will receive a sum of \$3,000; **or**
- c) If the annual APR rating is between 965-969, Coach will receive a sum of \$4,000 **or**
- d) If the annual APR rating is 970 or higher, Coach will receive a sum of \$5,000.

If Coach qualifies for Academic Achievement Incentive Pay, it will be paid as soon as reasonably practical following APR rating determination and verification by the National Collegiate Athletic Association (“NCAA”), if Coach is still employed by the University on that date.

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

The decisions whether or not to award the Incentive Pay outlined in this Section 3.2, and in what amounts, are within the Director’s sole discretion. The decisions may be made based on a variety of factors, including, but not limited to, Coach’s individual performance, athletic/academic performance of Coach’s assigned player personnel groups, or other performance-related factors.

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

3.2.4. 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 Coach to participate in Programs related to Coach’s duties as an employee of the 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 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. Coach shall not appear without the prior written approval of the Head Coach and 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 Head Coach and Director, Coach shall not appear in any commercial endorsements.

3.2.5. 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.

3.2.6. 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 the 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 interests to the University in accordance with Section 4.3 of this Agreement. 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 perform all duties and responsibilities as assigned by the Head Coach, such duties and responsibilities may include, but are not limited to:

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 Board of Trustees, the conference of which the University is a member (the "Conference"), and the NCAA; supervise and take appropriate steps to ensure that any 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 Head Coach and to the University's Director of NCAA 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 promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. 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) Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy Manual; (c) the policies of the Department; (d) NCAA rules and regulations; and (e) 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 unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, would reflect adversely upon the University, the Department, or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director (such approval not to be unreasonably withheld), 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 shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to 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 (such approval not to be unreasonably withheld).

4.3. Outside Income. Coach shall obtain prior written approval from the University's President and the Director (such approval not to be unreasonably withheld) for all athletically-related and other business-related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits in accordance with the Department's Outside Income Reporting Form. The report shall be in a format reasonably satisfactory to the 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 Board of Trustees, 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 (e.g., tickets to a Stampede game); (f) television and radio programs; (g) endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers.

4.4. 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 Head Coach and the Director. Such approval shall not unreasonably be withheld. Without first giving forty-eight (48) hours prior written notice to the Head Coach and the Director, 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.

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, the 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 Board of Trustees, 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 Board of Trustees, 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 Board of Trustees, the Conference, or the NCAA, by any 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 Board of Trustees, the Conference, or the NCAA, by any 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 Head Coach, Director, or the Head Coach's or the 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, the 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 Coach was employed.

5.2. Termination of Coach due to Resignation or Termination of Head Coach

In the event of the resignation or termination of the Head Coach, Coach's employment contract may be terminated at the sole discretion of the University, at any time following the resignation or termination, upon thirty (30) days' prior written notice. Provided, however, in the event the Head Coach becomes disabled or is deceased during Coach's term of employment, Coach's employment contract will continue until the last day of February following such disability or death; provided, however, if Coach otherwise becomes employed prior to the last day of February following such disability or death, this Agreement will automatically terminate and no further compensation shall be owed by the University to Coach.

5.3. Termination of Coach for Convenience of University.

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

5.3.2. In the event that the University terminates this Agreement for its own convenience, the 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 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 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 the University within ten (10) business days of obtaining other employment and to advise the 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 the University shall constitute a material breach of this Agreement and the 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 the University all compensation paid by the University after the date Coach obtains other employment, to which Coach is not entitled under this provision.

5.3.3. 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 Coach may lose certain benefits, supplemental compensation, or outside compensation relating to Coach's employment with the University, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by the 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 the University. The liquidated damages are not, and shall not be construed to be, a penalty.

5.3.4. 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.

5.4. Termination by Coach for Convenience.

5.4.1. Coach recognizes that Coach's promise to work for the University for the entire term of this Agreement is of the essence of this Agreement. 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.

5.4.2. Coach may terminate this Agreement for convenience during its

term by giving prior written notice to the University. Termination shall be effective when mutually agreed upon 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 bowl competition) so as to minimize the impact on the program.

5.4.3. If 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 Coach terminates this Agreement for convenience, Coach shall pay to the University, as liquidated damages and not a penalty, the following sum if the termination occurs between March 1, 2017 and February 28, 2018, the sum of seventy-five thousand dollars (\$75,000) or if the termination occurs between March 1, 2018 and the last game of the regular season including the conference championship game (if applicable), the sum of twenty-five thousand dollars (\$25,000). The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid. Provided, however, if Coach terminates this Agreement following the death or disability of the Head Coach, such termination will not be considered termination by Coach for convenience, and therefore no liquidated damages shall be owed by Coach to the University.

5.4.4. 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 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 the University shall constitute adequate and reasonable compensation to the 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.

5.4.5. 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 and all accumulated annual leave.

5.5. Termination Due to Disability or Death of Coach.

5.5.1. 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, or dies.

5.5.2. 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 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 Coach's estate or beneficiaries hereunder.

5.5.3. If this Agreement is terminated because 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 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.

5.6. 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.

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

5.8. Waiver of Rights. Because 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 Rules (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures, and University Policies.

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 Director, and the Head Coach; 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 furloughs or 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 Head Coach.

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 state district court in Ada County, Boise, Idaho.

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

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

6.9. Non-Confidentiality. Coach hereby consents and agrees that this document may be released and made available to the public after it is signed by Coach. Coach further agrees that all documents and reports Coach 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: Boise State University
 Director of Athletics
 1910 University Drive
 Boise, Idaho 83725-1020

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

Coach: Andrew Avalos
 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. 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 constitutes 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 the University's Board of Trustees, if required under Section II.H. of Board Policy.

6.16 Opportunity to Consult with Attorney. 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

Curt Apsey, Director of Athletics

Andrew Avalos

Dr. Robert Kustra, President

Approved by the Board on the _____ day of _____, 2017.

~~(Form Used When Board Approval Required)~~
(MODEL ATHLETICS CONTRACT)

EMPLOYMENT AGREEMENT

This Employment Agreement (~~the “Agreement”~~) is entered into this day of , 2017 (“Effective Date”) by and between Boise State (~~University (“the University”)(College)~~) and Andrew Avalos (~~“ ”(Coach)~~).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University ~~(College)~~ shall employ Coach as the Defensive Coordinator (the “Position”) ~~head coach~~ of its intercollegiate football (Sport) team (~~the “Team”~~) ~~(or Director of Athletics)~~. Coach ~~(Director)~~ 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 Head Coach of the Team (the “Head Coach”) ~~University (College)’s Director~~ or the Head Coach’s Director’s designee. Coach shall abide by the reasonable instructions of Head Coach ~~Director~~ or the Head Coach’s Director’s designee and shall confer with the Head Coach ~~Director~~ or the Head Coach’s Director’s designee on all administrative and technical matters. Coach shall also be under the general supervision of the University’s Director of Athletics (the “Director”) ~~University (College)’s Chief executive officer (Chief executive officer)~~.

1.3. Duties. Coach shall serve as the Defensive Coordinator ~~manage and supervise~~ the Team and shall perform such other duties in the University’s ~~University (College)’s~~ athletic program as the Head Coach ~~Director~~ may assign and as may be described elsewhere in this Agreement. Coach ~~The University (College)~~ shall ~~have the right, at any time, to the best of Coach’s ability, and consistent with University policies and procedures, perform all~~ reassign Coach to duties and responsibilities customarily associated with at the University (College) other than as head coach of the Position ~~Team, provided that Coach’s compensation and benefits shall not be affected by any such reassignment, except that the opportunity to earn supplemental compensation as provided in sections 3.2.1 through (Depending on supplemental pay provisions used) shall cease.~~

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of one year, nine months ~~()~~ years, commencing on April 23, 2017 and terminating, without further notice to Coach, on February 28, 2019 (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 ~~(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 the University's Board of Trustees ~~Education~~. 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) A base~~An annual~~ salary in the amount of \$315,000\$ per year, payable in biweekly installments in accordance with normal University ~~(College)~~ procedures, and such salary increases as may be determined appropriate by the Head Coach and Director and ~~Chief executive officer and~~ approved by the University's~~University (College)'s~~ Board of ~~(Regents or Trustees)~~;
- b) The opportunity to receive such employee benefits calculated on the "base salary" as the University ~~(College)~~ provides generally to non-faculty exempt employees; ~~and~~
- c) Assignment of one vehicle through the Department's trade-out program during the term of this Agreement, subject to and according to the policy of the University's Board of Trustees. Insurance premiums for the assigned vehicle shall be paid by Coach. Any vehicle assigned shall be returned in the same or similar condition as it was upon being assigned, reasonable wear and tear excepted; and
- de) The opportunity to receive such employee benefits as the University's~~University (College)'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~~ 3.2 Supplemental Compensation. Coach may earn

~~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 as follows: 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 of sport's division), 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.~~

3.2.1. Athletic Achievement Incentive Pay.

- a) ~~If the football team is the Mountain Division Champion, 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 a \$5,000 bonus.~~
- b) ~~If the football team participates in the Conference Championship Game, Coach will receive a \$5,000 bonus.~~
- c) ~~If the football team is the Conference Champion, Coach will receive a \$5,000 bonus.~~
- In addition,
- d) ~~If the football team participates in a non-CFP bowl game, Coach will receive a \$5,000 bonus; and~~
- e) ~~If the football team wins the non-CFP bowl game, Coach will receive a \$1,000 bonus; or~~
- f) ~~If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a \$15,750 bonus.~~

~~If Coach qualifies for Athletic Achievement Incentive Pay under this Section, the University will pay Coach on the first regular pay date in the such supplemental compensation and the timing of the payment(s) shall be at the discretion of the Chief executive officer in consultation with the Director. The determination shall be~~

~~based on the following factors: the~~ February if Coach is still employed by the University on that date

3.2.2. Academic Achievement Incentive Pay.

- a) If the annual Academic Progress Rate ("APR") rating is between 955-959, Coach will receive a sum of \$2,000; or
- b) If the annual APR rating is between 960-964, Coach will receive a sum of \$3,000; or
- c) If the annual APR rating is between 965-969, Coach will receive a sum of \$4,000 or
- d) If the annual APR rating is 970 or higher, Coach will receive a sum of \$5,000.

~~If Coach qualifies by the Board, 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 Academic Achievement Incentive Pay, it will be paid as soon as reasonably practical following APR rating determination and verification by the National Collegiate Athletic Association ("NCAA"), if Coach is still employed by the University on that date all athletes.~~

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

~~The decisions whether or not to award the Incentive Pay outlined in this Section 3.2, and in what amounts, are within the Director's sole discretion. The decisions may be made based on a variety of factors, including, but not limited to, Coach's individual performance, athletic/academic performance of Coach's assigned player personnel groups, or other performance-related factors.~~

~~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 Chief executive officer 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 Chief executive officer in consultation with the Director.~~

~~3.2.3.2.4.~~ 3.2.4. Coach may receive the compensation hereunder~~5~~—The Coach shall receive the sum of ~~(amount or computation)~~ from the University ~~(College)~~ or the ~~University's~~ 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 (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 ~~Coach's~~ this duties as an employee of ~~the~~ 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 ~~Coach's~~ this services to and ~~appear~~ perform on the Programs and to cooperate in their production, broadcasting, and telecasting. ~~It is understood that neither Coach nor any assistant coaches shall not appear without the prior written approval of the Head Coach and 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 Head Coach and 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.~~

3.2.5. 6 — ~~(SUMMER CAMP OPERATED BY UNIVERSITY (COLLEGE))~~ Coach agrees that the University ~~(College)~~ has the exclusive right to operate ~~athletic youth (Sport)~~ camps ("Camps") on its campus using University ~~(College)~~ facilities. The University ~~(College)~~ shall allow Coach the opportunity to earn supplemental compensation by assisting with the ~~Camps~~ 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 ~~Camps~~ University (College)'s 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~~ University (College)'s summer football camps, the University ~~(College)~~ shall pay Coach ~~(amount)~~ per year as supplemental compensation during each year of his employment as head (Sport) coach at the University (College). This amount shall be paid ~~(terms of payment) _____.~~

~~(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.~~

3.2.6.7 Coach agrees that the University ~~(College)~~ has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of ~~University (College)~~. ~~Coach recognizes that the University (College) is negotiating or has entered into an agreement with (Company Name) 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 ~~any University selected vendors (Company Name)~~, Coach shall submit all outside consulting agreements to the University ~~(College)~~ for review and approval prior to execution. Coach shall also report such outside ~~interests/income~~ to the University ~~(College)~~ in accordance with ~~Section 4.3 of this Agreement~~~~NCAA (or NAIA) rules~~. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, ~~including (Company Name)~~, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel, or equipment products.

3.3 General Conditions of Compensation. All compensation provided by the University ~~(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 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 perform all duties and responsibilities as assigned by the Head Coach, such duties and responsibilities may include, but are not limited to:

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, the University's Board of Trustees (College), the University (College)'s governing board, the conference of which the University is a member (the "Conference"), and the NCAA; ~~(or NAIA)~~; supervise and take appropriate steps to ensure that ~~any Coach's assistant coaches, any other~~ employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Head Coach~~Director~~ and to the University's~~Department's~~ Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's~~University (College)'s~~ athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. 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 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 of the University's Board of Trustees; (b) the University's Policy~~University (College)'s Handbook~~; (c) ~~University (College)'s Administrative Procedures~~ Manual; ~~(cd)~~ the policies of the Department; ~~(de)~~ NCAA ~~(or NAIA)~~ rules ~~and regulations~~; and regulations;

and (e)(f) the rules and regulations of the Conference—(Sport)—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 ~~unreasonably otherwise~~ detract from those duties in any manner, or that, in the reasonable opinion of the University, ~~(College),~~ would reflect adversely upon the University, the Department, (College) or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director (such approval not to be unreasonably withheld), who may consult with the President~~Chief executive officer,~~ enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to use, the University's 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 (such approval not to be unreasonably withheld). ~~Chief executive officer.~~

4.3. Outside Income. — NCAA (or NAIA) Rules. — In accordance with NCAA (or NAIA) rules, Coach shall obtain prior written approval from the University's President and the Director (such approval not to be unreasonably withheld) University (College)'s Chief executive officer for all athletically-related and other business-related income and benefits from sources outside the University ~~(College)~~ and shall report the source and amount of all such income and benefits in accordance with to the University (College)'s Chief executive officer whenever reasonably requested, but in no event less than annually before the Department's Outside Income Reporting Form, 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 the University, (College). 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, the University's Board of Trustees, 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 (e.g., tickets to a Stampede game); (f) television and radio programs; (g) endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers. (College), the University (College)'s governing board, the conference, or the NCAA (or NAIA).

4.4.4.4 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 Chief executive officer 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 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 Head Coach and the Director. Such approval shall not unreasonably be withheld. Without first giving forty-eight (48) hours prior written notice to the Head Coach and the Director, 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.

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, and policies.

5.1.1. In addition to the definitions contained in applicable rules and policies, the 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 thirty (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's Board of Trustees~~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 National Association of Intercollegiate Athletics (“NAIA”) ~~NAIA~~ member institution;

- d) Ten (10) working days’² absence of Coach from duty without the University’s~~University (College)’s~~ consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University’s~~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’s Board of Trustees~~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’s Board of Trustees~~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; or
- i) —i) A violation of any applicable law or the policies, rules or regulations of the University, ~~(College)~~, the University’s Board of Trustees~~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 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 ~~(College)~~ as follows: ~~before the effective date of the suspension, reassignment, or termination, the~~ Head Coach, Director, or the

Head Coach's or the Director's~~his~~ designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, the 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's~~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. 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 due to Resignation or Termination of Head Coach

In the event of the resignation or termination of the Head Coach, Coach's employment contract may be terminated at the sole discretion of the University, at any time following the resignation or termination, upon thirty (30) days' prior written notice. Provided, however, in the event the Head Coach becomes disabled or is deceased during Coach's term of employment, Coach's employment contract will continue until the last day of February following such disability or death; provided, however, if Coach otherwise becomes employed prior to the last day of February following such disability or death, this Agreement will automatically terminate and no further compensation shall be owed by the University to Coach.

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

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

5.3.2. In the event that the University ~~(College)~~ terminates this Agreement for its own convenience, the University ~~(College)~~ 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 ~~(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 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 deductions according to law. In addition, Coach will be entitled to continue ~~thehis~~ health insurance plan and group life insurance as if ~~Coachhe~~ 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 ~~the~~ University within ten ~~(10)~~ business days of obtaining other employment, and to advise ~~the~~ 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 ~~the~~ University shall constitute a material breach of this Agreement and ~~the~~ 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 ~~the~~ University all compensation paid ~~to him~~ by ~~the~~ University after the date ~~Coachhe~~ obtains other employment, to which ~~Coachhe~~ is not entitled under this provision.

5.2.3.3. 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'shis~~ employment with ~~the~~ University ~~(College)~~, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by ~~the~~ University ~~(College)~~ and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by ~~the~~ University ~~(College)~~. The liquidated damages are not, and shall not be construed to be, a penalty.

5.3.4. 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.

5.4.- Termination by Coach for Convenience.

5.43.1. ~~The~~ Coach recognizes that ~~Coach'shis~~ promise to work for ~~the~~ 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 ~~Coach'shis~~ employment by entering into this Agreement and that its investment would be lost were ~~Coachhe~~ to resign or otherwise terminate ~~Coach'shis~~

employment with the University ~~(College)~~ before the end of the contract ~~T~~term.

5.43.2. ~~_____~~ ~~The Coach, for his own convenience,~~ may terminate this Agreement ~~for convenience~~ during its term by giving prior written notice to the University ~~(College)~~. Termination shall be effective ~~when mutually agreed upon 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 bowl competition) so as to minimize the impact on the program. (College).~~

5.4.3. ~~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, ~~Coach he~~ shall pay to the University, ~~(College)~~, as liquidated damages and not a penalty, the following sum ~~if the termination occurs between March 1, 2017 and February 28, 2018, the sum of seventy-five thousand dollars (\$75,000) or if the termination occurs between March 1, 2018 and the last game of the regular season including the conference championship game (if applicable), the sum of twenty-five thousand dollars (\$25,000).~~ ~~_____~~. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid. ~~Provided, however, if Coach terminates this Agreement following the death or disability of the Head Coach, such termination will not be considered termination by Coach for convenience, and therefore no liquidated damages shall be owed by Coach to the University.~~

~~_____~~ 5.3.4.4. 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 University ~~(College)~~ will incur administrative and recruiting costs in obtaining a replacement for Coach, in addition to potentially increased compensation costs if Coach terminates this Agreement for convenience, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Coach and the acceptance thereof by ~~the~~ University ~~(College)~~ shall constitute adequate and reasonable compensation to ~~the~~ 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)~~.

5.43.5. Except as provided elsewhere in this Agreement, if Coach terminates this Agreement for convenience, ~~Coach he~~ shall forfeit to the extent permitted by law ~~Coach's his~~ right to receive all supplemental compensation and other payments ~~and all accumulated annual leave.~~

5.5.4 Termination ~~De~~ue to Disability or Death of Coach.

5.54.1. 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~~University (College)'s~~ disability insurance carrier, becomes unable to perform the essential functions of the Position~~position of head coach~~, or dies.

5.54.2. 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 Coach's~~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 Coach's~~the Coach's~~ estate or beneficiaries thereunder.

5.54.3. If this Agreement is terminated because ~~the~~ Coach becomes totally or permanently disabled as defined by the University's~~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 Coach~~he~~ is entitled by virtue of employment with the University (College).

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

5.7.6 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.

5.8.7 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 provided for in the State Board of Education Rules (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures, and IDAPA 08.01.01 et seq., and the University Policies (College) Faculty-Staff Handbook.

ARTICLE 6

6.1. Board Approval. ~~(if required—multiyear employment agreements which require Board approval are defined in Section II.H. of Board Policy).~~ This Agreement shall not be effective until and unless approved of the University'sUniversity (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'sUniversity (College)'s Board of ~~(Regents or Trustees)~~, the DirectorChief executive officer, and the Head CoachDirector; 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'sUniversity (College)'s rules or policies regarding furloughs or financial exigency.

6.2. University (College) Property. All personal property, ~~(excluding vehicle(s) provided through the _____ 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'sUniversity (College)'s direction or for the University'sUniversity (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 Head CoachDirector.

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

6.9. Non—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 Coach is required to produce under this Agreement may be released and made available to the public at the University's 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: Boise State University
~~(College):~~ Director of Athletics
1910 University Drive
Boise, Idaho 83725-1020

with a copy to: Boise State University Chief executive officer
Office of

the President
1910 University Drive
Boise, Idaho 83725-1000

Coach: Andrew Avalos
 Last known address on file with
University's 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's~~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 Coach's~~this~~ 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 ~~between~~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 ~~the University's~~University (College)'s Board of ~~(Regents or~~ Trustees~~),~~ if required under Section II.H. of Board Policy.

6.16. Opportunity to Consult with Attorney. ~~The~~ Coach acknowledges that Coach~~he~~ 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 ~~(COLLEGE)~~

COACH

Curt Apsey, Director of Athletics

Andrew Avalos

Dr. Robert Kustra, President

Chief executive officer

Date

Date

*Approved by the Board ~~of (Regents or Trustees)~~ on the _____ day of _____, 2017~~0~~.

~~[*Note: Multiyear employment agreements which require Board approval are defined in Section II.H. of Board Policy]~~

THIS PAGE INTENTIONALLY LEFT BLANK

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is entered into this _____ day of _____, 2017~~76~~ ("Effective Date") by and between Boise State University ("the University") and Andrew Avalos ("Coach").

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the ~~Defensive Coordinator~~defensive coordinator (the "Position") of its intercollegiate ~~f~~Football team (the "Team"). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

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

1.3. Duties. Coach shall serve as the ~~Defensive Coordinator~~defensive coordinator for the Team and shall perform such other duties in the University's athletic program as the Head Coach may assign and as may be described elsewhere in this Agreement. 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.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of ~~one year, nine months~~two (2) years, commencing on April ~~23, 2017~~18, 2016 and terminating, without further notice to Coach, on February 28, 201~~7~~8 (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 the 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 base salary in the amount of \$3105,000 per year, payable in biweekly installments in accordance with normal University procedures, and such salary increases as may be determined appropriate by the Head Coach and Director 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;
- c) Assignment of one vehicle through the Department's trade-out program during the term of this Agreement, subject to and according to the policy of the University's Board of Trustees. Insurance premiums for the assigned vehicle shall be paid by Coach. Any vehicle assigned shall be returned in the same or similar condition as it was upon being assigned, reasonable wear and tear excepted; and
- d) 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~~ 3.2 Supplemental Compensation. Coach may earn supplemental compensation as follows:

3.2.1. Athletic Achievement Incentive Pay.

- a) If the football team ~~is~~participates in the Mountain Division ChampionConference Championship Game, Coach will receive a \$52,000 bonus.

b)
~~In addition,~~

- c) If the football team participates in the Conference Championship Game, Coach will receive a \$5,000 bonus.

- d) If the football team is the Conference Champion, Coach will receive a \$5,000 bonus.
In addition,
- e) If the football team participates in a non-CFP bowl game, Coach will receive a \$53,000 bonus; and
- b)f) If the football team wins the non-CFP bowl game, Coach will receive a \$1,000 bonus; or
- e)g) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a \$15,7250 bonus.

If Coach qualifies for Athletic Achievement Incentive Pay under this Section, the University will pay Coach on the first regular pay date in the following February if Coach is still employed by the University on that date.

3.2.2. Academic Achievement Incentive Pay.

- a) If the annual Academic Progress Rate (“APR”) rating is between 955-959, Coach will receive a sum of \$2,000; or
- b) If the annual APR rating is between 960-964, Coach will receive a sum of \$3,000; or
- c) If the annual APR rating is between 965-969, Coach will receive a sum of \$4,000 or
- d) If the annual APR rating is 970 or higher, Coach will receive a sum of \$5,000.

If Coach qualifies for Academic Achievement Incentive Pay, it will be paid as soon as reasonably practical following APR rating determination and verification by the National Collegiate Athletic Association (“NCAA”), if Coach is still employed by the University on that date.

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

The decisions whether or not to award the Incentive Pay outlined in this Section 3.2, and in what amounts, are within the Director’s sole discretion. The decisions may be made based on a variety of factors, including, but not limited to, Coach’s individual performance, athletic/academic performance of Coach’s assigned player personnel groups, or other performance-related factors.

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

3.2.4. 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 Coach to participate in Programs related to Coach's duties as an employee of the 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 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. Coach shall not appear without the prior written approval of the Head Coach and 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 Head Coach and Director, Coach shall not appear in any commercial endorsements.

3.2.5. 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.

3.2.6. 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 the 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 ~~interests/income~~ to the University in accordance with Section 4.3 of this Agreement ~~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 perform all duties and responsibilities as assigned by the Head Coach, such duties and responsibilities may include, but are not limited to:

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 Board of Trustees, the conference of which the University is a member (the "Conference"), and the NCAA; supervise and take appropriate steps to ensure that any 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 Head Coach and to the University's Director of NCAA 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 promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. 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) Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy Manual; (c) the policies of the Department; (d) NCAA rules and regulations; and (e) the rules and regulations of the Conference.

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 ~~unreasonably~~otherwise detract from those duties in any manner, or that, in the reasonable opinion of the University, would reflect adversely upon the University, the Department, or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director (such approval not to be unreasonably withheld), 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 shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to use, 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 (such approval not to be unreasonably withheld). ~~University President and the Director.~~

4.3. Outside Income. ~~In accordance with NCAA rules,~~ Coach shall obtain prior written approval from the University's President and the Director (such approval not to be unreasonably withheld) for all athletically-related and other business-related income and benefits from sources outside the University and. ~~Coach~~ shall report the source and amount of all such income and benefits in accordance with ~~to the Department's Outside Income Reporting Form~~ Director 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 the 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 Board of Trustees, 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 (e.g., tickets to a Stampede game); (f) television and radio programs; (g) endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers.

4.4. 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 Head Coach and the Director. Such approval shall not unreasonably be withheld. Without first giving forty-eight (48) hours prior written notice to the Head Coach and the Director, 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.

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, the 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 Board of Trustees, 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 Board of Trustees, 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 Board of Trustees, the Conference, or the NCAA, by any 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 Board of Trustees, the Conference, or the NCAA, by any 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 Head Coach, Director, or the Head Coach's or the 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, the 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 Coach was employed.

5.2. Termination of Coach due to Resignation or Termination of Head Coach

In the event of the resignation or termination of the Head Coach, Coach's employment contract may be terminated at the sole discretion of the University, at any time following the resignation or termination, upon thirty (30) days' prior written notice. Provided, however, in the event the Head Coach becomes disabled or is deceased during Coach's term of employment, Coach's employment contract will continue until the last day of February following such disability or death; provided, however, if Coach otherwise becomes employed prior to the last day of February following such disability or death, this Agreement will automatically terminate and no further compensation shall be owed by the University to Coach.

5.3. Termination of Coach for Convenience of University.

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

5.3.2. In the event that the University terminates this Agreement for its own convenience, the 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 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 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 the University within ten (10) business days of obtaining other employment and to advise the 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 the University shall constitute a material breach of this Agreement and the 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 the University all compensation paid by the University after the date Coach obtains other employment, to which Coach is not entitled under this provision.

5.3.3. 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 Coach may lose certain benefits, supplemental compensation, or outside compensation relating to Coach’s employment with the University, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by the 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 the University. The liquidated damages are not, and shall not be construed to be, a penalty.

5.3.4. 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.

5.4. Termination by Coach for Convenience.

5.4.1. Coach recognizes that Coach's promise to work for the University for the entire term of this Agreement is of the essence of this Agreement. 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.

5.4.2. Coach may terminate this Agreement for convenience during its term by giving prior written notice to the University. Termination shall be effective when mutually agreed upon 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 bowl competition) so as to minimize the impact on the program.

5.4.3. If 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 Coach terminates this Agreement for convenience, Coach shall pay to the University, as liquidated damages and not a penalty, the following sum if the termination occurs between March 1, 2017⁶ and February 28, 2018⁷, the sum of seventy-five thousand dollars (\$75,000) or if the termination occurs between March 1, 2018⁷ and the last game of the regular season including the conference championship game (if applicable), the sum of twenty-five thousand dollars (\$25,000). The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid. Provided, however, if Coach terminates this Agreement following the death or disability of the Head Coach, such termination will not be considered termination by Coach for convenience, and therefore no liquidated damages shall be owed by Coach to the University.

5.4.4. 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 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 the University shall constitute adequate and reasonable compensation to the 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.

5.4.5. 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 and all

accumulated annual leave.

5.5. Termination Due to Disability or Death of Coach.

5.5.1. 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, or dies.

5.5.2. 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 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 Coach's estate or beneficiaries hereunder.

5.5.3. If this Agreement is terminated because 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 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.

5.6. 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.

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

5.8. Waiver of Rights. Because 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 [RulesRule Manual](#) (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures [Manual](#), and University Policies.

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 Director, and the Head Coach; 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 furloughs or 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 Head Coach.

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 state district court in Ada County, Boise, Idaho.

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

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

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

6.9. Non-Confidentiality. Coach hereby consents and agrees that this document may be released and made available to the public after it is signed by Coach. Coach further agrees that all documents and reports Coach 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: Boise State University
Director of Athletics
1910 University Drive
Boise, Idaho 83725-1020

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

Coach: Andrew Avalos
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. 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 constitutes 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 the University's Board of Trustees, if required under Section II.H. of Board Policy.

6.16 Opportunity to Consult with Attorney. 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

Curt Apsey, Director of Athletics

Date

Date

Andrew Avalos

Dr. Robert Kustra, President _____
Date

Approved by the Board on the _____ 14th day of _____,
2017April, 2016.

BOISE STATE UNIVERSITY

Football APR History and National Percentile Rank

SINGLE YEAR NCAA ACADEMIC PROGRESS RATE (APR) SCORES

	2011-12	2012-13	2013-14	2014-15	2015-16
Football	985	980	973	991	968*
National % Rank by Sport	90-100	90-100	70-80	80-90	*

MULTI-YEAR (4-Year Rolling Average)

Football	993	988	981	982	979*
-----------------	-----	-----	-----	-----	------

REPORT YEAR

Raw Score for single year

Percentile Rank for Sport

* for release May 2017

Football Defensive Coordinator Salary and Incentive Comparisons in the Mountain West Conference

Coach	School	Base Salary	Incentives
Not listed	Colorado State		NA
Kevin Cosgrove	New Mexico	\$ 200,000	Courtesy car
Not listed	San Diego State	-	NA
Kent Baer	UNLV	\$ 216,342	NA
Steve Stanard	Wyoming	\$ 200,004	NA
Nick Toth	Fresno State	\$ 123,804	NA
Andrew Avalos	Boise State	\$ 315	See Contract
Frank Maile	Utah State	\$ 230,000	<p>You will also be eligible to receive supplemental compensation in the amount of \$19,167 based on the football team's performance in a post-season bowl game, so long as you coach in the bowl game. This payment will not be added to your salary and will be paid by a third party. You will not receive benefits from Utah State University on this payment. You will also be responsible for all federal, state and local tax obligations for this payment.</p> <p>You will be provided with a mobile phone stipend in the amount of \$100 per month. This is a taxable benefit and will be paid with your monthly payroll.</p> <p>You will also be provided a courtesy car in accordance with current policy, for your use while conducting business related to Utah State University. A monthly mileage log will be filed with the Business Office by the 5th day of each month. You will be required to sign a courtesy</p>
Scott Boone	Nevada	\$ 180,285	NA
Ron English	San Jose State	\$ 170,004	NA
Steve Russ	Air Force	-	Courtesy car
Kevin Lempa	Hawaii	\$ 203,688	Courtesy car
Lorenzo Ward	Fresno State	\$ 85,392	NA

*Figures from WinAD as of
3.7.17

Coach Andrew Avalos Maximum Compensation Calculation - 2017-2018

			Yr 1
3.1.1a	Annual Base Salary	\$	315,000.00
3.2.1	Additional Pay based on Performance	\$	30,750.00
3.2.2	Additional Pay based on Academic Achievement	\$	5,000.00
	Total Maximum potential annual compensation under Employment Agreement	\$	350,750.00

*3.7.17

IDAHO STATE BOARD OF EDUCATION

Athletic Director-Coach Contract Checklist

To be Submitted by Institutions with Employment Agreements Requiring Board Approval*

[* Board approval is required for contracts longer than three years or for any contracts with total annual compensation of \$200,000 or higher. See Board Policy II.H.]

Institution: Boise State University

Name of employee and position: Andrew Avalos, Football, Defensive Coordinator

Date of submission to State Board Office: March 17, 2017

Proposed effective date of employment agreement: April 2017

- ☒ The proposed contract has been reviewed to ensure compliance with Board Policy II.H.
- ☒ The proposed contract has been reviewed by institution general counsel

Supporting Documents (Check and attach all that apply): [All required items need to be provided either within the agenda item cover sheet, or as attachments to the agenda item.]

- ☒ A summary of all supplemental **compensation incentives**
- ☒ Quantification of the **maximum potential annual compensation** (i.e. base salary plus maximum incentive pay)
- ☒ **Employment agreement—clean version**
- ☒ **Employment agreement—redline version** comparing contract to Board-approved **model** contract (model contract is available on Board website <http://boardofed.idaho.gov>)
- ☒ **Employment agreement—redline version** (for current coaches receiving new contracts) comparing proposed employment agreement to **current** agreement
- ☒ In the case of NCAA institutions, a 4-year history of the institution's **Academic Progress Rate** (APR) raw scores and national average APR scores for the applicable sport.
- ☒ A schedule of **base salaries and incentive payments** of all other same sport coaches in the institution's conference
- ☒ Documentation/description of how the institution determined the proposed **liquidated damages** amount(s), and a summary of publically-available liquidated damages and buyout provisions for coaches of the same sport at the other public institutions in the conference.

Notes/Comments (provide explanation of any items/boxes which were not checked or other key points for Board consideration):

Point of contact at Institution (phone number, email address): Texie Montoya, Assistant General Counsel (208) 426-1231

BUSINESS AFFAIRS AND HUMAN RESOURCES
APRIL 20, 2017

BOISE STATE UNIVERSITY

SUBJECT

Multi-year contract for Zachary Hill, Offensive Coordinator of Football

APPLICABLE STATUTE, RULE, OR POLICY

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

BACKGROUND/DISCUSSION

Boise State University (BSU) is seeking a one-year, nine months contract for the offensive coordinator for the men's football program. The offensive coordinator is one of the primary assistant coaches of the football team. The departure of the previous co-offensive coordinator has prompted BSU to offer a two-year agreement to Zachary Hill, who is currently employed as a co-offensive coordinator/quarterbacks coach under a single-year contract. Multi-year contracts (two, three and even five year contracts) for the offensive, defensive and special teams coordinator positions have become common in successful Division I Football Bowl Subdivision (FBS) programs.

The contract is similar to the standard issued by BSU and in conformance with the Idaho State Board of Education (Board) approved Model Agreement.

IMPACT

The new contract will be for one year, nine months, April 23, 2017 - February 28, 2019. The annual salary is \$285,000, with incentives as follows:

Academic Achievement

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

955-959	=	up to \$2,000
960-964	=	up to \$3,000
965-969	=	up to \$4,000
970 or higher	=	up to \$5,000

Athletic Achievement

Athletic Incentive Pay may be earned as follows:

Mountain Division Champion	\$5,000
Participation in Conference Championship Game	\$5,000
Conference Champion	\$5,000
Participation in non-CFP bowl game	\$5,000
Team wins non-CFP bowl game	\$1,000
Participation in one of the six CFP bowl games	\$14,250

BUSINESS AFFAIRS AND HUMAN RESOURCES
APRIL 20, 2017

In the event Zachary Hill terminates early without cause, the following liquidated damages shall be due:

- If agreement is terminated on or before February 28, 2018, the sum of \$75,000.
- If agreement is terminated on or before February 28, 2019, the sum of \$25,000.

No state funds are used and all compensation and incentive pay amounts are paid only from program revenues, media, donations and other non-state funds. The overall budget for assistant football coaches remains the same as last year – staffing changes have allowed salary adjustments.

The contract contains a provision that the contract is terminable on 30 days' notice if the head coach is no longer employed by BSU.

ATTACHMENTS

Attachment 1 – Proposed Contract	Page 3
Attachment 2 – Redline from Model	Page 19
Attachment 3 – APR Summary	Page 39
Attachment 4 – Salary and Incentive Chart	Page 40
Attachment 5 – Maximum Compensation Calculation	Page 41
Attachment 6 – Coach Contract Checklist	Page 42

STAFF COMMENTS AND RECOMMENDATIONS

Board Policy II.H. requires Board approval for employment agreements with a term of more than three years or a total annual compensation of \$200,000 or more. This contract is being presented to the Board for approval due to the total compensation criterion. The maximum annual compensation (base salary plus attainment of highest combination of academic and athletic bonus goals) is \$319,250. While Conference reports on liquidated damage provisions in Offensive and Defensive Coordinator positions are not publically available, the liquidated damage provisions specified above are consistent with the terms of previous Board-approved contracts for this tier of football assistant coaches—and match the provisions for the proposed Defensive Coordinator contract. Staff recommends approval.

BOARD ACTION

I move to approve the request by Boise State University to enter into a one-year, nine months multi-year agreement, as proposed, with Zachary Hill as its offensive coordinator of football, commencing on April 23, 2017 and terminating on February 28, 2019, at a base salary of \$285,000 and supplemental compensation provisions, as submitted in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is entered into this _____ day of April, 2017 ("Effective Date") by and between Boise State University ("the University") and Zachary Hill ("Coach").

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the Offensive Coordinator/Quarterbacks Coach (the "Position") of its intercollegiate football team (the "Team"). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

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

1.3. Duties. Coach shall serve as the Offensive Coordinator/Quarterbacks Coach for the Team and shall perform such other duties in the University's athletic program as the Head Coach may assign and as may be described elsewhere in this Agreement. 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.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of one year, nine months, commencing on April 23, 2017 and terminating, without further notice to Coach, on February 28, 2019 (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 the 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 base salary in the amount of \$285,000 per year, payable in biweekly installments in accordance with normal University procedures, and such salary increases as may be determined appropriate by the Head Coach and Director 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;
- c) Assignment of one vehicle through the Department's trade-out program during the term of this Agreement, subject to and according to the policy of the University's Board of Trustees. Insurance premiums for the assigned vehicle shall be paid by Coach. Any vehicle assigned shall be returned in the same or similar condition as it was upon being assigned, reasonable wear and tear excepted; and
- d) 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. Coach may earn supplemental compensation as follows:

3.2.1. Athletic Achievement Incentive Pay.

- a) If the football team is the Mountain Division Champion, Coach will receive a \$5,000 bonus.
- b) If the football team participates in the Conference Championship Game, Coach will receive a \$5,000 bonus.
- c) If the football team is the Conference Champion, Coach will receive a \$5,000 bonus.

In addition,

- d) If the football team participates in a non-CFP bowl game, Coach will receive a \$5,000 bonus; **and**
- e) If the football team wins the non-CFP bowl game, Coach will receive a \$1,000 bonus; **or**
- f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a \$14,250 bonus.

If Coach qualifies for Athletic Achievement Incentive Pay under this Section, the University will pay Coach on the first regular pay date in the following February if Coach is still employed by the University on that date.

3.2.2. Academic Achievement Incentive Pay.

- a) If the annual Academic Progress Rate (“APR”) rating is between 955-959, Coach will receive a sum of \$2,000; **or**
- b) If the annual APR rating is between 960-964, Coach will receive a sum of \$3,000; **or**
- c) If the annual APR rating is between 965-969, Coach will receive a sum of \$4,000 **or**
- d) If the annual APR rating is 970 or higher, Coach will receive a sum of \$5,000.

If Coach qualifies for Academic Achievement Incentive Pay, it will be paid as soon as reasonably practical following APR rating determination and verification by the National Collegiate Athletic Association (“NCAA”), if Coach is still employed by the University on that date.

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

The decisions whether or not to award the Incentive Pay outlined in this Section 3.2, and in what amounts, are within the Director’s sole discretion. The decisions may be made based on a variety of factors, including, but not limited to, Coach’s individual performance, athletic/academic performance of Coach’s assigned player personnel groups, or other performance-related factors.

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

3.2.4. 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

Coach to participate in Programs related to Coach's duties as an employee of the 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 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. Coach shall not appear without the prior written approval of the Head Coach and 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 Head Coach and Director, Coach shall not appear in any commercial endorsements.

3.2.5. 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.

3.2.6. 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 the 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 interests to the University in accordance with Section 4.3 of this Agreement. 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 perform all duties and responsibilities as assigned by the Head Coach, such duties and responsibilities may include, but are not limited to:

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 Board of Trustees, the conference of which the University is a member (the "Conference"), and the NCAA; supervise and take appropriate steps to ensure that any 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 Head Coach and to the University's Director of NCAA 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 promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. 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) Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy Manual; (c) the policies of the Department; (d) NCAA rules and regulations; and (e) 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 unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, would reflect adversely upon the University, the Department, or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director (such approval not to be unreasonably withheld), 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 shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may

not use nor may Coach authorize third parties to 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 (such approval not to be unreasonably withheld).

4.3. Outside Income. Coach shall obtain prior written approval from the University's President and the Director (such approval not to be unreasonably withheld) for all athletically-related and other business-related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits in accordance with the Department's Outside Income Reporting Form. The report shall be in a format reasonably satisfactory to the 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 Board of Trustees, 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 (e.g., tickets to a Stampede game); (f) television and radio programs; (g) endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers.

4.4. 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 Head Coach and the Director. Such approval shall not unreasonably be withheld. Without first giving forty-eight (48) hours prior written notice to the Head Coach and the Director, 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.

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, the 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 Board of Trustees, 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 Board of Trustees, 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 Board of Trustees, the Conference, or the NCAA, by any 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 Board of Trustees, the Conference, or the NCAA, by any 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 Head Coach, Director, or the Head Coach's or the 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, the 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 Coach was employed.

5.2. Termination of Coach due to Resignation or Termination of Head Coach

In the event of the resignation or termination of the Head Coach, Coach's employment contract may be terminated at the sole discretion of the University, at any time following the resignation or termination, upon thirty (30) days' prior written notice. Provided, however, in the event the Head Coach becomes disabled or is deceased during Coach's term of employment, Coach's employment contract will continue until the last day of February following such disability or death; provided, however, if Coach otherwise becomes employed prior to the last day of February following such disability or death, this Agreement will automatically terminate and no further compensation shall be owed by the University to Coach.

5.3. Termination of Coach for Convenience of University.

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

5.3.2. In the event that the University terminates this Agreement for its own convenience, the 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 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 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 the University within ten (10) business days of obtaining other employment and to advise the 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 the University shall constitute a material breach of this Agreement and the 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 the University all compensation paid by the University after the date Coach obtains other employment, to which Coach is not entitled under this provision.

5.3.3. 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 Coach may lose certain benefits, supplemental compensation, or outside compensation relating to Coach's employment with the University, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by the 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 the University. The liquidated damages are not, and shall not be construed to be, a penalty.

5.3.4. 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.

5.4. Termination by Coach for Convenience.

5.4.1. Coach recognizes that Coach's promise to work for the University for the entire term of this Agreement is of the essence of this Agreement. 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.

5.4.2. Coach may terminate this Agreement for convenience during its term by giving prior written notice to the University. Termination shall be effective when mutually agreed upon 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.

5.4.3. If 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 Coach terminates this Agreement for convenience, Coach shall pay to the University, as liquidated damages and not a penalty, the following sum if the termination occurs between April 20, 2017 and February 28, 2018, the sum of seventy-five thousand dollars (\$75,000) or if the termination occurs between March 1, 2018 and the last game of the regular season including the conference championship game (if applicable), the sum of twenty-five thousand dollars (\$25,000). The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid. Provided, however, if Coach terminates this Agreement following the death or disability of the Head Coach, such termination will not be considered termination by Coach for convenience, and therefore no liquidated damages shall be owed by Coach to the University.

5.4.4. 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 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 the University shall constitute adequate and reasonable compensation to the 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.

5.4.5. 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 and all accumulated annual leave.

5.5. Termination Due to Disability or Death of Coach.

5.5.1. 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, or dies.

5.5.2. 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 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 Coach's estate or beneficiaries hereunder.

5.5.3. If this Agreement is terminated because 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 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.

5.6. 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.

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

5.8. Waiver of Rights. Because 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 Rules (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures, and University Policies.

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 Director, and the Head

Coach; 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 furloughs or 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 Head Coach.

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 state district court in Ada County, Boise, Idaho.

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

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

6.9. Non-Confidentiality. Coach hereby consents and agrees that this document may be released and made available to the public after it is signed by Coach.

Coach further agrees that all documents and reports Coach 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: Boise State University
Director of Athletics
1910 University Drive
Boise, Idaho 83725-1020

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

Coach: Zachary Hill
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. 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 constitutes 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 the University's Board of Trustees, if required under Section II.H. of Board Policy.

6.16. Opportunity to Consult with Attorney. 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

Curt Apsey, Director of Athletics

Zachary Hill

Dr. Robert Kustra, President

Approved by the Board on the _____ day of _____, 2017.

THIS PAGE INTENTIONALLY LEFT BLANK

~~(Form Used When Board Approval Required)~~
(MODEL ATHLETICS CONTRACT)

EMPLOYMENT AGREEMENT

This Employment Agreement (~~the "Agreement"~~) is entered into this day of April, 2017 (~~"Effective Date"~~) by and between Boise State University (~~"the University"~~)(~~College~~), and Zachary Hill (~~"~~ ~~"~~ (~~Coach~~)).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University (~~College~~) shall employ Coach as the Offensive Coordinator/Quarterbacks Coach (the ~~"Position"~~) ~~head coach~~ of its intercollegiate football (~~Sport~~) team (the ~~"Team"~~). ~~(or Director of Athletics)~~. Coach (~~Director~~) 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 Head Coach of the Team (the ~~"Head Coach"~~) ~~University (College)'s Director~~ or the Head Coach's~~Director's~~ designee. Coach shall abide by the reasonable instructions of Head Coach~~Director~~ or the Head Coach's~~Director's~~ designee and shall confer with the Head Coach~~Director~~ or the Head Coach's~~Director's~~ designee on all administrative and technical matters. Coach shall also be under the general supervision of the University's Director of Athletics (the ~~"Director"~~). ~~University (College)'s Chief executive officer (Chief executive officer)~~.

~~1.3.~~ 1.3 Duties. Coach shall serve as the Offensive Coordinator/Quarterbacks Coach ~~manage and supervise~~ the Team and shall perform such other duties in the University's~~University (College)'s~~ athletic program as the Head Coach~~Director~~ may assign and as may be described elsewhere in this Agreement. Coach~~The University (College)~~ shall ~~have the right, at any time, to~~ the best of Coach's ability, and consistent with University policies and procedures, perform ~~all~~ reassign Coach to duties and responsibilities customarily associated with at the University (College) ~~other than as head coach of the~~ Position~~Team, provided that~~ Coach's compensation and benefits shall not be affected by any such reassignment, except that the opportunity to earn supplemental compensation as provided in sections 3.2.1 through (Depending on supplemental pay provisions used) shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of one year, nine months () years, commencing on April 23, 2017 and terminating, without further notice to Coach, on February 28, 2019 (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 ~~(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 the University's Board of Trustees ~~Education~~. 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) A base~~An annual~~ salary in the amount of \$285,000\$ per year, payable in biweekly installments in accordance with normal University ~~(College)~~ procedures, and such salary increases as may be determined appropriate by the Head Coach and Director and ~~Chief executive officer and~~ approved by the University's~~University (College)'s~~ Board of ~~(Regents or Trustees)~~;
- b) The opportunity to receive such employee benefits calculated on the "base salary" as the University ~~(College)~~ provides generally to non-faculty exempt employees; ~~and~~
- c) Assignment of one vehicle through the Department's trade-out program during the term of this Agreement, subject to and according to the policy of the University's Board of Trustees. Insurance premiums for the assigned vehicle shall be paid by Coach. Any vehicle assigned shall be returned in the same or similar condition as it was upon being assigned, reasonable wear and tear excepted; and
- de) The opportunity to receive such employee benefits as the University's~~University (College)'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—3.2 Supplemental Compensation. Coach may earn

~~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 as follows: 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.~~

3.2.1. Athletic Achievement Incentive Pay.

If the football team is the Mountain Division Champion,

~~3.2.2 Each year the Team is ranked in the top 25 in the (national rankings of sport's division), 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.~~

- ~~a) 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 a \$5,000 bonus.~~
- b) If the football team participates in the Conference Championship Game, Coach will receive a \$5,000 bonus.
- c) If the football team is the Conference Champion, Coach will receive a \$5,000 bonus.
- In addition,
- d) If the football team participates in a non-CFP bowl game, Coach will receive a \$5,000 bonus; and
- e) If the football team wins the non-CFP bowl game, Coach will receive a \$1,000 bonus; or
- f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a \$14,250 bonus.

If Coach qualifies for Athletic Achievement Incentive Pay under this Section, the University will pay Coach on the first regular pay date in the such supplemental compensation and the timing of the payment(s) shall be at the discretion of the Chief executive officer in consultation with the Director. The determination shall be based on the following February if Coach is still employed by the University on that date.

3.2.2. Academic Achievement Incentive Pay.

- a) If the annual factors: the Academic Progress Rate ("APR") rating is between 955-959, Coach will receive a sum of \$2,000; or
- b) If the annual APR rating is between 960-964, Coach will receive a sum of \$3,000; or
- c) If the annual APR rating is between 965-969, Coach will receive a sum of \$4,000 or
- d) If the annual APR rating is 970 or higher, Coach will receive a sum of \$5,000.

If Coach qualifies set by the Board, 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 Academic Achievement Incentive Pay, it will be paid as soon as reasonably practical following APR rating determination and verification by the National Collegiate Athletic Association ("NCAA"), if Coach is still employed by the University on that date all athletes.

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

The decisions whether or not to award the Incentive Pay outlined in this Section 3.2, and in what amounts, are within the Director's sole discretion. The decisions may be made based on a variety of factors, including, but not limited to, Coach's individual performance, athletic/academic performance of Coach's assigned player personnel groups, or other performance-related factors.

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 reportable 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 Chief executive officer 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 Chief executive officer in consultation with the Director.~~

~~3.2.3.4.~~ 3.2.4. Coach may receive the compensation hereunder~~5~~—The Coach shall receive the sum of ~~(amount or computation)~~ from the University ~~(College)~~ or the ~~University's~~ ~~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 ~~(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 ~~Coach's~~ ~~this~~ duties as an employee of ~~the~~ 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 ~~Coach's~~ ~~this~~ services to and ~~appear~~ ~~perform~~ on the Programs and to cooperate in their production, broadcasting, and telecasting. ~~It is understood that neither Coach nor any assistant coaches shall not appear without the prior written approval of the Head Coach and 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 Head Coach and 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.~~

~~3.2.5. 6~~ 3.2.5. 6 ~~(SUMMER CAMP OPERATED BY UNIVERSITY (COLLEGE))~~ Coach agrees that the University ~~(College)~~ has the exclusive right to operate ~~athletic youth (Sport)~~ camps ("Camps") on its campus using University ~~(College)~~ facilities. The University ~~(College)~~ shall allow Coach the opportunity to earn supplemental compensation by assisting with the ~~Camps~~ ~~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 ~~Camps~~ ~~University (College)'s football camps~~. Coach also agrees that Coach will perform all obligations mutually agreed upon by the parties. In exchange for Coach's participation in the ~~Camps~~ ~~University (College)'s summer football camps~~, the University ~~(College)~~ shall pay Coach ~~(amount)~~ per year as supplemental compensation ~~during each year of his employment as head (Sport) coach at the University (College)~~. This amount shall be paid ~~(terms of payment)~~—.

~~(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.~~

3.2.6.7 Coach agrees that the University ~~(College)~~ has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University (College). ~~Coach recognizes that the University (College) is negotiating or has entered into an agreement with (Company Name) 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 any University selected vendors (Company Name), Coach shall submit all outside consulting agreements to the University (College) for review and approval prior to execution. Coach shall also report such outside interests income to the University (College) in accordance with Section 4.3 of this Agreement NCAA (or NAIA) rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including (Company Name), and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products.~~

3.3. General Conditions of Compensation. All compensation provided by the University ~~(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 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 perform all duties and responsibilities as assigned by the Head Coach, such duties and responsibilities may include, but are not limited to:

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, the University's Board of Trustees (College), the University (College)'s governing board, the conference of which the University is a member (the "Conference"), and the NCAA; ~~(or NAIA)~~; supervise and take appropriate steps to ensure that ~~any Coach's assistant coaches, any other~~ employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Head Coach~~Director~~ and to the University's~~Department's~~ Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's~~University (College)'s~~ athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. 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 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 of the University's Board of Trustees; (b) ~~the University's Policy~~ University (College)'s Handbook; (c) ~~University (College)'s Administrative Procedures~~ Manual; (cd) the policies of the Department; (de) NCAA ~~(or NAIA) rules and regulations~~; and regulations; and (e(f) the rules and regulations of the ~~Conference (Sport) 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 ~~unreasonably~~ otherwise detract from those duties in any manner, or that, in the reasonable opinion of the University, ~~(College)~~, would reflect adversely upon the University, the Department, (College) or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director (such approval not to be unreasonably withheld), who may consult with the ~~President~~ Chief executive officer, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use ~~nor may Coach authorize third parties to use, the University's~~ 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 (such approval not to be unreasonably withheld). ~~Chief executive officer.~~

4.3. Outside Income. — NCAA (or NAIA) Rules. ~~In accordance with NCAA (or NAIA) rules,~~ Coach shall obtain prior written approval from the University's President and the Director (such approval not to be unreasonably withheld) ~~University (College)'s Chief executive officer~~ for all athletically-related and other business-related income and benefits from sources outside the University ~~(College)~~ and shall report the source and amount of all such income and benefits in accordance with to the University (College)'s Chief executive officer whenever reasonably requested, but in no event less than annually before the Department's Outside Income Reporting Form, 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 the University (College). 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, the University's Board of Trustees, 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 (e.g., tickets to a Stampede game); (f) television and radio programs; (g) endorsement or consultation contracts with

athletic shoe, apparel, or equipment manufacturers. (College), the University (College)'s governing board, the conference, or the NCAA (or NAIA).

4.4.4.4 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 Chief executive officer 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 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 Head Coach and the Director. Such approval shall not unreasonably be withheld. Without first giving forty-eight (48) hours prior written notice to the Head Coach and the Director, 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.

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, and policies.

5.1.1. In addition to the definitions contained in applicable rules and policies, the 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 thirty (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's Board of Trustees~~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 National Association of Intercollegiate Athletics ("NAIA")~~NAIA~~ member institution;
- d) Ten (10) working days' absence of Coach from duty without the University's~~University (College)'s~~ consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University's~~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's Board of Trustees~~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's Board of Trustees~~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; or
- i) i) A violation of any applicable law or the policies, rules or regulations of the University, ~~(College)~~, the University's Board of Trustees~~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 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 ~~(College)~~ as follows: ~~before the effective date of the suspension, reassignment, or termination, the~~ Head Coach, Director, or ~~the Head Coach's or the Director's~~ his designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, ~~the 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's 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. 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 due to Resignation or Termination of Head Coach

In the event of the resignation or termination of the Head Coach, Coach's employment contract may be terminated at the sole discretion of the University, at any time following the resignation or termination, upon thirty (30) days' prior written notice. Provided, however, in the event the Head Coach becomes disabled or is deceased during Coach's term of employment, Coach's employment contract will continue until the last day of February following such disability or death; provided, however, if Coach otherwise becomes employed prior to the last day of February following such disability or death, this Agreement will automatically terminate and no further compensation shall be owed by the University to Coach.

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

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

5.3.2.2 In the event that ~~the University (College)~~ terminates this Agreement for its own convenience, ~~the University (College)~~ 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 ~~(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 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 deductions according to law. In addition, Coach will be entitled to continue ~~the~~his health insurance plan and group life insurance as if Coachhe 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 the University within ten (10) business days of obtaining other employment, and to advise the 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 the University shall constitute a material breach of this Agreement and the 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 the University all compensation paid ~~to him~~ by the University after the date Coachhe obtains other employment, to which Coachhe is not entitled under this provision.

5.2.3.3. 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'shis employment with the University ~~(College)~~, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by the University ~~(College)~~ and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by the University ~~(College)~~. The liquidated damages are not, and shall not be construed to be, a penalty.

5.3.4. 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.

5.4.- Termination by Coach for Convenience.

5.43.1. ~~_____The~~ Coach recognizes that Coach'shis promise to work for the 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 Coach'shis employment by entering into this Agreement and that its investment would be lost were Coachhe to resign or otherwise terminate Coach'shis employment with the University ~~(College)~~ before the end of the contract Tterm.

5.43.2. ~~_____The~~ Coach, ~~for his own convenience~~, may terminate this Agreement for convenience during its term by giving prior written notice to the University ~~(College)~~. Termination shall be effective when mutually agreed upon 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. ~~(College)~~.

5.4.3. 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, Coachhe shall pay to the University, ~~(College)~~, as liquidated damages and not a penalty, the following sum if the termination occurs between April 20, 2017 and February 28, 2018, the sum of seventy-five thousand dollars (\$75,000) or if the termination occurs between March 1, 2018 and the last game of the regular season including the conference championship game (if applicable), the sum of twenty-five thousand dollars (\$25,000). ~~_____~~. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid. Provided, however, if Coach terminates this Agreement following the death or disability of the Head Coach, such termination will not be considered termination by Coach for convenience, and therefore no liquidated damages shall be owed by Coach to the University.

~~_____~~ 5.3.4.4. 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 University ~~(College)~~ will incur administrative and recruiting costs in obtaining a replacement for Coach, in addition to potentially increased compensation costs if Coach terminates this Agreement for convenience, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Coach and the acceptance thereof by the University ~~(College)~~ shall constitute adequate and reasonable compensation to the 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)~~.

5.43.5. Except as provided elsewhere in this Agreement, if Coach terminates this Agreement for convenience, Coachhe shall forfeit to the extent permitted

by law Coach's~~this~~ right to receive all supplemental compensation and other payments and all accumulated annual leave.

5.5.4 Termination Due to Disability or Death of Coach.

5.54.1. 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~~University (College)'s~~ disability insurance carrier, becomes unable to perform the essential functions of the Position~~position of head coach~~, or dies.

5.54.2. 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 Coach's~~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 Coach's~~the Coach's~~ estate or beneficiaries thereunder.

5.54.3. If this Agreement is terminated because ~~the~~ Coach becomes totally or permanently disabled as defined by the University's~~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 Coach~~he~~ is entitled by virtue of employment with the University (College).

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

5.7.6 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.

5.8.7 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 provided for in the State Board of Education Rules (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and

Procedures, ~~and IDAPA 08.01.01 et seq., and the~~ University ~~Policies (College) Faculty Staff Handbook.~~

ARTICLE 6

6.1. Board Approval. ~~(if required—multiyear employment agreements which require Board approval are defined in Section II.H. of Board Policy).~~ This Agreement shall not be effective until and unless approved of the ~~University's~~ 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 ~~A~~agreement shall be subject to: the approval of the ~~University's~~ University (College)'s Board of ~~(Regents or Trustees)~~; the ~~Director~~ Chief executive officer, and the ~~Head Coach~~ 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's University (College)'s rules or policies regarding furloughs or financial exigency.

6.2. University (College) Property. All personal property, ~~(excluding vehicle(s) provided through the _____ 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's~~ University (College)'s direction or for the ~~University's~~ 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 ~~T~~term of this ~~A~~agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the ~~Head Coach~~ 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 district court in Ada County, Boise, 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 therefore, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

6.9. Non—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 Coach is required to produce under this Agreement may be released and made available to the public at the University's 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: Boise State University
~~(College):~~ — Director of Athletics
1910 University Drive
Boise, Idaho 83725-1020

with a copy to: Boise State University Chief executive officer
Office of

the President
1910 University Drive
Boise, Idaho 83725-1000

Coach: Zachary Hill
 Last known address on file with
University's 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's~~ ~~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 ~~Coach's~~ ~~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 ~~between~~ 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 ~~the University's~~ ~~University (College)s~~ Board of ~~(Regents or~~ Trustees, ~~);~~ if required under Section II.H. of Board Policy.

6.16. Opportunity to Consult with Attorney. ~~The~~ Coach acknowledges that ~~Coach~~ ~~he~~ 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 (COLLEGE)

COACH

Curt Apsey, Director of Athletics

Zachary Hill

Dr. Robert Kustra, President

Chief executive officer

Date

Date

*Approved by the Board of (Regents or Trustees) on the _____ day of _____, 20170.

[*Note: Multiyear employment agreements which require Board approval are defined in Section II.H. of Board Policy]

THIS PAGE INTENTIONALLY LEFT BLANK

BOISE STATE UNIVERSITY

Football APR History and National Percentile Rank

SINGLE YEAR NCAA ACADEMIC PROGRESS RATE (APR) SCORES

	2011-12	2012-13	2013-14	2014-15	2015-16
Football	985	980	973	991	968*
<i>National % Rank by Sport</i>	<i>90-100</i>	<i>90-100</i>	<i>70-80</i>	<i>80-90</i>	<i>*</i>

MULTI-YEAR (4-Year Rolling Average)

Football	993	988	981	982	979*
-----------------	-----	-----	-----	-----	------

REPORT YEAR

Raw Score for single year

Percentile Rank for Sport

* for release May 2017

Football Offensive Coordinator Salary and Incentive Comparisons in the Mountain West Conference

Coach	School	Base Salary	Incentives
Mike Thiessen	Air Force	-	NA
Clay Hendrix	Air Force	-	NA
Zak Hill	Boise State	\$ 285,000	See Contract
Will Friend	Colorado State	\$ 534,450	NA
Dave Schramm	Fresno State	\$ 115,596	NA
Jim Cramsey	Nevada	\$ 178,500	NA
Bob DeBesse	New Mexico	\$ 225,500	NA
Jeff Horton	San Diego State	\$ 205,008	NA
Al Borges	San Jose State	\$ 184,008	\$500 per month car stipend, \$3,000 if team participates in bowl game.
Barney Cotton	UNLV	\$ 216,342	NA
Luke Wells	Utah State	\$ 175,000	NA
Brent Vigen	Wyoming	\$ 200,004	NA

*Figures from WinAD as of 3.7.17

Coach Zachary Hill Maximum Compensation Calculation - 2017-2018

		Yr 1
3.1.1a	Annual Base Salary	\$ 285,000.00
3.2.1	Additional Pay based on Performance	\$ 29,250.00
3.2.2	Additional Pay based on Academic Achievement	\$ 5,000.00
	Total Maximum potential annual compensation under Employment Agreement	\$ 319,250.00

IDAHO STATE BOARD OF EDUCATION

Athletic Director-Coach Contract Checklist

To be Submitted by Institutions with Employment Agreements Requiring Board Approval*

[* Board approval is required for contracts longer than three years or for any contracts with total annual compensation of \$200,000 or higher. See Board Policy II.H.]

Institution: Boise State University

Name of employee and position: Zachary Hill, Football Offensive Coordinator/Quarterbacks Coach

Date of submission to State Board Office: March 17, 2017

Proposed effective date of employment agreement: April 2017

- ☒ The proposed contract has been reviewed to ensure compliance with Board Policy II.H.
- ☒ The proposed contract has been reviewed by institution general counsel

Supporting Documents (Check and attach all that apply): [All required items need to be provided either within the agenda item cover sheet, or as attachments to the agenda item.]

- ☒ A summary of all supplemental **compensation incentives**
- ☒ Quantification of the **maximum potential annual compensation** (i.e. base salary plus maximum incentive pay)
- ☒ **Employment agreement—clean version**
- ☒ **Employment agreement—redline version** comparing contract to Board-approved **model** contract (model contract is available on Board website <http://boardofed.idaho.gov>)
- ☐ **Employment agreement—redline version** (for current coaches receiving new contracts) comparing proposed employment agreement to **current** agreement
- ☒ In the case of NCAA institutions, a 4-year history of the institution's **Academic Progress Rate** (APR) raw scores and national average APR scores for the applicable sport.
- ☒ A schedule of **base salaries and incentive payments** of all other same sport coaches in the institution's conference
- ☒ Documentation/description of how the institution determined the proposed **liquidated damages** amount(s), and a summary of publically-available liquidated damages and buyout provisions for coaches of the same sport at the other public institutions in the conference.

Notes/Comments (provide explanation of any items/boxes which were not checked or other key points for Board consideration):

Point of contact at Institution (phone number, email address): Texie Montoya, Assistant General Counsel (208) 426-1231