

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 15, 2017**

---

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

---

**THIS PAGE INTENTIONALLY LEFT BLANK**

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 15, 2018**

---

**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**

**Term:** Fixed term contract of one year. Update of current multi-year contract.

**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:

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 15, 2018**

---

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

**BUSINESS AFFAIRS AND HUMAN RESOURCES  
FEBRUARY 15, 2018**

---

**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.

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 15, 2018**

---

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	Page 7
Attachment 2 – Chart – All Football Assistant Coach Salaries	Page 8
Attachment 3 – Proposed Contract for Andrew Avalos	Page 9
Attachment 4 – Redline - Avalos Prop. Contract to Model Agreement	Page 23
Attachment 5 – Redline to Current Avalos Contract	Page 41
Attachment 6 – Avalos Maximum Compensation Calculation	Page 55
Attachment 7 – Base Salary & Incentive Comparison – Defensive Coord.	Page 56
Attachment 8 – Liquidated Damages Comparison – Defensive Coord.	Page 57
Attachment 9 – Proposed Contract for Zachary Hill	Page 59
Attachment 10 – Redline - Hill Proposed Contract to Model Agreement	Page 73
Attachment 11 – Redline to Current Hill Contract	Page 93
Attachment 12 – Hill Maximum Compensation Calculation	Page 107
Attachment 13 – Base Salary & Incentive Comp. – Offensive Coord.	Page 108
Attachment 14 – Liquidated Damages Comparison – Offensive Coord.	Page 109
Attachment 15 – Proposed Contract for Kent Riddle	Page 111
Attachment 16 – Redline - Riddle Prop. Contract to Model Agreement	Page 125
Attachment 17 – Redline to Current Riddle Contract	Page 143
Attachment 18 – Riddle Maximum Compensation Calculation	Page 157
Attachment 19 – Base Salary & Incentive Comparison – Special Teams Coord.	Page 158
Attachment 20 – Liquidated Damages Comp. – Special Teams Coord.	Page 159
Attachment 21 – Base Salary & Incentive Comp. for Assistant Coaches	Page 161
Attachment 22 – Proposed Contract for Bradley Bedell	Page 165
Attachment 23 – Redline - Bedell Prop. Contract to Model Agreement	Page 177
Attachment 24 – Bedell Maximum Compensation Calculation	Page 189
Attachment 25 – Proposed Contract for Gabriel Franklin	Page 191
Attachment 26 – Redline - Franklin Prop. Contract to Model Agreement	Page 203

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 15, 2018**

---

Attachment 27 – Franklin Maximum Compensation Calculation	Page 215
Attachment 28 – Proposed Contract for Chad Kauhaahaa	Page 217
Attachment 29 – Redline - Kauhaahaa Prop. Contract to Model Agrmnt	Page 229
Attachment 30 – Kauhaahaa Max Compensation Calculation	Page 241
Attachment 31 – Proposed Contract for Eric Kiesau	Page 243
Attachment 32 – Redline - Kiesau Prop. Contract to Model Agreement	Page 255
Attachment 33 – Kiesau Maximum Compensation Calculation	Page 267
Attachment 34 – Checklist	Page 269

**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 \_\_\_\_\_

THIS PAGE INTENTIONALLY LEFT BLANK



**BOISE STATE UNIVERSITY**

Football APR History and National Percentile Rank

**SINGLE YEAR NCAA ACADEMIC PROGRESS RATE (APR) SCORES**

	2012-13	2013-14	2014-15	2015-16
<b>Football</b>	980	977	991	968
<i>National % Rank by Sport</i>	<i>90-100</i>	<i>70-80</i>	<i>80-90</i>	<i>50-60</i>

REPORT YEAR
Raw Score for single year
<i>Percentile Rank for Sport</i>

**MULTI-YEAR (4-Year Rolling Average)**

<b>Football</b>	988	981	982	976
-----------------	-----	-----	-----	-----

FOOTBALL SALARIES AND POSITIONS - 2018

NAME	FOOTBALL COACHING STAFF	2017 Salary	2018 Salary	Increase	One-Time Bonus	CONTRACT
Andy Avalos	Defensive Coordinator	\$ 315,000	\$ 335,000	\$ 20,000	\$ 20,000	1 year remaining on current contract - No extension - Buyout remains \$25k.
Zachary Hill	Offensive Coordinator	\$ 285,000	\$ 300,000	\$ 15,000	\$ 10,000	2 Year Contract (1 year extension) Buyout 100K & 50K
Kent Riddle	Special Teams Coordinator	\$ 275,000	\$ 290,000	\$ 15,000	\$ 10,000	2 Year Contract (2 year extension) Buyout 100K & 50K
Chad Kauhaahaa	Assistant Coach	\$ -	\$ 225,000	\$ -	\$ -	Single year - New Hire (1/8/18)
Bradley Bedell	Assistant Coach	\$ 225,000	\$ 250,000	\$ 25,000	\$ 10,000	Single year
Gabriel Franklin	Assistant Coach	\$ 195,000	\$ 210,000	\$ 15,000	\$ 10,000	Single year
Eric Kiesau	Assistant Coach	\$ 185,000	\$ 210,000	\$ 25,000	\$ 10,000	Single year

**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;



### ATTACHMENT 3

- 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,



Boise, Idaho 83725-1020

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

Coach: Andrew Avalos  
Last known address on file with  
University's Human Resource Services

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

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

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

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

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

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

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

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

UNIVERSITY

COACH

\_\_\_\_\_  
Curt Apsey, Director of Athletics

\_\_\_\_\_  
Andrew Avalos

\_\_\_\_\_  
Dr. Robert Kustra, President

Approved by the Board on the \_\_\_\_\_ day of February, 2018.



~~(Form Used When Board Approval Required)~~  
~~(MODEL ATHLETICS 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 Andrew Avalos (~~“        ”(Coach)~~).

ARTICLE 1

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

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

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

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of one (1) year          (        ) years, 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~~Education~~. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this Agreement count in any way toward tenure at the University ~~(College)~~.

### ARTICLE 3

#### 3.1 Regular Compensation.

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

- a) A base~~An annual~~ salary in the amount of \$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~~University (College)'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~~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~~
- 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

- ee) The opportunity to receive such employee benefits as the University's University (College)'s Department of Athletics (the "Department") provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.

~~3.2~~ 3.2 Supplemental Compensation. Coach may earn

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

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

~~3.2~~

3.2.1. Athletic Achievement Incentive Pay.

- a) If the football team is the Mountain Division Champion, 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<sup>rd</sup> year. 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~~

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 set by the Board, grade point averages; difficulty of major course of study; honors such as scholarships, designation as Academic All-American, and conference academic recognition; progress toward graduation for Academic Achievement Incentive Pay, it will be paid as soon as reasonably practical following APR rating determination and verification by the National Collegiate Athletic Association (“NCAA”), if Coach is still employed by the University on that date all athletes.~~

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

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

~~particularly those who entered the University (College) as academically at-risk students; the conduct of Team members on the University (College) campus, at authorized University (College) activities, in the community, and elsewhere. Any such supplemental compensation paid to Coach shall be accompanied with a detailed justification for the supplemental compensation based on the factors listed above and such justification shall be separately reportable to the Board of (Regents or Trustees) as a document available to the public under the Idaho Public Records Act.~~

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

~~3.2.3.2.4.~~ Coach may receive the compensation hereunder<sup>5</sup>—The Coach shall receive the sum of ~~(amount or computation)~~ from the University ~~(College)~~ or the ~~University's~~ ~~University (College)s~~ designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances ~~(collectively, "Programs").~~ ~~Coach's right to receive such a payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later. This sum shall be paid (terms or conditions of payment)~~. Agreements requiring the Coach to participate in Programs related to ~~Coach's~~his 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~~his services to and ~~appear~~perform on the Programs and to cooperate in their production, broadcasting, and telecasting. ~~It is understood that neither Coach nor any assistant coaches shall not appear without the prior written approval of the Head Coach and the Director on any competing radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Head Coach and Director, Coach shall not appear in any commercial endorsements which are broadcast on radio or television that conflict with those broadcast on the University (College)s designated media outlets.~~

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

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

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

~~(College) against any claims, damages, or liabilities arising out of the operation of the summer youth camp(s)~~

- ~~j) — All employees of the summer youth camp(s) shall be employees of the Coach or the private enterprise and not the University (College) while engaged in camp activities. The Coach and all other University (College) employees involved in the operation of the camp(s) shall be on annual leave status or leave without pay during the days the camp is in operation. The Coach or private enterprise shall provide workers' compensation insurance in accordance with Idaho law and comply in all respects with all federal and state wage and hour laws~~

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

3.2.6.7 Coach agrees that the University ~~(College)~~ has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of ~~University (College)~~. ~~Coach recognizes that the University (College) is negotiating or has entered into an agreement with (Company Name) to supply the University (College) with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University (College)'s reasonable request, Coach will consult with appropriate parties concerning an (Company Name) product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by (Company Name), or give a lecture at an event sponsored in whole or in part by (Company Name), or make other educationally related appearances as may be reasonably requested by the University (College). Notwithstanding the foregoing sentence, Coach shall retain the right to decline such appearances as Coach reasonably determines to conflict with or hinder his duties and obligations as head (Sport) coach.~~ In order to avoid entering into an agreement with a competitor of ~~any University selected vendors (Company Name)~~, Coach shall submit all outside consulting agreements to the University ~~(College)~~ for review and approval prior to execution. Coach shall also report such outside ~~interests/income~~ to the University ~~(College)~~ in accordance with ~~Section 4.3 of this Agreement~~ ~~NCAA (or NAIA) rules~~. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, ~~including (Company Name)~~, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel, or equipment products.

3.3 General Conditions of Compensation. All compensation provided by the University ~~(College)~~ to Coach is subject to deductions and withholdings as required by law

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

ARTICLE 4

4.1. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall perform all duties and responsibilities as assigned by the Head Coach, such duties and responsibilities may include, but are not limited to:

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

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

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

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's Board of Trustees (College), the University (College)'s governing board, the conference of which the University is a member (the "Conference"),; and the NCAA; ~~(or NAIA);~~ supervise and take appropriate steps to ensure that ~~any Coach's assistant coaches, any other~~ employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the ~~Head Coach~~Director and to the ~~University's Department's~~ Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the ~~University's~~University (College)'s athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University ~~(College)~~ and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit C.~~ The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time: (a) State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy~~University (College)'s Handbook;~~ (c) ~~University (College)'s Administrative Procedures~~ Manual; (d) the policies of the Department; (de) NCAA ~~(or~~



~~NAIA) rules and regulations; and regulations; and (e(f) the rules and regulations of the Conference (Sport) conference of which the University (College) is a member.~~

~~4.2. 4.2~~ Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would ~~unreasonably otherwise~~ detract from those duties in any manner, or that, in the reasonable opinion of the University, ~~(College)~~, would reflect adversely upon the University, the Department, (College) or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director (such approval not to be unreasonably withheld), who may consult with the President~~Chief executive officer~~, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to use, the University's~~the University (College)'s~~ name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President (such approval not to be unreasonably withheld). ~~Chief executive officer.~~

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

~~4.4.4.4~~ Hiring Authority. ~~Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team,~~

~~but the decision to hire or terminate an assistant coach shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of Chief executive officer and the University (College)'s Board of (Trustees or Regents).~~

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

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

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

- a) A deliberate or major violation of Coach's duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach's abilities;
- b) The failure of Coach to remedy any violation of any of the terms of this Agreement within thirty (30) days after written notice from the University; ~~(College)~~;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules, or regulations of the University, ~~(College)~~, the University's Board of Trustees ~~University (College)'s governing board~~, the Conference, or the NCAA, ~~(NAIA)~~, including but not limited to any such violation

which may have occurred during the employment of Coach at another NCAA or National Association of Intercollegiate Athletics (“NAIA”)~~NAIA~~ member institution;

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

5.1.2. Suspension, reassignment, or termination for good or adequate cause shall be effectuated by the University (College) as follows: before the effective date of the suspension, reassignment, or termination, the Head Coach, Director, or the Head Coach’s or the Director’s~~his~~ designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the

reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, the University ~~(College)~~ shall notify Coach whether, and if so when, the action will be effective.

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

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

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

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

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

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

5.3.2. In the event that the University ~~(College)~~ terminates this Agreement for its own convenience, the University ~~(College)~~ shall be obligated to pay to Coach, as liquidated damages and not a penalty, the "base salary" set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of the University ~~(College)~~ until the T term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first, provided however, in the event Coach obtains other employment after such termination, then the amount of compensation the University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such other employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the other

employment, then subtracting from this adjusted gross compensation deductions according to law. In addition, Coach will be entitled to continue ~~thehis~~ health insurance plan and group life insurance as if ~~Coachhe~~ remained a University ~~(College)~~ employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment or any other employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform ~~the~~ University within ten ~~(10)~~ business days of obtaining other employment, and to advise ~~the~~ University of all relevant terms of such employment, including without limitation, the nature and location of ~~the~~ employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise ~~the~~ University shall constitute a material breach of this Agreement and ~~the~~ University's obligation to pay compensation under this provision shall end. Coach agrees not to accept employment for compensation at less than the fair ~~market~~ value of Coach's services, as determined by all circumstances existing at the time of employment. Coach further agrees to repay to ~~the~~ University all compensation paid ~~to him~~ by ~~the~~ University after the date ~~Coachhe~~ obtains other employment, to which ~~Coachhe~~ is not entitled under this provision.

~~5.2.3.3.~~ The parties have both been represented by, or had the opportunity to consult with, legal counsel in the contract negotiations and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that ~~the~~ Coach may lose certain benefits, supplemental compensation, or outside compensation relating to ~~Coach'shis~~ employment with ~~the~~ University ~~(College)~~, which damages are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by ~~the~~ University ~~(College)~~ and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by ~~the~~ University ~~(College)~~. The liquidated damages are not, and shall not be construed to be, a penalty.

~~5.3.4.~~ In the event of non-renewal or termination of Coach's employment, Coach will use all accumulated annual leave prior to the end of the contract period.

#### 5.4.- Termination by Coach for Convenience.

~~5.4.1.~~ ~~\_\_\_\_\_~~ ~~The~~ Coach recognizes that ~~Coach'shis~~ promise to work for ~~the~~ University ~~(College)~~ for the entire term of this Agreement is of the essence of this Agreement. ~~The~~ Coach also recognizes that the University ~~(College)~~ is making a highly valuable investment in ~~Coach'shis~~ employment by entering into this Agreement and that its investment would be lost were ~~Coachhe~~ to resign or otherwise terminate ~~Coach'shis~~ employment with the University ~~(College)~~ before the end of the contract ~~T~~term.

~~5.4.2.~~ ~~\_\_\_\_\_~~ ~~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. 3 — If ~~the~~ Coach terminates this Agreement for convenience at any time, all obligations of the University ~~(College)~~ shall cease as of the effective date of the termination. If ~~the~~ Coach terminates this Agreement for ~~his~~ convenience, ~~Coach~~ ~~he~~ shall pay to the University, ~~(College)~~, as liquidated damages and not a penalty, the following sum if the termination occurs between March 1, 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).~~

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

#### 5.5.4 Termination Due to Disability or Death of Coach.

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

5.54.2. If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits shall terminate as of the last day worked, except that

~~Coach's~~~~the Coach's~~ personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University ~~(College)~~ and due to ~~Coach's~~~~the Coach's~~ estate or beneficiaries ~~thereunder~~.

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

the President  
1910 University Drive  
Boise, Idaho 83725-1000

Coach: Andrew Avalos  
Last known address on file with  
University's/University (College)'s Human Resource  
Services

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

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

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

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

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

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

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

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

UNIVERSITY ~~(COLLEGE)~~

COACH

\_\_\_\_\_  
Curt Apsey, Director of Athletics

\_\_\_\_\_  
Andrew Avalos

\_\_\_\_\_  
Dr. Robert Kustra, President

Chief executive officer \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Date

\*Approved by the Board of ~~(Regents or Trustees)~~ on the \_\_\_\_\_ day of 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, 2018~~\_\_\_\_\_~~, 2017 (“Effective Date”) by and between Boise State University (“the University”) and Andrew Avalos (“Coach”).

ARTICLE 1

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

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

1.3. Duties. Coach shall serve as the Defensive Coordinator for the Team and shall perform such other duties in the University’s athletic program as the Head Coach may assign and as may be described elsewhere in this Agreement. Coach shall, to the best of Coach’s ability, and consistent with University policies and procedures, perform all duties and responsibilities customarily associated with the Position.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of one (1) year, commencing on March 1, 2018~~April 23, 2017~~ and terminating, without further notice to Coach, on February 28, 2019 (the “Term”), unless sooner terminated in accordance with other provisions of this Agreement.

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

ARTICLE 3

3.1 Regular Compensation.

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

- a) A base salary in the amount of \$~~33~~5,000 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~~b) The opportunity to receive such employee benefits calculated on the "base salary" as the University provides generally to non-faculty exempt employees;
- ~~d~~e) 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~~d) The opportunity to receive such employee benefits as the University's Department of Athletics (the "Department") provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.

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

3.2.1. Athletic Achievement Incentive Pay.

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

In addition,

- d) If the football team participates in a non-CFP bowl game, Coach will receive a \$5,000 bonus; **and**
- e) If the football team wins the non-CFP bowl game, Coach will receive a \$~~5~~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~~\$15,750 bonus~~.

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

3.2.2. Academic Achievement Incentive Pay.

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

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

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

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

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

3.2.4. Coach may receive the compensation hereunder from the University or the University’s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (collectively, “Programs”). Agreements requiring Coach to participate in Programs related to Coach’s duties as an employee of the University are the property of the University. The University shall have the exclusive right to negotiate and contract with all producers of media productions and all parties desiring public appearances by Coach. Coach agrees to cooperate with the University in order for the Programs to be successful

and agrees to provide Coach's services to and appear on the Programs and to cooperate in their production, broadcasting, and telecasting. Coach shall not appear without the prior written approval of the Head Coach and the Director on any radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Head Coach and Director, Coach shall not appear in any commercial endorsements.

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

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

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

#### ARTICLE 4

4.1. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall perform all duties and responsibilities as assigned by the Head Coach, such duties and responsibilities may include, but are not limited to:

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

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

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

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's Board of Trustees, the conference of which the University is a member (the "Conference"), and the NCAA; supervise and take appropriate steps to ensure that any employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Head Coach and to the University's Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University and Department at all times. The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time: (a) Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy Manual; (c) the policies of the Department; (d) NCAA rules and regulations; and (e) the rules and regulations of the Conference.

4.2 Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, would reflect adversely upon the University, the Department, or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director (such approval not to be unreasonably withheld), who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to use, the University's name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President (such approval not to be unreasonably withheld).

4.3. Outside Income. Coach shall obtain prior written approval from the University's President and the Director (such approval not to be unreasonably withheld) for all athletically-related and other business-related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits in accordance with the Department's Outside Income Reporting Form. The report shall be in a format reasonably satisfactory to the University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's Board of Trustees, the Conference, or the NCAA. Sources of such income shall include, but are not limited to, the following: (a) income from annuities; (b) sports camps, clinics, speaking engagements, consultations, directorships, or related activities; (c) housing benefits (including preferential housing arrangements); (d) country club membership(s); (e) complimentary tickets (e.g., tickets to a Stampede game); (f) television and radio programs; (g) endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers.

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



## ATTACHMENT 5

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

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

or the Director's designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, the University shall notify Coach whether, and if so when, the action will be effective.

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

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

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

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

5.3. Termination of Coach for Convenience of University.

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

5.3.2. In the event that the University terminates this Agreement for its own convenience, the University shall be obligated to pay to Coach, as liquidated damages and not a penalty, the "base salary" set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of the University until the Term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first, provided however, in the event Coach obtains other employment after such termination, then the amount of compensation the University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such other employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the other employment, then subtracting from this adjusted gross

compensation deductions according to law. In addition, Coach will be entitled to continue the health insurance plan and group life insurance as if Coach remained a University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment or any other employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform the University within ten (10) business days of obtaining other employment and to advise the University of all relevant terms of such employment, including without limitation, the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise the University shall constitute a material breach of this Agreement and the University's obligation to pay compensation under this provision shall end. Coach agrees not to accept employment for compensation at less than the fair market value of Coach's services, as determined by all circumstances existing at the time of employment. Coach further agrees to repay to the University all compensation paid by the University after the date Coach obtains other employment, to which Coach is not entitled under this provision.

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

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

5.4. Termination by Coach for Convenience.

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

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

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

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

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

5.5. Termination Due to Disability or Death of Coach.

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

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

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

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

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

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

## ARTICLE 6

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

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



Boise, Idaho 83725-1020

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

Coach: Andrew Avalos  
Last known address on file with  
University's Human Resource Services

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

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

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

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

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

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

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

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

UNIVERSITY

COACH

\_\_\_\_\_  
Curt Apsey, Director of Athletics

\_\_\_\_\_  
Andrew Avalos

\_\_\_\_\_  
Dr. Robert Kustra, President

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



**Coach Andrew Avalos Maximum Compensation Calculation - 2018-2019**

		<u>Yr 1</u>
3.1.1a	Annual Base Salary	\$ 335,000.00
3.1.1b	One-Time Bonus	\$ 20,000.00
3.2.1	Additional Pay based on Performance	\$ 40,125.00
3.2.2	Additional Pay based on Academic Achievement	\$ 5,000.00
	Total Maximum potential annual compensation under Employment Agreement	\$ 400,125.00

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

Coach	School	Base Salary	Incentives
Steve Russ	Air Force	-	Courtesy car
Andrew Avalos	Boise State	\$ 335,000	See Contract
Marty English	Colorado State	\$ 300,000	NA
Orlando Steinauer	Fresno State	\$ 310,000	<p><b>Affiliated Conference Success</b></p> <p>a) \$24,800 - Mountain West Conference or at-large bowl game participant  b) \$31,000 - Mountain West Conference or at-large bowl game and Mountain West Conference Division Champions  c) \$37,200 - Mountain West Conference or at-large bowl game and Mountain West Conference Championship game winner  d) \$49,600 - Mountain West Conference Championship game winner and BCS/CFP bowl game participant  <i>Only one may be awarded</i></p> <p>Vehicle Stipend - \$400 monthly</p>
Lorenzo Ward	Fresno State	\$ 85,392	NA
Lawrence Suilaunoa	Hawaii	\$ 203,688	Courtesy car
Jeff Casteel	Nevada	\$ 231,750	NA
Kevin Cosgrove	New Mexico	\$ 200,000	Courtesy car
Daniel Gonzales	San Diego State	\$ 189,816	NA
Derrick Odum	San Jose State	\$ 404,136	Employee will receive \$3000 if football team is above a .500 record before a bowl game
Kent Baer	UNLV	\$ 223,833	NA
Frank Maile	Utah State	\$ 230,000	<p>You will also be eligible to receive supplemental compensation in the amount of \$19,167 based on the football team's performance in a post-season bowl game, so long as you coach in the bowl game. This payment will not be added to your salary and will be paid by a third party. You will not receive benefits from Utah State University on this payment. You will also be responsible for all federal, state and local tax obligations for this payment.</p> <p>You will be provided with a mobile phone stipend in the amount of \$100 per month. This is a taxable benefit and will be paid with your monthly payroll.</p> <p>You will also be provided a courtesy car in accordance with current policy, for your use while conducting business related to Utah State University. A monthly mileage log will be filed with the Business Office by the 5th day of each month. You will be required to sign a courtesy</p>
Scottie Hazleton	Wyoming	\$ 230,004	NA

Liquidated Damages  
Football Defensive Coordinators in Mountain West Conference

Coach	School	Length of Contract	201X Salary (total comp)	Liquidated Damages Clause?	Type of L.D. Clause	Amount(s) over time
Steve Russ	Air Force	NA	NA	NA		
Andrew Avalos	Boise State	3/1/17 -2/28/18	\$ 335,000	Yes	Sliding Scale	See Contract
Marty English	Colorado State	At Will	\$ 229,050	No		
Orlando Steinauer	Fresno State	7/1/17-3/28/19	\$ 359,600	Yes	Sliding Scale	Resign prior to conclusion of 2018 football season, early departure fee of \$100,000 (was \$150,000 for resigning prior to end of 2017 season)
Lawrence Suilaunoa	Hawaii	4/1/17- 3/31/18	\$ 203,688	No		
Jeff Casteel	Nevada	7/1/17-6/30/18	\$ 232,000	No		
Kevin Cosgrove	New Mexico	1/1/16 - 12/31/17	\$ 200,000	Yes	Sliding Scale	\$20,000 in the first year, \$10,000 in the second
Daniel Gonzales	San Diego State	3/1/17-2/28/19	\$ 192,416	No		
Derrick Odum	San Jose State	12/22/16 - 12/31/18	\$ 404,136	NA		
Kent Baer	UNLV	At Will	\$ 222,833	No		
Frank Maile	Utah State	3/1/16 - 3/31/18	\$ 230,000	Yes	Flat Rate	Resign prior to 1/1/18 and there has not been a head coaching change, subject to pay \$20,000.
Scottie Hazleton	Wyoming	1/11/17-2/28/18	\$ 230,004	No		

\*Sliding Scale, Flat Rate, Tied to years in contract

THIS PAGE INTENTIONALLY LEFT BLANK

**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;

## ATTACHMENT 9

- 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 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,





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.

**ATTACHMENT 9**

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.



other provisions of this Agreement.

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

### ARTICLE 3

#### 3.1. Regular Compensation.

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

- a) A base~~An~~ annual salary in the amount of \$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)~~ 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
- ~~ee)~~ The opportunity to receive such employee benefits as the University's~~University (College)'s~~ Department of Athletics ~~(the "Department")~~ provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.

~~3.2~~ ~~3.2~~ Supplemental Compensation. Coach may earn

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

3.2.1. Athletic Achievement Incentive Pay.

- 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

~~3.2.2~~ ~~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 February if Coach is still employed by the University on that date.~~

3.2.2. Academic Achievement Incentive Pay.

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

~~If Coach qualifies set by the Board, grade point averages; difficulty of major course of study; honors such as scholarships, designation as Academic All-American, and conference academic recognition; progress toward graduation for Academic Achievement Incentive Pay, it will be paid as soon as reasonably practical following APR rating determination and verification by the National Collegiate Athletic Association (“NCAA”), if Coach is still employed by the University on that date all athletes.~~

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

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

~~particularly those who entered the University (College) as academically at-risk students; the conduct of Team members on the University (College) campus, at authorized University (College) activities, in the community, and elsewhere. Any such supplemental compensation paid to Coach shall be accompanied with a detailed justification for the supplemental compensation based on the factors listed above and such justification shall be separately reportable to the Board of (Regents or Trustees) as a document available to the public under the Idaho Public Records Act.~~

~~3.2.4 ————— Each year Coach shall be eligible to receive supplemental compensation in an amount up to (amount or computation) based on the overall development of the intercollegiate (men’s/women’s) (Sport) program; ticket sales; fundraising; outreach by Coach to various constituency groups, including University (College) students, staff, faculty, alumni and boosters; and any other factors the Chief executive officer wishes to consider. The determination of whether Coach will receive such~~

~~supplemental compensation and the timing of the payment(s) shall be at the discretion of the Chief executive officer in consultation with the Director.~~

~~3.2.3.2.4. Coach may receive the compensation hereunder~~<sup>5</sup>—The Coach shall receive the sum of ~~(amount or computation)~~ from the University ~~(College)~~ or the ~~University's~~ ~~University (College)'s~~ designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (~~collectively, "Programs"~~). ~~Coach's right to receive such a payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later. This sum shall be paid (terms or conditions of payment) \_\_\_\_\_.~~ Agreements requiring ~~the~~ Coach to participate in Programs related to ~~Coach's~~his 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~~his services to and ~~appear~~perform on the Programs and to cooperate in their production, broadcasting, and telecasting. ~~It is understood that neither~~ Coach ~~nor any assistant coaches~~ shall ~~not~~ appear without the prior written approval of the ~~Head Coach and the~~ Director on any ~~competing~~ radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the ~~Head Coach and~~ Director, Coach shall not appear in any commercial endorsements ~~which are broadcast on radio or television that conflict with those broadcast on the~~ ~~University (College)'s~~ designated media outlets.

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

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

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

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



~~Coach and all other University (College) employees involved in the operation of the camp(s) shall be on annual leave status or leave without pay during the days the camp is in operation. The Coach or private enterprise shall provide workers' compensation insurance in accordance with Idaho law and comply in all respects with all federal and state wage and hour laws~~

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

3.2.6.7 Coach agrees that the University (College) has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of University (College). ~~Coach recognizes that the University (College) is negotiating or has entered into an agreement with (Company Name) to supply the University (College) with athletic footwear, apparel and/or equipment. Coach agrees that, upon the University (College)'s reasonable request, Coach will consult with appropriate parties concerning an (Company Name) product's design or performance, shall act as an instructor at a clinic sponsored in whole or in part by (Company Name), or give a lecture at an event sponsored in whole or in part by (Company Name), or make other educationally related appearances as may be reasonably requested by the University (College). Notwithstanding the foregoing sentence, Coach shall retain the right to decline such appearances as Coach reasonably determines to conflict with or hinder his duties and obligations as head (Sport) coach.~~ In order to avoid entering into an agreement with a competitor of any University selected vendors ~~(Company Name)~~, Coach shall submit all outside consulting agreements to the University (College) for review and approval prior to execution. Coach shall also report such outside ~~interests; income~~ to the University (College) in accordance with Section 4.3 of this Agreement ~~NCAA (or NAIA) rules~~. Coach further agrees that Coach will not endorse any athletic footwear, apparel and/or equipment products, including (Company Name), and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products.

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

## ARTICLE 4

4.1. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall perform all duties and responsibilities as assigned by the Head Coach, such duties and responsibilities may include, but are not limited to:

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

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

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

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's Board of Trustees (College), the University (College)'s governing board, the conference of which the University is a member (the "Conference"), and the NCAA; ~~(or NAIA)~~; supervise and take appropriate steps to ensure that any Coach's assistant coaches, any other employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Head Coach~~Director~~ and to the University's Department's Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's University (College)'s athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University ~~(College)~~ and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit C.~~ The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time: (a) State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy~~University (College)'s Handbook;~~ (c) University (College)'s Administrative Procedures Manual; ~~(cd)~~ the policies of the Department; ~~(de)~~ NCAA ~~(or NAIA)~~ rules ~~and regulations;~~ and regulations; and ~~(e(f))~~ the rules and regulations of the Conference (Sport) conference of which the University (College) is a member.

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

that, in the reasonable opinion of the University, ~~(College)~~, would reflect adversely upon the University, the Department, ~~(College)~~ or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director (such approval not to be unreasonably withheld), who may consult with the President~~Chief executive officer~~, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to use, the University's~~the University (College)'s~~ name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President (such approval not to be unreasonably withheld). ~~Chief executive officer.~~

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

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

4.5 — Scheduling. ~~Coach shall consult with, and may make recommendations to, the Director or the Director's designee with respect to the scheduling of Team~~

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

~~4.6 Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team, requiring performance of duties set forth herein prior to the expiration of this Agreement, without the prior approval of the Head Coach and the Director. Such approval shall not unreasonably be withheld. Without first giving forty-eight (48) hours prior written notice to the Head Coach and the Director, Coach shall not negotiate for or accept employment, under any circumstances, as a coach at any other institution of higher education or with any professional sports team requiring the performance of the duties set forth herein.~~

## ARTICLE 5

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

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

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

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

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

5.1.3. In the event of any termination for good or adequate cause, the University's~~University (College)'s~~ obligation to provide compensation and benefits to

Coach, whether direct, indirect, supplemental or collateral, shall cease as of the date of such termination, and the University (~~College~~) shall not be liable for the loss of any collateral business opportunities or other benefits, perquisites, or income resulting from outside activities or from any other sources.

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

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

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

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

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

5.3.2. In the event that ~~the~~ University (~~College~~) terminates this Agreement for its own convenience, ~~the~~ University (~~College~~) shall be obligated to pay ~~to~~ Coach, as liquidated damages and not a penalty, the "base salary" set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of ~~the~~ University (~~College~~) until the ~~T~~ 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~~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.

5.2.3.3. 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, ~~(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.

5.4.1. ~~—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 T 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. 3 ~~—If~~ the Coach terminates this Agreement for convenience at any time, all obligations of the University ~~(College)~~ shall cease as of the effective date of

the termination. If ~~the~~ Coach terminates this Agreement for ~~his~~ convenience, Coach~~he~~ shall pay to the University, ~~(College)~~, as liquidated damages and not a penalty, the following sum if the termination occurs between March 1, 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.

5.3.4.4. 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, Coach~~he~~ shall forfeit to the extent permitted by law Coach's~~his~~ right to receive all supplemental compensation and other payments and all accumulated annual leave.

#### 5.5.4 Termination Due to Disability or Death of Coach.

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

5.5.4.2. 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~~the Coach's~~ personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University ~~(College)~~ and due to Coach's~~the Coach's~~ estate or beneficiaries thereunder.



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

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

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

5.8.7 Waiver of Rights. Because ~~the~~ Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University ~~(College)~~ employees, if the University ~~(College)~~ suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the University ~~(College)~~ from compliance with the notice, appeal, and similar employment-related rights provided for in the State Board of Education Rules (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures, ~~and IDAPA 08.01.01 et seq., and the University~~ Policies (College) Faculty Staff Handbook.

## ARTICLE 6

6.1. Board Approval. ~~(if required—multiyear employment agreements which require Board approval are defined in Section II.H. of Board Policy).~~ This Agreement shall not be effective until and unless approved of the ~~University's~~ University (College)'s Board of ~~(Regents or Trustees)~~ and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this ~~A~~agreement shall be subject to: the approval of the ~~University's~~ University (College)'s Board of ~~(Regents or Trustees)~~, the ~~Director~~ Chief executive officer, and the ~~Head Coach~~ Director; the sufficiency of legislative appropriations; the receipt of sufficient funds in the account from which such compensation is paid; and the Board of ~~(Regents or Trustees)~~ and ~~University's~~ University (College)'s rules or policies regarding furloughs or financial exigency.

6.2. University (College) Property. All personal property, ~~(excluding vehicle(s) provided through the \_\_\_\_\_ program),~~ material, and articles of information, including, without limitation, keys, credit cards, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to

Coach by the University ~~(College)~~ or developed by Coach on behalf of the University ~~(College)~~ or at the ~~University's~~ ~~University (College)'s~~ direction or for the ~~University's~~ ~~University (College)'s~~ use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University. ~~(College)~~. Within twenty-four (24) hours of the expiration of the ~~T~~term of this ~~A~~greement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the ~~Head Coach~~ ~~Director~~.

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

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

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

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

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

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

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

6.10. Notices. Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service

Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

the University: Boise State University  
~~(College):~~ Director of Athletics  
1910 University Drive  
Boise, Idaho 83725-1020

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

the President  
1910 University Drive  
Boise, Idaho 83725-1000

Coach: Zachary Hill  
Last known address on file with  
University's ~~University~~ ~~(College)'s~~ Human Resource  
Services

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

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

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

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

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

6.15. Entire Agreement; Amendments. This Agreement constitutes the entire agreement ~~between~~ of the parties and supersedes all prior agreements and understandings

with respect to the same subject matter. No amendment or modification of this Agreement shall be effective unless in writing, signed by both parties, and approved by ~~the University's~~University (College)'s Board of ~~(Regents or Trustees,)~~ if required under Section II.H. of Board Policy.

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

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

UNIVERSITY ~~(COLLEGE)~~

COACH

\_\_\_\_\_  
\_\_\_\_\_  
Curt Apsey, Director of Athletics                      Zachary Hill

\_\_\_\_\_  
Dr. Robert Kustra, President

Chief executive officer \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_ Date

\*Approved by the Board of ~~(Regents or Trustees)~~ on the \_\_\_\_\_ day of February, 2018 \_\_\_\_\_, 2010.

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

THIS PAGE INTENTIONALLY LEFT BLANK

**EMPLOYMENT AGREEMENT**

This Employment Agreement (the “Agreement”) is entered into this \_\_\_\_\_ day of ~~February, 2018~~~~April, 2017~~ (“Effective Date”) by and between Boise State University (“the University”) and Zachary Hill (“Coach”).

ARTICLE 1

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

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

1.3 Duties. Coach shall serve as the Offensive Coordinator/Quarterbacks Coach for the Team and shall perform such other duties in the University’s athletic program as the Head Coach may assign and as may be described elsewhere in this Agreement. Coach shall, to the best of Coach’s ability, and consistent with University policies and procedures, perform all duties and responsibilities customarily associated with the Position.

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of two (2) years, commencing on ~~March 1, 2018~~~~April 23, 2017~~ and terminating, without further notice to Coach, on February ~~29, 2020~~~~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 ~~\$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.
- cb) The opportunity to receive such employee benefits calculated on the "base salary" as the University provides generally to non-faculty exempt employees;
- de) 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
- ed) 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 ~~\$14,250 bonus~~.

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

3.2.2. Academic Achievement Incentive Pay.

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

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

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

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

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

3.2.4. Coach may receive the compensation hereunder from the University or the University’s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (collectively, “Programs”). Agreements requiring Coach to participate in Programs related to Coach’s duties as an employee of the University are the property of the University. The University shall have the exclusive right to negotiate and contract with

all producers of media productions and all parties desiring public appearances by Coach. Coach agrees to cooperate with the University in order for the Programs to be successful and agrees to provide Coach's services to and appear on the Programs and to cooperate in their production, broadcasting, and telecasting. Coach shall not appear without the prior written approval of the Head Coach and the Director on any radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Head Coach and Director, Coach shall not appear in any commercial endorsements.

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

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

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

#### ARTICLE 4

4.1. Coach's Specific Duties and Responsibilities. In consideration of the compensation specified in this Agreement, Coach, in addition to the obligations set forth elsewhere in this Agreement, shall perform all duties and responsibilities as assigned by the Head Coach, such duties and responsibilities may include, but are not limited to:

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

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

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

4.1.4. Know, recognize, and comply with all applicable laws and the policies, rules and regulations of the University, the University's Board of Trustees, the conference of which the University is a member (the "Conference"), and the NCAA; supervise and take appropriate steps to ensure that any employees for whom Coach is administratively responsible, and the members of the Team know, recognize, and comply with all such laws, policies, rules and regulations; and immediately report to the Head Coach and to the University's Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University and Department at all times. The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time: (a) Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy Manual; (c) the policies of the Department; (d) NCAA rules and regulations; and (e) the rules and regulations of the Conference.

4.2 Outside Activities. Coach shall not undertake any business, professional or personal activities, or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would unreasonably detract from those duties in any manner, or that, in the reasonable opinion of the University, would reflect adversely upon the University, the Department, or its athletic program. Subject to the terms and conditions of this Agreement, Coach may, with the prior written approval of the Head Coach and the Director (such approval not to be unreasonably withheld), who may consult with the President, enter into separate arrangements for outside activities and endorsements which are consistent with Coach's obligations under this Agreement. Coach shall report such outside income and business interests to the University in accordance with Section 4.3 of this Agreement. Coach may not use nor may Coach authorize third parties to use, the University's name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President (such approval not to be unreasonably withheld).

4.3. Outside Income. Coach shall obtain prior written approval from the University's President and the Director (such approval not to be unreasonably withheld) for all athletically-related and other business-related income and benefits from sources outside the University and shall report the source and amount of all such income and benefits in accordance with the Department's Outside Income Reporting Form. The report shall be in a format reasonably satisfactory to the University. In no event shall Coach accept or receive directly or indirectly any monies, benefits, or gratuities whatsoever from any person, association, corporation, University booster club, University alumni association, University foundation, or other benefactor, if the acceptance or receipt of the monies, benefits, or gratuities would violate applicable law or the policies, rules, and regulations of the University, the University's Board of Trustees, the Conference, or the NCAA. Sources of such income shall include, but are not limited to, the following: (a) income from annuities; (b) sports camps, clinics, speaking engagements, consultations, directorships, or related activities; (c) housing benefits (including preferential housing arrangements); (d) country club membership(s); (e) complimentary tickets (e.g., tickets to a Stampede game); (f) television and radio programs; (g) endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers.

4.4. Other Coaching Opportunities. Coach shall not, under any circumstances, interview for, negotiate for, or accept employment as a coach at any other institution of higher education or with any professional sports team requiring performance of duties set forth herein prior to the expiration of this Agreement, without the prior approval of the Head Coach and the Director. Such approval shall not unreasonably be withheld. Without first giving forty-eight (48) hours prior written notice to the Head Coach and the Director, Coach shall not negotiate for or accept employment, under any circumstances, as a coach at any other institution of higher education or with any professional sports team requiring the performance of the duties set forth herein.

## ARTICLE 5

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

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

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

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

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

or the Director's designee shall provide Coach with notice, which notice shall be accomplished in the manner provided for in this Agreement and shall include the reason(s) for the contemplated action. Coach shall then have an opportunity to respond. After Coach responds or fails to respond, the University shall notify Coach whether, and if so when, the action will be effective.

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

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

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

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

5.3. Termination of Coach for Convenience of University.

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

5.3.2. In the event that the University terminates this Agreement for its own convenience, the University shall be obligated to pay to Coach, as liquidated damages and not a penalty, the "base salary" set forth in section 3.1.1(a), excluding all deductions required by law, on the regular paydays of the University until the Term of this Agreement ends or until Coach obtains reasonably comparable employment, whichever occurs first, provided however, in the event Coach obtains other employment after such termination, then the amount of compensation the University pays will be adjusted and reduced by the amount of compensation paid Coach as a result of such other employment, such adjusted compensation to be calculated for each University pay-period by reducing the gross salary set forth in section 3.1.1(a) (before deductions required by law) by the gross compensation paid to Coach under the other employment, then subtracting from this adjusted gross

compensation deductions according to law. In addition, Coach will be entitled to continue the health insurance plan and group life insurance as if Coach remained a University employee until the term of this Agreement ends or until Coach obtains reasonably comparable employment or any other employment providing Coach with a reasonably comparable health plan and group life insurance, whichever occurs first. Coach shall be entitled to no other compensation or fringe benefits, except as otherwise provided herein or required by law. Coach specifically agrees to inform the University within ten (10) business days of obtaining other employment and to advise the University of all relevant terms of such employment, including without limitation, the nature and location of the employment, salary, other compensation, health insurance benefits, life insurance benefits, and other fringe benefits. Failure to so inform and advise the University shall constitute a material breach of this Agreement and the University's obligation to pay compensation under this provision shall end. Coach agrees not to accept employment for compensation at less than the fair market value of Coach's services, as determined by all circumstances existing at the time of employment. Coach further agrees to repay to the University all compensation paid by the University after the date Coach obtains other employment, to which Coach is not entitled under this provision.

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

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

5.4. Termination by Coach for Convenience.

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

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

5.4.3. If Coach terminates this Agreement for convenience at any time, all obligations of the University shall cease as of the effective date of the termination. If Coach terminates this Agreement for convenience, Coach shall pay to the University, as liquidated damages and not a penalty, the following sum if the termination occurs between ~~March 1, 2018~~~~April 20, 2017~~ and February 28, 201~~98~~<sup>9</sup>, the sum of ~~one-hundredseventy-five~~ thousand dollars (~~\$10075,000~~) or if the termination occurs between March 1, 201~~98~~<sup>9</sup> and the last game of the regular season including the conference championship game (if applicable), the sum of ~~fiftytwenty-five~~ thousand dollars (~~\$5025,000~~). 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, 2017.

**Coach Zachary Hill Maximum Compensation Calculation - 2018-2020**

		<u>Yr 1</u>	<u>Yr 2</u>
3.1.1a	Annual Base Salary	\$ 300,000.00	\$ 300,000.00
3.1.1b	One-Time Bonus	\$ 10,000.00	\$ -
3.2.1	Additional Pay based on Performance	\$ 37,500.00	\$ 37,500.00
3.2.2	Additional Pay based on Academic Achievement	\$ 5,000.00	\$ 5,000.00
	Total Maximum potential annual compensation under Employment Agreement	\$ 352,500.00	\$ 342,500.00

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

<b>Coach</b>	<b>School</b>	<b>Base Salary</b>	<b>Incentives</b>
Mike Thiessen	Air Force	-	NA
Clay Hendrix	Air Force	-	NA
Zak Hill	Boise State	\$ 300,000	See Contract
Will Friend	Colorado State	\$ 534,450	NA
Kalen DeBoer	Fresno State	\$ 310,000	NA
Brian Smith	Hawaii	\$ 203,688	Courtesy Car
Matt Mumme	Nevada	\$ 185,400	NA
Bob DeBesse	New Mexico	\$ 225,500	Courtesy Car
Jeff Horton	San Diego State	\$ 219,576	NA
Andrew Sowder	San Jose State	\$ 200,004	\$500 per month car stipend, \$3,000 if team participates in bowl game.
Barney Cotton	UNLV	\$ 222,833	NA
Davis Yost	Utah State	\$ 100,000	NA
Brent Vigen	Wyoming	\$ 300,000	NA

Liquidated Damages  
Offensive Coordinators in Mountain West Conference

Coach	School	Length of Contract	Salary (total comp)	Liquidated Damages Clause?	Type of L.D. Clause	Amount(s) over time
Mike Thiessen	Air Force		-	NA		NA
Clay Hendrix	Air Force		-	NA		
Zak Hill	Boise State	3/1/18 - 2/28/20	\$ 300,000	Yes	Sliding Scale	See Contract
Will Friend	Colorado State	At Will	\$ 534,450	NA		
Kalen DeBoer	Fresno State	1/1/17-2/28/19	\$ 310,000	NA		
Brian Smith	Hawaii	4/1/17-3/31/18	\$ 203,688	NA		
Matt Mumme	Nevada	7/1/17-6/30/18	\$ 185,400	NA		
Bob DeBesse	New Mexico	7/1/16-12/31/17	\$ 225,500	Yes	Sliding Scale	\$20,000 if resigns in year 1 of contract, \$10,000 if resigns in year 2 of contract
Jeff Horton	San Diego State	3/1/17-2/28/19	\$ 222,176	NA		
Andrew Sowder	San Jose State	1/12/17-12/31/18	\$ 200,004	NA		
Barney Cotton	UNLV	At Will	\$ 222,833	NA		
David Yost	Utah State	1/4/17-3/31/19	\$ 103,600	Yes	Flat Rate	\$20,000
Brent Vigen	Wyoming	3/1/17-2/28/19	\$ 300,000	NA		

\*Sliding Scale, Flat Rate, Tied to years in contract

THIS PAGE INTENTIONALLY LEFT BLANK



**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:

- 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 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

\_\_\_\_\_  
Curt Apsey, Director of Athletics      Date

\_\_\_\_\_  
Kent Riddle      Date

\_\_\_\_\_  
Dr. Robert Kustra, President      Date

Approved by the Board on the \_\_\_\_\_ day of February, 2018.



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

### ARTICLE 3

#### 3.1 Regular Compensation.

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

- a) ~~A~~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~~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.
- ~~c~~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~~
- 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~~e) 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 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 report~~able~~ to the Board of ~~(Regents or Trustees)~~ as a document available to the public under the Idaho Public Records Act.

~~3.2.4 Each year Coach shall be eligible to receive supplemental compensation in an amount up to (amount or computation) based on the overall development of the intercollegiate (men's/women's) (Sport) program; ticket sales; fundraising; outreach by Coach to various constituency groups, including University (College) students, staff, faculty, alumni and boosters; and any other factors the Chief executive officer wishes to consider. The determination of whether Coach will receive such~~

~~supplemental compensation and the timing of the payment(s) shall be at the discretion of the Chief executive officer in consultation with the Director.~~

~~3.2.3.2.4~~ Coach may receive the compensation hereunder<sup>5</sup>—The Coach shall receive the sum of (amount or computation) from the University (College) or the University's~~University (College)'s~~ designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (collectively, "Programs").~~Coach's right to receive such a payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later. This sum shall be paid (terms or conditions of payment) \_\_\_\_\_.~~ Agreements requiring ~~the~~ Coach to participate in Programs related to Coach's~~his~~ 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~~his~~ services to and appear~~perform~~ on the Programs and to cooperate in their production, broadcasting, and telecasting. ~~It is understood that neither~~ Coach ~~nor any assistant coaches~~ shall not appear without the prior written approval of the Head Coach and the Director on any ~~competing~~ radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Head Coach and Director, Coach shall not appear in any commercial endorsements ~~which are broadcast on radio or television that conflict with those broadcast on the~~ University (College)'s designated media outlets.

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

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

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

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

~~Coach and all other University (College) employees involved in the operation of the camp(s) shall be on annual leave status or leave without pay during the days the camp is in operation. The Coach or private enterprise shall provide workers' compensation insurance in accordance with Idaho law and comply in all respects with all federal and state wage and hour laws~~

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

3.2.67 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~~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's~~ University (College)'s athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University ~~(College)~~ and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit C.~~ The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time: (a) ~~State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual of the University's Board of Trustees;~~ (b) the University's Policy ~~University (College)'s Handbook;~~ (c) ~~University (College)'s Administrative Procedures~~ Manual; (cd) the policies of the Department; (de) NCAA ~~(or NAIA)~~ rules ~~and regulations;~~ and regulations; and (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, ~~(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 Chief executive officer~~, 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~~University (College)'s~~ name, logos, or trademarks in connection with any such arrangements without the prior written approval of the University President~~Director~~ and the Director~~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 President and the Director~~(College)'s Chief executive officer~~ for all athletically-related income and benefits from sources outside the University. Coach (College) and shall report the source and amount of all such income and benefits to the Director~~University (College)'s Chief executive officer~~ whenever reasonably requested, but in no event less than annually before the close of business on June 30th of each year or the last regular University ~~(College)~~ work day preceding June 30th. The report shall be in a format reasonably satisfactory to 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 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 48 hours prior written notice to the Head Coach and the Director, Coach shall not negotiate for or accept employment, under any circumstances, as a coach at any other institution of higher education or with any professional sports team requiring the performance of the duties set forth herein.

## ARTICLE 5

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

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

- a) A deliberate or major violation of Coach's duties under this agreement or the refusal or unwillingness of Coach to perform such duties in good faith and to the best of Coach's abilities;
- b) The failure of Coach to remedy any violation of any of the terms of this Agreement within thirty (30) days after written notice from the University; ~~(College)~~;
- c) A deliberate or major violation by Coach of any applicable law or the policies, rules, or regulations of the University, ~~(College)~~, the University's Board of Trustees ~~University (College)'s governing board~~, the Conference, or the NCAA, ~~(NAIA)~~, including but not limited to any such violation which may have occurred during the employment of Coach at another NCAA or National Association of Intercollegiate Athletics ("NAIA") ~~NAIA~~ member institution;
- d) Ten (10) working days' <sup>2</sup> absence of Coach from duty without the University's ~~University (College)'s~~ consent;
- e) Any conduct of Coach that constitutes moral turpitude or that would, in the University's ~~University (College)'s~~ judgment, reflect adversely on the University ~~(College)~~ or its athletic programs;



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

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

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

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

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

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

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

5.32.1 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 ~~T~~ 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.

5.32.3 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 T term.

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

5.4.3 ~~.3~~ — If ~~the~~ Coach terminates this Agreement for convenience at any time, all obligations of the University ~~(College)~~ shall cease as of the effective date of the termination. If ~~the~~ Coach terminates this Agreement for ~~his~~ convenience, ~~Coach~~ 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

(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.

~~5.43.4~~ 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 University (College)'s disability insurance carrier, becomes unable to perform the essential functions of the Position position of head coach, or dies.

~~5.54.2~~ If this Agreement is terminated because of Coach's death, Coach's salary and all other benefits shall terminate as of the last day worked, except that Coach's the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University ~~(College)~~ and due to Coach's the Coach's estate or beneficiaries thereunder.

~~5.54.3~~ If this Agreement is terminated because ~~the~~ Coach becomes totally or permanently disabled as defined by the University's University (College)'s disability insurance carrier, or becomes unable to perform the essential functions of the position of head coach, all salary and other benefits shall terminate, except that ~~the~~ Coach shall be

entitled to receive any compensation due or unpaid and any disability-related benefits to which ~~Coach~~ is entitled by virtue of employment with the University ~~(College)~~.

5.65 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.

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

5.87 Waiver of Rights. Because ~~the~~ Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University ~~(College)~~ employees, if the University ~~(College)~~ suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the University ~~(College)~~ from compliance with the notice, appeal, and similar employment-related rights 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 (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 Terms 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~~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 ~~Chief executive officer~~  
Office of

the President  
1910 University Drive  
Boise, Idaho 83725-1000

Coach: Kent Riddle  
Last known address on file with  
University's ~~University~~ ~~(College)'s~~ Human Resource  
Services

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

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

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

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

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

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

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

6.16 Opportunity to Consult with Attorney. ~~The~~ Coach acknowledges that ~~Coach~~ 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

_____	_____
<u>Curt Apsey, Director of Athletics</u> <del>Chief executive officer</del>	Date
<u>Riddle</u>	<u>Kent</u>
Date	

Dr. Robert Kustra, President 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, 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~~April 18, 2016~~ and terminating, without further notice to Coach, on February 29, 2020~~28, 2018~~ (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~~<sup>\$275</sup>,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~~b) The opportunity to receive such employee benefits calculated on the "base salary" as the University provides generally to non-faculty exempt employees;
- ~~d~~e) 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~~d) The opportunity to receive such employee benefits as the University's Department of Athletics (the "Department") provides generally to its employees of a comparable level. Coach hereby agrees to abide by the terms and conditions, as now existing or hereafter amended, of such employee benefits.

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

3.2.1. Athletic Achievement Incentive Pay.

- a) If the football team ~~is 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)e) If the football team wins the non-CFP bowl game, Coach will receive a \$5,000 bonus; or  
 e)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 \$13,750 bonus.

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

### 3.2.2. Academic Achievement Incentive Pay.

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

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

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

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

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

3.2.4 Coach may receive the compensation hereunder from the University or the University’s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (collectively, “Programs”). Agreements requiring Coach to participate in Programs related to Coach’s duties as an employee of the University are the property of the University. The University shall have the exclusive right to negotiate and contract with

all producers of media productions and all parties desiring public appearances by Coach. Coach agrees to cooperate with the University in order for the Programs to be successful and agrees to provide Coach's services to and appear on the Programs and to cooperate in their production, broadcasting, and telecasting. Coach shall not appear without the prior written approval of the Head Coach and the Director on any radio or television program (including but not limited to a coach's show, call-in show, or interview show) or a regularly scheduled news segment, except that this prohibition shall not apply to routine news media interviews for which no compensation is received. Without the prior written approval of the Head Coach and Director, Coach shall not appear in any commercial endorsements.

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

3.2.6 Coach agrees that the University has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff, including Coach, during official practices and games and during times when Coach or the Team is being filmed by motion picture or video camera or posing for photographs in their capacity as representatives of the University. In order to avoid entering into an agreement with a competitor of any University selected vendors, Coach shall submit all outside consulting agreements to the University for review and approval prior to execution. Coach shall also report such outside 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~~6~~ and February 28, 2019~~7~~, the sum of ~~one-hundredseventy-five~~ thousand dollars (\$~~10075~~,000) or if the termination occurs between March 1, 2019~~7~~ and the last game of the regular season and conference championship game (if applicable), the sum of ~~fiftytwenty-five~~ thousand dollars (\$~~5025~~,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



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.

**ATTACHMENT 17**

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

UNIVERSITY

COACH

\_\_\_\_\_  
Curt Apsey, Director of Athletics      Date

\_\_\_\_\_  
Kent Riddle      Date

\_\_\_\_\_  
Dr. Robert Kustra, President      Date

|      Approved by the Board on the \_\_\_\_\_ ~~14~~ day of ~~February, 2018~~ April, 2016.

Coach Kent Riddle Maximum Compensation Calculation - 2018-2020

		Yr 1		Yr 2
3.1.1a	Annual Base Salary	\$	290,000.00	\$ 290,000.00
3.1.1b	One-Time Bonus	\$	10,000.00	\$ -
3.2.1	Additional Pay based on Performance	\$	36,750.00	\$ 36,750.00
3.2.2	Additional Pay based on Academic Achievement	\$	5,000.00	\$ 5,000.00
	Total Maximum potential annual compensation under Employment Agreement	\$	341,750.00	\$ 331,750.00

**Salary and Incentive Comparisons  
Special Teams Coach in the Mountain West Conference**

<b>Coach</b>	<b>School</b>	<b>Base Salary</b>	<b>Incentives</b>
Ben Miller	Air Force	-	NA
Kent Riddle	Boise State	\$ 290,000	See Contract
Jamie Bryant	Colorado State	\$ 151,350	NA
Jamie Christian	Fresno State	\$ 175,000	Courtesy car stipend
Mayur Chaudhari	Hawaii	\$ 165,000	Courtesy car
Tommy Perry	Nevada	\$ 103,000	NA
Apollo Wright	New Mexico	\$ 165,000	Courtesty Car
Bobby Hauck	San Diego State	\$ 214,200	NA
Dan Ferrigno	San Jose State	\$ 100,968	NA
Andy LaRussa	UNLV	\$ 185,697	NA
Mark Tommerdahl	Utah State	\$ 140,000	NA
AJ Cooper	Wyoming	\$ 150,000	NA



Liquidated Damages  
Football Special Teams Coordinators in Mountain West Conference

Coach	School	Length of Contract	Salary (total comp)	Liquidated Damages Clause?	Type of L.D. Clause	Amount(s) over time
Ben Miller	Air Force	NA	-			NA
Kent Riddle	Boise State	3/1/18 - 2/28/20	\$ 290,000	Yes	Sliding Scale	See Contract
Jamie Bryant	Colorado State	NA	\$ 175,000	NA		
Jamie Christian	Fresno State	12/5/16 - 2/28/18	\$ 175,000	NA		
Mayur Chaudhari	Hawaii	4/1/17 - 3/31/18	\$ 165,000	NA		
Tommy Perry	Nevada	7/1/17 - 6/30/23	\$ 141,400	NA		
Apollo Wright	New Mexico	2/8/19 - 12/31/17	\$ 166,250		Sliding Scale	amount not capable of precise calculation or quantification. Therefore, Employee agrees to pay to the University, as liquidated damages (the "Liquidated Damages") and not as penalty, a sum of Twenty Thousand Dollars (\$20,000.00) in the event that Employee terminates this Agreement pursuant to this paragraph at any time prior to the end of the first full contract year (January – December 2016), and the sum of Ten Thousand Dollars (\$10,000.00) in the event that Employee terminates this Agreement pursuant to this paragraph at any time prior to the expiration of the term of this Agreement (January – December 2017), payable within sixty (60) days of separation, provided, however that no Liquidated Damages shall be paid under this Section 9 in the event Employee accepts a head coach at a University or an offensive coordinator position at a Football Bowl Subdivision (FBS) or Football Championship Subdivision (FCS) school. The Liquidated Damages shall be the University's sole and exclusive quantification and limitation of Employee's damages owed to the University pursuant to this Section 9 and the University shall seek no other remedies or damages whatsoever against Employee related to Employee's termination of this Agreement without cause.
Bobby Hauck	San Diego State	3/1/17 - 2/28/19	\$ 125,800	NA		
Dan Ferrigno	San Jose State		\$ 100,968	NA		
Andy LaRussa	UNLV	NA	\$ 185,694	NA		
Mark Tommerdahl	Utah State	2/15/17 - 3/31/19	\$ 140,000	NA	Flat Rate	\$50,000 prior to termination of agreement
AJ Cooper	Wyoming	3/1/17 - 2/28/28	\$ 150,000	NA		

\*Sliding Scale, Flat Rate, Tied to years in contract

THIS PAGE INTENTIONALLY LEFT BLANK

**Mountain West Conference Football Salary Breakdown**

<b>School</b>	<b>Air Force</b>	<b>Boise State</b>	<b>Colorado State</b>	<b>Fresno State</b>
<b>Offensive Coordinator</b>	<b>Jake Campbell</b>	<b>Zak Hill</b>	<b>Will Friend</b>	<b>Kalen DeBoer</b>
<b>Offensive Coordinator Salary</b>	NA	\$285,002	\$534,450	\$206,664
<b>Defensive Coordinator</b>	<b>Matt Weikert</b>	<b>Andy Avalos</b>	<b>Marty English</b>	<b>Orlando Steinauer</b>
<b>Defensive Coordinator Salary</b>	NA	\$315,016	\$229,050	\$359,600
<b>Assistant Coach Name 3</b>	<b>Ben Miller</b>	<b>Ashley Ambrose</b>	<b>Bryan Applewhite</b>	<b>Bert Watts</b>
<b>Assisttant Coach Salary</b>	NA	\$210,018	\$147,610	\$154,800
<b>Assistant Coach Name 4</b>	<b>Tim Cross</b>	<b>Lee Marks</b>	<b>Joe Cox</b>	<b>Jamie Christian</b>
<b>Assistttant Coach Salary</b>	NA	\$145,018	\$105,000	\$179,800
<b>Assistant Coach Name 5</b>	<b>Ron Vanderlinden</b>	<b>Gabe Franklin</b>	<b>Terry Fair</b>	<b>Kirby Moore</b>
<b>Assistttant Coach Salary</b>	NA	\$195,000	\$147,610	\$109,800
<b>Assistant Coach Name 6</b>	<b>Bart Miller</b>	<b>Eric Kiseau</b>	<b>Alvis Whitted</b>	<b>J.D. Williams</b>
<b>Assistttant Coach Salary</b>	NA	\$185,016	\$157,790	\$154,800
<b>Assistant Coach Name 7</b>	<b>Steed Lobotzke</b>	<b>Kent Riddle</b>	<b>Jamie Byrant</b>	<b>Ryan Grubb</b>
<b>Assistttant Coach Salary</b>	NA	\$275,018	\$151,350	\$128,604
<b>Assistant Coach Name 8</b>	<b>Mike Thiessen</b>	<b>Brad Bedell</b>	<b>Rick Logo</b>	<b>Jamar Cain</b>
<b>Assistttant Coach Salary</b>	NA	\$225,015	\$188,330	\$123,804
<b>Assistant Coach Name 9</b>	<b>John Rudzinski</b>	<b>Steve Caldwell</b>	<b>Ronnie Letson</b>	<b>Scott Thompson</b>
<b>Assistttant Coach Salary</b>	NA	\$250,016	\$203,600	\$109,800

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

<b>Hawaii</b>	<b>Nevada</b>	<b>New Mexico</b>	<b>San Diego State</b>	<b>San Jose State</b>
<b>Brian Smith</b>	<b>Matt Mumme</b>	<b>Bob DeBesse</b>	<b>Jeff Horton</b>	<b>Andrew Sowder</b>
\$203,688	\$185,400	\$226,750	\$222,176	\$206,004
<b>Lawrence Suilaunoa</b>	<b>Jeff Casteel</b>	<b>Kevin Cosgrove</b>	<b>Daniel Gonzales</b>	<b>Derrick Odum</b>
\$203,688	\$231,750.00	\$201,250	\$192,416	\$404,136
<b>Kefense Hynson</b>	<b>Eric Scott</b>	<b>Scott Baumgartner</b>	<b>Bobby Hauck</b>	<b>Will Harris</b>
\$165,000	\$103,000.00	\$132,775	\$215,800	\$100,008
<b>Sean Duggan</b>	<b>Jason Kaufasi</b>	<b>Apollo Wright</b>	<b>Zach Arnett</b>	<b>Kevin Cummings</b>
\$165,000	\$103,000.00	\$166,250	\$140,256	\$100,008
<b>Craig Stutzmann</b>	<b>David White</b>	<b>Saga Tuitele</b>	<b>Blaine Morgan</b>	<b>Joe Bernadrri</b>
\$165,000	\$103,000	\$171,250	\$178,728	\$124,000
<b>Chris Naeole</b>	<b>Timmy Chang</b>	<b>Stan Eggen</b>	<b>Ernie Lawson</b>	<b>Joe Seumalo</b>
\$165,000	\$103,000.00	\$152,650	\$142,756	\$111,000
<b>Mayur Chaudhari</b>	<b>Courtney Viney</b>	<b>Al Simmons</b>	<b>Mike Schmidt</b>	<b>Ryan Gunderson</b>
\$165,000	\$103,000.00	\$161,250	\$179,928	\$123,804
<b>Abe Elimimian</b>	<b>Tommy Perry</b>	<b>Clay Davie</b>	<b>Tony White</b>	<b>Bojay Filimoteua</b>
\$165,000	\$103,000	\$91,250	\$192,216	\$100,008
<b>Jacob Yoro</b>	<b>Matt Kirk</b>	<b>Jordan Peterson</b>	<b>Hunkie Cooper</b>	<b>Alonzo Carter</b>
\$165,000	\$100,000.00	\$149,500	\$180,028	\$111,000

<b>UNLV</b>	<b>Utah State</b>	<b>Wyoming</b>
<b>Barney Cotton</b>	<b>Davis Yost</b>	<b>Brent Vigen</b>
\$222,833	\$103,600	\$300,000
<b>Kent Baer</b>	<b>Frank Maile</b>	<b>Scottie Hazleton</b>
\$223,000	\$234,780	\$230,004
<b>Travis Burkett</b>	<b>Kendrick Shaver</b>	<b>Pete Kaligis</b>
\$128,750	\$234,780	\$150,000
<b>Dave Lockwood</b>	<b>Jovon Bouknight</b>	<b>Michael Bath</b>
\$131,000	\$178,681	\$150,000
<b>John Garrison</b>	<b>Steve Farmer</b>	<b>Jake Dickert</b>
\$196,200	\$127,681	\$150,000
<b>Cedric Cormier</b>	<b>Julius Brown</b>	<b>Mike Grant</b>
\$126,123	\$127,681	\$150,000
<b>Tony Samuel</b>	<b>Mark Tommerdahl</b>	<b>AJ Cooper</b>
\$126,072	\$140,000	\$150,000
<b>Andy LaRussa</b>	<b>Stacy Collins</b>	<b>Scott Fuchs</b>
\$185,694	\$127,681	\$180,000
<b>Ron O'Dell</b>	<b>Luke Wells</b>	<b>John Richardson</b>
\$127,333	\$178,681	\$100,008

THIS PAGE INTENTIONALLY LEFT BLANK

**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 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: 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

COACH

\_\_\_\_\_  
Curt Apsey, Director of Athletics

\_\_\_\_\_  
Bradley Bedell

\_\_\_\_\_  
Dr. Robert Kustra, President

Approved by the Board of Trustees on the \_\_\_\_ day of February, 2018.

THIS PAGE INTENTIONALLY LEFT BLANK

(Form Used When Board Approval Not Needed)

## 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 Bradley Bedell ("" (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 ~~University (College)'s Director~~ of the Team (the "Head Coach") ~~Athletics (Director)~~ or the Head Coach's Director's designee. Coach shall abide by the reasonable instructions of ~~Head Coach Director~~ or the Head Coach's Director's designee and shall confer with the ~~Head Coach Director~~ or the Head Coach's Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the University's Director of Athletics (the "Director"). ~~University (College)'s President (President).~~

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

### ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of 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's ~~University (College)'s~~

Board of ~~(Regents or Trustees)~~. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this ~~A~~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\$\_\_\_\_\_ 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 ~~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; , 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 ~~and the timing of the payment(s) shall be at the discretion.~~ The decisions may be made based on a variety of ~~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 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 ~~interest/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 ~~Director~~ and to the University's Department's Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's ~~University (College)'s~~ athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University (~~College~~) and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit C.~~ The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time: (a) ~~State Board of Education and Board of Regents of the University of Idaho~~ Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's ~~University (College)'s~~ Policy ~~Handbook~~; (c) University (College)'s Administrative Procedures Manual; (cd) the policies of the Department; (de) NCAA ~~(or NAIA)~~ rules and regulations; and (e(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'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).

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 University (College)'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).

~~4.4.4 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 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 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 the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University (College) and due to Coach's the Coach's estate or beneficiaries thereunder.

5.32.3 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 Tterm 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'sUniversity (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'sUniversity (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'sUniversity (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'shis official University (College) duties.

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

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

6.16 Opportunity to Consult with Attorney. ~~The~~ Coach acknowledges that 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

\_\_\_\_\_  
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

		<u>Yr 1</u>
3.1.1a	Annual Base Salary	\$ 250,000.00
3.1.1b	One-Time Bonus	\$ 10,000.00
3.2.1	Additional Pay based on Performance	\$ 33,750.00
3.2.2	Additional Pay based on Academic Achievement	\$ 5,000.00
	Total Maximum potential annual compensation under Employment Agreement	\$ 298,750.00

THIS PAGE INTENTIONALLY LEFT BLANK



**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:

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: 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.

THIS PAGE INTENTIONALLY LEFT BLANK

(Form Used When Board Approval Not Needed)

## 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 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 ~~University (College)'s Director~~ of the Team (the "Head Coach") ~~Athletics (Director)~~ or the Head Coach's Director's designee. Coach shall abide by the reasonable instructions of Head Coach Director or the Head Coach's Director's designee and shall confer with the Head Coach Director or the Head Coach's Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the University's Director of Athletics (the "Director"). ~~University (College)'s President (President)~~.

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

### ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of 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's ~~University (College)'s~~

Board of ~~(Regents or Trustees)~~. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this ~~A~~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 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 ~~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; ~~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 ~~and the timing of the payment(s) shall be at the discretion.~~ The decisions may be made based on a variety of ~~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 report~~able~~d 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 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 ~~Director~~ and to the University's Department's Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's ~~University (College)'s~~ athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University (~~College~~) and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit C.~~ The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time: (a) ~~State Board of Education and Board of Regents of the University of Idaho~~ Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy ~~University (College)'s Handbook~~; (c) University (College)'s Administrative Procedures Manual; (cd) the policies of the Department; (de) NCAA ~~(or NAIA)~~ rules and regulations; and regulations; and (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 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).~~

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~~University (College)'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).~~

~~4.4.4 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 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 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 the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University (College) and due to Coach's the Coach's estate or beneficiaries thereunder.

5.32.3 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 Tterm 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 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: Gabriel Franklin  
Last known address on file with  
University's University (College)'s Human Resource Services

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

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

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

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

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

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

6.16 Opportunity to Consult with Attorney. ~~The~~ Coach acknowledges that 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 \_\_\_\_\_ 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**

		<u>Yr 1</u>
3.1.1a	Annual Base Salary	\$ 210,000.00
3.1.1b	One-Time Bonus	\$ 10,000.00
3.2.1	Additional Pay based on Performance	\$ 30,750.00
3.2.2	Additional Pay based on Academic Achievement	\$ 5,000.00
	Total Maximum potential annual compensation under Employment Agreement	\$ 255,750.00

THIS PAGE INTENTIONALLY LEFT BLANK

**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 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



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 Kauhaaha  
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

\_\_\_\_\_  
Chad Kauhaahaa

\_\_\_\_\_  
Dr. Robert Kustra, President

Approved by the Board of Trustees on the \_\_\_\_ day of February, 2018.

THIS PAGE INTENTIONALLY LEFT BLANK

(Form Used When Board Approval Not Needed)

## 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 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") ~~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 ~~University (College)'s Director~~ of the Team (the "Head Coach") ~~Athletics (Director)~~ or the Head Coach's Director's designee. Coach shall abide by the reasonable instructions of Head Coach Director or the Head Coach's Director's designee and shall confer with the Head Coach Director or the Head Coach's Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the University's Director of Athletics (the "Director"). ~~University (College)'s President (President)~~.

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

### ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of 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's ~~University (College)'s~~

Board of ~~(Regents or Trustees)~~. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this ~~A~~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 ~~\$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~~ University (College)'s Board of ~~(Regents or Trustees)~~ \_\_\_\_\_;
- b) The opportunity to receive such employee benefits calculated on the "base salary" as the University ~~(College)~~ provides generally to non-faculty exempt employees; ~~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 ~~and the timing of the payment(s) shall be at the discretion.~~ The decisions may be made based on a variety of ~~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 reported ~~abled~~ 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 ~~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~~Director~~ and to the University's Department's Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's~~University (College)'s~~ athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University ~~(College)~~ and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit C.~~ The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time: (a) ~~State Board of Education and Board of Regents of the University of Idaho~~ Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy~~University (College)'s Handbook~~; (c) ~~University (College)'s Administrative Procedures Manual~~; (cd) the policies of the Department; (de) NCAA ~~(or NAIA)~~ rules ~~and regulations~~; and regulations; and (e(f)) the rules and regulations of the ~~Conference (Sport)~~ conference of which the University (College) is a member.

4.2 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'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).

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~~University (College)'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).~~

~~4.4.4 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 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~~ 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.

~~5.3.1~~ 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 ~~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~~ disability insurance carrier, or becomes unable to perform the essential functions of the ~~Position~~, all salary and other benefits shall terminate, except that ~~the~~ Coach shall be entitled to receive any compensation due or unpaid and any disability-related benefits to which he is entitled by virtue of employment with ~~the University~~.

5.43 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~~ ~~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~~ rules or policies regarding furloughs or financial exigency.

6.2 University (College) Property. All personal property, ~~(excluding vehicle(s) provided through the \_\_\_\_\_ program)~~, material, and articles of information, including, without limitation, keys, credit cards, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to Coach by the University ~~(College)~~ or developed by Coach on behalf of the University ~~(College)~~ or at the ~~University's~~ ~~University (College)'s~~ direction or for the ~~University's~~ ~~University (College)'s~~ use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University. ~~(College)~~. Within twenty-four (24) hours of the expiration of the ~~T~~ term of this ~~A~~ agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the ~~Head Coach~~ Director.

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

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

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

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

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

6.8 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes 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: Chad Kauhaaha  
Last known address on file with  
University's/University (College)'s Human Resource Services

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

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

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

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

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

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

6.16 Opportunity to Consult with Attorney. ~~The~~ Coach acknowledges that 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

\_\_\_\_\_  
Chad Kauhaahaa

\_\_\_\_\_  
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 H.H. of Board Policy]~~

Coach Chad Kauhaahaa Maximum Compensation Calculation - 2018-2019

		<u>Yr 1</u>
3.1.1a	Annual Base Salary	\$ 225,000.00
3.2.1	Additional Pay based on Performance	\$ 31,875.00
3.2.2	Additional Pay based on Academic Achievement	\$ 5,000.00
	Total Maximum potential annual compensation under Employment Agreement	\$ 261,875.00

THIS PAGE INTENTIONALLY LEFT BLANK

**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

COACH

\_\_\_\_\_  
Curt Apsey, Director of Athletics

\_\_\_\_\_  
Eric Kiesau

\_\_\_\_\_  
Dr. Robert Kustra, President

Approved by the Board of Trustees on the \_\_\_\_ day of February, 2018.

THIS PAGE INTENTIONALLY LEFT BLANK



(Form Used When Board Approval Not Needed)

**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 Eric Kiesau ("\_\_\_\_\_") (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 ~~University (College)'s Director of the Team (the "Head Coach")~~ ~~Athletics (Director)~~ or the Head Coach's Director's designee. Coach shall abide by the reasonable instructions of ~~Head Coach Director~~ or the Head Coach's Director's designee and shall confer with the ~~Head Coach Director~~ or the Head Coach's Director's designee on all administrative and technical matters. Coach shall also be under the general supervision of the University's Director of Athletics (the "Director"). ~~University (College)'s President (President)~~.

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

ARTICLE 2

2.1. Term. This Agreement is for a fixed-term appointment of 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's ~~University (College)'s~~

Board of ~~(Regents or Trustees)~~. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this ~~A~~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 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 ~~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; ~~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 ~~and the timing of the payment(s) shall be at the discretion.~~ The decisions may be made based on a variety of ~~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 report~~ed~~ 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 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 ~~Director~~ and to the University's Department's Director of NCAA Compliance if Coach has reasonable cause to believe that any person or entity, including without limitation representatives of the University's ~~University (College)'s~~ athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University (~~College~~) and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit C.~~ The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time: (a) ~~State Board of Education and Board of Regents of the University of Idaho~~ Governing Policies and Procedures and Rule Manual of the University's Board of Trustees; (b) the University's Policy ~~University (College)'s Handbook~~; (c) University (College)'s Administrative Procedures Manual; (cd) the policies of the Department; (de) NCAA ~~(or NAIA)~~ rules and regulations; and regulations; and (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 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).~~

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~~University (College)'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).~~

~~4.4.4 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 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 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 the Coach's personal representative or other designated beneficiary shall be paid all compensation due or unpaid and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by the University (College) and due to Coach's the Coach's estate or beneficiaries thereunder.

5.32.3 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 Tterm 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'sUniversity (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'sUniversity (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'sUniversity (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'shis official University (College) duties.

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

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

6.16 Opportunity to Consult with Attorney. ~~The~~ Coach acknowledges that 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 \_\_\_\_\_ 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

		<u>Yr 1</u>
3.1.1a	Annual Base Salary	\$ 210,000.00
3.1.1b	One-Time Bonus	\$ 10,000.00
3.2.1	Additional Pay based on Performance	\$ 30,750.00
3.2.2	Additional Pay based on Academic Achievement	\$ 5,000.00
	Total Maximum potential annual compensation under Employment Agreement	\$ 255,750.00

THIS PAGE INTENTIONALLY LEFT BLANK

## 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://boardofed.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](mailto:texiemontoya@boisestate.edu)

THIS PAGE INTENTIONALLY LEFT BLANK



**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 15, 2018**

---

**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 Gonzaga University (1991-1993 and 2005-2008)
- 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

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 15, 2018**

---

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

**BUSINESS AFFAIRS AND HUMAN RESOURCES**  
**FEBRUARY 15, 2018**

---

- |  |            |
|--|------------|
| ○ 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 \_\_\_\_\_

THIS PAGE INTENTIONALLY LEFT BLANK

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

**ATTACHMENT 1**

c)	Participate in NCAA Regionals	\$2,500
	<b>or</b>	
	Participate in NCAA Super Regionals	\$3,500
d)	Participate in the Men’s College World Series	\$5,000
	<b>or</b>	
	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
	<b>or</b>	
	Top 10 National Ranking at End of Season	\$4,000
	<b>or</b>	
	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 (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 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,



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.

**ATTACHMENT 1**

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

\_\_\_\_\_  
Gary Van Tol

\_\_\_\_\_  
Dr. Robert Kustra, President

Approved by the Board on the \_\_\_\_\_ day of February, 2018.

THIS PAGE INTENTIONALLY LEFT BLANK

~~(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 (~~Sport~~) team (the “Team”). ~~(or Director of Athletics)~~. Coach (~~Director~~) represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity.

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

1.3. Duties. Coach shall manage and supervise the Team and shall perform such other duties in the University’s ~~University (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 ~~Education~~. This Agreement in no way grants to Coach a claim to tenure in employment, nor shall Coach's service pursuant to this Agreement count in any way toward tenure at the University ~~(College)~~.

ARTICLE 3

3.1. Regular Compensation.

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

- a) ~~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~~ Chief executive officer and approved by the ~~University's~~ University (College)'s Board of ~~(Regents or Trustees)~~ \_\_\_\_\_;
- b) The opportunity to receive such employee benefits calculated on the "base salary" as the University ~~(College)~~ provides generally to non-faculty exempt employees; and
- c) Assignment of one vehicle through the Department's trade-out program during the term of this Agreement, subject to and according to the policy of the University's Board of Trustees. Insurance premiums for the assigned vehicle shall be paid by Coach. Any vehicle assigned shall be returned in the same or similar condition as it was upon being assigned, reasonable wear and tear excepted; and
- d) 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 Supplemental Compensation. Coach may earn supplemental compensation as follows:



3.2.1. Athletic Achievement Incentive Pay.

Starting in the 2019-2020 inaugural season:

a)	<u>Cumulative season wins</u>	
	i.	<u>25 wins \$2,000</u>
		<u><b>or</b></u>
	ii.	<u>26 – 30 wins \$3,000</u>
		<u><b>or</b></u>
	iii.	<u>31 – 35 wins \$4,000</u>
		<u><b>or</b></u>
	iv.	<u>36+ wins \$5,000</u>
b)	<u>Regular Season Conference Champions</u>	<u>\$3,000</u>
c)	<u>Participate in NCAA Regionals</u>	<u>\$2,500</u>
		<u><b>or</b></u>
	<u>Participate in NCAA Super Regionals</u>	<u>\$3,500</u>
d)	<u>Participate in the Men’s College World Series</u>	<u>\$5,000</u>
		<u><b>or</b></u>
	<u>Participate in the Men’s College Championship Series</u>	<u>\$7,500</u>
e)	<u>Conference Player of the Year</u>	<u>\$1,000</u>
f)	<u>Conference Freshman of the Year</u>	<u>\$1,000</u>
g)	<u>Conference Pitcher of the Year</u>	<u>\$1,000</u>
h)	<u>Conference Coach of the Year</u>	<u>\$2,000</u>
i)	<u>NCAA Regional Coach of the Year</u>	<u>\$2,000</u>
j)	<u>NCAA National Coach of the Year</u>	<u>\$5,000</u>

~~3.2.1. 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 Team members. The determination 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 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 reported to the Board of (Regents or Trustees) as a document available to the public under the Idaho Public Records Act.~~

~~3.2.3.2.4. Coach may receive the compensation hereunder. 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 University (College)'s designated media outlet(s) or a combination thereof each year during the term of this Agreement in compensation for participation in media programs and public appearances (collectively, "Programs"). Coach's right to receive such a payment shall vest on the date of the Team's last regular season or post-season competition, whichever occurs later. This sum shall be paid (terms or conditions of payment). Agreements requiring the Coach to participate in Programs related to Coach's his 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 his services to and appear 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 University (College)'s designated media outlets.

3.2.5. ~~6~~ ~~— (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~~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~~~~(SUMMER CAMP OPERATED BY COACH)~~ Coach tomay operate a summer youth baseball (Sport) camp(s) at the University, such operation shall be (College) 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. ~~The~~ Coach shall not use University (College) personnel, equipment, or facilities without the prior written approval of the Director or designee;

## ATTACHMENT 2

- iii. ~~e)~~ Assistant coaches at the University ~~(College)~~ are given priority when ~~the~~ Coach or the private enterprise selects coaches to participate;
- iv. ~~d)~~ The Coach complies with all NCAA<sub>2</sub> ~~(NAIA)~~, Conference, and University ~~(College)~~ rules and regulations related, directly or indirectly, to the operation of ~~summer~~ youth camps;
- v. ~~e)~~ The Coach or the private enterprise enters into ~~contracts~~ ~~a contract~~ 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. ~~f)~~ The Coach or private enterprise ~~shall pay the outside facility usage rate~~ ~~pays for use~~ of ~~the University's~~ ~~University (College)~~ facilities ~~including the~~ \_\_\_\_\_.
- vii. ~~Coach shall complete the Department's private camp packet at least~~ ~~g)~~ ~~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~~ ~~a 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. ~~h)~~ 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 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) catastrophic coverage:~~

## ATTACHMENT 2

~~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.~~

3.2.6.7 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 ~~interest 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:

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's University (College)'s~~ athletic interests, has violated or is likely to violate any such laws, policies, rules or regulations. Coach shall promote an atmosphere of compliance with the rules and regulations. In accordance with NCAA rules and regulations, Coach must annually pass the NCAA Coaches Certification Test before having any off-campus contact with prospects. Coach shall cooperate fully with the University ~~(College)~~ and Department at all times. ~~The names or titles of employees whom Coach supervises are attached as Exhibit C.~~ The applicable laws, policies, rules, and regulations include the following, as they may be amended from time-to-time:  
(a) ~~State Board of Education and Board of Regents of the University of Idaho Governing Policies and Procedures and Rule Manual of the University's Board of Trustees;~~  
(b) ~~the University's Policy~~ University (College)'s Handbook; (c) University (College)'s Administrative Procedures Manual; (cd) the policies of the Department; (de) NCAA ~~(or NAIA)~~ rules ~~and regulations;~~ and regulations; and (e(f) the rules and regulations of the ~~Conference (Sport) conference of which the University (College) is a member.~~

4.2. 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~~the University (College)'s~~ name, logos, or trademarks in connection with any such arrangements without the prior written approval of the Director and the President (such approval not to be unreasonably withheld).~~Chief executive officer.~~

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

4.4. 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, ~~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)~~;

## ATTACHMENT 2

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

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

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

5.2.1. At any time after commencement of this Agreement, ~~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 ~~T~~ 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~~ ~~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.

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

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

### 5.3.- Termination by Coach for Convenience.

5.3.1. ~~\_\_\_\_\_The~~ Coach recognizes that Coach's promise to work for 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 Tterm.

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 he~~ 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 he~~ shall forfeit to the extent permitted by law Coach's ~~his~~ right to receive all supplemental compensation and other payments and all accumulated annual leave.

#### 5.4. Termination ~~Due~~ to Disability or Death of Coach.

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

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

5.4.3. If this Agreement is terminated because ~~the~~ Coach becomes totally or permanently disabled as defined by the University's ~~University (College)'s~~ disability insurance carrier, or becomes unable to perform the essential functions of the 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).~~

5.5. 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.

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

5.7. Waiver of Rights. Because ~~the~~ Coach is receiving a multi-year contract and the opportunity to receive supplemental compensation and because such contracts and opportunities are not customarily afforded to University ~~(College)~~ employees, if the University ~~(College)~~ suspends or reassigns Coach, or terminates this Agreement for good or adequate cause or for convenience, Coach shall have all the rights provided for in this Agreement but hereby releases the University ~~(College)~~ from compliance with the notice, appeal, and similar employment-related rights provided for in the State Board of Education Rules (ID. ADMIN. CODE r. 08.01.01 et seq.) and Governing Policies and Procedures, ~~and DAPA 08.01.01 et seq., and the~~ University Policies (College) Faculty Staff Handbook.

ARTICLE 6

6.1. Board Approval. ~~(if required: multiyear employment agreements which require Board approval are defined in Section II.H. of Board Policy).~~ This Agreement shall not be effective until and unless approved of the ~~University's~~ University (College)'s Board of ~~(Regents or Trustees)~~ and executed by both parties as set forth below. In addition, the payment of any compensation pursuant to this ~~A~~ agreement shall be subject to: the approval of the ~~University's~~ University (College)'s Board of ~~(Regents or Trustees)~~, the ~~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~~ University (College)'s rules or policies regarding furloughs or financial exigency.

6.2. University (College) Property. All personal property, ~~(excluding vehicle(s) provided through the \_\_\_\_\_ program),~~ material, and articles of information, including, without limitation, keys, credit cards, personnel records, recruiting records, team information, films, statistics or any other personal property, material, or data, furnished to Coach by the University ~~(College)~~ or developed by Coach on behalf of the

University ~~(College)~~ or at the ~~University's~~~~University (College)'s~~ direction or for the ~~University's~~~~University (College)'s~~ use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University. ~~(College)~~. Within twenty-four (24) hours of the expiration of the ~~T~~term of this ~~A~~agreement or its earlier termination as provided herein, Coach shall immediately cause any such personal property, materials, and articles of information in Coach's possession or control to be delivered to the 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~~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 ~~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~~ ~~(College)'s~~ Human Resource  
Services

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

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

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

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

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

6.15. Entire Agreement; Amendments. This Agreement constitutes the entire agreement ~~between~~ ~~of~~ the parties and supersedes all prior agreements and understandings with respect to the same subject matter. No amendment or modification of this

**ATTACHMENT 2**

Agreement shall be effective unless in writing, signed by both parties, and approved by ~~the University's~~University (College)'s Board of ~~(Regents or Trustees,)~~ if required under Section II.H. of Board Policy.

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

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

UNIVERSITY ~~(COLLEGE)~~

COACH

\_\_\_\_\_  
\_\_\_\_\_  
Curt Apsy, 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

<b>2016 NCAA ACADEMIC PROGRESS RATE (APR) SCORES</b>
--

National Percentile	50th	60th	70th	80th
All Division I Baseball APR	979	982	990	1000

\*1st year of Boise State Baseball APR to be published in May 2021

Coach	School	Length of Contract	2017 Salary (total comp)	Liquidated Damages Clause?	Type of L.D. Clause	Amount(s) over time
Mike Kazlauskys	Air Force	NA	NA	NA	NA	NA
Gary Van Tol	Boise State	2/25/18 - 7/31/22	\$ 80,000	Yes	Sliding Scale	See Contract
No Program	Colorado State					
Mike Batesole	Fresno State	7/1/14 - 6/30/19	\$ 162,156	No		None
T.J. Bruce	Nevada	7/1/17 - 6/30/18	\$ 126,072	NA	NA	NA
Ray Birmingham	New Mexico	7/1/13 - 6/30/18	\$ 208,672	Yes	Flat Rate	\$100,000 if agreement is terminated before expiration of contract.
Mark Martinez	San Diego State	7/1/15 - 6/30/20	\$ 134,664	Yes	Sliding Scale	<p><b>Early Termination by Coach.</b> In the event that you voluntarily terminate your employment with the University, this contract will be terminated, and you shall have the following buyout obligations payable to the University upon separation:</p> <ul style="list-style-type: none"> <li>1. Before completion of year one: \$115,000</li> <li>2. Before completion of year two: \$80,000</li> <li>3. Before completion of year three: \$65,000</li> <li>4. Before completion of year four: \$35,000</li> <li>5. Before completion of year five: \$15,000</li> </ul>
Jason Hawkins	San Jose State	6/11/17 - 6/30/20	\$ 149,652	No		None
Stan Stolte	UNLV	NA	\$ 105,000	NA	NA	NA
No Program	Utah State					
No Program	Wyoming					

Coach	School	Base Salary	Incentives
Mike Kazlauskys	Air Force	NA	NA
Gary Van Tol	Boise State	\$ 80,000	See Contract
No Program	Colorado State		
Mike Batesole	Fresno State	\$ 162,156	<p><b>1) Achievement of Annual NCAA APR</b></p> <ul style="list-style-type: none"> <li>a. Above 930 provides \$10,000</li> <li>b. Above 950 provides \$15,000</li> <li>c. Above 975 provides \$20,000</li> <li>d. Above 990 provides \$25,000</li> </ul> <p><i>Only one may be awarded.</i></p> <p><b>2) Overall Team GPA (Fall/Spring Semesters)</b></p> <ul style="list-style-type: none"> <li>a. 2.6 to 2.799 provides \$10,000</li> <li>b. 2.8 to 2.999 provides \$15,000</li> <li>c. 3.0 to 3.1999 provides \$20,000</li> <li>d. 3.2 to 3.3999 provides \$25,000</li> <li>e. 3.4 to 3.5999 provides \$30,000</li> <li>f. 3.6 to 3.7999 provides \$35,000</li> <li>g. 3.8 and above provides \$40,000</li> </ul> <p><i>Only one may be awarded.</i></p> <p><b>3) Achievement of Regular-Season Winning Percentage (rounded up to next highest whole percentage point.</b></p> <p><i>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.</i></p> <ul style="list-style-type: none"> <li>a. Winning 60% provides \$10,000</li> <li>b. Winning 65% provides \$12,500</li> <li>c. Winning 70% provides \$15,000</li> </ul>

- c. winning 70% provides \$15,000
  - d. Winning 80% provides \$20,000
  - e. Winning 90% or above provides \$30,000
- Only one may be awarded.

**4) Mountain West Conference Achievement**

- a. Regular-season champion or co-champion provides \$20,000
- b. Tournament championship (see below per NCAA participation)

**5) Participation and Advancement in NCAA Tournament**

- a. Regional provides \$15,000
  - b. Super Regional provides \$30,000
  - c. College World Series provides \$50,000
  - d. National Championship provides \$100,000
- Only one may be awarded.

**6) Final National Rankings** by one or both of the *Baseball America* poll or *Collegiate Baseball* poll

- a. Top 25 provides \$10,000
  - b. Top 10 provides \$20,000
- Only one may be awarded.

**7) Coach of the Year Honors**

- a. Mountain West Conference Coach of the Year provides \$10,000
  - b. National Coach of the Year – as selected by the National Collegiate Baseball Writers Association (NCBAWA) and/or *Collegiate Baseball* provides \$20,000
- Only one may be awarded.

**8) Use of Automobile** - The Fresno State Athletic Corporation will provide Employee with the exclusive use of an automobile, including insurance, repairs and gas. The Employee is responsible for payment of gas for the Employee's personal use of the vehicle. Any personal use of the vehicle by the Employee is considered as imputed income for tax purposes.

personal use of the vehicle. Any personal use of the vehicle by the Employee is considered as imputed income for tax purposes.

**9) Country Club Membership** - The Employee will have the option to assume country club privileges as provided through the California State University, Fresno corporate membership program.

**10) Complimentary Tickets to Athletics Events** - The Fresno State Athletic Corporation will provide access to the Employee with twelve (12) complimentary season tickets for all Baseball contests and six (6) complimentary season tickets to football, men's basketball, women's basketball, volleyball and softball. The value of any tickets utilized by the Employee is considered as imputed income for tax purposes. These tickets are intended for Employee's personal use and seat locations will be determined by the Athletics Ticket Office based upon availability.

T.J. Bruce	Nevada	\$ 126,072	NA
Ray Birmingham	New Mexico	\$ 155,572	Courtesy car, Media monies of \$53,100 annually added to base salary. No other incentives listed.

Mark Martinez	San Diego State	\$ 119,664	<ul style="list-style-type: none"> <li>• <b>Incentive Compensation.</b> 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.               <ul style="list-style-type: none"> <li>○ MW Regular Season or Tournament Championship \$9,584</li> <li>○ NCAA Tournament-highest of below                   <ul style="list-style-type: none"> <li>▪ Appearance \$9,584</li> <li>▪ College World Series participant \$14,376</li> <li>▪ College World Series Championship Series participant \$19,168</li> <li>▪ College World Series Champion \$25,000</li> </ul> </li> <li>○ National Coach of the Year \$5,000</li> <li>○ Team cumulative GPA above 2.80 \$2,000</li> <li>○ APR (Four-year average) above 950 \$2,000</li> </ul> </li> <li>• <b>Use Of Automobile.</b> You will be provided a courtesy car or stipend in the same manner as other coaches/staff.</li> </ul>
Jason Hawkins	San Jose State	\$ 155,652	<p style="text-align: center;">Monthly \$500 vehicle stipend,</p> <p>Incentive compensation criteria:</p> <ul style="list-style-type: none"> <li>a) 35 wins in regular season (not counting conference tournament) – One month's base salary</li> <li>b) Qualify for NCAA Tournament – One month's base salary</li> <li>c) Qualify for College World Series - \$50,000</li> <li>d) Conference coach-of-the-year - \$5,000</li> <li>e) If the team's most recent single year APR score is 960 or higher - \$2,000</li> </ul>
Stan Stolte	UNLV	\$ 105,000	NA

THIS PAGE INTENTIONALLY LEFT BLANK



Coach Gary Van Tol Maximum Compensation Calculation - 2018-2022

	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
3.1.1a Annual Base Salary	\$ 80,000.00	\$ 80,000.00	\$ 80,000.00	\$ 80,000.00	\$ 80,000.00
3.2.1 Additional Pay based on Performance	\$ -	\$ -	\$ 31,000.00	\$ 31,000.00	\$ 31,000.00
3.2.2 Additional Pay based on Academic Achievement	\$ -	\$ -	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Total Maximum potential annual compensation under Employment Agreement	\$ 80,000.00	\$ 80,000.00	\$ 114,000.00	\$ 114,000.00	\$ 114,000.00

THIS PAGE INTENTIONALLY LEFT BLANK

## 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](mailto:texiemontoya@boisestate.edu)

THIS PAGE INTENTIONALLY LEFT BLANK