

EMPLOYMENT AGREEMENT
HEAD FOOTBALL COACH

THIS EMPLOYMENT AGREEMENT (this "Agreement"), made effective as of the 28th day of November 2018, regardless of the date of execution, is by and between The University of North Carolina at Chapel Hill ("University") and William Mack Brown ("Coach").

WHEREAS, the University desires to employ Coach as Head Coach of the University's intercollegiate football team ("Program") and Coach desires to engage in such employment under the terms and conditions set forth below; and

WHEREAS, the parties acknowledge that, although this Agreement is sports-related, the primary mission of the University is education, and, accordingly, the primary purpose of all of the University's legal arrangements, including this Agreement, is the furtherance of the University's educational mission;

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter set forth, it is agreed as follows:

1. Term of Employment.

- (a) The University agrees to employ Coach and Coach agrees to serve as the University's Head Football Coach for a "Fixed Term" beginning November 28, 2018 and continuing until January 15, 2024, unless terminated earlier as provided for herein. Coach will not be reassigned to any position other than Head Football Coach during the Term (as defined herein) without his prior written approval.
- (b) If the Program wins the coastal division (or any other division which the Program may join during the Term) ("Coastal Division") and appears in the Atlantic Coast Conference (or any conference which the University may join during the Term) ("ACC") championship game, Coach may elect, in his sole discretion, to extend the Fixed Term of this Agreement by one (1) year, to January 15, 2025. Coach must inform the University's Athletics Director of his election in writing within thirty (30) days of the Program's appearance in the ACC championship game. The entire period during which Coach is employed as the University's Head Football Coach (*i.e.*, the Fixed Term plus any extension year beyond the Fixed Term) shall be referred to herein as the "Term."
- (c) Each party shall notify the other at least 90 days prior to January 15, 2024 (or January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)) whether the party wishes to engage in negotiations for a new agreement or whether the party does not wish to enter into a new agreement following the expiration of the Term.

2. Duties.

Coach is hereby employed by the University as Head Football Coach with all of the duties, responsibilities, obligations, and privileges as are assigned to Coach by the Director of Athletics, which duties are the following:

- (a) Directing and conducting the Program in keeping with the educational purpose of and the traditions, values, integrity, and ethics of the University;
- (b) Recruiting and retaining only academically qualified student-athletes and promoting and encouraging academic progress, in conjunction with the faculty and the University, of such student-athletes toward graduation in defined degree programs;
- (c) Serving as Head Coach for the Program (including, without limitation, the making of customary coaching decisions such as development and implementation of the systems and strategies used in competition, conduct of practice and training, selection of team members, deployment of student-athletes, and all other matters relating to the practice for and play of games, as well as the performance of all other duties customarily associated with the position of Head Coach of a major Division I football program);
- (d) Monitoring and encouraging the regular progress toward an academic degree of those student-athletes who are members of the Program, and making reasonable and good faith efforts, in cooperation with the University's faculty, administration and the Academic Support Program for Student-Athletes, to meet all student-athletes' academic requirements;
- (e) Demonstrating personal behavior and conducting the Program in accordance with, and abiding by, the "Governing Body Requirements" (as defined herein) and working cooperatively with the University's Department of Athletics Compliance Office, the Faculty Athletics Representative, and the University's administration on compliance matters and NCAA and ACC rules education. For purposes of this Agreement, the term "Governing Body Requirements" shall mean and refer to any and all current and 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 ACC or any successor of such association or conference, or by any other athletic conference or governing body hereafter having regulatory power or authority relating to the University and/or its athletics programs as well as any applicable laws enacted by the State of North Carolina and/or the federal government governing intercollegiate athletics, and all applicable rules, regulations, and policies of and applicable to the University, including its Department of Athletics policies. Coach shall promptly advise the Director of Athletics if Coach has reason to believe that violations of the

Governing Body Requirements have occurred or will occur and shall cooperate fully in any investigation and adjudication of possible violations conducted or authorized by the University, the ACC, or the NCAA at any time;

- (f) Promoting an atmosphere of compliance with the Governing Body Requirements, and supervising and maintaining responsibility for the conduct and activities of all Program assistant coaches, staff members, employees, and student-athletes under Coach's supervision, including maintaining good faith compliance by all such individuals with all Governing Body Requirements. This responsibility shall include, without limitation, developing reasonable processes for monitoring Program compliance and providing annual evaluations of such assistant coaches and staff members;
- (g) Subject to Coach's primary coaching responsibilities, representing and assisting the University in marketing the University, the Program, and the University's athletics program, through personal appearances, speeches, press conferences, internet broadcasts or displays, and other activities and events as reasonably requested by the University;
- (h) Under the direction of the Director of Athletics or Sport Administrator(s) as may be assigned by the Director of Athletics ("Sport Administrator"), maintaining responsibility for the fiscal and budgetary functions associated with the Program;
- (i) Cultivating and maintaining effective relations with students, faculty, staff, and friends of the University;
- (j) Maintaining and enforcing any and all disciplinary policies and drug policies of the University; and
- (k) Such other reasonable duties as may be assigned by the Director of Athletics or Sport Administrator from time to time, consistent with those duties typically applicable to a Division I Head Football Coach of a major Division I football program.

The parties recognize that a student-athlete may be declared ineligible for competition for academic reasons, as a disciplinary sanction under the University's policies, including the Student-Athlete Code of Conduct, or because the University believes that he or she is not eligible according to the rules for athletic competition specified by the ACC or the NCAA for similar reasons. This decision may be made by Coach, the Director of Athletics, or the Chancellor (or the Chancellor's designee). In no event shall such an action taken by Coach or the University be considered a breach of this Agreement.

Coach agrees to use his good faith efforts to perform all of the duties of the position of Head Football Coach and to devote such time, attention, and skill to the performance of these duties as necessary. During the Term, Coach shall report to and be under the immediate supervision of the University's Director of Athletics or Sport Administrator and shall regularly

confer with such Director of Athletics or Sport Administrator on matters concerning administrative and technical decisions. Without limiting the generality of the foregoing, Coach shall have the responsibility and authority, in consultation with the Director of Athletics and consistent with all applicable University policies and other Governing Body Requirements, as such may be amended from time to time, to employ and discharge all personnel assigned to the Program.

3. Compensation.

- (a) Annual Salary: During the Term, the University shall pay Coach an annual Base Salary of Seven Hundred and Fifty Thousand Dollars (\$750,000), subject to compensation policies adopted by the University's Board of Governors and/or Board of Trustees, payable in accordance with the University's payroll policies and practices as in effect from time to time, and subject to applicable deductions and withholdings. The annual Base Salary shall be based on a twelve-month employment period commencing on December 1, 2018 and concluding on the day before December 1 of the succeeding year (such period a "Contract Year") and shall be pro-rated for any partial Contract Year, including the period from December 1, 2023 to January 15, 2024 (or December 1, 2024 to January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)). For all purposes under this Agreement, the term "Base Salary" shall refer to Coach's base salary rate then in effect pursuant to this Section, and shall not include any bonus, additional form of compensation, benefits, or other amounts payable to Coach as provided in this Agreement.

In addition to annual Base Salary, Coach shall be eligible for additional performance-based compensation ("Bonuses") as set forth below.

- (b) College Football Playoff: In any Program season during the Term in which the Program participates in the College Football Playoff ("CFP"), Coach will receive additional compensation from the University in the form of a bonus for increased responsibilities as follows:
- (i) CFP Participant: One Hundred Thousand Dollars (\$100,000)
 - (ii) CFP Championship Game Participant: Two Hundred Thousand Dollars (\$200,000)
 - (iii) CFP Champion: Two Hundred Thousand Dollars (\$200,000)

The incentives in this Section 3(b) are cumulative, such that Coach shall be eligible to receive each of the incentives enumerated in Sections 3(b)(i)-(iii) in any Contract Year. By way of example only, if the Program is the CFP Champion during the Term, Coach shall receive \$500,000 (\$100,000 + \$200,000 + \$200,000).

- (c) Conference Championship: In any Program season during the Term in which the Program wins the ACC Conference Championship, Coach will receive additional compensation from the University in the form of a bonus in an amount equal to Two Hundred and Fifty Thousand Dollars (\$250,000).
- (d) Coastal Division Championship: In any Program season during the Term in which the Program wins the ACC's Coastal Division Championship, Coach will receive additional compensation from the University in the form of a bonus in an amount equal to Two Hundred Thousand Dollars (\$200,000).
- (e) Bowl Games:
 - (i) In any Program season during the Term in which the Program is invited to participate in a New Year's 6 Bowl Game, Coach will receive additional compensation from the University in the form of a bonus for increased responsibilities in an amount equal to Two Hundred Thousand Dollars (\$200,000).
 - (ii) In any Program season during the Term in which the Program is invited to participate in a post-season bowl game other than a New Year's 6 Bowl Game, Coach will receive additional compensation from the University in the form of a bonus for increased responsibilities in an amount equal to Seventy-Five Thousand Dollars (\$75,000).
- (f) National Coach of the Year: In any year in which Coach is recognized as the Coach of the Year by the Associated Press, ABC/ESPN, or the Maxwell Football Club (or any successor organization) following a Program season in which Coach served as Head Coach of the Program, Coach will receive additional compensation from the University in the form of a bonus in an amount equal to One Hundred Thousand Dollars (\$100,000).
- (g) Conference Coach of the Year: In any year in which Coach is recognized as the Coach of the Year in the ACC following a Program season in which Coach served as Head Coach of the Program, Coach will receive additional compensation from the University in the form of a bonus in an amount equal to Fifty Thousand Dollars (\$50,000).
- (h) Final CFP Poll:
 - (i) In any year in which the Program finishes in the top 25 of the final CFP poll following a Program season in which Coach served as Head Coach of the Program, Coach will receive additional compensation from the University in the form of a bonus in an amount equal to Fifty Thousand Dollars (\$50,000).
 - (ii) In any year in which the Program finishes in the top 15 of the final CFP poll following a Program season in which Coach served as Head Coach of

the Program, Coach will receive additional compensation from the University in the form of a bonus in an amount equal to One Hundred Thousand Dollars (\$100,000).

Coach is eligible for only one bonus each season pursuant to this Section 3(h), such that the maximum bonus for any season is \$100,000.

- (i) **Annual Progress Rate:** In any year during the Term in which the single year Academic Progress Rate (“APR”) for the Program submitted by the University to the NCAA equals or exceeds 975, Coach will receive additional compensation from the University in the form of a bonus in an amount equal to Fifty Thousand Dollars (\$50,000). Any amount earned under this subsection 3(i) shall be paid within seventy-five (75) days following the NCAA’s final notice that the University has completed its submission of APR data to the NCAA, regardless of whether Coach is employed by the University on the date of payment, provided that he was so employed on the final day of the academic year to which the APR relates.
- (j) Coach may earn multiple bonuses for performance in any Program season, making the amounts earned pursuant to Sections 3(b) – 3(i) cumulative up to \$1,000,000. In no event will Coach earn more than \$1,000,000 in Bonuses resulting from Coach’s or the Program’s achievements in any single Program season. Amounts earned pursuant to Sections 3(b) – 3(e) shall be deemed earned when the applicable goal is achieved by the Program, and amounts earned pursuant to Sections 3(f)-(h) shall be deemed earned on the final day of the Program season to which the goal relates, as the case may be, and shall be paid within seventy-five (75) days following the final game of the Program’s season, including post-season, regardless of whether Coach is employed by the University on the date of payment, provided that he was so employed on the date on which the bonus was earned.

4. **Supplemental Compensation.**

To provide Coach with a compensation package competitive with that provided to head football coaches at the University’s peer institutions, the University will make supplemental compensation payments to Coach of Two Million Dollars (\$2,000,000) during each Contract Year during the Term, which shall be pro-rated for any partial Contract Year up to the date of termination, including the period from December 1, 2023 to January 15, 2024 (or December 1, 2024 to January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)) (“Supplemental Compensation”). The Supplemental Compensation shall be paid in equal quarterly increments which shall be due to Coach on the last University business day each March, June, September, and December throughout the Term, with the first payment due on March 30, 2019 (notwithstanding the first payment being due on March 30, 2019, it is expressly understood and agreed that Coach shall receive \$2,000,000 in Supplemental Compensation within the first Contract Year). For the avoidance of doubt, although the

Supplemental Compensation payments under this Section 4 will be provided to Coach in installments as set forth above, Coach shall be deemed to earn a pro-rata amount of the annual Supplemental Compensation payment on a daily basis during the Term and Coach shall be entitled to any amount earned but unpaid as of the date of termination of his employment for any reason. For the further avoidance of doubt, except as provided in Section 14(b), Coach shall not be deemed to earn Supplemental Compensation on any date after the termination of his employment.

5. Benefits.

Coach's position is classified as an EHRA Non-Faculty Employee of the University. As an EHRA Non-Faculty Employee, Coach shall be entitled to receive all employee-related benefits which are normally available to other twelve-month EHRA Non-Faculty Employees. Coach's employment is subject to the *Employment Policies for EPA (EHRA) Non-Faculty Research Staff, Instructional Staff, and Tier II Senior Academic and Administrative Officers of The University of North Carolina at Chapel Hill*, as adopted by the Board of Trustees and as revised from time to time (the "Policies"). A copy of the current Policies is attached to this Agreement and incorporated herein by reference. Coach acknowledges that benefits or classifications provided under the Policies are subject to change from time to time by the North Carolina legislature or the University. As an EHRA non-faculty employee, Coach is entitled to twenty-four (24) annual leave days per year.

In addition to the benefits generally accorded an EHRA Non-Faculty Employee, so long as Coach continues to serve as the University's Head Coach for the Program and fulfill the duties set forth in this Agreement, the University shall provide to Coach the following additional benefits:

- (a) An entity controlled by Coach shall be entitled to operate, and retain all revenues from, an athletic camp or clinic in accordance with the policies of the University concerning the operation of such camps and clinics, as provided in Section 7(b).
- (b) Coach shall be entitled to advise and comment on all proposed scheduling of intercollegiate athletic competition by the Program during the Term.
- (c) Coach shall have access to staff comparable to top-tier football programs in the ACC. Such staff shall include at least four (4) graduate assistants, at least three (3) quality control employees, and at least three (3) analysts. Coach shall also have the right to give each Program assistant coach that he retained from the previous coaching staff a salary increase in the maximum amount permitted under University policy. Such salary increase shall be retroactive to November 28, 2018 (i.e., the effective date of this Agreement).
- (d) Automobiles for Coach's use as provided for in the "UNC Chapel Hill Policy on Non-Salary and Deferred Compensation." In addition, Coach's ten (10) assistant coaches, as well as other key staff members (as designated by Coach), shall each be provided with an automobile for their use in accordance with University policy.

- (e) Tickets in accordance with Department of Athletics policies, including:
 - (i) Four (4) tickets and access to ten (10) additional tickets to all football games, including bowl and championship games.
 - (ii) Four (4) tickets to all home sporting events.

In addition, in accordance with Department of Athletics policies, each Program coach and other key staff member (as designated by Coach) shall be provided with a ticket for every family member to each Program home game, championship game and bowl game (a maximum of four (4) tickets for each coach or key staff member).

- (f) Access to a suite at all home football games for the use of Coach's spouse, and access to the Athletics Director's suite at away football games for Coach's spouse.
- (g) Personal use of a private aircraft for not more than twenty-five (25) hours per Contract Year.

6. Expenses.

While Coach serves as Head Football Coach of the Program, Coach will receive an annual expense allowance of Fifty Thousand Dollars (\$50,000) to be used for entertainment and other appropriate purposes to advance the Program. All appropriate federal and state taxes will be withheld from this allowance. This allowance may be increased during the Term for inflationary and other reasons at the discretion of the Athletics Director. Coach's use of these funds must be consistent with the Governing Body Requirements.

The University will reimburse Coach for his reasonable moving expenses in an amount up to \$20,000 and his reasonable temporary housing expenses for four (4) months in an amount up to \$12,000. All appropriate federal and state taxes will be withheld from these reimbursements.

7. Outside Activities and Compensation.

- (a) Subject to compliance with the Governing Body Requirements, including the Policy on External Professional Activities for Pay of The University of North Carolina Board of Governors, NCAA and ACC rules, all other relevant policies applicable to or of the University, and laws concerning conflicts of interest, and with prior approval from the Director of Athletics, which approval shall not be unreasonably withheld, and otherwise as required by said policies, Coach may earn other revenue while employed by the University. Such activities are independent of Coach's University employment, and the University shall have no responsibility for any claims by Coach or against Coach arising therefrom and Coach agrees to indemnify and hold harmless the University, its Board of Trustees, and its employees from any and all suits, claims, demands, damages, liabilities, costs and expenses, including reasonable attorney fees, arising from any such outside activity. Activities permitted under this Section 7(a) shall include

engaging in any radio, television, motion picture, writing, or any similar activity, personal appearances, commercial endorsements, and athletic camps or clinics, except as otherwise provided herein. With respect to any such independent activities that are commercial in nature, including, without limitation, activities that promote a private business or service, Coach shall not, without the express written permission of the University, make use of the University's name, logos, trademarks, insignias, or symbols, or any name, image, or likeness of any student-athlete or prospective student-athlete associated with the University.

- (b) An entity controlled by Coach may organize and conduct athletic camps or clinics only with the prior approval of the Director of Athletics and the Chancellor (which approval shall not be unreasonably withheld) and such camps or clinics shall be conducted in accordance with the University's contractual obligations and all Governing Body Requirements, including those requiring the payment of fees and other conditions for use of University facilities, and other University policies relevant to youth camps. Coach is required to adhere to the Department of Athletics Camp Manual, as in effect from time to time. Coach shall be entitled to retain all revenues from any athletic camps or clinics. The University shall also have the right, at the University's expense, to conduct a full financial audit of any athletic camp or clinic run by Coach or an entity owned by, operated by, and/or otherwise affiliated with Coach.
- (c) To the extent required by NCAA Regulations and/or other Governing Body Requirements, Coach shall report annually as of July 1 to the Chancellor through the Director of Athletics all athletically-related income from sources outside the University, including, but not limited to, income from annuities, athletic camps, endorsements, television and radio programs, and all other athletically-related income from whatever outside source. The University shall have reasonable and prompt access to all records of Coach to verify this report.

8. Broadcasts.

Coach acknowledges that from time to time the University may be presented with opportunities for the production and distribution of radio, television and/or internet broadcasts relating to the Program and/or the University's athletics program in general (the "Broadcasts"). Subject to Coach's primary coaching responsibilities, Coach shall appear and participate in such Broadcasts in accordance with the reasonable instructions of the University. The timing and location of such Broadcasts shall be mutually agreed upon by the parties. In addition, Coach acknowledges that the University may, subject to Coach's primary coaching responsibilities, require Coach to record generic or topical television or radio promotions for the promotion of such Broadcasts, and such other shows or events as determined by the University for the promotion of the University and its athletics program.

The University currently has a multimedia rights agreement with Learfield Communications, LLC ("Learfield Agreement") and it expects Coach to receive \$500,000 per Contract Year in accordance with the terms of the Learfield Agreement as consideration for

Coach's personal services. In the event that the Learfield Agreement is terminated or is otherwise no longer in effect, the University will secure a different multimedia rights agreement or other third-party arrangement to cause to be provided to Coach the same economic benefit (*i.e.*, \$500,000 per Contract Year) as he is expected to receive under the Learfield Agreement.

9. Program Support and Promotional Activities.

Coach acknowledges that from time to time opportunities to promote, publicize and/or raise funds for the University, the Program and/or the University's athletics program, and/or to participate in promotional activities or events of advertisers, sponsors, or affiliates of the University, will be presented to the University. Such opportunities may involve personal appearances, speeches, press conferences, and other similar activities and events which shall include, but not necessarily be limited to, meeting with donors or sponsors, including a reasonable number of Educational Foundation Chapter meetings each year as determined on an annual basis by the Athletics Director. Coach acknowledges and agrees that, subject to Coach's primary coaching responsibilities, Coach may be required to participate in or to make special appearances at such activities and events in accordance with the reasonable instructions of the University.

10. Manufacturer Relationships.

- (a) Coach acknowledges that from time to time the University may enter into agreement(s) with one or more athletics footwear, equipment and/or clothing manufacturer(s) (collectively, the "Manufacturer") for use by the Manufacturer of Coach's personal services and expertise in the Coach's sport and/or for Coach's endorsement of the Manufacturer's products. Throughout the Term, Coach shall take such actions as are necessary to enable the University to comply with its obligations under its agreement(s) with the Manufacturer (to the extent Coach is made aware of such obligations), including, without limitation, wearing and/or using exclusively the products of the Manufacturer as and to the extent required thereby. During the Term, Coach shall not enter into or maintain any endorsement, promotional, consulting, or similar agreement with any person or entity that licenses, manufactures, brands, or sells athletic products, whether through retail locations, on-line, by direct mail, television shopping networks, or otherwise that would (i) prohibit or otherwise restrict the Manufacturer's use of Coach's name, etc., as provided in this Agreement, or subject such use to a third party's approval, or (ii) otherwise cause the University to violate its agreement(s) with the Manufacturer (to the extent Coach is made aware of such agreement(s)).
- (b) The University currently has a Manufacturer agreement with Nike ("Nike Agreement") and it expects Coach to receive \$200,000 per Contract Year, in accordance with the terms of the University's Nike Agreement, pursuant to Coach's personal services. In the event that the Nike Agreement is terminated or is otherwise no longer in effect, the University will secure a different Manufacturer agreement or other third-party arrangement to cause to be provided

to Coach the same economic benefit (*i.e.*, \$200,000 per Contract Year) as he is expected to receive under the Nike Agreement.

11. Communications.

Coach shall follow any and all protocols established from time to time by the Chancellor and/or the Director of Athletics with respect to contact with University officials (including, without limitation, members of the Board of Trustees) about matters of concern relating to the Program and/or the Department of Athletics (to the extent Coach is made aware of such protocols). The foregoing shall not be deemed to prohibit non-substantive social discourse between Coach and University officials in the context of social or other gatherings at which Coach and one or more University officials are present, but discussion of all substantive issues (including, without limitation, items of concern) about the Program or the Department of Athletics shall be handled in accordance with established protocols. In addition, Coach shall at all times recognize that as part of the University's administration and a publicly visible representative, Coach has an affirmative duty to support the policies and academic priorities of the University in Coach's actions and in public discourse.

12. Additional Compliance Obligations.

- (a) Inappropriate Involvement. Coach shall exercise due care to avoid inappropriate involvement by Coach or any individual (including, but not limited to, student-athletes) under Coach's supervision with non-employee "representatives of the institution's athletic interests" (as defined by NCAA Bylaws) which is contrary to the Governing Body Requirements. Within a reasonable time after becoming aware of any potential action by Coach in violation of this Section 12(a), the University shall notify Coach of any concerns that it may have regarding such involvement. This notice shall not preclude the University from taking appropriate disciplinary action.
- (b) Institutional Control. Coach recognizes and acknowledges the importance of the maintenance and observance of the principles of institutional control as contemplated by the Governing Body Requirements over every aspect of the Program. Coach agrees to recognize and respect the reporting relationships and the organizational structure of the University.
- (c) Obligation to Furnish Certain Information. Coach shall furnish to the University, upon request, any information that the University reasonably considers necessary or useful, in its good-faith discretion, for purposes of any investigation of any potential infraction or violation of any Governing Body Requirement involving the Program or the Department of Athletics.
- (d) Consequences of Violation. In the event that Coach or personnel under Coach's direct or indirect supervision is/are found to be in violation of any Governing Body Requirement during the Term, Coach shall be subject to disciplinary or

corrective action as set forth in relevant NCAA, governing body, ACC, and/or University disciplinary and/or enforcement procedures.

13. Use of Name, Image, Likeness, and Other Information.

Coach consents to the use of Coach's name, nickname, initials, autograph, signature, voice, video or film portrayals, photograph, image or likeness, and any other means of endorsement or identification of or by Coach, including statistical, biographical, or other information or data relating to Coach, by the University or by any party under contract with the University in the conduct and promotion of the University, the University's athletics program and/or the Program, and as otherwise contemplated by this Agreement.

14. Automatic Termination Upon Death or Disability of Coach.

- (a) This Agreement shall terminate immediately and automatically without notice in the event that Coach dies. This Agreement shall terminate, upon reasonable notice to Coach by the University, in the event that Coach becomes and remains unable to perform the essential functions of Coach's employment hereunder for a period of ninety (90) consecutive days or ninety (90) days in any one hundred fifty (150) day period by reason of medical illness or incapacity. Such determination of Coach's inability to perform Coach's duties shall be made in the sole judgment of the Chancellor and Director of Athletics; provided, however, that the Chancellor and Director of Athletics shall, prior to making such judgment, seek the advice and opinion regarding such disability of an impartial physician competent to provide such advice and opinion, as may be mutually agreed upon by Coach or Coach's legal representative(s) and the Director of Athletics of the University. If Coach or Coach's legal representative(s), as the case may be, and the Director of Athletics are unable to agree upon such physician, the selection shall be made by the Dean of the School of Medicine of The University of North Carolina at Chapel Hill.
- (b) If this Agreement is terminated pursuant to Section 14(a) above because of Coach's death, Coach's Base Salary, Supplemental Compensation and all other benefits shall be prorated and terminate as of the end of the calendar month in which Coach's death occurs and shall be paid to Coach's personal representative(s) or other designated beneficiary. In addition, Coach's personal representative(s) or other designated beneficiary shall be paid any earned (as of the date of Coach's death) but unpaid (i) Base Salary as provided for in Section 3, (ii) Bonuses as provided for in Section 3, and (iii) Supplemental Compensation as provided for in Section 4. Coach's personal representative(s) or other designated beneficiary shall also be paid all death benefits, if any, as may be contained in any benefit plan now in force or hereafter adopted by the University and due to Coach as an EHRA Non-Faculty Employee under the University Policies.

- (c) In the event that Coach becomes and remains unable, in the sole judgment of the Chancellor and Director of Athletics, to perform the essential functions of Coach's employment hereunder for a period of ninety (90) consecutive days or ninety (90) days in any one hundred fifty (150) day period because of medical illness or incapacity and the University thereupon affords notice of termination under Section 14(a), above, this Agreement shall terminate and Coach shall be entitled to receive all earned, as of the date of termination, but unpaid (i) Base Salary as provided for in Section 3, (ii) Bonuses as provided for in Section 3, and (iii) Supplemental Compensation as provided for in Section 4. Coach shall also be entitled to payment of any disability benefits to which Coach may be entitled pursuant to any disability program in which Coach is enrolled through the University. Except for the foregoing, the University shall have no further liability to Coach pursuant to this Agreement. Specifically, and without limitation, at the end of such ninety (90) or one hundred fifty (150) day period, as applicable, all obligations of the University to pay any unearned salary and other benefits to Coach shall terminate, except that Coach shall be entitled to receive payment of any disability benefits to which Coach is entitled under any disability program in which Coach is enrolled through the University.
- (d) Notwithstanding any other provision herein, this Agreement does not and shall not be construed to afford the University the right to take any action that is unlawful under the Americans with Disabilities Act or to constitute in any respect a waiver of rights under such Act.
- (e) The termination of this Agreement under Section 14(a), above, shall not constitute a breach of this Agreement, and, except for the payments required by this Section 14, if any, 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.

15. Termination by University for Cause.

The University may terminate this Agreement for Cause at any time upon written notice to the Coach. For purposes hereof, "Cause" shall mean the following:

- (a) Coach's material failure to perform any of the duties specified in this Agreement;
- (b) A violation by Coach, or knowing participation by Coach in a violation, or a violation which Coach condoned, of an NCAA regulation or bylaw, or of an ACC regulation or bylaw, of a policy of or applicable to the University, or any other Governing Body Requirement. For the foregoing to constitute Cause, the violation must be one which is regarded as a major or serious violation (*e.g.*, repeated violations or violations that the University determines could reasonably be expected to result in sanctions such as probation, forfeiture of athletic contests, loss of scholarships, prohibition against ACC or championship or telecast appearances, or restrictions on a Coach's right to recruit). For purposes of this

Section 15(b), whether or not a violation has occurred shall be determined solely by the University after its review of the relevant facts and circumstances;

- (c) Any action which is:
 - (i) taken by Coach or someone supervised by Coach, or
 - (ii) taken at the direction of Coach or someone supervised by Coach, or
 - (iii) known by Coach or someone supervised by Coach and not reported to the Department of Athletics Compliance Office by Coach or person supervised by Coach,

and which results in any material form of disciplinary finding, material action against, or material sanction for Coach or the Program by the NCAA (Level I or Level II violations, repeat Level III violations (3 or more), or head coach responsibility), ACC, University, or other regulatory body (exceeding an institutional letter of admonishment or reprimand), including but not limited to material sanctions against the University such as probation, forfeiture of athletic contests, loss of scholarships, prohibition against conference, championship or telecast appearances, restrictions on a Coach's right to recruit. With respect to actions taken by someone supervised by Coach or actions taken at the direction of someone supervised by Coach, Coach shall not be subject to termination for Cause if Coach promoted an atmosphere of compliance and reasonably monitored the conduct of the individual supervised by Coach;

- (d) Final conviction of Coach of any felony or any crime that involves fraud or moral turpitude;
- (e) Material failure to promote the fair and responsible treatment of student-athletes with regard to their health, welfare, safety, and discipline including, but not limited to, actions consistent with NCAA legislation and the NCAA principle of student-athlete well-being;
- (f) Except as permitted under this Agreement, Coach's prolonged absence from duty without the consent of the Director of Athletics;
- (g) Any material breach by Coach of the terms of this Agreement; or
- (h) Any of those causes specified in Section VIII.1 of the *Employment Policies for EPA (EHRA) Non-Faculty Research Staff, Instructional Staff, and Tier II Senior Academic and Administrative Officers of the University of North Carolina at Chapel Hill*, attached hereto and incorporated herein by reference, as such Employment Policies may be amended from time to time.

In the event of a termination of Coach for "Cause," the University's sole obligation to Coach shall be payment of any eligible leave payout as afforded under the University's EHRA Non-

Faculty employee policies and any earned, as of the date of termination, but unpaid (i) Base Salary as provided for in Section 3, (ii) Bonuses as provided for in Section 3, and (iii) Supplemental Compensation as provided for in Section 4. Any process to terminate Coach for Cause shall be conducted in compliance with all relevant University policies.

16. Termination by University Without Cause; Liquidated Damages.

- (a) The University recognizes that the University's promise to employ Coach through January 15, 2024 (or January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)) is an essential consideration in Coach's decision to accept employment as Head Coach of the Program. Nevertheless, following consultation between the Chancellor and Director of Athletics, this Agreement may be terminated unilaterally by the Chancellor or the Director of Athletics at any time upon written notice to Coach, in the absence of Cause (as "Cause" is defined in Section 15 of this Agreement).
- (b) In the event this Agreement is terminated pursuant to Section 16(a), above, the University shall pay Coach liquidated damages in lieu of any and all other legal remedies or equitable relief in an amount equal to the sum total of any remaining unpaid Base Salary payments due to Coach under this Agreement as set forth in Section 3 (*i.e.*, in the same amount as if this Agreement had not been terminated, and Coach had continued to perform under the Agreement through its then-natural expiration) provided, however, that the liquidated damages payable pursuant to this Section 16(b) shall be subject to offset, as set forth in Section 16(c), below. Liquidated damages pursuant to this Section 16 do not constitute compensation for purposes of the Teachers' and State Employees' Retirement System, the Optional Retirement Program, or other University of North Carolina or State of North Carolina retirement program.
- (c) Payment of the amount determined pursuant to Section 16(b) shall occur over what would have been the remaining term of the Agreement as follows: (i) on the date of termination without Cause, payment shall be made of amounts due with respect to the remainder of that Contract Year; and (ii) payments due hereunder with respect to each subsequent Contract Year shall be made on the last day of each three (3) month period of each such subsequent Contract Year, through January 15, 2024 (or January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)) until all amounts due have been paid in full. Coach acknowledges and agrees that the amount of liquidated damages due pursuant to Section 16(b) shall be reduced by any compensation received by Coach prior to January 15, 2024 (or January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)) for services provided by Coach in a coaching or administrative position for any college, university or any professional football franchise. Coach shall account to the University for any such compensation by providing the University, fourteen (14) days before each scheduled payment referenced in Section 16(c)(ii), an accounting or report of all gross compensation received by Coach in a coaching or administrative position for any college,

university or any professional football franchise during the immediately preceding three (3)-month period, and other evidence reasonably requested by the University of such compensation to Coach and such income from entities owned or controlled by Coach, as long as the University has the obligation to make payments under this Section 16(b). Except as specifically provided in Section 16(b) and Section 16(e), the University in such case shall not be liable to Coach for compensation, for benefits with respect to periods after the date of termination, or for any collateral business opportunities or other benefits or activities entered into pursuant to this Agreement which may be related to Coach's position as Head Coach of the Program.

- (d) The parties have bargained for and agreed to this liquidated damages provision, giving consideration to the following: (i) this is an Agreement for personal services; and (ii) the parties recognize that a termination of this Agreement by the University prior to its natural expiration would cause Coach to lose benefits, compensation, and/or outside compensation relating to Coach's employment at the University, which damages are difficult to determine with certainty. Therefore, the parties have agreed upon this liquidated damages provision and further agree that the liquidated damages provided for herein are reasonable in amount and not a penalty.
- (e) Notwithstanding the foregoing, in the event this Agreement is terminated pursuant to Section 16(a), the University shall also pay Coach (*i.e.*, in addition to the payment set forth under Section 16(b)), any earned, as of the date of termination, but unpaid (i) Bonuses as provided for in Section 3 and (ii) Supplemental Compensation as provided for in Section 4. For the avoidance of doubt, the payments (if any) due under this Section 16(e) shall not be subject to any offset.
- (f) Termination of this Agreement upon the death or disability of Coach, as provided in Section 14 of this Agreement, shall not give rise to a right to liquidated damages pursuant to this Section 16.

17. Termination by Coach.

- (a) Coach recognizes that Coach's promise to work for the University through January 15, 2024 (or January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)) is an essential consideration in the University's decision to employ Coach in the capacity of Head Coach of the Program. Coach also recognizes that the University is making a highly valuable investment in Coach's continued employment by entering into this Agreement and its investment would be lost or diminished were Coach to resign or otherwise terminate Coach's employment as Head Coach of the Program with the University prior to the expiration of this Agreement. Coach nevertheless may terminate this Agreement for any reason upon written notice to the University. In the event that Coach terminates his employment with the University pursuant to this Section 17(a), the University's sole obligation will be to pay Coach any earned (as of the date Coach

provides written notice of termination) but unpaid (i) Base Salary as provided for in Section 3, (ii) Bonuses as provided for in Section 3, and (iii) Supplemental Compensation as provided for in Section 4.

- (b) In the event Coach terminates his employment with the University and this Agreement and accepts a position as a coach or administrator for any college, university, or professional football franchise prior to January 15, 2024 (or January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)), Coach will pay the University liquidated damages in lieu of any and all other legal remedies and equitable relief in an amount equal to fifty percent (50%) of the amount of liquidated damages the University would have owed Coach pursuant to Section 16(b) of this Agreement had the University terminated Coach without Cause that same day (i.e., the day Coach accepts a position as a coach or administrator for any college, university, or professional football franchise prior to January 15, 2024 (or January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b))). Coach shall pay this amount over what would have been the remaining term of the Agreement as follows: (i) on the date Coach accepts a position as a coach or administrator for any college, university, or professional football franchise prior to January 15, 2024 (or January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)), payment shall be made of amounts due with respect to what would have been the remainder of that Contract Year; and (ii) payments due hereunder with respect to what would have been each subsequent Contract Year shall be made on the last day of each three (3) month period of each such subsequent Contract Year, through January 15, 2024 (or January 15, 2025 if Coach elects to extend the Fixed Term pursuant to Section 1(b)).
- (c) The parties have bargained for and agreed to the liquidated damages provisions set forth in this Section 17, giving consideration to the following: The parties acknowledge that termination of this Agreement by Coach prior to its natural expiration would cause the University to incur administrative, recruiting, resettlement, and other costs to obtain a replacement coach in addition to potentially increased compensation costs and loss of ticket, broadcast, and other revenue, and fan and donor support, which damages are difficult to determine with certainty. Therefore, the parties have agreed upon this liquidated damages provision and further agree that the liquidated damages are reasonable in amount and not a penalty.
- (d) Termination of this Agreement upon Coach's disability pursuant to Section 14(a) shall not give rise to a right to liquidated damages pursuant to this Section 17.
- (e) The parties agree that, during the Term, Coach or his representatives shall be required to notify the Director of Athletics prior to engaging in material discussions about prospective athletics-related employment with other educational institutions through their representatives or agents. For purposes of this Section 17(d) only, "material discussions" shall mean a situation where an inquiry is

made, and a response is made by Coach or his representatives that is not negative, e.g., another educational institution asks whether Coach would be interested in being considered for athletics-related employment at that institution and Coach responds that he is interested or Coach asks another institution whether it would be interested in considering him for athletics-related employment at that institution and the institution responds that it is interested.

18. Termination by Agreement of Both Parties.

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

19. Confidentiality and Related Provisions.

- (a) Confidentiality. Coach acknowledges that while employed by the University Coach will occupy a position of trust and confidence and will receive and have access to Confidential Information, as hereinafter defined. Coach acknowledges that such Confidential Information is specialized, unique in nature and of great value to the University, and that such information gives the University a competitive advantage. During the Term and thereafter, Coach shall not use the Confidential Information or disclose the Confidential Information to any third party, except (i) as required to perform Coach's duties to the University in a manner consistent with professional standards and obligations; (ii) as authorized by the University; (iii) in furtherance of the University's legitimate business interests; (iv) to comply with any applicable law, regulation, Governing Body Requirement or accreditation standard; or (v) to the extent such Confidential Information shall have become public other than by Coach's unauthorized use or disclosure. Subject to the above, Coach shall not use or disclose Confidential Information if such use or disclosure could reasonably be expected to expose the University to competitive disadvantage or legal liability, or could otherwise harm the University. For purposes of this Agreement, "Confidential Information" means any information not generally available to the public regarding the University or its actual or prospective students, employees, alumni or donors and shall include, without limitation, information regarding actual or potential activities of the University; admissions information; fundraising information; financial statements, budgets, projections, or other financial information; the identities of persons under consideration for positions as trustees, officers or employees of the University; vendor contracts and/or pricing; customer information and/or pricing; information regarding actual or potential NCAA, league, conference, governing body, legal or regulatory proceedings; and any other information that should by its nature or context be recognized as proprietary and/or confidential.
- (b) Return Of Documents And Property. 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

the University or developed by Coach on behalf of the University or at the University's direction or for the University's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of the University. Coach agrees to deliver or return to the University, at the University's request, and at the University's cost, at any time or upon termination or expiration of Coach's employment or as soon thereafter as possible, all such property furnished by the University or prepared, maintained, or acquired by Coach in the course of Coach's employment by the University including, without limitation, computer equipment, keys, documents, computer tapes and disks, records, lists, data, drawings, prints, notes and all other written information, in any form or media and including all copies.

- (c) Remedies for Breach. Coach expressly agrees and understands that the remedy at law for any breach by Coach of this Section 19 will be inadequate and that damages flowing from such breach often are not susceptible to being measured in monetary terms. Accordingly, it is acknowledged that upon Coach's violation of any provision of this Section 19, the University shall be entitled to obtain from any court of competent jurisdiction immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing in this Section 19(c) shall be deemed to limit the University's remedies at law or in equity for any breach by Coach of any of the provisions of this Section 19, which may be pursued by or available to the University.
- (d) Reasonableness. Coach agrees that the restrictions set forth in this Section 19 are reasonable and necessary in order to adequately protect the University's interests, and agrees not to challenge the reasonableness of any such restriction in any proceeding to enforce it.

20. Additional Provisions.

- (a) Assignment; Successors. This Agreement, in accordance with its terms and conditions, shall inure to the benefit of and be binding upon the University, its successors and assigns, and Coach, Coach's heirs, executors, administrators, and legal representatives.
- (b) Taxes. Coach acknowledges that, in addition to the salary provided for in this Agreement, certain benefits Coach receives incident to Coach's employment relationship with the University may give rise to taxable income. Coach agrees to be responsible for the payment of any taxes (including federal, state, and local taxes) due on such income. Coach also understands that the University will withhold taxes on amounts paid or due to Coach and the value of benefits provided to Coach, to the extent required by applicable law and regulation. Coach shall comply with all applicable reporting and record-keeping requirements in regard to compensation, benefits, and reimbursed expenses.

- (c) Severability. In the event that a court of competent jurisdiction determines that any portion of this Agreement is unenforceable or in violation of any law or public policy, only the portions of this Agreement that are unenforceable or that violate such law or public policy shall be stricken. All portions of this Agreement that are enforceable or that do not violate any law or public policy shall continue in full force and effect. Further, any court order striking any portion of this Agreement shall modify the stricken terms as narrowly as possible to give as much effect as possible to the intentions of the parties under this Agreement.
- (d) Notices. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing, and if sent by registered or certified mail to (i) Coach's residence or to Coach's University-provided email address in the case of Coach, or (ii) to the offices of the Director of Athletics and Chancellor or to the Director of Athletics' and Chancellor's University-provided email addresses, in the case of the University.
- (e) Situs. This Agreement shall be construed in accordance with and governed by the laws of the State of North Carolina. The exclusive venue in any judicial action or proceeding arising out of or relating to this Agreement shall be the state or federal courts located in the State of North Carolina. The parties acknowledge that such courts have jurisdiction to interpret and enforce the provisions of this Agreement, and the parties consent to, and waive any and all objections that they may have to personal jurisdiction and venue in such courts.
- (f) Equal Participants. Each party hereto shall be viewed as an equal participant, and each party agrees that there shall be no presumption against the drafting party.
- (g) Headings. Headings of the Sections of this Agreement are for convenience only and shall be given no substantive or interpretive effect.
- (h) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile transmission, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by the foregoing means shall be deemed to be their original signatures for all purposes.
- (i) Public Record. Coach acknowledges that this Agreement is a public record subject to disclosure under North Carolina's Public Records Law.
- (j) Survival of Provisions. The obligations contained in Sections 3, 4, 12(c), 14, 15, 16, 17, 19, 20 and 21 shall, to the extent provided therein, survive the termination

or expiration of this Agreement and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement.

21. Coach's Representation

Coach affirms and represents that Coach is under no obligation to any current or former employer or other third party, or pursuant to any applicable statute or regulation, that is in any way inconsistent with, which impose any restriction upon, or which require any payment by or on behalf of Coach in view of, Coach's employment by the University or Coach's undertakings under this Agreement, or that prevent Coach from complying with any other agreement that the University has with a third party.

22. Entire Agreement.


Effective upon signature by both parties, this instrument cancels all prior agreements between the parties hereto and contains the entire agreement of the parties. It may not be changed orally. This Agreement and any amendments thereto shall be effective only if signed by both parties and approved, as required, pursuant to the policies of the Board of Governors of The University of North Carolina. Coach acknowledges and agrees that neither the University nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, the Coach has not relied upon, any representations, promises or inducements except to the extent expressly set forth in this Agreement. In the event of any conflict between the terms of this Agreement and any University policy, procedure, rule or regulation, the terms of this Agreement shall control.

[Signature Page Follows]


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

FOR AND ON BEHALF OF
THE UNIVERSITY OF NORTH
CAROLINA AT CHAPEL HILL

COACH




Lawrence (Bubba) Cunningham
Director of Athletics



William Mack Brown


5/6/19
Date

5/7/19
Date




Jonathan Pruitt
Vice Chancellor for Finance and Operations

5/7/19
Date



Kevin M. Guskiewicz
Interim Chancellor

5/9/19
Date



Clayton Somers
Vice Chancellor for Public Affairs and
Secretary of the University

5/8/19
Date