

FIRST AMENDED AND RESTATED EMPLOYMENT AGREEMENT

HEAD COACH – MEN’S BASKETBALL DEPARTMENT OF INTERCOLLEGIATE ATHLETICS UNIVERSITY OF NEBRASKA-LINCOLN

This First Amended and Restated Employment Agreement (“Agreement”) is made effective March 18, 2024 (“Effective Date”) by and between the **Board of Regents of the University of Nebraska** (“University”), a public body corporate, on behalf of the Department of Intercollegiate Athletics at the University of Nebraska-Lincoln (“Athletics”), and **Fred Hoiberg** (“Coach”), an individual, hereinafter referred to collectively as the Parties. This Agreement amends and restates, in its entirety, and replaces the contract of employment with an effective date of May 20, 2019 which was subsequently amended by an Addendum entered into on or around June 9, 2020, and a Second Addendum with an effective date of February 22, 2022.

Recitals

- A. The University currently employs the Coach as Head Coach in its Athletics’ Men’s Basketball program pursuant to a contract of employment that commenced on or around April 2, 2019. Under the terms of that employment contract and subsequent amendments to that employment contract, Coach is to remain employed as Head Coach through March 31, 2027.
- B. The Parties now want to modify Coach’s employment contract in the manner set forth within this Agreement.

Terms

In consideration of the mutual promises and covenants set forth below and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree to the following:

1. **Appointment and Term.** Upon the execution of this Agreement, the Coach shall continue to serve as the Head Coach of Athletics’ Men’s Basketball program (“Program”). This appointment shall be a full-time, all-year special appointment as a member of the University’s academic-administrative staff. Except to the extent specifically modified by the terms of this Agreement, the terms and conditions of the Coach’s appointment shall be defined in accordance with the University’s Board of Regents Bylaws (“Bylaws”) addressing the rights, responsibilities, and employment terms of academic-administrative staff, which are incorporated herein by reference, as well as all applicable University and Athletics policies, practices, and procedures. Notwithstanding anything to the contrary herein, the University agrees the University may not reassign Coach to an employment position other than Head Coach of the Program without Coach’s prior written permission, nor shall the University require Coach to report directly to any other individual other than the University’s Athletic Director (as defined herein) (or the current Athletic Director’s Successor(s)) during the Term. Unless the Agreement is terminated earlier by either Party pursuant to other provisions of this Agreement, the Coach’s employment as the Head Coach shall continue until the later of March 31, 2029 or the Program’s last game of the 2028-2029 Program season, unless the Agreement has been extended pursuant to Section 11 of this Agreement (the “Term”).

2. **Compensation and Benefits.** For the period prior to April 1, 2024, the University shall continue to pay the Coach an annual, gross salary of three million five hundred thousand dollars (\$3,500,000), less all required and authorized deductions, to be paid in twelve (12) equal, monthly installments in accordance

with the University's policies governing salary payments to members of its all-year academic-administrative staff. Effective April 1, 2024, the Coach's annual, gross salary will be increased to four million two hundred and fifty thousand dollars (\$4,250,000), less all required and authorized deductions. Thereafter, the Coach's annual, gross salary (less all required and authorized deductions) shall be as follows:

<u>Contract Year</u>	<u>Base Salary</u>
April 1, 2025 through March 31, 2026	\$4,350,000
April 1, 2026 through March 31, 2027	\$4,450,000
April 1, 2027 through March 31, 2028	\$4,550,000
April 1, 2028 through March 31, 2029	\$4,650,000

The amounts described in this Section 2 shall be referred to herein as Coach's "Base Salary." The University can adjust the Coach's salary by up to ten percent (10%) if the sports season is shortened or not played due to exigent circumstances beyond the control of the University, such as a pandemic. The University, within its sole discretion, may raise the Coach's annual salary from time-to-time during the term of this Agreement without the need for a formal, written amendment to the Agreement. The Coach shall be eligible to receive all the fringe benefits that the University offers to its substantially similar academic-administrative staff members, as well as any additional fringe benefits that may be approved by the Athletic Director. Except to the extent expressly provided otherwise within this Agreement or required by law, the University's obligation to compensate and provide fringe benefits to the Coach shall cease immediately upon the termination of the Agreement.

3. **Stay Bonus.** Coach is entitled to retention bonuses (each a "Stay Bonus," collectively, the "Stay Bonuses"), subject to the condition that Coach remains employed as Head Men's Basketball Coach on specific dates during the Term ("Stay Dates") as more fully set forth in a separate agreement which is incorporated herein by this reference (the "Retention Agreement").

4. **Performance Bonuses.** In addition to the Coach's annual salary referenced in the preceding provision, the Coach will be eligible to receive bonuses if the Program meets certain levels of athletic achievement. The amounts of any such bonuses and the circumstances under which such bonuses will be granted are currently defined within the attached **Appendix A** to this Agreement, which is incorporated herein by this reference. Any bonuses granted to the Coach will be treated as income and, accordingly, will be subject to all required withholdings and will be reported on the Coach's W-2 income tax form.

5. **Income through Outside Activities.**

- (a) The Coach shall not engage in any activity outside the University for which the Coach will receive any form of remuneration based in whole or in part on the Coach's status of being the Head Men's Basketball Coach without the advance, written approval of the Director of Intercollegiate Athletics ("Athletic Director") and the Chancellor at the University of Nebraska-Lincoln, such approval not to be unreasonably withheld, conditioned, or delayed. This provision applies without limitation to all endorsements and similar affiliations between the Coach and any business, product, service or event, regardless of whether for a commercial or charitable purpose. Any endorsements that are approved in advance must comply with the University's Board of Regents' Policy 3.3.9, which is incorporated herein by reference. The Coach shall not engage in any activity that is inconsistent with the terms of any of the multi-media agreements or grants of rights entered into or provided by Athletics, including without limitation those agreements assigning certain rights to Athletics sponsorships, to Coaches' radio and television shows, and to the promotion and marketing of Athletics. Any activity by the Coach that is approved in

advance by the Athletic Director and the Chancellor will be presumed to be consistent with these multi-media rights agreements.

- (b) The Coach is permitted to organize and conduct athletic schools, camps, and clinics (hereinafter collectively referred to as “camps”) on University premises, provided that those camps are conducted in accordance with all requirements imposed by the University on camps, including without limitation the scheduling of such camps and the payment of all requisite fees and charges for the use of University facilities, materials, and services by those camps. This authorization extends as well to each assistant coach under the Coach’s supervision and will remain effective throughout the term of this Agreement. The University agrees to review its policies regarding camps in good faith to determine any possible revisions that may benefit Coach’s use of University buildings, facilities, equipment, materials, and services.
- (c) In accordance with University and Athletics policies, as well as National Collegiate Athletic Association (“NCAA”) regulations, the Coach shall file a personal financial statement annually with the Athletic Director, on a date and in a format reasonably determined by the Athletic Director or a designee and communicated to coach at least sixty (60) days in advance (provided a written request for such has been provided to Coach by University). This financial statement shall identify all income that the Coach has obtained from sources both within and outside the University for athletics-related activities. The University acknowledges and agrees that financial statements filed by Coach will not be disclosed by the University without the Coach’s express prior written consent or unless pursuant to law or court order.

6. **Duties.** As the Head Men’s Basketball Coach, the Coach shall perform all duties necessary for the supervision and administration of the Program. In carrying out those duties, the Coach shall report to and be accountable directly to the Athletic Director. The Coach lacks any authority to engage in any dealings, transactions or ventures of any kind with any athletic booster or booster organization of the University, except in the ordinary course of his role as Coach or except as may be expressly authorized in advance and in writing by the Athletic Director. In addition to all other obligations contained within this Agreement, the Coach agrees to each of the following:

- (a) To adhere to the University’s standards and policies for the academic performance of its student-athletes in terms of the recruitment, supervision and coaching of such athletes, as part of the Coach’s recognition that the academic progress and achievement of student-athletes is of the highest importance;
- (b) To faithfully and conscientiously perform assigned duties and to maintain the high ethical and moral standards expected of all University coaches;
- (c) To devote full attention and efforts to promoting the Program and fulfilling all necessary coaching responsibilities and duties;
- (d) To not engage in any business or professional activities or pursuits that materially conflict with the Coach’s duties and responsibilities under this Agreement;
- (e) To safeguard the health, safety and welfare of each student athlete within the Program, including supporting the medical decisions and recommendations of medical and training personnel assigned by the University to care for the health and wellbeing of the Program’s

student-athletes, to take all necessary steps to prevent or avoid any harm occurring to a student athlete, to treat each student athlete in a professional and responsible manner, and to ensure that all others within the Program or under the Coach's supervision do the same; and

- (f) To perform all other duties that may be assigned, and adhere to all reasonable directives that may be issued, from time-to-time by the Athletic Director or other authorized University officials to benefit the University, Athletics and their respective programs and missions (provided they are communicated to him in advance and in accordance with this Agreement), including without limitation radio appearances, appearances on Athletics' HuskerVision Television produced coaches shows, and other sponsorship/development support. (A current copy of the Athletics' Policy on HuskerVision Television Productions is attached to this Agreement as **Appendix B** and is incorporated, as it may be modified from time-to-time, herein by this reference.) Notwithstanding the foregoing or anything to the contrary contained herein, in no event shall such other duties conflict with Coach's primary duties as Head Men's Basketball Coach. Further, the University shall not use Coach's name, image, likeness, or other personal attributes for anything other than promotion of the University and/or its athletic programs without Coach's prior express written consent, such consent not to be unreasonably withheld, conditioned, or delayed.

7. **Employment of Assistant Coaches.** Coach shall have authority, consistent with University personnel policies and procedures and National Collegiate Athletic Association (NCAA) regulations, and subject to approval by the Director of Intercollegiate Athletics (such approval not to be unreasonably withheld, conditioned, or delayed), to hire and discharge assistant coaches and any other employees under Coach's direct supervision. Consistent with NCAA Bylaws, Coach is presumed to be responsible for the actions of all University staff members who report, directly or indirectly, to Coach. Coach shall promote an atmosphere of compliance within the Program and shall monitor the activities of all staff members who report, directly or indirectly, to Coach. (Certain compensation levels may require approval by the President of the University with respect to the hire or discharge of employees under Coach's direct supervision, i.e., an annual salary at or above \$500,000 as of the Effective Date of this Agreement per Executive Memorandum No. 13, incorporated herein by this reference and found at www.nebraska.edu.) The Coach shall be provided an annual base salary budget of up to \$1,170,000 for the purpose of hiring three (3) assistant coaches. The length of the term of any employment agreement with such coaches shall not exceed two (2) years and their contracts shall provide for guaranteed liquidated damages payments to be paid by the University which, unless otherwise approved by Coach, shall be equal to their remaining salary if their employment is terminated without cause, however, they will be required to mitigate damages by seeking other substantially comparable employment following termination.

8. **Strict Compliance with all Applicable Laws, Rules and Regulations.** The Coach shall perform the duties of the Head Coach in strict compliance with (a) the constitution, bylaws, rules, and regulations of the NCAA, (b) the rules and regulations of the Big Ten Conference ("Conference"), (c) all applicable rules and regulations of the University, (d) the rules and regulations of any successor organizations to those named above, and (e) all applicable federal, state and municipal laws (hereinafter collectively referred to as "Applicable Rules"). If an investigation reveals that the Coach has materially violated any of the Applicable Rules either during or preceding the Coach's employment with the University, Coach may be subject to disciplinary or corrective action by the University. Coach further understands that, subject to the University's obligation to comply with both federal and state constitutional requirements for due process of law as well as University administrative procedures and requirements, Coach's employment may be suspended without pay for a period of time or terminated as provided in Section 13 of this Agreement if Coach is found to have been involved in any deliberate and serious violation of: (a) state or federal law or (b) the rules and regulations of the NCAA, the Conference, or the University.

9. **University Property.** The University shall provide Coach and his coaching staff with use of University laptop computers to perform his coaching duties. All property that is provided to, or developed or acquired by, the Coach as part of or in conjunction with the Coach's employment by the University, regardless of the format or manner in which the property may be retained or stored, shall remain the sole property of the University. This shall include, without limitation, all documents, files, personnel records, recruiting records, team information, athletic equipment, films, statistics, keys, credit cards, computers, software programs, and electronic devices that the Coach may have access to or come into possession of during employment. Excluded from this provision are the Coach's personal notes, personal playbooks, memorabilia, diaries and other personal records, which the Coach may retain and retain ownership of. The Coach shall be required to return to the University all University property remaining in the Coach's possession within ten (10) calendar days following the termination or separation of the Coach's employment with the University for any reason.

10. **Confidential Property.** The Coach will have direct and indirect access to the University's confidential business information, trade secrets, intellectual property, proprietary information, and other information protected from disclosure under federal and state law ("Confidential Information"). Throughout the Coach's employment with the University, and at all times thereafter, the Coach shall not disclose the University's Confidential Information to any third parties unless required to do so by law, unless absolutely necessary to fulfill the duties of a Head Coach, or unless directed to do so by the Athletic Director, the University's President, or the University's Board of Regents. If the Coach receives any legal demand to disclose Confidential Information, including without limitation through an order of a court or administrative agency, a subpoena, or a valid public records request, the Coach shall promptly notify the Athletic Director and the University's General Counsel of the demand.

11. **Performance Evaluation and Continuation of Employment.** The Coach shall be expected to perform the duties and responsibilities of a Head Coach in a professional, competent, and diligent manner that conforms to the University's and the Athletics' expected performance and conduct standards. The Athletic Director, or his or her designee, shall meet with Coach annually for the purpose of evaluating Coach's performance of duties and responsibilities pursuant to this Agreement and to determine a mutually agreeable annual Program budget. The Coach's performance of those duties and responsibilities shall be evaluated annually by the Athletic Director. Based on that evaluation, the Athletic Director within his or her discretion, and with the advance approval of the Chancellor and to the extent necessary the University's President, may elect to extend or renew the term of this Agreement by one or more years. Any such extension or renewal must be set forth in a written addendum or modification to this Agreement that is executed by both the Coach and an authorized representative of the University.

12. **Resignation and Pursuit of Other Employment.**

- (a) During the Term, unless the Coach has been provided a notice of termination in accordance with the other provisions of this Agreement, neither the Coach nor anyone acting on the Coach's behalf shall engage in any discussions or negotiations with any other prospective employer without notifying and obtaining the express prior approval of the Athletic Director in advance of those discussions or negotiations.
- (b) Any attempt by the Coach to resign during the regular season or prior to any post-season competition of the Program shall become effective only upon the Athletic Director's written acceptance of the resignation. If the Coach resigns during the Term prior to the completion of the Agreement's Term to accept another college or professional basketball coaching or executive employment opportunity ("Basketball Employment"), the University will incur damages that will be uncertain and not susceptible to exact

computation. Accordingly, it is understood and agreed that any and all claims which may arise in the University's favor against Coach as a result of Coach's resignation shall be strictly and solely limited to an amount of liquidated damages as set forth herein, which may be paid by Coach or a designee of Coach. Such liquidated damages payment shall be made within sixty (60) calendar days following the effective date of the Coach's resignation, as a reasonable forecast or approximation of the damages that the University will incur from the Coach's resignation.

<u>Date University is Informed of Coach's Resignation</u>	<u>Amount Owed</u>
Effective Date through March 31, 2025	\$10,000,000
April 1, 2025 through March 31, 2026	\$7,500,000
April 1, 2026 through March 31, 2027	\$5,000,000
April 1, 2027 through March 31, 2028	\$2,500,000
April 1, 2028 through March 31, 2029	\$0

The Parties have bargained for and agreed to this liquidated damages provision, giving consideration to the special personal talents that the Coach brings to the Program that cannot be easily replaced, the critical importance of stability to the success of the Program, the substantial disruption to the Program that will result from the Coach's resignation, the significant costs incurred by the University in conducting a search for another Head Coach, and the substantial expenditure of administrative resources in effectuating a change of coaching staff, all of which result in damages the amount, nature, and extent of which are difficult to determine and cannot be estimated with certainty. Accordingly, the Parties acknowledge and agree that the amount of liquidated damages payable to the University under this provision is fair and reasonable.

- (c) In electing to resign prior to the completion of the Agreement term, the Coach shall forfeit any right the Coach may have under this Agreement or University policy to further compensation from the University following the effective date of the resignation, including without limitation any bonus that has not been earned prior to termination or any accrued, but unused, vacation or floating holidays. The forfeiture shall not include any final base salary paid for work previously performed, as well as any earned but unpaid bonuses, or any compensation paid as part of a vested retirement benefit.
- (d) For avoidance of doubt, the liquidated damages set forth herein shall not apply and Coach shall not pay liquidated damages in the event that Coach resigns for any reason other than his acceptance of other Basketball Employment during the Term. Except as otherwise set forth in Section 12(b) above, Coach shall not owe any penalties to the University for any resignation from employment.

13. **Discipline and Termination of Employment.**

- (a) **Discipline and Termination of Employment for Cause.** The University may discipline, suspend or terminate the employment of the Coach for "Adequate Cause" defined by this Agreement and the policy and procedures of the Athletics' approved by the Chancellor pursuant to Section 4.8.1 of the Bylaws. A current copy of said departmental policy and procedures is attached as Appendix "C" to this Agreement, incorporated herein by reference. The University may amend this policy from time-to-time within its discretion,

in which case the most current version of the policy will apply to and be incorporated into this Agreement. The University also may terminate the Coach's employment at any time due to the bona fide discontinuation of the Program or due to extraordinary circumstances because of financial exigencies, as conveyed in Sections 4.8.1, 4.16 and 4.17 of the Bylaws and the policies implementing those sections. As part of any termination of the Coach's employment for cause, the Coach shall forfeit any right that the Coach may have under this Agreement or University policy to further compensation from the University following the effective date of termination, including without limitation any unearned exceptional performance bonus or any accrued, but unused vacation or floating holidays. This forfeiture shall not include any final base salary paid for work previously performed or any compensation paid as part of a vested retirement benefit. In no case shall the University be liable to the Coach for the loss of any collateral business opportunities, or any other benefits, perquisites, income or consequential damages suffered by the Coach as a result of the University's termination of the Coach's employment for cause. Adequate Cause shall be defined as the following acts committed by Coach during the Term or any extension of the Term:

- (1) a serious breach of the material duties outlined in Section 6 of this Agreement;
- (2) a serious and unreasonable refusal to perform the material duties outlined in Section 6 of this Agreement, which, in each case, is not remedied by Coach within five (5) business days after receiving written notice thereof from the University; or
- (3) Those acts or omissions specified by the policy and procedures of Athletics' as set forth in Section 3 of Appendix "C" of this Agreement, attached hereto.

(b) Reassignment and Termination of Employment Without Cause.

- i. Because the position of Head Men's Basketball Coach is unique and requires special skills and talents, it is the only position for which Coach is being employed, and the University may not reassign the Coach to another position, or otherwise materially alter Coach's job responsibilities, without the Coach's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. The University may terminate the Coach's employment for reasons other than Adequate Cause by reasonably notifying the Coach either verbally or in writing, as such reasonableness may be determined by the University in its discretion and exercise of good faith, of its intent to terminate the employment relationship. Notwithstanding any provision of this Agreement to the contrary, the Coach's employment shall terminate on the date specified by the University in its notification, although the obligations regarding the payment and mitigation of the payments contained within this section of the Agreement shall survive. If the University exercises its right to terminate the Coach's employment for any reason other than Adequate Cause or re-assigns Coach to another position without Coach's prior written consent, the University will pay Coach the "Post-termination Payments" (as defined below) for the number of months, including a prorated share for partial months, remaining in the Term at the time of termination (the "Remaining Term"), which shall be paid as described below:
 - A. Coach shall be entitled to receive the Base Salary plus any Stay Bonuses that have not yet been realized plus any earned but unpaid incentive bonuses in substantially equal monthly installments and subject to all applicable withholdings, until the earlier of the first day of the second calendar year following the date of termination or the last day of the Term; provided,

however, that any such payments scheduled to occur in the first three months following Coach's termination under this subsection shall not be paid until the last day of the third month after the date of termination.

- B. If, on the date of termination, more than twenty-four months remain in the Term, the Coach shall, in addition to the payments described in Section 13(b)(i)(A), be entitled to payment of deferred compensation equal to the Base Salary plus any Stay Bonuses that have not yet been realized for the Remaining Term plus any earned but unpaid incentive bonuses in substantially equal monthly installments beginning upon first day of the second calendar year following the date of termination of the Coach's termination and ending on the last day of the scheduled Term hereof as if the Agreement was not terminated. Payments of deferred compensation under this subsection shall be made in accordance with Section 457(f) of the Internal Revenue Code of 1986, as amended (the "Code"). Such deferred compensation shall be subject to tax withholding and reporting in accordance with the applicable provisions of the Code.
- C. If it is reasonably determined by the University, after discussion with the Coach and his advisors, that some or all of the monthly payments to be made to the Coach pursuant to Section 13(b)(i)(A) will be taxable to the Coach prior to their scheduled payment dates, then, on the last day of the third month after the date of termination, the University shall make a single lump sum payment to the Coach in an amount to equal the Estimated Tax Amount, subject to all applicable withholdings. For this purpose, the "Estimated Tax Amount" means the amount that the University reasonably determines, based on the supplemental tax rates, is necessary for the Coach to satisfy all of his applicable federal, state and local income and employment tax obligations on amounts to be paid to the Coach pursuant to Section 13(b)(i)(A) that are taxable in the calendar year of termination rather than in subsequent years in which the scheduled payment dates fall, except that the amount of any Estimated Tax Amount will not exceed the amount that is permissible as an accelerated payment of deferred compensation under Code Section 409A. The University will offset and reduce the monthly payments of deferred compensation by the accelerated payment of the Coach's Estimated Tax Amount in equal or substantially equal monthly payments over the time period during which the Coach is to receive payments pursuant to Section 13(b)(i). This acceleration of payments to the Coach shall be accomplished through the reduction by the University of each monthly payment to be made under Section 13(b)(i) by an amount equal to the monthly amount determined pursuant to the preceding sentence of this Section 13(b)(i)(C); any such reduction shall be applied after the reduction for any compensation the Coach receives from other employment during the Remaining Term as described in Section 13(c). If, for any reason under this Agreement, the payments to be made to the Coach by the University under Section 13(b)(i) end prior to the time that the Estimated Tax Amount has been fully offset by the University through reductions of the payments to be made under section 13(b)(i), then the remaining balance of the Estimated Tax Amount is subject to clawback by the University in a single lump sum payment on or before the date that the Coach's personal federal income tax return is due for the tax year during which such payments under Section

13(b)(i) end. Nothing contained herein shall be construed as a loan contrary to Nebraska State Constitution Article XIII-3.

- ii. The payments described in Sections 13(b)(i) (including 13(b)(i)(A), (B), and (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 the Coach for the loss of collateral business opportunities (whether media, public relations, camps, clinics, apparel or similar contracts, sponsorships, or other supplemental or collateral compensation or benefits of any kind) and the Coach shall not be entitled to any further compensation and benefits under this Agreement.
 - iii. These Post-termination Payments comprise the total amount of compensation owed by the University to the Coach and encompass all other forms of compensation that may be due to the Coach under the terms of this Agreement or University policy including without limitation any accrued, but unused, vacation or floating holidays.
 - iv. The Parties have negotiated and agreed to these Post-termination Payments. Based on the University’s agreement to pay these Post-termination Payments, the Coach hereby waives and releases the University, as well as all of its Regents, administrators, faculty, staff, employees, representatives, and agents from any and all claims or causes of action of any kind, whether known or unknown, arising out of or related to the Coach’s termination of employment, including without limitation any claims for any income or other benefits tied to the Coach’s employment. Notwithstanding the foregoing, in the event the NCAA or Conference finds, after Coach’s termination, that there was a significant, repetitive, or intentional violation of NCAA or Conference Rules either committed by the Coach or by a coach, employee, staff member, student-athlete for which the Coach has direct control or supervision with the Coach’s prior knowledge and consent or, which the Coach, in the exercise of reasonable diligence, should have known or prevented, the University shall have the right to immediately terminate all future payments due after the date that the University became aware of the aforementioned significant, repetitive, or intentional violation.
- (c) **Mitigation of Damages.** The Coach shall have a duty to mitigate any damages that the Coach may sustain or incur based upon the termination of the Coach’s employment by the University for any reason other than Adequate Cause, including without limitation any Post-termination Payments, by using the Coach’s good faith efforts to actively seek and obtain comparable employment within a reasonable period following that termination. The Coach shall not structure nor time compensation in any new employment in a manner to avoid mitigation,. In addition, the University shall have the right to reasonably request evidence of the efforts Coach has made to obtain other Basketball Employment. The Coach shall provide the University on an ongoing basis with information reasonably requested which is necessary to implement the foregoing obligations under this Section 13(c) and shall promptly (within reason) respond to any reasonable inquiries that the University may make relating to those efforts. If the Coach secures Basketball Employment during the Post-termination Payment Period, the Coach shall immediately provide written notice to the University describing the position and the annual gross cash salary. If the compensation earned in the new position is less than what the Coach would have earned from the University during the Post-termination Payment Period, the University within its sole discretion may choose to pay the Coach the difference through either reduced monthly payments or through a lump sum payment that is paid either by the University or a third

party. Specifically, the University may elect to compensate the Coach through either of the following two options:

- (1) The amount of any remaining monthly installments owed by the University to the Coach during the Post-termination Payment Period shall be reduced by the amount of the guaranteed gross monthly compensation that the Coach earns through the new Basketball Employment; or
- (2) The present value of the total amount owed by the University to the Coach during the Post-termination Payment Period, using the 3-year Treasury Constant Maturity Rate, will be reduced by the amount that the Coach is calculated to earn during that same time period through the new Basketball Employment and will be paid to the Coach in a lump sum payment, which will be treated as income to the Coach for income tax purposes and will be subject to all requisite withholdings and shall be paid within ninety (90) days following the effective date of termination.

The Coach agrees that, to the extent permitted by applicable law, the University reserves the right to reduce the Post-termination Payments due and owing if the amount of compensation received by the Coach in his subsequent employment or engagement is likely to be contrived to rely upon payments to the Coach by the University (examples include, but are not limited to, if the Coach's new position apportions compensation so that it increases more than twenty percent (20%) per year or balloons after the University's payments to the Coach cease) or if the Coach's new position pays below market rate (based on objective metrics) during the years of the University's financial obligations to the Coach under this Agreement.

If the compensation that the Coach is calculated to earn in the new Basketball Employment exceeds that which the Coach would have earned from the University during the Post-termination Payment Period, the University shall be relieved of any further obligations to compensate the Coach under this section of the Agreement.

14. **Interference with Athletics.** In the event of termination of this Agreement, the Coach agrees that the Coach will not interfere with the University's student-athletes or otherwise obstruct the University's or Athletics ability to transact business. If the Coach violates this provision, the Coach will not be entitled to any post-termination benefits, including any liquidated damages, and will be required to return any that have been disbursed.

15. **Incapacitation.** Should the Coach become incapacitated so as to be unable to perform the duties pursuant to this Agreement, and such incapacitation continues for more than six (6) consecutive months, or if such incapacitation is permanent, irreparable or of such a nature as to make the performance of the Coach's duties impossible, then either Party may terminate this Agreement. Upon that termination, the respective rights, duties, and obligations of each Party under the Agreement shall cease, and each Party shall be released and discharged from the Agreement without further liability to the other. This provision, however, shall not apply to any liability the University may have to the Coach under the Nebraska Worker's Compensation laws or to any benefits that the Coach may be entitled to receive under any disability insurance coverage provided in whole or in part by the University, all of which shall be excluded from the release and discharge in the immediately preceding sentence.

16. **Travel Supplement.** Beginning April 1, 2024, and from each April 1 through March 31 period during the Term, Coach will be provided by the University, or the University shall arrange for, up to thirty (30) hours of private non-commercial flight time for the personal use of Coach and his immediate family with Coach having reasonable discretion over the plane type and routing. Such fringe benefit shall be

reported as income to Coach at its fair market value, subject to applicable withholding of state and federal taxes as required by law and the rules and regulations of the Internal Revenue Service. Coach will be eligible to utilize private non-commercial flight time for business purposes for the Program consistent with University policy.

17. **Immediate Family Travel Supplement.** Starting in the 2019 – 2020 basketball season and during each year of the Term thereafter, the University will pay for the travel expenses and game tickets for Coach's immediate family (e.g., wife and dependent children) to travel with the men's basketball team to attend a minimum of eight (8) regular season away games (as selected by Coach), as well as all post-season tournament games. In the event Coach's family's travel with the men's basketball team would result in an unreasonable expense to the University, the University will arrange and pay for Coach's family to travel in a manner mutually agreeable to the parties. Except in instances where the presence of spouses is expected in order to represent Athletics or the University, Coach's family's travel will be reported as income to Coach at its fair market value, subject to applicable withholding of state and federal taxes as required by law.

18. **Season Tickets Supplement.** Starting in the 2019 – 2020 football and basketball seasons and during each year of the Term thereafter, Coach will be provided by the University or the University shall arrange for, up to ten (10) complimentary men's basketball season tickets and up to six (6) complimentary football season tickets for the personal use of Coach. Such fringe benefit shall be reported as income to Coach at its fair market value, subject to applicable withholding of state and federal taxes as required by law and the rules and regulations of the Internal Revenue Service. Subject to availability, all seats shall be lower bowl level seats at a location mutually agreeable to the parties.

19. **NCAA Final Four.** Each year of the Term, the University will reimburse Coach for Coach's travel expenses to attend the men's basketball NCAA Tournament Final Four and NCAA Tournament Championship and provide Coach with two (2) complimentary tickets to the NCAA Men's Basketball Final Four games, including the Championship game.

20. **NABC Dues.** The University will pay Coach's National Association of Basketball Coaches dues each year during the Term that Coach is employed as the Head Coach for the Program.

21. **Non-Disparagement.** Following the cessation of Coach's employment with the University for any reason, whether effectuated through a termination, resignation or the natural expiration of the Agreement's term, neither party shall make any written or oral statements to anyone disparaging, attacking or painting in a negative light the other party, which with respect to Coach's obligations pursuant to this Section 21, includes the University or any of its campuses, colleges, schools, departments, divisions, regents, faculty, staff, students, stakeholders, services, programs, athletics or degrees.

22. **Tax Advice, Internal Revenue Code Section 409A.** The University will not provide tax advice to the Coach or the Coach's beneficiaries regarding the tax effects of this Agreement. The University encourages the Coach and the 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 Section 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, 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 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.

23. **Governing Law, Venue and Severability.** The laws of the State of Nebraska shall govern the validity, performance and enforcement of this Agreement. Any dispute arising from or related to this Agreement shall be resolved in a court, administrative body, or other forum of competent jurisdiction located within the State of Nebraska. If any portion of this Agreement is declared invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the validity or enforceability of the remaining provisions of this Agreement.

24. **Entire Agreement and Amendments.** This Agreement sets forth the entire agreement between the Parties relating to the University's employment of the Coach and supersedes all prior oral or written agreements, negotiations, discussions or understandings concerning that employment. The terms of this Agreement may only be altered, amended, waived or modified through a written addendum or modification signed by the Coach and an authorized representative of the University, with the exception that increases in salary or fringe benefits may be effectuated from time-to-time through official acts of the University without the need for written amendment or modification to this Agreement. In addition, except as expressly provided otherwise within this Agreement, no Party may assign any right or obligation created under this Agreement without the prior, written consent of the other Party. Because both Parties were afforded the opportunity to participate in the negotiation and drafting of this Agreement, this Agreement shall not be construed against any Party as the drafter of this Agreement. The recitals and the headings contained within this Agreement are for convenience only and are not intended to be substantive. This Agreement may be executed in one or more counterparts, and the counterparts will be construed together to constitute the fully executed Agreement.

25. **Public Record.** The Coach understands that information regarding, related to, or part of this Agreement is a public record as provided by the Nebraska public records statutes (Neb. Rev. Stat. §§ 84-712 to 84-712.09) and shall be made available by the University to the public for examination in accordance with the University's interpretation and application of Nebraska law.

[Remainder of page intentionally left blank; signature page immediately following.]

FRED HOIBERG REPRESENTS AND WARRANTS THAT HE HAS THOROUGHLY READ AND CONSIDERED ALL ASPECTS OF THIS AGREEMENT, THAT HE UNDERSTANDS ALL PROVISIONS OF THIS AGREEMENT, THAT HE HAD AN OPPORTUNITY TO CONSULT WITH HIS ATTORNEY THROUGHOUT THIS PROCESS, AND THAT HE IS VOLUNTARILY ENTERING INTO THIS AGREEMENT WITHOUT DURESS OR COERCION OF ANY KIND.

In witness of this Agreement, both the Coach and authorized representatives of the University have executed the Agreement on the dates indicated below.

FRED HOIBERG

**BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA**

By [REDACTED] 08/02/2024 | 13:05 CDT
Fred Hoiberg Date

By [REDACTED] /2024 | 14:27 CDT
Jeffrey P. Gold, M.D. Date
President

APPROVED:

By [REDACTED] 08/02/2024 | 08:51 CDT
Troy Dannen Date
Director of Athletics

By [REDACTED] 08/02/2024 | 14:04 CDT
Seth Dorsey Date
Deputy AD – Internal Operations/CFO

APPENDIX A
Exceptional Performance Bonus

If the Program should achieve any of the following while Coach performs as Head Coach, the University shall pay him an exceptional performance bonus in the following amounts indicated below:

1. For the Big Ten Conference or the Big Ten Conference Tournament Championship, either:
 - a. Win the Big Ten Conference Regular Season Championship: \$100,000, or
 - b. Win the Big Ten Conference Tournament: \$100,000.

2. For appearances in the NCAA Tournament: \$150,000; plus the greater of:
 - a. \$30,000, if the Program advances to the round of 32 in the NCAA Tournament; or
 - b. \$40,000, if the Program advances to the round of 16 in the NCAA Tournament, or
 - c. \$55,000, if the Program advances to the round of 8 in the NCAA Tournament; or
 - d. \$75,000, if the Program advances to the Final Four in the NCAA Tournament, or
 - e. \$300,000, if the Program wins the National Championship Game.

The University shall pay any earned exceptional performance bonuses on a date determined by the University that is not later than the earlier of: (i) sixty (60) days following the occurrence of the achievement; and (ii) the last day of May following the relevant post-season event, regardless of whether the Coach remains employed as the Head Coach on the payment date.

APPENDIX B

UNIVERSITY OF NEBRASKA-LINCOLN DEPARTMENT OF INTERCOLLEGIATE ATHLETICS POLICY ON HUSKERVISION TELEVISION PROGRAMMING

HuskerVision, a division of the University of Nebraska-Lincoln Department of Intercollegiate Athletics ("Athletics Department"), produces various programs, including coaches' shows featuring commentary and game highlights, that are licensed to distributors of television programming. These programs are intended to inform the public about and promote the intercollegiate athletic programs at the University of Nebraska-Lincoln ("University"). This policy clarifies the relationship between the Athletics Department and its employees regarding its television programming.

- (1) The Athletics Department, in conjunction with HuskerVision, uses University resources to provide all the necessary resources to produce the television programming, including (a) the studio, camera and technical personnel, directors, editors, as well as all necessary equipment to produce and record the program, (b) creative consultants, (c) the personnel responsible for licensing the distribution of the programs, (d) the announcer talent appearing on the programs, and (e) the trademarks associated with the Athletics Department.
- (2) Coaches shall cooperate with the HuskerVision staff in determining a mutually agreeable taping and production schedule that will meet the production's distribution needs. Coaches shall make a reasonable number of appearances in recorded and/or live productions made on behalf of the University and HuskerVision. These appearances are part of the Coaches' regular employment duties for which they are compensated through their employment agreement or appointment letter. Coaches shall permit the use of their name, image, and other personal identifiers on the programs and in the promotions for those programs.
- (3) All programming may be edited and distributed in any manner to meet the needs of the University. The resultant programming and any revenue from that programming shall be the sole property of the University, along with all intellectual property and other rights that accompany the ownership of that copyrighted property. The University employees' contributions to this programming shall be deemed "works-for hire". The Athletics Department subsequently may market its HuskerVision programming, or edited versions of that programming, to secondary markets on the internet, through the distribution of compact discs, digital versatile discs, or other storage formats, or through any other means.

APPENDIX C

UNIVERSITY OF NEBRASKA-LINCOLN DEPARTMENT OF INTERCOLLEGIATE ATHLETICS POLICY ON STANDARDS OF PROFESSIONAL PERFORMANCE FOR ATHLETIC STAFF AND RULES OF PROCEDURE FOR DISCIPLINARY ACTIONS

The Chancellor for the University of Nebraska-Lincoln has approved the following policy for the Department of Intercollegiate Athletics, entitled “Standards of Professional Performance for Athletic Staff and Rules for Disciplinary Actions,” in accordance with Section 4.8.1 of the Bylaws of the Board of Regents for the University of Nebraska.

1. **Definitions.** For the purposes of this policy, the terms set forth below are defined as follows:

- (a) University – the University of Nebraska-Lincoln
- (b) Department – the University’s Department of Intercollegiate Athletics
- (c) Conference – the Big Ten Conference or any successor athletic conference of which the University is a member
- (d) NCAA – the National Collegiate Athletic Association
- (e) Athletic Director – the Director of Intercollegiate Athletics at the University
- (f) Athletic Staff Member – any Department employee who is employed by special appointment pursuant to Section 4.4.1 of the Bylaws of the Board of Regents for the University of Nebraska and is classified as a member of the University’s professional staff
- (g) Governing Athletic Rules – all rules, regulations, directives, policies, bylaws, constitutions, and interpretations issued or amended by the NCAA, the Conference, or any other governing body or institution possessing regulatory authority or power over any intercollegiate athletics program at the University

2. **Standards of Professional Performance.** All Athletic Staff Members are expected to perform their duties and responsibilities on behalf of the University in a professional, competent and diligent manner that conforms to the University’s and the Department’s expected performance and conduct standards. Athletic Staff Members, therefore, must conduct themselves and carry out their duties in a manner that fosters and promotes the high moral, ethical and academic standards of the University, as well as good sportsmanship. Athletic Staff Members also must strictly adhere to all applicable federal, state and municipal laws, University policies and practices, Department policies and practices, and governing athletic rules, including without limitation those rules relating to the recruitment and the furnishing of unauthorized benefits to recruits and student-athletes. Recognizing that the primary mission of the University is to serve as an institution of higher education, Athletic Staff Members are expected to fully cooperate with the University’s faculty and administrators in encouraging and promoting the academic pursuits of student-athletes and to take all necessary steps to safeguard and promote the physical and mental well-being of student-athletes. For those Athletic Staff Members who supervise other staff or students, those members also shall take all necessary steps to ensure that those under their supervision adhere to these standards.

3. **Disciplinary Action for Cause.** The University may discipline any Athletic Staff Member who engages in misconduct or who fails to meet the University's expected performance standards, as determined by the University. Misconduct, for the purposes of this provision, shall include without limitation engaging in any of the following acts:

- (a) Violation or breach of any applicable federal, state or municipal laws, University policies or practices, Department policies or practices, or governing athletic rules;
- (b) Violation of any felony or misdemeanor criminal statute resulting in a conviction that relates to, impacts or impairs the Athletic Staff Member's ability to perform duties on behalf of the University;
- (c) Violation or breach of any terms of the Athletic Staff Member's employment agreement, if any, with the University;
- (d) Engaging in any unethical or immoral conduct, regardless of where that conduct occurs, that relates to, impacts or impairs the Athletic Staff Member's ability to perform duties on behalf of the University;
- (e) Engaging in any conduct, regardless of where that conduct occurs, that impugns, harms or undercuts the reputation of the Department or the University;
- (f) Engaging in any conduct that harms, hinders or impairs, or failing to take appropriate steps to safeguard, the physical and/or mental well-being of student-athletes;
- (g) Failing to abide by University of Nebraska Board of Regent Policy regarding Consensual Relationships (RP-3.3.15) by engaging in any relationship of a sexual, intimate, romantic, dating, or amorous nature, regardless of its length, with a student-athlete or an employee for whom the Athletic Staff Member has supervisory or evaluative authority unless otherwise permitted by the policy;
- (h) Failing to abide by University of Nebraska Board of Regent Policy regarding Sexual Misconduct (RP-2.1.8). Athletic Staff Member's shall report promptly to the University's Title IX Coordinator any incident of sexual misconduct (as defined in RP-2.1.8, including domestic violence, dating violence, sexual harassment, sexual assault, sexual exploitation, and stalking) when the Athletic Staff member 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 RP-2.1.8;
- (i) Failing to adhere to or follow any lawful directive issued to the Athletic Staff Member by the Athletic Director, the University's administration, or the University's Board of Regents, or any other act that is insubordinate;
- (j) Failing to respond accurately, fully or timely to any reasonable inquiry received from the University, the NCAA, the Conference, any other governing body, or any governmental agency regarding any matters that pertain to or arise out of the Athletic Staff Member's employment at the University or any prior employment as a coach or at another academic institution;

- (k) Fraud or dishonesty in carrying out any duties on behalf of the University, including without limitation submitting false, fabricated, misleading or altered statements, representations, reports, records or other documents to the University, the NCAA, the Conference, other governing bodies, or governmental agencies (such as any documents relating to the recruitment of student-athletes or any documents required to be maintained by law, University policy or practice, or governing athletic rules);
- (l) The misappropriation, misuse, damage or destruction of University property;
- (m) Being under the influence of alcohol, drugs or other intoxicants while performing duties on behalf of the University, regardless of location;
- (n) Driving a motor vehicle while legally intoxicated or under the influence of alcohol or other drugs (including illegal, recreational and prescribed drugs);
- (o) The sale, use or possession of any narcotics, controlled substances, drugs, steroids or other chemicals in violation of any state or federal laws, or any governing athletic rules, including without limitation the sale, use or possession of any pain medications that have not been prescribed directly to you;
- (p) Failing to fully cooperate in the implementation, administration and enforcement of any drug testing program established by the University for student-athletes;
- (q) Soliciting, placing or accepting a bet on any intercollegiate athletic contest, or participating in, condoning or encouraging any illegal betting, gambling, or bookmaking on any intercollegiate or professional sporting event through any means;
- (r) Furnishing information or data regarding any of the University's athletics programs to any individual that the Athletic Staff Member knows, or reasonably should know, is involved in or tied to illegal gambling;
- (s) Failing to immediately report to the Athletic Director any known violation of any governing athletic rule or University policy or practice by an assistant coach, a student or other person under the direct control or supervision of the Athletic Staff Member;
- (t) Failing to accurately report all sources and amounts of income generated from athletics-related activities, as required by the governing athletic rules; or
- (u) Allowing, permitting or encouraging any assistant coach, student or other person under the direct control or supervision of the Athletic Staff Member to engage in any of the prohibited conduct identified above, or failing to take appropriate steps to prevent such action being taken by such individuals.

Typically, an Athletic Staff Member will be informed of any performance deficiencies and afforded a reasonable opportunity to rectify those deficiencies before any discipline will be imposed based on a failure to meet performance standards. The form and severity of any discipline will be determined by the University on a case-by-case basis, taking into consideration a variety of factors such as the nature and seriousness of the offense, the extent to which the conduct or behavior has been addressed previously or is repetitive, the impact that the conduct has on the University, the Department, the athletic program, and the workplace, the degree to which the conduct exposes the University to liability or reputational harm, and the impact that the conduct has on the physical and mental well-being of

student-athletes. Depending on such factors, the University may impose discipline on the Athletic Staff Member, ranging from a verbal reminder to the termination of employment, and is not required to impose discipline in a progressive manner. If the University elects to suspend an Athletic Staff Member as a form of discipline, the suspension can be without pay and generally will not exceed ninety (90) calendar days in duration. If the University is contemplating suspending or terminating the employment of an Athletic Staff Member for cause, the affected athletic staff member will be afforded the due process referenced within this policy.

4. **Administrative Leave.** The University may place any Athletic Staff Member on paid administrative leave (a) while the University investigates complaints or allegations brought against the Athletic Staff Member to determine whether disciplinary action is warranted, (b) following the filing of an indictment or information on criminal charges against the Athletic Staff Member, or (c) following notification of a formal inquiry or a preliminary finding by the NCAA or the Conference that the Athletic Staff Member violated one or more governing athletic rules or that violations were committed by others that the Athletic Staff Member permitted, condoned or encouraged or that the Athletic Staff Member failed to prevent, limit or mitigate after acquiring actual or constructive knowledge of those violations. This administrative leave may continue until a final resolution is reached in any such investigation, matter or proceeding. The University is not limited or precluded from taking disciplinary or other action against any other Athletic Staff Members who were responsible for supervising the Athletic Staff Member on administrative leave.

5. **Notice.** Except in those situations in which the University has determined that advance notice would be detrimental to the University's interests, the Athletic Director or another administrative officer designated by the University's Chancellor will notify the Athletic Staff Member of the University's intent to suspend or terminate that member's employment for cause at least seventy-two (72) hours in advance of that employment action. The notice will identify the reasons for the intended action, along with a brief summary of the underlying facts. Prior to the intended action being taken, the Athletic Staff Member may submit a written statement to the Athletic Director, or the other administrative officer designated by the Chancellor, setting forth reasons why the intended employment action should not be taken. If advance notice is not provided, the Athletic Director or another administrative officer designated by the University's Chancellor will inform the Athletic Staff Member of the employment action taken, along with the reasons and a brief statement of the underlying facts, within at least forty-eight (48) hours after the suspension or termination for cause is imposed.

6. **Post-Hearing.** An Athletic Staff Member who is suspended or terminated for cause may submit a written request for a post-hearing to the Athletic Director within fifteen (15) calendar days following the effective date of the suspension or termination. The hearing will be conducted by a panel of three academic-administrative University employees selected by the Chancellor and will be transcribed by a court reporter, who will prepare a transcript of the hearing at the University's expense. The Athletic Staff Member shall have the option of being represented by a personal attorney at the hearing and shall have the ability to present testimony, to call witnesses, and to cross-examination. Although the formal rules of evidence will not be adhered to at the hearing, the panel may exclude any testimony or evidence that the panel deems to be irrelevant, immaterial, incompetent, duplicative, or otherwise lacking probative value. Following the hearing, the panel will submit a written recommendation to the Chancellor and provide a copy to the Athletic Staff Member. After receiving the panel's recommendation, the Chancellor, or a designee, will render a written decision on the employment action taken against the Athletic Staff Member and will inform the Athletic Staff Member of that decision. The Chancellor's decision shall be final and shall not be subject to any further internal review.

7. **Termination Without Cause.** The University may terminate the employment of any Athletic Staff Member without cause by providing that member with the notice required under Section 4.4.1 of the Bylaws of the Board of Regents of the University of Nebraska.