

STATE OF ALABAMA)
)
LEE COUNTY)

EMPLOYMENT AGREEMENT

This Employment Agreement (hereinafter "Agreement") made by and between Auburn University (hereinafter called "Auburn" or "University") and Gus Malzahn (hereinafter called "Coach").

WITNESSETH THAT:

For and in consideration of the mutual promises herein contained, the parties hereto do hereby agree as follows:

1. EMPLOYMENT: University hereby employs Coach in the position of Head Football Coach, and Coach does hereby accept such employment and agrees to perform all those services pertaining to football as set forth herein and as prescribed by University through the President and Athletics Director, which are required of Coach.
2. TERM: The Agreement shall commence on December 4, 2012, and end on December 31, 2017. This Agreement can be extended at any time only by written agreement of Coach and University. After December 31, 2012, the term "contract year," as used in this Agreement, shall mean the period from January 1 to December 31 of a given year.
3. SALARY: University will pay Coach an annual base salary of Five Hundred Thousand Dollars (\$500,000.00), payable in twelve (12) equal monthly

installments at the end of each month during the Term of this Agreement, less any withholdings required by state or federal laws or other authorized deductions.

4. SALARY INCREASES AND TERM EXTENSION: Salary increases and terms for the extension of this Agreement will be determined at University's discretion by an evaluation of Coach's performance in four (4) primary areas: (1) academic success of his student-athletes as indicated in part by compliance with NCAA and SEC academic progress requirements; (2) competitive success; (3) compliance with University, SEC, NCAA, and other applicable rules and regulations; and (4) fiscal responsibility. Performance in other areas may be considered in this evaluation, but the four (4) areas outlined above will be the primary areas of interest and concern.

5. ACADEMIC AND ATHLETIC PERFORMANCE BONUSES AND OTHER BENEFITS: In addition to the payments to Coach as set forth in this Agreement, Auburn will pay the following performance-based incentives to Coach during the Term of this Agreement, upon the occurrence of the following events. All bonuses are subject to there being no Level I or Level II violations or repeated or numerous Level III violations of NCAA Bylaws during the period in question.

- (a) Academic Performance Bonus - - The following academic bonuses are separate from all other bonuses awarded herein and shall be referenced as the "Academic Performance Bonuses." For the Academic Progress Rate (hereinafter "APR") measuring the academic success of teams actually

coached by Coach, beginning in academic year 2014-15, Coach may receive an Academic Performance Bonus in the amount specified below on the basis of the following criteria:

- i. Each year that the annual one-year APR, as defined by NCAA standards of the football team, meets or exceeds a figure of .930, an amount equal to Twenty-Five Thousand Dollars (\$25,000.00).
- ii. Each year that the APR of the football team meets or exceeds the annual one-year rate of .950, in addition to the amount in paragraph 5.a.i, Fifty Thousand Dollars (\$50,000.00).
- iii. Each year that the football team meets the annual one-year rate of 1.000, in addition to the amounts in paragraphs 5.a.i. & ii, Seventy-Five Thousand Dollars (\$75,000.00).

By way of example of the above (i-iii), if the football team meets the annual one-year rate of 1.000 (necessarily passing the .930 and .950 APRs), Coach will receive an Academic Performance Bonus of \$25,000, plus \$50,000, plus \$75,000, totaling \$150,000. By way of further example, Coach will not receive an Academic Performance Bonus in 2013, the year that the 2012-13 academic year team's APR is released, because Coach did not coach the 2012 team. No Academic Success Bonus will be paid to Coach after this Agreement is terminated, even though an APR may be released for such team in the year following Coach's last year.

- (b) Victories -- In seasons with ten (10) victories, Seventy-Five Thousand Dollars (\$75,000.00); eleven (11) victories, One Hundred Thousand Dollars (\$100,000.00), twelve (12) victories, One Hundred Twenty-Five

Thousand Dollars (\$125,000.00); thirteen (13) victories, One Hundred Fifty Thousand Dollars (\$150,000.00); fourteen (14) victories, Two Hundred Thousand Dollars (\$200,000.00). Coach will be eligible for only one (1) bonus per season under Paragraph 5(b).

- (c) Playing in SEC Championship -- For playing in the Southeastern Conference Championship Game, One Hundred Thousand Dollars (\$100,000.00).
- (d) Winning SEC Championship -- For winning the Southeastern Conference Championship Game, One Hundred and Fifty Thousand Dollars (\$150,000.00).
- (e) Playing in a BCS Bowl Game or College Football Playoff -- If the team does not play in the Southeastern Conference Championship but receives and accepts an at-large bid to a BCS bowl game in the 2013-14 season or a national semi-final game in the 2014-15 season and thereafter, One Hundred Thousand Dollars (\$100,000.00). If the BCS or College Football Playoff bowl game is for the national championship as so recognized by the BCS or College Football Playoff, Coach will receive One Hundred and Fifty Thousand Dollars (\$150,000.00), though Coach would not receive this payment if he also qualifies for the payment in Paragraph 5(j).
- (f) Playing in non-BCS Bowl Game -- For playing in a non-BCS bowl game, Fifty Thousand Dollars (\$50,000.00).

- (g) Final Rankings -- For being ranked in the top five (5) in the final Associated Press or Coaches poll after the conclusion of the college football regular season and post-season, One Hundred Thousand Dollars (\$100,000.00). Coach can receive a maximum of One Hundred Thousand Dollars (\$100,000.00) under this subparagraph.
- (h) Southeastern Conference Coach of the Year -- For being named Southeastern Conference Coach of the Year by the Associated Press or Southeastern Conference coaches, One Hundred Thousand Dollars (\$100,000.00). Coach can receive a maximum of One Hundred Thousand Dollars (\$100,000.00) for such awards.
- (i) National Coach of the Year -- For being named National Coach of the Year by the American Football Coaches Association, Associated Press, Walter Camp or Home Depot or wins the Bryant Award, One Hundred Thousand Dollars (\$100,000.00). Coach can receive a maximum of One Hundred Thousand Dollars (\$100,000.00) for such awards.
- (j) Winning National Championship-- For winning the National Championship, as determined by the Bowl Championship Series ("BCS") in 2013-14 and as determined by the College Football Playoff thereafter, Five Hundred Thousand Dollars (\$500,000.00).
- (k) Other Payments -- All payments earned under paragraphs 5(a) through (j) will be paid to Coach no later than January 15, following completion of the season in which the bonus is earned.

- (l) Bonuses Cumulative -- With the exception of the bonuses in Section 5(b), all of the performance-based incentives in Paragraph 5 are cumulative in nature. It is agreed and understood that Coach may earn more than one (1) incentive payment during a given season.
6. AUTOMOBILE ALLOWANCE: Auburn will furnish Coach with the use of two (2) new automobiles, which may be dealer cars. Auburn will also pay for gas, service, maintenance, and insurance on the vehicles.
7. COACHING STAFF: Subject to the prior express written approval of the Director of Athletics, which will not be unreasonably withheld, and in accordance with University policy and rules, Coach shall have primary responsibility to select, employ, and terminate his staff. Notwithstanding the foregoing, should Coach desire to employ as an assistant coach a person who is related to Coach by blood or marriage or is a member of Coach's immediate family, then the President of the University, rather than the Coach, shall be responsible, after receiving a recommendation from Coach and the Director of Athletics, for the selection, employment, and termination of that person, as well as the terms of that person's employment contract. No person shall be employed as an assistant football coach until Coach has notified the Athletics Director of the assistant coach's name, the Athletics Director or someone at his direction has obtained a favorable clearance from the NCAA and SEC, and the Athletics Director has approved the terms of such coach's employment. Coach shall not personally supplement, directly or indirectly, the salary or compensation of or provide any other benefit to any such assistant coach or other University employee without the prior express written

approval of the Athletics Director and shall not permit, encourage, or condone the soliciting or accepting by any such assistant coach or employee of gifts of cash or of substantial value or accepting hospitality other than reasonable social hospitality from any person, including without limitation, a person who is a "representative of athletics interests of the University" as that term is defined in governing athletics.

8. BEST EFFORTS: Coach will at all times promote the welfare of the University and its intercollegiate athletic program to the best of his ability.
9. WORK SCHEDULE: Coach is employed by the University to succeed at a specific task. Because time demands in the coaching profession are unique, largely on a seasonal basis, and requiring coaches to work a normal 40-hour work week would be counterproductive to success, coaches are given the flexibility to establish their own work schedule reflecting seasonal demands and success goals for the program. Coaches are expected to be reasonably available to meet with student-athletes, staff, alumni, media, and friends of the University. Because normal 40-hour work weeks are not the norm and because coaches under contract set their own schedule, Coach will not accrue annual leave but will have all other leave benefits normally provided to University employees.
10. TRAVEL EXPENSES: University agrees to provide or reimburse Coach for travel expenses he (and, if applicable and permitted by University policy and state law, Coach's spouse) incurs in connection with University activities and in accordance with University policy. Coach agrees to be personally responsible for

expenses which are not in accordance with University policy. Coach agrees that if for any reason he does not personally remit amounts for such non-University related travel expenses to the Director of Athletics or his designee within thirty (30) days from the date such expenses were incurred, University shall be entitled to collect remittance through payroll deduction without advance notice to Coach. Coach is encouraged to seek prior approval before incurring any questionable expense.

11. PROSPECTIVE EMPLOYMENT: Unless notice has been given to Coach by the University of his termination, neither Coach nor any person, firm or entity acting on his behalf shall under any circumstances discuss or negotiate directly or indirectly his prospective employment with any other institution of higher learning or professional athletic team without first providing notice to the Director of Athletics.
12. COOPERATION: Coach recognizes the University serves as an institution of higher learning and shall fully cooperate with the faculty and administrators of the University in connection with the academic pursuits of student-athletes and shall use his personal best efforts to encourage and promote those efforts. In that respect, Coach recognizes that a goal of the University is that every student-athlete obtain an undergraduate degree and agrees to fully support the attainment of that goal.
13. COMPLIANCE WITH POLICIES, RULES AND REGULATIONS:

- (a) Coach will faithfully perform the duties and obligations of the position of Head Football Coach to the best of his ability, and Coach will conform to and comply with the policies, rules, and regulations of University, its Department of Intercollegiate Athletics, and to the rules and regulations of the SEC and the NCAA including but not limited to the provisions of Article 4 of the Southeastern Conference Constitution and the Southeastern Conference Bylaw 19.8.
- (b) Coach will at all times exercise due care to assure that all persons under his supervision or subject to his control or authority as listed in Exhibit A to this Agreement, shall abide by said rules and regulations. Pursuant to NCAA Bylaw 11.1.2.1, Coach understands and acknowledges that he is presumed to be responsible for the actions of all persons who are directly or indirectly under his supervision or subject to this control or authority, and it shall be his responsibility to promote an atmosphere of compliance within the program and to monitor the activities of those persons who are directly or indirectly under his supervision or subject to his control or authority. Coach further understands and acknowledges that he shall observe and respect the principles of institutional control of every aspect of the athletic programs of Auburn.
- (c) Without limiting the foregoing, Coach acknowledges and agrees that he ultimately reports to the Athletics Director, through the Athletics Director's designee and unless expressly provided to the contrary therein.

that those duties, obligations, policies, rules, and regulations include the obligation to respect the administrative line of authority.

- (d) Coach agrees he will comply with the Southeastern Conference Rules and be bound by and comply with the enforcement, penalty, and other disciplinary provisions and procedures of the NCAA and of the Southeastern Conference Constitution and the Southeastern Conference Bylaw 19.8.
- (e) Coach agrees that he is presumed responsible for the actions of all persons under his supervision or subject to his control or authority as listed in Exhibit A to this Agreement. Coach agrees that University, in its sole discretion, may suspend him for a period of time without pay, or may terminate his employment with cause if University, the SEC, or the NCAA concludes or has reasonable basis to believe, after providing Coach notice (including being made aware of the allegations at issue) and an opportunity to be heard, that he or any of the persons listed in Exhibit A to this Agreement is involved in significant Level I or Level II or repetitive Level III violations of University, SEC or NCAA regulations. University and Coach agree that the nature and seriousness of the violation(s); Coach's efforts to promote an atmosphere of compliance and monitor those listed in Exhibit A; and whether University believes Coach knew or should have known of the violation(s) will be among the various factors University will consider in determining whether to terminate Coach's employment for cause under this paragraph.

Coach agrees that University may suspend him for a period of time without pay or may terminate his employment with cause if University, the SEC, or the NCAA concludes or has reasonable basis to believe, after providing Coach notice (including being made aware of the allegations at issue) and an opportunity to be heard, that Coach knew or should have known that any person or entity (other than those listed in Exhibit A) was involved in significant or repetitive violations of University, SEC or NCAA regulations and Coach failed to act reasonably to prevent, limit or mitigate any such violation(s). Coach acknowledges his obligation to report immediately to the Athletics Director and/or the Senior Associate Athletics Director for Compliance any violations of University, SEC or NCAA regulations which are known or made known to him.

In the event Auburn, the SEC or the NCAA suspends Coach for any reason, the University will have the right in its sole discretion to reduce in whole or in part Coach's compensation under this Agreement during the suspension period. Auburn's exercise of its rights under this provision will not impact Auburn's right to later terminate Coach for cause under Paragraph 18(a) for the events or conduct leading to Coach's suspension.

- (f) Coach also agrees that he may be suspended without pay or terminated if University, the conference(s) to which Coach's previous institutions belong or the NCAA concludes or has reasonable basis to believe, after notice to Coach (including being made aware of the allegations at issue)

and an opportunity to be heard, that Coach was involved in significant or repetitive violations of NCAA regulations during previous employment at another institution.

14. PERSONAL CONDUCT: University shall have the right to terminate the Agreement in the event it concludes, after providing Coach notice (including being made aware of the allegations at issue) and an opportunity to be heard, that Coach has engaged in personal conduct that is contrary to the positive image and conduct Auburn expects from its Head Football Coach. Examples of such conduct would include, but not be limited to, charges or conviction of criminal conduct, personal conduct of a nature that puts Coach and University in a negative light or other conduct that is inconsistent with conduct generally expected of representatives of the University. University retains the discretion to make a good faith determination as to whether any conduct by Coach falls within the scope of the personal conduct paragraph. Coach acknowledges and agrees that in the event University decides to terminate Coach pursuant to the personal conduct paragraph, Coach will be entitled to receive no further payment from University of any sort.

15. ASSIGNMENT OF PERSONAL ENDORSEMENT RIGHTS: Coach hereby assigns to University any and all personal endorsement rights he possesses or might possess so long as Coach remains employed as the University's Head Football Coach. This assignment of personal endorsement rights by Coach to University includes any and all endorsement rights of any nature which Coach possesses or might possess while he is University Head Football Coach, and the

assignment includes, but is not limited to, any rights to enter shoe contracts and apparel contracts, as well as any other type of endorsement.

As part of this assignment of personal endorsement rights, Coach hereby assigns any rights he has to author, co-author, publish, or contribute in any fashion to the creation of any book, magazine, program or other publication, videotape, internet website, or publication or broadcast to University. Said assignment will be effective at all times while Coach is Head Football Coach at University. The assignment includes materials such as highlight videotapes or publications which feature a particular game, season, player, etc. but does not include instructional-type videos or publications by Coach unless Coach used footage or photographs of University football games or practices in such videos or publications. Coach may use video footage and photographs of University football games or practices in such manner only with the express written permission of University. Coach further agrees that as part of this Agreement, he acquires no rights to use of the University logo, University team nicknames, University emblems, films or videotapes of any game or practice involving the University football team, or any trademark associated with University or its athletic program. Coach acknowledges and agrees that such logos, nicknames, emblems, films, videotapes, or trademarks are the exclusive property of University and that he has no right to use any of these but agrees to use or display the same in accordance with the wishes of University in the performance of any activities pursuant to this Assignment of Personal Endorsement Rights or the Radio and Television Rights and Programs and Personal Appearances paragraph

set forth below. Coach also acknowledges and agrees that restrictions and limitations upon him in this paragraph will remain in force after the termination of this Agreement.

In exchange for the complete assignment of any and all personal endorsement rights by Coach, and the other terms and conditions set forth in this Paragraph, University will pay Coach a sum equal to Nine Hundred Thousand Dollars (\$900,000.00) per year for each year (or a prorated amount for any partial year thereof) during the Term of this Agreement. Coach acknowledges and agrees that University has the right to assign (and has, upon execution of the Agreement, automatically assigned) Coach's personal endorsement rights to a third party multimedia rights holder, which in turn will act as Coach's agent with respect to any and all endorsement opportunities. In exchange for the aforesaid payment, Coach shall cooperate fully with the reasonable requests of the University and the multimedia rights holder to which Coach's personal endorsement rights are assigned by University. The amount stated above will be paid to Coach in twelve (12) equal installment payments each year of the term less any withholdings required by state or federal law, to be paid at the end of each month commencing January 2013. University acknowledges and agrees that the initial payment due at the end of January 2013 shall also include a pro-rata sum to account for the period prior to December 31, 2012 during which Coach was employed.

16. RADIO, INTERNET, AND TELEVISION RIGHTS AND PROGRAM AND PERSONAL APPEARANCES: University shall own, and Coach hereby

assigns as part of this Agreement, any and all rights to radio, television, internet or other multi-media platforms that are broadcast, rebroadcast or otherwise disseminated to the public, in any medium, in which Coach serves as a participant (hereinafter referred to collectively as "Programs"). University shall be entitled, at its option, to produce and market Programs or negotiate with third parties for the production and marketing of Programs. University shall be entitled to retain all revenue from Program Sponsors for commercial endorsements used during the Programs. "Program Sponsors" are defined as those persons or entities that make financial contributions to or pay a fee for commercial endorsements used on Programs.

Coach agrees to appear on, and work to make successful, Programs or segments to be aired during the football season. Coach agrees that, at a minimum, he will appear as principal participant and assist in the production of a minimum of the following Programs: twelve (12) half-hour football coach's television shows to be aired during University's football season; a minimum of twelve (12) one (1) hour football coach's radio call-in shows during University's football season and during spring football; fourteen (14) mid-week Coach's call-in shows at locations to be determined by University; a sixty (60) second half-time interview during each football game; fourteen (14) taped interview segments recorded mid-week to be aired during the weekly football preview show; one (1) sixty (60) minute post-game interview television show for each football game played during University's football season; one (1) fifteen (15) minute pre-game radio show; and one (1) fifteen (15) minute post-game radio show per game

during University's football season. All references to "University's football season" shall include pre-season, regular season, and post-season games and promotion. Coach and University agree that any of the aforementioned show formats are subject to change by mutual agreement between the University (in consultation with the Coach) and the University's multimedia rights holder.

Each year, if requested and the schedule is mutually agreeable, Coach will make no less than the number of personal appearances specified below to assist University and/or the multimedia rights holder in the marketing of projects described above or in the maintenance of positive constituent relations as follows: twelve (12) appearances at Program Sponsorship Functions; and twelve (12) appearances at Fundraising/ Tigers Unlimited Functions.

Without limitation of the above, University and/or the multimedia rights holder may use Coach's services for the selling of commercial sponsorships through entertainment activities such as golf tournaments, dinners, receptions, personal appearances such as speeches, radio stations, sponsors, and the like, and Coach agrees to participate in such events as reasonably requested by University and/or the multimedia rights holder. Coach agrees to require assistant coaches to appear in or participate in preview, pre-game and post-game Programs (as defined above), as reasonably requested by the University's multimedia rights holder. Coach and University agree to use his/its best efforts to schedule such appearances at times that are mutually convenient to Coach and University and/or the multimedia rights holder. University shall reimburse Coach for all necessary out-of-pocket expenses incurred in making such personal appearances. Coach

shall not appear in any competing Program during the sport season (including any post-season competition) without the prior written approval of University, except in routine news media interviews for which no compensation is received.

Likewise, Coach shall not appear in any commercial endorsements which are broadcast on radio, television, internet or other multi-media platforms or in printed material (commercial or news-based) during the sport season which competes with any of the Program Sponsors. The reasonable efforts required of Coach under this Paragraph shall be that due diligence and personal time customarily exerted by head coaches in the promotion and production of similar radio, television, internet or other multi-media platforms at other institutions of higher education with major programs.

In exchange for Coach's covenants, obligations, and assignments in this Paragraph, University will pay Coach a sum equal to Nine Hundred Thousand Dollars (\$900,000.00) per year for each year during the Term of this Agreement. The annualized amounts specified above will be paid to Coach in twelve (12) equal installment payments during each year of the term, less any withholdings required by state or federal law, commencing January 2013. University acknowledges and agrees that the initial payment due at the end of January 2013 shall also include a pro-rata sum to account for the period prior to December 31, 2012 during which Coach was employed.

17. ADDITIONAL INCOME: To the extent permitted by law and not inconsistent with existing or future University commitments, Coach's right to earn additional compensation shall be governed under the following arrangements:

- (a) Camps – Coach (or a corporate entity controlled or owned by Coach) may conduct sport camp(s) in accordance with University, SEC, and NCAA policies and receive any compensation therefrom; and in connection thereto, Coach (or a corporate entity controlled or owned by Coach) will be permitted to use athletic facilities at the University at the established University rental rate.
- (b) Speaking Engagements -- Coach shall be allowed to retain any income received from speaking engagements which have not been requested by Auburn or such third party then holding Coach's endorsement rights. Coach acknowledges and agrees that prior to accepting any speaking engagement, he must notify Auburn of the speaking engagement and obtain its approval. Auburn reserves the right to refuse to provide approval at its discretion but will not unreasonably withhold such approval.
- (c) Equipment and Apparel Endorsements -- Coach shall not have the right to participate in and allow his name to be used in connection with athletic equipment and/or commercial activity wherein Coach will receive remuneration for such activity or endorsements. Any endorsements for products worn by team members or used by teams must have the approval of the Athletics Director,

as the University reserves the exclusive right to designate products worn by team members.

- (d) Compliance with Rules and Policies -- All contracts and/or compensation entered into and/or received by Coach will comply with applicable policies established by the University and its Department of Intercollegiate Athletics and with the rules and regulations of the NCAA and the SEC, shall be first approved by the Athletics Director, and shall not be inconsistent with existing University contracts and/or commitments. The Athletics Director reserves the right to refuse to provide approval at his discretion but will not unreasonably withhold such approval.

18. TERMINATION OF EMPLOYMENT BY AUBURN UNIVERSITY:

- (a) For Cause: Should the University elect to terminate Coach's employment prior to the end of this Agreement for cause as defined in paragraphs 8, 12, 13, 14 or 17 above, then University owes no further payment of funds or other benefit to Coach under this Agreement and will be deemed to have fully satisfied its obligations to Coach except for payments (1) fully earned by Coach under Paragraphs 3, 5, 15 or 16 prior to the event(s) or conduct underlying the University's decision to terminate him for cause, and (2) not yet received from the University at the time of his termination.

- (b) Without Cause: Should the University elect to terminate Coach's employment prior to December 31, 2013 for any reason other than those reasons permitting termination pursuant to paragraphs 8, 12, 13, 14 or 17 above, then the University will pay to Coach the sum of \$2.3 million, with such payments to be made in equal monthly installments over the remaining term of this Agreement, beginning the month after Coach's termination. After December 31, 2013, should the University elect to terminate Coach's employment for any reason other than those reasons permitting termination pursuant to paragraphs 8, 12, 13, 14 or 17 above, then the University will pay to Coach any and all annual base salary (\$500,000.00 per year) which Coach would have received from the date of such termination to the expiration of the Agreement ("Buy-Out Amount"). The Buy-Out Amount shall be paid in equal monthly installments over the remaining duration of the Agreement, beginning the month after Coach's termination. Coach also acknowledges that in the event he is terminated without cause, he agrees to continue to reasonably cooperate with the University during any investigation of potential rules infractions, and failure to do so will relieve the University of its obligations under Paragraph 18(b).
- (c) Death or Resignation: If, during the term of this Agreement, Coach dies or resigns his employment, no further compensation or benefits shall be due Coach under this Agreement.

- (d) Payment of the Buy-Out Amounts by University under this Paragraph will satisfy fully and discharge completely any and all obligations which University has to Coach under this Agreement, including, but not limited to, payments that have been earned or accrued but not yet paid.

19. TERMINATION OF CONTRACT OF EMPLOYMENT BY COACH: Should Coach elect to terminate this Agreement prior to the end of the Term of this Agreement for any reason, unless the termination is due to Coach's disability or illness that prevents him from fulfilling his duties as Head Football Coach, then Coach will be liable to University for the payment of liquidated damages in an amount equal to the total base salary (\$500,000.00 per year) that would be paid to Coach had he completed the remaining Term of this Agreement ("Salary Repayment").

In the event Coach terminates the Contract under the provisions of this Paragraph that require such Salary Repayment, Coach or his designee will pay the Coach's Salary Repayment in two (2) equal payments, the first of which shall be due thirty (30) days from the date Coach terminates this Agreement under the provisions of this Paragraph, and the second of which shall be due on the first anniversary of such termination date. With the exception of the obligations contained in Paragraphs 20 (Waiver of Claims) and 21 (Ownership of Records) of the Agreement, and the obligation to reasonably cooperate with any investigation of potential rules infractions during his time at the University, which shall survive the termination of the Agreement, payment of the Coach's Buy-Out Amount by

Coach will satisfy fully and discharge completely any and all obligations Coach has to Auburn under this Agreement.

20. WAIVER OF CLAIMS: In the event of termination of Coach's employment, neither University nor Coach shall be entitled to receive, and each hereby waives any claim against the other, and their respective trustees, officers, administrators, agents, employees, successors, and personal representatives for consequential damages by reason of any alleged economic loss, including without limitation loss of collateral income, loss of earning capacity, loss of business opportunity, loss of perquisites, loss of speech, camp or other outside activity fees, or expectation income, or by reason of alleged humiliation or defamation resulting from the fact of termination, the public announcement thereof, or the release by University or Coach of information or documents required by law. Coach acknowledges that in the event of termination of this Agreement he shall have no right to occupy the position of Head Football Coach and that his sole remedies are provided herein and shall not extend to injunctive relief. Coach acknowledges that he has no expectation of tenure. Coach acknowledges that as part of this Agreement, he forfeits all rights he might have to file a grievance under University policy related in any way to his termination.

In no event, unless otherwise expressly provided herein, is Coach, after termination of employment, entitled to any other benefits or privileges, including, but not limited to, parking, tickets, or access to athletic events which otherwise are or may be available to Coach while employed or after employment.

21. OWNERSHIP OF RECORDS: All documents, records, or materials, including without limitation personnel records, recruiting records, team information, films, statistics, or any other material or data, furnished to Coach by University or developed by Coach on behalf of or at the expense of University or otherwise in connection with the employment of Coach are and shall remain the sole and confidential property of the University. Within ten (10) days of the expiration or termination of this Agreement, Coach shall cause any such materials in his possession or control to be delivered to the University. At the same time Coach shall return to the University all credit cards or keys issued to him by the University. Documents and records related to camps conducted by Coach are and shall remain the sole and confidential property of Coach. However, Coach agrees to make those records available to Auburn for audit, review, and copying upon request.
22. PHYSICAL OR MENTAL DISABILITY/INABILITY TO PERFORM: In the event of Coach's physical or mental disability or inability to perform his duties under this agreement for a period of time which would cause a substantial adverse impact on University's intercollegiate athletic programs, in lieu of any other University disability benefit otherwise available to University employees, University will pay to Coach a sum equal to sixty percent (60%) of his annual base salary for the remainder of this contract. such payment to be made on a date that is ninety (90) days after a determination has been made that Coach's physical or mental disability will not allow him to perform his duties under this Agreement, and upon such payment, his employment will be terminated without

further obligation of either party, but Coach will continue to have the right to receive any post-employment benefits to which he is entitled by law or University policy because of his prior employment by University. This paragraph is not intended to confer any death benefit, nor shall it be applied in any manner which violates applicable law concerning handicaps or disability. Determination of such disability or inability shall be made by University in accordance with applicable law and University policies and procedures after due notice to Coach and after reasonable opportunity for hearing by or on behalf of Coach.

23. ENTIRE AGREEMENT: This Agreement constitutes the entire Agreement between the parties hereto, and there are no collateral oral or written Agreements or understandings. This Agreement supersedes any prior oral or written Agreement or understanding between parties. Coach acknowledges and agrees that he has not relied on any representation of Auburn or its representatives in entering the contract, and he had the opportunity to consult with legal counsel of his choice before executing this Agreement.

24. ACCEPTANCE OF EMPLOYMENT: Coach hereby accepts employment by University as Head Football Coach on the terms and conditions herein contained.

25. PREVIOUS CONTRACTS: Coach hereby warrants and represents that there are no binding contracts between Coach and any third party that would entitle the third party to approve any provision or all of this Agreement prior to its execution or to participate in or receive any proceeds to be paid to Coach pursuant to this

Agreement. Coach further agrees and acknowledges that in the event any claim or legal action or administrative action is instituted against University by any third party wherein it is alleged, among other things, that Coach, in fact, is bound by such contract, Coach will indemnify and hold harmless University from any award, judgment, or settlement received by the party asserting the claim or bringing the administrative action or legal action. As part of this Agreement to indemnify and hold harmless, Coach acknowledges and agrees that he will be responsible for payment of any legal fees and related expenses incurred by University as a result of any such claim, administrative action, or legal action.

26. REPAYMENT OF BUYOUT FROM PREVIOUS EMPLOYMENT: Coach acknowledges that Auburn loaned him Seven Hundred Thousand Dollars (\$700,000.00) to satisfy the buyout provision of his contract with his previous employer. During the course of this contract, this debt will be forgiven in the amount of Dollars (\$140,000.00) for each contract year completed under this Agreement such that the debt will be forgiven entirely. If Coach is terminated for cause prior to December 31, 2017, he will be responsible for paying to the University the balance remaining on this loan, with the amount owed for a partial year being determined on a pro rata basis (i.e., \$11,667 per month). In such event, University has the discretion to require repayment of the outstanding loan balance as it sees fit and can require a lump sum payment or partial payments.

27. MISCELLANEOUS:

- (a) Choice of Law -- This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of

Alabama (without regard to any conflict of laws provisions). Coach consents to the jurisdiction of any court of the State of Alabama and any federal courts in Alabama, waiving any claim or defense that such forum is not convenient or proper. Coach agrees that any such court shall have in personam jurisdiction over Coach and consents to service of process in any manner authorized by Alabama law. By entering into this Agreement, University does not waive any legal defenses or protections available to it, including, but not limited to, sovereign immunity.

(b) Headings -- The paragraph headings of this Agreement are for convenience only and are in no way intended to affect the meaning or interpretation of any provision of this Agreement.

28. OPPORTUNITY TO REVIEW: Coach acknowledges that he has had adequate opportunity to review this Agreement and has had time to retain legal representation of his choosing to review the contract on his behalf. Coach further acknowledges that he is entering this Agreement knowingly and voluntarily.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the
1 day of June, 2013.

WITNESS:

AUBURN UNIVERSITY,
a corporation

Joline M. Patterson TO

BY [Signature]
Dr. G. Jay Gogue
President

Raura Meadows TO

[Signature]
Gus Malzahn
Head Coach
Football

Recommended by:

[Signature]
Jay Jacobs
Athletics Director

EXHIBIT A

Football

All Assistant Coaches, Assistant Head Coaches and Offensive/Defensive Coordinators
All Graduate Assistant Coaches
All Video Staff
Director of Football External Relations and his staff/assistants
Director of High School Relations
Football Operations Director of Scouting
Player Personnel Director
Director of Player Development
Quality Control, Analysts and Operations Personnel
All Non-Coaching Football Staff (including staff residing in South Donahue Dormitory)
Assistant Director of Athletics for Football
Head Coach's Executive Assistant and all other office personnel
Equipment Managers and Student Equipment Managers
Persons who are directly or indirectly under Coach's supervision or subject to his control

General

Any employee or student-athlete of Auburn University or representative of Auburn University's athletic interests who is instructed or requested by Coach or a member of the football staff (as identified above) to engage in conduct deemed by University, the SEC or NCAA to be a Level I or Level II rules violation, repetitive Level III violations, or significant or repetitive violations of NCAA or SEC rules and regulations.

Coach agrees that in the event the title of any of the positions listed above changes during the Term of this Agreement, or if any new positions are added that would fall under the categories listed above, Coach will be responsible for the positions whose title changes and the new positions added to the same extent he is responsible for the positions and employees listed above.

SECOND AMENDMENT TO EMPLOYMENT AGREEMENT

This Second Amendment to Employment Agreement (hereinafter "Agreement") made by and between Auburn University (hereinafter called "Auburn" or "University") and Gus Malzahn (hereinafter called "Coach") hereby memorializes the terms agreed to in the parties' September 4, 2015, Letter of Agreement and amends the Employment Agreement executed on June 1, 2013, by and between Auburn and Coach (hereinafter the "2013 Agreement") and, if applicable, the First Amendment to Employment Agreement executed on March 31, 2014, by and between Auburn and Coach (hereinafter the "2014 First Amendment") as follows.

WITNESSETH THAT:

For and in consideration of the mutual promises herein contained, the parties hereto do hereby agree to amend the 2013 Agreement and 2014 First Amendment, pursuant to Paragraph 2 of the 2013 Agreement, as follows. With the exception of paragraphs that are not amended (indicated herein with "No change"), the paragraphs provided below delete and replace the corresponding paragraphs in the 2013 Agreement and 2014 First Amendment.

1. EMPLOYMENT: No change.
2. Paragraph 2 is amended to read as follows: "TERM: The Agreement shall commence on January 1, 2016, and end on December 31, 2020. This Agreement can be extended at any time only by written agreement of Coach and University. The term "contract year," as used in this

Agreement, shall mean the period from January 1 to December 31 of a given year.”

3. SALARY: No change.
4. SALARY INCREASES AND TERM EXTENSION: No change.
5. ACADEMIC AND ATHLETIC PERFORMANCE BONUSES AND OTHER BENEFITS: No change.
6. AUTOMOBILE ALLOWANCE: No change.
7. COACHING STAFF: No change.
8. BEST EFFORTS: No change.
9. WORK SCHEDULE: No change.
10. TRAVEL EXPENSES: No change.
11. PROSPECTIVE EMPLOYMENT: No change.
12. COOPERATION: No change.
13. COMPLIANCE WITH POLICIES, RULES AND REGULATIONS: No change.
14. PERSONAL CONDUCT: No change.
15. Paragraph 15 is amended to read as follows: “ASSIGNMENT OF PERSONAL ENDORSEMENT RIGHTS: Coach hereby assigns to

University any and all personal endorsement rights he possesses or might possess so long as Coach remains employed as the University's Head Football Coach. This assignment of personal endorsement rights by Coach to University includes any and all endorsement rights of any nature which Coach possesses or might possess while he is University Head Football Coach, and the assignment includes, but is not limited to, any rights to enter shoe contracts and apparel contracts, as well as any other type of endorsement.

As part of this assignment of personal endorsement rights, Coach hereby assigns any rights he has to author, co-author, publish, or contribute in any fashion to the creation of any book, magazine, program or other publication, videotape, internet website, or publication or broadcast to University. Said assignment will be effective at all times while Coach is Head Football Coach at University. The assignment includes materials such as highlight videotapes or publications which feature a particular game, season, player, etc. but does not include instructional-type videos or publications by Coach unless Coach used footage or photographs of University football games or practices in such videos or publications. Coach may use video footage and photographs of University football games or practices in such manner only with the express written permission of University. Coach further agrees that as part of this Agreement, he acquires no rights to use of the University logo, University team nicknames, University emblems, films or videotapes of

any game or practice involving the University football team, or any trademark associated with University or its athletic program. Coach acknowledges and agrees that such logos, nicknames, emblems, films, videotapes, or trademarks are the exclusive property of University and that he has no right to use any of these but agrees to use or display the same in accordance with the wishes of University in the performance of any activities pursuant to this Assignment of Personal Endorsement Rights or the Radio and Television Rights and Programs and Personal Appearances paragraph set forth below. Coach also acknowledges and agrees that restrictions and limitations upon him in this paragraph will remain in force after the termination of this Agreement.

In exchange for the complete assignment of any and all personal endorsement rights by Coach, and the other terms and conditions set forth in this Paragraph, University will pay Coach a sum equal to Two Million One Hundred Twelve Thousand Five Hundred Dollars (\$2,112,500.00) each contract year during the Term of this Agreement. Coach acknowledges and agrees that University has the right to assign (and has, upon execution of the Agreement, automatically assigned) Coach's personal endorsement rights to a third party multimedia rights holder, which in turn will act as Coach's agent with respect to any and all endorsement opportunities. In exchange for the aforesaid payment, Coach shall cooperate fully with the reasonable requests of the University and the multimedia rights holder to which Coach's personal endorsement rights

are assigned by University. The amount stated above will be paid to Coach in twelve (12) equal installment payments each contract year of the term less any withholdings required by state or federal law, to be paid at the end of each month commencing January 2016.”

16. Paragraph 16 is amended to read as follows: “RADIO, INTERNET, AND TELEVISION RIGHTS AND PROGRAM AND PERSONAL APPEARANCES: University shall own, and Coach hereby assigns as part of this Agreement, any and all rights to radio, television, internet or other multi-media platforms that are broadcast, rebroadcast or otherwise disseminated to the public, in any medium, in which Coach serves as a participant (hereinafter referred to collectively as “Programs”). University shall be entitled, at its option, to produce and market Programs or negotiate with third parties for the production and marketing of Programs. University shall be entitled to retain all revenue from Program Sponsors for commercial endorsements used during the Programs. “Program Sponsors” are defined as those persons or entities that make financial contributions to or pay a fee for commercial endorsements used on Programs.

Coach agrees to appear on, and work to make successful, Programs or segments to be aired during the football season. Coach agrees that, at a minimum, he will appear as principal participant and assist in the production of a minimum of the following Programs: twelve (12) half-hour football coach’s television shows to be aired during University’s

football season; a minimum of twelve (12) one (1) hour football coach's radio call-in shows during University's football season and during spring football; fourteen (14) mid-week Coach's call-in shows at locations to be determined by University; a sixty (60) second half-time interview during each football game; fourteen (14) taped interview segments recorded mid-week to be aired during the weekly football preview show; one (1) sixty (60) minute post-game interview television show for each football game played during University's football season; one (1) fifteen (15) minute pre-game radio show; and one (1) fifteen (15) minute post-game radio show per game during University's football season. All references to "University's football season" shall include pre-season, regular season, and post-season games and promotion. Coach and University agree that any of the aforementioned show formats are subject to change by mutual agreement between the University (in consultation with the Coach) and the University's multimedia rights holder.

Each year, if requested and the schedule is mutually agreeable, Coach will make no less than the number of personal appearances specified below to assist University and/or the multimedia rights holder in the marketing of projects described above or in the maintenance of positive constituent relations as follows: twelve (12) appearances at Program Sponsorship Functions; and twelve (12) appearances at Fundraising/ Tigers Unlimited Functions.

Without limitation of the above, University and/or the multimedia rights holder may use Coach's services for the selling of commercial sponsorships through entertainment activities such as golf tournaments, dinners, receptions, personal appearances such as speeches, radio stations, sponsors, and the like, and Coach agrees to participate in such events as reasonably requested by University and/or the multimedia rights holder. Coach agrees to require assistant coaches to appear in or participate in preview, pre-game and post-game Programs (as defined above), as reasonably requested by the University's multimedia rights holder. Coach and University agree to use his/its best efforts to schedule such appearances at times that are mutually convenient to Coach and University and/or the multimedia rights holder. University shall reimburse Coach for all necessary out-of-pocket expenses incurred in making such personal appearances. Coach shall not appear in any competing Program during the sport season (including any post-season competition) without the prior written approval of University, except in routine news media interviews for which no compensation is received. Likewise, Coach shall not appear in any commercial endorsements which are broadcast on radio, television, internet or other multi-media platforms or in printed material (commercial or news-based) during the sport season which competes with any of the Program Sponsors. The reasonable efforts required of Coach under this Paragraph shall be that due diligence and personal time customarily exerted by head coaches in the promotion and production of similar radio,

television, internet or other multi-media platforms at other institutions of higher education with major programs.

In exchange for Coach's covenants, obligations, and assignments in this Paragraph, University will pay Coach a sum equal to Two Million One Hundred Twelve Thousand Five Hundred Dollars (\$2,112,500.00) each contract year during the Term of this Agreement. The annualized amounts specified above will be paid to Coach in twelve (12) equal installment payments during each contract year of the term, less any withholdings required by state or federal law, commencing January 2016."

17. ADDITIONAL INCOME: No change.
18. TERMINATION OF EMPLOYMENT BY AUBURN UNIVERSITY: No change.
19. TERMINATION OF CONTRACT OF EMPLOYMENT BY COACH: No change.
20. WAIVER OF CLAIMS: No change.
21. OWNERSHIP OF RECORDS: No change.
22. PHYSICAL OR MENTAL DISABILITY/INABILITY TO PERFORM:
No change.
23. ENTIRE AGREEMENT: No change.
24. ACCEPTANCE OF EMPLOYMENT: No change.

25. PREVIOUS CONTRACTS: No change.
26. REPAYMENT OF BUYOUT FROM PREVIOUS EMPLOYMENT: No change.
27. MISCELLANEOUS: No change.
28. NOTICE: No change.
29. OPPORTUNITY TO REVIEW: No change.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Employment Agreement on the 1 day of ^{April}~~February~~, 2016.

WITNESS:

Jelene Patterson TO

AUBURN UNIVERSITY,
a corporation
Dr. G. Jay Gogue
BY
Dr. G. Jay Gogue
President

[Signature] TO

Recommended by:

Jay Jacobs
Athletics Director

Gus Malzahn
Gus Malzahn
Head Coach Football