

EMPLOYMENT AGREEMENT HEAD WOMEN'S SOCCER COACH

This Employment Agreement ("Agreement") is entered into by and between **THE UNIVERSITY OF TENNESSEE** ("University"), an instrumentality of the State of Tennessee, for and on behalf of The University of Tennessee at Martin ("UTM") and its Athletics Department, (collectively, the "University"), and **MICHAEL VARGA** ("Coach"). This Agreement cancels and supersedes all prior existing oral and written agreements and understandings between the University and Coach. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the University and Coach.

In consideration of the covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

ARTICLE I – PURPOSE AND TERM OF AGREEMENT

SECTION 1.1. PURPOSE. Subject to the terms and conditions stated in this Agreement, the University agrees to employ Coach and Coach agrees to be employed by the University as the head coach of UTM's intercollegiate women's soccer team ("Head Women's Soccer Coach").

SECTION 1.2. TERM. The term of this Agreement shall be from July 1, 2023 through June 30, 2027, unless sooner terminated as provided in this Agreement (the "Term"). The parties agree that the effective date of this Agreement shall be July 1, 2023, even if the Agreement's execution date is subsequent thereto. The University may allow the Term to expire and elect not to renew Coach's employment as Head Women's Soccer Coach without complying with any University Rules applicable to staff-exempt employees who do not serve under a contract of employment for a definite term. Oral agreements to renew or extend the Term are invalid and nonbinding.

ARTICLE II – COMPENSATION

SECTION 2.1. BASE PAY. As payment and consideration for the services to be performed by Coach under this Agreement, the University agrees to pay Coach a one-time signing bonus in the amount of four thousand dollars (\$4,000) and an annualized salary ("Base Pay") in the amount of Seventy-Two Thousand Dollars (\$72,000). The University shall pay the Base Pay to Coach in equal monthly installments in accordance with the University's customary monthly payroll procedures, with partial years or months prorated. The Base Pay shall not be increased in accordance with the terms of any across-the-board or merit salary increase authorized or mandated for University employees by the State of Tennessee or the University. The Base Pay is subject to the same furlough and temporary salary reduction measures that may be imposed from time-to-time by the University on its exempt employees.

Section 2.2. VEHICLE/VEHICLE ALLOWANCE. The University, in its sole discretion as to which option it selects, shall provide Coach with either: (a) one (1) vehicle of a quality, in terms of make and model, similar to vehicles provided to our University head coaches, for personal use by Coach; or (b) compensation in the amount of Four Hundred Dollars (\$400) per month as a vehicle allowance in lieu of Coach's participation in the Athletic Department's courtesy vehicle program.

The University shall be solely responsible for maintaining liability insurance coverage on the vehicle provided to Coach under the courtesy vehicle program. Coach shall be solely responsible for maintaining full comprehensive and collision insurance coverage on the courtesy vehicles, for paying fuel costs, and for otherwise complying with the courtesy vehicle program. Coach acknowledges that the value of the courtesy vehicle or the amount of a vehicle allowance shall be reported as income and that Coach shall be responsible for payment of any income taxes associated with the vehicle or a vehicle allowance.

SECTION 2.3. PLAY/PRACTICE INSURANCE. The University shall include Coach in the University's athletic play/practice insurance coverage. Coach acknowledges that this insurance coverage is subject to an annual bid process and that the type and amount of coverage for all participants may change from year to year.

SECTION 2.4. FRINGE BENEFITS. As a regular full-time employee of the University, Coach is eligible for participation in the same fringe benefit programs for which other similarly situated regular full-time employees are eligible. The Base Pay shall be used to determine benefits that are based on salary.

SECTION 2.5. RETIREMENT CONTRIBUTIONS. Coach understands and agrees that federal and state law limit the compensation on which the University may make retirement contributions. The University agrees to make the maximum annual amount of retirement contributions allowed by federal and state law for Coach. Retirement contributions shall be made periodically in accordance with the University's business practices.

SECTION 2.6. TAX REPORTING AND WITHHOLDING. All compensation described in this Agreement is stated in gross amounts and is subject to all applicable state and federal tax reporting and withholding requirements.

ARTICLE III – TERMINATION

SECTION 3.1. TERMINATION BY UNIVERSITY WITHOUT CAUSE.

Section 3.1.1. Right of University to Terminate Without Cause. In its sole discretion and at any time during the Term, the University has the right to terminate this Agreement without Cause (defined in Section 3.2.2) upon written notice to Coach. The effective date of the termination ("University Termination Date") shall be the date on which the University issues the written notice to Coach. The University's decision to terminate this Agreement without Cause is not subject to any University Rules. For purposes of this Section 3.1, a termination of this Agreement pursuant to Article V or Article IX of this Agreement shall constitute Cause.

Section 3.1.2. Separation Payment. If the University terminates this Agreement without Cause, then the University shall pay Coach a separation payment (the "University Separation Payment") in an amount equal to: seventy-five percent (75%) of the Base Pay which would have been payable from the date of termination through the end of the Term, if such termination occurs on or after July 1, 2023, but before June 30, 2024; fifty percent

(50%) of the Base Pay which would have been payable from the date of termination through the end of the Term, if such termination occurs on or after July 1, 2024, but before June 30, 2025; or twenty-five percent of the Base Pay which would have been payable from the date of termination through the end of the Term, if such termination occurs on or after July 1, 2026. For purposes of this Section 3.1, the Base Pay shall be the Base Pay in effect as of the Coach Termination Date.

Section 3.1.3. University Separation Payment Schedule. Payment of the University Separation Payment shall be made in equal monthly installments over a period equal to the number of months remaining in the Term of this Agreement, subject to all applicable state and federal tax reporting and withholding requirements, with the first monthly installment payment due on or before the last day of the month following the University Termination Date (e.g., if the Agreement is terminated on October 15, then the first monthly installment would be due on or before November 30).

Section 3.1.4. Interest. The University's obligations under Section 3.1.2 shall not accrue interest (so long as not in arrears).

Section 3.1.5. Mitigation. The University's obligations under Section 3.1.2 are subject to Coach's obligation to mitigate the University's obligations under Section 3.1.2 by making reasonable, good faith, and diligent efforts as soon as practicable following the termination of this Agreement pursuant to this Section 3.1, and continuing throughout the Offset Period, to: (i) obtain an employment position or paid services opportunity that is the objectively best Comparable Position that Coach is able to obtain based on his skills and experience; and (ii) obtain Gross Income at fair market value to be received during the Offset Period for such Comparable Position. Such efforts shall continue throughout the Offset Period until Coach obtains a Comparable Position, and if Coach vacates a Comparable Position during the Offset Period then Coach shall make such efforts to obtain another Comparable Position during the Offset Period.

Section 3.1.5.1. Comparable Position. Without limiting the types of positions that are comparable, the parties agree that each of the following positions and opportunities shall be deemed a "Comparable Position" for the purpose of this Section 3.1.5: head, associate, or assistant Soccer coach at a college or university at the NCAA Division I level; a senior athletics administrative position at a college or university at the NCAA Division I level (e.g., athletics director or associate athletics director); professional Soccer coach (head, associate, or assistant); and media commentator or analyst of college or professional Soccer with a national or regional network, broadcast station, cable, internet, or satellite company.

Section 3.1.5.2. Right to Offset. Each monthly installment of the University Separation Payment shall be offset and reduced dollar-for-dollar using the average rate of monthly Gross Income that Coach is scheduled to receive, either directly or indirectly, from the Comparable Position using the greater of the rates as calculated over the following time periods: (i) the contract term of the Comparable Position or, if there is no contract, the reasonably expected duration of the Comparable Position; or (ii) the Offset Period. Coach shall not agree to a structure

of timing of receipt of Gross Income from a Comparable Position that avoids or minimizes all or part of the offset and reduction of the University Separation Payment under this Section 3.1.5. For any Comparable Position for which Coach appears, in the University's sole discretion, to be underpaid compared to fair market value or for any multi-year agreement for a Comparable Position in which the Coach's Gross Income is unequally apportioned to fall outside of the Offset Period, the University may impute the fair market or equitable value of the Gross Income to achieve the appropriate offset and reduction of monthly installments of the University Separation Payment. The University may offset and reduce future monthly installments of the University Separation Payment by the amounts of Gross Income by which prior monthly installments of the University Separation Payment would have been offset and reduced if Coach had been scheduled to receive such Gross Income at the time the University made the prior monthly installment payment(s). Coach agrees to refund all amounts of the University Separation Payment that would have been offset and reduced if Coach had been scheduled to receive such Gross Income at the time the University made the prior monthly installment payment(s). If at any time during the Offset Period Coach is unable to obtain a Comparable Position but is able to obtain other employment or paid services opportunity, then the University may offset and reduce the University Separation Payment dollar-for-dollar by the amount of Gross Income Coach is scheduled to receive from the other employment or paid services opportunity in a similar manner as the manner described above for Gross Income from a Comparable Position.

- (a) For purposes of this Section 3.1.5, "Gross Income" shall mean, without limitation: gross income from salary or wages, supplemental pay, bonuses, incentive payments, talent fees, Deferred Compensation, or other types of compensation earned by or paid to Coach by an employer but specifically excluding any fringe benefits typically provided to individuals in the coaching profession (e.g., health insurance, courtesy use of automobile(s), courtesy tickets, and country club privileges); income, fees, and honoraria received or earned by Coach as an independent contractor, consultant, or self-employed person; or other income of any kind received or earned as a result of the Comparable Position or other employment or paid services opportunity.
- (b) For purposes of this Section 3.1.5, "Deferred Compensation" means all salary or wages, incentive payments, bonuses, supplemental pay, annuities, insurance premiums, or other compensation of any kind whatsoever that Coach, or an entity associated with Coach, receives or becomes contractually obligated to receive then or in the future for services provided by Coach while the University's obligations to pay the University Separation Payment are in effect. The amount of Deferred Compensation that shall be credited monthly against the University Separation Payment installments shall equal the total of Deferred Compensation divided by the

months in the period between the last day of the month in which the University Termination Date occurs and the date the Term would have ended if this Agreement had not been terminated.

Section 3.1.5.3. Documentation Relating to Comparable Position. Coach shall provide the University a copy of any offer letter, letter of intent, term sheet, memorandum of understanding, memorandum of agreement, employment contract, or other document describing the terms of any Comparable Position within fourteen (14) calendar days of obtaining the Comparable Position. While the University's obligation to pay the University Separation Payment is in effect, and for a period of six (6) months thereafter, Coach shall provide the University with: (i) a written accounting of all Gross Income received or earned by Coach during the immediately preceding quarter; and (ii) a copy of Coach's W-2 form and 1099 form(s) for each calendar year on or before February 15 following the respective calendar year. This Section 3.1.5.3 shall survive the termination of the Agreement for the entire period in which the University's obligation to pay the University Separation Payment is in effect, plus an additional period of three (3) months thereafter.

Section 3.1.5.4. Breach. If Coach breaches an obligation imposed under this Section 3.1.5 and fails to cure the breach within fourteen (14) calendar days after receiving written notice of the breach from the University, then the University's obligation to continue paying the University Separation Payment to Coach shall cease.

Section 3.1.6. No Further Obligations. If the University terminates this Agreement without Cause pursuant to this Section 3.1, then all obligations of the University to Coach under this Agreement other than earned or accrued but unpaid compensation and the obligations in this Section 3.1 shall cease as of the Termination Date, and Coach shall be eligible for any post-termination benefits applicable to other regular full-time employees who terminate employment with the University (e.g., COBRA), except Coach voluntarily waives all rights to receive compensation for accrued and unused annual leave. Payment of the University Separation Payment is in lieu of all other legal remedies or equitable relief. Upon termination of this Agreement pursuant to this Section 3.1, Coach shall not be entitled to further salary, compensation, benefits, perquisites, or any other athletically-related income or benefits derived by virtue of Coach's position as Head Women's Soccer Coach other than amounts described in this Section 3.1.

Section 3.1.7. Bargained-For Agreement. The parties have bargained for and agreed to the University Separation Payment, giving consideration to the fact that termination of this Agreement without Cause by the University prior to its expiration may cause Coach to lose certain benefits and incentives, supplemental compensation, or other athletically-related compensation associated with Coach's employment with the University, the amounts of which are extremely difficult to determine with certainty. The parties further agree that the payment of the University Separation Payment by the University and the acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for any damages and injuries suffered by Coach because of such termination by the

University. The University Separation Payment shall not be, nor be construed to be, a penalty.

Section 3.1.8. Condition - Waiver and Release of Claims. As a condition of Coach's right to receive the University Separation Payment, within fifteen (15) calendar days of the Termination Date, Coach shall execute a waiver and release of claims in the form attached as **Appendix A** (which may be modified to conform to subsequent changes in the law or by mutual agreement of the parties) and incorporated herein by reference. If Coach brings a claim in violation of the waiver and release of claims, other than a claim against the University for a breach of this Section 3.1, all obligations of the University under this Section 3.1 shall cease, and Coach shall refund in full all monthly installments of the University Separation Payment received from the University.

Section 3.1.9. After-Acquired Evidence. If, within six (6) months after the Termination Date, the University learns about misconduct by Coach that would have provided the University with Cause to terminate this Agreement pursuant to Section 3.2 had the University known about the misconduct prior to terminating this Agreement pursuant to Section 3.1, then the University shall have the sole discretion to convert the termination of this Agreement to a termination for Cause pursuant to Section 3.2, in which case all obligations of the University under this Section 3.1 shall cease and Coach shall refund in full all monthly installments of the University Separation Payment received from the University.

Section 3.1.10. Death/Disability. The automatic termination of this Agreement upon the death or disability of Coach, as provided in Section 3.4 of this Agreement, shall not give rise to a right to the University Separation Payment pursuant to this Section 3.1.

Section 3.1.11. Section 409A.

Section 3.1.11.1. Intent. The parties intend all payments and benefits under this Agreement to comply with or be exempt from Section 409A of the Internal Revenue Code and the regulations and guidance promulgated thereunder (collectively, "Section 409A"). Coach acknowledges that the penalties for noncompliance with Section 409A shall be assessed against Coach. Coach and his advisors have reviewed this document for compliance with Section 409A and are not relying on the University's review or advice.

Section 3.1.11.2. Separation from Service. Solely to the extent necessary to comply with Section 409A, a termination of employment shall not be deemed to have occurred unless such termination is also a "separation from services" within the meaning of Section 409A and for purposes of any such provision of this Agreement, references to a "termination", "termination of employment" or like terms shall mean "separation from service."

Section 3.1.11.3. Taxable Income. All expenses or reimbursement paid under this Agreement that are taxable income to Coach shall be paid promptly upon submission of appropriate documentation, but in no event later than the end of the

calendar year following the year that Coach incurs such expenses or pays such related tax.

Section 3.1.11.4. Installment Payments. For purposes of Section 409A, Coach's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments.

Section 3.1.12. Reasonable Cooperation. In the event this Agreement is terminated pursuant to this Section 3.1, Coach shall cooperate reasonably with the University in any investigation of Governing Athletic Rules or University Rules and that his failure to do so shall relieve the University of all further obligations to pay the University Separation Payment to Coach.

Section 3.1.13. No Conflicts. Nothing in this Section 3.1 shall be construed to conflict with or limit the University's rights set forth in any other part of this Agreement, including but not limited to Section 3.2, Article V, Article VIII, and Article IX. If this Agreement is terminated pursuant to this Section 3.1, or in the circumstances described in Section 3.2.9 or Section 3.3.6, this Section 3.1 shall survive the termination of this Agreement and shall continue in full force and effect for all purposes notwithstanding the termination or expiration of this Agreement.

SECTION 3.2. TERMINATION BY UNIVERSITY FOR CAUSE.

Section 3.2.1. Right of University to Terminate for Cause. In addition to the grounds for termination of this Agreement under any other part of this Agreement, including but not limited to Section 3.1, Article V, and Article IX, the University shall have the right to terminate this Agreement for Cause (as defined in Section 3.2.2) under this Section 3.2 at any time prior to the expiration of the Term.

Section 3.2.2. Definition of "Cause". For purposes of this Section 3.2, the term "Cause" shall include, but not be limited to, any one or more of the following as determined in the reasonable and good faith judgment of the University, whether or not the conduct or omission(s) occurred while Coach was employed by the University or during Coach's prior employment at another NCAA member institution:

- (a) Conduct or omission(s) by Coach that constitutes a Level I or Level II violation of one or more Governing Athletic Rules or conduct or omission(s) by Coach that more likely than not will lead to a NCAA finding of a Level I or Level II violation of one or more Governing Athletic Rules – including but not limited to multiple Level III violations of Governing Athletic Rules considered collectively to be a Level I or Level II violation;
- (b) Conduct or omission(s) by a person who reports, directly or indirectly, to Coach that constitutes a Level I or Level II violation of one or more Governing Athletic Rules or conduct or omission(s) by a person who reports, directly or indirectly, to Coach that more likely than not will lead to an NCAA finding of a Level I or Level II violation of one or more

Governing Athletic Rules – including but not limited to multiple Level III violations of Governing Athletic Rules considered collectively to be a Level I or Level II violation;

- (c) Failure of Coach to report promptly to the Athletics Director or the staff member in the Athletics Department with primary responsibility for compliance any actual knowledge of or reasonable cause to believe that a violation of Governing Athletic Rules or University Rules has been committed by Coach and/or any other person;
- (d) As contemplated by Governing Athletic Rules governing the same, Coach's: failure to promote and maintain an atmosphere of compliance with Governing Athletic Rules and University Rules within the women's Soccer program; failure to monitor all employees who report directly or indirectly to Coach, and student-athletes on the women's Soccer team; or knowing failure to take other reasonable steps to ensure that such persons know and strictly comply with Governing Athletic Rules and University Rules, including, but not limited to, requiring them to attend compliance education sessions, encouraging them to seek interpretations as necessary, taking compliance into account when evaluating their performance, and applying appropriate disciplinary measures in the event of a violation;
- (e) Requiring a student-athlete to perform a physical act that: (i) is not relevant to the sport of women's Soccer but is, instead, obviously intended to embarrass or degrade a student-athlete; (ii) unreasonably compromises the health or safety of a student-athlete; or (iii) is in direct or material conflict with restrictions or guidelines established by the University's sports medicine staff subsequent to Coach's receipt of written notification of such restrictions or guidelines;
- (f) Engaging in physical contact with a student-athlete that is obviously not necessary for instructional purposes (but not including occasional appropriate supportive or congratulatory physical contact);
- (g) Conduct or omission(s) by Coach that is obviously outside the scope of his role as Head Women's Soccer Coach and causes substantial injury to or unreasonably endangers the health or safety of another person, including without limitation physical, psychological, or sexual abuse or violence;
- (h) Material conduct or omission(s) by Coach that constitutes gross insubordination;
- (i) Failure by Coach to cooperate reasonably with the University's efforts to prevent sexual assault, dating violence, domestic violence, and/or stalking;

- (j) Failure by Coach to cooperate fully with and assist, failure to protect the integrity of, or failure to make a full and complete disclosure of any relevant information during, a NCAA, OVC Conference, or University investigation, except that denying alleged violations shall not be deemed to be non-cooperation;
- (k) Providing false, misleading, or incomplete material information relevant to the conduct of University business or an investigation conducted by the NCAA, the OVC Conference, the University, or law enforcement, if Coach knew or should have known that the information was false, misleading, or incomplete;
- (l) Conduct or omission(s) by Coach constituting a prohibited conflict of interest under University Rules or applicable Tennessee law (however, such conduct or omission(s) shall not constitute Cause if, in the University's reasonable and good faith judgment, the breach is capable of being cured, and Coach cures the breach within fifteen (15) calendar days after written notice by the University specifying the nature of the breach);
- (m) Conduct or omission(s) by Coach that constitutes material neglect or inattention by Coach to the standards or duties generally expected of University employees and specifically required of Coach under this Agreement (however, such conduct or omission(s) shall not constitute Cause if, in the University's reasonable and good faith judgment, the breach is capable of being cured, and Coach cures the breach within fifteen (15) calendar days after written notice by the University specifying the nature of the breach);
- (n) Knowing misrepresentation of a material fact or knowing concealment of a material fact by Coach in the performance of Coach's duties under this Agreement;
- (o) Coach's direct or indirect sale of complimentary tickets or admissions to a University athletics event;
- (p) Counseling or instructing by Coach of any coach, women's Soccer staff member, current or former student-athlete, student, or other person to fail or refuse to respond accurately and fully within a reasonable time to any inquiry or request concerning a matter relevant to the conduct of University business which is propounded by the NCAA, the OVC Conference, the University, or other governing body having supervision over the athletics program of the University, or which shall be required by law, Governing Athletic Rules, or University Rules;
- (q) Violation of Section 3.3.5 of this Agreement;

- (r) Coach's conviction of, plea of guilty to, or plea of nolo contendere to a criminal act or omission that constitutes either (i) a felony or (ii) a misdemeanor involving moral turpitude (excluding minor traffic offenses);
- (s) Failure by Coach to obtain prior approval for outside activities as required by Article VI of this Agreement;
- (t) Subject to the University's fulfillment of its obligation to offer appropriate annual information or training to Coach of his obligations hereunder, Coach's violation of University Rules relating to amorous or sexual relationships;
- (u) Subject to the University's fulfillment of its obligation to offer appropriate annual information or training to Coach of his obligations hereunder, the failure by Coach to (1) report misconduct as required by University Rules (e.g., failure to comply with Tennessee laws regarding the mandatory reporting of child abuse and/or child sexual abuse); (2) comply with the University's Title IX-related policies including without limitation failure to satisfy the duties of a mandatory reporter/responsible employee; or (3) satisfy the duties of a "campus security authority" relating to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act);
- (v) Prolonged absence by Coach from Coach's duties under this Agreement, without the consent of the Athletics Director;
- (w) Soliciting, placing, or accepting by Coach of a bet or wager on any intercollegiate or professional athletic contest whether through a bookmaker, a pool, or any other person, means, or method, or permitting, encouraging, or condoning such acts by any person under Coach's direct or indirect supervision (or subject to Coach's control or authority), including without limitation a student-athlete;
- (x) Furnishing by Coach of information or data relating in any manner to women's Soccer, or any other sport, or any student-athlete, to any individual known by Coach to be, or whom Coach should reasonably know to be, a gambler, bettor, or bookmaker, or an agent of any such person, or the consorting or associating by Coach with such person;
- (y) Failure by Coach to fully cooperate in the enforcement and implementation of any drug testing program for student-athletes established by the University, the OVC Conference, the NCAA, or any other governing athletic body;
- (z) Use or consumption by Coach of alcoholic beverages, narcotics, drugs, controlled substances, steroids, or other chemicals in such a degree and for

such an appreciable period as to impair significantly Coach's ability to perform Coach's duties under this Agreement;

- (aa) Permitting, encouraging, or condoning, through intentional, reckless, wanton, or negligent action, the sale, use, or possession by any women's Soccer staff member or student-athlete of any narcotics, drugs, controlled substances, steroids, or other chemicals, the sale, use, or possession of which by such person is prohibited by law, University Rules, or Governing Athletic Rules;
- (bb) A reason sufficient under Tennessee law to terminate an employment contract for cause;
- (cc) Subject to the University's fulfillment of its obligation to offer appropriate annual information or training to Coach of his obligations hereunder, violation by Coach of the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Retaliation, which may be amended by the University from time to time;
- (dd) Conduct or omissions(s) by Coach which brings or is substantially likely to bring Coach and/or the University into considerable public disrepute, embarrassment, contempt, scandal, or ridicule;
- (ee) Gross misconduct by Coach, as defined by University personnel policy now in effect or hereafter adopted by the University. "Gross misconduct" is currently defined by University personnel policy to include the following: theft or dishonesty; gross insubordination; willful destruction of University property; falsification of records; acts of moral turpitude; reporting for duty under the influence of intoxicants; illegal use, manufacture, possession, distribution, or dispensing of controlled substances or alcohol; disorderly conduct; provoking a fight (with the University acknowledging that fights between college women's Soccer players may occur due to the nature of the sport and its practice activities); and other similar acts involving intolerable behavior by the employee; or
- (ff) Any other material breach by Coach of Coach's duties or responsibilities under this Agreement if: (i) in the University's reasonable and good faith judgment, the breach is capable of being cured and Coach fails to cure the material breach within fifteen (15) calendar days after written notice by the University specifying the nature of the breach; or (ii) in the University's reasonable and good faith judgment, the breach is not capable of being cured.

Section 3.2.3. Separate and Independent Grounds for Termination. The grounds for termination contained in Section 3.2.2 are separate and independent grounds for termination, and one ground for termination shall not be interpreted in any manner to

modify, explain, or restrict any other ground for termination provided for anywhere in this Agreement.

Section 3.2.4. Suspension with Pay. In its sole discretion, the University may suspend Coach with pay pending the results of an investigation or decision relating to termination for Cause under this Section 3.2.

Section 3.2.5. No Further Obligations. Upon termination of this Agreement for Cause, Coach shall not be entitled to further salary, compensation, benefits, perquisites, or any other athletically-related income or benefits derived by virtue of Coach's position as Head Women's Soccer Coach, from the University (except for monies earned or accrued but unpaid prior to the effective date of termination). Coach voluntarily waives all rights to receive compensation for his accrued and unused annual leave.

Section 3.2.6. Other Disciplinary or Corrective Action. For any one or more acts, omissions, or events that would be grounds for termination for Cause under this Section 3.2, the University in its sole discretion may take other disciplinary or corrective action against Coach short of terminating this Agreement. Other disciplinary or corrective action may include, but is not limited to, one or more of the following: (a) written reprimand; (b) suspension with pay; (c) suspension without pay (not to exceed ninety (90) calendar days); or (d) reassignment to a position that does not involve contact with prospective or enrolled student-athletes or representatives of the University's athletics interests (the University will make a good faith effort to assign Coach to a position that is consistent with his education or experience). No such disciplinary or corrective action shall be construed to conflict with or limit the University's right to terminate this Agreement during or subsequent to such disciplinary or corrective action. The University shall have no obligation to use progressive discipline, and any University decision to utilize progressive discipline shall not create any future obligation on the University to utilize progressive discipline.

Section 3.2.7. Notice and Reasonable Opportunity to be Heard; Waiver of UAPA Rights. Prior to the effective date of termination of Coach's employment or suspension of Coach without pay under this Section 3.2, the University shall afford Coach notice and a reasonable opportunity to meet with the Athletics Director and the Chancellor to respond to the proposed termination or suspension. Coach voluntarily waives all rights to a post-termination or post-suspension without pay opportunity to contest a termination or suspension without pay pursuant to this Section 3.2, including, but not limited to, his rights under the Tennessee Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-301 *et seq.*

Section 3.2.8. Continued Employment. In its sole discretion, the University may elect to terminate this Agreement for Cause under this Section 3.2 but offer Coach continued employment with or without a new employment agreement.

Section 3.2.9. Limitation of Remedies in Event of Breach. In the event a termination of this Agreement by the University under this Section 3.2 is ultimately found to be a breach of this Agreement by the Tennessee Claims Commission or a court of competent

jurisdiction, after any available appeals have been exhausted, then Coach shall be entitled only to the remedies described in Section 3.1 according to the date of termination, in lieu of all other legal remedies or equitable relief.

Section 3.2.10. No Conflicts. Coach agrees that nothing in this Section 3.2 shall be construed to conflict with or limit the University's rights set forth in any other Article of this Agreement, including but not limited to Section 3.1, Article V, Article VIII, and Article IX.

Section 3.2.11. Survival. If this Agreement is terminated pursuant to this Section 3.2, or in the circumstance described in Section 3.1.9, this Section 3.2 shall survive the termination of this Agreement and shall continue in full force and effect for all purposes notwithstanding the termination of this Agreement.

SECTION 3.3. TERMINATION BY COACH.

Section 3.3.1. Right of Coach to Terminate Without Cause. In his sole discretion and at any time during the Term, Coach has the right to terminate this Agreement without cause upon written notice to the University. The effective date of the termination by Coach ("Coach Termination Date") shall be the date on which Coach issues the written notice to the University.

Section 3.3.2. Coach Separation Payment and Separation Payment Schedule. If Coach terminates this Agreement without cause before the expiration of the Term, then Coach shall pay or cause to be paid to the University a separation payment (the "Coach Separation Payment") in an amount equal to: seventy-five percent (75%) of the Base Pay which would have been payable from the date of termination through the end of the Term, if such termination occurs on or after July 1, 2023, but before June 30, 2024; fifty percent (50%) of the Base Pay which would have been payable from the date of termination through the end of the Term, if such termination occurs on or after July 1, 2024, but before June 30, 2025; or twenty-five percent of the Base Pay which would have been payable from the date of termination through the end of the Term, if such termination occurs on or after July 1, 2026. For purposes of this Section 3.3, the Base Pay shall be the Base Pay in effect as of the Coach Termination Date. Payment of the Coach Separation Payment shall be made within sixty (60) days of the Coach Termination Date. This obligation shall survive the termination of this Agreement and shall continue in full force and effect for all purposes notwithstanding the termination of this Agreement. Payment of the Coach Separation Payment is in lieu of any and all other legal remedies or equitable relief. Upon the termination of this Agreement by Coach without cause, Coach waives any and all rights to receive compensation for his accrued and unused annual leave. Nothing in this Section 3.3 shall be construed to require payment of the Coach Separation Payment as a result of an automatic termination pursuant to Section 3.4 of this Agreement.

Section 3.3.3. Bargained-For Agreement. The parties have bargained for and agreed to the Coach Separation Payment, giving consideration to the fact that Coach's promise to work for the University for the entire Term is an essential consideration in the University's decision to employ him as the Head Women's Soccer Coach and the fact that the

University will commit substantial financial resources to the success of the women's Soccer program and that if Coach terminates his employment with the University, the University will suffer damages the amount, nature, and extent of which are difficult to determine and which could include, but not be limited to, additional expenses to search for another Head Women's Soccer Coach, salary or other compensation to hire another Head Women's Soccer Coach, and tangible and intangible detriment to the women's Soccer program of the University and support of its fans and donors. Accordingly, Coach agrees that the amount of the Coach Separation Payment is a reasonable and fair approximation of the harm that the University will incur in the event of the termination of this Agreement by Coach. The Coach Separation Payment shall not be, nor be construed to be, a penalty.

Section 3.3.4. Further Obligations. If Coach terminates this Agreement without cause pursuant to Section 3.3.1, then all obligations of the University to Coach under this Agreement other than earned or accrued but unpaid compensation shall cease as of the date of any such termination, and Coach shall be eligible for any post-termination benefits applicable to other regular full-time employees who terminate employment with the University (e.g., COBRA), except Coach voluntarily waives all rights to receive compensation for accrued and unused annual leave. Coach shall not be entitled to further salary, compensation, benefits, perquisites, or any other athletically-related income or benefits derived by virtue of Coach's position as Head Women's Soccer Coach from the University other than amounts described in this Section 3.3.4.

Section 3.3.5. Notification of Athletics Director about Material Discussions Concerning Other Employment. Coach shall promptly notify the Athletics Director in the event Coach (or any individual or entity acting on behalf of Coach) has any material discussions with any college or university or a pro Soccer entity (or any individual acting on behalf of the entity) regarding potential employment by or with another college or university or a pro Soccer entity.

Section 3.3.6. Right of Coach to Terminate for Material Breach. In addition to Coach's rights under Section 3.3.1, Coach shall have the right, subject to applicable Tennessee law, to terminate this Agreement in the event of a material breach by the University of its duties under this Agreement if: (i) the breach is capable of being cured and the University fails to cure the material breach within thirty (30) calendar days after the University's receipt of written notice from Coach specifying the nature of the breach; or (ii) the breach is not capable of being cured. If, after a termination of this Agreement by Coach under this Section 3.3.6, the Tennessee Claims Commission or a court of competent jurisdiction, after any available appeals have been exhausted, finds in favor of Coach, then Coach's remedies shall be limited to the remedies described in Section 3.1 according to the Coach Termination Date, in lieu of all other legal remedies or equitable relief. If, after a termination of this Agreement by Coach under this Section 3.3.6, the Tennessee Claims Commission or a court of competent jurisdiction, after any available appeals have been exhausted, finds in favor of the University, then the University's remedies shall be limited only to the remedies described in Section 3.3.2 according to the Coach Termination Date, in lieu of all other legal remedies or equitable relief.

Section 3.3.7. Survival of Section. If this Agreement is terminated pursuant to this Section 3.3, then this Section 3.3 shall survive the termination of this Agreement and shall continue in full force and effect for all purposes notwithstanding the termination of this Agreement.

SECTION 3.4. TERMINATION UPON DEATH OR DISABILITY OF COACH.

Section 3.4.1. Death. This Agreement shall terminate automatically upon the death of Coach, and all salary, compensation, benefits, and perquisites shall terminate as of the conclusion of the calendar month in which death occurs, except that the executor or administrator of Coach's estate or other beneficiary specifically designated in writing shall be paid any death benefits due Coach under any University Rules now in effect or hereafter adopted by the University (and except for other payments earned or accrued prior to the effective date of termination).

Section 3.4.2. Disability. This Agreement shall terminate automatically if Coach becomes disabled. "Disabled" shall mean physical or mental incapacity of a nature that prevents Coach, in the reasonable and good faith judgment of the University, from coaching, recruiting, or performing several of the other essential functions of the position of Head Women's Soccer Coach for a period of ninety (90) consecutive calendar days (including without limitation days on which Coach uses accumulated sick, annual, or personal leave). If this Agreement is terminated because Coach becomes disabled pursuant to this Section 3.4.2, all unearned salary, compensation, benefits, and perquisites shall terminate, except that Coach shall receive: (a) any disability benefits to which he is entitled under any disability program in which he is enrolled; (b) compensation for his accrued and unused annual leave; and (c) other payments which were due or accrued prior to the effective date of termination.

ARTICLE IV - DUTIES

SECTION 4.1. DUTIES. Subject to other provisions of this Agreement, Coach shall devote his full time, ability, skill, attention, and loyalty to the performance of the duties of Head Women's Soccer Coach. Coach shall report directly to the Athletics Director. Coach shall be responsible for performing duties ordinarily associated with and performed by a Head Women's Soccer Coach at a major university that participates in intercollegiate women's Soccer competition at the NCAA Division I level, in compliance with Governing Athletic Rules, University Rules, and the law, including without limitation:

- (a) Leading, supervising, evaluating, recruiting, training, conditioning, disciplining, educating, developing, promoting, and coaching the Team to compete successfully in the OVC Conference and nationally;
- (b) Supporting the University's educational mission by maintaining an environment in which the pursuit of higher education is a priority, as may be reflected by women's Soccer student-athletes' class attendance, grade point averages, graduation rates, and NCAA Academic Progress Rates;

- (c) Subject to departmental budgetary limitations, University hiring practices, and the final approval of the Athletics Director – which approval shall not be unreasonably withheld – the recruitment, hiring, supervision, disciplining, termination, and evaluation of the performance of the Team's assistant coaches;
- (d) Making his best efforts to perform his duties and personally comport himself at all times in a manner consistent with good sportsmanship and in accordance with the high moral, ethical, conduct, and academic standards of the University. At all times, Coach shall exercise his best reasonable efforts to ensure that all employees and students under Coach's direct supervision, or subject to Coach's direct or indirect control (e.g., a women's Soccer student-athlete or an employee with duties directly related to women's Soccer), comport themselves in a like manner on and off the field. Such efforts shall include without limitation maintaining rules of conduct, imposing fair discipline for violations of those rules, and implementing reasonable education to prevent misconduct;
- (e) Becoming knowledgeable of and complying with all Governing Athletic Rules and University Rules, to which Coach acknowledges he has access;
- (f) As contemplated by Governing Athletic Rules, promoting and advancing institutional control over every aspect of the women's Soccer program; promoting and maintaining an atmosphere of compliance with Governing Athletic Rules and University Rules within the women's Soccer program; monitoring all employees who report directly or indirectly to Coach, and students on the Team under Coach's supervision, and taking other reasonable steps to ensure that such persons know and strictly comply with Governing Athletic Rules and University Rules including, but not limited to, requiring them to attend compliance education sessions, encouraging them to seek interpretations as necessary, taking compliance into account when evaluating their performance, and applying appropriate disciplinary measures in the event of a violation. The University agrees to cooperate in good faith with Coach in his efforts to fulfill his responsibilities under Governing Athletic Rules to promote an atmosphere of compliance and monitor the activities of his staff;
- (g) Participating in radio, television, internet, and other media shows, programs and appearances relating to the University's multi-media rights contract; carrying out endorsement and consultation services described in the University's contracts with athletics shoe, equipment, and apparel manufacturers; carrying out endorsement and consultation services described in the University's contract with the University's multi-media rights partner; and performing to a reasonable degree various public relations, University relations, alumni relations, community service, and fundraising services on behalf of the University. Such services shall not unreasonably interfere with Coach's duties with respect to games, practices or recruiting, or his preparation for games or practices. Coach shall use his best reasonable efforts to require that assistant coaches, other women's Soccer staff, and women's Soccer student-athletes comply with and cooperate in fulfilling the terms

of the University's contracts with athletics shoe, equipment, and apparel manufacturers, and endorsement or consultation services as provided in the University's contract with the University's multi-media rights partner;

- (h) Engaging in reasonable actions in the development, implementation, management, and monitoring of all aspects of prospective women's Soccer student-athlete recruiting, including but not limited to: recruiting contacts, evaluations, official visits, telephone calls and other communications, improper benefits, and any travel-related activities of prospective student-athletes and the women's Soccer program's coaching staff; and in the development and implementation of effective plans and strategies to recruit academically qualified student-athletes who possess the talent necessary to ensure the Team is competitive in the OVC Conference and who possess the personal characteristics necessary to be well-regarded representatives of the University;
- (i) Reporting promptly to the Athletics Director or the staff member in the Athletics Department with primary responsibility for compliance any actual knowledge of or reasonable cause to believe that one or more violations of Governing Athletic Rules or University Rules have been committed by himself and/or any other person;
- (j) Cooperating fully in any investigation of any aspect of the women's Soccer program or the intercollegiate athletics program, whether by the NCAA, the OVC Conference, or the University;
- (k) Working cooperatively with the Athletics Compliance Office on compliance matters and Governing Athletic Rules education;
- (l) Using reasonable efforts to protect the health and welfare of women's Soccer student-athletes. Coach agrees that final decisions regarding student-athletes' participation in practices and competitions shall be made by the Athletics Department's sports medicine staff and that such decisions shall not be considered a breach of this Agreement;
- (m) Providing substantive input and working in good faith with the Athletics Director to schedule future opponents, supporting in good faith the Athletics Director's negotiations and other efforts to schedule future opponents, and not unreasonably objecting to any such future opponents. The Athletics Director is the final decision-maker on scheduling;
- (n) Making diligent, good faith efforts to maintain and cultivate positive and effective working relations with governing boards, associations, conferences, committees, alumni, the media, the public, students, faculty, staff, and friends of the University;

- (o) Under the direction of the Athletics Director, making diligent, good faith efforts to maintain responsibility for the fiscal and budgetary functions associated with the women's Soccer program;
- (p) Recognizing that his statements about any aspect of the University and its employees are often publicized and agreeing to use his best efforts to keep comments he makes about the University and its employees positive and constructive, except as approved by the Athletics Director;
- (q) Performing the duties of a "campus security authority" under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and the duties of a mandatory reporter/responsible employee under the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Retaliation (which may be amended by the University from time to time);
- (r) Materially performing other duties specifically described elsewhere in this Agreement; and
- (s) Materially performing other reasonable women's Soccer-related duties as may be reasonably assigned by the Athletics Director (or his/her designee) from time to time.

Notwithstanding anything to the contrary in this Section 4.1, a breach of a duty described in this Section 4.1 shall not be considered to be cause sufficient to terminate this Agreement unless termination for the breach would be for "Cause" under Section 3.2.2.

SECTION 4.2. INSTITUTIONAL CONTROL. Coach recognizes and acknowledges the importance of the maintenance and observance of the principles of institutional control as contemplated by Governing Athletic Rules over every aspect of the women's Soccer program. Coach agrees to recognize and respect the organizational structure of the University in the execution of his duties under this Agreement. For example, Coach agrees to follow all protocols established by the Chancellor and/or the Athletics Director from time to time with respect to contact with University officials (including without limitation members of the Board of Trustees and the Board's Athletics Committee) about matters of concern relating to the women's Soccer program and/or the Athletics Department. The foregoing shall not be deemed to prohibit non-substantive social discourse between Coach and University officials in the context of social or other gatherings at which Coach and one or more University officials are present, but discussion of all substantive issues about the women's Soccer program or the Athletics Department shall be handled in accordance with established protocols. In addition, Coach shall at all times recognize that as part of the University's administration and its publicly-visible representative, Coach has a duty to support the policies and academic priorities of the University in his actions and in public discourse.

SECTION 4.3. STUDENT-ATHLETE DECLARED INELIGIBLE. Coach recognizes that the primary mission of the University is higher education. Coach also recognizes that a student-athlete may be declared not eligible for competition: (i) for academic reasons; (ii) because the University believes the student-athlete would not be an appropriate representative of the University; (iii)

because the University believes that the student-athlete is not eligible according to Governing Athletic Rules; and/or (iv) under University Rules. Coach agrees that such action by the University shall not be considered a breach of this Agreement.

SECTION 4.4. PAYMENT/REIMBURSEMENT OF EXPENSES. Coach shall receive payment and/or reimbursement for reasonable and necessary expenses incurred in connection with the performance of his duties, subject to applicable University Rules and Governing Athletic Rules. The University agrees to pay the cost of having one (1) guest travel with Coach to all post-season games in which the Team participates, including the OVC Conference Tournament, the Women's NCAA Championship Tournament, and the Women's Postseason National Invitational Tournament.

ARTICLE V - ENFORCEMENT OF GOVERNING ATHLETIC RULES; UNIVERSITY DISCLAIMER REGARDING NCAA VIOLATIONS

SECTION 5.1. DISCIPLINARY OR CORRECTIVE ACTION REQUIRED BY NCAA AND/OR OVC CONFERENCE. Coach agrees that the University, as a member of the NCAA and the OVC Conference, is required to apply and enforce certain Governing Athletic Rules with respect to all institutional staff members through appropriate disciplinary or corrective action and is further required by NCAA Bylaw 11.2.1 to include the following stipulation in this Agreement: If Coach is found in violation of Governing Athletic Rules or responsible for another person's violation of Governing Athletic Rules, he shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures, including, but not limited to, suspension without pay or termination of employment for significant or repetitive violations, whether the violation(s) occurred while Coach was employed by the University or during prior employment at another NCAA member institution. For the purposes of this Agreement, the phrase "significant or repetitive violations" shall mean any Level I or Level II violation of one or more Governing Athletic Rules or multiple Level III violations considered collectively to be a Level I or Level II violation, whether committed by Coach or for which Coach has been found responsible.

SECTION 5.2. NCAA COMMITTEE ON INFRACTIONS FINDING. Coach agrees that a finding by the NCAA Committee on Infractions (or, if appealed by the University, by the NCAA Infractions Appeals Committee), or an agreed-on finding approved by the NCAA Committee on Infractions in the course of a summary disposition, that Coach has engaged in or condoned a Level I or Level II violation of one or more Governing Athletic Rules, or is responsible for another person's Level I or Level II violation(s) of Governing Athletic Rules, shall constitute a material breach of this Agreement that is not capable of being cured, and the University, in its sole discretion, may elect to terminate this Agreement, suspend Coach without pay, or take other disciplinary or corrective action against Coach as set forth in the provisions of the NCAA enforcement procedures upon written notice to Coach within thirty (30) calendar days of the finding by the NCAA Committee on Infractions (or, if appealed by the University, by the NCAA Infractions Appeals Committee) or the NCAA Committee on Infractions' approval of the agreed-on finding, whether the violation(s) occurred while Coach was employed by the University or during prior employment at another NCAA member institution.

SECTION 5.3. NCAA/OVC CONFERENCE FINES AND PENALTIES. Coach agrees to comply with any penalty imposed by the NCAA and/or the OVC Conference pursuant to Governing Athletic

Rules, following the exhaustion of any available appeals by Coach. Any fine or other penalty imposed personally on Coach by the NCAA and/or the OVC Conference shall be the sole responsibility of Coach.

SECTION 5.4. FURTHER OBLIGATIONS. Upon termination of this Agreement pursuant to this Article V, Coach shall not be entitled to further salary, compensation, benefits, perquisites, or any other athletically-related income or benefits derived by virtue of Coach's position as Head Women's Soccer Coach from the University (except for payments earned or accrued prior to the effective date of termination). Coach waives all rights to receive compensation for his accrued and unused annual leave upon termination of this Agreement pursuant to this Article V.

SECTION 5.5. CONTINUED EMPLOYMENT OPTION. In its sole discretion, the University may elect to terminate this Agreement under this Article V but offer Coach continued employment with or without a new employment agreement.

SECTION 5.6. NOTICE AND REASONABLE OPPORTUNITY TO MEET; WAIVER OF UAPA RIGHTS. Prior to implementing any disciplinary or corrective action as contemplated by this Article V against Coach based on a finding by the OVC Conference, NCAA Committee on Infractions, or, if appealed, the NCAA Infractions Appeals Committee, the University shall afford Coach notice and a reasonable opportunity to meet with the Athletics Director and the Chancellor to respond to the proposed disciplinary or corrective action. Coach voluntarily waives all rights to a post-termination or post-suspension opportunity to contest a termination or suspension without pay pursuant to this Article V under University Rules and the Tennessee Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-301 *et seq.*

SECTION 5.7. REPAYMENT OF INCENTIVE COMPENSATION. Coach shall forfeit and repay to the University all annual athletics incentive compensation paid to Coach, if any, if any goal achieved is subsequently vacated by the OVC or the NCAA, or if the women's soccer program is subsequently placed on probation by the NCAA (or by the University, if self-imposed) for violations that occurred in whole or in part during a year for which Coach was awarded annual athletics incentive compensation. This obligation shall apply regardless of whether the University terminates this Agreement or Coach's employment. This obligation shall survive the termination or expiration of this Agreement and shall continue in full force and effect for all purposes notwithstanding the termination or expiration of this Agreement.

SECTION 5.8. INDEMNIFICATION. Coach shall indemnify the University against all damages, costs and expenses, including attorney's fees, in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000), incurred by the University as a direct result of any investigation or proceeding resulting in a finding by the University or by the NCAA Committee on Infractions (or, if appealed by the University, by the NCAA Infractions Appeals Committee) that Coach has engaged in or knowingly condoned a Level I or Level II violation of one or more Governing Athletic Rules or multiple Level III violations considered collectively to be a Level I or Level II violation. Any amounts payable by Coach under this Section 5.8 shall be paid within sixty (60) days after written notice from the University that such amounts are owed and the University's delivery of all appropriate supporting documentation. This obligation shall apply regardless of whether the University terminates this Agreement or Coach's employment. This obligation shall survive the termination or expiration of this Agreement and shall continue in full force and effect for all

purposes notwithstanding the termination or expiration of this Agreement.

SECTION 5.9. NO CONFLICTS. Nothing in this Article V shall be construed to conflict with or limit the University's rights set forth in any other part of this Agreement, including but not limited to Article III and Article IX.

ARTICLE VI – OUTSIDE ACTIVITIES

SECTION 6.1. PRIOR WRITTEN APPROVAL. Coach shall not engage in any outside activities without the prior written approval of the Athletics Director and the Chancellor. Approved outside activities shall be conducted by Coach in accordance with Governing Athletic Rules and the law. In conducting approved outside activities, Coach shall avoid any use, directly or by implication, of the University's name, logo, or other University trademark or intellectual property without the prior written approval of the Athletics Director and the Chancellor (if given, such approval shall expire automatically upon the termination or expiration of this Agreement).

SECTION 6.2. DEFINITION OF OUTSIDE ACTIVITIES. For purposes of this Article VI, "outside activities" means activities performed and/or income or benefits received outside the course and scope of Coach's employment as Head Women's Soccer Coach including, without limitation: personal services contracts; cash payments, bonuses, annuities, interest, honoraria, royalties, and other income; sports camps; housing allowances or benefits (including preferential housing arrangements); country club memberships; charitable fundraising; complimentary tickets; radio, television, internet, or other media shows, programs and appearances not approved by the University's multi-media rights partner, but not including routine media interviews for which Coach receives no compensation; serving on corporate boards of directors; endorsing, promoting, consulting, or advertising for commercial purposes any product or service, including without limitation shoe, apparel, or equipment manufacturers; speaking engagements; written publications; and public appearances. "Outside activities" does not mean owning less than ten percent (10%) of any publicly-traded security or receiving interest, gains or dividends from a savings account, checking account, certificate of deposit, publicly-available mutual fund, or publicly-available and passive investments which require nominal attention by Coach and which do not interfere with his duties as Coach.

SECTION 6.3. ANNUAL REPORT. Coach shall submit an annual written detailed report of all outside activities to the Chancellor, through the Athletics Director, consistent with the way in which the Athletics Department collects this information from other employees. Upon request, the University shall have reasonable access to all records of Coach necessary to verify the information contained in such report.

SECTION 6.4. GROUNDS FOR WITHHOLDING OR CONDITIONING APPROVAL. The Athletics Director and the Chancellor shall not unreasonably withhold or condition their approval of Coach's proposed outside activities. Reasonable grounds for withholding approval and/or reasonable grounds for conditioning approval include without limitation, as determined in the reasonable and good faith judgment of the Athletics Director and the Chancellor:

- (a) The proposed activity would violate Governing Athletic Rules;

- (b) The proposed activity would involve a conflict of interest with Coach's University duties pursuant to University Rules;
- (c) The proposed activity would reflect adversely on the University and/or Coach;
- (d) The proposed activity would interfere with Coach's ability to apply his best efforts to the full performance of his duties under this Agreement;
- (e) The proposed activity would usurp a corporate opportunity of the University;
- (f) The University has a current or existing agreement (or is actively engaging in negotiations) with another vendor, business entity, or commercial enterprise that provides substantially the same type of product, service, or benefit as that involved in the proposed activity;
- (g) The University's multi-media rights partner does not approve of the proposed activity or approves of the proposed activity only upon certain conditions; and
- (h) Prohibiting the use of University facilities and resources.

A breach of conditions imposed by the Athletics Director and the Chancellor concerning outside activities shall be deemed to be a breach of this Agreement. In addition to any conditions imposed by the Athletics Director and the Chancellor pursuant to this Section 6.4, Coach shall comply with Section 6.5 and Section 6.6, if applicable.

SECTION 6.5. WOMEN'S SOCCER CAMPS. All women's Soccer camps conducted by Coach at University facilities shall be operated through the University and in accordance with Governing Athletic Rules and University Rules, and all compensation for coaches and staff shall be paid through the University's payroll or its disbursement voucher system. Coach may use the University's name and logo in connection with any women's Soccer camps or clinics he conducts at University facilities with prior written approval from the Athletics Director. The University shall use its best efforts to minimize camp operational costs relating to housing, facilities, and food, in accordance with University Rules.

SECTION 6.6. WRITTEN PUBLICATIONS AND PUBLIC SPEAKING. Coach may write for publications and speak before public gatherings, provided said writings and speeches comply with Governing Athletic Rules and are made in the same professional way and manner expected of any member of the administrative staff of the University. The University expressly agrees that any compensation received for such speeches and writings by Coach in the form of honoraria, royalties, and the like may be retained by him in addition to compensation set forth herein; provided, however, that if the University reimburses Coach or otherwise pays for travel or other expenses associated with the receipt of an honorarium, Coach agrees to use the honorarium to promptly reimburse the University for any such expenses.

SECTION 6.7. NO UNIVERSITY LIABILITY FOR OUTSIDE ACTIVITIES. The University shall have no responsibility or liability for any claim arising out of Coach's performance of outside activities or for any other activity outside the scope of his University employment. In undertaking outside

activities, Coach shall make clear to any individual or entity with whom Coach may be involved that Coach is acting in his independent, individual capacity and not as an agent, employee, and/or other representative of the University.

ARTICLE VII - INTELLECTUAL PROPERTY

SECTION 7.1. RIGHT TO USE COACH'S NAME. Coach grants the University the right during the Term to use, and the right to grant to others (where such right is contractually required), use of, his name, nickname, initials, autograph, facsimile signature, voice, video or film portrayals, photographs, likeness, image, logo, facsimile image, logos, and/or trademarks (collectively, Coach's "Name") in any manner in connection with: all radio, television, internet, and other media shows, programs and appearances; all endorsement or consultation contracts entered into by the University or the University's multi-media rights partner (but not as an endorsement by Coach of any product or service absent Coach's written consent, which consent shall not be unreasonably withheld); and all University contracts with athletics shoe, equipment, and apparel manufacturers.

SECTION 7.2. UNIVERSITY RESERVATION OF RIGHTS. Coach covenants and agrees that the University retains, owns, and controls all intellectual property and media rights relating to the University's women's Soccer program and Athletics Department, including but not limited to, all television, radio, internet, and any other form of written or electronic media now known or developed in the future related to the University's women's Soccer program and Athletics Department, whether produced by the University or through a third-party. Coach further covenants and agrees that the University shall have the exclusive right to designate the media rights and intellectual property holder for all forms of media created during the Term and the exclusive right to designate the apparel, shoes, and equipment to be used by the Athletics Department.

SECTION 7.3. POST-TERMINATION RIGHTS - UNIVERSITY. Coach covenants and agrees that, upon termination of this Agreement, the University shall have the right, but not the obligation, to continue to use, and to authorize, license, or grant any sponsor, manufacturer, media rights company, or vendor the right to use, any intellectual property or media rights relating to the women's Soccer program, the Athletics Department, or Coach's employment that were created or produced during the Term, notwithstanding the fact that such intellectual property or media rights may contain Coach's Name. Coach shall have no further right to any compensation for any such continued use of Coach's Name by the University unless expressly provided in this Agreement. The use of Coach's Name shall cease upon termination of this Agreement except the University may use, and grant to others the right to use, Coach's Name for factual, historical, archival, and/or documentary purposes.

SECTION 7.4. POST-TERMINATION RIGHTS - COACH. Except as otherwise provided in this Agreement, Coach shall retain all rights in and to his name and endorsement. Upon expiration or termination of this Agreement, the University shall have no further right to the continued or future use of Coach's Name and/or endorsement, except as provided in this Article VII.

SECTION 7.5. SURVIVAL. The rights and obligations described in this Article VII shall survive the termination or expiration of this Agreement and shall continue in full force and effect for all

purposes notwithstanding the termination or expiration of this Agreement.

ARTICLE VIII - LIMITATION OF REMEDIES AND WAIVER OF CLAIMS

SECTION 8.1. LIMITATION OF REMEDIES AND WAIVER OF CLAIMS - UNIVERSITY TERMINATION.

The financial consequences of the termination of this Agreement pursuant to Section 3.1, Section 3.2, Section 3.4, Article V, and/or Article IX are exclusively set forth in this Agreement. In any instance of a termination of this Agreement pursuant to Section 3.1, Section 3.2, Section 3.4, Article V, and/or Article IX, except as expressly provided for in this Agreement, the University shall have no liability whatsoever to Coach, nor shall Coach be entitled to receive, and Coach hereby waives and releases all claims that Coach or his personal representatives may have against the University, its trustees, officers, employees, or agents, and their respective successors, heirs, and assigns for: (i) payment of fringe benefits; (ii) accrued and unused annual leave; (iii) the amounts payable under Article II or any other athletically-related income or benefits derived by virtue of Coach's position as the Head Women's Soccer Coach; (iv) any direct or consequential damages by reason of any economic loss, including, but without limitation, loss of outside or collateral business income or opportunities, talent fees, earning capacity, incentive and supplemental income, benefits, or perquisites; and/or (v) alleged humiliation or defamation resulting from the fact of termination or suspension, the public announcement thereof, or the University's release of information or documents required by law. Coach acknowledges that in the event of the termination by the University of this Agreement for cause, without cause, or otherwise, Coach shall have no right to occupy the position of the Head Women's Soccer Coach and Coach's sole remedies are provided for in this Agreement and shall not extend to injunctive relief.

SECTION 8.2. LIMITATION OF REMEDIES AND WAIVER OF CLAIMS - COACH TERMINATION. The financial consequences of the termination of this Agreement pursuant to Section 3.3 are exclusively set forth in this Agreement. In any instance of a termination of this Agreement pursuant to Section 3.3, except as expressly provided for in Section 3.3, Coach shall have no liability whatsoever to University, nor shall University be entitled to receive, and University hereby waives and releases all claims that University may have against the Coach, said claims to include, without limitation, claims for: (i) any direct or consequential damages; and/or (ii) alleged reputational damage, humiliation or defamation resulting from the fact of such termination, the public announcement thereof, or Coach's release of information or documents required by law. Nothing herein shall limit or decrease Coach's liability to University for intentional torts, criminal acts, or fraudulent conduct or omissions.

ARTICLE IX - MATERIAL INDUCEMENT FOR UNIVERSITY'S AGREEMENT AND RESERVATION OF RIGHTS

SECTION 9.1. COACH'S REPRESENTATIONS AND WARRANTIES. As a material inducement to the University to execute and perform this Agreement, Coach represents and warrants the following to the University:

- (a) He did not knowingly misrepresent material information, knowingly withhold material information, or knowingly provide incomplete or false material information during the University's process of interviewing and hiring Coach;

- (b) He has disclosed to the University all material information known to him concerning previous NCAA, conference, or institutional rules violations or potential violations committed by him, or any person under his direct or indirect control at any other NCAA member institution, prior to the date on which he executed this Agreement;
- (c) He has no knowledge of or reasonable cause to believe there exists an unreported violation or potential violation of any Governing Athletic Rules or University Rules by himself, an assistant coach, a staff member, or any other person associated with the University's women's Soccer program prior to the date on which he executed this Agreement;
- (d) He has not knowingly furnished the NCAA or the University with false, misleading or incomplete information concerning his, any assistant coach's, any staff member's, or any other person's involvement in or knowledge about matters relevant to a possible violation of an NCAA regulation or University Rule when requested to do so by the NCAA or the University;
- (e) He has disclosed to the University all material information about any known physical or mental conditions that are reasonably likely to materially prevent Coach from coaching, recruiting, or performing other essential functions of the position of Head Women's Soccer Coach;
- (f) He is not restricted from entering into this Agreement by any conflicting obligations to another authority, person, body, or entity; and
- (g) He has never been convicted of, pled guilty to, or pled nolo contendere to a criminal act that constituted either (i) a felony or (ii) a misdemeanor involving moral turpitude (excluding minor traffic offenses).

SECTION 9.2. BREACH OF REPRESENTATION OR WARRANTY; NOTICE AND REASONABLE OPPORTUNITY TO MEET; WAIVER OF UAPA RIGHTS. Coach agrees that a breach of any representation or warranty contained in Section 9.1 shall be a material breach of this Agreement that is not capable of being cured, and the University in its sole and reasonable discretion may elect to terminate this Agreement upon written notice to Coach. In its sole and reasonable discretion, the University may elect to terminate this Agreement under this Article IX but continue Coach's employment, with Coach's agreement, with or without a new employment agreement. Prior to the effective date of termination of this Agreement pursuant to this Article IX, the University shall afford Coach notice and a reasonable opportunity to meet with the Athletics Director and the Chancellor to respond to the proposed termination or suspension. Coach voluntarily waives all rights to a post-termination opportunity to contest a termination pursuant to this Article IX, including, but not limited to, his rights under the Tennessee Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-301 et seq.

SECTION 9.3. NO FURTHER OBLIGATIONS. Upon termination of this Agreement pursuant to this Article IX, Coach shall not be entitled to further salary, compensation, benefits, perquisites, or

any other athletically-related income or benefits derived by virtue of Coach's position as Head Women's Soccer Coach from the University (except for payments earned or accrued prior to the effective date of termination). Coach waives all rights to receive compensation for his accrued and unused annual leave upon termination of this Agreement pursuant to this Article IX.

SECTION 9.4. NO CONFLICTS. Coach agrees that nothing in this Article IX shall be construed to conflict with or limit the University's rights set forth in any other Article of this Agreement, including but not limited to Article III and Article V.

ARTICLE X - DEFINITIONS

In addition to words, terms, or phrases defined elsewhere in this Agreement, the following words, terms, or phrases shall have the following meanings in this Agreement:

SECTION 10.1. APR. "APR" means the final Academic Progress Rate calculated by the NCAA under Governing Athletics Rules.

SECTION 10.2. ATHLETICS DIRECTOR. "Athletics Director" means UTM's Director of Athletics and his/her designee.

SECTION 10.3. CHANCELLOR. "Chancellor" means UTM's Chancellor and his/her designee.

SECTION 10.4. GOVERNING ATHLETIC RULES. "Governing Athletic Rules" means: (1) all present or future legislation, rules, regulations, directives, written policies, bylaws, and constitutions, and official or authoritative interpretations thereof, and all amendments, supplements, or modifications thereto, promulgated by the NCAA or the OVC Conference or any successor of such association or conference, or by any other athletic conference or governing body hereafter having regulatory power or authority relating to the University's intercollegiate athletics program; and (2) all state or federal laws or regulations regulating college athletics, coaches, staff, student-athletes, or competition.

SECTION 10.5. NCAA. "NCAA" means the National Collegiate Athletic Association and its successors and assigns, or any other athletic association of which the University, subsequent to the execution of this Agreement, may be a member.

SECTION 10.6. OVC CONFERENCE. "OVC Conference" means the OVC Conference and its successors and assigns, or any other athletic conference of which UTM, subsequent to the execution of this Agreement, may be a member.

SECTION 10.7. UNIVERSITY. "University" means The University of Tennessee and its campus located in Martin, Tennessee.

SECTION 10.8. UNIVERSITY RULES. "University Rules" means all present or future policies, procedures, rules, regulations, and guidelines of the University, including but not limited to policies of UTM.

SECTION 10.9. UTM. "UTM" means The University of Tennessee at Martin and its Athletics

Department.

ARTICLE XI – CONFIDENTIAL INFORMATION

SECTION 11.1. DEFINITION OF CONFIDENTIAL INFORMATION. By virtue of his position as Head Women's Soccer Coach, Coach agrees that non-public information, which provides a competitive advantage to UTM's women's Soccer program, will be created, developed, learned by, and entrusted to him during the course of his employment with the University. Coach agrees that such information is specialized, unique in nature, and of great value to the University. Such information includes, but is not limited to, the following relating to UTM's Athletics Department and/or women's Soccer program (collectively, "Confidential Information"): methods; processes; operations; recruiting programs, strategies, and evaluations; computer and video programs; future plans; prospective student-athlete contact lists; coaching contact lists; current student-athlete contact lists; playbooks; signals; recruiting techniques; player development programs (including, but not limited to, nutrition programs, strength-building, and position coaching); coaching and leadership philosophies and practices; practice drills; training techniques; offensive and defensive schemes; game plans and game plan techniques; prospect and player evaluation systems and associated data; pre-game, in-game, and post-game coaching practices and strategies; training sequences and methodologies; financial statements, budgets, projections, or other financial information; and other information generally treated by the University as confidential. Coach acknowledges and agrees that all such information constitutes Confidential Information protected under Tennessee law and has an independent economic value to the University and the University's competitors within the NCAA Division I.

SECTION 11.2. PROTECTION OF CONFIDENTIAL INFORMATION. Coach agrees that the Confidential Information gives UTM's women's Soccer program a competitive advantage over its competitors, and Coach, therefore, covenants to treat Confidential Information confidentially under this Agreement and to protect the University. Coach covenants not to misappropriate, use, share or disclose any Confidential Information to any of UTM's competitors within the NCAA Division I or any of their respective personnel, including, but not limited to, any coaches, during the Term (regardless of whether Coach remains employed for the length of the Term). Coach further agrees that, because Coach's services under this Agreement are of a special, unique, unusual, extraordinary and intellectual character which gives those services special value, the loss to the University of which cannot be reasonably or adequately compensated in damages in an action at law, and because disclosing any such Confidential Information would place the University at significant competitive disadvantage, the University shall have the right to obtain from any court such equitable, injunctive, or other relief as may be appropriate if Coach violates this Section 11.2, including a decree enjoining Coach from sharing or disclosing any Confidential Information with any NCAA Division I college or university or any of their respective personnel. Coach shall not be prohibited from making truthful statements: to his personal legal counsel; when defending himself in litigation or NCAA proceedings; or if required to testify by a court or a governmental or regulatory body or agency.

SECTION 11.3. SURVIVAL. This Article XI shall survive the termination or expiration of this Agreement.

SECTION 11.4. BLUE PENCIL PROVISION. If it is determined by a court of competent jurisdiction

that any provision of this Article XI is excessive in duration or scope or is otherwise unenforceable, then it is the intention of the University and Coach that such provision be modified by the court to render the provision enforceable to the maximum extent permitted by law.

ARTICLE XII - MISCELLANEOUS

SECTION 12.1. COMPLETE AGREEMENT. This Agreement contains the complete agreement between the parties concerning Coach's employment as the Head Women's Soccer Coach. Neither party has made any representation with respect to the subject matter of this Agreement not specifically included in this Agreement, nor has either party relied on any such representation in entering into this Agreement.

SECTION 12.2. MODIFICATION. This Agreement may only be modified by a writing signed by Coach, the Athletics Director, and the Chancellor. Coach expressly acknowledges that the Athletics Director does not have authority to bind the University with respect to this Agreement, any amendment of this Agreement, or Coach's employment as the Head Women's Soccer Coach.

SECTION 12.3. EFFECT OF INVALIDITY OF PROVISION. The invalidity of any provision of this Agreement shall not and shall not be deemed to affect the validity of any other provision. In the event any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

SECTION 12.4. NO EXPRESS OR IMPLIED CONTRACT; NO TENURE. Coach acknowledges that no policy or procedures manual, faculty or staff handbook, course of conduct, practice, award, commendation, promotion, transfer, or length of service creates any express or implied contract modifying any part of this Agreement. Coach acknowledges that his employment with the University is not a tenure-track position and shall not lead to tenure, nor shall Coach be afforded any rights under UTM's Faculty Handbook.

SECTION 12.5. TENNESSEE LAW. This Agreement shall be interpreted in accordance with Tennessee law.

SECTION 12.6. CAPTIONS. The captions of the various provisions contained in this Agreement are not a part of this Agreement and shall not be deemed in any manner to modify, explain, enlarge, or restrict any of the provisions of this Agreement.

SECTION 12.7. NOTICE. Any notice required or permitted to be given under this Agreement shall be sufficient if given in writing and either (a) delivered in person, (b) sent via electronic mail, or (c) sent by a nationally-recognized delivery service (e.g., FedEx, etc.). Notice shall be deemed given when the written notice is (a) delivered in person, (b) sent via electronic mail, or (c) placed with a nationally-recognized delivery service. Notice to Coach shall be sent to his campus office or to his University-provided e-mail account(s). Notice to the University shall be delivered to the Athletics Director at his/her campus office.

SECTION 12.8. RETURN OF UNIVERSITY PROPERTY. All documents, files, records, materials (in any

format, including electronically-stored information), equipment, or other property, including without limitation, personnel records, recruiting records, Team information (excluding on-field property such as Coach's plays, defenses, etc.), athletic equipment, films, videos, statistics, keys, credit cards, laptop computers, software programs, and electronic communication devices, furnished to Coach by the University or developed by Coach at the University's direction or for the University's use or otherwise in connection with Coach's employment with the University are and shall remain the sole and confidential property of the University. Within three (3) calendar days of the expiration or termination of this Agreement, Coach shall, upon initiation by the University in writing, complete the University's exit procedure, including returning all University property in his possession. The foregoing provisions shall not apply to Coach's personal notes, personal playbooks, memorabilia, diaries, and similar personal records of Coach, which he is entitled to retain.

SECTION 12.9. DEDUCTION FOR DEBTS. Upon the expiration or earlier termination of this Agreement for any reason, Coach agrees that the University shall be entitled to withhold and deduct from any final payment of any kind that is owed to Coach by the University the amount of any indebtedness owed to the University by Coach, in accordance with the procedures described in University Human Resources Policy 0515.

SECTION 12.10. NO WAIVERS. The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as subsequently waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred. Nothing contained in this Agreement shall be construed to constitute a waiver or relinquishment by the University of any rights to claim such exemptions, privileges, and immunities as may be provided by law, including without limitation the University's sovereign immunity and the University's immunity under the Eleventh Amendment to the United States Constitution. This Section 12.10 shall survive the termination or expiration of this Agreement.

SECTION 12.11. TAXES. Coach agrees to be responsible for the payment of all taxes required by law on all compensation or benefits provided by the University. Coach agrees to defend, indemnify, and hold harmless the University, its trustees, officers, employees, and agents, and their respective successors, heirs, and assigns from all claims or penalties asserted against them for any failure to pay taxes required by law on any compensation or benefit provided by the University pursuant to this Agreement. Coach expressly acknowledges that the University has not made, nor herein makes, any representation about the tax consequences of any consideration provided by the University to Coach pursuant to this Agreement or otherwise in connection with his employment, except where otherwise explicitly noted.

SECTION 12.12. EFFECT ON OTHER PERSONS; NO ASSIGNMENT. This Agreement shall be binding upon the parties and their respective successors, assigns, heirs, and personal and legal representatives, but neither party may assign, pledge, or encumber its respective rights, interests, or obligations under this Agreement.

SECTION 12.13. DRAFTING - NO PRESUMPTION. Each party hereto shall be viewed as an equal participant to the drafting of this Agreement, and each party agrees that there shall be no

presumption against the drafting party. Coach acknowledges that he has consulted with counsel before executing this Agreement, that his attorney was involved in drafting this Agreement, that he has read and understands this Agreement, and that its provisions are reasonable and enforceable and that he shall abide by them.

SECTION 12.15. AUTHORITY. This Agreement shall not be binding on the University until signed by the Athletics Director and the Chancellor. Coach expressly acknowledges that the Athletics Director does not have authority to bind the University with respect to this Agreement, any amendment of this Agreement, or Coach's employment as the Head Women's Soccer Coach.

SECTION 12.16. COUNTERPARTS. This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission, by electronic mail in "portable document format ("pdf") form, or by any other electronic means intended to preserve the graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by the foregoing means shall be deemed to be the original signatures for all purposes.

[signature page follows - remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Employment Agreement on the dates shown below.

THE UNIVERSITY OF TENNESSEE
AT MARTIN

MICHAEL VARGA

By:



Kurt McGuffin
Vice Chancellor and Director of Athletics
The University of Tennessee
at Martin

7/20/23

Date

By:



Dr. Philip Cavalier
Interim Chancellor
The University of Tennessee
at Martin

7/20/23

Date

By:



Michael Varga

7/21/23

Date