## [If individual will also be employed as head coach, separate employment agreements must be executed for Head Coach and Assistant Athletics Director.]

## ASSISTANT ATHLETICS DIRECTOR EMPLOYMENT AGREEMENT

**(Salary $100,001 and Greater)**

THIS EMPLOYMENT AGREEMENT (this “Agreement”) is between The University of Texas \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “University”) and \_\_\_\_\_\_\_\_\_\_ **[insert full name of person]** (“Assistant Athletics Director”) (collectively, the “Parties”). This Agreement terminates and replaces any prior agreement between the parties relating to the employment of Assistant Athletics Director by the University.

For and in consideration of the mutual promises and covenants set forth herein, the Parties agree as follows:

1. **PURPOSE**

The Parties have entered into this Agreement because the University desires to employ Assistant Athletics Director for the period provided and Assistant Athletics Director desires to serve the entire term of this Agreement, a long-term commitment by the Parties being critical to Assistant Athletics Director’s decision to enter into this Agreement and the University’s desire to run a stable intercollegiate athletics program (the “Program”). The Parties agree that, although this Agreement is athletics-related, the primary mission of the University is education, and accordingly, the primary purpose of all the University’s legal arrangements, including this Agreement, is the furtherance of the University’s educational mission. Assistant Athletics Director recognizes the importance of the maintenance and observance of the principles of institutional control over every aspect of the athletic program at the University. Assistant Athletics Director agrees to recognize and respect the organizational structure of the University in the execution of **his/her** duties under this Agreement.

**2. DEFINITIONS**

As used in this Agreement (including within these paragraphs) the following terms shall have these meanings:

 “NCAA” shall mean the National Collegiate Athletic Association, and its successor. **[If institution belongs to the NAIA, exchange the term NCAA with NAIA throughout the document and replace National Collegiate Athletic Association with National Association of Intercollegiate Athletics in the definition above.]**

 “\_\_\_\_\_\_\_\_\_\_” shall mean the \_\_\_\_\_\_\_\_\_\_ Conference, its successor, or any other athletic conference of which the University may be a member.

“Governing Athletics Rules” shall mean any and all present or future legislation, rules, regulations, directives, written policies, bylaws and constitutions, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto, promulgated hereafter by the NCAA or the \_\_\_\_\_\_\_\_\_\_ Conference or any successor of such association or conference, or by the Athletics Director in the conduct and administration of the Athletics Department.

 “University Rules” shall mean any and all present or future legislation, rules, regulations, directives, written policies, bylaws, and constitution, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by the University or by the Board of Regents of The University of Texas System.

**3. TERM OF EMPLOYMENT**

The term of this Agreement shall begin on \_\_\_\_\_\_\_\_\_\_, and shall terminate on \_\_\_\_\_\_\_\_\_\_ (the “Term”), subject to the provisions below for termination. To extend or renew the Term of this Agreement, both Parties must sign a written agreement to do so. Assistant Athletics Director agrees that oral agreements to renew or extend this Agreement are invalid and non-binding. This Agreement in no way grants Assistant Athletics Director a claim to tenure in employment, nor shall Assistant Athletics Director’s service pursuant to this Agreement count in any way toward tenure at the University.

**4. ASSISTANT ATHLETICS DIRECTOR’s DUTIES AND RESPONSIBILITIES**

 **A. Recognition of Duties.** Subject to the other provisions of this Agreement, the Assistant Athletics Director shall devote **his/her** best efforts full-time to leadership, supervision, and promotion of the University’s athletic programs. Assistant Athletics Director will report directly to and act and perform to the reasonable satisfaction of the Athletics Director, who will determine Assistant Athletics Director’s duties and responsibilities. The Athletics Director shall evaluate the Assistant Athletics Director's performance at least on an annual basis.

**B. General Duties and Responsibilities.** In **his/her** position as Assistant Athletics Director, **he/she** is responsible for the duties normally associated with an assistant athletics director at a Division \_\_ university including: maintaining a high level of leadership, having a strong commitment to the University’s expectations for an athletics program run with integrity, student-athlete academic success and progress to graduation, high athletic achievement, financial solvency, student-athlete conduct and welfare, compliance with the Governing Athletics Rules and University Rules, scheduling assistance, and development activities.

**C. Specific Duties and Responsibilities.** The duties and responsibilities assigned to the Assistant Athletics Director in connection with the Program are set forth below. The list of specific duties and responsibilities supplements, and is not exclusive of, other general duties and responsibilities provided for elsewhere in this Agreement. The specific responsibilities of the position include, but are not limited to, the following:

(1) Assistant Athletics Director will work with the Athletics Director to assure that the Athletics Department has plans, policies, procedures, and programs that are in compliance with the Governing Athletics Rules and University Rules, and that promote the mission of the University, the University’s high standard of academic excellence, and the general welfare of student-athletes.

(2) The University has established a tradition of ethical conduct at all levels of University life. In accordance with this tradition, Assistant Athletics Director, as a member of the Athletics Department, agrees to represent the University in an honorable and ethical manner at all times. Standards for ethical conduct are established and enforced by the University, the University of Texas System, the \_\_\_\_\_\_\_\_\_\_ Conference, and the NCAA.

(3) Assistant Athletics Director will create a departmental environment in which diversity, equity, and individual opportunity can thrive.

(4) Assistant Athletics Director will observe and uphold all academic standards and requirements of the University, including the University Rules, Governing Athletics Rules, and all state and federal laws, and ensure compliance by coaches and other athletic department personnel.

(5) Assistant Athletics Director will develop procedures and programs that assure the welfare of student-athletes; ensure that coaching and administrative staff actively support the Department of Athletics and the University’s joint commitment to academic achievement for each student-athlete, to include promoting academic advising and counseling services; maintain an environment in which the pursuit of higher education is a priority as reflected by class attendance, grade point averages, the NCAA academic progress rates (APR), and the NCAA and federal graduation rates.

(6) Assistant Athletics Director will promote athletic excellence and a competitive program on local, conference, and national levels for the men’s and women’s intercollegiate varsity sports programs.

(7) Assistant Athletics Director will assist the Athletics Director with the recruitment, the hiring, and the terms and conditions of employment of all head coaches, with consultation and approval by the Athletics Director, as appropriate.

(8) Assistant Athletics Director will assist the Athletics Director with hiring and supervising all administrative and other personnel as deemed appropriate for the proper and effective functioning of a major intercollegiate athletic program in the framework of the values and traditions of the University, consistent with the University Rules and Governing Athletics Rules, and with the supervision and approval of the Athletics Director, as appropriate.

(9) Assistant Athletics Director will assist the Athletics Director in ensuring the fiscal integrity of the Programs, including developing strategic plans and budgets, raising private funds, monitoring the expenditure of all funds consistent with all state and federal laws, University Rules, and Governing Athletics Rules.

(10) Assistant Athletics Director will participate in existing fundraising programs and develop new fundraising initiatives for the Department of Athletics.

(11) Assistant Athletics Director will assist Athletics Director with identifying needs for renovation and repairs consistent with principles of equal access and athletics; and negotiating and recommending sports marketing, apparel, and shoe sponsorship arrangements, and other similar arrangements.

(12) Assistant Athletics Director will consult regularly with the Athletics Compliance staff regarding the interpretation of applicable rules, and bring any differences of opinion to the Athletics Director for resolution; and assist the Athletics Compliance staff or other designated individuals in investigating all cases where an alleged violation of a University Rule or Governing Athletic Rule has or may have occurred.

(13) Assistant Athletics Director will assist the Athletics Director with scheduling athletic events and games, and identify and recommend adding or removing varsity sports teams.

(14) Assistant Athletics Director will be a Campus Security Authority (“CSA”) as defined by the Clery Act. As a CSA, Assistant Athletics Director will comply with University policies on the reporting of crime statistics and related information to the official designated by the University for the purposes of Clery Act reporting.

(15) In compliance with Title IX of the Education Amendments of 1972 and Texas Education Code Sec. 51.252, Assistant Athletics Director will be a Responsible Employee as defined by University policies on Sexual Harassment and Sexual Misconduct. As a Responsible Employee, Assistant Athletics Director will report incidents of alleged sexual misconduct (including sexual harassment, sexual assault, dating violence and stalking) to the University’s Title IX Coordinator or Deputy Title IX Coordinator as required by University policy.

(16) Assistant Athletics Director also shall perform such other duties as assigned from time to time by the Athletics Director.

**Optional requirements which can be inserted between Nos. 16 and 17**:

(17) Assistant Athletics Director shall assist the Athletics Director with developing a strategic plan for the Athletics Department, including an updated mission statement, long-term aspirational goals, core strategies and specific annual initiatives and objectives that are compatible with the mission and long-range goals for the Athletics Department.

(18) Assistant Athletics Director shall assist the Athletics Director with conducting a talent assessment of the entire department and develop an organizational design concept for immediate implementation (“The Go-Forward Plan”).

 **D. NCAA and Other Governing Athletics Rules and University Rules.**

(1) Assistant Athletics Director agrees to know, recognize, and comply in all respects with NCAA and other Governing Athletics Rules and University Rules. In the performance of all **his/her** duties and obligations under this Agreement, Assistant Athletics Director will abide by and comply with all Governing Athletics Rules and University Rules and all decisions issued by the University, as well as strive to comply with the spirit and intent of such rules.

(2) It shall be the responsibility of Assistant Athletics Director to promote an atmosphere of compliance within the Program and to monitor the activities regarding compliance of all coaches and other administrators involved with the Program who report directly or indirectly to Assistant Athletics Director. If, at any time during the Term of this Agreement, Assistant Athletics Director knows, or has reasonable cause to believe, that **he/she** or any other person has violated, or allowed or caused to be violated, any Governing Athletics Rules, University Rules or laws, or if Assistant Athletics Director receives notice or information that the NCAA or the \_\_\_\_\_\_\_\_\_\_ Conference intends to investigate or to review any alleged violations of Governing Athletics Rules or University Rules, **he/she** must immediately report such information, knowledge, or belief to the Athletics Compliance staff and Athletics Director. If such information, knowledge, or belief includes allegations that the Athletics Director was complicit in the alleged violation, Assistant Athletics Director must immediately report such information, knowledge, or belief to the President of the University (“President”).

(3) Pursuant to NCAA Bylaws 11.2.1 & 19.2.3, Assistant Athletics Director has an affirmative obligation to cooperate fully in the NCAA infractions process, including the investigation and adjudication of a case.  Specifically, full cooperation includes, but is not limited to:

1. affirmatively reporting instances of noncompliance to the NCAA in a timely manner and assisting in developing full information to determine whether a possible violation has occurred and the details thereof;
2. timely participation in interviews and providing complete and truthful responses;
3. making a full and complete disclosure of relevant information, including timely production of materials or information requested, and in the format requested;
4. disclosing and providing access to all electronic devices used in any way for business purposes;
5. providing access to all social media, messaging and other applications that are or may be relevant to the investigation; and
6. preserving the integrity of an investigation and abiding by all applicable confidentiality rules and instructions.

(4) If Assistant Athletics Director is found to be in violation of Governing Athletics Rules, whether while employed by the University or during prior employment at another NCAA member institution, Assistant Athletics Director shall be subject to disciplinary or corrective action as set forth in this Agreement, as well as in the provisions of the NCAA enforcement procedures, including suspension without pay or termination of employment.

**E. Reassignment of Duties.** Throughout the Term of this Agreement, Assistant Athletics Director shall use **his/her** best full-time energies, efforts, and abilities for the exclusive benefit of the University. It is understood by the Parties, however, that during the Term of this Agreement, the University retains the right to reassign Assistant Athletics Director to other positions with different duties and responsibilities within the Athletic Department that University deems to be reasonably consistent with Assistant Athletics Director’s education and experience. In the event of such reassignment, beginning on the date of such reassignment, Assistant Athletics Director’s total compensation for the performance of such reassigned duties and responsibilities shall be the Base Salary in effect at the date of reassignment, which salary is listed in Section 6.A.(1) of this Agreement. The University’s obligations under Section 6.B shall terminate upon reassignment at the University’s sole discretion. Upon cessation of Assistant Athletics Director’s duties and responsibilities, Assistant Athletics Director shall voluntarily relinquish all appointments on NCAA or athletic conference committees, subcommittees, and/or councils of any nature. If the University exercises its right to reassign Assistant Athletics Director and Assistant Athletics Director refuses to accept such reassignment, the University may terminate this Agreement pursuant to Section 7.A.

**5. OTHER EMPLOYMENT**

During the Term of this Agreement, Athletics Director shall either: (a) not engage in any other employment, act in a consulting or independent contractor capacity to any person, partnership, association, or corporation, or receive any athletically-related income or benefit from sources outside the University; or (b) be permitted to engage in outside employment only after receiving the prior written approval of the President in accordance with University Rules on outside employment and commitment. Each request for approval must be in writing and shall specify the source and amount of the income or benefit to be received, and approval shall be required annually. Athletics Director shall also make a written annual report to the President specifying the amount of all income and benefits from approved sources outside the University in accordance with all University Rules and Governing Athletic Rules. Except when Assistant Athletics Director is required by the University to endorse, promote, appear in advertisements of, or consult with regard to athletic equipment or accessories for the purpose of complying with contractual obligations of the University, the name, marks, or logos of the University may not be used and Assistant Athletics Director may not be identified as the Assistant Athletics Director at the University (1) for purposes related to any employment, consulting, or athletically related activities of Assistant Athletics Director, other than for the University, or (2) in connection with Assistant Athletics Director’s endorsement, support, promotion, or advertisement of any person, partnership, corporation, association, product, or service.

**6. COMPENSATION AND BENEFITS**

**A. Base Salary.**

(1) Effective \_\_\_\_\_\_\_\_\_\_ **[insert begin date from Section 3]**, the annual **[“annual”, should be used only if the duration of the contract is for a period greater than one year]** Base Salary for duties performed by Assistant Athletics Director under this Agreement shall be $\_\_\_\_\_\_\_\_\_\_, payable in 12 monthly installments. **[**The Base Salary will be reviewed at least annually and may be adjusted as required by the legislature or as deemed appropriate by the University.**][Include this sentence only if the duration of the contract is for a period greater than one year.]**

(2) Assistant Athletics Director will also receive all other regular employment benefits provided by the University to similarly-situated administrative and professional non-tenured, at-will employees of the University, and such benefits may be modified or terminated. Assistant Athletics Director acknowledges and agrees that such regular employment benefits may be modified from time to time, including, without limitation, terminated, as provided for by legislative action of the State of Texas or by action of the Board of Regents of The University of Texas System or the University.

**B. Fringe Benefits.** For the period that Assistant Athletics Director serves as the University’s Assistant Athletics Director, **he/she** will also be entitled to the compensation and benefits found in this Section 6.B. Each of these benefits is subject to the University Rules and Governing Athletics Rules. In the event any of these benefits does not comply with the University Rules and Governing Athletics Rules, the non-compliant benefit(s) shall be null and void.

(1) **[Optional – delete if not applicable]** Automobile. For the period that Assistant Athletics Director is the Assistant Athletics Director at the University, the University will either (1) obtain a courtesy automobile from a local dealership for Assistant Athletics Director’s use or (2) pay Assistant Athletics Director a $\_\_\_\_\_\_ monthly car allowance. Assistant Athletics Director will comply with all University Rules and Governing Athletics Rules relating to the use of the car or the car allowance. At a minimum, if a courtesy car is provided to Assistant Athletics Director, **he/she** will report the business and personal use of the automobile monthly to the Office of the Vice President for Business Affairs in a format determined by that office. The personal use of such automobile will be valued according to the guidelines of the Internal Revenue Service and reported as income to Assistant Athletics Director.

(2) **[Optional – delete if not applicable]** Country Club Membership. For the period that Assistant Athletics Director is the Assistant Athletics Director at the University, **he/she** will receive one (1) full membership in the \_\_\_\_\_\_\_\_\_\_\_\_ Country Club.

(3) **[Optional – delete if not applicable] Spousal Travel**. It is understood by the parties that while Assistant Athletics Director is serving as the Assistant Athletics Director at the University, **his/her** spouse may be called upon from time to time to travel and/or attend various functions on behalf of the University. When engaged in such activities and subject to any limitations or conditions placed by state and federal laws or University Rules, Assistant Athletics Director’s spouse will be entitled to reimbursement for travel and other reasonable and necessary expenses incurred while engaging in such official activities, provided that such activities are at the direction of and have the prior approval of the Vice President for Business Affairs.

**[Performance Incentives are Optional – delete the next paragraph if not applicable. Please note that 34 CFR 668.14(b)(22) prohibits institutions from paying a commission, bonus, or other incentive payment to any employee (including athletic staff) based on securing enrollments or financial aid to institutional personnel involved in recruitment or making decisions about awarding Title IV aid. However, the regulations do not consider “bonus” payments made to coaching staff or other athletic department personnel to be prohibited if they are rewarding performance other than securing enrollment or awarding financial aid, such as a successful athletic season, team academic performance, or other measures of a successful team.]**

**C. Performance Incentives.** Provided that sufficient funds are available from athletics revenue or gifts for the unrestricted use of the Department of Athletics, Assistant Athletics Director shall be entitled to receive additional non-salary compensation from the University in the form of the following stated bonuses for increased responsibilities, provided that all varsity sports are in compliance with all Governing Athletics Rules and University Rules, and there are no pending or active NCAA or \_\_\_\_\_\_\_\_\_\_ Conference investigations or major violations of which Assistant Athletics Director knew or should have known.

**[Insert Incentives – See examples below**

(1) Football. Assistant Athletics Director is eligible for one of the following bonuses (ties would be decided by the \_\_\_\_\_\_\_\_\_\_ Conference tie breakers):

(a) $15,000 in any contract year in which the Football team wins the \_\_\_\_\_\_\_\_\_\_ Conference championship; or

(b) $10,000 in any contract year in which the Football team finishes the \_\_\_\_\_\_\_\_\_\_ Conference regular season in second, third or fourth place; or

(c) $5,000 in any contract year in which the Football team finishes the \_\_\_\_\_\_\_\_\_\_ Conference regular season in fifth or sixth place; or

(d) $20,000 in any contract year in which the Football team wins the NCAA national championship.

These bonuses are not cumulative. Any amount earned will be paid within 60 days following the date of the bowl game.

(2) Other Varsity Sports Team. Assistant Athletics Director is eligible for one of the following bonuses:

(a) $5,000 in any contract year for each varsity sports team that wins the \_\_\_\_\_\_\_\_\_\_ Conference regular championship; or

(b) $2,500 in any contract year for each varsity sports team that participates in post-season NCAA competition; or

(c) $5,000 in any contract year for each varsity sports team that wins an NCAA championship.

[These bonuses are not cumulative per team. Any amount earned will be paid within 60 days following the last game/match/meet played by the team in the NCAA post-season competition.**]**

**D. Deductions from Compensation.** Payments to Assistant Athletics Director by the University pursuant to the terms of this Agreement shall be subject to all deductions required by state and federal law or regulation. The University will make such other deductions permitted by law and authorized by Assistant Athletics Director in writing.

**7. SUSPENSION AND TERMINATION**

**A. Suspension or Termination by the University for Cause.** The University shall have the right and option to either suspend Assistant Athletics Director for a period of time with or without pay or to terminate Assistant Athletics Director’s employment and this Agreement for cause prior to the termination date stated in Section 3 above. In the event this Agreement is terminated for cause, all obligations of the University to make further payment or provide any other consideration hereunder shall cease as of the date of termination. In no case shall the University be liable to Assistant Athletics Director for the loss of any collateral business opportunities, or any benefits, perquisites, income, or consequential damages suffered by Assistant Athletics Director as a result of the University’s termination of **his/her** employment. In addition to its normally understood meaning in employment contracts, the term “cause” shall include, without limitation, any of the following:

(1) Failure or refusal by Assistant Athletics Director to perform any of the obligations, duties or responsibilities outlined in Section 4 or any refusal or unwillingness to perform any of such obligations, duties or responsibilities in good faith and to the best of Assistant Athletics Director’s abilities;

(2) A serious or major violation or a pattern of violations of any Governing Athletics Rules or University Rules, whether intentional or negligent, by Assistant Athletics Director, or the allowing or condoning, whether directly or by negligent supervision, of any such violation or pattern of violations, by any coaching staff or other person under Assistant Athletics Director’s supervision and direction, including student-athletes in the Program, in which this violation was known (or reasonably should have been known) by Assistant Athletics Director in the course of **his/her** normal duties, and which may, in the sole judgment and discretion of the President, reflect adversely upon the University, its athletics program or The University of Texas System, including, without limitation, any violation which may result in the University being investigated or placed on probation by the NCAA or the Conference;

(3) Failure by Assistant Athletics Director to report immediately to the Athletics Compliance staff, the Athletics Director, and, when appropriate, to the President, any alleged violations of the Governing Athletics Rules or University Rules by Assistant Athletics Director or by any coaches, staff members, student-athletes, or other persons that become known to Assistant Athletics Director;

(4) Failing or refusing to fully cooperate in an inquiry or investigation conducted by the University, The University of Texas System, the NCAA, the \_\_\_\_\_\_\_\_\_\_ Conference, or a law enforcement agency. This includes, but is not limited to, failing to provide information or documents in a timely manner in response to any reasonable requests by the University, The University of Texas System, the NCAA, the \_\_\_\_\_\_\_\_\_\_ Conference, or directing or otherwise instructing any coach, staff member, student-athlete or other person not to cooperate or comply with such an inquiry or investigation;

(5) Failure by Assistant Athletics Director to immediately report to the University’s Title IX Coordinator or Deputy Title IX Coordinator, any information Assistant Athletics Director knows relating to alleged or suspected sexual misconduct (including sexual harassment, sexual assault, dating violence or stalking);

(6) Any fraud or dishonesty by Assistant Athletics Director while performing the duties required by this Agreement, including, but not limited to, falsifying, altering or otherwise fraudulently preparing any document(s) or record(s) of, or required by, The University of Texas System, the University, the NCAA, or the Conference pertaining to the Program, recruits or student-athletes, transcripts, eligibility forms, compliance reports, expense reports, or any other document pertaining or related to any sanction of the Program;

(7) Engaging in conduct that violates any Governing Athletics Rules or University Rules concerning (a) consensual relationships between employees and students, or (b) sexual harassment;

(8) Any conduct, including acts or omissions, that misleads the University about any matters related to the University’s athletics’ programs, including matters related to any coaches or other staff members or any student-athletes;

(9) Any prolonged absence from the performance of Assistant Athletics Director’s obligations, duties and responsibilities under this Agreement without prior consent of the Athletics Director;

(10) Engaging in, assisting, encouraging, or soliciting others to engage in bookmaking, illegal gambling, or betting of any type involving any intercollegiate or professional athletic contest;

(11) Possession, use, sale, or manufacture of any narcotics, drugs, or other controlled substances or steroids or other chemicals in a manner which is prohibited by the University Rules or Governing Athletics Rules, or allowing, encouraging, or condoning the possession, use, sale, or manufacture of any narcotics, drugs, alcohol, controlled substances, steroids or other chemicals by any student-athlete in a manner which is prohibited by the University Rules or Governing Athletics Rules, or failure or refusal to fully participate and cooperate in the University’s implementation and enforcement of any narcotic, drug, alcohol, controlled substance, steroid, or other chemical testing program(s);

(12) Any conduct (a) that the University administration reasonably determines is unbecoming to the Assistant Athletics Director, or which reasonably brings into question the integrity of the Assistant Athletics Director, or that would render Assistant Athletics Director unfit to serve in **his/her** position and reflects poorly on the University, the Program, or The University of Texas System; or (b) resulting in a criminal charge being brought against Assistant Athletics Director involving a felony, or any crime involving theft, dishonesty, or moral turpitude; or

(13) Any cause adequate to sustain the termination of any regular staff employee of the University.

**The University shall have no obligation to use progressive discipline regarding** Assistant **Athletics Director’s misconduct. Any University decision to utilize progressive discipline shall not create any future obligation for the University to use progressive discipline.**

**[Insert one of the options for Section 7.B.]**

**B. Termination by the University without Cause.** The University shall have the right to terminate Assistant Athletics Director’s employment and this Agreement without any reason and without cause prior to the termination date stated in Section 3 above. In the event this Agreement is terminated without cause, (1) all obligations of the University to Assistant Athletics Director pursuant to this Agreement shall cease as of the date of any such termination, and (2) Assistant Athletics Director shall be eligible for any post-termination benefits applicable to regular employees of the University (i.e. COBRA insurance eligibility, et al).

**OR**

**B. Termination by the University without Cause.** The University shall have the right to terminate Assistant Athletics Director’s employment and this Agreement without any reason and without cause prior to the termination date stated in Section 3 above. In the event this Agreement is terminated without cause, (1) all obligations of the University to Assistant Athletics Director pursuant to this Agreement shall cease as of the date of any such termination, (2) Assistant Athletics Director shall be eligible for any post-termination benefits applicable to regular employees of the University (i.e. COBRA insurance eligibility, et al), and (3) the University will pay to Assistant Athletics Director, in lieu of any and all other legal remedies or equitable relief available to Assistant Athletics Director, liquidated damages equal to one year’s Base Salary that Assistant Athletics Director is receiving at the date of such termination for the duration of the Payout Period, which begins on the date of such termination and ends on \_\_\_\_\_\_\_\_\_\_ **[date Payout Period ends (a 9-month Payout Period is recommended)]**. Such liquidated damages shall be paid on a monthly basis through the Payout Period.

Assistant Athletics Director acknowledges **his/her** obligation to minimize the payments due to **him/her** under Section 7.B and agrees to make every reasonable effort to obtain other employment as long as the University has the obligation to make payments under Section 7.B. If the Assistant Athletics Director obtains new employment, the University’s financial obligations under Section 7.B shall be reduced by the total compensation received by Assistant Athletics Director in **his/her** new position, including employee benefits, whether in cash, deferred payments, or in kind. If Assistant Athletics Director’s salary in **his/her** new position exceeds that which Assistant Athletics Director would have been paid at the University, the University’s financial obligations would immediately cease. Assistant Athletics Director shall immediately, upon acceptance of other employment, notify the President in writing of such employment and the total compensation to be paid to Assistant Athletics Director for the employment. In addition, Assistant Athletics Director agrees to provide the University with a copy of **his/her** W-2 form for each calendar year as long as the University has the obligation to make payments under Section 7.B. For the avoidance of all doubt, the Parties understand and agree that the duty to make the liquidated damages payment shall not be treated as a subsidy for any future employer to pay Assistant Athletics Director less than market value for **his/her** services.

If the University ends this Agreement without cause prior to the termination date stated in Section 3, in accordance with the provisions of Section 7.B hereof, the University in no case shall be liable for Assistant Athletics Director’s loss of any collateral business opportunities or any other benefits, perquisites or income resulting from activities such as, but not limited to, media appearance, personal appearance, radio, television, internet, marketing and promotional services, apparel or shoe agreements, equipment agreements, consulting relationships, or from any other sources that may result from the University’s termination of this Agreement without cause.

**[If you included the first (shorter) Section 7.B, you should include the shorter Section 7.C below; If you included the second (longer) Section 7.B, you must include the second (longer) Section 7.C below.]**

**C. Termination of Employment by Assistant Athletics Director. I**f Assistant Athletics Director terminates **his/her** employment under this Agreement prior to its expiration, **his/her** compensation and benefits, to the extent not already vested, shall cease upon the termination date.

**OR**

**C. Termination of Employment by Assistant Athletics Director.** The Parties agree that Assistant Athletics Director has special, exceptional, and unique knowledge, skill, and ability which, in addition to the continuing acquisition of experience at the University, as well as the University’s special need for continuity in its athletic program, render Assistant Athletics Director’s services unique. Assistant Athletics Director further recognizes and agrees that **his/her** promise to work for the University for the entire term of this Agreement is an essential consideration in the University’s decision to employ **him/her** as Assistant Athletics Director. Assistant Athletics Director also recognizes and agrees that the University is making a highly valuable investment in **his/her** continued employment by entering into this Agreement and if **he/she** were to resign or otherwise terminate **his/her** employment as Assistant Athletics Director with the University prior to the expiration of this Agreement and obtain the same or similar position at another university, the University will suffer damages the amount, nature and extent of which is difficult to determine and which may include, but not be limited to, additional expenses to search for and employ another Assistant Athletics Director, salary or other compensation to hire another Assistant Athletics Director, tangible and intangible detriment to the University’s intercollegiate athletics program and the support of its fans and donors. Accordingly, Assistant Athletics Director agrees that in the event **he/she** resigns or otherwise terminates **his/her** employment under this Agreement prior to the expiration of the initial term of this Agreement and accepts the same or similar position at another intercollegiate athletic program, **he/she** shall pay to the University as liquidated damages, and not as a penalty, the following amounts:

**[The number of years bracketed below depends on the length of the contract.]**

(1) If Assistant Athletics Director leaves during the first **[**three**]** years of this Agreement, **he/she** will pay the University $\_\_\_\_\_\_\_\_\_\_;

(2) If Assistant Athletics Director leaves during the **[**fourth**]** year of this Agreement, **he/she** will pay the University $\_\_\_\_\_\_\_\_\_\_ **[should be less than previous amount]**;

(3) If Assistant Athletics Director leaves during the **[**fifth**]** year of this Agreement, **he/she** will pay the University $\_\_\_\_\_\_\_\_\_\_ **[should be less than previous amount]**.

The Parties agree that the amount of damages to be paid to the University hereunder is fair and reasonable. Payment of said liquidated damages will be in a single lump sum amount with payment to be made within 30 days of Assistant Athletics Director ceasing to be the Assistant Athletics Director. If Assistant Athletics Director terminates **his/her** employment under this Agreement prior to its expiration in accordance with Section 7.C, **his/her** compensation and benefits, to the extent not already vested, shall cease upon the termination date.

**D. Waiver of Claims.** The financial consequences of termination of this Agreement or suspension hereunder are exclusively set forth herein. Therefore, with the sole exception of payments required by this Agreement, in any instance of termination for cause or without cause, or suspension effected in accordance with the procedures established in this Agreement, neither Assistant Athletics Director nor the University shall be entitled to receive, and each hereby waives any claim against the other, and their respective officers, directors, agents, employees, successors, and personal representatives for consequential damages by reason of any alleged economic loss, including, without limitation loss of collateral income, deferred income, loss of earning capacity, loss of business opportunity, loss of perquisites, loss of fees from speech, or other outside activity, or damages allegedly sustained by reason of alleged humiliation or defamation resulting from the fact of termination, the public announcement thereof, or the release by the University or Assistant Athletics Director of information or documents required by law. Assistant Athletics Director acknowledges that, in the event of termination of this Agreement for cause, without cause or otherwise, Assistant Athletics Director shall have no right to occupy the position of assistant Athletics Director and that **his/her** sole remedies are provided herein and shall not extend to injunctive relief.

**E. Termination for Disability/Death.** If Assistant Athletics Director dies or becomes permanently disabled to the extent that, in the judgment of the President, Assistant Athletics Director cannot satisfactorily perform the duties of Assistant Athletics Director (“Inability to Perform”), this Agreement shall terminate and all obligations of the University to compensate Assistant Athletics Director pursuant to this Agreement shall cease as of the date of such death or disability. The University shall be obligated to compensate Assistant Athletics Director or Assistant Athletics Director’s estate in accordance with this Agreement for services performed prior to the termination date and, Assistant Athletics Director or Assistant Athletics Director’s estate shall be entitled to those benefits, if any, that are payable under any University sponsored group employee insurance or benefit plan in which Assistant Athletics Director is or was enrolled.

**8. MISCELLANEOUS**

**A. Merger and Amendment.** The provisions of this Agreement constitute the entire agreement between the Parties with respect to the subject matter hereof and no prior or contemporaneous agreement, either written or oral, shall have the effect of varying the terms hereof. No amendment to this Agreement shall be effective unless reduced to writing and signed by the Parties.

**B. Unenforceability of Provisions.** The provisions of this Agreement are severable. If any provision of this Agreement is determined by a proper court or authority to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect or impair the remainder of this Agreement, and this Agreement shall remain in full force and effect without such invalid, illegal, or unenforceable provision.

**C. Governing Law.** This Agreement shall be construed, enforced, and governed by and in accordance with the laws of the State of Texas. The University and Assistant Athletics Director agree that venue for any dispute arising from or related to employment shall be in \_\_\_\_\_\_\_\_\_\_\_ County, Texas. This provision does not prevent the University from removing to federal court any action brought in state court, and Assistant Athletics Director hereby consents to, and waives any objections to such removal.

**D. Exemptions, Privileges, and Immunities.** It is expressly agreed and understood between the Parties that nothing contained herein shall be construed to constitute a waiver by the University of its right to claim such exemptions, privileges, and immunities as may be provided by law.

**E. Mutual Understanding.** Each party has read this Agreement, fully understands the contents of it, has had the opportunity to obtain independent legal advice regarding the Agreement’s legal effect, and is under no duress regarding its execution.

**F. Confidential Information; University Property.** Athletics Director acknowledges that while employed by University he will occupy a position of trust and confidence and will receive and have access to Confidential Information, as hereinafter defined. Athletics Director acknowledges that such Confidential Information is specialized, unique in nature and of great value to the University, and that such information gives the University a competitive advantage. During the Term and thereafter, Athletics Director shall not use the Confidential Information or disclose the Confidential Information to any third party, except (i) as required to perform Athletics Director’s duties to the University in a manner consistent with professional standards and obligations; (ii) as authorized by the University; (iii) in furtherance of the University’s legitimate business interests; (iv) to comply with applicable laws or policies; (v) to the extent such Confidential Information shall have become public other than by Athletics Director’s unauthorized use or disclosure. Notwithstanding the foregoing, in no event shall Athletics Director use or disclose (unless required by judicial or government order;) Confidential Information if such use or disclosure will expose the University to competitive disadvantage, legal liability, or will otherwise harm the University. For purposes of this Agreement, “Confidential Information” means any information not generally available to the public or not in the public domain at the time of separation regarding the University, including, but not limited to, all personnel and student records; Athletics Department budgets, projections, or other financial information; vendor contracts; information regarding actual or potential NCAA, Conference, legal or regulatory proceedings, and any other information that should by its nature or context be recognized as University property or confidential information.

**G. Return of Property.**  Within 10 days of the expiration of this Agreement or its earlier termination with or without cause by either party, Athletics Director shall immediately deliver or return to the University all property furnished by the University to Athletics Director in the course of Athletics Director’s employment by the University, including, without limitation, computer equipment, car, keys, and documents, records, lists, data, drawings, prints, and notes related to University business.

**H. Counterparts.** This Employment Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but all such counterparts shall together constitute one and the same Employment Agreement.

**I. Disclosure.** The parties acknowledge and agree that the University is required to comply with the Texas Public Information Act.

**J. Review.** This Agreement is subject to review and approval by the President or President’s delegate and the Executive Vice Chancellor for Academic Affairs. **[**and the Board of Regents of The University of Texas System.**]** **[If total annual compensation is $1,000,000 or greater add the bracketed portion to this sentence.]**

IN WITNESS WHEREOF, the Parties hereto, having represented and warranted their authority to enter into and execute this Agreement, has executed this Agreement effective as of the last date written below.

|  |  |
| --- | --- |
| **UNIVERSITY:** | **ASSISTANT ATHLETICS DIRECTOR:** |
| **THE UNIVERSITY OF TEXAS \_\_\_\_\_\_\_\_\_\_\_**By:  **[**Name of Executing Officer**]** President **[**Vice President for Business Affairs**]**Date:  |  **[**Full Name of Assistant Athletics Director**]**Date:  |
|  |  |
| **APPROVED:***Total Compensation of $250,000 or Greater, But Less Than $1,000,000:* Alan MarksAssociate Vice Chancellor of Academic  Affairs and Athletics CounselThe University of Texas System**OR***Total Compensation of $1,000,000 or Greater:* Steve LeslieExecutive Vice Chancellor for Academic AffairsThe University of Texas System | Date: Date:  |