

HEAD COACH EMPLOYMENT AGREEMENT
(Five Year Term)

The Ohio State University ("Ohio State") and Ryan P. Day ("Coach") agree as follows:

1.0 Employment

1.1 Subject to the terms and conditions of this Head Coach Employment Agreement (the "Agreement"), Ohio State shall employ Coach as the head coach of its football team (the "Team"). Coach represents and warrants that Coach is fully qualified and physically fit to serve, and is available for employment, in this capacity.

1.2 Coach shall serve at the pleasure of Ohio State's Director of Athletics (the "Director"), report directly to the Director and confer with the Director or the Director's designee on all administrative matters. Coach shall also confer with the Director or the Director's designee, and reach mutual agreement, before Coach promises to award any athletic scholarships to Coach's current or prospective student-athletes. Coach shall also be under the general supervision of Ohio State's President.

1.3 The parties recognize that the Director is responsible to Ohio State's President for the operation, review and periodic evaluation of the entire athletic program at Ohio State, including the football program. Coach recognizes and acknowledges the importance of the maintenance and observance of the principles of institutional control over every aspect of such program. Coach agrees to recognize and respect those relationships and the organizational structure of Ohio State. Within that structure, the Director and Coach shall mutually cooperate to implement the purposes of this Agreement, and Coach shall support and comply with the Director's efforts and instructions regarding any such review of the athletic program.

1.4 Coach shall have sole responsibility to manage and supervise the Team and shall perform such other duties as set forth in Section 4 of this Agreement.

1.5 Coach agrees to represent Ohio State positively in public and private forums and shall not engage in conduct or act in such a manner that reflects adversely on Ohio State or its athletic programs. Coach shall perform Coach's duties and personally comport himself at all times in a manner consistent with good sportsmanship and with the high moral, ethical and academic standards of Ohio State and its Department of Athletics (the "Department").

2.0 Term

2.1 This Agreement is for a fixed-term appointment commencing on January 2, 2019 and terminating, without further notice to Coach, on January 31, 2024. With the exception of the first contract year (which shall commence on January 2, 2019 and conclude on January 31, 2020), each contract year shall begin on February 1, and conclude on the following January 31. The parties intend that, unless extended in accordance with the terms hereof, this Agreement shall cover employment of Coach as Head Football Coach for the 2019, 2020, 2021, 2022 and 2023 intercollegiate football seasons (including pre-season, post-season and championship play) and recruiting for such seasons, as well as preliminary recruiting for the 2024 season.

2.2 This Agreement is renewable solely upon an offer from Ohio State and an acceptance by Coach, both of which must be in writing and signed by the parties.

2.3 This Agreement in no way grants Coach a claim to tenure in employment, nor shall Coach's service pursuant to this Agreement count in any way toward tenure at Ohio State.

2.4 The Director shall evaluate Coach annually and will discuss the evaluation with Coach.

3.0 Compensation

3.1 During the term of this Agreement:

(a) Ohio State shall pay Coach an annual base salary of \$850,000.00 ("Base Salary"), which shall be subject to all applicable withholdings and payable in accordance with Ohio State's normal payroll practices. Coach shall be eligible to receive Base Salary increases, as may be determined appropriate by the Director and approved by Ohio State's Board of Trustees, on or after February 1, 2020; and

(b) Coach shall be entitled to participate in all employee retirement and welfare benefit plans and programs made available to Ohio State's senior administrative and professional employees as a group, as such plans and programs may be in effect from time to time and subject to Coach satisfying any eligibility requirements of such plans and programs. Notwithstanding the foregoing, nothing in this Agreement shall prevent Ohio State from amending or terminating any retirement, welfare or any other employee benefit plans, programs or policies from time to time as Ohio State deems appropriate in its sole discretion.

3.2 Media, Promotions and Public Relations.

(a) Ohio State shall also pay Coach compensation in consideration of Coach's services related to the media, promotions and public relations. Coach recognizes that the local and national media interest in the Team and the football program in general is extremely high. In order to satisfy such interest, Coach understands that he shall use his best efforts (schedule permitting) to make himself available for interviews and other outside appearances.

(b) Coach agrees that Ohio State shall own all broadcasting and telecasting rights to all live and recorded coach's shows, call-in programs, post-game and pre-game interviews, highlight shows, replay shows and other programs (hereinafter called "Programs") that may be offered currently or in the future on media outlets, including but not limited to, radio and all forms of television, internet, satellite, cable, broadband, high definition TV, DVD, video cassette, wireless and video-on-demand. Ohio State shall be entitled, at its option, to produce and market the Programs or negotiate with third parties for the production and marketing of the Programs. Notwithstanding the foregoing, it is agreed that Coach shall have the right (provided that Coach receives prior approval from the Director in accordance with Section 4.4 hereof) to participate in certain ventures that, in Ohio State's reasonable, good faith opinion, do not conflict or compete with the Programs contemplated hereunder, such non-competing ventures may include, without limitation, instructional videos and shows, motivational programming and documentaries, provided that such ventures do not violate Ohio's ethics laws or other laws or University Rules¹ (as defined below).

¹ "University Rules" shall mean any and all present or future legislation, rules, regulations, directives, written policies, bylaws and constitution, and any and all amendments, supplements, or modifications thereto promulgated hereafter by Ohio State and/or the Department of Athletics, including without limitation, its President and the Director, or by Ohio State's Board of Trustees.

(c) Coach agrees to work with Ohio State and perform all other duties as reasonably requested in order for the Programs to be successful. Subject to the demands of scheduled Team practices and games, Coach agrees to provide his services to and perform on the Programs and to cooperate in the production, broadcasting, and telecasting of the Programs. In particular, Coach agrees to provide his services to, and perform to the best of his ability on, the following Programs:

- i. A live weekly head coach's radio show on which Coach personally appears, of up to one (1) hour in length, to be broadcast each week beginning the week before the first football game of the season and ending the week after the last game of the season, including any post-season game in which Ohio State plays;
- ii. A daily head coach's radio show, consisting of a taped interview with Coach, of up to ten (10) minutes in length, to be broadcast each day beginning the Monday before the first game of the season and ending the Friday after the last game of the season including any post-season game. The exact time and location of the taping of such show shall be mutually agreed upon between Coach and the producer of the Programs;
- iii. A pre-game radio show consisting of a taped or live interview program with Coach, up to twenty (20) minutes in length, to be broadcast prior to each football game broadcast over the network. The exact time and location of such interview program shall be mutually agreed upon between Coach and the producer of the Programs;
- iv. A post-game radio show consisting of a live interview program with Coach or one of his assistant coaches, up to twenty (20) minutes in length, to be broadcast following each football game broadcast over the network. If Coach does not personally appear on the post-game show, Coach agrees to make available an assistant coach from the football coaching staff;
- v. A weekly television show (live or taped) on which Coach personally appears, of up to forty (40) minutes in length, to be broadcast on the game week or the Sunday following each football game as well as a pre-season show and a post-season show (a minimum of twelve (12) shows per season), currently likely titled "Gametime with Ryan Day" or other weekly television show to which Ohio State may license its rights during the term of this Agreement. The exact time and location of such show shall be mutually agreed upon between Coach and the producer of the Programs;
- vi. If requested, participate, as mutually agreed, in providing content (which may or may not ultimately be used) to Ohio State's websites; and
- vii. Any other programs or appearances or any reasonable modifications to the above programs and appearances that the parties mutually agree upon.

(d) Ohio State shall use its best efforts to negotiate with RadiOhio, Inc. ("WBNS") to schedule the shows set forth in Section 3.2(c), if necessary, to accommodate scheduling conflicts due to Coach's coaching duties.

(e) Coach also agrees to, and hereby does, assign to Ohio State or its then-current rights holder of one or more of the Programs all right, title and interest in Coach's name, nickname, initials, facsimile signature, likeness, photograph, and derivatives thereof, and Coach's picture, image and resemblance and other indicia closely identified with Coach (collectively the "Property") in connection with the Programs. The assignment includes, but is not limited to, intellectual property rights under any and all trademarks and copyrights and any applications therefore which have been obtained or filed, or may be filed in the future with respect to the Property (all intellectual property registrations to be owned solely by Ohio State). Coach further agrees to, and hereby does, assign to Ohio State the Property associated with all previously broadcast, recorded or stored Programs. Nothing contained herein shall limit Coach's ability to use the Property in activities not associated with the Programs (subject to the approval provisions of Section 4.4 of this Agreement).

(f) It is understood that Coach shall not regularly appear in any regularly-scheduled radio broadcast on radio stations other than WBNS and the affiliates of the Ohio State Network (collectively "Other Radio Broadcasters"), and shall not promote or endorse Other Radio Broadcasters or their programs. In addition, Coach shall not appear in any other regular television coach's show, call-in show or interview show. Coach agrees that he will make a reasonable effort not to appear live or on tape at the time that any of the coaches' or game shows are being broadcast on WBNS and/or the Ohio State Network or at the time that the football coach's show or the weekly football highlight show is being broadcast on television. This shall not prohibit Coach from appearing in routine news media interviews from which Coach receives no compensation, or from appearing in any other media (consistent with this Agreement). Ohio State's Athletic Communications Office will make reasonable efforts to assist Coach with these obligations.

(g) In exchange for these media, promotions and public relations services, Ohio State shall pay Coach the payments described in this Section 3.1(g) (collectively, the "Media Payments"):

- i. For the contract year beginning January 2, 2019 and ending January 31, 2020, Ohio State shall pay Coach a monthly cash payment at an annual rate of Two Million Three Hundred Ninety Thousand Dollars (\$2,390,000). Based on such annual rate, the Media Payment for the contract year beginning January 2, 2019 and ending January 31, 2020, shall be Two Million Five Hundred Eighty-Nine Thousand One Hundred Sixty-Six Dollars and 71 Cents (\$2,589,166.71).
- ii. For the contract year beginning February 1, 2020 and each contract year thereafter, Ohio State shall pay Coach Media Payments equal to Two Million One Hundred Forty Thousand Dollars (\$2,140,000) in the aggregate, which shall be paid in substantially equal monthly installments.

The Media Payments shall be subject to all applicable withholdings. Coach shall be eligible to receive increases to the Media Payments, as may be determined appropriate by the Director and approved by Ohio State's Board of Trustees, on or after February 1, 2020.

(h) In addition, in exchange for these media, promotions and public relations services performed by Coach and subject to Coach's continued employment as Head Football Coach, for each contract year beginning on or after February 1, 2020, Ohio State shall make a fully vested Employer Contribution (as defined in Ohio State's Retirement Continuation Plan II, as

amended from time to time ("RCP II")) of Two Hundred Fifty Thousand Dollars (\$250,000) to the RCP II on December 31 of such contract year. To the extent the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), limits a contribution described in the preceding sentence from being made to the RCP II, such contribution shall be made to Ohio State's Supplemental 415(m) Retirement Plan II, as amended from time to time. Notwithstanding the foregoing, if Coach is not employed as Head Football Coach on the last day of the applicable contract year, the employer contribution to the RCP II for such contract year shall be equal to Two Hundred Fifty Thousand Dollars (\$250,000), multiplied by a ratio, the numerator of which is the number of days Coach was employed as Head Football Coach during that contract year, and the denominator of which is 365.

(i) This Section 3.1 shall be subject to renegotiation, and amendment by a mutually-agreed written document, if Ohio State decides to produce and market one or more of the Programs itself as opposed to selling the rights to produce and market one or more of the Programs to a third party.

3.3 Beverage Sponsor. Coach shall make one (1) personal appearance, not to exceed thirty (30) minutes, during each contract year of this Agreement at mutually-agreed activities or functions of The Coca-Cola Company or the Coca-Cola Bottling Company Consolidated (or Ohio State's then-current exclusive beverage sponsorship agreement sponsor) (hereinafter, "Beverage Sponsor"). In consideration for such appearance, Ohio State shall pay Coach \$10,000 (the "Beverage Sponsor Payment"), subject to all applicable withholdings, on July 31 of each contract year. Coach shall be reimbursed for the reasonable, documented travel, room and board expenses incurred by Coach as a result of such personal appearance. Coach shall not be required to make any additional appearances unless they have been negotiated in good faith and mutually agreed to between all relevant parties.

3.4 Apparel, Shoe or Equipment Contracts.

(a) Coach agrees that Ohio State has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff during official practices and games. Ohio State agrees to consult with Coach when it selects equipment, footwear and/or apparel that has a significant impact upon the Team.

(b) Coach recognizes that Ohio State has entered into an agreement with NIKE to supply Ohio State with athletic footwear, apparel and/or equipment. Coach agrees that, upon Ohio State's reasonable request, he will consult with appropriate parties concerning a NIKE product's design or performance, act as an instructor at a clinic sponsored in whole or in part by NIKE, give a lecture at an event sponsored in whole or in part by NIKE, and/or make other educationally-related appearances as may be reasonably requested by Ohio State.

(c) In order to avoid entering into an agreement with a competitor of NIKE's or an agreement which would not be in Ohio State's best interests, Coach shall submit all outside consulting agreements to Ohio State for review and reasonable approval prior to execution (including consulting or equipment agreements which relate to football camps). Coach must also report such outside income to Ohio State in accordance with Governing Athletic Rules² and

² "Governing Athletic Rules" shall mean any and all present or future legislation, rules, regulations, directives, written policies, bylaws and constitutions, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by the NCAA or the Big Ten Conference or any successor of such association or conference, or by any

University Rules. Coach further agrees that he will not endorse any athletic footwear, apparel and/or equipment products, including NIKE, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products, including NIKE.

(d) In consideration of Coach's performance of the obligations described in Paragraph 3.4, Ohio State shall pay Coach at an annual rate of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00) per contract year (the "Equipment Payments"). Based on such annual rate, the Equipment Payments for the contract year beginning January 2, 2019 and ending January 31, 2020, shall be One Million Three Hundred Fifty-four Thousand One Hundred Sixty-Six Dollars and 69 Cents (\$1,354,166.69). The Equipment Payments shall be subject to all applicable withholdings and shall be paid in substantially equal monthly installments. Coach shall be eligible to receive increases to the Equipment Payments, as may be determined appropriate by the Director and approved by Ohio State's Board of Trustees, on or after February 1, 2020.

3.5 Exceptional Achievements. For each of the achievements listed below, within sixty (60) days following the achievement, Coach shall receive the following payments as supplemental compensation, in consideration of his efforts in contributing to such exceptional achievement listed below:

ANNUAL CUMULATIVE TEAM GRADE POINT AVERAGE AS CALCULATED FOR THE FALL AND SPRING SEMESTERS BY MAY 30TH OF EACH YEAR:

3.0	\$50,000
3.3	\$100,000
3.5	\$150,000

BIG TEN³ EAST DIVISION CHAMPION \$50,000

WINNER OF BIG TEN CHAMPIONSHIP GAME \$100,000

CFP BOWL GAME APPEARANCE \$200,000
Team participation in a post-season, College Football Playoff ("CFP") bowl game

CFP SEMI-FINAL APPEARANCE \$250,000
Team participation in the semi-finals (but not the finals) of the College Football Playoffs [*if the Team wins its semi-final CFP game, Coach is not entitled to receive this \$250,000*]

CFP FINAL APPEARANCE \$350,000
Team participation in the finals of the College Football Playoffs

other athletic conference or governing body hereafter having regulatory power or authority relating to the athletic program of Ohio State. Governing Athletic Rules also shall include any acts of Congress or the State of Ohio regulating college athletics, officials, athletes, or competition.

³ "Big Ten" or "Big Ten Conference" shall mean the Big Ten Conference, its successor or any other athletic conference of which Ohio State may be a member.

BIG TEN COACH OF THE YEAR \$50,000

NATIONAL COACH OF THE YEAR \$100,000

Any payments made under this Section 3.5 shall be subject to all applicable withholdings.

3.6 As additional compensation, Coach shall receive an automobile stipend of Twelve Hundred Dollars (\$1,200.00) per month, less applicable withholdings. Liability, collision and comprehensive insurance and all additional operational expenses associated with said automobile shall be procured and borne by Coach.

3.7 Ohio State will annually, without charge, make available to Coach twelve (12) lower bowl tickets in Ohio Stadium and, if requested and to the extent available, five (5) press booth credentials, to each home football game. Ohio State shall also provide Coach, without charge, the use of a suite (inclusive of all food and beverages consumed therein) in Ohio Stadium for use by Coach's spouse and family and their guests during home football games. Such suite has ten (10) complimentary suite tickets and the ability to purchase eight (8) additional suite tickets, as well as three (3) parking passes. Ohio State shall also provide Coach with the opportunity to purchase at the public face value price an additional twenty (20) football tickets in Ohio Stadium to each home football game. All such tickets are to be used by Coach at his discretion in a manner consistent with this Agreement. Coach shall comply with all University Rules applicable to such tickets, including, but not limited to, the prohibition against re-selling tickets. Ohio State shall also give Coach two (2) season parking passes for each football season. Coach shall also receive, without charge, two (2) tickets to each home men's basketball game, and shall have the ability to purchase additional home men's basketball game tickets on a per game basis.

3.8 Coach agrees that Ohio State has the exclusive right to operate youth football camps on its campus using Ohio State facilities. Ohio State shall allow Coach (and his assistant coaches) the opportunity to earn supplemental compensation by assisting with Ohio State's camp(s). At least ninety (90) days before each camp, Coach shall indicate to Ohio State whether or not Coach intends to accept the opportunity to earn such supplemental compensation for such year. If Coach so elects, then Coach agrees to assist in the reasonable marketing, supervision, instruction and/or general administration of Ohio State's football camp(s). Coach also agrees that Coach will perform all reasonable obligations otherwise reasonably assigned by Ohio State related to such youth football camp(s). Coach shall recommend to the Director or his designee the proposed supplemental compensation amounts for Ohio State employees who work at such camp(s) and are eligible to receive supplemental compensation. Camp income supplemental payments shall be paid after (a) the appropriate camp documentation and payment requests have been received by Ohio State, (b) the payment of the then-current Administrative and Facilities Charge to Ohio State and (c) determination and approval of such camp income supplemental payments by the Director or his designee.

3.9 Ohio State agrees to fly Coach by private (not commercial) jet aircraft when Coach is making recruiting visits and for other, mutually-agreed upon, Ohio State business. Coach's use of such private aircraft for recruiting and other mutually-agreed upon Ohio State business use shall not exceed fifty (50) hours per year. As additional compensation, Ohio State agrees to arrange for fifty (50) hours of such jet aircraft use by Coach for his personal use each contract year during the term of this Agreement. Each hour the aircraft is contracted for either business or personal use, including but not limited to, empty "deadhead" legs of the flight, will count toward the fifty (50) hours per year (except Ohio State shall only count the "deadhead" hours if Ohio State

is charged for such "deadhead" hours). Coach recognizes that the value of such personal use may be treated as taxable compensation.

3.10 Ohio State shall pay Coach the following sums if he is employed as Head Football Coach on the following dates:

(a) Two Hundred Fifty Thousand Dollars (\$250,000) – January 31, 2022, payable within thirty (30) days following such date; and

(b) Two Hundred Fifty Thousand Dollars (\$250,000) – January 31, 2024, payable within thirty (30) days following such date.

3.11 Ohio State shall also provide Coach, while Coach is employed as Head Football Coach, a full golf membership and monthly dues at a mutually agreed-upon golf course in the Columbus area. The parties agree that Coach shall be solely responsible for any personal expenses associated with such membership. In addition, Coach shall provide documentation of his use of the membership as requested by Ohio State to enable Ohio State to comply with all federal, state and local income and employment tax laws.

3.12 All salary or compensation provided to Coach for the performance of coaching duties shall be paid only by Ohio State. To that end, Coach will not solicit or accept gifts of cash or of substantial value or accept hospitality, from any person, including without limitation, a person who is a "representative of the athletic interests" of Ohio State as that term is defined in Governing Athletic Rules.

4.0 Coach's Specific Duties and Responsibilities

4.1 In consideration of the compensation specified in this Agreement, Coach shall:

(a) Devote Coach's full time and reasonable best efforts to the performance of Coach's duties under this Agreement, including all duties as set forth in Coach's then-current job description on file with the Department;

(b) Develop and implement programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team members to encourage them to compete successfully while assuring their welfare;

(c) Observe and uphold all academic standards, requirements and policies of Ohio State and encourage Team members to perform to their highest academic potential. Coach recognizes that the primary mission of Ohio State is to serve as an institution of higher learning and shall fully cooperate with the Department's Office of Student Athlete Support Services and all academic counselors or similar persons designated by Ohio State to assist student-athletes and shall use Coach's personal reasonable best efforts to encourage and promote those efforts. In that respect, Coach recognizes that the goal of Ohio State is that every student-athlete obtain a baccalaureate degree, and agrees to support fully the attainment of this goal. It is recognized by the parties that a student-athlete may be declared ineligible for competition for academic reasons, because Ohio State believes the student-athlete would not be an appropriate representative of Ohio State under University Rules, as a disciplinary sanction under Ohio State's Code of Student Conduct, or because Ohio State believes that the student-athlete is not eligible according to the

rules for athletic competition specified by the Big Ten Conference or the NCAA⁴ or for similar reasons;

(d) Know, recognize and comply with all federal, state and local laws, as well as all applicable University Rules and Governing Athletic Rules; including, but not limited to, the Big Ten Conference and the NCAA, in accordance with NCAA Bylaw 11.1.2.1, promote an atmosphere for compliance within the football program supervised by Coach and monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to Coach; supervise and take appropriate steps in an effort to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible and the members of the Team know, recognize and comply with all such laws, University Rules and Governing Athletic Rules; and immediately report to the Director and to the Department's Office of Compliance Services in writing if any person or entity, including without limitation, representatives of Ohio State's athletic interests, has violated or is likely to violate or may potentially have violated any such laws, University Rules and Governing Athletic Rules (with the exception of Ohio State's Sexual Misconduct Policy, which obligations are detailed in 4.1(e) below). Coach shall cooperate fully with the Department's Office of Compliance Services at all times. Coach shall review and approve in writing all requests for expense reimbursements by assistant football coaches and graduate assistants prior to submission to Ohio State in an effort to reasonably ensure accuracy and compliance with all such laws, University Rules and Governing Athletic Rules, and upon such satisfactory review, shall forward the same to Ohio State with Coach's approval for payment;

(e) Coach shall abide by Office of Human Resources Sexual Misconduct Policy 1.15. Coach shall report promptly to Ohio State's Title IX Coordinator any incident of sexual misconduct (as defined in Office of Human Resources Sexual Misconduct Policy 1.15, including but not limited to, sexual harassment, sexual assault, sexual exploitation, relationship violence, and stalking) when Coach receives a disclosure of sexual misconduct or becomes aware of information that would lead a reasonable person to believe that sexual misconduct may have occurred involving anyone covered by Ohio State's Sexual Misconduct Policy. This includes any incident or information whether related to the victim/survivor or the alleged perpetrator, or both;

(f) Coach shall engage in (and assure that every person under Coach's direct supervision is engaging in) safe and responsible treatment of student-athletes on the Team and shall avoid behavior that could jeopardize a student-athlete's health, safety, welfare or that could otherwise cause harm or risk causing harm to a student-athlete; and

(g) Coach shall have such other and further reasonable duties and responsibilities as Ohio State and/or the Director may establish from time to time at its discretion.

4.2 Coach shall not undertake any business, professional or personal activities or pursuits that would prevent Coach from devoting Coach's full time and his reasonable best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the reasonable opinion of Ohio State, would reflect adversely upon Ohio State or its athletic programs. Coach shall comply with Ohio State's staff Conflicts of Interest policy. Coach also recognizes that Coach is covered by Ohio Ethics Laws for public officials and state employees and represents that Coach has received a copy of this law from Ohio State and has completed and returned the form acknowledging receipt of such law prior to or commensurate with Coach's first day of employment. Any material violation of this

⁴ "NCAA" shall mean the National Collegiate Athletic Association and its successors.

provision as reasonably determined by Ohio State will subject Coach to disciplinary action, up to and including discharge. Discharge under this provision will constitute "for cause" termination under the Agreement.

4.3 Coach agrees to provide the Director with notice if Coach (or any representative of Coach) has been contacted by (or initiates contact with) any person with respect to Coach's prospective employment at an institution of higher learning or with a professional football team. Such notice shall be provided prior to engaging in any material discussions or negotiations for prospective employment with any other institution of higher learning or with any professional football team. Notwithstanding the foregoing, Coach may discuss such employment with any person or entity at any time after the final day of the 2023 regular men's football season without further notice to Ohio State. It is particularly understood that on-going rumors or media reports of such negotiations are damaging to Team morale and recruiting, and therefore the parties expressly agree that time is of the essence as to the provisions of this Section 4.3, and that the same shall be strictly construed. Except as provided in Section 5.3 hereof, during the term hereof Coach shall not, under any circumstances, accept employment as a coach at any other institution of higher learning or with any professional football team, requiring performance of duties prior to the expiration (or earlier termination) of this Agreement, without the prior written approval of the Director.

4.4 Subject to the foregoing, Coach may, with the prior written approval of the Director (not to be unreasonably withheld, conditioned, or delayed), enter into separate arrangements for sports camps, radio and television programs, endorsements (if permissible under state law and University Rules) and any other agreement or arrangement in which Coach provides services in exchange for compensation or benefits to Coach or his family, including but not limited to, outside consulting agreements set forth in Section 4.2 and/or Section 4.4 hereof. Coach shall submit all outside consulting arrangements to Ohio State for review and approval (not to be unreasonably withheld, conditioned, or delayed) prior to execution. Coach must also report such outside income to Ohio State in accordance with Governing Athletic Rules and University Rules. Coach shall not be permitted to participate in any business transactions or endorse any products or appear on any radio or, television, internet or any other programs, which may likely discredit or bring undue criticism to Ohio State or impinge upon any contractual obligations of Ohio State or, which in Ohio State's sole but reasonable discretion, are otherwise not in the best interests of Ohio State or which violate University Rules or state law. Coach may not associate Ohio State's name, logos, trademarks, symbols, insignias, indicia, service marks or reputation in connection with any such arrangements, directly or indirectly, without the prior written approval of the Director and Ohio State's Office of Trademark and Licensing Services (not to be unreasonably withheld, conditioned, or delayed). In the event that the Director and Ohio State's Office of Trademark and Licensing Services give permission to Coach to use Ohio State's name, logos, trademarks, symbols, insignias, indicia, service marks or reputation, such permission shall be non-exclusive and non-transferable, and such permission shall automatically expire upon Coach's resignation or termination from employment or upon written notice from Ohio State.

4.5 In accordance with Governing Athletic Rules and University Rules, Coach shall provide a written detailed account (including the amount and source of all such income) to Ohio State's President and the Director for all athletically related income and benefits from sources outside Ohio State whenever reasonably requested, but in no event less than annually. Sources of such income shall include, but are not limited to, the following: (a) income from annuities; (b) income from non-Ohio State sports camps and clinics; (c) income from sports commentary at non-Ohio State athletic events; (d) country club memberships; and (e) fees for speaking engagements.

4.6 Unless otherwise prohibited by University Rules, Coach shall have the responsibility and the sole authority to recommend to the Director the hiring and termination of assistant coaches for the Team, but the final decision shall be made by the Director and shall, when necessary or appropriate, be subject to the approval of Ohio State's Board of Trustees.

4.7 Subject to University Rules and Governing Athletic Rules, the Director or the Director's designee has the right to contract for and establish the football schedule of Ohio State's Team, and to negotiate the terms of the various football game contracts, as well as accept invitations for pre-season or post-season play. Coach has examined and approved the future intercollegiate football schedule for Ohio State as it exists as of the date of the execution of this Agreement. Coach shall be reasonably consulted by the Director or the Director's designee as to the identity of opponents, playing site and time of play for any games hereafter scheduled. Coach may, from time to time, propose or suggest changes in dates, times or sites of scheduled games and suggest opponents for future scheduling, and the Director shall give reasonable consideration to such proposals. Coach and the Director or the Director's designee shall meet at least annually to discuss potential opponents. In the event that Eugene Smith is no longer the Director, Coach shall meet with the then-current Director to discuss the strategy for football scheduling. The then-current Director shall give reasonable consideration to Coach's proposals concerning football scheduling.

4.8 Coach shall at all times take reasonable action necessary to comply with and to implement the policies of Ohio State relating to substance abuse and to class attendance by students subject to Coach's direct control or authority, and to exercise reasonable care in an effort to assure that all personnel and students subject to Coach's direct control or authority comply with such policies. Coach represents and warrants that Coach has read such policies and that he will remain current as to the content of such policies.

4.9 To the extent that any personnel matter is not addressed by the terms of this Agreement, University Rules will govern.

5.0 Termination

5.1 **Termination by Ohio State for Cause.** At all times, Coach serves at the pleasure of the Director. No further payment or benefits shall be made to Coach if the Director notifies Coach at any time that Ohio State is terminating this Agreement *for cause*, which, in addition to any of its other normally understood meanings in employment contracts shall include, but not be limited to, the following:

(a) Neglect or inattention by Coach to the duties of Head Football Coach or Coach's refusal or inability to perform such duties after written notice has been given to Coach by the Director or as determined by the Director, and Coach has continued such neglect, inattention, refusal or inability during a subsequent reasonable period specified in writing and in advance by Ohio State; or

(b) A significant or repetitive or intentional violation (or a pattern of conduct which may constitute or lead to a Level I or Level II violation) of any Governing Athletic Rules (as determined by Ohio State) by Coach (or any other person under Coach's supervision and direction, including, but not limited to, student-athletes, which Coach knew about or should have (in Ohio State's reasonable determination) reasonably known about); or

(c) A breach of contract terms, as determined by the Director, or a violation by Coach of a criminal statute or regulation (excluding minor traffic violations). If Ohio State, in its sole discretion determines that a breach is curable, then Ohio State shall give Coach notice of such breach and a reasonable opportunity to cure such breach in the time period specified by Ohio State; or

(d) A violation by Coach of any University Rules or violation by Coach of any law of the State of Ohio or the United States, including but not limited to, Ohio's ethics laws, as determined by Ohio State; or

(e) Fraud or dishonesty of Coach in the performance of Coach's duties or responsibilities under this Agreement as determined by Ohio State; or

(f) Fraud or dishonesty of Coach in preparing, falsifying, submitting or altering documents or records of Ohio State, NCAA or the Big Ten Conference, or documents or records required to be prepared or maintained by law, Governing Athletic Rules or University Rules, or other documents or records pertaining to any recruit or student-athlete, including without limitation, expense reports, transcripts, eligibility forms or compliance reports, or permitting, encouraging or condoning such fraudulent or dishonest acts by any other person, as determined by Ohio State; or

(g) Failure by Coach to respond accurately and fully, to the best of his ability, to any request or inquiry relating to the performance of Coach's duties hereunder or the performance of Coach's duties during Coach's prior employment at any other institution of higher learning propounded by Ohio State, NCAA, the Big Ten Conference or other governing body having supervision over the athletic programs of Ohio State or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as determined by Ohio State; or

(h) Counseling or instructing by Coach of any coach, student or other person to respond inaccurately and incompletely to any request or inquiry concerning a matter relevant to Ohio State's athletic programs or other institution of higher learning which shall be propounded by Ohio State, NCAA, the Big Ten Conference or other governing body having supervision over the athletic programs of Ohio State or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as determined by Ohio State; or

(i) Failure by Coach to manage the Team in a manner that reflects the academic values of Ohio State, as determined by Ohio State; or

(j) Soliciting, placing or accepting by Coach of a bet on any intercollegiate or professional athletic contest, or permitting, condoning or encouraging by Coach of any illegal gambling, bookmaking or illegal betting involving any intercollegiate or professional athletic contest whether through a bookmaker, a parlay card, a pool or any other method of organized gambling; or furnishing by Coach of information or data relating in any manner to Coach's sport or any other sport to any individual known by Coach to be or whom Coach should reasonably know to be a gambler, better or bookmaker, or an agent of any such person, or the consorting or associating by Coach with such persons, as determined by Ohio State; or

(k) Use or consumption by Coach of alcoholic beverages, drugs, controlled substances, steroids or other chemicals in such degree as to impair Coach's ability to perform Coach's duties hereunder, or failure by Coach to fully cooperate in the enforcement and

implementation of any drug testing program established by Ohio State for student-athletes, as determined by Ohio State; or

(l) Coach's sale, use or possession, or Coach's permitting, encouraging or condoning by a student-athlete, assistant coach or other athletic staff member of the sale, use or possession of any narcotics, drugs, controlled substances, steroids or other chemicals, the sale, use or possession of which by Coach, assistant coach, athletic staff member or such student-athlete is prohibited by law or by Governing Athletic Rules or University Rules, as determined by Ohio State; or

(m) Failure by Coach to report promptly to the Director and to the Office of Compliance Services in writing any violations or potential violations known to Coach of Governing Athletic Rules or University Rules (with the exception of Ohio State's Sexual Misconduct Policy, which obligations are detailed in 5.1(p) below), including, but not limited to, those by Coach, the assistant coaches, student-athletes or other persons under the direct control or supervision of Coach, as determined by Ohio State; or

(n) Failure by Coach to obtain prior approval for outside activities as required by Section 4.2 or Section 4.4 of this Agreement or by Governing Athletic Rules or to report accurately all sources and amounts of all income and benefits as required by Governing Athletic Rules and University Rules and Section 4.5 of this Agreement, as determined by Ohio State; or

(o) Commission of or participation in by Coach of any act, situation, or occurrence or any conduct which, in Ohio State's judgment, brings Coach and/or Ohio State into public disrepute, embarrassment, contempt, scandal or ridicule or which constitutes a substantial failure to perform in good faith the duties required of Coach in Section 4.1 herein or failure by Coach to conform Coach's personal conduct to conventional and contemporary standards of good citizenship, with such conduct offending prevailing social mores and values and/or reflecting unfavorably upon Ohio State's reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud or violence that may or may not warrant arrest by the relevant authorities; or

(p) Failure by Coach to promptly report to Ohio State's Title IX Coordinator any incident of sexual misconduct (as defined in Office of Human Resources Sexual Misconduct Policy 1.15, including but not limited to, sexual harassment, sexual assault, sexual exploitation, relationship violence, and stalking) when Coach receives a disclosure of sexual misconduct or becomes aware of information that would lead a reasonable person to believe that sexual misconduct may have occurred involving anyone covered by Ohio State's Sexual Misconduct Policy. This includes any incident or information whether related to the victim/survivor or the alleged perpetrator, or both; or

(q) Failure by Coach to engage in (and/or failure to take steps to assure that every person under Coach's direct supervision is engaging in) safe and responsible treatment of student-athletes on the Team or failure to avoid behavior that could jeopardize a student-athlete's health, safety, welfare or that could otherwise cause harm or risk causing harm to a student-athlete.

It is recognized that this sub-section (5.1(a)-(q)) encompasses findings or determinations of violations during employment of Coach at Ohio State or any other institution of higher learning.

As required by NCAA Bylaw 11.2.1, Coach is hereby notified that in addition to the actions Ohio State may take in accordance with this Agreement, Coach is also subject to disciplinary or corrective action by the NCAA as set forth in the provisions of the NCAA enforcement procedures if Coach is found by the NCAA or Ohio State to be in violation of NCAA Bylaws. Coach agrees that Ohio State shall implement any such disciplinary or corrective actions imposed by the NCAA.

5.1.1 Notice. If Ohio State terminates this Agreement *for cause* under Section 4.2 or Section 5.1, it shall give written notice to Coach of its intention to so terminate this Agreement and the intended effective date of termination, and, prior to effectuating such termination, it shall give Coach an opportunity to explain the circumstances from his point of view, unless the circumstances are so heinous that, in Ohio State's reasonable judgment, it would be impossible for Coach to justify his actions.

5.1.2 Termination for Cause/Loss of Compensation and Benefits. In the event this Agreement is terminated *for cause* under Section 4.2 or Section 5.1, Coach shall not be entitled to receive any further compensation or benefits under this Agreement which have not been earned as of the date of termination. Furthermore, Coach shall not be deemed to have earned supplemental compensation under Section 3.5 if Coach must repay Ohio State in accordance with Section 5.8. In no case shall Ohio State be liable to Coach for the loss of any collateral business opportunities, or any other benefits, perquisites, income or consequential damages suffered by Coach as a result of Ohio State's proper termination of Coach's employment *for cause*.

5.2 Termination by Ohio State Other Than For Cause.

5.2.1 If Coach's employment hereunder is terminated by Ohio State other than *for cause* (as delineated in Section 4.2 and Section 5.1 above):

(a) *Severance*. Coach shall be entitled to receive continued payment of the Base Salary (as described in Section 3.1(a)), the Media Payments (as described in Section 3.2), the Beverage Sponsor Payment (as described in Section 3.3), and the Equipment Payments (as described in Section 3.4), in substantially equal monthly installments and subject to all applicable withholdings, until the earlier of 24 months after the date of termination or the last day of the term set forth in Section 2.1 hereof; provided, however, that any such payments scheduled to occur in the first three months following Coach's termination of employment shall not be paid until the last day of the third month after the date of termination.

(b) *Nonqualified deferred compensation*. If, on the date of termination, more than 24 months remain in the term, Coach shall be entitled to receive payment of deferred compensation in accordance with Section 457(f) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"). Such deferred compensation shall consist of payment to Coach of the Base Salary (as described in Section 3.1(a)), the Media Payments (as described in Section 3.2), the Beverage Sponsor Payment (as described in Section 3.3), and

the Equipment Payments (as described in Section 3.4), in substantially equal monthly installments, during the period beginning on the first day of the 25th month after the date of termination and ending on the last day of the scheduled term hereof. Tax withholding and reporting relating to the payments described in this Section 5.2.1(b) shall be made in accordance with the applicable provisions of the Internal Revenue Code.

- (c) If it is reasonably determined by Ohio State, after discussion with Coach and Coach's advisors, that some or all of the monthly payments to be made to Coach pursuant to Section 5.2.1(b) would be taxable to Coach prior to their scheduled payment dates, then, on the last day of the third month after the date of termination, Ohio State shall make a single lump sum payment to Coach in an amount equal to the Estimated Tax Amount, subject to all applicable withholdings. For this purpose, the "Estimated Tax Amount" means the amount that Ohio State reasonably determines, based on supplemental tax rates, is necessary for Coach to satisfy all of his applicable federal, state and local income and employment tax obligations on amounts to be paid to Coach pursuant to Section 5.2.1(b) that are taxable in the calendar year of termination rather than in subsequent years in which the scheduled payment dates fall. The Estimated Tax Amount shall be repaid to Ohio State by Coach in equal or substantially equal monthly payments over the time period during which Coach is to receive payments pursuant to Section 5.2.1(a). Such repayment by Coach shall be accomplished through the reduction by Ohio State of each monthly payment to be made under Section 5.2.1(a) by an amount equal to the monthly amount determined pursuant to the preceding sentence of this Section 5.2.1(c); any such reduction shall be applied after the reduction for Mitigation Compensation as described in Section 5.2.3(c). If, for any reason under this Agreement, the payments to be made to Coach by Ohio State under Section 5.2.1(a) end prior to the time that the Estimated Tax Amount has been fully repaid, then Coach shall repay the remaining balance of the Estimated Tax Amount to Ohio State in a single lump sum payment on or before the date that Coach's personal federal income tax return is due for the tax year during which such payments under Section 5.2.1(a) end.
- (d) The payments described in Sections 5.2.1(a), 5.2.1(b) and 5.2.1(c) shall hereinafter be referred to collectively as the "Post-Termination Payments" and the period during which such payments are made shall hereinafter be referred to as the "Post-Termination Payment Period." The Post-Termination Payments shall fully compensate Coach for the loss of collateral business opportunities (whether media, public relations, camps, clinics, apparel or similar contracts, sponsorships or any other supplemental or collateral compensation or benefits of any kind) and Coach shall not be entitled to any further compensation and benefits under this Agreement.

- 5.2.2 If Coach's employment is terminated by Ohio State other than *for cause* (as delineated in Section 4.2 and Section 5.1 above), all employee benefits shall cease in accordance with the terms and conditions of the applicable employee benefit plans, programs and policies.
- 5.2.3 Notwithstanding the foregoing, the Post-Termination Payments shall be subject to the following:
- (a) Coach acknowledges and expressly agrees that he shall be required to mitigate any payments to him under Section 5.2.1;
 - (b) Coach acknowledges and expressly agrees that he shall be required to make every reasonable and diligent effort as soon as practicable following his termination to seek and secure a Comparable Position. For purposes of this Agreement, a "Comparable Position" shall include other employment at the market rate for Division I collegiate football coaching positions or professional football coaching positions. Coach shall report monthly to the Director or the Director's designee on employment applications and progress in actively seeking other employment. Coach shall notify Ohio State immediately if Coach has obtained other employment or has been engaged to provide services, either as an employee or an independent contractor. Coach's lack of diligence in seeking a Comparable Position or Coach's refusal of a reasonable offer of a Comparable Position shall void Ohio State's responsibility to pay the Post-Termination Payments;
 - (c) If Coach obtains any other employment or is engaged to provide service (regardless of whether the employment or engagement constitutes a Comparable Position), then the Post-Termination Payments shall be reduced by Coach's total compensation attributable to the period covered by the scheduled term hereof from all sources directly related to such position(s) (including, without limitation, salary, deferred compensation, signing bonuses or other cash compensation income, except not including the employee benefits costs associated with such position(s)) (the "Mitigation Compensation"). Each monthly Post-Termination Payment that would otherwise be payable under Section 5.2.1(a) or Section 5.2.1(b) that is payable during the time that Coach has such position(s) shall be reduced by the gross amount of the monthly Mitigation Compensation;
 - (d) Coach agrees that as a condition of receiving the Post-Termination Payments, Coach must execute a comprehensive release within sixty (60) days of the date of Coach's termination in the form determined from time to time by Ohio State in its reasonable discretion. Generally, the release will require Coach and Coach's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees, legatees and assigns to release and forever discharge Ohio State, its past, present and future trustees, officers, employees, directors, agents, attorneys,

successors and assigns from any and all claims, suits and/or causes of action that grow out of or are in any way related to Coach's employment with Ohio State, other than any claim that Ohio State has breached the terms of the release agreement. This release will include, but not be limited to, any claim under or out of the Equal Pay Act; the Civil Rights Acts of 1964, as amended; the Civil Rights Acts of 1866 and 1871 (42 U.S.C. Sections 1981, 1983, 1985, et seq.); Title VII of the Civil Rights Act of 1964; the United States Constitution; the Age Discrimination in Employment Act; the Older Worker's Benefit Protection Act; the Americans with Disabilities Act; the Family and Medical Leave Act; any state, federal law or local ordinance prohibiting discrimination, harassment or retaliation in employment; any claim for wrongful discharge, including in violation of public policy; claims of promissory estoppel or detrimental reliance, defamation, intentional infliction of emotional distress; or the public policy of any state; Chapter 4112 of the Ohio Revised Code and any other provision of the Ohio Revised Code; and any other federal, state or local law concerning employment, or in any other manner regulating or otherwise concerning wages, hours or any other terms or conditions of employment. Upon Coach's termination of employment with Ohio State (other than *for cause*), Coach will be presented with a release and if Coach fails to timely execute the release, Coach agrees to forego any Post-Termination Payments. Coach acknowledges that Coach is an experienced person knowledgeable about the claims that might arise in the course of employment with Ohio State and knowingly agrees that the Post-Termination Payments provided for in this Agreement are satisfactory consideration for the release of all possible claims described in the release;

- (e) Coach agrees that as a condition of receiving the Post-Termination Payments, Coach shall, subject to a reasonable mutually-agreed confidentiality agreement, provide a copy of his employment or service agreement as well as his Form W-2s and Form 1099s related to Coach's position to Ohio State's HR Director for Athletics for each calendar year during which all or a portion of the Post-Termination Payment Period occurs;
- (f) Coach agrees that his failure or refusal to provide the notice and documentation set forth in this Section 5.2 shall relieve Ohio State of its financial obligations under this Agreement to pay the Post-Termination Payments; and
- (g) Coach recognizes that his mitigation obligations are an essential term of this Agreement and Coach agrees that, to the extent permitted by applicable law, Ohio State reserves the right to reduce the Post-Termination Payments due and owing under this Section 5.2 if Coach's Mitigation Compensation appears contrived to rely upon payments to Coach by Ohio State (examples include, but are not limited to, if Coach's new position apportions compensation so

that it increases by more than twenty percent (20%) per year or balloons after Ohio State's payments to Coach cease) or if Coach's new position pays below market rate during the years of Ohio State's financial obligations under this Agreement.

5.2.4 For purposes of this Section 5.2, any reference to Coach's "termination of employment" by Ohio State (or any form of the phrase "termination of employment") shall mean Coach's "separation from service" within the meaning of Section 409A of the Internal Revenue Code and Treasury Regulation Section 1.409A-1(h).

5.3. Termination by Coach. Coach recognizes that his promise to work for Ohio State for the entire term of this Agreement is an essential consideration in Ohio State's decision to enter into this Agreement and employ him as Head Football Coach. This Agreement would be diminished were he to resign or otherwise terminate his employment as Head Coach prior to the expiration of this Agreement, particularly if he were to terminate his employment to be employed in another coaching position. Accordingly, Coach understands and agrees that he may, nevertheless, resign or otherwise terminate his employment under this Agreement prior to the expiration of this Agreement, but only upon the following terms and conditions:

(a) Coach shall provide Ohio State with written notice of Coach's termination of this Agreement;

(b) Coach shall not be entitled to receive any further unearned compensation or benefits under this Agreement (Coach is not deemed to have earned bonuses and supplemental compensation under Section 3.5 if Coach must repay such compensation to Ohio State in accordance with Section 5.8 hereof);

(c) If Coach terminates his employment with Ohio State at any time on or before January 31, 2024, Coach shall pay to Ohio State as liquidated damages, and not as a penalty, the following amounts:

- If Coach terminates his employment on or before January 31, 2020, Coach shall pay to Ohio State an amount equal to \$3,000,000 plus an amount equal to the Damages. The "Damages" shall be defined as the actual aggregate amount Ohio State is obligated to and does pay to all Assistant Coaches who are terminated without cause as a result of Coach's termination of employment, pursuant to the terms of the applicable Assistant Coaches' employment agreements. For this purpose, "Assistant Coaches" means the ten (10) assistant football coaches as well as the Assistant AD – Player Personnel (or any successor), the Associate AD/General Manager – Football Operations (or any successor) and the Assistant AD for Sports Performance (or any successor) Coach's payment of \$3,000,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below;
- If Coach terminates his employment between February 1, 2020 and January 31, 2021, Coach shall pay to Ohio State an amount equal to \$2,000,000 plus an amount equal to the Damages. Coach's payment of \$2,000,000 shall be paid to Ohio State within 45 days of Coach's

termination of his employment, and the Damages shall be calculated and reimbursed as described below;

- If Coach terminates his employment between February 1, 2021 and January 31, 2022, Coach shall pay to Ohio State an amount equal to \$1,500,000 plus an amount equal to the Damages. Coach's payment of \$1,500,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below;
- If Coach terminates his employment between February 1, 2022 and January 31, 2023, Coach shall pay to Ohio State an amount equal to \$1,000,000 plus an amount equal to the Damages. Coach's payment of \$1,000,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below; and
- If Coach terminates his employment between February 1, 2023 and January 31, 2024, Coach shall pay to Ohio State an amount equal to \$500,000 plus an amount equal to the Damages. Coach's payment of \$500,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below.

For purposes of this Section 5.3(c), Ohio State will track and calculate the Damages on a monthly basis and shall invoice Coach annually for reimbursement of the Damages. Coach's reimbursement for any Damages shall be paid to Ohio State within 45 days of Coach's receipt of the invoice for such Damages. Ohio State will attempt to minimize the amount of the Damages by: (i) notifying the Assistant Coaches of the mitigation obligations contained in the Assistant Coaches' employment agreements and (ii) by enforcing the offset obligations contained in the Assistant Coaches' employment agreements.

(d) Coach shall not for a period of one (1) year after such termination by Coach contact or otherwise seek to recruit any high school athlete previously contacted or recruited by Ohio State, unless such athlete had been recruited or contacted by any new institution employing Coach prior to the notice of termination by Coach to Ohio State.

5.4 Records and Information. 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 Ohio State or developed by Coach on behalf of Ohio State or at Ohio State's direction or for Ohio State's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of Ohio State. Within seventy-two (72) hours of the expiration of the term of this Agreement or its earlier termination as provided herein, Coach shall immediately cause any such materials in Coach's possession or control, including, but not limited to, all keys, credit cards, telephones and computers (including all other technological devices) to be delivered to Ohio State.

5.5 Death or Disability. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate automatically and shall be null and void upon the death of Coach or if Coach becomes disabled (as defined in Section 409A(a)(2)(C) of the Internal Revenue Code) or

is otherwise unable to perform the essential functions of the job, with or without a reasonable accommodation immediately upon demand by Ohio State.

5.6 **Fitness for Duty.** In accordance with Section 1.1 of this Agreement, and as a condition of employment, Coach shall have a comprehensive physical examination by a licensed physician, mutually agreed upon by the parties, which confirms his fitness for duty. The cost of the examination and all tests and procedures related to the examination shall be borne by Ohio State. A certification which confirms his fitness for duty shall be submitted to the Director within thirty (30) days of execution of this Agreement and every two (2) years thereafter. Coach shall address any necessary requests for accommodations to Ohio State at his earliest opportunity.

5.7 **Interference with Athletes.** In the event of termination, Coach agrees that Coach will not interfere with Ohio State's student-athletes or otherwise obstruct Ohio State's ability to transact business. If Coach violates this provision, Coach will not be entitled to any post-termination benefits, including any Post-Termination Payments, and will be required to return any that have been disbursed.

5.8 **Recovery of Compensation and Reimbursement.** In the event this Agreement is terminated, Coach shall repay to Ohio State all compensation received by Coach for the achievement of any specified milestone, objective or exceptional achievement set forth in Section 3.5, if such achievement is subsequently vacated by Ohio State or the NCAA, and such vacation is due, in whole or in part, to the wrongful actions of Coach, as determined by Ohio State or the NCAA. In addition, in the event that it is determined, by Ohio State or the NCAA, that Coach was involved in NCAA infractions that cause Ohio State to pay penalties to the NCAA, then Coach shall reimburse Ohio State for such amounts Ohio State must pay to the NCAA. In the event that it is determined, by Ohio State or the NCAA, that Coach was not involved in NCAA infractions but that Coach should have known about NCAA infractions involving persons under Coach's supervision and direction, including but not limited to, student-athletes, and such infractions cause Ohio State to pay penalties to the NCAA, then Coach shall reimburse Ohio State for fifty percent (50%) of such amounts Ohio State must pay to the NCAA.

6.0 Board of Trustees

This Agreement shall be subject to the approval of Ohio State's Board of Trustees. In addition, the payment of any compensation pursuant to this Agreement shall be subject to the approval of Ohio State's annual operating budget by Ohio State's Board of Trustees and the sufficiency of legislative appropriations.

7.0 Waiver

(a) No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a particular default in the performance of this Agreement shall not constitute a waiver of any other or subsequent default. The resort to a particular remedy upon a default shall not constitute a waiver of any other available remedies.

(b) The financial consequences of termination of this Agreement or suspension thereunder are exclusively set forth herein. Therefore, with the sole exception of payments required by this Agreement, in any instance of termination by Ohio State for cause or without cause or suspension effected in accordance with the procedures established in this Agreement, neither Coach nor Ohio State shall be entitled to receive, and each hereby waives any claim

against the other and their respective officers, Board of Trustees, directors, agents, employees, successors, heirs and personal representatives, for consequential damages allegedly sustained by reason of any alleged loss of business opportunity, loss of perquisites, loss of speech income, camp income or other outside income, or expectation income, or damages allegedly sustained by reason of alleged humiliation, emotional distress, defamation or loss of consortium resulting from the fact of termination, the public announcement thereof or the release by Ohio State or Coach of information or documents which are required to be released by law. Coach acknowledges that in the event of termination of this Agreement for cause, without cause or otherwise, or suspension hereunder, Coach shall have no right to occupy the position of Head Football Coach and that Coach's sole remedies are provided herein and shall not extend to injunctive relief.

8.0 Severability

If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall remain in effect.

9.0 Assignment

Neither party may assign its rights or delegate its obligations under this Agreement without the consent of the other party, which shall not be unreasonably withheld.

10.0 Governing Law and Jurisdiction

This Agreement shall be subject to and construed in accordance with Ohio law. Any action based in whole or in part on this Agreement must be brought in a court of competent jurisdiction in the State of Ohio.

11.0 Entire Agreement; Amendments

This Agreement constitutes the entire Agreement of employment between the parties and supersedes all prior understandings, written or oral, with respect to the subject of employment, including the term sheet dated December 4, 2018. No amendment or modification of this Agreement shall be effective unless in writing and signed by both parties.

12.0 Background Check

Ohio State shall conduct a background check on Coach pursuant to Office of Human Resources Policy 4.15. Coach's employment is contingent upon Ohio State's verification of credentials and other information required by law and/or Ohio State policies, including but not limited to a criminal background check.

13.0 Notice

Any notice provided for herein shall be in writing and shall be deemed to have been given, delivered, or served when delivered personally to the party who is to receive such notice or when mailed by U.S. registered or certified mail, postage prepaid, to such party. Unless hereinafter changed by written notice to Coach, any notice to Ohio State shall be sent to:

The Director of Athletics
The Ohio State University
The Department of Athletics

2400 Olentangy River Road
Columbus, Ohio 43210

With a copy to:
Julie D. Vannatta
The Ohio State University
Office of Legal Affairs
1590 N. High Street, Suite 500
Columbus, Ohio 43201

Unless hereinafter changed by written notice to Ohio State, any notice to Coach shall be hand-delivered to Coach, mailed to Coach's home address on file or mailed to the following address:

Ryan P. Day
Football office
Woody Hayes Athletic Center
535 Irving Schottenstein Drive
Columbus, OH 43210


With a copy to:
Trace Armstrong
c/o Athletes First
1800 W. University Ave Suite 410
Gainesville, FL
Email: TArmstrong@athletesfirst.net

14.0 Tax Advice / Internal Revenue Code Section 409A

Ohio State will not provide tax advice to Coach or Coach's beneficiary regarding the tax effects of this Agreement. Ohio State encourages Coach and Coach's beneficiaries to consult with their 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.

This Agreement is signed by the parties or their duly authorized representative to be effective as of January 2, 2019.

THE OHIO STATE UNIVERSITY



Eugene D. Smith
Senior Vice President and
Wolfe Foundation Endowed Athletics Director


Date: 5-17-19



Michael Papadakis
Senior Vice President of Business
and Finance & Chief Financial Officer

Date: 5/31/19

COACH



Ryan P. Day

Date: 5/17/19



**HEAD COACH EMPLOYMENT AGREEMENT
AMENDMENT No. 1**

The Ohio State University ("Ohio State") and Ryan P. Day ("Coach") entered into an employment agreement effective on January 2, 2019 (the "Agreement"). Ohio State and Coach hereby desire to modify such Agreement as follows in this Amendment No. 1, effective as of February 1, 2020:

- 1) **Paragraph 2.1:** Paragraph 2.1 shall be deleted and replaced with the following:

This Agreement is for a fixed-term appointment terminating, without further notice to Coach, on January 31, 2027. Each contract year shall begin on February 1, and conclude on the following January 31. The parties intend that, unless extended in accordance with the terms hereof, this Agreement shall cover employment of Coach as Head Football Coach for the 2020, 2021, 2022, 2023, 2024, 2025 and 2026 intercollegiate football seasons (including pre-season, post-season and championship play) and recruiting for such seasons, as well as preliminary recruiting for the 2027 season.

- 2) **Paragraph 3.1(a):** Paragraph 3.1(a) shall be deleted and replaced with the following:

(a) Ohio State shall pay Coach the annual base salary ("Base Salary") set forth below, which shall be subject to all applicable withholdings and payable in accordance with Ohio State's normal payroll practices:

- i. February 1, 2020 – June 30, 2020: \$850,000

Beginning February 1, 2020 and ending June 30, 2020, Ohio State shall pay Coach a monthly cash payment at an annual rate of Eight Hundred Fifty Thousand Dollars (\$850,000). Based on such annual rate, Coach's monthly Base Salary for the period beginning February 1, 2020 and ending June 30, 2020, shall be Seventy Thousand Eight Hundred Thirty-Three Dollars and 34 Cents (\$70,833.34).

- ii. July 1, 2020 – January 31, 2021: \$1,450,000

Beginning July 1, 2020 and ending January 31, 2021, Ohio State shall pay Coach a monthly cash payment at an annual rate of One Million Four Hundred Fifty Thousand Dollars (\$1,450,000). Based on such annual rate, Coach's monthly Base Salary for the period beginning July 1, 2020 and ending January 31, 2021, shall be One Hundred Twenty Thousand Eight Hundred Thirty-Three Dollars and 34 Cents (\$120,833.34).

- iii. February 1, 2021 – January 31, 2022: \$1,500,000

- iv. February 1, 2022 – January 31, 2023
and thereafter: \$1,550,000

Coach shall not be eligible to receive an annual Base Salary increase until after February 1, 2023. Any such increases shall be determined by the Director, as appropriate, and approved by Ohio State's Board of Trustees; and

3) Paragraph 3.2(g): Paragraph 3.2(g) shall be deleted and replaced with the following:

(g) In exchange for these media, promotions and public relations services, Ohio State shall pay Coach the payments described in this Section 3.1(g) (collectively, the "Media Payments"):

- i. Beginning February 1, 2020 and ending June 30, 2020, Ohio State shall pay Coach a monthly Media Payment equal to One Hundred Seventy-Eight Thousand Three Hundred Thirty-Three Dollars and 34 Cents (\$178,333.34).
- iii. Beginning July 1, 2020 and ending January 31, 2021, Ohio State shall pay Coach a monthly Media Payment equal to One Hundred Ninety Nine Thousand Five Hundred Thirteen Dollars and 90 Cents (\$199,513.90).
- iv. For the contract year beginning February 1, 2021 and ending January 31, 2022, Ohio State shall pay Coach Media Payments equal to Two Million Seven Hundred Forty Thousand Dollars (\$2,740,000) in the aggregate, which shall be paid in substantially equal monthly installments.
- v. For the contract year beginning February 1, 2022 and ending January 31, 2023 and each contract year thereafter, Ohio State shall pay Coach Media Payments equal to Three Million Seven Hundred Ninety Thousand Dollars (\$3,790,000) in the aggregate, which shall be paid in substantially equal monthly installments.

The Media Payments shall be subject to all applicable withholdings. Coach shall not be eligible to receive annual increases to the Media Payments until after February 1, 2023. Any such increases shall be determined by the Director, as appropriate, and approved by Ohio State's Board of Trustees.

4) Paragraph 3.2(h): Paragraph 3.2(h) shall be deleted and replaced with the following:

(h) In addition, in exchange for these media, promotions and public relations services performed by Coach and subject to Coach's continued employment as Head Football Coach, for each contract year beginning on or after February 1, 2020, Ohio State shall make a fully vested Employer Contribution (as defined in Ohio State's Retirement Continuation Plan II, as amended from time to time ("RCP II")) of One Million Dollars (\$1,000,000) to the RCP II on December 31 of such contract year. To the extent the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), limits a contribution described in the preceding sentence from being made to the RCP II, such contribution shall be made to Ohio State's Supplemental 415(m) Retirement Plan II, as amended from time to time. Notwithstanding the foregoing, if Coach is not employed as Head Football Coach on the last day of the applicable contract year, the employer contribution to the RCP II for such contract year shall be equal to One Million Dollars (\$1,000,000), multiplied by a ratio, the numerator of which is the number of

days Coach was employed as Head Football Coach during that contract year, and the denominator of which is 365.

5) Paragraph 3.4(d): The last sentence of Paragraph 3.4(d) shall be deleted and replaced as follows:

Coach shall not be eligible to receive annual increases to the Equipment Payments until after February 1, 2023. Any such increases shall be determined by the Director, as appropriate, and approved by Ohio State's Board of Trustees.

6) Paragraph 3.10: Paragraph 3.10 shall be deleted and replaced as follows:

Ohio State shall pay Coach \$250,000, subject to applicable withholdings, if he is employed as Head Football Coach on the following dates:

- (a) January 31, 2022, payable within thirty (30) days following such date;
- (b) January 31, 2024, payable within thirty (30) days following such date; and
- (c) January 31, 2027, payable within thirty (30) days following such date.

7) Paragraph 4.3: The reference to the "2023 regular men's football season" shall be changed to the "2026 regular football season."

8) Paragraph 5.3(c): Paragraph 5.3(c) shall be deleted and replaced as follows:

(c) If Coach terminates his employment with Ohio State at any time on or before January 31, 2027, Coach shall pay to Ohio State as liquidated damages, and not as a penalty, the following amounts:

- If Coach terminates his employment on or before January 31, 2021, Coach shall pay to Ohio State an amount equal to \$3,500,000 plus an amount equal to the Damages. The "Damages" shall be defined as the actual aggregate amount Ohio State is obligated to and does pay to all Assistant Coaches who are terminated without cause as a result of Coach's termination of employment, pursuant to the terms of the applicable Assistant Coaches' employment agreements. For this purpose, "Assistant Coaches" means the ten (10) assistant football coaches as well as the Assistant AD – Player Personnel (or any successor), the Associate AD/General Manager – Football Operations (or any successor) and the Assistant AD for Sports Performance (or any successor). Coach's payment of \$3,500,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below;
- If Coach terminates his employment between February 1, 2021 and January 31, 2022, Coach shall pay to Ohio State an amount equal to \$3,000,000 plus an amount equal to the Damages. Coach's payment of

\$3,000,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below;


- **If Coach terminates his employment between February 1, 2022 and January 31, 2023, Coach shall pay to Ohio State an amount equal to \$2,500,000 plus an amount equal to the Damages. Coach's payment of \$2,500,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below;**
- **If Coach terminates his employment between February 1, 2023 and January 31, 2024, Coach shall pay to Ohio State an amount equal to \$2,000,000 plus an amount equal to the Damages. Coach's payment of \$2,000,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below;**
- **If Coach terminates his employment between February 1, 2024 and January 31, 2025, Coach shall pay to Ohio State an amount equal to \$1,500,000 plus an amount equal to the Damages. Coach's payment of \$1,500,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below;**
- **If Coach terminates his employment between February 1, 2025 and January 31, 2026, Coach shall pay to Ohio State an amount equal to \$1,000,000 plus an amount equal to the Damages. Coach's payment of \$1,000,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below; and**
- **If Coach terminates his employment between February 1, 2026 and January 31, 2027, Coach shall pay to Ohio State an amount equal to \$500,000 plus an amount equal to the Damages. Coach's payment of \$500,000 shall be paid to Ohio State within 45 days of Coach's termination of his employment, and the Damages shall be calculated and reimbursed as described below.**

For purposes of this Section 5.3(c), Ohio State will track and calculate the Damages on a monthly basis and shall invoice Coach annually for reimbursement of the Damages. Coach's reimbursement for any Damages shall be paid to Ohio State within 45 days of Coach's receipt of the invoice for such Damages. Ohio State will attempt to minimize the amount of the Damages by: (i) notifying the Assistant Coaches of the mitigation obligations contained in the Assistant Coaches' employment agreements and (ii) by enforcing the offset obligations contained in the Assistant Coaches' employment agreements.

Unless modified above, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 on the dates written below.

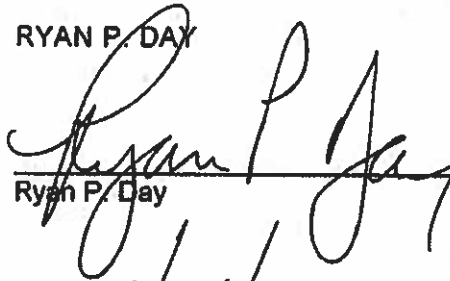
THE OHIO STATE UNIVERSITY
BY:



Eugene D. Smith
Senior Vice President and The
Wolfe Foundation Endowed Athletics Director


1-27-20
Date

RYAN P. DAY



Ryan P. Day

1/24/20
Date



Michael Papadakis
Senior Vice President for Business
and Finance and Chief Financial Officer

2/13/20
Date