

Second Amendment to Employment Agreement and Notice of Appointment for Head Coach

This Second Amendment to Employment Agreement and Notice of Appointment for Head Coach, effective July 1, 2020 (“Amendment Effective Date”) is made between Oregon State University (“University”) and Jonathan Smith (“Coach”) and amends the Employment Agreement and Notice Appointment for Head Coach between the parties dated January 10, 2018 by last signature, as amended by the First amendment between the parties dated January 6, 2020 by last signature (as so amended, the “Agreement”; capitalized terms used herein but not otherwise defined herein have the meanings ascribed to them in the Agreement).

I. The parties agree as follows:

- A. In Section III.B. of the Agreement, the annual non-salary compensation for Contract Years 3, 4, 5, 6, 7 and 8 is adjusted as follows:

Contract Year 3	\$700,000*
Contract Year 4	\$750,000
Contract Year 5	\$800,000
Contract Year 6	\$850,000
Contract Year 7	\$900,000
Contract Year 8	\$950,000

**\$400,000 for March 1 – June 30, 2020; \$300,000 for July 1, 2020 – February 28, 2021.*

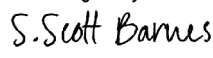
- B. In Section III.C. of the Agreement, the following paragraph is added:

Financing of Personal Life Insurance Protection. In addition to Coach’s participation in the University’s general employee benefit programs, effective July 1, 2020, the University will loan Coach \$500,000 annually to be used by Coach exclusively for the payment of premiums on a life insurance policy with respect to which Coach is the owner and insured, subject to and in accordance with the terms of the Premium Loan Agreement in the form attached hereto as Exhibit A.

Each Party is signing this Second Amendment on the date stated opposite that party’s signature to be effective as of the Effective Date.


Agreed to:

OREGON STATE UNIVERSITY

By:  _____
DocuSigned by: 030CC7704704400... e President/Director of Athletics

8/18/2020 | 17:46:01 PDT

Date

By:  _____
DocuSigned by: 1E537B42281F47E... Susan Capalbo, Senior Vice Provost
Appointing Authority

8/27/2020 | 13:33:25 PDT

Date

COACH

By:  _____
DocuSigned by: 1A822CEAB38D4AB... Jonathan Smith

8/25/2020 | 09:57:55 PDT

Date

the University’s payment of the Premium Advances is treated as giving rise to split dollar loans as described in Article II hereof, and that such arrangement constitutes a bona fide death benefit plan not providing for the deferral of compensation for purposes of Sections 409A or 457(f) of the Code.

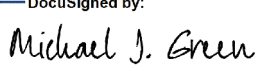
E. Disputes. Any and all claims or controversies between the Parties arising under this Agreement shall be settled consistent with the terms and conditions of the Employment Agreement.

F. Entire Agreement. This Agreement, any Note executed pursuant to this Agreement, and the Collateral Assignment executed concurrently herewith, set forth the entire agreement between the Parties with respect to the subject matter hereof. Any and all prior agreements or understanding with respect to such matters are hereby superseded.

Each party is signing this Premium Loan Agreement on the date stated opposite that party’s signature to be effective as of the date first written above.

Agreed to:

OREGON STATE UNIVERSITY

By:  8/21/2020 | 16:20:42 PDT
B143F3384015415...
Michael J. Green Date
Its: Vice President for Finance and Administration and CFO

COACH

By:  8/25/2020 | 09:57:55 PDT
1A822CEAB38D4AB...
Jonathan Smith Date

First Amendment to Employment Agreement and Notice of Appointment for Head Coach

This First Amendment to Employment Agreement and Notice of Appointment for Head Coach, effective March 1, 2020 (the "Amendment Effective Date"), is made between Oregon State University ("University") and Jonathan Smith ("Coach") and amends the Employment Agreement and Notice of Appointment for Head Coach between the parties dated January 10, 2018 by last signature ("Agreement").

I. The parties agree as follows:

A. Section I.C.13. is added to the Agreement as follows:

"13. Responsibility to Cooperate. Coach agrees to cooperate fully with any investigation by the University, Conference, or the NCAA. Coach's obligation to cooperate survives termination or expiration of this Agreement. Such cooperation includes, without limitation, cooperation with any internal University investigation, with NCAA enforcement staff, the NCAA Complex Case Unit, the NCAA Committee on Infractions, the NCAA Independent College Sports Adjudication Panel and the NCAA Infractions Appeals Committee in order to further the objectives of the NCAA, its infractions program, and its independent alternative resolution program. As set forth in NCAA Bylaw 19.2.3, "full cooperation" includes, but is not limited to:

- (a) Affirmatively reporting instances of noncompliance to the NCAA via standard University process (e.g. reporting to Director or Compliance Office) in a timely manner and assisting in developing full information to determine whether a possible violation has occurred and the details thereof;
- (b) Timely participation in interviews and providing complete and truthful responses;
- (c) Making a full and complete disclosure of relevant information, including timely production of materials or information requested, and in the format requested;
- (d) Disclosing and providing access to all electronic devices used in any way for business purposes;
- (e) Providing access to all social media, messaging and other applications that are or may be relevant to the investigation; and
- (f) Preserving the integrity of an investigation and abiding by all applicable confidentiality rules and instructions."

B. Section I.C.14 is added to the Agreement as follows:

"14. Report Outside Income. Coach shall provide a report to the Director at least once annually of all athletically related income or benefits from sources outside the University, including, but not limited to, income from annuities, sports camps, housing benefits, complimentary ticket sales, television and radio programs, and endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers.

Reports shall be made at the direction of, and on forms provided by the Director or designee. The Director or designee shall forward reports to the President and a copy shall be retained in the faculty personnel file of the Coach. Coach agrees that the approval of all athletically related income and benefits shall be consistent with the University’s policy related to outside income and benefits applicable to all full-time employees.”

- C. In Section II.A. of the Agreement, the Term end date is revised from February 28, 2023 to February 29, 2026, the reference to “II.C.” is corrected and replaced with “II.B.”, and three additional Contract Years are added to the Agreement as follows:

Contract Year 6 -	March 1, 2023 -	February 29, 2024
Contract Year 7 -	March 1, 2024 -	February 28, 2025
Contract Year 8 -	March 1, 2025 -	February 28, 2026

- D. Section II.B. is replaced in its entirety to read as follows:

“B. Extension of Term. For any season in which the Team wins six (6) or more regular season games during Contract Years 3, 4, or 5, the University agrees that one (1) new Contract Year shall be added to the Agreement, subject to the same terms and conditions contained herein, including a commensurate increase in total annual compensation per Section III.A. and Section III.B.”

- E. In Section III.A. of the Agreement, Contract Years 6, 7, and 8 are added and the annual base salary beginning in Contract Year 3 is adjusted as follows:

Contract Year 3	\$1,200,000
Contract Year 4	\$1,250,000
Contract Year 5	\$1,300,000
Contract Year 6	\$1,350,000
Contract Year 7	\$1,400,000
Contract Year 8	\$1,450,000

- F. In Section III.B. of the Agreement, Contract Years 6, 7 and 8 are added and the annual non-salary compensation beginning in Contract Year 3 is adjusted as follows:

Contract Year 3	\$1,200,000
Contract Year 4	\$1,250,000
Contract Year 5	\$1,300,000
Contract Year 6	\$1,350,000
Contract Year 7	\$1,400,000
Contract Year 8	\$1,450,000

- G. In Section III.F. incentive compensation amounts for the first three events are adjusted as follows:

1. Win exactly 10 regular season games	\$100,000
2. Win exactly 9 regular season games	\$75,000

3. Win exactly 8 regular season games \$50,000

H. Section III.I. of the Agreement is replaced in its entirety to read as follows:

“I. Cumulative Incentive Compensation. The amounts in III.F. through III.H. are cumulative. Payments made under III.F. through III.H. are to be paid to Coach within 30 days following the end of each football season.”

I. Section III.J. of the Agreement is replaced in its entirety with “Reserved”.

J. In Section IV.C.2. of the Agreement, Contract Years 6, 7, and 8 are added and the liquidated damages beginning in Contract Year 3 are adjusted as follows:

Notice effective during Contract Year 3	\$3,000,000
Notice effective during Contract Year 4	\$2,000,000
Notice effective during Contract Year 5	\$2,000,000
Notice effective during Contract Year 6	\$1,000,000
Notice effective during Contract Year 7 or thereafter	\$1,000,000

K. Section V.F. is added to the Agreement as follows:

“F. Air Transportation. Coach may use private air transportation for official recruiting activities subject to prior written approval by the Director. The value of such travel shall not exceed \$200,000 annually.”

L. Section V.G. is added to the Agreement as follows:

“G. Tax Advice. University will not provide tax advice to Coach regarding the tax effects of this Agreement. University encourages Coach to consult with his own tax advisors concerning the federal, state, and local tax effects of this Agreement. This Agreement is intended to comply with the requirements of Sections 409A and 457(f) of the Internal Revenue Code and, to the maximum extent permitted by law, shall be administered, operated and construed consistent with this intent. Any reimbursements or in-kind benefits provided under this Agreement that are subject to Section 409A of the Internal Revenue Code shall be made or provided in accordance with the requirements of Section 409A of the Internal Revenue Code, including, where applicable, the requirements that (a) any reimbursement is for expenses incurred during Coach’s life, but in no event later than the expiration of the term of this Agreement, (b) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during a taxable year may not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year, (c) the reimbursement of an eligible expense will be made no later than the last day of the taxable year following the taxable year in which the expense is incurred, and (d) the right to reimbursement or in kind benefits is not subject to liquidation or exchange for another benefit. Solely to the extent necessary to comply with Section 409A, a termination of employment shall not be deemed to have occurred unless such termination is also a ‘separation from service’ within the meaning of Section 409A and for purposes of any such provision of this Agreement, references to a ‘termination,’ ‘termination of employment,’ or like terms shall mean ‘separation from

service.’ For purposes of Section 409A, Coach’s right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments, and each such installment payment shall likewise be treated as a separate and distinct payment for purposes of Section 409A.”

- II. Except as amended by this First Amendment to Employment Agreement and Notice of Appointment, all other provisions of the Agreement remain in full force and effect.

Each party is signing this First Amendment on the date stated opposite that party’s signature to be effective as of the Effective Date.

Agreed to:

OREGON STATE UNIVERSITY

DocuSigned by:
By: S. Scott Barnes 12/31/2019 | 12:00:24 PST
030CC7704704400...
S. Scott Barnes, Vice President/Director of Athletics Date

DocuSigned by:
By: Susan Capalbo 1/6/2020 | 14:05:57 PST
1E537B42281F47E...
Susan Capalbo, Senior Vice Provost Date
Appointing Authority

COACH

DocuSigned by:
By: Jonathan Smith 1/2/2020 | 15:35:26 PST
1A822CEAB38D4AB...
Jonathan Smith Date

Employment Agreement and Notice of Appointment for Head Coach

This Employment Agreement and Notice of Appointment for Head Coach (“Agreement”) is made between Oregon State University (“University”) and Jonathan Smith (“Coach”).

I. POSITION, DUTIES, AND RESPONSIBILITIES

- A. Employment of Coach. Subject to the conditions stated in this Agreement, University employs Coach as a member of the coaching staff of University in the Department of Intercollegiate Athletics (“Athletic Department”). Coach shall have duties and administrative responsibilities as head coach of the University’s football team (the “Team”). Coach agrees to and accepts the terms and conditions for employment provided in this Agreement and described in the Coach’s position description, which may change from time to time during the period of this Agreement at the reasonable discretion of the Vice President and Director of Athletics (the “Director”), and which is on file in the Athletic Department and in the Office of Human Resources.
- B. Reporting to Vice President and Director of Athletics. Coach shall work under the immediate supervision of the Director.
- C. Obligations of Coach. Coach promises to fulfill the following obligations:
 1. Devote Efforts. Devotion of Coach’s best, ongoing, and exclusive efforts to performance of all duties and responsibilities contemplated by the Agreement;
 2. Support and Supervise and Properly Treat Student Athletes. Encouragement and support of student athletes on the Team in regard to personal, physical, and intellectual development, activities, and achievements, including an emphasis on each student athlete’s completion of an undergraduate degree program. Engaging in (and taking all reasonable and necessary actions such that every coach under Coach’s supervision is engaging in) fair, safe, and responsible treatment of student athletes on the Team and avoiding behavior that could, in any way, jeopardize a student athlete’s health, safety, welfare, or that could otherwise cause harm or risk causing harm to a student athlete. Being knowledgeable of, and orienting student athletes on the Team regarding applicable National Collegiate Athletic Association (“NCAA”) legislation, Pac-12 Conference (the “Conference”) rules, University policies and standards, and Oregon and federal law including criminal law. Engaging in reasonable and appropriate supervision of student athletes on the Team to promote behavior that is consistent with such NCAA legislation, Conference rules, University policies and standards, and Oregon and federal law;
 3. Adhere to Budget. Execution of these duties within the Coach’s allocated budget;
 4. Dedicate Effort. Dedication of focused, ongoing attention, enthusiasm and efforts to coaching duties, Team members, and the success and furtherance of the Team;

5. Comply with Policies. Compliance with (i) all applicable written policies and procedures set forth by the Director and provided to Coach, (ii) all applicable written University policies and standards provided to Coach, and (iii) the Code of Ethics of University, attached as Exhibit A and hereby incorporated by reference;
6. Comply with NCAA, Conference Rules. Compliance with rules, regulations, and advisory opinions of the NCAA and of the Conference, as presently in effect or as amended from time to time during the Term of the Agreement. Coach acknowledges that he has reviewed the conduct requirements for athletics personnel in NCAA Bylaw 11.1 and agrees to comply. Coach is responsible for taking all reasonable and necessary actions such that all of the assistant coaches, administrators, and any other personnel subject to his control or supervision comply with the above policies, rules, and regulations. Coach agrees to cooperate fully with any investigation by the University, Conference, or the NCAA. Coach's obligation to cooperate survives termination or expiration of this Agreement;
7. Comply with University Agreements. Compliance with any University agreement with any manufacturer, seller, or vendor of athletically related shoes, equipment, apparel and any other athletically related products, provided the terms of such agreement are provided to Coach in writing, and are reasonable and consistent with applicable industry practice;
8. Promote Academic Excellence. Dedication to the academic excellence of the student athletes by taking all reasonable and necessary actions such that student athletes on the Team are in maximum pursuit of degree programs and in compliance with NCAA academic standards, including, but not limited to, the NCAA Division I Academic Reform Initiatives;
9. Personnel.
 - a. Supervision of job performance and all other incidents of employment, including assessing job performance and reporting suspected rules violations of assistant coaches and other personnel, if Coach is administratively responsible for the supervision of such individuals at any time during the Term of this Agreement;
 - b. Except to the extent otherwise required by University policies and subject to budgetary limitations and the approval of the Director – which shall not be unreasonably withheld - Coach shall have the responsibility and the authority for the hiring, supervising, disciplining, and termination of Assistant Coaches for the Team and other direct reports, and such authority shall, when necessary or appropriate, be subject to the approval of University's appointing authority. Coach agrees the hiring and terminating of personnel must comply with all applicable laws and University policies related to employment at University. It is understood that athletic trainers and strength and conditioning coaches are not direct reports to Coach;

10. Develop Programs. Development of programs and procedures with respect to the evaluation, recruitment, training and coaching of student athletes that both foster successful competition and promote the welfare and academic achievement, including degree completion, of student athletes;
11. Fulfill Responsibilities. Fulfillment of all job responsibilities to the best of Coach's abilities, including responsibility for appraisals, administrative processes, and attendance at all meetings specified by the Director;
12. Receive Approval from Director for the Team's Game Schedule. The Director has the sole authority to arrange and/or approve the Team's game schedule for each season as well as the rescheduling of any games; however, the details of the total schedule will be arranged through close coordination and collaboration with Coach and the Director to ensure that the Team meets and maintains the University's overall objectives in intercollegiate athletics.

D. Prohibitions. Coach shall not:

1. Engage in Business. Accept any employment outside the University, seek any employment contrary to or inconsistent with existing University contracts, engage in any business transactions or commerce for compensation, participate in any coaching clinics or camps, endorse any products in any form, or appear for payment on any radio or television programs, without having first notified and secured the written approval of the Director or the President or the President's designee. Notwithstanding anything to the contrary in University's Conflict of Commitment Policy, the Director may approve a request to engage in outside activities upon a determination that the activity will not result in a conflict of commitment to Coach's University duties. Coach shall not take any action inconsistent with University's obligations made known to him under any agreements between the University and any manufacturer, seller, or vendor of athletically-related shoes, equipment, apparel and any other athletically related products;
2. Commit a Violation. Engage in any conduct, whether related to performance of duties under this Agreement or not, that constitutes (as defined by the NCAA) a Level I or II violation or repetitive Level III violations of NCAA rules, bylaws, or regulations; or a significant and/or repetitive violation(s) of University policies or standards; Conference rules, legislation, regulations, or advisory opinions; of federal or state laws, regulations or agency advisory opinions; of municipal ordinances. Coach also represents that Coach has not engaged in any such conduct during the two years previous to the execution of this Agreement, whether at this or another institution. As of the Effective Date of this Agreement, to the best of the Director's actual knowledge no investigations by any entity with respect to violations in this Section I.D.2 are pending or threatened;
3. Condone a Violation of NCAA Legislation, Conference Rules, University Policy, Oregon or Federal Law Including Criminal Law. Condone a violation of NCAA

legislation, conference rules, University policy, Oregon or federal law including criminal law (any of which is a “Violation”) by a member of the Team’s coaching staff or any person under Coach’s supervision and direction, including a student athlete. For purposes of this Section I.D.3 “condone” means: (a) Coach’s actual knowledge of and complicity in a Violation by a member of the Team’s coaching staff or any person under Coach’s supervision and direction, including a student athlete; or (b) Coach’s failure to report a known Violation by a member of the Team’s coaching staff or any person under Coach’s supervision and direction, including a student athlete, to the Director within a reasonable amount of time. For purposes of this Section I.D.3 a “known Violation” means a Violation the Coach becomes aware of, or has reasonable cause to believe, is taking place or may have taken place;

4. Receive Other Benefits. Receive, either directly or indirectly, compensation, remuneration, or any other benefit from any source other than University, for activities related to Coach’s professional standing or employment with University, including but not limited to (i) income from annuities related to Coach’s position with University, (ii) sports camps or private lessons, (iii) television or radio programs, (iv) endorsement or consultation contracts, or (v) income from speeches, appearances, or written materials, without obtaining, on an annual basis, prior, written consent of the Director, which consent will not be unreasonable withheld, conditioned or delayed.
5. Discredit University or Bring Public Embarrassment to University. Engage in any business transactions or commerce, appear on any radio or television program or in any public forum, or make statements to the media or in any public forum that brings material undue criticism or discredit to University. Commission of or participation in by Coach of any offensive or egregious act, situation, or occurrence or any offensive or egregious conduct which, in University’s reasonable good faith judgment, brings Coach and/or University into public disrepute, embarrassment, contempt, scandal or ridicule or willful failure by Coach to conform Coach’s personal conduct to conventional standards of good citizenship, with such conduct offending prevailing social mores and values and/or reflecting unfavorably and materially upon University’s reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, willful misrepresentation, fraud or physical violence toward another person that may or may not rise to a level warranting criminal prosecution by the relevant authorities;
6. Enter Into Agreements. 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 Department, or any other component of the University in any transaction whatsoever. All such agreements will be disclaimed by University, unless Coach submits any contemplated arrangement to the Director for development, processing, and approvals, if warranted;

7. Fail to Provide Notification of Other Coaching Opportunity. Should another college coaching opportunity or an NFL coaching opportunity be presented to Coach or a third party representative of Coach during the Term of this Agreement which Coach desires to further pursue, Coach must notify the Director of such opportunity or interest at the time of any further discussions by Coach with the anticipating coaching position principals;
8. Fail to Report to Title IX Coordinator. Fail to immediately report to the University's Title IX Coordinator any alleged violations of the University's Sexual Misconduct and Discrimination Policy (including but not limited to, sexual misconduct, sexual harassment, sexual assault, sexual exploitation, intimate partner violence, and stalking) that involve any student, faculty, or staff, or that occurred during a University sponsored activity or event, or that occurred on University property, and of which Coach has knowledge. Any emergency situation involving imminent danger to another student or member of the faculty or staff should immediately be reported to 911 and/or law enforcement; or
9. Fail to Fulfill Duties. Negligently or intentionally fail to fulfill duties or conditions described in Section I.C to the reasonable satisfaction of the Director.

II. TERM

- A. Length of Term. Coach's employment under this Agreement is for a fixed term period beginning upon satisfactory completion of all background checks or November 30, 2017, whichever date is later (the "Effective Date") and ending February 28, 2023 (this period, plus any extension under II.C, the "Term"). Each year of the Agreement ("Contract Year") is a consecutive period of time that may be more or less than 12 months, and is defined as follows:

Contract Year 1 -	Effective Date -	February 28, 2019
Contract Year 2 -	March 1, 2019 -	February 29, 2020
Contract Year 3 -	March 1, 2020 -	February 28, 2021
Contract Year 4 -	March 1, 2021 -	February 28, 2022
Contract Year 5 -	March 1, 2022 -	February 28, 2023

- B. Extension of Term. For any season during which the Team wins six (6) or more regular season games, the University agrees that one (1) new Contract Year shall be added to the Term, subject to the same terms and conditions contained herein.
- C. Conditions. This Agreement is subject to the rules, standards and policies of the University except as otherwise provided in this Agreement. Coach's employment under this Agreement is contingent on University determining Coach is authorized to work in the United States for University.

III. COMPENSATION, BENEFITS, AND INCENTIVES

A. Annual Base Salary. The annual base salary for duties performed by Coach under this Agreement, payable in monthly installments for each Contract Year, consistent with University payroll practices for all other coaches is:

Contract Year 1	\$1,191,103.50 (an amount equal to \$950,004 plus a proration of \$241,099.50 for the period between the Effective Date and February 28, 2018)
Contract Year 2	\$950,004
Contract Year 3	\$950,004
Contract Year 4	\$950,004
Contract Year 5	\$950,004

The annual base salary may be increased by the Director in accordance with established University procedures.

B. Annual Non-Salary Compensation. The annual non-salary compensation payable to Coach in monthly installments for each Contract Year, consistent with University payroll practices for all other coaches is:

Contract Year 1	\$1,191,103.50 (an amount equal to \$950,004 plus a proration of \$241,099.50 for the period between the Effective Date and February 28, 2018)
Contract Year 2	\$950,004
Contract Year 3	\$950,004
Contract Year 4	\$950,004
Contract Year 5	\$950,004

C. Benefits. Coach is employed by University as an FLSA exempt employee and is not eligible to receive overtime compensation. Coach is eligible to participate in the general employee benefit programs available to other University employees, subject to the rules, standards, and policies of the University.

D. Waiver of Vacation Leave. As a condition of employment under this Agreement, Coach waives any right Coach may have to vacation leave under University Policy 580-021 or any other applicable law or policy. However, University recognizes that in order to fulfill Coach's job responsibilities, Coach will likely work long hours for sustained periods of time beyond a typical professional work week, and that there will be periods when the duties of the position will not require Coach to work a typical professional work week.

E. Moving Expenses. University will pay Coach's household moving expenses, househunting and temporary living expense up to a total of \$79,167 (the equivalent of one month's salary) in accordance with and subject to the limits of the Moving Expense Summary Table, attached as Exhibit B. In the event Coach terminates employment under this Agreement under Section IV.C prior to December 31, 2018,

Coach will reimburse University the cost of any moving expenses paid to Coach under this Section III.E. Payment is due 60 days after the effective date of the termination.

F. Incentive Compensation for Athletic Achievement. University agrees to pay to Coach the specified amounts for the following applicable events, so long as the applicable event occurs during Coach’s employment as Coach of the Team and Coach coaches the Team during the applicable event:

1. Win exactly 10 regular season games	\$ 75,000
2. Win exactly 9 regular season games	\$ 50,000
3. Win exactly 8 regular season games	\$ 25,000
4. Win the Civil War	\$ 25,000
5. Participate in Pac-12 championship game	\$100,000
6. Participate in post season bowl game (other than as described in 7 below)	\$ 25,000
7. Participate in Access or College Football Playoff Bowl	\$200,000
8. Participate in College Football Playoff National Championship Game	\$300,000
9. Win College Football Playoff National Championship Game	\$400,000

G. Incentive Compensation for Coach Recognition. University agrees to pay to Coach the following specified amounts in any year in which Coach is named:

1. Pac-12 Coach of the Year	\$ 25,000
2. National Coach of the Year	\$100,000

H. Incentive Compensation for Academic Achievement. University agrees to pay to Coach the greater of the following specified amounts in any year in which the Team achieves the following:

1. APR top 6 in the Pac-12	\$25,000
2. APR top 1 or 2 in the Pac-12	\$50,000

I. Cumulative Incentive Compensation. The amounts in III.F through III.H are cumulative. For example, if the Team wins 9 regular season games (\$50,000), participates in the Pac-12 Championship game (\$100,000), participates in an Access Bowl game (\$200,000), and the Team’s APR score is 2 in the Pac-12 (\$50,000), the total incentive compensation for that year would be \$400,000. Payments made under III.F through III.H are to be paid to Coach within 30 days following the end of each football season.

J. Assistant Coach Salary Pool. University will make available a total pool of \$3,300,000 for Assistant Coach salaries

- K. Compensation for OSU sponsored instructional events. If Coach participates in an OSU sponsored camp, clinic or similar instruction event, payment shall be made on an overload compensation basis. The amount or payment is to be determined at the time the budget for the camp is approved in accordance with Athletic Department policies.
- L. Tickets. Coach will receive tickets to Athletic Department games in the amounts and manner provided for by Athletic Department policies.
- M. Family Travel. On an annual basis University will cover the reasonable cost of Coach's immediate family to travel with the Team for all away competitions. Any other requests for cost of travel coverage must be approved by the Director.
- N. Home Game Seating. University will make available to Coach the use of one skybox suite in Reser Stadium with amenities ordinarily provided with a skybox and two parking passes for home football games of the Team.
- O. Country Club. University will pay the cost, on Coach's behalf, for a full membership in the Corvallis Country Club. Coach shall comply with all membership rules, including responsibility for all costs he incurs beyond the membership fee.
- P. Automobile. University will make available to Coach two vehicles under the University's courtesy car program, for use in accordance with the Athletic Department Policies and Procedures Manual.
- Q. Tax. Coach understands that these benefits, if received, will be reported and are likely taxable.

IV. TERMINATION

A. Termination by University for Cause.

1. University may terminate Coach's employment under this Agreement prior to the end of the Term, or impose sanctions, if Coach violates any of the proscriptions against conduct specified in Section I.D.
2. Coach waives any rights Coach may have to a hearing under University Policies 576-050 and 580-021. Coach shall, however, be notified of the grounds for termination being considered by University and shall have an opportunity to present a statement of denial, explanation and/or extenuation before such termination is finalized.
3. The decision whether to terminate employment under this Agreement for cause shall be made by the Director or the President. In reaching a decision whether to terminate, or impose a lesser discipline, the Director or President will take into consideration the severity of the actions(s) or omission(s) that constitute the cause for termination.

4. In the event University terminates employment under this Agreement for cause prior to the end of this Agreement, all obligations of University to make further payments and/or to provide other consideration under this Agreement shall cease as of the end of the month in which such termination occurs, provided that Coach will be entitled to earned but unpaid compensation, accrued benefits, and reimbursement for previously incurred and approved expenses. University is not liable to Coach for any loss of collateral business opportunities or any other benefits, perquisites or income.

B. Termination by University Without Cause.

1. At any time after commencement of this Agreement, University may terminate employment under this Agreement without cause by giving written notice to Coach. Coach waives any right to a hearing under University Policies 576-050 and 580-21. The termination shall become effective no earlier than 15 days after receipt of the written notice. In the event of termination under this Section IV.B, Coach agrees to accept compensation and benefits accrued prior to the effective date of termination, reimbursement for previously incurred and approved expenses and liquidated damages, as specified in this Section IV.B in complete satisfaction of and as payment in full for all obligations, if any, due and owing by University to Coach under this Agreement. As liquidated damages, University shall pay Coach the amount of his annual base salary (as set out in Section III.A) that would be due over the remaining Term of the Agreement if it were not terminated, payable in a lump sum, per usual payroll procedure, within sixty (60) days after the effective date of such termination. Coach understands and agrees that if employment under this Agreement is terminated without cause, Coach shall not be entitled to any benefits or compensation other than that set forth in this Section IV.B.
2. In the event of termination under this Section IV.B, Coach agrees not to apply for unemployment compensation.
3. Coach's compensation under this Section IV.B is not subject to anticipation, alienation, transfer, assignment, pledge, encumbrance, attachment or garnishment by Coach's creditors or by a creditor of any successor, assignee or beneficiary of Coach.
4. Coach agrees that as a condition of receiving any pay as set forth in this Section IV.B, except for compensation, benefits or expense reimbursement accrued prior to the effective date of termination, Coach must execute a mutually agreed upon general release of all claims in a form reasonably satisfactory to the University ("Release"). Coach must execute and return the Release to the University within twenty-one (21) days of his receipt of the Release and the good faith negotiation of its terms and conditions. Unless otherwise agreed by Coach and University in writing, the Release will include, but not be limited to, any and all claims and causes of action based on any law, statute, constitution, or University Policy or

Standard, or based on contract, tort, or equity or any other legal principle or claim, including, without limitation, any state, federal law or local ordinance prohibiting discrimination, harassment or retaliation in employment, any claim for wrongful discharge in violation of public policy, unjust enrichment, promissory estoppel or detrimental reliance, defamation, intentional or negligent infliction of emotional distress, negligence in any action, breach of express or implied contract, and any violation of Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Family Medical Leave Act ("FMLA"), the Oregon Family Leave Act ("OFLA"), the Age Discrimination in Employment Act ("ADEA"), the Older Worker's Benefit Protection Act, and ORS chapters 652, 653, and 659A, or any other state or federal statute or regulation or local rule or ordinance based on any act or omission prior to the execution of the Release. Upon signing and returning the Release to the University, Coach will have a seven (7) day period in which to revoke the Release. If Coach fails to provide the University with a signed Release within 21 days of his receipt, or if Coach signed the Release within the 21 day period but then revokes the Release within the seven (7) day revocation period, payment under this Section IV.B shall not continue and become forfeited.

C. Termination by Coach.

1. Coach may terminate employment under this Agreement for any reason by giving advance written notice to University, such termination to become effective no earlier than 24 hours after University's receipt of such written notice.
2. Coach recognizes that the promise to work for University for the entire Term of this Agreement is the essence of this Agreement. Coach also recognizes that University is making a highly valuable investment in Coach's employment by entering into this Agreement and that University's investment would be lost if Coach were to resign or otherwise terminate employment with University before the end of the Term. In the event Coach terminates employment under this Agreement under this Section IV.C prior to the end of the Term, Coach will pay University liquidated damages as follows:

<u>Contract Year</u>	
Notice effective during Year 1	\$3,500,000
Notice effective during Year 2	\$3,000,000
Notice effective during Year 3	\$2,000,000
Notice effective during Year 4	\$1,000,000
Notice effective during Year 5 or thereafter	\$1,000,000

University may, at its sole discretion, reduce and or waive Coach's obligation under this Section IV.C. Payment is due 60 days after the effective date of the termination.

3. University has the option, in its sole discretion, to make Coach's termination effective at any time prior to the end of such notice period as long as the

University pays Coach all compensation to which he is entitled up through the last day of the notice period. Thereafter all obligations of University cease except for University's obligation to pay Coach's earned but unpaid compensation and reimbursement for previously incurred and approved expenses.

4. Failing to terminate employment with the University before beginning employment outside the University violates this Agreement. University at its option may treat Coach's beginning such other employment as his termination of employment under this Section IV.C.

D. Liquidated Damages.

1. The parties have bargained for and agreed to, and consequently are bound by, the liquidated damages provisions in Sections IV.B and IV.C, giving consideration to the fact that:
 - a. Coach may lose certain benefits, supplemental compensation or outside compensation relating to his employment at University, which damages are extremely difficult to determine with certainty, or
 - b. Coach will develop valuable coaching and recruiting knowledge and relationships and University will have difficulty replacing that knowledge and those relationships and University will lose needed continuity of University's football program. University will incur costs, difficulty and uncertainty replacing Coach, which damages are extremely difficult to determine with certainty.
2. The parties agree that payment of such liquidated damages constitutes adequate and reasonable compensation to Coach because of termination without cause by University or to University for termination without cause by Coach. The foregoing shall not be, nor be construed to be, a penalty.

E. University Property

1. Any property (including without limitation all equipment, documents, records, and keys) furnished to or created by Coach incident to his employment belongs to University and shall be promptly returned to University upon Coach's receipt of written notice from University following termination of this Agreement for any reason. This provision survives termination of this Agreement.

F. Termination by Death or Disability.

1. Notwithstanding any other provision of this Agreement, employment under this Agreement shall terminate automatically if Coach dies, or becomes totally or permanently disabled as defined by University disability insurance, the rules of the Oregon Public Employees Retirement System or within the meaning of the federal Social Security Administration regulations, so that the Coach's physical or

mental incapacity is of a nature that prevents Coach from performing his duties under this Agreement. No pay set forth in Section IV.B shall be due in the event of any such termination. This Section IV.F does not terminate University's obligation to make payments under Section IV.B if University has already terminated this Agreement without cause under Section IV.B prior to the time Coach dies or becomes totally or permanently disabled.

G. Other Disciplinary Actions.

1. The University may also, without limiting University's rights to terminate Coach's employment for cause, take other disciplinary or corrective action short of termination for cause in the event Coach is found to be in violation of University Policy 580-021, Pac-12 or NCAA bylaw, constitutional provision, governing law, rule or regulation. Coach will be subject to disciplinary or corrective action as determined by the Director, the President or the President's designee, the Pac-12 Conference, and/or the NCAA Committee on Infractions. Depending on the violation, Coach may be given a reprimand, assessed a fine (of a day's pay or more) or suspended (with or without pay). Coach waives any rights he may have to receive written charges or to have a hearing under University Policies 576-050 and 580-021. Coach shall, however, be notified of the grounds for imposition of sanctions, and shall have the opportunity to present a statement of denial, explanation and/or extenuation before the sanction is finalized.

V. MISCELLANEOUS

- A. Technology Transfer. Coach acknowledges that the University has a Technology Transfer program that requires employees as a condition of employment to assign to the University rights to any invention or improvements in technology, including software, developed using University facilities, personnel, information, or other University resources.
- B. Severability. If any provision of this Agreement is 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.
- C. Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties on the matters expressed in this Agreement. There are no understandings, agreements, or representations, oral or written, not specified herein with respect to the terms and conditions of Coach's employment with University. No waiver of an obligation under this Agreement is effective unless it is in writing and signed by the party granting the waiver. No failure or delay in exercising any right or remedy, or in requiring the satisfaction of any condition under this Agreement operates as a waiver or estoppel of any right, remedy or condition.

D. Choice of Law. The laws of the State of Oregon (without giving effect to its conflict of laws principles or laws) govern all matters arising out of or relating to this Agreement. Any party bringing a legal action or proceeding against the other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of Oregon for Benton County.

E. No Third Party Beneficiaries. University and Coach are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or will be construed to give or provide, any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

Each party is signing this Agreement on the date stated opposite that party's signature to be effective as of the Effective Date.

Agreed to:

OREGON STATE UNIVERSITY

DocuSigned by:
By Scott Barnes
030CC7704704400...
S. Scott Barnes, Vice President/Director of Athletics

12/29/2017 | 15:44:29 PST
Date

By [Signature]
Susan Capalbo, Senior Vice Provost
Appointing Authority

1/10/18
Date

HEAD COACH

DocuSigned by:
By [Signature]
1A822CEAB38D4AB...
Jonathan Smith

1/10/2018 | 14:47:19 PST
Date

EXHIBIT A

8.036 Code of Ethics

Each institution offering a program of intercollegiate athletics shall comply with the following code of ethics. Violation of the code of ethics shall be considered an adequate basis for sanctions for cause.

(1) Purpose

The purpose of this code of ethics is to prescribe standards of conduct for student athletes participating in the intercollegiate athletic programs of the institution, coaches, intercollegiate athletic administrators, and other personnel associated with intercollegiate athletics. It is also the purpose of this code of ethics to identify the responsibilities of coaches, intercollegiate athletic administrators, and other personnel in the institution's department of intercollegiate athletics.

(2) Designation of Institution Officers

The institution president shall assign in writing to the director of athletics the responsibility for implementing the provisions of this policy, except that the Faculty Athletic Representative shall retain the sole prerogative for determining the athletic eligibility of student athletes participating in the intercollegiate athletic program of the institution.

(3) Directives

(a) The intercollegiate athletic program of the institution shall reflect high standards of scholarship, sportsmanship, fair play, integrity, and concern for the individual.

(b) The intercollegiate athletic program of the institution shall be conducted in accordance with the constitution and bylaws of the alliances and/or conferences of which the institution is a member, and the rules, policies, and directives of the Board of Higher Education and institution.

(c) Student athletes participating in the intercollegiate athletic program of the institution shall be required to:

(i) maintain such academic standards as established by the institution for all students;

(ii) comply with the eligibility requirements of the institution as a prerequisite for participation in its intercollegiate athletic programs;

(iii) demonstrate high standards of sportsmanship and fair play, while participating in an intercollegiate athletic program of the institution;

(iv) refrain from participation in an intercollegiate athletic program of the institution when existing injuries and/or physical impairments would jeopardize the student athlete's health and welfare; and

(v) deport themselves in a manner which brings credit to themselves, their teammates, and the institution.

(d) A head coach of an intercollegiate athletic program is required to maintain such discipline as necessary to assure that student athletes and coaches in that sport maintain high standards of sportsmanship, fair play, and integrity; encourage high standards of scholarship for student athletes; establish and maintain high standards regarding the welfare of student athletes; and adhere to the principles of nondiscrimination.

(e) Coaches in the intercollegiate athletic program of the institution are required to maintain high standards of sportsmanship, fair play, and professional integrity; encourage high standards of scholarship for student athletes; and adhere to principles of nondiscrimination.

(f) Each individual performing administrative, promotional, public relations, or related functions in the intercollegiate athletic program of the institution is required to demonstrate high standards of professional conduct; encourage high standards of sportsmanship, fair play,

professional integrity and scholarship; establish high standards regarding the welfare of student athletes; and adhere to the principles of nondiscrimination.

(g) The following is proscribed conduct for each head coach, assistant coach, and individual performing administrative, promotional, public relations, or related functions in the intercollegiate athletic program of the institution:

(i) using the position with the institution to obtain financial gain, other than official institution salary or reimbursement of expenses and honoraria from either institution or non-institution sources, unless prior approval is obtained from the institution president;

(ii) using the position with the institution to obtain financial gain for any member of the household or for any business with which the employee or any member of the employee's household is associated;

(iii) engaging in any outside activity which substantially interferes with the employee's responsibilities in the intercollegiate athletic program of the institution;

(iv) accepting any employment outside the institution involving time or honorarium without the prior approval of the institution president;

(v) accepting gifts, as defined in ORS 244.020(5), from any source, including but not limited to, professional sports organizations, private businesses, or athletic "boosters";

(vi) receiving, or influencing directly or indirectly, awards of prizes of value from any institution-operated or affiliated promotional activity associated with the intercollegiate athletic program of the institution;

(vii) using institution buildings, facilities, services, or grounds for personal or private gain, without the prior written authorization of the institution president;

(viii) using, or permitting the use of the name of the institution or any emblem of the institution in commercial or personal promotional activities, except by the prior written authorization of the institution president;

(ix) violating the constitution and bylaws of an alliance or conference in which the institution holds membership, particularly those provisions pertaining to recruiting of student athletes, financial aid for student athletes, eligibility of student athletes, and extra benefits for student athletes;

(x) engaging in, encouraging, or permitting the physical or mental abuse or harassment of student athletes;

(xi) permitting student athletes who have not been certified for competition by a medical physician prior to a sports season to participate in the intercollegiate athletic program of the institution;

(xii) permitting, requiring, or encouraging a student athlete who is injured, or otherwise physically or mentally impaired, to participate in the intercollegiate athletic program of the institution without authorization from a physician or authorized athletic trainer;

(xiii) permitting, encouraging, or engaging in abuse or harassment of game officials, game opponents, or spectators while participating in an intercollegiate athletic program of the institution;

(xiv) encouraging, aiding, or abetting, including acts of omission, any individual, including non-institution persons, to engage in conduct proscribed by the alliance or conference in which the institution holds membership and the Administrative Rules, policies, and Internal Management Directives of the Oregon State Board of Higher Education and the institution.

(h) Any coach, head coach, or individual performing administrative, promotional, public relations, or related functions in the intercollegiate athletic program of the institution should

strive to be perceived as an ethical leader, and, therefore, should avoid the appearance as well as the fact of impropriety.

(i) Waivers

The institution president retains the sole prerogative and authority for authorizing exceptions in writing to the provisions contained herein.

(j) Compliance and Sanctions for Violations

Individuals violating the provisions of this code of ethics may be subject to sanctions for cause.

For student athletes participating in the intercollegiate athletic program of the institution who violate the provisions contained herein, the sanctions for cause may include loss of eligibility for a period of time prescribed by the institution Faculty Athletic Representative. Sanctions in addition to loss of eligibility may be imposed by the institution pursuant to the provisions of the student conduct code of the institution.

For coaches or for intercollegiate athletic administrators, sanctions for cause include but are not limited to oral or written reprimand, suspension with pay, suspension without pay, or termination, as determined by the institution president.

(k) Contract and Policy Distribution

This policy for intercollegiate athletics, including the Code of Ethics, shall be attached to the Notice of Appointment for coaches, athletic administrators, and other personnel associated with the intercollegiate athletics program as well as distributed to and discussed with all student athletes.

March 2001

EXHIBIT B
OSU Moving Expense Summary Table - Effective 01/01/2017

Type of Moving	Limits	Additional	Tax Impact
Compensation			
Salary while house hunting	Up to ten days off with pay	Only when moving or house hunting is done after hire date	Taxable
House hunting			
Transportation between new and old location	Up to two round trips for one person or one round trip for two persons, or private vehicle mileage or cost of rental vehicle plus fuel	Common carrier fares or private vehicle mileage at 0.535 cents per mile will be reimbursed	Taxable
Transportation in vicinity of new location	Up to 200 miles	private vehicle mileage at 0.535 cents per mile will be reimbursed	Taxable
Meals and lodging	Up to ten days. (Limit is combined with limit for meals and lodging while moving - see below.)	Lodging: \$132/day employee only. \$198/day employee plus household members (1.5 times the employee only lodging per diem). Meals & incidentals: \$57/day employee only.	Taxable
Moving			
Moving company or van rental	Up to 20,000 lbs., insurance, extra handling charges, 90 days storage. (See Tax Considerations for additional information.) Packing (including packing supplies such as boxes, tapes), crating and unpacking - up to \$1,000.00 for an outside vendor	Approval required for reimbursement of cost of moving personal effects in excess of 20,000 pounds	Non-taxable if over 50 miles; otherwise taxable. Storage first 30 days is non-taxable.
Transportation of employee and household members	Up to one one-way common carrier fares per "household" member, or private vehicle mileage	Common carrier fares or private vehicle mileage at 0.535 cents per mile will be reimbursed	First 17 cents/mile are non-taxable for reimbursement on move over 50 miles. Reimbursement for move of less than 50 miles is taxable.
Meals and lodging	Up to ten days. (Limit is combined with limit for meals and lodging while house hunting - see above.)	Lodging: \$132/day employee only. \$198/day employee plus household members (1.5 times the employee only lodging per diem). Meals & incidentals: \$57/day employee only. \$114/day employee plus household members.	Lodging: Non-taxable if over 50 miles. Meals: All meals are taxable.
Temporary Living			
Meal and lodging expense in new location	Up to 45 days	Lodging: \$132/day employee only. \$198/day employee plus household members (1.5 times the employee only lodging per diem). Meals & incidentals: \$57/day employee only.	Taxable
Miscellaneous			
Closing costs, utility hookup, lease	Up to \$1,500.00	Must submit valid receipts with proof of payment	Taxable