<table>
<thead>
<tr>
<th>TAB</th>
<th>DESCRIPTION</th>
<th>ACTION</th>
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<tr>
<td>1</td>
<td>BOISE STATE UNIVERSITY Employment Agreements – Seven Men’s Football Assistant Coaches</td>
<td>Motion to approve</td>
</tr>
<tr>
<td>2</td>
<td>BOISE STATE UNIVERSITY Multi-Year Employment Agreement – Baseball Head Coach</td>
<td>Motion to approve</td>
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</table>
BOISE STATE UNIVERSITY

SUBJECT
Employment agreements for seven Men’s Football assistant coaches

REFERENCE
April 2016  Idaho State Board of Education (Board) approved two-year contract with Kent Riddle

April 2017  Board approved one-year, 9-month contracts with Andrew Avalos and Zachary Hill

APPLICABLE STATUTE, RULE, OR POLICY
Idaho State Board of Education Governing Policies & Procedures, Section II.H.

ALIGNMENT WITH STRATEGIC PLAN
Single and multi-year coach contracts are a non-strategic, Board governance agenda item.

BACKGROUND/DISCUSSION
Boise State University (BSU) is seeking to renew and/or enter into new contracts for its football assistant coaching staff. Seven of those contracts meet the threshold for Board approval because they will provide annual compensation over $200,000.

The contracts reflect BSU contract standards and conform with the template provided by Board-approved model employment agreement.

IMPACT
No state funds will be used—compensation will be provided by program revenues, media, donations, and other non-state funds. Terms are as follows:

Andrew Avalos


Base Compensation:  $335,000

One-Time Bonus:  $20,000

Buy-Out Provision:  If Coach terminates early without cause, he may be required, at BSU’s discretion, to pay liquidated damages as follows:
Year 1 (March 1, 2018 – the last game of the regular season including the conference championship game (if applicable)): $25,000

Zachary Hill
Term: Fixed term contract of two years

Base Compensation:
Year 1: $300,000  
Year 2: $300,000

One-Time Bonus: $10,000

Buy-Out Provision: If Coach terminates early without cause, he may be required, at BSU’s discretion, to pay liquidated damages as follows:

Year 1 (March 1, 2018 – February 28, 2019): $100,000
Year 2 (March 1, 2019 – the last game of the regular season including the conference championship game (if applicable)): $50,000

Kent Riddle

Term: Fixed term contract of two years

Base Compensation:
Year 1: $290,000  
Year 2: $290,000

One-Time Bonus: $10,000

Buy-Out Provision: If Coach terminates early without cause, he may be required, at BSU’s discretion, to pay liquidated damages as follows:

Year 1 (March 1, 2018 – February 28, 2019): $100,000
Year 2 (March 1, 2019 – the last game of the regular season including the conference championship game (if applicable)): $50,000

Bradley Bedell

Term: Fixed term contract of one year
Base Compensation: $250,000

One-Time Bonus: $10,000

Gabriel Franklin

Term: Fixed term contract of one year

Base Compensation: $210,000

One-Time Bonus: $10,000

Chad Kauhaahaa

Term: Fixed term contract of one year

Base Compensation: $225,000

Eric Kiesau

Term: Fixed term contract of one year

Base Compensation: $210,000

One-Time Bonus: $10,000

All Assistant Coaches:

Pay for Performance - Academic:
   APR between 955-959 – up to $2,000 or
   APR between 960-964 – up to $3,000 or
   APR between 965-969 – up to $4,000 or
   APR 970 or higher – up to $5,000.

Pay for Performance - Athletic:
   a) If the football team is the Mountain Division Champion, assistant coaches will receive a $5,000 bonus.
   b) If the football team participates in the Conference Championship Game, assistant coaches will receive a $5,000 bonus.
   c) If the football team is the Conference Champion, assistant coaches will receive a $5,000 bonus.
In addition,

d) If the football team participates in a non-CFP bowl game, assistant coaches will receive a $5,000 bonus; and

e) If the football team wins the non-CFP bowl game, assistant coaches will receive a $5,000 bonus; or

f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, assistant coaches will receive a bonus up to 7.5% of their annual base salary.

Each 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 – 2012-2016 APR Summary
Attachment 2 – Chart – All Football Assistant Coach Salaries

Attachment 3 – Proposed Contract for Andrew Avalos
Attachment 4 – Redline - Avalos Prop. Contract to Model Agreement
Attachment 5 – Redline to Current Avalos Contract
Attachment 6 – Avalos Maximum Compensation Calculation
Attachment 7 – Base Salary & Incentive Comparison – Defensive Coord.
Attachment 8 – Liquidated Damages Comparison – Defensive Coord.

Attachment 9 – Proposed Contract for Zachary Hill
Attachment 10 – Redline - Hill Proposed Contract to Model Agreement
Attachment 11 – Redline to Current Hill Contract
Attachment 12 – Hill Maximum Compensation Calculation
Attachment 13 – Base Salary & Incentive Comp. – Offensive Coord.
Attachment 14 – Liquidated Damages Comparison – Offensive Coord.

Attachment 15 – Proposed Contract for Kent Riddle
Attachment 16 – Redline - Riddle Prop. Contract to Model Agreement
Attachment 17 – Redline to Current Riddle Contract
Attachment 18 – Riddle Maximum Compensation Calculation
Attachment 19 – Base Salary & Incentive Comparison – Special Teams Coord.
Attachment 20 – Liquidated Damages Comp. – Special Teams Coord.

Attachment 21 – Base Salary & Incentive Comp. for Assistant Coaches

Attachment 22 – Proposed Contract for Bradley Bedell
Attachment 23 – Redline - Bedell Prop. Contract to Model Agreement
Attachment 24 – Bedell Maximum Compensation Calculation

Attachment 25 – Proposed Contract for Gabriel Franklin
Attachment 26 – Redline - Franklin Prop. Contract to Model Agreement
STAFF COMMENTS AND RECOMMENDATIONS
All of the attached proposed employment agreements meet Board Policy requirements for single-year and multiple-year coach contracts and the Board’s Coach Contract Checklist. Board approval for these seven contracts is required because the maximum annual compensation for each of positions is equal to or greater than $200,000. For these seven assistant coach positions, the annual base salaries exceed $200,000. All compensation for base salaries and bonuses will be derived from non-appropriated funds. The institution has provided reference information on compensation rates and (where available) liquidated damage terms for assistant football coaches at other conference institutions. A summary of changes (if applicable) between the coaches’ 2017 and 2018 salaries is provided for reference at Attachment 2.

Staff recommends approval.

BOARD ACTION
I move to approve the request by Boise State University to enter into employment agreements with the following assistant coaches for its football team: Andrew Avalos, Defensive Coordinator; Zachary Hill, Offensive Coordinator; Kent Riddle, Special Teams Coordinator; Bradley Bedell, Assistant Coach; Gabriel Franklin, Assistant Coach; Chad Kauhaahaa, Assistant Coach; and Eric Kiesau, Assistant Coach; as presented in the attached documents.

Moved by __________ Seconded by __________ Carried Yes _____ No _____
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### SINGLE YEAR NCAA ACADEMIC PROGRESS RATE (APR) SCORES

<table>
<thead>
<tr>
<th>REPORT YEAR</th>
<th>Raw Score for single year</th>
<th>Percentile Rank for Sport</th>
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<tr>
<td><strong>Football</strong></td>
<td>980 977 991 968</td>
<td>90-100 70-80 80-90 50-60</td>
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### MULTI-YEAR (4-Year Rolling Average)

| Football | 988 981 982 976 |
### FOOTBALL SALARIES AND POSITIONS - 2018

<table>
<thead>
<tr>
<th>Name</th>
<th>Football Coaching Staff</th>
<th>2017 Salary</th>
<th>2018 Salary</th>
<th>Increase</th>
<th>One-Time Bonus</th>
<th>Contract Details</th>
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<td>Andy Avalos</td>
<td>Defensive Coordinator</td>
<td>$315,000</td>
<td>$335,000</td>
<td>$20,000</td>
<td>$20,000</td>
<td>1 year remaining on current contract - No extension - Buyout remains $25k.</td>
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<tr>
<td>Zachary Hill</td>
<td>Offensive Coordinator</td>
<td>$285,000</td>
<td>$300,000</td>
<td>$15,000</td>
<td>$10,000</td>
<td>2 Year Contract (1 year extension) Buyout 100K &amp; 50K</td>
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<td>Kent Riddle</td>
<td>Special Teams Coordinator</td>
<td>$275,000</td>
<td>$290,000</td>
<td>$15,000</td>
<td>$10,000</td>
<td>2 Year Contract (2 year extension) Buyout 100K &amp; 50K</td>
</tr>
<tr>
<td>Chad Kauhaahaa</td>
<td>Assistant Coach</td>
<td>$225,000</td>
<td>$225,000</td>
<td>-</td>
<td>-</td>
<td>Single year - New Hire (1/8/18)</td>
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<tr>
<td>Bradley Bedell</td>
<td>Assistant Coach</td>
<td>$225,000</td>
<td>$250,000</td>
<td>$25,000</td>
<td>$10,000</td>
<td>Single year</td>
</tr>
<tr>
<td>Gabriel Franklin</td>
<td>Assistant Coach</td>
<td>$195,000</td>
<td>$210,000</td>
<td>$15,000</td>
<td>$10,000</td>
<td>Single year</td>
</tr>
<tr>
<td>Eric Kiesau</td>
<td>Assistant Coach</td>
<td>$185,000</td>
<td>$210,000</td>
<td>$25,000</td>
<td>$10,000</td>
<td>Single year</td>
</tr>
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EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this __________ day of February, 2018 (“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 (1) year, commencing on March 1, 2018 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 $335,000 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) A one-time bonus payment of $20,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University provides generally to non-faculty exempt employees;

d) 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

e) 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 $5,000 bonus; or
f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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 ten (10) days 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 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.
ATTACHMENT 3

UNIVERSITY

______________________________
Curt Apsey, Director of Athletics

COACH

______________________________
Andrew Avalos

Dr. Robert Kustra, President

Approved by the Board on the __________ day of February, 2018.
This Employment Agreement (the “Agreement”) is entered into this day of February, 2018 (“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”) head coach 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 Director of Athletics. Coach shall abide by the reasonable instructions of the Head Coach or the Director and shall confer with the Head Coach or the Director 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 and manage and supervise 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. The University shall have the right, at any time, to reassign Coach to duties and responsibilities customarily associated with the University 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 (1) year, commencing on March 1, 2018 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. 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** annual salary in the amount of $335,000 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 Board of Regents or Trustees;

b) A one-time bonus payment of $20,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University (College) provides generally to non-faculty exempt employees; and

d) 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
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

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.

3.2.1 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 $5,000 bonus; or
f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.
If Coach qualifies for Athletic Achievement Incentive Pay under this Section, the University will pay Coach on the first regular pay date in the 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 February if Coach is still employed by the University on that date factors: the.

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 for 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.

3.2.4 Coach may receive the compensation hereunder. The Coach shall receive the sum of (amount or computation) from the University (College) or the University’s (College) 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 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 services to and perform on the Programs and to cooperate in their production, broadcasting, and telecasting. It is understood that neither Coach nor any assistant coaches shall 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 (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 (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 (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
attachment 4

(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 consulting 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 CoachDirector 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’sUniversity (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 PolicyUniversity (College)’s Handbook; (c) University (College)’s Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA (or
NAIA) rules and regulations; and (e) the rules and regulations of the Conference—(Sport)—conference of which the University (College) is a member.

4.2. Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach’s full time and best efforts to the performance of Coach’s duties under this Agreement, that would 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) 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 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 ten (10) days 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, regulations, and policies.

5.1.1 In addition to the definitions contained in applicable rules and policies, the 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, the University (College)’s governing board, the Conference, or the NCAA, NAIA, including but not limited to any such violation
which may have occurred during the employment of Coach at another NCAA or 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 one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2. Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the Head Coach, Director, or the Head Coach’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 (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 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.

5.3.2.2 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 Coach 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 Coach obtains other employment, to which Coach is not entitled under this provision.

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. The Coach recognizes that Coach’s 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’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 (College) before the end of the contract term.

5.4.2. 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. If the Coach terminates this Agreement for convenience at any time, all obligations of the University (College) shall cease as of the effective date of the termination. If the Coach terminates this Agreement for his convenience, he shall pay to the University (College), as liquidated damages and not a penalty, the following sum 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).

5.4.5. 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 and all accumulated annual leave.

5.5.4 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 of head coach, 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 (College) and due to 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 disability insurance carrier, or becomes unable to perform the essential functions of the position of head coach, all salary and other benefits shall terminate, except that the Coach shall be entitled to receive any compensation due or unpaid and any disability-related benefits to which Coach is entitled by virtue of employment with the University (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 student-athletes or otherwise obstruct the University’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, 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 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’s Board of Regents or Trustees, the Director or Chief Executive Officer, 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’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 (College)’s direction or for the University’s (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 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 (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 (College) 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 (College) 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 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 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 **(Regents or Trustees)**, if required under Section II.H. of Board Policy.

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

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*Approved by the Board of **(Regents or Trustees)** on the ___________ day of **February, 2018**.

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

This Employment Agreement (the “Agreement”) is entered into this __________ day of February, 2018 (“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 (1) year, commencing on March 1, 2018 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 $3315,000 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) A one-time bonus payment of $20,000, which shall be paid after execution of this Agreement.

cb) The opportunity to receive such employee benefits calculated on the “base salary” as the University provides generally to non-faculty exempt employees;

dc) 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

dd) 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 $54,000 bonus; or
f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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;
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. 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.

3.6. 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 ten (10) days 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 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

______________________________
Curt Apsey, Director of Athletics

______________________________
Dr. Robert Kustra, President

Approved by the Board on the _______ day of February, 2018, 2017.

COACH

______________________________
Andrew Avalos
# Coach Andrew Avalos Maximum Compensation Calculation - 2018-2019

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1.1a Annual Base Salary</td>
<td>$335,000.00</td>
</tr>
<tr>
<td>3.1.1b One-Time Bonus</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>3.2.1 Additional Pay based on Performance</td>
<td>$40,125.00</td>
</tr>
<tr>
<td>3.2.2 Additional Pay based on Academic Achievement</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Total Maximum potential annual compensation under Employment Agreement</td>
<td>$400,125.00</td>
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# Football Defensive Coordinator Salary and Incentive Comparisons in the Mountain West Conference

<table>
<thead>
<tr>
<th>Coach</th>
<th>School</th>
<th>Base Salary</th>
<th>Incentives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steve Russ</td>
<td>Air Force</td>
<td>-</td>
<td>Courtesy car</td>
</tr>
<tr>
<td>Andrew Avalos</td>
<td>Boise State</td>
<td>$335,000</td>
<td>See Contract</td>
</tr>
<tr>
<td>Marty English</td>
<td>Colorado State</td>
<td>$300,000</td>
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<tr>
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<tr>
<td>Jeff Casteel</td>
<td>Nevada</td>
<td>$231,750</td>
<td>NA</td>
</tr>
<tr>
<td>Kevin Cosgrove</td>
<td>New Mexico</td>
<td>$200,000</td>
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<tr>
<td>Daniel Gonzales</td>
<td>San Diego State</td>
<td>$189,816</td>
<td>NA</td>
</tr>
<tr>
<td>Derrick Odum</td>
<td>San Jose State</td>
<td>$404,136</td>
<td>Employee will receive $3000 if football team is above a .500 record before a bowl game</td>
</tr>
<tr>
<td>Kent Baer</td>
<td>UNLV</td>
<td>$223,833</td>
<td>NA</td>
</tr>
<tr>
<td>Frank Maile</td>
<td>Utah State</td>
<td>$230,000</td>
<td>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. 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. 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 car agreement and return it to the Business Office.</td>
</tr>
<tr>
<td>Scottie Hazleton</td>
<td>Wyoming</td>
<td>$230,004</td>
<td>NA</td>
</tr>
<tr>
<td>Coach</td>
<td>School</td>
<td>Length of Contract</td>
<td>201X Salary (total comp)</td>
</tr>
<tr>
<td>------------------</td>
<td>-----------------</td>
<td>--------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>Steve Russ</td>
<td>Air Force</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Andrew Avalos</td>
<td>Boise State</td>
<td>3/1/17 -2/28/18</td>
<td>$335,000</td>
</tr>
<tr>
<td>Marty English</td>
<td>Colorado State</td>
<td>At Will</td>
<td>$229,050</td>
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<tr>
<td>Orlondo Steinauer</td>
<td>Fresno State</td>
<td>7/1/17-3/28/19</td>
<td>$359,600</td>
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<tr>
<td>Lawrence Suilaunoa</td>
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<td>Daniel Gonzales</td>
<td>San Diego State</td>
<td>3/1/17-2/28/19</td>
<td>$192,416</td>
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<tr>
<td>Derrick Odum</td>
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<td>12/22/16 - 12/31/18</td>
<td>$404,136</td>
</tr>
<tr>
<td>Kent Baer</td>
<td>UNLV</td>
<td>At Will</td>
<td>$222,833</td>
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<tr>
<td>Frank Maile</td>
<td>Utah State</td>
<td>3/1/16 - 3/31/18</td>
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</tr>
<tr>
<td>Scottie Hazleton</td>
<td>Wyoming</td>
<td>1/11/17-2/28/18</td>
<td>$230,004</td>
</tr>
</tbody>
</table>

*Sliding Scale, Flat Rate, Tied to years in contract
EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this _______ day of February, 2018 (“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 two (2) years, commencing on March 1, 2018 and terminating, without further notice to Coach, on February 29, 2020 (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 $300,000 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) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University provides generally to non-faculty exempt employees;

d) 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

e) 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 $5,000 bonus; or
f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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. 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 March 1, 2018 and February 28, 2019, the sum of one-hundred thousand dollars ($100,000) or if the termination occurs between March 1, 2019 and the last game of the regular season including the conference championship game (if applicable), the sum of fifty thousand dollars ($50,000). 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 February, 2018.
This Employment Agreement (the “Agreement”) is entered into this ______ day of February, 2018 (the “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 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 University’s Director of Athletics (the “Director”). Coach shall abide by the reasonable instructions of the Head Coach or the Director and shall confer with the University’s Head Coach of the Team (the “Head Coach”) or the University’s Director of Athletics (the “Director”) 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 and shall perform such other duties as the University’s Head Coach of the Team (the “Head Coach”) and the University’s Director of Athletics (the “Director”) may assign and as may be described elsewhere in this Agreement. The University shall have the right, at any time, to the best of Coach’s ability, and consistent with University policies and procedures, perform any reallocation of Coach’s duties and responsibilities customarily associated with the University’s Director of Athletics (the “Director”), provided that Coach’s compensation and benefits shall not be affected by any such reallocation, 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 two (2) years, commencing on March 1, 2018 and terminating, without further notice to Coach, on February 29, 2020 (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. 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) **Base** annual salary in the amount of $300,000 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) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

cb) The opportunity to receive such employee benefits calculated on the “base salary” as the University (College) provides generally to non-faculty exempt employees; and

d) 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

cce) 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.
3.2.1. 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. 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 $5,000 bonus; or

f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

If Coach qualifies for Athletic Achievement Incentive Pay under this Section, the University will pay Coach on the first regular pay date in the

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
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.

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.

3.2.4. Coach may receive the compensation hereunder—The Coach shall receive the sum of—(amount or computation)—from the University (College) or the University’s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (collectively, “Programs”). Coach’s right to receive such a payment shall vest on the date of the Team’s last regular season or postseason competition, whichever occurs later. This sum shall be paid (terms of payment)_____. Agreements requiring the Coach to participate in Programs related to Coach’s duties as an employee of the University (College) are the property of the University. The University shall have the exclusive right to negotiate and contract with all producers of media productions and all parties desiring public appearances by the Coach. Coach agrees to cooperate with the University (College) in order for the Programs to be successful and agrees to provide Coach’s services to and appear on the Programs and to cooperate in their production, broadcasting, and telecasting. It is understood that neither Coach nor any assistant coaches shall not appear without the prior written approval of the Head Coach and 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’s designated media outlets.

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

(SUMMER CAMP—OPERATED BY COACH) Coach may operate a summer youth 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 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, ___(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; 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 CoachDirector 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; (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. 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 PresidentChief 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 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) 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). Chief executive officer.

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 TrusteesUniversity (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") member institution;

d) Ten (10) working days’ absence of Coach from duty without the University’s (College)’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 governing board, the conference, or the NCAA;

h) The failure of Coach to report a known violation of any applicable law or the policies, rules or regulations of the University, the University’s Board of Trustees, the governing board, the conference, or the NCAA, by one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2. Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the 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 (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.

5.3.2.2 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 Coach 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 Coach obtains other employment, to which Coach 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’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 The 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. The Coach also recognizes that the University is making a highly valuable investment in Coach’s employment by entering into this Agreement and that its investment would be lost were Coach to resign or otherwise terminate Coach’s employment with the University before the end of the contract term.

5.4.2 The Coach, for his own convenience, 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 ten (10) days after such written notice is given to the University. Such termination must occur at a time outside the Team’s season (including NCAA post-season competition) so as to minimize the impact on the program.

5.4.3 If the Coach terminates this Agreement for convenience at any time, all obligations of the University shall cease as of the effective date of
the termination. If the Coach terminates this Agreement for his convenience, he shall pay to the University, as liquidated damages and not a penalty, the following sum if the termination occurs between March 1, 2018 and February 28, 2019, the sum of one-hundred thousand dollars ($100,000) or if the termination occurs between March 1, 2019 and the last game of the regular season including the conference championship game (if applicable), the sum of fifty thousand dollars ($50,000). 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.

5.4.4.1 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 and all accumulated annual leave.

5.4.2 Termination Due to Disability or Death of Coach.

5.4.2.1 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.

5.4.2.2 If this Agreement is terminated because of Coach's death, the 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 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 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 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 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 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 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 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 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 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 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 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 February, 2018__________, 2010.

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

This Employment Agreement (the “Agreement”) is entered into this ______ day of February, 2018April, 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 two (2) years, commencing on March 1, 2018April 23, 2017 and terminating, without further notice to Coach, on February 29, 202028, 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 $300,285,000 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) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University provides generally to non-faculty exempt employees;

d) 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

e) 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.

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 $54,000 bonus; or
f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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 March 1, 2018, and February 28, 2019, the sum of one-hundred-seventy-five thousand dollars ($175,000) or if the termination occurs between March 1, 2019, and the last game of the regular season including the conference championship game (if applicable), the sum of fifty-two thousand dollars ($52,000). The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate of eight (8) percent per annum until paid. 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
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

Curt Apsey, Director of Athletics

Dr. Robert Kustra, President

COACH

Zachary Hill

Approved by the Board on the ______ day of February, 2018.
### Coach Zachary Hill Maximum Compensation Calculation - 2018-2020

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## Salary and Incentive Comparisons

**Offensive Coordinator in the Mountain West Conference**

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*Sliding Scale, Flat Rate, Tied to years in contract
EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this __________ day of February, 2018 (“Effective Date”) by and between Boise State University (“the University”) and Kent Riddle (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the special teams 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 special teams 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 two (2) years, commencing on March 1, 2018 and terminating, without further notice to Coach, on February 29, 2020 (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:
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 $5,000 bonus; or
f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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 income to the University in accordance with NCAA rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, 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 otherwise detract from those duties in any manner, or that, in the opinion of the University, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach may not use the University’s name, logos, or trademarks in connection with any such arrangements without the prior written approval of the University President and the Director.

4.3 Outside Income. In accordance with NCAA rules, Coach shall obtain prior written approval from the University President and the Director for all athletically-related income and benefits from sources outside the University. Coach shall report the source and amount of all such income and benefits to the 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 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, 2018 and February 28, 2019, the sum of one-hundred thousand dollars ($100,000) or if the termination occurs between March 1, 2019 and the last game of the regular season and conference championship game (if applicable), the sum of fifty thousand dollars ($50,000). 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 Rule 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: Kent Riddle  
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.

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...........................................
ATTACHMENT 15

Curt Apsey, Director of Athletics  Date

Kent Riddle  Date

Dr. Robert Kustra, President  Date

Approved by the Board on the __________ day of February, 2018.
This Employment Agreement (the “Agreement”) is entered into this day of February, 2018 (“Effective Date”) by and between Boise State University (“the University”) and Kent Riddle (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the special teams 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 the 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 special teams 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. The University shall have the right, at any time, to reassign Coach to duties and responsibilities customarily associated with the University other than as head coach of the Position, 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 two (2) years, commencing on March 1, 2018 and terminating, without further notice to Coach, on February 29, 2020 (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. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach’s service pursuant to this Agreement count in any way toward tenure at the University (College).

ARTICLE 3

3.1 **Regular Compensation.**

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

a) **An annual salary in the amount of** $290,000 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 Board of (Regents or Trustees);

b) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

cb) The opportunity to receive such employee benefits calculated on the “base salary” as the University (College) provides generally to non-faculty exempt employees; and

d) 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

eb) 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 $5,000 bonus; or
f) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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. 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.

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 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.

3.2.4 Coach may receive the compensation hereunder—The Coach shall receive the sum of—(amount or computation)—from the University (College) or the University’s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (collectively, “Programs”). Coach’s right to receive such a payment shall vest on the date of the Team’s last regular season or postseason 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 duties as an employee of the University (College) are the property of the University. 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 services to and appear on the Programs and to cooperate in their production, broadcasting, and telecasting. It is understood that neither Coach nor any assistant 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 (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 CampsUniversity (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 CampsUniversity (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 CampsUniversity (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.

3.2.67 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 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 (College). Coach recognizes that the University (College) is negotiating or has entered into an agreement with ____(Company Name)____ to supply the University (College) with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University (College)’s reasonable request, Coach will consult with appropriate parties concerning an ____(Company Name)____ product’s design or performance, shall act as an instructor at a clinic sponsored in whole or in part by ____(Company Name)____, or give a lecture at an event sponsored in whole or in part by ____(Company Name)____, or make other educationally-related appearances as may be reasonably requested by the University (College). Notwithstanding the foregoing sentence, Coach shall retain the right to decline such appearances as Coach reasonably determines to conflict with or hinder his duties and obligations as head ____(Sport)____ coach. In order to avoid entering into an agreement with a competitor of ____(Company Name)____, Coach shall submit all outside consulting agreements to the University (College) for review and approval prior to execution. Coach shall also report such outside income to the University (College) in accordance with NCAA (or NAIA) rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including ____(Company Name)____, 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 (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; (d) the policies of the Department; (de) NCAA (or NAIA) rules and regulations; and regulations; and (ef) 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
otherwise detract from those duties in any manner, or that, in the opinion of the University, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach may not use the University’s name, logos, or trademarks in connection with any such arrangements without the prior written approval of the University President and the Director.

4.3 Outside Income NCAA (or NAIA) Rules. In accordance with NCAA (or NAIA) rules, Coach shall obtain prior written approval from the University President and the Director for all athletically-related income and benefits from sources outside the University. Coach shall report the source and amount of all such income and benefits to the University 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, the University’s governing board, the conference, or the NCAA (or NAIA).

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

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

4.6 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 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;

c) A deliberate or major violation by Coach of any applicable law or the policies, rules, or regulations of the University, 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”) 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 (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 (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, the University’s Board of Trustees (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) A violation of any applicable law or the policies, rules or regulations of the University, the University’s Board of Trustees (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 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 (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).

5.32.1 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.

5.32.2 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 his health insurance plan and group life insurance as if he remained a University (College) employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment or any other employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform 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 Coach obtains other employment, to which Coach is not entitled under this provision.

5.32.3 The parties have both been represented by, or had the opportunity to consult with, legal counsel in the contract negotiations and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the Coach may lose certain benefits, supplemental compensation, or outside compensation relating to Coach’s employment with 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’s 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’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 (College) before the end of the contract 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).

5.43.3 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 shall pay to the University (College), as liquidated damages and not a penalty, the following sum if the termination occurs between March 1, 2018 and February 28, 2019, the sum of one-hundred thousand dollars ($100,000) or if the termination occurs between March 1, 2019 and the last game of the regular season and conference championship game
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.

5.43.4 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 shall forfeit to the extent permitted by law Coach’s right to receive all supplemental compensation and other payments and all accumulated annual leave.

5.54 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 (College)’s disability insurance carrier, becomes unable to perform the essential functions of the Position of head coach, or dies.

5.54.2 If this Agreement is terminated because 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 (College) and due to 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 (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 is entitled by virtue of employment with the University.

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

5.76 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.

5.87 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 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 Rule Manual (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures Manual, and, IDAPA 08.01.01 et seq., and the University Policies Faculty-Staff Handbook.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved by the University’s Board of (Regents 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’s Board of (Regents or Trustees), the Director, the Chief executive officer, 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 (Regents or 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 (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 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 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
(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: Kent Riddle
Last known address on file with Boise State University 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 prior written consent in each case, use any name, trademark, or other designation of the University (College) including contraction, abbreviation or simulation, except in the course and scope of official 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
6.16 Opportunity to Consult with Attorney. The Coach acknowledges that he has had the opportunity to consult and review this Agreement with an attorney. 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 AthleticsChief executive officer   Date       Kent
Riddle_______ Date

Dr. Robert Kustra, President_______ Date

*Approved by the Board of (Regents or Trustees) on the _______ day of February, 2018.

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

This Employment Agreement (the “Agreement”) is entered into this __________ day of February, 2018, 2016 (“Effective Date”) by and between Boise State University (“the University”) and Kent Riddle (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the special teams 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 special teams 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 two (2) years, commencing on March 1, 2018 and terminating, without further notice to Coach, on February 29, 2020 (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 salary in the amount of $290,000 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) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University provides generally to non-faculty exempt employees;

d) 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

e) 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 participates in the Mountain Division Champion Conference Championship Game, Coach will receive a $52,000 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 $53,000 bonus, and
b) If the football team wins the non-CFP bowl game, Coach will receive a $5,000 bonus; or
c) If the football team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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 income to the University in accordance with NCAA rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, 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 otherwise detract from those duties in any manner, or that, in the opinion of the University, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach may not use the University’s name, logos, or trademarks in connection with any such arrangements without the prior written approval of the University President and the Director.

4.3 Outside Income. In accordance with NCAA rules, Coach shall obtain prior written approval from the University President and the Director for all athletically-related income and benefits from sources outside the University. Coach shall report the source
and amount of all such income and benefits to the 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 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, 2018 and February 28, 2019, the sum of one-hundred-seventy-five thousand dollars ($175,000) or if the termination occurs between March 1, 2019 and the last game of the regular season and conference championship game (if applicable), the sum of fifty-two thousand dollars ($52,000). 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 Rule 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
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.

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

Curt Apsey, Director of Athletics  Date

COACH

Kent Riddle  Date

Dr. Robert Kustra, President  Date

Approved by the Board on the 14 day of February, 2018.
## Coach Kent Riddle Maximum Compensation Calculation - 2018-2020

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<th>Description</th>
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<td>3.1.1b One-Time Bonus</td>
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# Salary and Incentive Comparisons
Special Teams Coach in the Mountain West Conference

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*Sliding Scale, Flat Rate, Tied to years in contract*
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## Mountain West Conference Football Salary Breakdown

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*Updated 1/2/18- numbers are 16-17 school year*
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EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this ____ day of February, 2018 (“Effective Date”) by and between Boise State University (“the University”), and Bradley Bedell (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the Assistant 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 Assistant 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 twelve (12) months, commencing on March 1, 2018 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) An base salary in the amount of $250,000, 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) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University provides generally to non-faculty exempt employees;

d) 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

e) 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 Team is the Mountain Division Champion, Coach will receive a $5,000 bonus.

b) If the Team participates in the Conference Championship Game, Coach will receive a $5,000 bonus.

c) If the Team is the Conference Champion, Coach will receive a $5,000 bonus.
In addition,

d) If the Team participates in a non-CFP bowl game, Coach will receive a $5,000 bonus; and

e) If the Team wins the non-CFP bowl game, Coach will receive a $5,000 bonus; or

f) If the Team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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 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.

3.3 Footwear; Apparel; 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 the University. In order to avoid entering into an agreement with a competitor of any Universityselected vendors, Coach shall submit all outside consulting agreements to the University for review and approval prior to execution. Coach shall also report such outside interest to the University in accordance Section 4.2 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.

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

ARTICLE 4

4.1. Coach’s Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall 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 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 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 otherwise unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, the Department, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach 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 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 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.

ARTICLE 5

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

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

a) A deliberate or major violation of Coach’s duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach’s abilities;

b) The failure of Coach to remedy any violation of any of the terms of this Agreement within thirty (30) days after written notice from the University;

c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University’s 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 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 one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the 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 due to Disability or Death of Coach.
5.3.1 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.

5.3.2 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 thereunder.

5.3.3 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, 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 he is entitled by virtue of employment with the University.

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

5.5 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.

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

6.9 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 he is required to produce under this Agreement may be released and made available to the public at the University’s sole discretion.

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

______________________________
Curt Apsey, Director of Athletics

______________________________
Dr. Robert Kustra, President

COACH

______________________________
Bradley Bedell

Approved by the Board of Trustees on the ____ day of February, 2018.
EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this day of February, 2018 (“Effective Date”) by and between Boise State University (“the University”), and Bradley Bedell (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the Assistant 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 or the Head Coach’s designee. Coach shall abide by the reasonable instructions of the 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 Assistant Coach 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. The University shall have the right, at any time, to perform Coach’s duties and responsibilities customarily associated with the Position, 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 shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of twelve (12) months, commencing on March 1, 2018 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 Director of Athletics.
Board of ____(Regents or Trustees)____. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach’s service pursuant to this Agreement count in any way toward tenure at the University ____(College)____.

ARTICLE 3

3.1 **Regular Compensation.**

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

a) An **base annual salary in the amount** of $250,000, 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 President and approved by the University’s ____(Regents or Trustees)____;

b) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University ____(College)____ provides generally to non-faculty exempt employees, provided that the Coach qualifies for such benefits by meeting all applicable eligibility requirements; and

d) 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

e) 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.** Each year Coach may earn supplemental compensation as follows:

3.2.1 **Athletic Achievement Incentive Pay.**
a) If the Team is the Mountain Division Champion, Coach will receive a $5,000 bonus.

b) If the Team participates in the Conference Championship Game, Coach will receive a $5,000 bonus.

c) If the Team is the Conference Champion, Coach will receive a $5,000 bonus.

In addition,

d) If the Team participates in a non-CFP bowl game, Coach will receive a $5,000 bonus; and

e) If the Team wins the non-CFP bowl game, Coach will receive a $5,000 bonus; or

f) If the Team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus in an amount up to 7.5% of his annual base salary.

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 (amount or computation) based on the academic achievement and behavior of Team members. The determination of whether Coach will receive such 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, and the timing of the payment(s) shall be at the discretion of the President in consultation with the Director and approved by the University (College)’s Board of (Regents or Trustees). The determination shall be based on the following factors, including: 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 not limited to, Coach’s individual performance, athletic/academic performance of Coach’s assigned player personnel groups, or other performance-related factors.

3.2 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. 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.

3.3 Footwear; Apparel; Equipment. 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 income to the University (College) in accordance Section 4.2 of this Agreement with 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.

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

ARTICLE 4

4.1. Coach’s Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall 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 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 and to the 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 (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; (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 Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach’s full time and best efforts to the performance of Coach’s duties under this Agreement, that would otherwise unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, the Department, (College), would reflect adversely upon the University (College) or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach 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 (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).

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

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.

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

a) A deliberate or major violation of Coach’s duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach’s abilities;

b) The failure of Coach to remedy any violation of any of the terms of this Agreement within thirty (30) days after written notice from the University;

c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University’s 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 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 one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University (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 due to Disability or Death of Coach.
5.32.1 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.

5.32.2 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 (College) and due to Coach’s estate or beneficiaries thereunder.

5.32.3 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 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).

5.43 Interference by Coach. In the event of termination, suspension, or reassignment, 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.

5.54 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.

5.65 Waiver of Rights. Because the Coach is receiving 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 (I D. ADMIN. CODE r. and Board of Regents of the University of Idaho Rule Manual (IDAPA 08.01.01 et seq.)) and Governing Policies and Procedures Manual, and the University Policies (College) Faculty-Staff Handbook.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the University’s Board of Trustees and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the University’s University (College)’s Board of (Regents or Trustees), if required, the Director President, 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 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/ 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 therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

6.9 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 (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
Office of the President
1910 University Drive
Boise, Idaho 83725-1000

the Coach: Bradley Bedell
Last known address on file with University’s (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 (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 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 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 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.

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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) **

______________________________
Curt Apsey, Director of Athletics

______________________________
Bradley Bedell

Dr. Robert Kustra, President

Date ____________________________ Date ____________________________

*Approved by the Board of (Regents or Trustees) on the ___ day of February, 2018._________

[*Note: One (1) year employment agreements which require Board approval are defined in Section II.H. of Board Policy]*
## Coach Bradley Bedell Maximum Compensation Calculation - 2018-2019

<table>
<thead>
<tr>
<th>Description</th>
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<tr>
<td>3.1.1a Annual Base Salary</td>
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<tr>
<td>3.1.1b One-Time Bonus</td>
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<tr>
<td>3.2.1 Additional Pay based on Performance</td>
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<tr>
<td>3.2.2 Additional Pay based on Academic Achievement</td>
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<tr>
<td>Total Maximum potential annual compensation under Employment Agreement</td>
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</tr>
</tbody>
</table>
EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this ____ day of February, 2018 (“Effective Date”) by and between Boise State University (“the University”), and Gabriel Franklin (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the Assistant 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 Assistant 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 twelve (12) months, commencing on March 1, 2018 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) An base salary in the amount of $210,000, 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) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University provides generally to non-faculty exempt employees;

d) 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

e) 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 Team is the Mountain Division Champion, Coach will receive a $5,000 bonus.

b) If the Team participates in the Conference Championship Game, Coach will receive a $5,000 bonus.

c) If the Team is the Conference Champion, Coach will receive a $5,000 bonus.
In addition,

d) If the Team participates in a non-CFP bowl game, Coach will receive a $5,000 bonus; **and**

e) If the Team wins the non-CFP bowl game, Coach will receive a $5,000 bonus; **or**

f) If the Team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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 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.

3.3 Footwear; Apparel; 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 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 interest to the University in accordance Section 4.2 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.

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

ARTICLE 4

4.1. Coach’s Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall 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 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 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 otherwise unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, the Department, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach 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 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 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.

ARTICLE 5

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

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

a) A deliberate or major violation of Coach’s duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach’s abilities;

b) The failure of Coach to remedy any violation of any of the terms of this Agreement within thirty (30) days after written notice from the University;

c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University’s 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 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 one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the 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 due to Disability or Death of Coach.
5.3.1 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.

5.3.2 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 thereunder.

5.3.3 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, 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 he is entitled by virtue of employment with the University.

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

5.5 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.

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

6.9 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 he is required to produce under this Agreement may be released and made available to the public at the University’s sole discretion.

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

____________________________    ______________________________
Curt Apsey, Director of Athletics   Gabriel Franklin

____________________________
Dr. Robert Kustra, President

Approved by the Board of Trustees on the ____ day of February, 2018.
EMPELOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this ___ day of February, 2018 (“Effective Date”) by and between Boise State ______________________ (University (the “University”), (College)), and Gabriel Franklin (“____________________ (Coach”).)

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University (College) shall employ Coach as the Assistant Coach (the “Position”) head coach of its intercollegiate Football (Sport)___ 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 (College)’s Director of the Team (the “Head Coach”) or the Head Coach’s Director’s designee. Coach shall abide by the reasonable instructions of the Head Coach or the Head Coach’s Director’s designee and shall confer with the Head Coach 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’s President (President).

1.3. Duties. Coach shall serve as the Assistant Coach formanage and supervise 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. The University shall have the right, at any time, to perform all duties and responsibilities customarily associated with the University’s other than as head coach of the Position, 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 twelve (12衢 (衢) ) months, commencing on March 1, 2018 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 University (College)
Board of (Regents or Trustees). This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach’s service pursuant to this Agreement count in any way toward tenure at the University (College).

ARTICLE 3

3.1 Regular Compensation.

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

a) An baseannual salary in the amount of $210,000 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 President and approved by the University’s Board of (Regents or Trustees);

b) An one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

b) The opportunity to receive such employee benefits calculated on the “base salary” as the University (College) provides generally to non-faculty exempt employees, provided that the Coach qualifies for such benefits by meeting all applicable eligibility requirements; and

d) 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

e) 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. Each year Coach may earn shall be eligible to receive supplemental compensation as follows:

3.2.1 Athletic Achievement Incentive Pay.
a) If the Team is the Mountain Division Champion, Coach will receive a $5,000 bonus.
b) If the Team participates in the Conference Championship Game, Coach will receive a $5,000 bonus.
c) If the Team is the Conference Champion, Coach will receive a $5,000 bonus.

In addition,
d) If the Team participates in a non-CFP bowl game, Coach will receive a $5,000 bonus; and
e) If the Team wins the non-CFP bowl game, Coach will receive a $5,000 bonus; or
f) If the Team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus in an amount up to 7.5% of his annual base salary.

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 (amount or computation) based on the academic achievement and behavior of Team members. The determination of whether Coach will receive such 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, and the timing of the payment(s) shall be at the discretion. The decisions may be made based on a variety of factors, including 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 not limited to, Coach’s individual performance, athletic/academic performance of Coach’s assigned player personnel groups, or other performance-related factors.

3.2 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. 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.

3.3 Footwear; Apparel; Equipment. 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 interest income to the University (College) in accordance with NCAA (or NAIA) rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including (Company Name), and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products.

3.4 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
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; supervise and take appropriate steps to ensure that Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the 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 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 Handbook; (c) University (College)’s Administrative Procedures Manual; (d) the policies of the Department; (e) NCAA (or NAIA) rules and regulations; and the rules and regulations of the Conference—conference of which the University (College) is a member.

4.2 **Outside Activities.** Coach shall not undertake any business, professional or
personal activities, or pursuits that would prevent Coach from devoting Coach’s full time and best efforts to the performance of Coach’s duties under this Agreement, that would otherwise unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, the Department, (College), would reflect adversely upon the University (College) or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach 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. 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) 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 the University’s President 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 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 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of President and the University (College)’s 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.

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.

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

a) A deliberate or major violation of Coach’s duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach’s abilities;

b) The failure of Coach to remedy any violation of any of the terms of this Agreement within thirty (30) days after written notice from the University;

c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University’s 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 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 one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University (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 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 (College) 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 due to Disability or Death of Coach.
5.32.1 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.

5.32.2 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 (College) and due to Coach’s estate or beneficiaries thereunder.

5.32.3 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 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).

5.43 Interference by Coach. In the event of termination, suspension, or reassignment, 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.

5.54 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.

5.65 Waiver of Rights. Because the Coach is receiving 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.and Board or Regents of the University of Idaho Rule Manual (IDAPA 08.01.01 et seq.)) and Governing Policies and Procedures Manual, and the University Policies (College) Faculty-Staff Handbook.

ARTICLE 6

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

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

6.9 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 (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
Office of the President
1910 University Drive
Boise, Idaho 83725-1000

the Coach: Gabriel Franklin
Last known address on file with University’s (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 (College)’s prior written consent in each case, use any name, trade name,
trademark, or other designation of the University (College) (including contraction, abbreviation or
simulation), except in the course and scope of his official University (College) duties.

6.14 No Third Party Beneficiaries. There are no intended or unintended third party
beneficiaries to this Agreement.
6.15 Entire Agreement; Amendments. This Agreement constitutes the entire agreement 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 (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 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                         Gabriel Franklin

Dr. Robert Kustra, President                              Date

*Approved by the Board of (Regents or Trustees) on the ___ day of February, 2018._________
[*Note: One (1) year employment agreements which require Board approval are defined in Section II.H. of Board Policy]
### Coach Gabriel Franklin Maximum Compensation Calculation - 2018-2019

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<thead>
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<th>Component</th>
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<tr>
<td>3.1.1a Annual Base Salary</td>
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<tr>
<td>3.1.1b One-Time Bonus</td>
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<tr>
<td>3.2.1 Additional Pay based on Performance</td>
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<tr>
<td>3.2.2 Additional Pay based on Academic Achievement</td>
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<tr>
<td>Total Maximum potential annual compensation under Employment Agreement</td>
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</tr>
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</table>
EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this ____ day of February, 2018 (“Effective Date”) by and between Boise State University (“the University”), and Chad Kauhaahaa (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the Assistant 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 Assistant 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 twelve (12) months, commencing on March 1, 2018 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) An base salary in the amount of $225,000, 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 Team is the Mountain Division Champion, Coach will receive a $5,000 bonus.

b) If the Team participates in the Conference Championship Game, Coach will receive a $5,000 bonus.

c) If the Team is the Conference Champion, Coach will receive a $5,000 bonus.

In addition,

d) If the Team participates in a non-CFP bowl game, Coach will receive a $5,000 bonus; and
e) If the Team wins the non-CFP bowl game, Coach will receive a $5,000 bonus; or
f) If the Team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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 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.

3.3 Footwear; Apparel; 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 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 interest to the University in accordance Section 4.2 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.

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

ARTICLE 4

4.1. Coach’s Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall 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 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 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 otherwise unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, the Department, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach 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 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 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 Stampedede 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.

ARTICLE 5

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

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

a) A deliberate or major violation of Coach’s duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach’s abilities;

b) The failure of Coach to remedy any violation of any of the terms of this Agreement within thirty (30) days after written notice from the University;

c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University’s 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 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 one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the 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 due to Disability or Death of Coach.

5.3.1 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.

5.3.2 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 thereunder.

5.3.3 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, 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 he is entitled by virtue of employment with the University.

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

5.5 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.

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

6.9 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 he is required to produce under this Agreement may be released and made available to the public at the University’s sole discretion.

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

the University: 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:  
Chad Kauhaahaa  
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 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

______________________________
Curt Apsey, Director of Athletics

COACH

______________________________
Chad Kauhaahaa

______________________________
Dr. Robert Kustra, President

Approved by the Board of Trustees on the ____ day of February, 2018.
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EMPLEYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this ____ day of February, 2018 (“Effective Date”) by and between Boise State ______________________  (University (“the University”)),(College), and Chad Kauhaahaa (“____________________ (Coach”).).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University (College) shall employ Coach as the Assistant Coach (the “Position”) of its intercollegiate Football (Sport)___ 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 CoachUniversity (College)”s Director of the Team (the “Head Coach”) or the Head Coach’sDirector’s designee. Coach shall abide by the reasonable instructions of Head CoachDirector or the Head Coach’sDirector’s designee and shall confer with the Head CoachDirector or the Head Coach’sDirector’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 President (President).

1.3. Duties. Coach shall serve as the Assistant Coach formanage and supervise the Team and shall perform such other duties in the University’s University (College)”s athletic program as the Head CoachDirector may assign and as may be described elsewhere in this Agreement. The University (College) shall have the right, at any time, to reassign Coach to duties and responsibilities customarily associated with at the University (College) other than as head coach of the PositionTeam, 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 twelve (12____ (___) months, commencing on March 1, 2018 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’sUniversity (College)”s
Board of —(Regents or Trustees)__. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach’s service pursuant to this Agreement count in any way toward tenure at the University—(College).

ARTICLE 3

3.1 Regular Compensation.

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

a) An base annual salary in the amount of $225,000$_________ 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 President and approved by the University’s—(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—provided that the Coach qualifies for such benefits by meeting all applicable eligibility requirements; 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

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. Each year Coach may earn shall be eligible to receive supplemental compensation as follows:

3.2.1 Athletic Achievement Incentive Pay.

a) If the Team is the Mountain Division Champion, Coach will receive a $5,000 bonus.

b) If the Team participates in the Conference Championship Game, Coach will receive a $5,000 bonus.
c) If the Team is the Conference Champion, Coach will receive a $5,000 bonus.

In addition,
d) If the Team participates in a non-CFP bowl game, Coach will receive a $5,000 bonus; and
e) If the Team wins the non-CFP bowl game, Coach will receive a $5,000 bonus; or
f) If the Team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus in an amount up to 7.5% of his annual base salary.

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 (amount or computation) based on the academic achievement and behavior of Team members. The determination of whether Coach will receive such 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.
3.2 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. 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.

3.3 Footwear; Apparel; Equipment. 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 income to the University (College) in accordance Section 4.2 of this Agreement with 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.

3.4 General Conditions of Compensation. All compensation provided by the University (College) to Coach is subject to deductions and withholdings as required by law or the terms and conditions of any fringe benefit in which Coach participates. However, if any fringe benefit is based in whole or in part upon the compensation provided by the University (College) to Coach, such fringe benefit shall be based only on the compensation provided pursuant to section 3.1.1, except to the extent required by the terms and conditions of a specific fringe benefit program.
ARTICLE 4

4.1. Coach’s Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall 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 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 CoachDirector 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 Athletic Handbook; (c) University (College)’s Administrative Procedures Manual; (cd) the policies of the Department; (de) NCAA (or NAIA) rules and regulations; and (ef) the rules and regulations of the Conference—(Sport)—conference of which the University (College) is a member.

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

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

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

a) A deliberate or major violation of Coach’s duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach’s abilities;

b) The failure of Coach to remedy any violation of any of the terms of this Agreement within thirty (30) days after written notice from the University;

c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University’s 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 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
one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University (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 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 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 due to Disability or Death of Coach.

5.32.1 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.
5.32.2 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 (College) and due to Coach’s estate or beneficiaries thereunder.

5.32.3 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 (College).

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

5.54 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.

5.65 Waiver of Rights. Because the Coach is receiving 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. and Board or Regents of the University of Idaho Rule Manual (IDAPA 08.01.01 et seq.)) and Governing Policies and Procedures Manual, and the University Policies (College) Faculty-Staff Handbook.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the University’s Board of Trustees and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the University’s Board of (Regents or Trustees), if required, the Director, 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 University’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 (College)’s direction or for the University’s (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 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 therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

6.9 **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 (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
Office of the President
1910 University Drive
Boise, Idaho 83725-1000

the Coach: Chad Kauhaahaa
Last known address on file with University’s Human Resource Services

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

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

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

6.13 Non-Use of Names and Trademarks. The Coach shall not, without the University’s prior written consent in each case, use any name, trade name, trademark, or other designation of the University (including contraction, abbreviation or simulation), except in the course and scope of his official 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 Regents if required under Section II.H. of Board Policy.
6.16 **Opportunity to Consult with Attorney.** The Coach acknowledges that he has had the opportunity to consult and review this Agreement with an attorney. 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)*

Curt Apsey, Director of Athletics  Chad Kauhaahaa

Dr. Robert Kustra, President  Date

*Approved by the Board of *(Regents or Trustees)* on the ____ day of February, 2018._________

[*Note: One (1) year employment agreements which require Board approval are defined in Section II.H. of Board Policy]*
Coach Chad Kauhaahaa Maximum Compensation Calculation - 2018-2019

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<td>3.2.2 Additional Pay based on Academic Achievement</td>
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EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this ____ day of February, 2018 (“Effective Date”) by and between Boise State University (“the University”), and Eric Kiesau (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the Assistant 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 Assistant 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 twelve (12) months, commencing on March 1, 2018 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) An base salary in the amount of $210,000, 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) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University provides generally to non-faculty exempt employees;

d) 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

e) 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 Team is the Mountain Division Champion, Coach will receive a $5,000 bonus.

b) If the Team participates in the Conference Championship Game, Coach will receive a $5,000 bonus.

c) If the Team is the Conference Champion, Coach will receive a $5,000 bonus.
In addition,

d) If the Team participates in a non-CFP bowl game, Coach will receive a $5,000 bonus; and
e) If the Team wins the non-CFP bowl game, Coach will receive a $5,000 bonus; or
f) If the Team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus up to 7.5% of his annual base salary.

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 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.

3.3 **Footwear; Apparel; 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 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 interest to the University in accordance Section 4.2 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.

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

ARTICLE 4

4.1. **Coach’s Specific Duties and Responsibilities.** In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall 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 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 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 otherwise unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, the Department, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach 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 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 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.

ARTICLE 5

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

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

a) A deliberate or major violation of Coach’s duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach’s abilities;

b) The failure of Coach to remedy any violation of any of the terms of this Agreement within thirty (30) days after written notice from the University;

c) A deliberate or major violation by Coach of any applicable law or the policies, rules or regulations of the University, the University’s 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 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 one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University as follows: before the effective date of the suspension, reassignment, or termination, the 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 due to Disability or Death of Coach.
5.3.1 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.

5.3.2 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 thereunder.

5.3.3 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, 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 he is entitled by virtue of employment with the University.

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

5.5 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.

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

6.9 **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 he is required to produce under this Agreement may be released and made available to the public at the University’s sole discretion.

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

______________________________
Curt Apsey, Director of Athletics

COACH

______________________________
Eric Kiesau

______________________________
Dr. Robert Kustra, President

Approved by the Board of Trustees on the ____ day of February, 2018.
This Employment Agreement (the “Agreement”) is entered into this ___ day of February, 2018 (“Effective Date”) by and between Boise State ______________________ (University (‘the University’)), and Eric Kiesau (“____________________ (Coach”).).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the Assistant Coach 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 or the University’s Director of Athletics (the “Director”). Coach shall abide by the reasonable instructions of the Head Coach or the Director and shall confer with the Director on all administrative and technical matters. Coach shall also be under the general supervision of the University’s Director of Athletics (the “Director”), University’s President (President).

1.3. Duties. Coach shall serve as the Assistant Coach and supervise the Team and shall perform such other duties in the University’s athletic program as the Head Coach or the Director may assign and as may be described elsewhere in this Agreement. The University shall have the right, at any time, to the best of Coach’s ability, and consistent with University policies and procedures, perform all duties and responsibilities customarily associated with the University’s athletic program.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of twelve (12) months, commencing on March 1, 2018 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 President.
Board of (Regents or Trustees). This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach’s service pursuant to this Agreement count in any way toward tenure at the University. (College).

ARTICLE 3

3.1 Regular Compensation.

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

a) An base annual salary in the amount of $210,000 per year, payable in biweekly installments in accordance with normal procedures, and such salary increases as may be determined appropriate by the Head Coach and Director and President and approved by the University’s (College)’s Board of (Regents or Trustees);

b) A one-time bonus payment of $10,000, which shall be paid after execution of this Agreement.

c) The opportunity to receive such employee benefits calculated on the “base salary” as the University (College) provides generally to non-faculty exempt employees, provided that the Coach qualifies for such benefits by meeting all applicable eligibility requirements, and

d) 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

e) 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. Each year Coach shall be eligible to receive supplemental compensation as follows;

3.2.1 Athletic Achievement Incentive Pay.
a) If the Team is the Mountain Division Champion, Coach will receive a $5,000 bonus.
b) If the Team participates in the Conference Championship Game, Coach will receive a $5,000 bonus.
c) If the Team is the Conference Champion, Coach will receive a $5,000 bonus.

In addition,
d) If the Team participates in a non-CFP bowl game, Coach will receive a $5,000 bonus; and
e) If the Team wins the non-CFP bowl game, Coach will receive a $5,000 bonus; or
f) If the Team participates in one of the six CFP (College Football Playoff) bowl games, Coach will receive a bonus in an amount up to 7.5% of his annual base salary.

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 Pay (amount or computation) based on the academic achievement and behavior of Team members. The determination of whether Coach will receive such 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, and the timing of the payment(s) shall be at the discretion. The decisions may be made based on a variety of factors, including 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 not limited to, Coach’s individual performance, athletic/academic performance of Coach’s assigned player personnel groups, or other performance-related factors.

3.2 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. 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.

3.3 Footwear; Apparel; Equipment. 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 income to the University (College) in accordance with NCAA (or NAIA) rules. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including (Company Name), and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products.

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

ARTICLE 4

4.1. Coach’s Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall 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; supervise and take appropriate steps to ensure that Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the 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 (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; (d) NCAA (or NAIA) rules and regulations; and (e) the policies of the Department; (d) 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 Outside Activities. Coach shall not undertake any business, professional or
personal activities, or pursuits that would prevent Coach from devoting Coach’s full time and best efforts to the performance of Coach’s duties under this Agreement, that would otherwise unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, the Department, (College), would reflect adversely upon the University (College) or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach 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 the University’sname, 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. NCAA (or NAIA) Rules. In accordance with NCAA (or NAIA) rules, Coach shall obtain prior written approval from the University’sPresident 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 (College) and shall report the source and amount of all such income and benefits in accordance with the University (College)’s President whenever reasonably requested, but in no event less than annually before the Department’s Outside Income Reporting Form due 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, 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).

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

**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, 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 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 one of Coach’s assistant coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

5.1.2 Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University (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 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 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 due to Disability or Death of Coach.
5.32.1 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.

5.32.2 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 (College) and due to Coach’s estate or beneficiaries thereunder.

5.32.3 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 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).

5.43 Interference by Coach. In the event of termination, suspension, or reassignment, 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.

5.54 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.

5.65 Waiver of Rights. Because the Coach is receiving 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. and Board or Regents of the University of Idaho Rule Manual (IDAPA 08.01.01 et seq.)) and Governing Policies and Procedures Manual, and the University Policies (College) Faculty-Staff Handbook.

ARTICLE 6

6.1 Board Approval. This Agreement shall not be effective until and unless approved of the University’s Board of Trustees and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this agreement shall be subject to the approval of the University’s University (College)’s Board of Regents or Trustees, if required, the Director President, 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 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 therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (including financial inability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.

6.9 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 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
Office of the President
1910 University Drive
Boise, Idaho 83725-1000

the Coach: Eric Kiesau
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 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 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 (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 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  Eric Kiesau

Dr. Robert Kustra, President  Date

*Approved by the Board of (Regents or Trustees) on the ____ day of February, 2018.*

[*Note: One (1) year employment agreements which require Board approval are defined in Section II.H. of Board Policy]*
Coach Eric Kiesau Maximum Compensation Calculation - 2018-2019

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<td>3.1.1a Annual Base Salary</td>
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<td>Total Maximum potential annual compensation under Employment Agreement</td>
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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: Single and Multi-Year Coach Contracts for Seven Football Assistant Coaches (Andrew Avaolos, Zachary Hill, Kent Riddle, Bradley Bedell, Gabriel Franklin, Chad Kauhaahaa, Eric Kiesau)

Date of submission to State Board Office: January 12, 2018 (revised January 22, 2018)

Proposed effective date of employment agreement:

☑️ 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 (in cover sheet)
☑️ 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://boarhofed.idaho.gov
☑️ Employment agreement—redline version (for current coaches receiving new contracts) comparing proposed employment agreement to current agreement (for applicable coaches)
☑️ 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, (208) 426-1231, texiemontoya@boisestate.edu
THIS PAGE INTENTIONALLY LEFT BLANK
BOISE STATE UNIVERSITY

SUBJECT
Multi-Year Coach Contract for Men’s Baseball Head Coach, Gary Van Tol

APPLICABLE STATUTE, RULE, OR POLICY
Idaho State Board of Education (Board) Governing Policies & Procedures, Section II.H.

ALIGNMENT WITH STRATEGIC PLAN
The multi-year coach contract is a non-strategic, Board governance agenda item.

BACKGROUND/DISCUSSION
Boise State University (BSU) recently reinstated its baseball program and hired Gary Van Tol to be head baseball coach after a successful nation-wide search.

Van Tol brings to Boise State 27 years of baseball coaching experience, 17 collegiate and 10 professional. He has spent the last 10 seasons with the Chicago Cubs organization, working as a minor league coach both for the Boise Hawks and, most recently, the Eugene Emeralds. He has also served as the owner and president of the Idaho Cubs, a developmental baseball program for youth baseball players in Idaho.

Van Tol’s extensive and successful Division I collegiate level coaching experience includes:

- Assistant coach for University of Portland (2002-2005)
- Associate Head Coach for Treasure Valley Community College (1995-1996)
- Head coach for Treasure Valley Community College (1996-2001)

During his time as head coach, the Treasure Valley Community College Chukars made four NJCAA Regional appearances and 90 percent of his players moved on to four-year colleges or the professional ranks.

Based on information currently available, all but one of the Mountain West Conference Head Baseball Coaches are on multi-year contracts. The range in length of contracts is from three to five years.

BSU and Van Tol entered a 3-year term employment agreement beginning December 11, 2017, as permitted under Board policy, without Board approval. The proposed 4-year, 5-month contract will allow Van Tol to complete all program start-up duties over the next year and a half, including but not limited to scheduling, recruiting, stadium completion and equipment acquisition, hiring assistant coaches.
in summer 2018, and coaching student-athletes during the 2019-2020 school year. The inaugural baseball season will begin in spring 2020.

The proposed contract meets BSU contract standards and conforms to the template provided by the Board-approved model employment agreement.

**IMPACT**

No state funds are used and the amounts below are paid only from program revenues, media, donations and other non-state funds. Terms are as follows:

**Term:** Fixed term contract of four (4) years five (5) months

**Base Compensation:**
- Year 1: $80,000
- Year 2: $80,000
- Year 3: $80,000
- Year 4: $80,000
- Year 5: $80,000

**Pay for Performance - Academic:**
- APR between 50% - 59% $1,400 or
- APR between 60% - 69% $1,600 or
- APR between 70% - 79% $2,000 or
- APR between 80% or above $3,000

**Pay for Performance - Athletic:**
- Cumulative season wins:
  - 25 wins $2,000 or
  - 26 – 30 wins $3,000 or
  - 31 – 35 wins $4,000 or
  - 36+ wins $5,000
- Regular Season Conference Champions $3,000
- Participate in NCAA Regionals $2,500 or
  - Participate in NCAA Super Regionals $3,500
- Participate in the Men’s College World Series $5,000 or
  - Participate in the Men’s College Championship Series $7,500
- Conference Player of the Year $1,000
- Conference Freshman of the Year $1,000
- Conference Pitcher of the Year $1,000
- Conference Coach of the Year $2,000
- NCAA Regional Coach of the Year $2,000
- NCAA National Coach of the Year $5,000
Top 25 National Ranking at End of Season  $2,000 or
Top 10 National Ranking at End of Season  $4,000 or
Top 5 National Ranking at End of Season  $5,000

**Buy-Out Provision:** If Van Tol terminates early without cause, he may be required, at BSU’s discretion, to pay liquidated damages as follows:

Years 1 – 4 (February 25, 2018 – July 31, 2020):  $20,000
Year 5 (August 1, 2020 – July 31, 2021):  $10,000

**ATTACHMENTS**
- Attachment 1 – Proposed Contract  Page 5
- Attachment 2 – Redline from Model  Page 23
- Attachment 3 – APR Summary  Page 43
- Attachment 4 – Liquidated Damages  Page 44
- Attachment 5 – Salary and Incentive Chart  Page 45
- Attachment 6 – Max Compensation Calculation  Page 49
- Attachment 7 – Checklist  Page 51

**STAFF COMMENTS AND RECOMMENDATIONS**
The proposed coach employment agreement requires Board approval under Board Policy II.H. because the term of the contract is longer than three years. Maximum potential annual compensation for the contract (base compensation plus bonuses) is $180,000 for the first two years of the contract, and $114,000 for the third and following years of the contract.

Staff recommends approval.

**BOARD ACTION**
I move to approve the request by Boise State University to enter into a 4-year 5-month employment agreement with Gary Van Tol, as head coach for the Boise State baseball team, as proposed.

Moved by __________ Seconded by __________ Carried Yes _____ No _____
EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this _______ day of February, 2018 (“Effective Date”) by and between Boise State University (“the University”) and Gary Van Tol (“Coach”).

ARTICLE 1

1.1. Employment. Subject to the terms and conditions of this Agreement, the University shall employ Coach as the head coach (the “Position”) of its intercollegiate baseball 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 Director of Athletics (the “Director”) or the Director’s designee. Coach shall abide by the reasonable instructions of Director or the Director’s designee and shall confer with the Director or the Director’s designee on all administrative and technical matters. Coach shall also be under the general supervision of the University’s President (the “President”).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the University’s athletic program as the Director may assign and as may be described elsewhere in this Agreement. 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 four (4) years five (5) months, commencing on February 25, 2018 and terminating, without further notice to Coach, on July 31, 2022 (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 salary in the amount of $80,000 per year, payable in biweekly installments in accordance with normal University procedures, and such salary increases as may be determined appropriate by the Director and President and approved by the University’s Board of Trustees;

b) The opportunity to receive such employee benefits calculated on the “base salary” as the University provides generally to non-faculty exempt employees; and

c) 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.

Starting in the 2019-2020 inaugural season:

a) Cumulative season wins
   
   i. 25 wins $2,000
   
   or
   
   ii. 26 – 30 wins $3,000
   
   or
   
   iii. 31 – 35 wins $4,000
   
   or
   
   iv. 36+ wins $5,000

b) Regular Season Conference Champions $3,000
c) Participate in NCAA Regionals $2,500
   or
   Participate in NCAA Super Regionals $3,500

d) Participate in the Men’s College World Series $5,000
   or
   Participate in the Men’s College Championship Series $7,500

e) Conference Player of the Year $1,000

f) Conference Freshman of the Year $1,000

g) Conference Pitcher of the Year $1,000

h) Conference Coach of the Year $2,000

i) NCAA Regional Coach of the Year $2,000

j) NCAA National Coach of the Year $5,000

k) Top 25 National Ranking at End of Season $2,000
   or
   Top 10 National Ranking at End of Season $4,000
   or
   Top 5 National Ranking at End of Season $5,000

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 July if Coach is still employed by the University on that date.

3.2.2. Academic Achievement Incentive Pay.

Coach will qualify for Academic Incentive Pay if the single year team Academic Progress Rate (“APR”) for the Team meets the following levels in the National Ranking within Baseball:

a) 50% - 59.9% = $1,400
b) 60% - 69.9% = $1,600
c) 70% - 79.9% = $2,000
d) 80% or above = $3,000
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. Neither Coach nor any assistant coach shall appear without the prior written approval of the Director on any radio or television program (including but not limited to a coach’s show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Director, Coach shall not appear in any commercial endorsements which are broadcast on radio or television that conflict with those broadcast on the University’s designated media outlets.

3.2.5. Coach agrees that the University has the priority right to operate athletic camps (“Camps”) on its campus using University facilities.

a) If the University exercises its right to operate baseball camps on campus, 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.

b) If the University allows Coach to operate youth baseball camp(s) at the University, such operation shall be under the following conditions:

i. The youth camp operation reflects positively on the University and the Department;

ii. The youth camp is operated by Coach directly or through a private enterprise owned and managed by Coach. Coach shall not use University personnel, equipment, or facilities without the prior written approval of the Director or designee;

iii. Assistant coaches at the University are given priority when Coach or the private enterprise selects coaches to participate;

iv. Coach complies with all NCAA, Conference, and University rules and regulations related, directly or indirectly, to the operation of youth camps;

v. Coach or the private enterprise enters into contracts with the University and the University’s exclusive food service provider for all campus goods and services required by the camp.

vi. Coach or private enterprise shall pay the outside facility usage rate of the University’s facilities.

vii. Coach shall complete the Department’s private camp packet at least thirty days prior to camp taking place. Camp Director will notify Coach when the private camp is approved to move forward. Within ninety days of the last day of the youth camp(s), Coach shall submit to Camp Director a final accounting and “Camp Summary Sheet.”

viii. Coach or the private enterprise shall provide proof of liability insurance as follows:
Commercial General Liability Insurance with limits not less than $1 million (CSL) per occurrence for Property Damage and Bodily Injury Liability, including Products/Completed Operations Liability, Blanket Contractual Liability and Personal Injury Liability. If an annual aggregate is used each annual aggregate limit shall not be less than $2 million when applicable and will be endorsed to apply separately to each job site or location; and, if applicable:

- Automobile Liability Insurance including non-owned and hired vehicles with limits not less than $1 million per occurrence (CSL) for Property Damage and Bodily Injury; and
- Workers’ Compensation as required by State statute including occupational disease; and
- Employers’ Liability with limits not less than $100,000 each accident for Bodily Injury by Accident, $100,000 each employee for Bodily Injury by Disease, and $500,000 policy limit for Bodily Injury by Disease; and
- Professional Liability Insurance in the amount of $1,000,000 including coverage for errors and omissions caused by User’s negligence in the performance of its duties under this agreement.

ix. Coach or the private enterprise shall defend and indemnify the University against any claims, damages, or liabilities arising out of the operation of the youth camp(s)

x. All employees of the youth camp(s) shall be employees of Coach or the private enterprise and not the University while engaged in camp activities. The Coach and all other University 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.

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 interest 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:

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 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 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, the Department, would reflect adversely upon the University or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director, who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach’s obligations under this Agreement. Coach 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. **Hiring Authority.** Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of President and the University’s Board of Trustees.

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

4.6. **Other Coaching Opportunities.** Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team requiring performance of duties set forth herein prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not unreasonably be withheld. Without first giving ten (10) days prior written notice to 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.

4.7 **Attendance at Specific Gatherings.** Coach will attend all staff meetings, public relation functions, dinners, awards banquet and make appearances as directed by the Director unless excused by the Director. Such functions shall include, but are not limited to, the following:

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

**ARTICLE 5**

5.1. **Termination of Coach for Cause.** The University may, in its discretion, suspend Coach from some or all of Coach’s duties, temporarily or permanently, and with or without pay; reassign Coach to other duties; or terminate this Agreement at any time for
good or adequate cause, as those terms are defined in applicable 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 one of Coach’s assistant
coaches, any other employees for whom Coach is administratively responsible, or a member of the Team; or

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

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

5.2.1. 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.

5.2.2. 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.

5.2.3. The parties have both been represented by, or had the opportunity to consult with, legal counsel in the contract negotiations and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that 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.

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

5.3. Termination by Coach for Convenience.

5.3.1. 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.

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

5.3.3. If 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: (a) if the Agreement is terminated on or before July 31, 2020, the sum of $20,000; (b) if the Agreement is terminated between August 1, 2020 and July 31, 2021 inclusive, the sum of $10,000. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid.

5.3.4. The parties have 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.

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

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, 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 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.
5.4.3. 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.

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

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

5.7. Waiver of Rights. Because 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 (I.D. 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 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, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to Coach by the University or developed by Coach on behalf of the University or at the University’s direction or for the University’s use or otherwise in connection with Coach’s employment hereunder are and shall remain the sole property of the University. Within twenty-four (24) hours of the expiration of the Term of this Agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property,
materials, and articles of information in Coach’s possession or control to be delivered to the Director.

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

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

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

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

Curt Apsey, Director of Athletics
Dr. Robert Kustra, President

Approved by the Board on the ________ day of February, 2018.

COACH

Gary Van Tol
{MODEL ATHLETICS MULTI-YEAR CONTRACT}

EMPLOYMENT AGREEMENT

This Employment Agreement (the “Agreement”) is entered into this day of February, 2018 (“Effective Date”) by and between Boise State University (“the University”, “College”), and Gary Van Tol (“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 (the “Position”) of its intercollegiate baseball team (the “Team”) (or Director of Athletics). 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 (College)’s Director of Athletics (the “Director”) or the Director’s designee. Coach shall abide by the reasonable instructions of Director or the Director’s designee and shall confer with the Director or the Director’s designee on all administrative and technical matters. Coach shall also be under the general supervision of the University’s President (the “President”).

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the University’s (College)’s athletic program as the Director 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. The University (College) shall have the right, at any time, to reassign Coach to duties at the University (College) other than as head coach of the Team, provided that Coach’s compensation and benefits shall not be affected by any such reassignment, except that the opportunity to earn supplemental compensation as provided in sections 3.2.1 through (Depending on supplemental pay provisions used) shall cease.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of four (4) years five (5) months, commencing on February 25, 2018 and terminating, without further notice to Coach, on July 31, 2022 (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. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach’s service pursuant to this Agreement count in any way toward tenure at the University (College).

ARTICLE 3

3.1. Regular Compensation.

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

a) An annual salary in the amount of $80,000 per year, payable in biweekly installments in accordance with normal University (College) procedures, and such salary increases as may be determined appropriate by the Director and President and approved by the University’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 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 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.

Starting in the 2019-2020 inaugural season:

a) Cumulative season wins
   i. 25 wins $2,000
   or
   ii. 26 – 30 wins $3,000
   or
   iii. 31 – 35 wins $4,000
   or
   iv. 36+ wins $5,000

b) Regular Season Conference Champions $3,000

c) Participate in NCAA Regionals $2,500
   or
   Participate in NCAA Super Regionals $3,500

d) Participate in the Men’s College World Series $5,000
   or
   Participate in the Men’s College Championship Series $7,500

e) Conference Player of the Year $1,000

f) Conference Freshman of the Year $1,000

g) Conference Pitcher of the Year $1,000

h) Conference Coach of the Year $2,000

i) NCAA Regional Coach of the Year $2,000

j) NCAA National Coach of the Year $5,000

3.2.4. Top 25 National Ranking at End

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.

k) 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 Season $2,000 or Top 10 National Ranking at End $4,000 or Top 5 National Ranking at End of Season $5,000

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

factors: the
3.2.2. Academic Achievement Incentive Pay.

Coach will qualify for Academic Incentive Pay if the single year team Academic Progress Rate (“APR”) for the Team meets the following levels in the National Ranking within Baseball:

a) 50% - 59.9% = $1,400
b) 60% - 69.9% = $1,600
c) 70% - 79.9% = $2,000
d) 80% or above = $3,000

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.

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 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.

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

3.2.5. **SUMMER CAMP—OPERATED BY UNIVERSITY (COLLEGE)** Coach agrees that the University (College) has the priority exclusive right to operate athletic youth (Sport) camps (“Camps”) on its campus using University (College) facilities.

a) **If the University exercises its right to operate baseball camps on campus,** 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).

b) **If the University allows COACH to operate summer youth baseball (Sport) camps at the University,** such operation shall be under the following conditions:

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

ii. b) The summer youth camp is operated by Coach directly or through a private enterprise owned and managed by Coach. Coach shall not use University (College) personnel, equipment, or facilities without the prior written approval of the Director or designee;
iii. Assistant coaches at the University (College) are given priority when the Coach or the private enterprise selects coaches to participate;

iv. 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;

v. The Coach or the private enterprise enters into contracts with the University (College) and the University’s exclusive food service provider (campus concessionaire) for all campus goods and services required by the camp.

vi. The Coach or private enterprise shall pay the outside facility usage rate for the University’s facilities including the __________.

vii. Coach shall complete the Department’s private camp packet at least Within thirty days prior to camp taking place. Camp of the last day of the summer youth camp(s), Coach shall submit to the Director will notify Coach when the private camp is approved preliminary “Camp Summary Sheet” containing financial and other information related to move forward the operation of the camp. Within ninety days of the last day of the summer youth camp(s), Coach shall submit to Camp Director a final accounting and “Camp Summary Sheet.” A copy of the “Camp Summary Sheet” is attached to this Agreement as an exhibit.

viii. The Coach or the private enterprise shall provide proof of liability insurance as follows:

- Commercial General Liability Insurance with limits not less than $(1) liability coverage: spectator and staff-$1 million (CSL) per occurrence for Property Damage and Bodily Injury including Products/Completed Operations Liability, Blanket Contractual Liability and Personal Injury Liability. If an annual aggregate is used each annual aggregate limit shall not be less than $; (2) catastrophic coverage:
camper and staff $1 million when applicable and will be endorsed to apply separately to each job site or location; and, if applicable:

- **Automobile Liability Insurance**
  - including non-owned and hired vehicles with limits not less than $1 million per occurrence (CSL) for Property Damage and Bodily Injury; and
- **Workers’ Compensation** as required by State statute including occupational disease; and
- **Employers’ Liability** with limits not less than maximum coverage with $100,000 each accident for Bodily Injury by Accident, $100,000 each employee for Bodily Injury by Disease, and $500,000 policy limit for Bodily Injury by Disease; and deductible;
- **Professional Liability Insurance** in the amount of $1,000,000 including coverage for errors and omissions caused by User’s negligence in the performance of its duties under this agreement.

ix. **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).

x. **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 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 interest income to the University (College) in accordance with Section 4.3 of this Agreement and 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:

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 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 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 *(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)*; *(College)*’s Administrative Procedures Manual; *(cd)* the policies of the Department; *(de)* NCAA *(or NAIA)* rules and regulations; and *(ef)* the rules and regulations of the Conference *(Sport)* conference of which the University *(College)* is a member.

4.2. **Outside Activities.** Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach’s full time and best efforts to the performance of Coach’s duties under this Agreement, that would unreasonably otherwise detract from those duties in any manner, or that, in the reasonable opinion of the University, the Department *(College)*, would reflect adversely upon the University *(College)* or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Director, who may consult...
with the President/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/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 Hiring Authority. Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of President/Chief executive officer and the University’s/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’s competitions, but the final decision shall be made by the Director or the Director’s designee.
4.6. Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team, requiring performance of duties set forth herein prior to the expiration of this Agreement, without the prior approval of the Director. Such approval shall not unreasonably be withheld. Without first giving ten (10) days prior written notice to 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.

4.7. Attendance at Specific Gatherings. Coach will attend all staff meetings, public relation functions, dinners, awards banquet and make appearances as directed by the Director unless excused by the Director. Such functions shall include, but are not limited to, the following:

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

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, regulations, and policies.

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

a) A deliberate or major violation of Coach’s duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach’s abilities;

b) The failure of Coach to remedy any violation of any of the terms of this Agreement within 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) 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 Director or Director’s designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, 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 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, the 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 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 his health insurance plan and group life insurance as if he remained a University (College) employee until the
term of this Agreement ends or until Coach obtains reasonably comparable employment or any other employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform 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 Coach obtains other employment, to which he is not entitled under this provision.

5.3.1. The Coach recognizes that Coach’s promise to work for the University (College) is of the essence of this Agreement. The Coach also recognizes that the University (College) 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 (College) before the end of the contract Term.

5.3.2. 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 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).
5.3.3. 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 shall pay to the University (College), as liquidated damages and not a penalty, the following sum: (a) if the Agreement is terminated on or before July 31, 2020, the sum of $20,000; (b) if the Agreement is terminated between August 1, 2020 and July 31, 2021 inclusive, the sum of $10,000. The liquidated damages shall be due and payable within twenty (20) days of the effective date of the termination, and any unpaid amount shall bear simple interest at a rate eight (8) percent per annum until paid.

5.3.4. The parties have 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).

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

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 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.

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

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

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

5.7. Waiver of Rights. Because the Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University employees, if the University suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the University from compliance with the notice, appeal, and similar employment-related rights provided for in the State Board of Education Rules (I.ADMIN.CODE r. 08.01.01 et seq.) and Governing Policies and Procedures, and IDAPA 08.01.01 et seq., and the University Policies 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 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's Board of (Regents or Trustees), the President/Chief 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's rules or policies regarding furloughs or financial exigency.

6.2. University 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 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. Within twenty-four (24) hours of the expiration of the Term of this Agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach’s possession or control to be delivered to the Director.

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

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

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

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

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

6.9. 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 are 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: Gary Van Tol
Last known address on file with University’s University’s (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 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 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 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 Regents or Trustees, if required under Section II.H. of Board Policy.

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

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

UNIVERSITY-(COLLEGE) COACH

______________________________
Curt Apsey, Director of Athletics

______________________________
Gary Van Tol

Dr. Robert Kustra, President

Chief executive officer Date

Date

*Approved by the Board of Regents or Trustees on the ________ day of February, 2018, 2010.

[Note: Multiyear employment agreements which require Board approval are defined in Section II.H. of Board Policy]
BOISE STATE UNIVERSITY
Baseball National Percentile Rank

<table>
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<tr>
<th>National Percentile</th>
<th>50th</th>
<th>60th</th>
<th>70th</th>
<th>80th</th>
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<tr>
<td>All Division I Baseball APR</td>
<td>979</td>
<td>982</td>
<td>990</td>
<td>1000</td>
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*1st year of Boise State Baseball APR to be published in May 2021
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<tr>
<th>Coach</th>
<th>School</th>
<th>Length of Contract</th>
<th>2017 Salary (total comp)</th>
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<th>Type of L.D. Clause</th>
<th>Amount(s) over time</th>
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<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
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<td>Sliding Scale</td>
<td>See Contract</td>
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<td>No Program</td>
<td>Colorado State</td>
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<tr>
<td>Mike Batesole</td>
<td>Fresno State</td>
<td>7/1/14 - 6/30/19</td>
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<td>T.J. Bruce</td>
<td>Nevada</td>
<td>7/1/17 - 6/30/18</td>
<td>$126,072</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
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<tr>
<td>Ray Birmingham</td>
<td>New Mexico</td>
<td>7/1/13 - 6/30/18</td>
<td>$208,672</td>
<td>Yes</td>
<td>Flat Rate</td>
<td>$100,000 if agreement is terminated before expiration of contract.</td>
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<td>7/1/15 - 6/30/20</td>
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<td>Yes</td>
<td>Sliding Scale</td>
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<tr>
<td>Jason Hawkins</td>
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<td>6/11/17 - 6/30/20</td>
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<td>Coach</td>
<td>School</td>
<td>Base Salary</td>
<td>Incentives</td>
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</tr>
<tr>
<td>Mike Kazlausky</td>
<td>Air Force</td>
<td>NA</td>
<td>NA</td>
<td></td>
<td></td>
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<tr>
<td>Gary Van Tol</td>
<td>Boise State</td>
<td>$ 80,000</td>
<td>See Contract</td>
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<tr>
<td>No Program</td>
<td>Colorado State</td>
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<tr>
<td>Mike Batesole</td>
<td>Fresno State</td>
<td>$ 162,156</td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

1) Achievement of Annual NCAA APR
   a. Above 930 provides $10,000  
   b. Above 950 provides $15,000  
   c. Above 975 provides $20,000  
   d. Above 990 provides $25,000  
      Only one may be awarded.

2) Overall Team GPA (Fall/Spring Semesters)
   a. 2.6 to 2.799 provides $10,000  
   b. 2.8 to 2.999 provides $15,000  
   c. 3.0 to 3.199 provides $20,000  
   d. 3.2 to 3.399 provides $25,000  
   e. 3.4 to 3.599 provides $30,000  
   f. 3.6 to 3.799 provides $35,000  
   g. 3.8 and above provides $40,000  
      Only one may be awarded.

3) Achievement of Regular-Season Winning Percentage (rounded up to next highest whole percentage point.  
The opponents in the winning percentages below shall include all conference games and non-conference games with NCAA Division 1 opponents that had completed one or both of the previous two seasons with an RPI ranking at or above 190.
   a. Winning 60% provides $10,000  
   b. Winning 65% provides $12,500  
   c. Winning 70% provides $15,000  
      Only one may be awarded.

<table>
<thead>
<tr>
<th>Name</th>
<th>Location</th>
<th>Salary</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>T.J. Bruce</td>
<td>Nevada</td>
<td>$126,072</td>
<td>NA</td>
</tr>
<tr>
<td>Ray Birmingham</td>
<td>New Mexico</td>
<td>$155,572</td>
<td>Courtesy car, Media monies of $53,100 annually added to base salary. No other incentives listed.</td>
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<tr>
<td>Name</td>
<td>University</td>
<td>Salary</td>
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<tr>
<td>--------------</td>
<td>---------------</td>
<td>---------</td>
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<tr>
<td>Mark Martinez</td>
<td>San Diego State</td>
<td>$119,664</td>
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<tr>
<td>Jason Hawkins</td>
<td>San Jose State</td>
<td>$155,652</td>
<td></td>
</tr>
<tr>
<td>Stan Stolte</td>
<td>UNLV</td>
<td>$105,000</td>
<td></td>
</tr>
</tbody>
</table>

- **Incentive Compensation.** Incentive compensation is not guaranteed and shall only be paid to you as determined by the Director of Intercollegiate Athletics based upon the criteria set forth below.
  - MW Regular Season or Tournament Championship $9,584
  - NCAA Tournament-highest of below
    - Appearance $9,584
    - College World Series participant $14,376
    - College World Series Championship Series participant $19,168
    - College World Series Champion $25,000
  - National Coach of the Year $5,000
  - Team cumulative GPA above 2.80 $2,000
  - APR (Four-year average) above 950 $2,000
- **Use Of Automobile.** You will be provided a courtesy car or stipend in the same manner as other coaches/staff.

  Monthly $500 vehicle stipend,

  Incentive compensation criteria:
  a) 35 wins in regular season (not counting conference tournament) – One month’s base salary
  b) Qualify for NCAA Tournament – One month’s base salary
  c) Qualify for College World Series - $50,000
  d) Conference coach-of-the-year - $5,000
  e) If the team’s most recent single year APR score is 960 or higher - $2,000

NA
### Coach Gary Van Tol Maximum Compensation Calculation - 2018-2022

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<tr>
<th>Section</th>
<th>Description</th>
<th>Yr 1</th>
<th>Yr 2</th>
<th>Yr 3</th>
<th>Yr 4</th>
<th>Yr 5</th>
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<tr>
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<td>Annual Base Salary</td>
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<td>$80,000.00</td>
<td>$80,000.00</td>
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<tr>
<td>3.2.1</td>
<td>Additional Pay based on Performance</td>
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<td>-</td>
<td>$31,000.00</td>
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<tr>
<td>3.2.2</td>
<td>Additional Pay based on Academic Achievement</td>
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<td>-</td>
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<tr>
<td><strong>Total</strong></td>
<td>Maximum potential annual compensation under</td>
<td>$80,000.00</td>
<td>$80,000.00</td>
<td>$114,000.00</td>
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<td>Employment Agreement</td>
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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: Gary Van Tol - Men’s Baseball Head Coach

Date of submission to State Board Office: January 12, 2017

Proposed effective date of employment agreement:

☒ 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 *(in cover sheet)*
☒ 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, (208) 426-1231, texiemontoya@boisestate.edu