



SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT

HEAD COACH – MEN’S HOCKEY DEPARTMENT OF INTERCOLLEGIATE ATHLETICS UNIVERSITY OF NEBRASKA OMAHA

This Employment Agreement (“Agreement”) is made and entered into 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 Omaha (“Athletics”), and **Michael Gabinet** (“Coach”), an individual, hereinafter referred to collectively as the Parties.

Recitals

- A. The University currently employs the Coach as the head coach in its Athletics’ Men’s Hockey Program pursuant to a first amended and restated contract of employment for a period beginning July 1, 2019. Under the terms of that employment contract, Coach is to remain employed as head coach through midnight the later of April 30, 2024, or the final game of the 2023-2024 Men’s Hockey season.
- 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 full execution of this Agreement (“Effective Date”), Coach shall continue to serve as the Head Coach of Athletics’ Men’s Hockey 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 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. Unless the Agreement is terminated earlier by either Party pursuant to other provisions of this Agreement, Coach’s employment as the Head Coach shall continue until April 30, 2026, or the date through which the Agreement has been extended pursuant to Section 10 of this Agreement. If prior to April 30, 2026 the Coach remains employed pursuant to the terms of this Agreement and the Program earns the opportunity to compete in the NCAA Tournament, then effective May 1st of the following year in which this occurs the term of this Agreement shall be extended through April 30, 2027. For the avoidance of doubt, for the purposes of this section the team will not have earned the opportunity to compete in the NCAA Tournament if the team’s participation in the tournament is attributable to a special determination by the governing body overseeing the tournament that allows the

team to compete in the tournament even though the team's performance or record during the regular season would not otherwise have qualified it to compete in the tournament.

2. **Compensation and Benefits.** The University shall continue to pay Coach an annual, gross salary of two hundred seventy-one thousand two hundred fifty-six dollars (\$271,256), 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 May 1, 2023, the University shall pay Coach an annual, gross salary of three hundred twenty-five thousand dollars (\$325,000), 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. This salary may be adjusted accordingly if Coach's appointment becomes less than full-time. In addition, the University can adjust the Coach's salary 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 Coach's annual salary from time-to-time during the term of this Agreement without the need for a formal, written amendment to this Agreement. Coach shall be eligible to receive all the fringe benefits that the University offers to its 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 Coach shall cease immediately upon the termination of the Agreement.

3. **Bonuses.** In addition to the Coach's annual salary referenced in the preceding provision, 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 currently are defined within the attached **Appendix A** to this Agreement, which is incorporated herein by this reference. The University reserves the right to modify Appendix A, as well as the right to discontinue the payment of any or all bonuses, at any time within its sole discretion. Any bonuses granted to 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.

4. **Additional Fringe Benefits.** In addition to the standard fringe benefits described above, Coach is eligible to receive a cellphone that is provided and paid for by the University throughout his employment as the Program's Head Coach. Coach also is eligible to receive annually, subject to dealership availability, an automobile provided by an Omaha, Nebraska dealership for his personal use throughout the time that he remains employed as the Program's Head Coach. Coach will be responsible for all insurance, maintenance, and gasoline costs associated with the use of that vehicle. Because the value of Coach's personal use of the vehicle is deemed taxable income to him, he will be responsible for maintaining accurate and complete records of his personal and business uses of that vehicle so that the value of his personal use can be properly assessed and reported to the Internal Revenue Service as income to him on his W-2 income tax form. If Coach would prefer not to incur this income tax liability, he may decline the benefit of an automobile. If he should elect to decline this benefit, though, he will not be eligible for any alternative or substitute benefits, including without limitation any additional monetary compensation. Upon his resignation or termination as the Head Coach, Coach shall be required to immediately return to the University both the cellphone and any automobile provided to him by the University.

5. **Income through Outside Activities.**

- (a) 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 as the Head Coach without the advance, written approval of the Director of Intercollegiate Athletics ("Athletic Director") and the Chancellor at the University of Nebraska Omaha

("Chancellor"). This prohibition applies without limitation to all endorsements and similar affiliations between 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. Coach also 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 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) 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 Coach's supervision and will remain effective throughout the term of this Agreement.
- (c) In accordance with University and Athletics policies, as well as National Collegiate Athletic Association ("NCAA") regulations, Coach shall file a personal financial statement annually with the Athletic Director, on a date and in a format determined by the Athletic Director or a designee. This financial statement shall identify all income that Coach has obtained from sources both within and outside the University for athletics-related activities.

6. **Duties.** As the Head Coach, Coach shall perform all duties necessary for the supervision and administration of the Program. In carrying out those duties, Coach shall report to and be accountable directly to the Athletic Director. Coach lacks any authority to engage in any dealings, transactions, or ventures of any kind with any athletic booster or booster organization, 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, 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 may 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 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, including without limitation appearances on radio programming and coaches' television shows produced by the radio and coaches' television rightsholder. (A current copy of Athletics' Policy on Appearances on Coaches' Television Shows is attached to this Agreement as **Appendix B** and is incorporated herein by this reference.)

7. **Strict Compliance with all Applicable Laws, Rules and Regulations.** 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 Summit League 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"). The University may place Coach on administrative leave pending an investigation into any allegations that he has violated any of the Applicable Rules. If an investigation reveals that that Coach has violated any of the Applicable Rules either during or preceding his employment with the University, the University may take whatever disciplinary or corrective action against him that it deems appropriate, including without limitation suspension without pay or termination of employment.

8. **University Property.** All property that is provided to, or developed or acquired by, 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 he may have access to or come into possession of during employment. Excluded from this provision are all of Coach's personal notes, personal playbooks, memorabilia, diaries, and other personal records, which he may retain. Coach shall be required to return to the University all University property remaining in his possession within ten (10) calendar days following the termination or separation of his employment with the University for any reason.

9. **Confidential Property.** 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, 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 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.

10. **Performance Evaluation and Continuation of Employment.** Coach shall be expected to perform the duties and responsibilities of Head Coach in a professional, competent, and diligent manner that conforms to the University's and the Athletics' expected performance and conduct standards. 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 Coach and an authorized representative of the University.

11. Resignation and Pursuit of Other Employment.

- (a) Unless 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 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 Coach resigns prior to the completion of the Agreement's term to accept another position with another employer, the University will incur damages that will be uncertain and not susceptible to exact computation. In light of that, the Parties acknowledge and agree that either Coach or an entity acting on his behalf shall pay the University, as liquidated damages, a below amount, depending on the effective date of resignation 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 Coach's resignation. For purposes of this Agreement, the "Remaining Term" shall be defined as the number of full months remaining in the term of this Agreement at the time of Coach's resignation or termination, as appropriate. Therefore, for purposes of calculating Coach's liquidated damages obligations pursuant to this section, the University will be entitled to receive the below percentage (depending on the effective date of the resignation) of the product of Coach's then-monthly compensation multiplied by the Remaining Term.

| <u>Resignation Effective Date</u> | <u>Percentage</u> |
|---------------------------------------|-------------------|
| Effective Date through April 30, 2023 | 100% |
| May 1, 2023 through April 30, 2024 | 75% |
| May 1, 2024 through April 30, 2025 | 50% |
| May 1, 2025 through April 30, 2026 | 50% |

In the event the term of this Agreement is extended through April 30, 2027 pursuant to the terms of Section 1 of this Agreement and Coach resigns between May 1, 2026 and April 30, 2027, Coach shall owe as liquidated damages twenty-five percent (25%) of the product of Coach's then-monthly compensation multiplied by the Remaining Term.

The Parties have bargained for and agreed to this liquidated damages provision, giving consideration to the special personal talents that 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 Coach's resignation, the significant costs incurred by the University in conducting a search for another 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. The Athletic Director, within his sole discretion, may elect to have the Coach pay a lesser amount in liquidated damages or may elect to waive the payment of liquidated damages entirely.

12. **Discipline and Termination of Employment.**

- (a) **Discipline and Termination of Employment for Cause.** The University may discipline, suspend, or terminate the employment of Coach for cause in accordance with the Athletics' policy attached to and incorporated by reference into this Agreement as **Appendix C**, which has been approved by the Chancellor pursuant to Section 4.8.1 of the Bylaws. 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 Coach's employment at any time due to the discontinuation of a program or department or due to financial exigencies, as conveyed in Sections 4.8.1, 4.16 and 4.17 of the Bylaws and the policies implementing those sections.

- (b) **Reassignment and Termination of Employment Without Cause.** Because the position of Head Coach is unique and requires special skills and talents, the University may not reassign Coach to another position without the Coach's prior written consent. The University may terminate Coach's employment without cause by notifying the Coach either verbally or in writing of its intent to terminate the employment relationship within a specified time period determined by the University. Notwithstanding any provision of this Agreement to the contrary, Coach's employment shall terminate on the date specified by the University in its notification, although the obligations regarding the payment and mitigation of liquidated damages contained within this section of the Agreement shall survive. If the University exercises its right to terminate Coach's employment without cause, the University will pay Coach, as liquidated damages the amount that is the applicable percentage (depending on the effective date of termination) of the product of the Coach's then-monthly compensation multiplied by the Remaining Term.

| <u>Termination Date</u> | <u>Percentage</u> |
|---------------------------------------|-------------------|
| Effective Date through April 30, 2023 | 100% |
| May 1, 2023 through April 30, 2024 | 75% |
| May 1, 2024 through April 30, 2025 | 50% |
| May 1, 2025 through April 30, 2026 | 50% |

In the event the term of this Agreement is extended through April 30, 2027 pursuant to the terms of Section 1 of this Agreement and the University exercises its right to terminate Coach's employment without cause between May 1, 2026 and April 30, 2027, the University shall owe as liquidated damages twenty-five percent (25%) of the product of Coach's then-monthly compensation multiplied by the Remaining Term.

The parties agree the total amount paid to Coach as liquidated damages cannot exceed two times his annualized compensation for the calendar year immediately preceding the termination of his employment (or the current calendar year if Coach did not receive any compensation from the University in the preceding year). The University must pay Coach the entire amount in liquidated damages by no later than the last day of the second calendar year following the calendar year in which the employment was terminated. The Parties have negotiated and agreed to these liquidated damages, taking into consideration a variety of factors that make the calculation of damages with any specificity uncertain and having concluded that these liquidated damages provide adequate and reasonable compensation to

Coach for any damages or injury that may be sustained as a result of the termination of this Agreement. These liquidated damages will be deemed income to Coach for income tax purposes, and will be paid in equal installments, less all required and authorized deductions over the course of the Remaining Term. If the University elects to continue monthly payments to Coach and he should die during the Remaining Term, the University's obligation to pay any further installments shall cease on the last day of the month in which he died. Based on the University's agreement to pay these liquidated damages, Coach hereby waives and releases the University, as well as all 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 termination of his employment, including without limitation any claims for any income or other benefits tied to 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 Coach has direct control or supervision with Coach's prior knowledge and consent or, which 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 hereunder, recover past payments made hereunder, and pursue all legal remedies available under law.

- (c) **Mitigation of Damages.** Coach shall have a duty to mitigate any damages that he may sustain or incur based upon the termination of his employment, with or without cause, including without limitation any liquidated damages, by using his best efforts to actively seek and obtain comparable employment within a reasonable period following that termination. Coach shall not structure nor time compensation in any new employment in a manner to avoid mitigation. Coach shall provide the University on an ongoing basis with information relating to the efforts undertaken by him to secure other employment and shall respond to any inquiries that the University may make relating to those efforts. If he secures other employment during the Remaining Term, Coach shall immediately share with the University in writing a description of the new position and the total compensation that will be paid to him in that position. If the compensation earned in the new position is less than what he would have earned from the University during the Remaining Term, the University within its sole discretion may choose to pay 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 Coach through either of the following two options:

- (1) The amount of any remaining monthly installments owed by the University to Coach during the Remaining Term shall be reduced by the amount of the guaranteed gross monthly salary that he earns through the new employment; or
- (2) The present value of the total amount owed by the University to Coach during the Remaining Term, using the 3-year Treasury Constant Maturity Rate, will be reduced by the amount that he is calculated to earn during that same time period through the new employment and will be paid to him in a lump sum payment, which will be treated as income to him for income tax purposes and will be subject to all requisite withholdings.

If the compensation that Coach is calculated to earn in the new employment exceeds that which he would have earned from the University during the Remaining Term, the

University shall be relieved of any further obligations to compensate him under this section of the Agreement.

13. **Incapacitation.** Should Coach become unable to perform the duties of Head Coach for any reason, and such incapacitation continues for more than six (6) months, or if such incapacitation is permanent, irreparable or of such a nature as to make the performance of his 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 Coach under the Nebraska Worker's Compensation laws or to any benefits that he may be entitled to receive under any disability insurance coverage provided in whole or in part by the University.

14. **Non-Disparagement.** Following the cessation of the Coach's employment with the University for any reason, whether effectuated through a termination, resignation, or the natural expiration of the Agreement's term, the Coach shall not make any written or oral statements to anyone disparaging, attacking, or painting in a negative light the University or any of its campuses, colleges, schools, departments, divisions, regents, faculty, staff, students, stakeholders, services, programs, athletics or degrees.

15. **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.

16. **Entire Agreement and Amendments.** This Agreement sets forth the entire agreement between the Parties relating to the University's employment of 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 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.

17. **Public Record.** 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. Coach consents to the public disclosure this Agreement at the University's discretion and, if requested, Coach will cooperate with the University in the production of records responsive to a request.

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APPENDIX A

EXCEPTIONAL PERFORMANCE BONUSES

In addition to receiving his regular salary, Coach shall be eligible to receive designated bonuses based on the performance of the Program pursuant to the terms set forth below.

Bonus Eligibility

1. Coach shall not be eligible to receive a bonus if he is in breach or violation of any terms of his written employment agreement with the University or if he is not in conformance with any of the by-laws, rules, regulations, or policies of the University of Nebraska. In the absence of any such breach or violation, Coach is eligible to receive the bonuses described within this appendix.
2. A bonus shall not be awarded under this policy if the team's participation in postseason competition is attributable to a special determination by the governing body overseeing postseason participation that allows the team to participate in the postseason even though the team's performance or record during the regular season would not otherwise have qualified it for postseason play.
3. To receive a bonus based on the team's participation in a postseason event, Coach must attend and perform his regular employment duties at that event, unless specifically excused by the Director of Intercollegiate Athletics for legitimate reasons such as illness or a family emergency.
4. The University will pay the bonuses no later than forty-five (45) calendar days following the last possible postseason event in which the accomplishment is achieved. Bonuses will be deemed income for income tax purposes and will be subject to all applicable withholdings.

Potential Bonuses

As of the Effective date and through April 30, 2023, the Coach shall be eligible to receive the designated bonuses based on the performance of the Program as follows:

- I. In the event that Coach appears as Head Coach for the Program and achieves any of the following team achievements, Coach shall be paid the following amounts:
 - a) \$20,000 in the event the team wins the Conference Regular Season Championship; and
 - b) \$10,000 in the event the team hosts home ice for the Conference Tournament; and
 - c) \$20,000 in the event the team wins the Conference Frozen Faceoff Championship; and
 - d) \$10,000 in the event the team competes in any NCAA Tournament games; and
 - e) \$50,000 in the event the team competes in the NCAA Tournament Frozen Four; and
 - f) \$75,000 in the event the team wins the NCAA Tournament National Championship.
- II. In the event that Coach appears as Head Coach for the Program and achieves any of the following professional achievements, Coach shall be paid *either*:
 - a) \$5,000 for Coach being named Conference Coach of the Year; or
 - b) \$10,000 for Coach being named NCAA National Coach of the Year.

Notwithstanding the foregoing, Coach's total performance bonuses, as described above, shall not exceed one hundred thousand dollars (\$100,000) in any Program season during the term of this Agreement.

Effective May 1, 2023, the Coach shall be able to receive the designated bonuses based on the performance of the Program as follows:

- I. In the event that Coach appears as Head Coach for the Program and achieves any of the following team achievements, Coach shall be paid the following amounts:
 - a) \$5,000 for each win that the team earns during the regular season against a Big Ten Conference team, but not to exceed \$10,000 annually; and
 - b) \$10,000 in the event the team wins the Conference Regular Season Championship; and
 - c) \$5,000 in the event the team hosts home ice for the Conference Tournament; and
 - d) \$5,000 in the event the team competes in the Conference Tournament semifinals; and
 - e) \$15,000 in the event the team wins the Conference Frozen Faceoff Championship; and
 - f) \$10,000 for each game the team competes in during the NCAA Tournament for the first and second rounds; and
 - g) \$20,000 in the event the team competes in the NCAA Tournament Frozen Four; and
 - h) \$50,000 in the event the team wins the NCAA Tournament National Championship.

- II. In the event that Coach appears as Head Coach for the Program and achieves any of the following professional achievements, Coach shall be paid *either*:
 - a) \$5,000 for Coach being named Conference Coach of the Year; or
 - b) \$10,000 for Coach being named NCAA National Coach of the Year.

Notwithstanding the foregoing, Coach's total performance bonuses, as described above, shall not exceed one hundred thousand dollars (\$100,000) in any Program season during the term of this Agreement.

APPENDIX B

UNIVERSITY OF NEBRASKA OMAHA DEPARTMENT OF INTERCOLLEGIATE ATHLETICS POLICY ON APPEARANCES IN COACHES' TELEVISION PROGRAMMING

The University of Nebraska Omaha's Department of Intercollegiate Athletics ("Athletics Department"), either itself or through its licensee, produces various television programs, including coaches' shows featuring commentary and game highlights. These programs are intended to inform the public about and promote the intercollegiate athletic programs at the University of Nebraska Omaha ("University"). This policy clarifies the relationship between the Athletics Department and its employees regarding its television programming.

- (1) The Athletics Department or its licensee will 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. Coaches are not responsible for securing any part of the production resources.
- (2) Coaches shall cooperate and agree to make themselves available at reasonable times to facilitate a 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 the coaches' television shows. 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 made 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 coaches' television 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 AT OMAHA DEPARTMENT OF INTERCOLLEGIATE ATHLETICS STANDARDS OF PROFESSIONAL PERFORMANCE FOR ATHLETIC STAFF AND RULES OF PROCEDURE FOR DISCIPLINARY ACTIONS

The Chancellor for the University of Nebraska at Omaha has approved the following policy for the Department of Intercollegiate Athletics 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 these standards and rules, the terms set forth below are defined as follows:

- (a) University – the University of Nebraska Omaha
- (b) Department – the University’s Department of Intercollegiate Athletics
- (c) Conference – the Summit League 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 could be deemed 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) Appearing to be 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 possible or 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 these standards and rules.

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.