



**BALL STATE  
UNIVERSITY**

June 22, 2020

Mike Neu  
Department of Athletics  
Ball State Campus

Dear Mike:

Based on the recommendation of the Director of Intercollegiate Athletics, I am pleased to extend your appointment as Head Football Coach at Ball State University, effective June 22, 2020, and continuing through February 28, 2023, (the "Term"), with an annualized salary base of \$453,000 ("Base Salary"). Your appointment will be subject to the attached "Terms of Employment."

To accept this offer, please sign and date the enclosed copy of this Appointment Letter as well as the Terms of Employment attached thereto and return both documents to the Office of the President, AD 101, Ball State University, Muncie, Indiana, 47306.

You are a valued member of the Ball State community, and I am confident your contributions will continue to elevate the University's football program.

Sincerely,

Geoffrey S. Mearns  
President

cc: Beth Goetz, Director of Intercollegiate Athletics  
Personnel File

I have read and understand this Appointment Letter and the Terms of Employment, and I accept this appointment.

Date: 6/22/20

Mike Neu

## **TERMS OF EMPLOYMENT**

Mike Neu (the "Coach") and Ball State University (the "University"), individually a "Party" and collectively the "Parties," agree that the following terms and conditions, together with the attached Appointment Letter dated June 22, 2020, (collectively, the "Agreement"), shall govern the Coach's employment as the University's Head Football Coach:

### **1. Laws, Regulations and Policies.**

The Coach's appointment is subject to the applicable laws and regulations of the United States and the State of Indiana and the policies, rules and regulations of the University, including but not limited to those contained in the *Faculty and Professional Personnel Handbook* (the "*Handbook*"), which is available on-line for the Coach's review at <http://cms.bsu.edu/web/facultyprofessionalhandbook>. By accepting this appointment, the Coach agrees to comply with these laws, rules, regulations and policies, as amended from time to time. In the event there are any inconsistencies between published University policies, rules or regulations and this Agreement, the terms and provisions of this Agreement shall control.

The Coach's appointment is also subject to the "Governing Athletics Rules," which means any and all present or future legislation, bylaws, regulations, rules, directives, written policies, constitutions, and official or authoritative interpretations promulgated by the NCAA, the athletics conference of which the University is a member (the "Conference"), or any successor organizations thereto, or by any governing body hereafter having regulatory power or authority over the University's Athletics Department.

### **2. Term of Appointment and Employment.**

As set forth in the attached Appointment Letter, the Coach's appointment and employment will commence on June 22, 2020, and will continue until February 28, 2023, or

until earlier terminated pursuant to Section 8 of this Agreement (the "Term"). The Term may be extended by written agreement of the Parties prior to its expiration; however, no University official other than the Board of Trustees and the President has the authority to extend the Term or alter the terms of the Coach's appointment and employment on behalf of the University. The Director of Athletics will meet with the Coach at least annually to review the Coach's performance and discuss modifications to this Agreement. The Coach's appointment as Head Football Coach is not a tenure-track appointment, and such appointment does not carry with it the possibility of tenure; nor does the extension of the Term at any time hereafter create any other right or expectation of future employment.

### **3. Salary.**

The Coach's Base Salary, less withholdings required by state and federal laws and any other deductions authorized by the Coach, will be paid in equal monthly installments, on the last workday of each month during the Term. The increases, if any, in the Coach's Base Salary for each Contract Year following February 28, 2021, will be determined prior to the beginning of such Contract Year. The first Contract Year of this Agreement shall be June 22, 2020, through February 28, 2021. Subsequently, a Contract Year shall be March 1<sup>st</sup> through the following February 28<sup>th</sup>.

### **4. Incentive Pay.**

During the Term, the Coach will have the opportunity to receive incentive pay in the form of bonuses as shown on the attached *Schedule A*. A prerequisite to the Coach's eligibility for any bonus is that the Coach shall have been fully and actively performing the Coach's duties and responsibilities through the final football game (including post-season games) of the relevant football season, or through the relevant academic year in case of academic bonuses, in regard to

which the event listed on *Schedule A* occurs. Bonuses will be paid within thirty (30) days following the date of the final football game (including post-season games) of the relevant football season, or the NCAA's announcement of relevant APR in case of academic bonuses, and will not become part of the Coach's annual Base Salary and thus will not be taken into account in determining the benefits to which the Coach is entitled under the University's employee benefit plans. However, bonuses will be subject to state and federal withholding, to the extent required by law.

If within four calendar years of the date on which any bonus is paid from the University to the Coach the NCAA Committee on Infractions requires the vacation of victories during, or the return of post-season monies received by the University from, a football season for which the Coach received a bonus due to infractions that occurred while the Coach is/was the head coach of the University's football team, then the Coach shall be required to return the full amount of any such bonus to the University within ninety (90) days of the publication of the vacation requirement by the Committee on Infractions. This obligation of the Coach shall survive the expiration of the Term, and the University shall be entitled to recover any legal costs, including attorney's fees, reasonably incurred in recovering relevant bonus payments from the Coach.

Additionally, in the event the Coach is terminated for Adequate Cause pursuant to reasons set forth in Section 8(b), any bonuses earned but not yet due will be immediately forfeited by the coach upon University's determination of Adequate Cause.

#### **5. Benefits.**

The Coach shall be entitled to the standard benefits available under the University's employee benefit plans (e.g. health care, life and accidental death and dismemberment insurance, salary continuance insurance, leave and retirement plans). The Coach's eligibility to participate in

the plans, and the types and amounts of benefits provided thereunder, are governed by the respective plan documents, which may change during the Term, and are summarized at:

<http://cms.bsu.edu/about/administrativeoffices/payrolleb>.

In the event there are any inconsistencies between the plan documents and the summaries set forth at <http://cms.bsu.edu/about/administrativeoffices/payrolleb>, the plan documents shall control. If any benefit is based in whole or in part upon the Coach's salary, such benefit shall be determined by the Coach's Base Salary, without including any outside income or any compensation paid in accordance with Sections 4, 5, or 7 of this Agreement. All benefits will be subject to state and federal tax and withholding as required by law.

The Coach will also be entitled to reimbursement for the Coach's travel expenses incurred within the scope of the Coach's employment, in accordance with standard University policies and procedures.

In addition to the standard benefits, during the Term, the University will provide the following:

- a) Travel. The University will invite the Coach's spouse and dependent children to participate as members of the official University travel party, if any, for (i) post-season appearances involving the University's football team, and (ii) other special events involving the football team, as determined by the University. Transportation and lodging for the Coach's spouse and dependent children will be paid by the University, if such expenses are paid for other members of the official University travel party.
- b) Tickets. The University will make available to the Coach, through a pass list or otherwise, for use by the Coach (i) fifty (50) complimentary tickets to each of the

University's home football games, (ii) twenty-five (25) complimentary tickets to the Conference football championship and bowl or football playoff games, and (iii) ten (10) complimentary tickets to other on-campus intercollegiate athletics events in which the University's team is the home team. The Coach shall in no circumstance sell such tickets for any value, nor shall the Coach provide such tickets to, or for the benefit of, any individual or entity in any manner that violates the Governing Athletics Rules. Upon the University's request, the Coach will identify the individuals or entities who receive any such tickets from the Coach.

- c) Automobile. The Coach will be assigned a University-owned or leased automobile for use on University business and for the Coach's personal use. The University will make a gasoline credit card available to the Coach for purchasing gasoline and will pay the gasoline, insurance, maintenance and other expenses of operation of the automobile, subject to all applicable federal and state income tax and withholding rules and regulations. Use of the automobile by the Coach, or by the Coach's spouse while the Coach is present in the automobile, shall be subject to the rules and regulations of the University and the agreement(s), if any, between the University and the automobile dealer that leases or otherwise makes the automobile available to the University, including any amendments to said rules, regulations, and/or agreement(s) which become effective during the Term. The University will replace the automobile with a current model year automobile from time to time, as determined by the University and the automobile dealer. If, while on University business, the Coach is without access to the Coach's University-assigned automobile, the Coach may rent another automobile of comparable make and model to carry out such business and

obtain reimbursement for the cost of such rental in accordance with University policies and procedures.

- d) Entertainment. The Coach will be reimbursed for the Coach's reasonable expenses incurred for meals and entertainment in the course of carrying out the Coach's responsibilities as the Head Football Coach, such reimbursement to be made from the Cardinal Varsity Club Account at the Ball State University Foundation (the "Foundation") in accordance with the guidelines of the University and the Foundation and upon submission of receipts or other evidence satisfactory to the University and the Foundation. Reimbursable expenses may include those incurred for meals and entertainment conducted for such purposes at the Coach's residence. This also includes an annual membership at the Delaware Country Club and reimbursement for university entertainment related expenses incurred at the Delaware Country Club.
- e) Telephone. The Coach will receive a telephone allowance of \$110.00/month in payment for the Coach's expenses incurred using the Coach's personal mobile and/or landline telephone in carrying out the Coach's coaching responsibilities. The telephone allowance will be provided in accordance with University procedures. Upon request by the University, the Coach will promptly submit true and accurate copies of the Coach's personal mobile and/or landline telephone bills and records (including bills and records for text and e-mail communication by phone) to the University.

#### **6. Duties and Responsibilities.**

The Coach will devote the Coach's reasonable best efforts full time to the performance of the Coach's duties on behalf of the University. During the Term, the Coach will undertake and

perform properly, efficiently, to the best of the Coach's ability and consonant with the standards of the University, all duties and responsibilities normally attendant to the position of Head Football Coach, including those duties and responsibilities listed in the job description attached as *Schedule B*, as well as any other specific duties and responsibilities incidental thereto assigned by the Director of Athletics.

The Coach acknowledges the University's desire to maintain a program wherein the student-athletes recruited to participate in the program understand that the values of discipline, respect, sportsmanship and pursuit of academic success are essential for continued participation. The Coach further acknowledges that a material term of the Coach's appointment is the Coach's reasonable best effort to promote an atmosphere of NCAA rules compliance within the University's football program and monitor the conduct of the Coach's assistant coaches, administrative support staff, and student-athletes regarding NCAA rules compliance. The Coach will abide by and comply with the Governing Athletics Rules relating to the conduct and administration of the football program, including recruiting rules. The Coach will undertake, at minimum, the steps set forth in attached *Schedule C* to promote and monitor NCAA rules compliance within the University's football program. The University agrees to use its reasonable best efforts to assist the Coach with the foregoing and to cooperate with the Coach to help him promote and monitor NCAA rules compliance within the football program by (i) assisting with ongoing communication between the Coach, the Director of Athletics, the compliance office, and the football staff, and (ii) monitoring the NCAA rules compliance of the football coaching staff in a manner consistent with the NCAA rules compliance monitoring of the coaching staffs of the University's other athletics teams; provided that the University's assistance shall not diminish the Coach's obligation to promote and monitor NCAA rules compliance in the football program. In the event that the Coach becomes



aware, or has reasonable cause to believe, that a violation of the Governing Athletics Rules may have taken place, the Coach shall promptly report the same to the Director of Athletics, the Director of Athletic Compliance, or the University's General Counsel. The Coach will adhere to, respect and follow the academic standards and requirements of the University in regard to the recruiting and eligibility of prospective and current student-athletes for the football program.

In addition to the other provisions of this Agreement, the Coach will be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures, including suspension without pay or termination of employment.

**7. Opportunities to Earn Outside Income.**

During the Term, the Coach may have opportunities to earn income from outside activities incidental to the Coach's position (the "Athletics-Related Income"); provided, however, such outside activities shall be limited to those which are permitted under applicable University policies and regulations (*e.g.*, policies on conflict of interest and conflict of commitment), are consistent with the Governing Athletics Rules, and do not interfere with the full and complete performance by the Coach of the Coach's duties and obligations as a University employee, recognizing always that the Coach's primary obligations lie with the University.

Such activities may include, without limitation, appearances on television and radio programs produced in conjunction with or relating to the University's football program. Should the Coach be offered any opportunities to earn Athletics-Related Income, the Coach shall obtain the prior written consent of the Director of Athletics before agreeing to do so or entering into a commitment of any kind, which consent shall not be unreasonably withheld. However, the University will not approve such Athletics-Related Income opportunities unless they are consistent with the University's policy related to outside income and benefits applicable to other

full-time and part-time employees. Contractual commitments must be included in the Coach's annual report of Athletics-Related Income and benefits from sources outside the University.

The Coach and the University will use their best efforts to promote the University's football program, which will include efforts to identify opportunities for the Coach to earn Athletics-Related Income in accordance with this Section 7, as well as a reasonable number of unpaid alumni, public, and media appearances as requested by the Director of Athletics. In the event a disagreement arises among the Parties concerning any such appearance(s) (e.g., if the Coach believes their number, nature, scheduled time(s) and/or location(s) will interfere with the Coach's other duties and responsibilities as the University's Head Football Coach), the Coach and the Director of Athletics will use their best efforts to resolve the disagreement in a manner that recognizes and accommodates the interests of each of the Parties.

During the Term, the Coach will be entitled to operate the University's summer football camp. The camp will be subject to the University's control, and the Coach will operate the camp as the University's employee. The Coach's compensation for operating the camp will be determined by the profitability of the camp. The University and the Coach shall enter into a separate letter agreement setting forth the details of any such camp arrangement, including the method of determining the Coach's compensation, at least six (6) months prior to the first day of camp. The Coach will have the opportunity to utilize University facilities for the camp.

In no event shall the Coach accept or receive, directly or indirectly, any monies, benefits or any other gratuity whatsoever from any person, corporation, University booster club, alumni association or other benefactor if such action would violate the Governing Athletics Rules.

The Coach's outside activities, to the extent permitted hereunder, are independent of the Coach's University employment, and the University shall have no responsibility or liability for

any claims arising therefrom. To the greatest extent permitted by law, the Coach shall hold harmless and indemnify the University for all claims against the University, and its employees or agents, arising out of such activities and all reasonable outside attorneys' fees and legal expenses incurred by the University defending such claims.

During the Term, the Coach must provide a written detailed account annually to the President of the University, via the Director of Athletics, of all of the Coach's Athletics-Related Income (including, but not limited to, income from annuities; sports camps; housing benefits, including preferential housing arrangements; country club memberships; complimentary ticket sales; television and radio programs; and endorsement or consultation contracts with athletic shoe, apparel or equipment manufacturers). Willful failure by the Coach to provide an accurate annual account of Athletics-Related Income shall be a material breach of this Agreement constituting Adequate Cause for termination under Section 8(b) of this Agreement.

**8. Termination of Appointment During Term.**

**a) Termination on Account of Death or Physical or Mental Incapacity.**

The Term will terminate in the event of the Coach's death or the expiration of a period of physical or mental incapacity lasting more than sixty (60) days to perform the essential functions of the Head Football Coach as described in Section 6 and *Schedule B* of this Agreement. If the Coach dies, the Coach's Base Salary and all other benefits will terminate as of the date on which death occurs, except that the Coach's personal representative or other designated beneficiary will be paid all such death benefits, if any, as may be contained in any employee benefit plan then in force and due thereunder.

Termination of the Term due to the Coach's physical or mental incapacity shall be subject to the Coach's rights, if any, under the Family and Medical Leave Act. The University shall give

the Coach at least thirty (30) days prior Notice of the proposed termination date and shall provide the factual basis for the proposed termination and the opportunity for the Coach to rebut the stated factual basis. Any determination of physical or mental incapacity shall be made by a physician selected by mutual agreement of the Parties. However, if no such agreement is reached within five (5) days after the Coach receives Notice of the proposed termination date, the determination regarding the Coach's physical or mental incapacity shall be made by the majority of a panel of three (3) physicians, one (1) chosen by the Coach, one (1) chosen by the University, and (1) chosen by the two (2) physicians chosen by the Parties. If the Term of this appointment is terminated because of the Coach's physical or mental incapacity, the Coach's Base Salary and all other benefits will terminate as of the latest date in the month of termination allowed pursuant to University policy, except that the Coach will be entitled to receive any disability benefits to which the Coach is entitled under the University's salary continuance plan.

b) Termination for Adequate Cause.

The University shall have the right to terminate this appointment and the Coach's employment with the University at any time during the Term for "Adequate Cause." Adequate Cause shall include the reasons set forth in the *Handbook* and the following:

- i. The Coach's prolonged absence from or continued neglect or inattention to the Coach's duties pursuant to this Agreement, or continued failure or refusal to perform such duties, as reasonably determined by the University, provided that Director of Athletics previously gave Notice to the Coach describing such absence, neglect, inattention, failure, or refusal and provided a reasonable opportunity for the Coach to cure such absence, neglect, inattention, failure, or refusal.

- ii. Conduct or a pattern of conduct by the Coach or any individual under the Coach's supervision (including, but not limited to, the University's assistant football coaches, the University's football administrative staff, and the University's football student-athletes), whether acting individually or with others, which the University reasonably determines constitutes a significant or repetitive or intentional violation of the Governing Athletics Rules.
- iii. The Coach's material breach of this Agreement which is not timely cured, if curable, upon Notice to the Coach from the University.
- iv. The Coach's arrest for violation of a criminal statute or regulation, excluding minor traffic violations, provided that an arrest for DUI, DWI, OVI or materially similar charges shall not be considered an arrest for a minor traffic violation.
- v. The Coach's fraud or dishonesty in the performance of duties under this Agreement, as reasonably determined by the University.
- vi. The Coach's fraud or dishonesty in preparing, falsifying, submitting, or altering documents or records of the University, the NCAA or the Conference, or documents or records required to be prepared or maintained by law, the Governing Athletics Rules, or other University policies, or documents otherwise pertaining to prospective student-athletes or student-athletes, including without limitation, expense reports, academic transcripts, eligibility forms, or compliance reports, or the Coach's encouraging, permitting or condoning such fraudulent or dishonest acts by any other person, as reasonably determined by the University.
- vii. The Coach's failure to timely respond in a full and accurate manner to any request or inquiry related to the performance of the Coach's duties under this Agreement

propounded by the University, the NCAA, or the Conference, or as required by law, the Governing Athletics Rules, or University policies, as reasonably determined by the University.

- viii. The Coach counseling or instructing any other individual (including, but not limited to, the University's assistant football coaches, the University's football administrative staff, and the University's football student-athletes) to not timely respond in a full and accurate manner to any request or inquiry related to the operation of the University's Athletics Department propounded by the University, the NCAA, the Conference, or as required by law, the Governing Athletics Rules, or University policies, as reasonably determined by the University.
- ix. The Coach's failure to promote and encourage the academic values of the University as demonstrated by the NCAA imposing (prior to any waiver request by the University) either a scholarship reduction or a post-season ban upon the University's football team due to the football team's failure to maintain a sufficient multi-year APR score.
- x. The Coach soliciting, placing or accepting any bet on any intercollegiate or professional athletics contest, whether through a bookmaker, parlay card, pool or other method of gambling, or permitting, condoning or encouraging such solicitation, placing or accepting any such bet by any individual under the Coach's supervision (including, but not limited to, the University's assistant football coaches, the University's football administrative staff, and the University's football student-athletes), or the Coach furnishing information or data relating in any manner to football or any other intercollegiate sport to any individual who the Coach knows, or reasonably should know, to be a gambler, bookmaker, or an agent of any such person, as reasonably determined by the University.

- xi. The Coach reporting for duty under the influence of intoxicants, or the Coach's use or consumption of alcoholic beverages, drugs, controlled substances, steroids, or other chemicals so as to impair his ability to perform his duties under this Agreement, or the Coach failing to fully cooperate with the implementation and enforcement of any drug testing program established by the University, the NCAA, or the Conference for student-athletes, as reasonably determined by the University.
- xii. The Coach's sale, use or possession of any narcotic, drug, controlled substance, steroid, or other chemical, the sale, use or possession of which, as the case may be, is prohibited by law, the Governing Athletics Rules, or University policy; or the Coach permitting, condoning or encouraging any such conduct by any individual under the Coach's supervision (including, but not limited to, the University's assistant football coaches, the University's football administrative staff, and the University's football student-athletes), as reasonably determined by the University.
- xiii. The Coach's failure to promptly report to the Director of Athletics, Director of Athletic Compliance, or the University's General Counsel any violation of which the Coach is aware of the underlying conduct of the Governing Athletics Rules related to the operation of the University's Athletics Department by any individual, including, but not limited to, the University's assistant football coaches, the University's football administrative staff, the University's football student-athletes, other University coaches, University administrators, University faculty or staff members, or representatives of the University's athletics interests, as reasonably determined by the University.
- xiv. The Coach fails to obtain prior approval for outside activities incidental to the Coach's position or Athletics-Related Income, as set forth in Section 7 of this Agreement; or the

Coach fails to accurately report all sources and amounts of such Athletics-Related Income, as set forth in Section 7 of this Agreement, as reasonably determined by the University.

- xv. The Coach commits or participates in any offensive or egregious act, situation, or occurrence, which brings the Coach or the University into public disrepute, embarrassment, contempt, scandal or ridicule, as reasonably determined by the University; or the Coach fails to conform his personal conduct to standards of good citizenship due to conduct offending prevailing social morals and values or reflecting unfavorably upon the University's reputation and overall mission, including, but not limited to conduct involving acts of dishonesty, misrepresentation, moral turpitude, fraud or violence, which conduct may or may not warrant arrest by the relevant authorities, or any conduct or coaching practice which endangers the welfare of student-athletes, as reasonably determined by the University.
- xvi. The University reasonably determines that the Coach has willfully or recklessly destroyed valuable University property.
- xvii. The Coach's willful disobedience of University rules and regulations.

A determination to initiate proceedings to terminate this appointment and the Coach's employment for Adequate Cause will be made by the Director of Athletics. If such termination proceedings are initiated, the procedures to be followed will be those set forth in the *Handbook* for dismissal of a non-tenured faculty or professional personnel member during the term of his/her contract (which procedures include the right to a hearing). However, the Director of Athletics will act in place of the Department Chairperson and Dean, and the President will carry out the responsibilities of the Provost and Vice President for Academic Affairs.



In the event the Coach's appointment and his employment with the University are terminated for Adequate Cause, all obligations of the University to make further payments of Base Salary or benefits and/or to provide any other consideration pursuant to this Agreement shall cease as of the end of the month in which such termination occurs. In no case shall the University be liable to the Coach for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from activities such as, but not limited to, camps, clinics, radio and television programs and other media appearances, apparel or shoe contracts, consulting relationships, or from any other sources.

c. Termination Without Cause.

The University shall have the right to terminate this appointment and the Coach's employment with the University at any time during the Term "Without Cause." Without Cause shall mean any basis other than those set forth in Sections 8(a) and (b) of this Agreement. Termination by the University Without Cause shall be effected by delivering to the Coach Notice of the University's intent to terminate this appointment and the Coach's employment Without Cause.

If the University exercises its right under this Section 8(c) to terminate this appointment and the Coach's employment Without Cause prior to completion of the 2020 season, the University shall pay to the Coach as liquidated damages the Base Salary for the remainder of the otherwise unexpired Term. If the University terminates the Coach's employment Without Cause prior to completion of the 2021 season, the University shall pay to the Coach as liquidated damages fifty percent (50%) of the Base Salary for the remainder of the term. If the University terminates the Coach's employment Without Cause prior to completion of the 2022 season, the University shall pay to the Coach as liquidated damages fifty percent (50%) of the Base Salary

for the remainder of the term.

The University's obligation, if any, will be paid on a monthly basis in accordance with the University's standard payroll procedures and shall be subject to the Coach's duty to mitigate the University's obligation, as set forth below in this Section 8(c). The Coach will be entitled to elect COBRA coverage, if the Coach is eligible, to continue the Coach's health insurance plan at his own expense for up to eighteen (18) months from the effective date of termination, but will not be entitled to any other employee benefits or compensation except as otherwise provided in this Section 8(c) or required by applicable law. In no case shall the University be liable for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from activities such as, but not limited to, camps, clinics, television programs and other media appearances, consulting relationships, or from any other sources. The Parties have agreed to this liquidated damages provision, giving consideration to the fact that termination of this appointment and the Coach's employment Without Cause prior to its natural expiration may cause the Coach to lose certain benefits, supplemental compensation or outside compensation relating to his employment at the University, which damages are difficult to determine with certainty. The Parties further agree that the payment of such liquidated damages by the University shall constitute adequate and reasonable compensation to the Coach for any damages and injury suffered by the Coach because of such termination by the University. The foregoing shall not be construed as a penalty.

If the University terminates this appointment and the Coach's employment Without Cause, the Coach shall attempt to mitigate the University's obligations to pay liquidated damages under this Section 8(c) by making reasonable and diligent efforts to obtain the following employment as soon as reasonably possible: (i) NCAA Division I head football coach or

offensive or defensive coordinator or (ii) NFL head or assistant coach. If the Coach obtains such new employment or new employment as a college, prep school, or high school football coach or a NFL scout, then the University's financial obligations under this Section 8(c) shall be reduced on a monthly basis during that part of the Term in which the Coach is so employed by an amount equal to the Coach's income paid or payable for such month on account of the Coach's new employment, and the Coach shall timely and accurately inform the University of the Coach's employment and income.

d. Termination by Coach.

The Coach recognizes that his promise to work for the University throughout the Term is of the essence of this Agreement to the University. The Coach also recognizes that the University is making a highly valuable investment in the Coach's continued employment by entering into this Agreement and that all or part of its investment would be lost if the Coach were to resign or otherwise terminate the Coach's employment with the University prior to the expiration of the Term. While recognizing this, the Parties agree that the Coach may terminate the Coach's employment prior to the expiration of the Term; provided, however, the Coach shall inform the Director of Athletics prior to engaging in any discussion or negotiating regarding any other coaching opportunity with a representative of (or search firm for) another institution of higher education or professional team during the Term and in which discussions or negotiations the Coach shall not personally participate in any manner that would interfere with his, or the football team's, preparation for any post-season football game in which the University participates, and (ii) the Coach shall give written Notice to the University of such resignation or termination at a time and in a manner so as to minimize the impact of such termination, to the extent reasonably possible under the circumstances, upon the University's football program. Upon the termination of the

Coach's employment with the University, the Coach shall inform the University in writing of the Coach's future employment plans, if known.

If the Coach terminates the Coach's employment with the University prior to the conclusion of the final game of the 2020 football season, to include any post-season game in which the University is a participant, the Coach shall pay to the University, as liquidated damages, the sum equal to fifty percent (50%) of the Base Salary for the remainder of the term.

If the Coach terminates the Coach's employment with the University after the conclusion of the final game of the 2020 football season, to include any post-season game in which the University is a participant, but before the conclusion of the final game of the 2021 football season, to include any post-season game in which the University is a participant, the Coach shall pay to the University, as liquidated damages, the sum equal to fifty percent (50%) of the Base Salary for the remainder of the term.

If the Coach terminates the Coach's employment with the University after the conclusion of the final game of the 2021 football season, to include any post-season game in which the University is a participant, but before the conclusion of the final game of the 2022 football season, to include any post-season game in which the University is a participant, the Coach shall pay to the University, as liquidated damages, the sum equal to twenty-five percent (25%) of the Base Salary for the remainder of the term.

The liquidated damages amount, if any, payable by the Coach shall be due and payable within ninety (90) days after the effective date of termination by the Coach. Failure to timely pay said liquidated damages shall constitute a breach of this Agreement and said sum shall be recoverable, together with reasonable outside attorney fees, in any court of competent jurisdiction.

The Parties have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that the University will incur administrative, recruiting and resettlement costs in obtaining a replacement for the Coach in addition to potentially increased compensation costs and loss of ticket revenues if the Coach terminates his employment prior to the expiration of the Term, which damages are difficult to determine with certainty. The Parties further agree that the payment of such liquidated damages by the Coach shall constitute adequate and reasonable compensation to the University for the damages and injury suffered by it because of such termination by the Coach. The foregoing shall not be construed as a penalty.

**9. Assignment of Agreement.**

The rights of the Coach and the University hereunder are personal to that Party and may not be assigned or transferred to any other person or entity. The Coach's duties and responsibilities may not be delegated.

**10. Other Agreements.**

The University shall not be bound by any prior promises, agreements or understandings, oral or written, regarding the Coach's employment by the University. The terms of this Agreement may not be changed orally but only in a writing duly approved by the Coach and by the University through the Board of Trustees and the President in accordance with established University procedures.

**11. Severability.**

If any provision or provisions of this Agreement shall be deemed invalid or unenforceable, either in whole or in part, this Agreement shall be deemed amended to delete or modify, as necessary, the offending provision(s) or to alter the bounds thereof in order to render it valid and enforceable.

**12. No Waiver of Default.**

No waiver by the Parties of any default or breach of any covenant, term or condition of this Agreement shall be deemed to be a waiver of any other default or breach of the same or any other covenant, term or condition contained herein.

**13. Materials and Records.**

All materials or articles of information, including, without limitation, personnel records, recruiting records, team information, films, statistics or any other material or data, furnished to the Coach by the University or developed by the Coach on behalf of the University or at the University's direction for University's use or otherwise in connection with the Coach's employment hereunder are and shall remain the sole and confidential property of the University. Within ten (10) days of the expiration of the Term, the Coach shall immediately cause any such materials in the Coach's possession or control to be delivered to the University as directed in writing by the University. However, for those materials not protected by such regulations as FERPA or HIPAA, the Coach shall be entitled, at the Coach's own expense, to make copies of materials and/or other articles of information that he developed in connection with his employment hereunder.

**14. Force Majeure.**

Neither Party shall be considered in default in the performance of its obligations under this Agreement if such performance is prevented or delayed by Force Majeure. "Force Majeure" shall be understood to be any cause which is beyond the reasonable control of the Party affected and which is forthwith, by Notice from the Party affected, brought to the attention of the other Party, including but not limited to war, hostilities, revolution, civil commotion, strike, lockout, epidemic, accident, fire, wind or flood or because of any law, order, proclamation, ruling,

regulation or ordinance of any government or subdivision of government or because of any act of God.

**15. Notices.**

Any Notice under this Agreement shall be in writing and shall be deemed to have been given on the earlier of the day actually received or on the close of business on the fifth (5<sup>th</sup>) business day following the day when deposited in the United States Mail, postage prepaid, registered or certified, addressed to the Party at the address set forth after its name below or such other address as may be given by such Party in writing to the other from time to time hereafter:

If to the Coach:

Mike Neu  
Department of Athletics  
Ball State University  
Muncie, IN 47306

If to the University

Director of Intercollegiate Athletics  
Department of Athletics  
Ball State University  
Muncie, IN 47306

**16. Choice of Law.**

It is the intent of the parties hereto that this Agreement shall be governed by and construed in accord with the laws of the State of Indiana, and the laws of such State shall govern the validity, performance and enforcement hereof.

**17. Coach's Representation and Warranty of Employability.**

As of the start of the Term, the Coach represents and warrants that the Coach is contractually available for employment throughout the Term. To the greatest extent permitted by

law, the Coach shall hold harmless and indemnify the University for all claims against the University, and its employees or agents, brought by a former employer of the Coach and arising out of the Coach's appointment and employment by the University and all reasonable outside attorneys' fees and legal expenses incurred by the University defending such claims. The Coach also represents and warrants that the Coach is not aware of being the subject of an existing NCAA investigation or criminal investigation, and the Coach reasonably believes that the Coach has not committed violations of the Governing Athletics Rules not already reported to the University. These representations and warranties are of material importance to the University. Similarly, the University represents and warrants that the University is not aware of the Football program being the subject of an existing NCAA investigation or criminal investigation.

**18. Assistant Coach Bonus Pool.**

In addition to the bonuses that the Coach may individually earn in accordance with *Schedule A*, a bonus pool will be established for the assistant coaches, for which the Coach may make recommendations concerning its division and distribution, subject to approval by the Director of Athletics, at the end of the football season, as follows:

- If during the regular season the football team defeats a team that is a member of a Power Five Conference at the time the game is played (for the purposes of this Agreement, the conferences are the Atlantic Coast Conference, the Southeastern Conference, the Big Ten Conference, the Big 12 Conference, and the Pacific 12 Conference) a bonus pool of \$30,000 will be established;
- If the football team wins the Mid-American Conference West Division and participate in the MAC Championship game, a bonus pool of \$20,000 will be established;
- If the football team wins the Mid-American Conference championship game, a bonus



pool of \$30,000 will be established;

- If the football team wins a bowl game, a bonus pool of \$60,000 will be established.
- If Top 3 in MAC Total Offense, a bonus pool of \$6,000 will be established.
- If Top 3 in MAC Total Defense, a bonus pool of \$6,000 will be established.
- If Offensive Team GPA >3.00, a bonus pool of \$6,000 will be established.
- If Defensive Team GPA >3.00, a bonus pool of 6,000 will be established.

More than one bonus pool may be earned in a single season; e.g., if the football team defeats a Power Five Conference team, wins the MAC West Division championship, wins the MAC championship game, and wins a bowl game in the same season, the total bonus pool for the assistant coaches would be \$140,000.00.

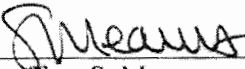
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth on the appointment letter attached hereto and made a part hereof, intending to be legally bound by its provisions.

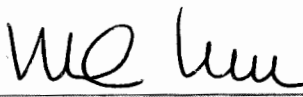
BALL STATE UNIVERSITY

Date: 6/22/20

COACH

Date: 6/23/20

By:   
Geoffrey S. Mearns  
President

By:   
Mike Neu  
Head Coach

Schedule A  
Incentive Pay

The Coach shall receive the following bonuses for each football season or academic year in which the following goals are accomplished.

<u>Goal</u>	<u>Bonus</u>
MAC Coach of the Year *	\$10,000
National Coach of the Year **	\$50,000
MAC Division Champions	\$7,500
MAC Champion	\$20,000
Bowl Appearance ***	\$15,000
Bowl Victory ***	\$20,000
Power Five Conference Victory	\$10,000
Power Five Conference Bowl Appearance #	\$100,000
Power Five Conference Bowl Victory #	\$50,000
College Football Playoff Semi-final Appearance ##	\$100,000
Team APR > 950 ###	\$2,500
Team APR > 965 ###	\$5,000
Team GPA > 3.00	\$5,000
6 Wins (No Bowl selection)	\$5,000
7+ Wins	\$10,000
Top 3 in MAC Total Offense	\$5,000
Top 3 in MAC Total Defense	\$5,000
10% Increase in Average Home Attendance	\$5,000
10% Increase in CVC Giving (Football Annual)	\$5,000
Retention Bonus	\$15,000

\*As awarded by the MAC.

\*\* As awarded by the Associated Press or the Football Writers' Association of America, with only one bonus to be paid even if honored by multiple entities.

\*\*\* This bonus does not apply if the University participates in a Power Five Conference Bowl.

# For the purposes of this Agreement, Power Five Conference Bowls are the following (or their successors): Chick-fil-A, Cotton, Fiesta, Orange, Rose, and Sugar.

## Applies in addition to any applicable Power Five Conference Bowl bonus.

### These bonuses shall not exceed a combined \$5,000 per relevant academic year.

**Schedule B**  
**Job Description**

Position Number: 101949  
Department: Intercollegiate Athletics Ops  
Department Code: 110010  
Position Title: Head Football Coach  
Reports To: Athletic Director  
Contract Type: Professional--Contract Full Time (P3)  
Revision Dates: 1/2014  
Exempt: Administrative  
Direct Reports: Assistant Coaches

**Position Function:**

Direct all phases of the football program.

**Duties/Responsibilities:**

1. Undertake and perform properly, efficiently, to the best of the Coach's ability and consonant with the standards of the University all duties and responsibilities normally attendant to the position of Head Football Coach, including planning, developing and administering all phases of the football program.
2. Perform proper administration of the budget; includes preparing and managing it in a fiscally sound manner.
3. Schedule team travel; coordinate travel arrangements.
4. Recruit and select athletes; determine grant-in-aid recipients; support the retention of student-athletes.
5. Direct scouting reports and pre-competition evaluations of opponents.
6. Support the promotion and marketing of the program; includes public speaking, camps, clinics, special projects and dealing with alumni.
7. Work with the athletic communications department and media to increase visibility of the program.
8. Select, supervise and evaluate assistant coaches; includes assign and review work, orient and train staff, and make recommendations in all areas related to supervision, including but not limited to interviewing and selection, compensation, discipline, performance appraisal, and training and career development of personnel.
9. Direct and coordinate with University College the successful progress of student-athletes.
10. Show commitment to and responsibility for adherence to all rules and regulations of Ball State University, the Mid-American Conference and the NCAA; pass the NCAA certification examination on an annual basis.
11. Perform other related duties as assigned.

**Minimum Qualifications:**

Education: Bachelor's degree by date of employment.

Experience: At least three years demonstrated recent coaching experience in the sport of football.

**Additional Preferred Qualifications:**

Education: Master's degree.

Experience: Five years of collegiate coaching experience in the Division IA level.

## Schedule C

### Coach's Required Minimum Actions to Promote and Monitor NCAA Rules Compliance

#### Communication

- At least annually, the Coach will schedule a meeting with the president of the University to discuss the president's expectations for NCAA rules compliance.
- At least annually, the Coach will schedule a meeting with the University's athletics director to discuss the athletics director's expectations for NCAA rules compliance. The meeting will address the following:
  - Athletics director's philosophy and expectations on rules compliance.
  - Compliance resources for the football program.
  - The football coaching staff's shared responsibility for compliance with compliance staff.
- At least annually, the Coach will schedule a meeting with the president of the University, athletics director, and compliance director to discuss the compliance environment and expectations related to the football program.
- At least annually, the Coach will schedule a meeting with the University's athletics compliance director to address the following:
  - Compliance director's philosophy and expectations on rules compliance.
  - Compliance resources for the football program.
  - The compliance staff's and football program's expectations regarding submitting rules interpretations and waiver requests and how to best resolve any disagreements over submission of such requests.
  - The football coaching staff's shared responsibility for compliance with compliance staff.
  - Expectations for reporting actual and suspected NCAA rules issues.
  - A plan for continued dialogue about the compliance environment and expectations.
  - A plan for continued dialogue between football program and compliance staff about issues such as agents, amateurism, recruiting, initial eligibility, and continued eligibility

#### Monitoring

- The Coach will actively look for red flags of potential NCAA violations.
- The Coach will implement the following compliance promoting and monitoring steps:
  - Assign a football staff liaison to the University's athletics compliance staff.
  - Assign football staff members to monitor specific areas of compliance (e.g. initial eligibility, amateurism, practice hours).
  - Regularly evaluate football staff members to ensure their areas of compliance are monitored and that all responsibilities are executed in a timely manner.
  - Ensure that the football program has adequate and ongoing compliance training and that there is a plan in place for discussion of important information.
  - Determine reporting lines for resolving actual and potential NCAA rules issues.
  - Determine reporting lines to alert compliance staff of issues involving prospective student-athletes and current student-athletes.
  - Regularly solicit feedback from the football staff concerning their areas of compliance and the program's overall compliance environment in order to ensure that the monitoring systems are functioning properly.
  - Ensure that the football staff immediately notifies the compliance staff when concerns or red flags occur related to potential NCAA rules violations.