

GEORGIA STATE UNIVERSITY HEAD COACH AGREEMENT

This Georgia State University Head Coach Agreement (the "Agreement") is made and entered into effective as of the 8th day of December, 2016 (the "Effective Date") by and among the Board of Regents of the University System of Georgia by and on behalf of Georgia State University (the "University"), the Georgia State University Athletic Association, Inc. (the "Athletic Association"), and Shawn Elliott (the "Head Coach").

In consideration of the mutual covenants and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged by the parties, the University, the Athletic Association, and the Head Coach agree as follows:

1. EMPLOYMENT

Subject to the conditions stated in the provisions of this Agreement, the University hereby employs Head Coach as head coach of the Football program (the "Program") at the University and Head Coach hereby agrees to and does accept the terms and conditions for said employment outlined herein. Head Coach shall perform such duties as may be reasonably assigned in connection with the supervision and administration of the Program as a representative of a Division I football program in the Sun Belt Conference, or any other conference or organization of which the University is or may become a member during the term of this Agreement, or any extension thereof (the "Conference"). Head Coach shall also perform such other related duties and responsibilities as reasonably assigned by the Department of Athletics (the "Department") so long as such other related duties and responsibilities are consistent with the duties and responsibilities customarily performed by a head football coach of commensurate rank serving other NCAA member institutions. Head Coach shall work under the immediate supervision of the Director of Athletics (the "Director"), or his/her designee, and shall confer with this supervisor on all matters requiring administrative decisions. Each Contract Year, Director shall meet in person with Head Coach to undergo a review of Head Coach's performance as head coach of the Program.

2. TERM

- 2.1 Term The term of this Agreement shall commence on December 8, 2016, and expire on January 31, 2022, unless sooner ended in accordance with the provisions herein (the "Term"). The parties may extend this Agreement at any time by written agreement. This Agreement in no way grants the Head Coach a claim to tenure in employment or any year of employment attributable to tenure within the University.
- 2.2 Contract Year Unless otherwise set forth herein, any reference herein to the "Initial Contract Year" and "Initial Year" refers to the period December 8, 2016 through January 31, 2017. For the remainder of the Term, unless otherwise stated, a "Contract Year" or "Year" shall be deemed to be each twelve-month period beginning on February 1st and ending on the subsequent January 31st.
- 2.3 University Furlough Notwithstanding any other provision of this Agreement, if the Board of Regents of the University System of Georgia and/or the President of the University implements a mandatory furlough program, requiring University employees to take a certain number of days of unpaid annual leave, during any Contract Year during the Term, Head Coach understands and agrees that Head Coach shall not receive any compensation described herein during such furlough period.

3. COMPENSATION

In consideration for the services granted herein by Head Coach, the University and/or the Athletic Association, as applicable, promises to pay Head Coach, subject to all normal deductions and withholdings, as follows:

- 3.1 Salary Head Coach's annual base salary rate shall be \$515,000.00, prorated for any partial years during the Term. Head Coach shall also receive all future across-the-board salary increases for State of Georgia employees as authorized by the State of Georgia, the Board of Regents of the University

System of Georgia, and/or the University, as applicable. Head Coach's annual salary shall be payable in equal installments at the end of each regular University pay period.

- 3.2 Relocation Expense Reimbursement By December 31, 2017, University or the Athletic Association shall provide a one-time reimbursement to Head Coach of up to \$35,000.00 to assist with his relocation expenses (e.g., moving expenses, temporary housing, etc.) to Atlanta, Georgia. Upon request, Head Coach promptly shall provide copies of all quotes and receipts to the University or Athletic Association prior to receiving such reimbursements. Relocation expenses will be paid or reimbursed in a manner consistent with applicable state and federal tax requirements for excluding such payments or reimbursement from Head Coach's taxable income; provided Head Coach complies with all reasonable deadlines for the submission of relocation expenses quotes and receipts.
- 3.3 Technology Allocation University shall reimburse Head Coach for charges associated with a personal mobile device (i.e., an Apple® iPhone® or equivalent device) and monthly service charges.
- 3.4 Automobile Allowance University shall pay Head Coach an automobile allowance in the amount of \$500.00 per month for his personal use. Payment will be made in equal installments at the end of each regular University pay period. Anything to the contrary in this paragraph notwithstanding, the Head Coach may use this automobile allowance for such purposes as he sees fit.
- 3.5 Apparel Allowance Head Coach shall receive an annual \$4,000.00 Under Armour apparel allowance. If the University and Athletic Association terminate their agreement with Under Armour, Head Coach shall continue to receive an annual \$4,000.00 apparel allowance from the succeeding apparel vendor chosen by the University and the Athletic Association.
- 3.6 Club Membership Head Coach shall receive an annual membership at the Commerce Club in Atlanta, Georgia. Head Coach shall be responsible for any personal charges made by himself and/or members of his family and guests. As used in the paragraph, "personal charges" shall mean any charges or expenses that do not directly relate to Head Coach's official duties at the University. Any charges that relate to Head Coach's official duties at the University (i.e., business-related charges) shall be reimbursed by the Athletic Association, subject to its policies and procedures; provided, however, such business-related charges do not exceed \$2,000.00 per Contract Year (excluding the membership fee).
- 3.7 Appearance Stipend Head Coach agrees to attend a reasonable, mutually agreed upon number of (1) radio, television, and/or Internet shows and (2) University and/or Athletic Association (or other cooperative organizations of the University) meetings per Contract Year and Head Coach agrees to use his best efforts to ensure the success of such appearances. For Head Coach's participation in such appearances for each Contract Year, the University and/or the Athletic Association shall provide Head Coach with an annual payment of \$50,000.00, payable in equal installments at the end of each regular University pay period during the Contract Year. If Head Coach participates in such appearances during the Initial Contract Year, Head Coach shall receive a pro-rata share of the Appearance Incentive for the months of the Initial Contract Year in which the appearances occurred.
- 3.8 Athletic Tickets For each football season occurring during the Term, Head Coach shall receive up to thirty (30) complimentary premium tickets in the same location to each football regular season home game and up to ten (10) complimentary tickets to each football regular season away game. If the Football program participates in a Conference championship football game or a post-season bowl game, the Athletic Association will use its best efforts to procure twenty (20) tickets to such game(s) for Head Coach. If at any point the University and/or the Athletic Association operates a suite program other than the operation of a suite for the University President at the Georgia State University Stadium, Head Coach shall receive access to one (1) mutually agreed upon suite for his personal use during home football games during the Term. Athletic Association also agrees to provide four (4) complimentary tickets to any other University athletic event, upon request and subject to availability. For any game not controlled or operated by the University and/or the Athletic

Association, the University and/or the Athletic Association will use its best efforts to procure the stated number of tickets in this Section 3.8, subject to availability by game sponsor.

3.9 Athletic Competition Bonuses Beginning with the 2017 Football Season, the University will pay the Head Coach a bonus in each Contract Year, unless otherwise set forth below, the Football program and/or Head Coach, as applicable, achieves the following:

- a. Conference Competition
 - i. \$50,000.00 bonus if the Football team wins the Sun Belt Conference Championship (or any other conference or organization of which the University is or may become a member during the Term, or any extension thereof). In any year this incentive is earned, the University agrees to extend the Term by one (1) year on terms no less favorable to the Head Coach than the terms applicable to the final year of the contract at the time of the extension.
- b. Post-Season Bowl Participation
 - i. \$25,000.00 bonus if the Football team participates in a post-season bowl game.
 - ii. \$25,000.00 bonus if the Football team wins a post-season bowl game. In such years, University agrees to increase Head Coach's then applicable base salary (as set forth in Section 2.A. above) by an additional \$25,000.00.
- c. Post-Season College Football Playoff
 - i. \$100,000.00 bonus if the Football team participates in College Football Playoff or New Year's 6 bowl games.

For Subsections b. and c. above, Head Coach must be employed by the University on the date of the post-season bowl/College Football Playoff game and coach the football team during the post-season bowl/College Football Playoff game in order to be eligible to earn the incentive-based supplemental compensation set forth above.

Such performance bonuses shall be cumulative, less normal deductions, per Contract Year.

The incentives listed above shall not be paid in any Contract Year in which any Level 1 or Level 2 NCAA violations involving the Program results in any final disciplinary action, whether imposed by the NCAA or self-imposed by the University, unless, Head Coach overcomes the presumption of responsibility as mandated and as set forth by the NCAA enforcement procedures.

Athletic achievement incentives earned by the Head Coach under this Section of the Agreement will be paid to Head Coach no later than January 31st of the applicable Contract Year. This payment obligation shall survive the termination or expiration of the Agreement.

3.10 Academic Performance Bonuses Head Coach shall be eligible for the following incentive compensation relating to the academic performance of the Program:

- a. For each applicable Fall and Spring academic semester during the Term, if the average Grade Point Average ("GPA") of the Program's student-athletes is 2.80 or higher, Head Coach will receive a one-time bonus of \$2,500.00, less normal deductions, for each respective applicable academic semester. Such bonuses shall not exceed \$5,000.00 for any applicable academic year.

- b. For each academic year during the Term that the Program collectively earns the following Multi-Year APR listed, the Athletic Association will pay the Head Coach the corresponding amount (amounts listed below are non-cumulative):

<u>Multi-Year APR</u>	<u>Amount</u>
Greater than or equal to 940 and less than 950	\$5,000.00
Greater than or equal to 950 and less than 975	\$10,000.00
Equal to or Greater than 975	\$15,000.00

The incentives listed in Subsections a. or b. above shall not be paid in any Contract Year in which any Level 1 or Level 2 NCAA violation involving the Program results in any final disciplinary action, whether imposed by the NCAA or self-imposed by the University, unless, Head Coach overcomes the presumption of responsibility as mandated and as set forth by the NCAA enforcement procedures.

Academic performance incentives earned by Head Coach under this Section 3.10 of the Agreement will be paid by June 30th of each Contract Year, provided Head Coach is employed by the University for the entire applicable academic period (semester or academic year, as applicable) during which the incentive was earned. This payment obligation shall survive the termination or expiration of the Agreement.

- 3.11 Benefits Head Coach shall be entitled to participate in the same benefit programs, and shall be entitled to the same sick leave benefits, as are provided to University employees, with the exception of annual leave, which is not a benefit provided under this Agreement. Head Coach is not eligible to use University, Board of Regents of the University System of Georgia, or other State of Georgia employee grievance procedures, including but not limited to those described in Sections 101.7 (“Staff Grievance Procedure”) and 701 (“Staff Grievance Procedure”) of the Georgia State University Employee Handbook. Head Coach may, however, bring work disputes to the attention of the Director (or his/her designee), and/or seek assistance from the University’s Office of Employee Relations. Head Coach is covered by applicable federal and State of Georgia equal employment opportunity statutes.
- 3.12 Withholdings and Deductions All compensation, bonuses, and benefits in this Agreement shall be subject to the same applicable payroll deductions (for example, State and federal taxes, FICA withholding, and retirement plan deductions) as apply to University employees and as may be required by law. It shall be the responsibility of Head Coach to determine his obligation under federal and State tax provisions to report the value of any tickets and other items of value received by him from the University or any third party under this Agreement and to pay any associated income tax.

4. **STAFF COMMITMENT**

The parties agree that Head Coach will have an assistant coach salary pool of \$1,150,000.00 for nine (9) full-time assistant coaches for the 2017 football season. These assistant coaches will be employees of the University and shall be required to enter into separate employment agreements with the University. Should the University not have sufficient funds to employ the positions listed above, the Athletic Association shall fund such amounts. Head Coach, within the requirements of the laws of the State of Georgia and University policies and procedures, will have the authority to fill the full-time assistant coaches with personnel of his choice (but shall consult with the Director of Athletics regarding such hires). If the NCAA authorizes member institutions to utilize a tenth full-time assistant coach, then the assistant coach salary pool shall be commensurately increased in the discretion of the Director of Athletics. University agrees to increase the assistant coach salary pool by at least \$25,000.00 at the end of each respective football season, beginning at the conclusion of the 2017 football season, and continuing each year thereafter; provided, however, all assistant coaches satisfy NCAA compliance obligations and are meeting mutually agreed upon program objectives.

5. **COACH'S DUTIES**

In consideration of the annual salary and other benefits that may become due and payable to Head Coach under provisions of this Agreement, Head Coach promises and agrees to use his best efforts to perform the duties set forth below and to devote such time, attention, and skill to the performance of those duties as necessary to perform the responsibilities of the position of head coach of the Program (consistent with the job duties customarily performed by a Division I head football coach of commensurate rank serving other NCAA member institutions):

- 5.1 **General** To perform the reasonable duties assigned by the Director (or his/her designee) and the President of the University, as specified in Section 1 above, and to maintain the moral and ethical standards commonly expected of Head Coach as a leading representative of the Department.
- 5.2 **Specific** To maintain direct responsibility for the following responsibilities relating to the Program: budget, travel, practices, schedule, compliance (in each case in appropriate collaboration with the Department), and the recruiting, training, supervision, evaluation, and academic performance of student-athletes. Head Coach shall also be in charge of supervising and managing coaching staff.
- 5.3 **Commitment** Except as may be authorized pursuant to Section 8.2 of this Agreement, to devote full-time attention and energy to the head coaching duties required herein and to the promotion of the University's athletic program and to avoid any business or professional activities or pursuits that may unreasonably interfere with the performance of his duties under this Agreement or might otherwise unreasonably conflict with the University's interests.
- 5.4 **Rules Compliance** To recognize and comply with the applicable constitution, bylaws, laws, policies, rules, regulations, and/or enforcement structures of and governing the University and its employees, the NCAA and of the Conference, as now constituted or as they may be amended during the term hereof; specifically including, but not limited to, the NCAA's enforcement structure effective August 2013. Head Coach shall be responsible, through education, monitoring, and oversight to ensure that all institutional staff members who report, directly or indirectly, to the Head Coach comply with the aforesaid NCAA enforcement structures. Subject to the rules, regulations, and enforcement structures of the NCAA, Head Coach shall be accountable for any violation(s) by any coach, staff member, student-athlete or other person under the Head Coach's supervision or control unless Head Coach can show he promoted an atmosphere of compliance and monitored his staff consistent with NCAA Bylaw 11.1.1.1 and associated NCAA interpretations. Head Coach shall have an affirmative obligation to monitor the Program (consistent with NCAA Bylaw 11.1.1.1 and associated NCAA interpretations) for compliance matters and to immediately inform the Department's Director of Compliance and Sport Supervisor of any suspected violation and fully cooperate in the investigation and reporting thereof.
- 5.5 **Academic Performance** To ensure the academic progress and achievement of the student-athletes under his supervision is of the highest importance. Head Coach agrees to adhere to the University's standards and goals for academic performance of its student-athletes in his recruitment, supervision and coaching of players. Head Coach agrees to follow conscientiously any reasonable directives from the Director (or his/her designee) or from the President of the University concerning these matters. As such, Head Coach will receive an overall, annual evaluation of "Below Expectations" or "Unsatisfactory," or equivalent measures, and will forfeit the opportunity to earn bonuses under Section 3.10 ("Academic Performance Bonuses"), in any year the applicable NCAA Multi-Year Academic Performance Rate ("APR") "cut score," as may be modified by the NCAA at any time, is not achieved and the Football program is subject to contemporaneous and/or historical APR penalties.
- 5.6 **Sportsmanship** To acquit himself at all times in a professional and sportsmanlike manner. Head Coach recognizes he is a highly visible representative of the University, whose conduct, both on and off the field, affects the reputation of the institution, the viability of its athletic programs and contracts, and the well-being of its student-athletes.

- 5.7 **Role Modeling** Working to serve as a positive role model for student-athletes by modeling appropriate behaviors in challenging athletic settings through personal conduct. Head Coach will clearly communicate and positively promote to student-athletes expectations regarding the University Student Code of Conduct and Administrative Policies and Procedures, the Department Student-Athlete Handbook and Program rules, including fighting, underage drinking, drug use, hazing and other citizenship issues. Head Coach will promptly communicate to the Director (or his/her designee) any student-athlete violations under these policies and will respond to the misconduct of student-athletes in a way that reinforces core values and ensures that the program is sending a clear message that proper social conduct is required to represent the University.

6. **TRAVEL EXPENSES**

Head Coach shall conduct such travel as is necessary to carry out his duties as head coach of the University's Program, and shall be entitled to reimbursement for travel expenses pursuant to University and Department policies.

7. **FUND RAISING ACTIVITIES**

Head Coach shall be available for public and private fund raising and development activities at such times and places as the University, through the Director, or his/her designee, may reasonably require and determine to be beneficial to the University and its intercollegiate athletic program, so long as such activities do not interfere with Head Coach's ability to perform the duties set forth under Sections 1 and 5. Head Coach shall use his best efforts to comply in all material respects with such requests. Fund raising shall include, but is not limited to, activities to foster the continued growth of the Panther Athletic Club and Football-specific development entities, to cultivate potential donors, and to assist with the solicitation of major gifts. It is understood that Department may reasonably require Head Coach to participate in events organized by sponsors of the intercollegiate athletic program; however, Department shall use best efforts to ensure that the events do not unreasonably conflict with Head Coach's primary responsibilities.

8. **SERVICE, EQUIPMENT AND APPAREL ENDORSEMENTS**

- 8.1 **University's Exclusive Right** University reserves the exclusive right to contract with commercial firms regarding the procurement or endorsement of equipment, apparel, or services that may be worn or used by student-athletes or Department personnel in practices, public performances, and team appearances and travel. Any revenue derived from such contracts shall be the sole and exclusive property of the University; provided, however, to the extent any such contracts require in part the personal services of Head Coach beyond those otherwise required under the terms of this Agreement, the University may provide a stipend to Head Coach in an amount the University reasonably determines reflects Head Coach's contribution of such services, although nothing herein shall require payment for such passive cooperation as the wearing or use of designated attire and equipment while performing his University duties.

- 8.2 **Athletically-Related Income Disclosure** Head Coach may not engage in any endorsement, consulting, or broadcasting activities for a fee without the prior written consent of the Director (or his/her designee), which consent shall not be unreasonably withheld (which written consent may be given subject to such reasonable terms or conditions as the Director may reasonably require, and the breach of which shall be deemed to be a breach of this Agreement). Furthermore, the Head Coach shall submit a written detailed account annually to the Director and/or President of the University for all athletically-related income and benefits from sources outside the University. In addition, the approval of all athletically-related income and benefits shall be consistent with the University's policies and procedures related to outside income and benefits (including, but not limited to, University conflict of interest policies and procedures) applicable to all full-time or part-time employees. Sources of such income shall include, but are not limited to, the following:

- (a) Income from annuities;
- (b) Sports camps;
- (c) Housing benefits (including preferential housing arrangements);
- (d) Country club memberships;
- (e) Complimentary ticket sales;
- (f) Television and radio programs;
- (g) Endorsement or consultation contracts with athletics shoe, apparel, or equipment manufacturers.

9. SUMMER CAMPS

- 9.1 Authority to Operate The right to sponsor and operate a Football summer camp (a "Camp") on University premises belongs to the University, acting through the Department. The right to sponsor and operate a Camp is conveyed by the University to the Head Coach on a yearly basis on November 1st of each Contract Year unless Department notifies the Head Coach in writing before then that it does not so convey (it being expressly acknowledged herein that Head Coach has the right to sponsor and operate a Camp during the 2017 Contract Year); however, any right to sponsor and operate a Camp shall automatically become null and void upon the expiration or termination of this Agreement, or any renewal thereof. Upon conveyance of rights as set forth in this Section, Head Coach has the right to sponsor and operate a Camp for two (2) weeks during each Contract Year under his name on University premises, subject to mutual written agreement, and pursuant to applicable University policies, procedures, and rules, and on a space-available basis.
- 9.2 Financial Considerations Any direct costs for operating the Camp will be borne solely by Head Coach and any revenue will accrue to him. Costs that are to be borne by Head Coach include any direct costs incurred by Department as a result of the use of Department facilities for the Camp. Head Coach is directly responsible to any other University department for services provided by it. In any Contract Year in which Head Coach operates Camp, Head Coach shall pay the University a use fee (to cover the University's reasonable expenses, such as utilities, field maintenance, etc.) and provide the University with evidence of appropriate liability insurance. Such a use fee shall be determined by the University in its reasonable discretion and Head Coach shall be provided written notice of the use fee not later than March 1st of each Contract Year for which Head Coach has been conveyed the right to operate a Camp. Head Coach shall not be entitled to conduct or direct Camps that are not sponsored by University without the prior written consent of the Director. Head Coach agrees to indemnify and hold the University and the Board of Regents of the University System of Georgia, and their employees, agents, and authorized representatives, harmless from any and all claims arising out of the operation of such Camps. Failure to adhere to these terms will be considered a breach of this Agreement. Notwithstanding any provision herein to the contrary, to the extent that the University has not conveyed the right to sponsor and operate a Camp to Head Coach in any Contract Year, Head Coach shall have no liability under this Section 9.2 for such Contract Year.
- 9.3 Prior University Consent Required Head Coach shall not knowingly endorse or approve any other sports camps sponsored and operated by employees under his supervision without the specific prior written consent of the Director, or his/her designee. Head Coach agrees that any advertising, publication, or otherwise relating to an authorized Camp must be approved by the Department's compliance officers prior to distribution. Head Coach further agrees that any authorized Camp must comply with all University and Board of Regents of the University System of Georgia policies and procedures, including, but not limited to, its Programs Serving Non-Student Minors Policy and the requirement to purchase sexual abuse and molestation insurance. Finally, Head Coach shall not use the name of Georgia State University or any of its trade or service marks or property in any Camp advertising or otherwise, without the prior written consent of the Director, or his/her designee.

10. RIGHT OF PUBLICITY

Head Coach grants to the University and the Athletic Association the non-exclusive right to reasonably use, and the right to grant to others the reasonable use of, his name, nickname, initials, autograph, facsimile

signature, voice, video or film portrayals, photographs, likenesses, images, or facsimile images for the purpose of promoting the University, the Athletic Association, the Department, the Program, and any radio and/or television shows produced by the University and/or the Athletic Association. Head Coach acknowledges and agrees that, other than the payments under Section 3.1 of this Agreement, he will receive no royalties or other payments for the use of his name or likeness from the University or the Athletic Association. After the expiration or termination of this Agreement, or any extension thereof, the University and Athletic Association may continue to use Head Coach's name and likeness in any materials or in any media placed in tangible form during the term of this Agreement for the immediately following thirty (30) days, and shall discontinue such use upon the expiration of the thirty (30) days or as soon as reasonably practicable thereafter. But the University or the Athletic Association may not, after the expiration or termination of this Agreement, or any extension thereof, use Head Coach's name or likeness in a manner that implies Head Coach's continuing support or endorsement of the University, the Athletic Association, or one of their sponsors without Head Coach's prior written consent.

11. TERMINATION

11.1 General Notwithstanding Section 2 of this Agreement, this Agreement shall terminate immediately upon the occurrence of any of the following contingencies, and except for the payment of any salary, allowance, stipend, incentive, expense reimbursement or other compensation, or installments thereof, earned by the Head Coach or to which he is otherwise entitled as of the date of termination, the rights and obligations of the parties shall cease:

- (a) In the event of Head Coach's death or Permanent Disability (as defined below). For purposes of this Section 11.1 only, "Permanent Disability" means a situation where Head Coach remains unable to perform the essential functions of his employment described in this Agreement for a period of ninety (90) consecutive days or ninety (90) days in any one hundred fifty (150) day period by reason of medical illness or incapacity. Such determination of Head Coach's inability to perform his duties shall be made in the sole and absolute judgments of the President of University and Director; provided, however, that the President of the University and Director shall, prior to making such judgment, seek the advice and opinion regarding such permanent disability of an impartial physician competent to provide such advice and opinion, as may be mutually agreed upon by Head Coach or his legal representative, President, and Director. Notwithstanding any other provision herein, this Agreement does not and shall not be construed to afford the University and/or the Athletic Association the right to take any action that is unlawful under the Americans with Disabilities Act ("Act") or to constitute in any respect a waiver of rights under such Act;
- (b) In the event of Head Coach's resignation or retirement from University employment or upon his acceptance of other employment in violation of the terms of this Agreement; or
- (c) In the event of "Cause" (as defined below); provided, however, Head Coach will first receive five (5) business days' advance written notice and be accorded an opportunity to be heard in a meeting with the Director. Within five (5) business days of said meeting, Head Coach may appeal the Director's decision in a meeting with the President of the University, or his/her designee, which shall be scheduled as soon as possible. The meeting shall consist of an explanation of the University's cause for termination and an opportunity for Head Coach to present the reasons he believes termination is not justified. President of the University, or his/her designee, may include additional persons at such pre-termination meeting (e.g., Director, General Counsel, etc.) as deemed appropriate in the discretion of the President or his/her designee. Likewise, the Head Coach may include additional persons at such pre-termination meeting (e.g., personal counsel, etc.). The decision of the President, or his/her designee, following such meeting shall be the final University decision. Head Coach may waive his right to the meeting by notifying the President in writing.

“Cause” shall be defined as:

- (i) material misconduct, moral turpitude, insubordination, a pattern of unprofessional or unsportsman-like behavior taking into account industry norms, refusal, or failure to render services or otherwise fulfill completely the duties and obligations (including, but not limited to those found in Section 5.4 above) established in this Agreement; provided, however, Head Coach has not remedied the above violations within ten (10) calendar days following receipt of written notification of such violation from the University and/or the Athletic Association, or failed to take immediate and reasonable action to remedy within a reasonable period of time after such violation, which is incapable of correction or that is mandated by the NCAA or Conference, after written notification from the University and/or the Athletic Association. The parties agree that the prescribed notice periods shall not apply to a material or deliberate violation which may be of such a serious and intolerable nature that it may be deemed (in the University’s reasonable and good faith judgment) to be incurable to the parties;
- (ii) conduct that the Director reasonably concludes materially violates the applicable constitution, bylaws, laws, policies, rules, regulations, and/or enforcement structures of the University, NCAA, or Conference, especially those pertaining to ethical conduct; and
- (iv) failure of the Head Coach to inform the University that he had been found in violation of the applicable constitution, bylaws, laws, policies, rules, regulations, and/or enforcement structures of the NCAA or applicable institution or athletic conference at another NCAA institution prior to his acceptance of employment at the University.

11.2 Termination Without Cause by University and/or the Athletic Association

The University and/or the Athletic Association shall have the right to terminate Head Coach without Cause prior to the expiration of the Term upon notice to the Head Coach. If the University and/or the Athletic Association terminates Head Coach without Cause, the University and/or the Athletic Association will pay Head Coach according to the schedule listed below:

<u>Termination Notice Date</u>	<u>Amount</u>
December 8, 2016 – January 31, 2017	\$1,500,000.00
February 1, 2017 – January 31, 2018	\$1,500,000.00
February 1, 2018 – January 31, 2019	\$1,500,000.00
February 1, 2019 – January 31, 2020	\$1,500,000.00
February 1, 2020 – January 31, 2021	\$1,000,000.00
February 1, 2021 – January 31, 2022	\$500,000.00

Commencing February 1, 2019, if the University and/or the Athletic Association terminate Head Coach without Cause as set forth in this Section 11.2, as it relates to the calculation of the Amount set forth above, in the case of partial years, the Amount will be pro-rated by the number of months left in the Term. For purposes of example only, if Head Coach is terminated without Cause on November 1, 2019, Head Coach will be owed \$1,125,000.00, calculated as follows: \$1,500,000 / 36 months = \$41,666.67 x 27 months (remaining Term) = \$1,125,000.00.

For clarity purposes, the Amounts set forth above prior to February 1, 2019, shall not be subject to the pro-rata reduction described herein. The amounts listed above will be paid on a bi-monthly basis or in a lump sum amount as determined by the University and/or the Athletic Association. Such amounts will be subject to appropriate federal and state withholdings.

The University and/or the Athletic Association shall not be responsible to Head Coach for any loss of any collateral professional and/or business opportunities as a result of its exercising its rights pursuant to this Section 11.2.

In no event shall the University and/or the Athletic Association be liable for, and Head Coach hereby expressly waives, any further claim for damages of any nature whatsoever arising from the termination without Cause, of this Agreement, except for the payments set forth above. The aforementioned termination payment shall be the total and sole amount that Head Coach shall be entitled to receive from the University and/or the Athletic Association in the way of compensation and benefits for termination without cause.

If Head Coach should decide to litigate his termination without cause by the University and/or the Athletic Association by bringing a cause of action for any claim against University and/or the Athletic Association, then all amounts specified in this Section shall be waived by Head Coach and Head Coach shall not be entitled to any compensation as specified herein. If Head Coach has already received a portion of or all of the amount specified in this Section, then he shall promptly repay said amounts and if he does not timely repay said amounts, then the University and/or the Athletic Association shall be entitled to a judgment for the amounts he has received under this Section plus interest at the highest rate allowed by law.

11.3 Termination by Head Coach

If Head Coach terminates his employment with the University pursuant to the terms of this Agreement, and is not in breach of this Agreement, this Agreement shall immediately terminate and the Athletic Association and/or the University shall have no further obligation to Head Coach under this Agreement other than any salary, allowance, stipend, incentive, expense reimbursement or other compensation, or installments thereof, earned by the Head Coach or to which he is otherwise entitled as of the date of termination (or as otherwise authorized by this Agreement). Additionally, if such termination occurs during the Term, Head Coach shall pay to the University and/or the Athletic Association damages as outlined below:

<u>Termination Notice Date</u>	<u>Amount</u>
December 8, 2016 – January 31, 2017	\$1,500,000.00
February 1, 2017 – January 31, 2018	\$1,500,000.00
February 1, 2018 – January 31, 2019	\$750,000.00
February 1, 2019 – January 31, 2020	\$500,000.00
February 1, 2020 – January 31, 2021	\$250,000.00
February 1, 2021 – January 31, 2022	\$125,000.00

Commencing February 1, 2019, if Head Coach terminates this Agreement as set forth in this Section 11.3, as it relates to the calculation of the Amount set forth above, in the case of a partial year, the Amount will be pro-rated by the number of months left in the Term. For purposes of example only, if Head Coach terminates, pursuant to this Section 11.3, on November 1, 2019, Head Coach will owe \$375,000.03, calculated as follows: $\$500,000 / 36 \text{ months} = \$13,888.89 \times 27 \text{ months (remaining Term)} = \$375,000.03$.

For clarity purposes, the Amounts set forth above prior to February 1, 2019, shall not be subject to the pro-rata reduction described herein. Such damages shall be paid to the University within twelve (12) months from the date of termination by Head Coach and may be paid in equal monthly installments or a lump sum as determined by Head Coach.

Head Coach shall not be responsible to the University and/or the Athletic Association for any loss of any collateral professional and/or business opportunities as a result of him exercising his rights pursuant to this Section.

Notwithstanding the above, if the University President or Director of Athletics at the time of execution of this Agreement ends his/her employment with the University, or is terminated by the University, during the Term, and Head Coach terminates his employment with the University

without cause pursuant to the terms set forth herein within sixty (60) days of the conclusion of the earlier of (a) the respective football season occurring at the time of the end of employment or (b) the next occurring football season following the applicable end of employment, the owed payment amount set forth above shall be reduced by half.

In no event shall Head Coach be liable for, and Athletic Association and/or the University hereby expressly waives, any further claim for damages of any nature whatsoever arising from the termination without Cause, of this Agreement (in accordance with this Section 11.3), except for the payments set forth above. The aforementioned termination payment shall be the total and sole amount that the Athletic Association and/or the University shall be entitled to receive from the Head Coach in the way of compensation and benefits for termination without Cause as set forth in this Section 11.3.

12. ACTIONS OTHER THAN TERMINATION

- 12.1 General In the event the Director determines Head Coach has engaged in activity or neglect constituting Cause as set forth in Section 11.1(c) above, it shall lie in the discretion of the Director to take action other than termination; provided, however, the Head Coach will first receive written notice and be accorded an opportunity to be heard in a meeting with the Director. The decision of the Director shall be final. Actions the Director may take include, but are not limited to, a forfeiture of future bonuses or benefits (not including those benefits provided to Head Coach pursuant to Section 3.11) or probation.
- 12.2 Interim Suspension Director may suspend (with or without pay) Head Coach pending an investigation, decision, or other matter related to the existence of Cause for termination or other action pursuant to Paragraphs 11.1. Suspension shall be with pay during any such investigation and, in the determination of the Director, may be with or without pay pending any proceedings or final decision or action thereafter.
- 12.3 NCAA Enforcement Procedures In accordance with NCAA Bylaws, if Head Coach is found in violation of NCAA regulations, then Head Coach shall be subject to disciplinary or corrective action by the University as set forth in the provisions of the NCAA enforcement procedures, as they may exist from time to time, including, but not limited to, suspension without pay or termination of employment for significant or repetitive violations.

13. PERSONAL SERVICES

- 13.1. Head Coach hereby represents to have special, exceptional, and unique knowledge, skill, and ability as a Football coach which, as well as the University's special need for continuity in its Program, will render his services unique. Head Coach recognizes that the loss of his services to the University, without University approval and release, prior to the expiration of the Term of this Agreement or any renewal thereof, would cause an inherent loss to the University which cannot be estimated with certainty, or fairly or adequately compensated by money.
- 13.2. Head Coach, either personally or through any representative, agent, or other persons, agrees, and hereby specifically promises not to affirmatively seek, to apply, to interview, or to accept employment, under any circumstances, as a Football coach (e.g., head coach, assistant coach, coordinator position, or other football-related position) at any institution of higher education that is a member of the NCAA, or for any team participating in any professional league or conference in the United States or elsewhere, requiring performance of duties similar in nature in whole or substantial part to those performed under this Georgia State University Head Coach Agreement prior to the expiration date of the Term of this Agreement, or any extension thereof, without first providing written notice to the Director (text message will suffice), or his/her designee; provided however, that if Head Coach (or a representative or agent of Head Coach) is contacted by any third party with respect to any other employment opportunity during the Term, Head Coach shall not be in breach of this Agreement provided he provides notice to the Director, or his/her designee, in a

reasonably timely manner following such contact and before Head Coach (or a representative or agent of Head Coach) engages in further discussions with such third party.

- 13.3. Head Coach agrees that the University shall have the right, in addition to any other rights which the University may possess, to obtain an injunction by appropriate judicial proceedings to prevent Head Coach from coaching or performing activities related thereto in violation of the requirements of Section 13 of this Agreement for any person, institution, firm, corporation or other entity; and against any other breach of this Agreement; and Head Coach further agrees to indemnify the University, the Athletic Association, and/or the Board of Regents of the University System of Georgia for their costs in any injunctive proceeding including, but not limited to, court costs and reasonable attorneys' fees.

14. **UNIVERSITY PROPERTY**

All materials or articles of information, including, without limitation, personnel records, Head Coach's records, recruiting notes/videos, statistics or any other material or data in any form or medium furnished to Head Coach by University or Athletic Association, or developed by Head Coach on behalf of University or Athletic Association, or at University, Athletic Association, or Head Coach's direction or supervision, are and shall remain the sole, proprietary and confidential property of University and/or Athletic Association, as applicable. Within ten (10) days of the expiration or termination of this Agreement for any reason by either party, or any extension thereof, Head Coach shall immediately cause any such materials in his possession, custody, or control to be returned and delivered to the Director, provided however that Head Coach may keep and maintain one copy of same for his own internal, non-commercial purposes. Nothing contained in this Section 14 will prevent the Head Coach from retaining a personal copy of any game plans, practice scripts and/or schedules, game and/or practice film, and recruiting documents.

15. **AGREEMENTS**

Head Coach shall not enter into any oral or written agreement, letter of understanding, contract, or any other arrangement that seeks to bind, obligate, or involve the University, the Athletic Association, the Board of Regents of the University System of Georgia, or any other cooperative organization of the University whatsoever, except if such documents have been approved by the University's Office of Legal Affairs and have been executed by an authorized signatory of the University and/or the Athletic Association.

16. **ATHLETIC ASSOCIATION GUARANTEE**

- a. Except as described in Section 2.3 of this Agreement, in the event that the University does not have sufficient funds with respect to the charges payable hereunder in each Initial Contract Year or Contract Year of the Term, as applicable, the Athletic Association agrees to provide for the compensation, bonuses, and other charges set forth herein. Such funds shall cover that portion of Head Coach's compensation, bonuses, and other charges remaining through the end of the Term or for such limited duration as the University lacks sufficient funding with respect to such charges payable (subject to any applicable withholdings, deductions, etc.).
- b. Athletic Association shall cease any such payments to Head Coach, and will have no further obligations to Head Coach, upon the first to occur of the following: (1) the end of the Term specified in Section 2.1; (2) upon Head Coach's acceptance of other employment in any capacity with an employer outside of the University, and as authorized by this Agreement; or (3) if Head Coach is terminated by the University as authorized by this Agreement.
- c. Any payments made by the Athletic Association do not create an employment relationship between Athletic Association and Head Coach.

17. **RELATIONSHIP BETWEEN THE PARTIES**

The relationship between the University, Athletic Association, and Head Coach shall be determined solely by the terms and conditions of this Agreement.

18. **NOTICES**

All notices, reports, demands, approvals, consents, and other communications provided for by this Agreement shall be in writing and shall be deemed to have been given at the time the same is delivered in person or is mailed by registered or certified mail addressed as follows:

To the University: Georgia State University
Attention: President
Office of the President
P.O. Box 3999
Atlanta, Georgia 30302-3999

With a Copy to: University Attorney
Office of Legal Affairs
Georgia State University
P.O. Box 3987
Atlanta, Georgia 30302-3987

To the Athletic Association: Georgia State University
Athletic Association, Inc.
Attention: Chair
125 Decatur Street, Suite 201
Atlanta, Georgia 30303

To the Head Coach: Shawn Elliott
Most recent address on file with
University's Human Resources

With Copies to: Russ Campbell & Patrick Strong
Balch Sports
Balch & Bingham LLP
1901 Sixth Avenue North, Suite 1500
Birmingham, Alabama 35203-4642

Either party wishing to change the address to which any notices, reports, demands, approvals, consents, and other communications provided for by this Agreement shall give notice of such change to the other party as soon as possible following such change.

19. **LIMITATION OF REMEDIES**

The parties agree that no party shall be liable to the others for any collateral or consequential damages of any kind, including damages for lost collateral business opportunities or compensation arrangements, or for court costs and attorney's fees (except as specifically permitted in Section 13.3 (Injunctive Relief and Indemnity)).

20. **ASSIGNMENT**

Neither party may assign, transfer, alienate, or encumber any of its rights or obligations hereunder without the prior express written consent of the other parties. Notwithstanding the above, to the extent necessary, Athletic Association may assign its performance of services to the University without Head Coach's prior express written consent.

21. **SEVERABILITY**

If any provision of this Agreement shall be determined to be void, invalid, unenforceable, or illegal for any reason, it shall be ineffective only to the extent of such prohibition and the validity and enforceability of all the remaining provisions shall not be affected thereby. It is further agreed that if any part of this Agreement shall be determined to be void, invalid, unenforceable, or illegal for any reason, either party may open negotiations solely with respect to a substitute for such specific provision only. Failure to agree on a satisfactory substitute provision, however, shall not constitute an act of termination or breach by any party.

22. **HEADINGS**

The words of this Agreement appearing as headings are for identification purposes only and are not a part of this Agreement.

23. **SIGNATURES/COUNTERPARTS**

Signatures to this Agreement transmitted by facsimile or telecopy or other electronic means (e.g., .pdf) shall be binding on the party transmitting such signatures and such party shall not use as a defense against the enforceability of this Agreement the fact that such signature so transmitted is not original. This Agreement may be signed in counterparts, each of which shall be enforceable against the party executing and delivering same, and all of which shall constitute a single and enforceable agreement.

24. **NUMBER AND GENDER**

Any reference in this Agreement to the singular includes the plural where appropriate, and any reference in this Agreement to the masculine gender includes the feminine and neuter genders where appropriate.

25. **WAIVER**

Any waiver or consent by any party to any breach of or any variation from any provision of this Agreement shall be valid only if in writing and only in the specific instance in which it is given, and such waiver or consent shall not be construed as a waiver of any subsequent breach of any other provision or as a consent with respect to any similar instance or circumstance.

26. **LEGAL REVIEW**

All parties have had the opportunity to utilize legal counsel to review and negotiate this Agreement. If any party elects not to utilize legal counsel, such voluntary choice shall not invalidate such party's acceptance of the terms and conditions of this Agreement. Head Coach, University, Athletic Association, and their respective counsel (as applicable) have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

27. **PUBLIC RECORDS**

The parties agree and acknowledge that this Agreement and other applicable related documents (e.g., Athletically-Related Income Disclosure forms) are subject to the Georgia Open Records Act (O.C.G.A. § 50-18-70 et al.).

28. **SOVEREIGN IMMUNITY**

As it pertains to the University, the parties expressly agree and acknowledge that nothing contained in this Agreement is intended to constitute a waiver of sovereign immunity by the University, and that nothing will be construed or considered to constitute a waiver or relinquishment of any of the exemptions, rights,

privileges, or immunities as may be provided to the University or its officers, employees, or agents by applicable federal or state law.

29. **GOVERNING LAW**

This Agreement shall be governed and construed under the laws of the State of Georgia without regard to principles of conflict of law. Head Coach consents to the exclusive jurisdiction and venue of the Superior Court for Fulton County, Georgia, and agrees to waive his right to assert that this forum lacks personal jurisdiction over him or is an inconvenient forum for resolving any underlying dispute between the parties.

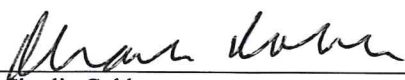
30. **ENTIRE AGREEMENT/MODIFICATIONS**

This Agreement contains the entire agreement between the parties hereto and supersedes and cancels all previous and contemporaneous written and/or oral agreements, including any other compensation agreement, and no other representations, statements, or inducements, written or oral, not contained herein shall be binding on the parties. This Agreement may not be altered, amended, modified, or discharged except by a written amendment duly executed by the authorized representatives of all parties.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Head Coach and the authorized representatives of the University and the Athletic Association have executed this Agreement below as of the Effective Date.


Board of Regents of the University System
of Georgia by and on behalf of
Georgia State University


Mr. Charlie Cobb
Director of Athletics

Head Football Coach

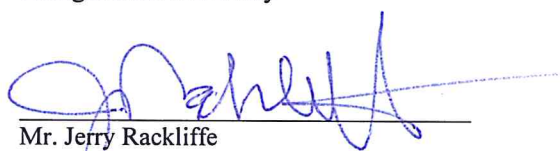

Mr. Shawn Elliott

Georgia State University Athletic Association, Inc.


Dr. Mark P. Becker
Chair, Georgia State University Athletic Association, Inc.
President, Georgia State University

Acknowledged by:

Board of Regents of the University System
of Georgia by and on behalf of
Georgia State University


Mr. Jerry Rackliffe
Senior Vice President for Finance & Administration

Jerry Rackliffe
Senior Vice President
Finance and Administration