

COUNTY OF MECKLENBURG  
STATE OF NORTH CAROLINA

EMPLOYMENT AGREEMENT  
HEAD FOOTBALL COACH

THIS EMPLOYMENT AGREEMENT (“**Agreement**”) is made and entered into this 8<sup>th</sup> day of January, 2019, by and between The University of North Carolina at Charlotte (“**University**”) and William L. Healy (hereinafter “**Coach**”), and records the terms and conditions under which University will employ Coach and Coach accepts employment as University’s Head Football Coach. In consideration of the mutual promises, covenants, and conditions in this Agreement, University and Coach agree as follows:

**1.0 Agreement is Subject to University Personnel Policies**

The position of Head Football Coach is classified as a Senior Academic and Administrative Officer position and is therefore subject to all the rights and obligations set forth in University Policy 102.7 (<https://legal.uncc.edu/policies/up-102.7>) and University Policy 102.9 (<https://legal.uncc.edu/policies/up-102.9>) (hereinafter the “**Personnel Policies**”), which are incorporated into this Agreement as if fully set forth herein. The Personnel Policies may be revised from time to time without further notice to Coach. Coach acknowledges receipt of a copy of the Personnel Policies.

**2.0 Term of Employment**

- 2.1. Coach will be employed as University's Head Football Coach for an initial term of five (5) years and two (2) months, from December 5, 2018 through January 31, 2024 (“**Term**”). As used in this Agreement, “**Contract Year**” means a three hundred and sixty-five (365) day period beginning on February 1 of one calendar year and ending on January 31 of the following calendar year.
- 2.2. Coach will be considered a non-faculty Senior Academic and Administrative Officer-Tier II (“**SAAO Tier II**”) employee, and will be subject to all employment policies employees of the UNC Board of Governors and University applicable to such classification, including revisions from time to time. The employment policies are contained in the Code and Policies of the University of North Carolina (“**UNC**”) Board of Governors (<http://www.northcarolina.edu/apps/policy/index.php>) and University’s policies, regulations, and rules, including the Personnel Policies, and are incorporated into this Agreement by reference. Coach acknowledges that Coach has read and understands these policies.

**3.0 Duties**

3.1 Coach is hereby employed by University as its Head Football Coach with all the duties, responsibilities, authority, and obligations normally associated with the position of a Head Football Coach at a major university that participates at the NCAA Division I Football Bowl Subdivision (“**FBS**”) level. Coach will devote all such time, attention, skill, and effort as may be necessary to carry out those duties, responsibilities, authority, and obligations, and all that is reasonably implied thereby, and will accept no other employment while employed as Head Football Coach except as permitted by this Agreement. Coach understands and agrees that pursuant to Section 5.0, the annual evaluation of his performance by University will include evaluation of his performance of each of the following duties:

- a. Coach will demonstrate leadership with integrity;
- b. Coach will comport himself with honesty and humility, including constant vigilance and determination to understand, observe, and uphold all academic standards, requirements

and policies of University as well as the Constitution and Bylaws of Conference USA (“C-USA”) and of the NCAA; all State and Federal laws; and applicable policies and procedures of UNC and University as they may be amended from time to time;

- c. Coach will cooperate fully in the NCAA infractions process and be subject to investigation, adjudication, and penalties, up to and including discharge from employment and NCAA membership, for failure to cooperate in NCAA infractions processes;
- d. Coach will encourage academic progress, in conjunction with the faculty and University, of student-athletes toward graduation, and oversee the disciplinary conduct of student-athletes for violations of team rules and expectations. Coach is responsible for supporting and encouraging the educational pursuits of his student-athletes as part of his coaching responsibilities and for exercising his reasonable professional discretion in the maintaining of high disciplinary standards. In particular, Coach will use his best efforts to support University’s policy on the recruitment and retention of qualified student-athletes and the necessity that athletes progress toward a degree in a defined academic program;
- e. Coach will assist the Athletic Academic Center to develop an annual written plan for monitoring and supporting the classroom and out-of-class activities of student-athletes;
- f. Coach will prepare and submit for approval to the Director of Athletics a set of “team rules” specifying behavioral expectations and disciplinary consequences for the student-athletes who are members of the football team. The Director of Athletics will have final approval authority over these team rules. It is understood that Coach will maintain reasonable discretion in enforcing team rules but will keep the Director of Athletics informed with respect to the application of disciplinary sanctions;
- g. Coach will maintain primary responsibility for developing, maintaining, managing, and administering the budget for the football program in close consultation with the Director of Athletics;
- h. Coach will maintain responsibility for the hiring and termination of assistant coaches, the director of football operations, and graduate assistants subject to the final approval of the Director of Athletics, which approval will not be unreasonably withheld;
- i. Coach will be responsible for the supervision of assistant coaches and staff and their activities, including an obligation to promote compliance with the constitution, bylaws, legislation, rules and regulations of C-USA, the NCAA, and with the policies of University, as such may be amended from time to time. Coach will provide annual written evaluations of the performance of each member of his staff no later than June 15 of each year;
- j. Coach will engage actively, in cooperation with the Director of Athletics, in raising funds on behalf of University and the football program. All requests to The Foundation of the University of North Carolina at Charlotte, Inc. (“**University Foundation**”) or The Athletic Foundation of the University of North Carolina at Charlotte (“**Athletic Foundation**”) for support of the football program must be channeled through the Director of Athletics;

- k. Coach will neither instruct nor authorize his assistant coaches or other members of his staff to do anything that this Agreement prohibits Coach from doing;
  - l. Coach will discuss in advance with Director of Athletics any major public announcement concerning the football program (e.g., suspension of player(s) from the team or a schedule modification);
  - m. Coach will work on public relations and student welfare issues as deemed appropriate by the Director of Athletics and the Chancellor;
  - n. Coach will pursue an opportunity to serve, without compensation, on the Board of Directors of at least one non-profit organization. In consultation with the Chancellor, the Director of Athletics must give advance approval of Coach's choice of such Board(s), such approval not to be unreasonably withheld, conditioned or delayed;
  - o. Coach will provide input into the hiring, retention and/or reassignment of Department of Athletics support personnel whose work directly impacts the football program, including by way of example and not of limitation, the strength and conditioning coach. Such input will be given full and significant consideration. All final decisions regarding hiring, retention and reassignment of these personnel rest with the Director of Athletics; and
  - p. Coach will promote University's commitment to equal opportunity and affirmative action and compliance with Title IX.
- 3.2 University desires to use the popularity of its football program to enhance public awareness of the full range of educational programs, research activities, and services it offers, to increase the number of people who visit the campus, and to increase the number of applicants for enrollment. Coach and University recognize that because of public interest in intercollegiate athletics, Coach can play a very important role in University's public relations efforts. Therefore, in addition to duties normally associated with serving as head coach of an intercollegiate team at University as set forth in Paragraph 3.1 above, as well as Coach's primary responsibility in coaching the team (to include conducting practices, engaging in recruiting efforts, preparing the team for upcoming game activities, and other such similar position-specific duties), Coach will have additional duties intended to enhance the general public's awareness of and regard for University and its mission. These additional duties will include, but are not limited to, a reasonable number of regular speaking engagements, media appearances, and other public relations activities in which Coach will serve as representative of University; provided said additional duties do not conflict with the duties required of Coach in Paragraph 3.1 above, or with Coach's primary responsibility in coaching the team, as enumerated herein. Coach will devote all appropriate and reasonably necessary time and attention to preparing for and executing these public relations activities so that University and its programs are accurately and attractively represented.
- 3.3 Coach will perform such other duties as assigned from time to time by the Director of Athletics or Chancellor. Any requests for additional services other than as specified in this Agreement will be reasonable in scope, limited, and subject to the duties required of Coach in Paragraphs 3.1 and 3.2 above.
- 3.4 Coach agrees to faithfully and diligently perform all duties of this position and agrees that the material failure to discharge any essential duties constitutes a breach of this Agreement that would allow University to discharge Coach for Cause pursuant to Section 9.0 of this Agreement.

#### 4.0 Compensation

##### 4.1 **Base Salary**

The initial annual compensation (“**Base Salary**”) for Coach is \$450,000, based on a twelve-month employment period. The Base Salary will be paid pursuant to University’s standard payroll policies. In no event will the Base Salary be paid in less than equal monthly installments, provided that it will be earned on a daily basis. For clarity, Coach will be paid an additional prorated Base Salary amount from the start of the Term until January 31, 2019.

##### 4.2 **Additional Compensation**

In addition to the Base Salary, University will provide the following compensation to Coach:

- a. Annual additional compensation of \$250,000 (“**Supplemental Salary**”), to be paid in equal monthly installments, provided that it will be earned on a daily basis. For clarity, Coach will be paid an additional prorated Supplemental Salary amount from the start of the Term until January 31, 2019.
- b. Each year the multi-year Academic Progress Rate (APR) for the football team (calculated in the fall of each year on a four-year rolling basis and released in February of the following year) is 960 or higher, University will pay Coach additional compensation of \$25,000, such payment to be made in a lump sum within ninety (90) days of the end of the Spring semester.
- c. Coach will receive additional compensation for successful competition during regular season play as follows:

i. Final Top 25 AP or Coaches Ranking	\$ 35,000
ii. Final Top 15 AP or Coaches Ranking	\$ 50,000
iii. Final Top 10 AP or Coaches Ranking	\$ 75,000
iv. Win over a Top 25 Power 5 Team	\$ 20,000
v. C-USA Division Champion (win/tie)	\$ 15,000

Additional compensation for final rankings payable to Coach pursuant to Paragraphs 4.2(c)(i), (ii), and (iii) is not cumulative (e.g., for a Final Top 10 ranking, the total additional compensation would be \$75,000). Additional compensation for Paragraph 4.2(c)(iv) and (v) is cumulative. All additional compensation payable pursuant to this Paragraph 4.2(c) will be paid to Coach within ninety (90) days of the end of the final game of the season for men’s football team (including any postseason games).

- d. In any Contract Year that the football team participates in a postseason game or playoff, Coach will receive additional compensation as follows:

i. C-USA Championship Game Win	\$ 25,000
ii. At-Large Bowl Selection	\$ 25,000
iii. Bowl Game Win	\$ 30,000
iv. CFP New Year’s Six Bowl (Group of 5 representative)	\$ 100,000
v. CFP Semifinal Appearance	\$ 250,000
vi. National Championship Game Appearance	\$ 250,000
vii. National Championship Win	\$ 500,000
viii. C-USA or AFCA Region Coach of the Year	\$ 20,000
ix. National Coach of the Year	\$ 30,000

Additional compensation payable to Coach pursuant to this Paragraph 4.2(d) is cumulative and will be paid within ninety (90) days of the end of the final game of the season for the football team (including any postseason games).

- e. University will pay any one-time initiation fee (up to \$25,000) and all basic monthly, annual, or other basic dues (up to \$6,000 annually) required to initiate and maintain a membership in Coach's name at one country club. The choice of country club is subject to approval by the Director of Athletics. University will neither pay nor reimburse Coach for special assessments, food minimums, or other similar charges associated with such memberships.
- f. University will provide Coach with an automobile allowance of \$750 per month, and a credit card to use for purchasing fuel for business use of his automobile. All costs relating to purchasing/leasing, insuring, maintaining, repairing and using the automobile referred to in this Paragraph 4.2(f) are the sole responsibility of Coach.
- g. University will provide Coach with a cell phone and tablet allowance pursuant to University Policy 602.10, "Mobile Communication Device Allowances" (<https://legal.uncc.edu/policies/up-602.10>) and its Supplemental Procedures. This payment will be made with the understanding that this amount is intended to cover the cellular/data usage plan on Coach's personal smartphone and tablet for use by Coach in conducting University business.
- h. Each academic year, upon Coach's request and at no cost or expense to Coach, University will provide Coach with ten (10) premium football season tickets (with hospitality) at Jerry Richardson Stadium; six (6) premium men's basketball season tickets in the lower seating section of Halton Arena; and, if University's football program is competing in such games, ten (10) premium C-USA championship game tickets (up to 10, at Coach's request, in the event the football program is not participating in such game) and ten (10) bowl tickets.
- i. University will provide reasonable travel costs (including transportation and lodging) for Coach's spouse and children to attend all football road games. If the football team competes in the postseason, University will provide reasonable travel costs for Coach's spouse and children to attend such games. All such costs will be processed as taxable income to Coach.
- j. Any non-salary compensation will be provided in accordance with University Policy 102.11, "Non-Salary Compensation for Employees Exempt from the State Human Resources Act" (<https://legal.uncc.edu/policies/up-102.11>), subject to the approval of the Board of Trustees, and is subject to applicable taxes. Any non-salary compensation will cease at the time Coach no longer continues to serve in the position of Head Football Coach.
- k. All additional compensation will be paid from non-State funds in accordance with standard University payroll practices and procedures. All additional compensation will be earned immediately upon meeting the criteria outlined in this Paragraph 4.2, even if said compensation is paid at a later date.

## **5.0 Annual Evaluation of Coach**

- 5.1 The Director of Athletics will evaluate Coach's performance at least annually. The amount of Base Salary and Supplemental Salary set forth in Section 4.0 above will remain in effect through at least January 31, 2020. Following that date, as part of the annual review process and subject to any limitations imposed by applicable law or policy, the Director of Athletics and Chancellor will make recommendations in good faith on upward adjustments to Coach's annual compensation as part of the annual evaluation process. In no event may Coach's Base Salary, Supplemental Salary,

or additional compensation outlined in this Agreement be decreased, except as specifically permitted by this Agreement.

- 5.2 Automatic extensions to the Term are prohibited under Section 1100.3 of the UNC Policy Manual (<http://www.northcarolina.edu/apps/policy/index.php?pg=dl&id=314>), which provides that renewal of a head coach's contract must be "advertent, based on a deliberate assessment of performance by the chancellor and board of trustees, and not automatic." As part of the annual evaluation process, the Director of Athletics and Chancellor will make recommendations in good faith on extending the Term of this Agreement.

## **6.0 Fringe Benefits**

- 6.1 Coach will receive all employment benefits which are normally available to other University employees in the same category of employment. Coach acknowledges that fringe benefits provided by University are subject to change from time to time by the General Assembly of North Carolina or by the UNC Board of Governors.
- 6.2 With the prior written approval of the Director of Athletics, the University Foundation or the Athletic Foundation may provide supplemental benefits to Coach. University will have no responsibility for the commencement, continuation, or termination of any such benefit under any circumstances.

## **7.0 Outside Compensation**

- 7.1 Coach may earn other compensation from sources outside of University while employed by University only with prior written approval by the Director of Athletics, not to be unreasonably withheld. Any outside compensation must comply with applicable UNC Board of Governors policies and University policies on external activities for pay, including University Policy 102.1 (<https://legal.uncc.edu/policies/up-102.1>), which is herein incorporated by reference, and is subject to all other relevant State and Federal policies and laws concerning conflict of interest. Such activities are independent of Coach's employment with University, and University will have no responsibility for any claims arising therefrom. Activities eligible for outside compensation may include, but not be limited to, engaging in any radio, television, motion picture, Internet, or stage appearances, writing or any similar activity, personal appearances, commercial endorsements, and sport camps. Subject to specific reporting requirements established by University, no outside activities will be allowed without having on file with University, a signed approval of the "Notice of Intent to Engage in External Professional Activities for Pay" (<https://uncc.myresearchonline.org/air/>) prior to engaging in those activities, which approval will not be unreasonably withheld.
- 7.2 Coach will not use the name, trademarks, or service marks of the University or its athletics program except as part of his official duties as Head Football Coach, without the advance written consent of the Director of Athletics. University will have no responsibility for any activity of Coach except those arising from the performance of his duties and responsibilities as Head Football Coach.
- 7.3 Coach agrees that University may use, without payment of additional compensation to Coach, Coach's name, picture, image, likeness and voice in connection with such programs and endorsements that promote University; provided, however, that said use must not directly or indirectly endorse a third party product or service without Coach's written consent.
- 7.4 While Coach may conduct or participate in football camps for compensation subject to the requirements of this Section 7.0, no such football camp may be conducted by Coach using University's name, marks, or other University property without the prior written approval of the Director of Athletics, such approval not to be unreasonably withheld. Each camp using

University's name or conducted on University property that has been approved must be conducted in accordance with all applicable University policies, including those related to the presence of minors on campus and those requiring the payment of fees for use, if any. To the extent any such camp is operated with or under the sponsorship of University, Coach's compensation therefrom is subject to an annual agreement between Coach and University, but University expressly makes no guarantee of any compensation to Coach from such activity.

- 7.5 University agrees that Coach may accept remuneration for commercial endorsements so long as they fully comply with the guidelines of the NCAA; provided, however, that contracts for such endorsements must be in writing, must not conflict with existing University agreements, and must be submitted prior to execution by Coach for approval by the Director of Athletics, such approval not to be unreasonably withheld. If Coach makes commercial endorsements, he may identify himself as the Head Football Coach for University but may not otherwise associate University's name with the endorsement. Coach may not in any way use or cause to be used the trademarks or service marks owned by University in connection with any commercial endorsement. Coach will not use any University students in any programs endorsing private products in radio, television, or other media, and will not film any commercials endorsing private products on University property. Coach is not authorized to negotiate or make any agreement with any person or organization which calls for any University student-athlete, cheerleader, manager, team, or employee to be required to use or display particular equipment or to affix any patch or symbol identifying commercial products or services to University-owned or controlled equipment unless the terms and conditions of such agreement are in writing and have been approved in advance in writing by the Director of Athletics. Coach will not sell or attempt to sell any product he endorses to any University student-athlete, cheerleader, manager, or employee involved in the football program. Coach's commercial endorsements are independent of his University employment and University has no responsibility or liability for any claims arising therefrom.
- 7.6 Coach must report annually on July 1 to the Chancellor through the Director of Athletics all athletically related income from sources outside University, including but not limited to, income from annuities from any source, including those from the University Foundation, the Athletic Foundation, sports camps and clinics, television and radio programs, commercial endorsements, apparel companies, consulting agreements, and all other athletically related income from every outside source whatsoever. Coach must allow University reasonable and prompt access to all records of Coach to verify this report.

**8.0 Automatic Termination Upon Death or Inability of Coach to Perform Duties and Obligations Under the Employment Agreement**

- 8.1 This Agreement will terminate automatically without notice in the event that Coach dies. This Agreement will terminate, upon reasonable notice to Coach by University, in the event that Coach for any reason becomes and remains unable to perform his essential duties and obligations hereunder for a period of ninety (90) days in any twelve (12) month period. Such determination of Coach's inability to perform his essential duties will be made in the sole, but reasonable judgment of University.
- 8.2 If this Agreement is terminated pursuant to Paragraph 8.1 because of death, Coach's salary and all other benefits will terminate as of the date death occurs, except that Coach's personal representative or other designated beneficiary will be paid all such death benefits, if any, as may be contained in any benefit plan now in force or hereafter adopted by University and due to Coach, any salary or compensation earned but not paid as of the date of termination, and any theretofore unreimbursed business expenses incurred by Coach in the performance of his duties.

- 8.3 If Coach becomes and remains unable, in the sole, but reasonable judgment of the University, to perform his duties and obligations hereunder for a period of ninety (90) days in any twelve (12) month period, and University thereupon affords notice of termination under Paragraph 8.1, then, at the end of such ninety (90) day period, all salary and other benefits will terminate, except that Coach will be entitled to receive any disability benefits to which he is entitled under any disability program in which he is enrolled through University, any salary or compensation earned but not paid as of the date of termination, and any theretofore unreimbursed business expenses incurred by Coach in the performance of his duties.
- 8.4 Notwithstanding any other provision herein, this Agreement does not and will not be construed to afford University the right to take any action that is unlawful under the Americans with Disabilities Act or to constitute in any respect a waiver by Coach of his rights under such Act or any other relevant federal, state, or local law.
- 8.5 The termination of this Agreement under this Section 8.0 will not constitute a breach of this Agreement, and, except for the payments required by this Section 8.0, if any, or any such rights and remedies as he might choose to pursue under the Americans with Disabilities Act, Coach hereby, to the fullest extent allowable by law, waives and relinquishes all rights to payment of compensation, damages, or other relief on account of such termination.

**9.0 Termination by University for Cause:**

- 9.1 This Agreement may be terminated by University for Cause.
- a. “Cause” will include the following acts of misconduct by Coach:
1. willful failure to carry out the essential duties of Coach as defined in Section 3.0 of this Agreement;
  2. Coach’s willful misrepresentation of any matter listed in Section 14.0 of this Agreement;
  3. a major violation of a NCAA (Level I or Level II) or C-USA regulation or bylaw by Coach, or participation in such a violation by an assistant coach or other staff member under Coach’s direct or indirect control of which Coach knew, had reason to know, or should have known through the exercise of reasonable diligence, occurring while Coach is employed by University or during prior employment at another NCAA member institution, which Coach: (i) condoned, (ii) failed to report to the Director of Athletics, or (iii) failed to take reasonable actions designed to address or mitigate such violation;
  4. conviction of, or a guilty plea, including an Alford Plea, to (i) a felony or (ii) a criminal offense which constitutes fraud, dishonesty, or moral turpitude;
  5. misconduct of the Coach, or misconduct of an assistant coach or other staff member under Coach’s direct or indirect control, of which the Coach knew, had reason to know, or should have known through the exercise of reasonable diligence, or which Coach condoned, of such a nature that would bring disrespect, contempt, or ridicule upon University if made public, or which brings discredit to University, or which seriously harms University’s reputation, or which damages the integrity of the Coach, or that renders Coach unfit to serve in the position of Head Football Coach;
  6. prolonged absence from duty, not due to sickness or disability, without the consent of the Director of Athletics;
  7. any of those causes specified in the employment policies for SAAO Tier II employees of UNC or University policies as adopted and revised from time to time.



- b. In the event of termination by University for Cause, University's sole obligation to Coach will be to pay Coach that portion of the Base Salary, Supplemental Salary, any applicable supplemental compensation that has been earned but not paid as of the effective date of termination, and any theretofore unreimbursed business expenses incurred by Coach in the performance of his duties. University will not be obligated to pay Coach any other compensation or benefits described in this Agreement, including but not limited to any loss of business opportunities or loss of other compensation, income, benefits, or perquisites from any sources, that might occur as a result of such termination.
- c. Any process to terminate Coach for Cause will be conducted in compliance with all current, applicable University policies and regulations.
- d. If Coach is found in violation of NCAA regulations, he is also subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures.
- e. It is not the intent of either party for Coach to be terminated for Cause for minor, technical, or otherwise immaterial defaults of this Agreement. Moreover, where appropriate, prior to invoking its right to terminate this Agreement for Cause, University agrees that it shall afford Coach with a reasonable opportunity to cure any default, as listed herein, in a timely manner after providing Coach with written notice of such default.

**10.0 Termination by University Without Cause:**

10.1 University may, in its sole discretion, terminate this Agreement without Cause at any time upon written notice to Coach.

- a. In the event University exercises its right to terminate this Agreement without Cause, University's sole financial obligation will be limited to paying Coach: (1) the Base Salary, Supplemental Salary, and any applicable supplemental compensation that has been earned but not paid as of the effective date of termination, (2) the Base Salary multiplied by the number of full and partial Contract Years remaining under this Agreement, and (3) any theretofore unreimbursed business expenses incurred by Coach in the performance of his duties. University will not be obligated to pay Coach any other compensation described in this Agreement or be responsible for consequential damages, including but not limited to any loss of business opportunities or loss of other income, benefits, or perquisites from any sources, that might occur as a result of such termination. Payment of the total amount determined will occur over the remaining Term as follows: (i) within thirty (30) days of the effective date of termination without Cause, payment will be made of amounts due with respect to any compensation earned, but unpaid as described above that cover the remainder of that Contract Year, as well as any aforementioned unreimbursed business expenses, and (ii) payments due hereunder with respect to each subsequent Contract Year will be made on a monthly, pro rata basis over the otherwise unexpired Term, until all amounts due have been paid in full. The parties acknowledge that Section 457(f) of the Internal Revenue Code of 1986, as amended ("**Section 457**") may require that some or all of the foregoing payments to Coach be taxable to Coach before their scheduled payment dates. The parties intend for all such payments to be excludable from the requirements of Section 457. Notwithstanding the payment schedule described above, unless the University reasonably determines that Section 457 does not apply, University will pay the Applicable Portion (as defined below) of amounts due before the scheduled payment dates (a "**Tax Distribution**"), and each subsequent payment will be reduced by a pro-rated portion of any Tax Distribution. The "**Applicable Portion**" means the amount that the University determines is necessary to satisfy all applicable state and federal income and employment tax withholding on amounts described in such sections that are taxable before the scheduled payment dates pursuant to Section 457.

- b. Coach acknowledges Coach's obligation to minimize the payments due to Coach under Paragraph 10.1(a) and agrees to make every reasonable effort to obtain other football-related employment as long as University has the obligation to make payments under this Section 10.0. If Coach obtains new football-related employment at any institution of higher education that is a member of the NCAA or any professional team participating in any professional league or conference in the United States or elsewhere, or as a television or radio analyst or broadcaster, University's financial obligations under Paragraph 10.1(a) will be reduced by the total compensation received by Coach in Coach's new position over the remaining Term, not including employee benefits (e.g. health and dental insurance, 401k, life insurance, and similar benefits) or perquisites, whether in cash, deferred payments, or in kind. Upon acceptance of other football-related employment, Coach will immediately notify the Director of Athletics in writing of such employment and the total compensation to be paid to Coach for the employment. In addition, Coach agrees to provide University with copies of all paycheck stubs, all deferred income agreements and plans, and all individual income tax returns submitted to the Internal Revenue Service covering any and all periods for which University is required to make payments under Paragraph 10.1(a), as well as a copy of Coach's W-2 form for each calendar year as long as University has the obligation to make payments under Paragraph 10.1(a).
  - c. University will conduct an annual accounting to determine any overpayment or underpayment to Coach under this Section 10.0. University agrees to pay Coach the additional amount necessary if the accounting demonstrates underpayment to Coach. Coach agrees to refund upon written notice any undisputed overpayment by University revealed by the accounting. The obligations of University to conduct accountings and to compensate for underpayments to Coach and for Coach to provide tax returns and refund overpayments will extend beyond the Term of this Agreement or any extension thereof, as necessary to effect the purpose of accurate accounting.
- 10.2 If University exercises the option to terminate the Agreement without Cause as provided in Paragraph 10.1, except for making such payments as are required by Paragraph 10.1(a), University will have no further liability to Coach pursuant to this Agreement, and University will not be liable to Coach for any loss or reduction of any collateral business opportunities or other benefits associated with loss of his position as Head Football Coach, including without limitation any benefit from the University Foundation or the Athletic Foundation.
- 10.3 The exercise of the option to terminate this Agreement without Cause under Paragraph 10.1 will not constitute a breach of this Agreement, and, except for the payments required by Paragraph 10.1(a), Coach, to the fullest extent permitted by law, hereby waives and relinquishes all rights to payment of compensation, damages, or other relief on account of such termination, and expressly waives all claims to the effect that termination without Cause is not permitted by the Personnel Policies.
- 10.4 In the event that University attempts to terminate this Agreement pursuant to Section 8.0 or for Cause pursuant to Section 9.0 and it is determined that Coach cannot properly be terminated under Section 8.0 or that no Cause exists for such termination under Section 9.0, the parties agree that such termination will be regarded as an exercise by the University of its option to terminate this Agreement without Cause pursuant to Paragraph 10.1 and will not constitute a breach of this Agreement. In such event, Coach will have no rights or claims for payments, damages, or other relief against University except as specifically provided in this Section 10.0. The University's right of setoff provided under Paragraph 10.1(b) will not apply where such termination without Cause results from the application of the first sentence of this Paragraph 10.4.

**11.0 Termination by Coach Prior to Expiration**

- 11.1 The parties hereby agree that Coach has special, exceptional, and unique knowledge, skill, and ability that render Coach's services unique. Coach recognizes that the loss of Coach's services to University prior to the expiration of the Term or any extension thereof would cause an inherent loss to University that cannot be estimated with certainty or fairly or adequately compensated by money damages.
- 11.2 Coach is prohibited from (a) actively seeking, (b) participating with a prospective employer in discussions about, (c) negotiating for, (d) accepting, (e) commencing employment at, (f) or providing paid professional services to, any institution of higher education that is a member of the NCAA or any professional team participating in any professional league or conference in the United States or elsewhere, if performance of any duties would begin prior to the expiration date of the Term or any extension thereof; provided, however, that Coach will be permitted to participate with a prospective employer in discussions about and negotiate for providing such paid professional services if Coach has notified University's Director of Athletics of such discussions or negotiations in advance. Violation of this Paragraph 11.2 will be considered termination of this Agreement by Coach prior to its expiration giving rise to the payment obligations set forth in Paragraph 11.3 below.
- 11.3 In the event Coach terminates this Agreement, Coach will pay University or arrange to have paid to University an amount equal to the current Base Salary and, if applicable, will forfeit any additional compensation earned but not yet paid. Such payment will be due and payable within one hundred twenty (120) days after the termination of this Agreement. Additionally, if Coach accepts a head coaching position at another institution of higher education that is a member of the NCAA, Coach will cause such institution, as a condition of Coach's employment at such institution, to enter into a contract with University providing for a two (2) year, home and home football series between such institution and University. The home and home series must commence within six (6) years of Coach's termination; provided, however, that the contract will grant Coach's new institution the right to buy out the two-game series from University for an agreed-upon sum not to exceed Coach's then-current annual Base Salary amount.
- 11.4 Coach's retirement from employment at University on a date prior to the expiration date of the Term or any extension thereof will not be considered termination of this Agreement pursuant to the terms of Paragraph 11.3 herein; provided, however, that if Coach accepts employment with, commences employment with, or provides paid professional services to any institution of higher education that is a member of the NCAA or any professional sports team participating in any professional league or conference in the United States or elsewhere within one (1) calendar year after the effective date of such retirement, Coach will pay University as provided in this Section 11.0 as if Coach had commenced employment with such other employer on the day following the date of Coach's retirement.

**12.0 Termination by Both Parties**

This Agreement may be terminated at any time upon mutual written agreement of the parties.

**13.0 Termination of Current Employment Agreement**

University will be responsible for any financial consequences resulting from the voluntary termination of Coach's employment agreement with Austin Peay State University, including any costs, expenses, or potential income tax liability to Coach.

**14.0 Representations**

14.1 Coach represents that Coach has disclosed to University all material information concerning previous NCAA, conference, or institutional rules violations or potential violations committed by Coach or any coach, staff member, or other person under Coach's direct or indirect control at any other NCAA member institution prior to the date on which Coach executed this MOU. Similarly, University represents that it has disclosed to Coach all material information it has regarding any pending and/or ongoing NCAA investigations or inquiries relating to University's athletics programs.

14.2 Coach also represents that:

- a. Neither Coach nor any person acting on Coach's behalf knowingly misrepresented material information, knowingly withheld material information, or knowingly provided incomplete or false material information during University's process of interviewing and hiring Coach;
- b. To the best of Coach's knowledge, Coach has never engaged in any other action or conduct that would reflect adversely on the good name and reputation of the University or that could cast the University in a negative light;
- c. Coach is not restricted from entering into this MOU by any conflicting obligations to another authority, person, body, or entity; and
- d. Coach has never been convicted of, pled guilty to, or pled nolo contendere to a criminal act that constituted either (a) a felony or (b) a misdemeanor involving moral turpitude (excluding minor traffic offenses).

**15.0 University Records**

All materials or articles of information including, without limitation, personnel records, recruiting records, team information, films, statistics or any other material or data furnished to Coach by University or developed by Coach on behalf of University or at University's direction or for University's use or otherwise in connection with Coach's employment hereunder are and will remain the sole and proprietary property of University. If University requests access to or the return of such materials at any time during or at or after the termination of Coach's employment, Coach will immediately deliver same to University.

**16.0 Contingencies**

This Agreement is contingent on: (a) satisfactory completion of credit checks, background checks, and NCAA compliance checks on Coach, and (b) Coach passing the mandatory NCAA Division I Coaches (Recruiting) Certification Test by February 1, 2019. If the results of any check are unsatisfactory in University's reasonable opinion, the Agreement is void *ab initio*. If Coach has not passed the rules test, the Agreement terminates on the deadline date, and all payments and obligations will be determined as of that date.

**17.0 Availability of Funds**

Continuation of Coach's employment is contingent upon the annual operating budget established by the UNC Board of Governors and the continuing availability of sufficient student athletic fees and Department of Athletics revenues from gate receipts and gifts. In the event such funds become unavailable, Coach's employment may be terminated without the additional notice required by Paragraphs III.B or III.C. of [Section 300.2.1 of the UNC Policy Manual](#), provided, however, that Coach is entitled to and University remains liable for the payments set forth in Paragraph 10.1 above.

**18.0 Taxation Issues**

University agrees to work with Coach in good faith to address and accommodate any applicable taxation matter in addition to those specified in this Agreement.

**19.0 Definition of "C-USA"**

As used in this Agreement, the term "C-USA" means the intercollegiate athletic conference of which University is a member at the date of execution of this Agreement or any intercollegiate athletic conference of which University subsequently becomes a member during the Term.

**20.0 Interpretation and Applicable Law**

This Agreement is made under and will be interpreted according to the laws of The State of North Carolina. Any rule to the effect that an agreement will be construed against the party drafting will have no application to this Agreement.

**21.0 Notices**

All notices required or permitted under this Agreement must be in writing and are deemed properly served if delivered in person to the individual to whom it is addressed or three days after deposit in the United States mail, if sent postage prepaid by United States registered or certified mail, return receipt requested, and sent to the following addresses:

Coach: William L. Healy  
C/O UNC Charlotte Athletics – Football Office  
Charlotte NC 28223

With copy to: CAA Sports  
Attn: Clint Dowdle  
6075 Poplar Ave Ste 410  
Memphis TN 38119

UNIVERSITY: Philip L. Dubois  
Chancellor  
University of North Carolina at Charlotte  
9201 University City Blvd.  
Charlotte, NC 28223

With copies to: Mike Hill  
Director of Athletics  
University of North Carolina at Charlotte  
9201 University City Blvd.  
Charlotte, NC 28223

and Jesh Humphrey  
Vice Chancellor for Institutional Integrity and General Counsel  
University of North Carolina at Charlotte  
9201 University City Blvd.  
Charlotte, NC 28223

**22.0 Benefit**

This Agreement, in accordance with its terms and conditions, will inure to the benefit of and be binding upon University, its successors and assigns, and Coach, his heirs, executors, administrators and legal representatives.

**23.0 Entire Agreement**

This instrument contains the entire Agreement of the parties hereto, and cancels and supersedes all prior existing oral and written agreements between University and Coach. This Agreement may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

**24.0 Additional Approvals Required**

It is expressly understood and agreed by the parties that this Agreement is conditioned upon the final approval and action of the Board of Trustees of The University of North Carolina at Charlotte, and any necessary review and/or approvals of the President of the University of North Carolina and the Board of Governors of the University of North Carolina, and will become effective only upon such approvals and action.

**25.0 Public Record**

Upon execution, this Agreement is a public record subject to disclosure under the North Carolina Public Records Act, N.C. Gen. Stat. 132-1 *et seq.*

**26.0 Understanding of Agreement**

Each party has read and understands this Agreement, acknowledges that it is reasonable and enforceable, and agrees to abide by its terms.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Agreed by University:

Philip L. Dubois 1/8/19  
Philip L. Dubois, Chancellor Date

Joe L. Price 1/8/2019  
Joe L. Price, Chair, Board of Trustees Date

Agreed by Coach:

William L. Healy 2/4/19  
William L. Healy Date