

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made and entered into as of this 15th day of July, 2021, by and between the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College ("LSU"), a body corporate existing under the Constitution and laws of the State of Louisiana, herein represented by William F. Tate, IV, its duly authorized President, and Dan Fitzgerald ("EMPLOYEE"):

1. **Definitions.** For purposes of this Agreement, the following terms shall have the meaning shown:
 - A. "President": The President or Interim President of LSU.
 - B. "Athletic Director": The Director of Athletics at LSU.
 - C. "Base Salary Amount": The annual sum of \$300,000.
 - D. "Position": Assistant Coach for the Team.
 - E. "Start Date": July 15, 2021.
 - F. "End Date": August 31, 2024.
 - G. "Program": The intercollegiate baseball program at LSU.
 - H. "Team": The intercollegiate athletic team which is a part of the Program.
2. **Term.** The term ("Term") of this Agreement shall be for a definite term, commencing on the Start Date and ending on the End Date unless terminated sooner in accordance with Section 11 or 12 of this Agreement.
3. **Employment.** LSU does hereby employ EMPLOYEE in the Position for the Term. EMPLOYEE will report directly to the Head Coach of the Team and through the Head Coach to the Athletic Director. It is the goal of the parties that Employee will serve in the Position for the entirety of the Term. EMPLOYEE hereby agrees and promises that EMPLOYEE shall, within 30 days of employment by LSU, provide proof to LSU that EMPLOYEE has been issued a Louisiana driver's license and that all vehicles registered in EMPLOYEE's name are registered in Louisiana, all pursuant to the requirements of La. R.S. 42:31.
4. **Duties and Responsibilities.** EMPLOYEE's duties and responsibilities shall include the following, all subject to law, LSU policy, and the directives, input, and advice of the President and the Athletic Director:

- A. Performing all duties reasonably assigned to EMPLOYEE by the Head Coach of the Team or the Athletic Director so long as such duties are consistent with those duties typically assigned to Assistant Coaches at colleges or universities at the same competitive level as LSU;
- B. Promoting the success of the Team and its student athletes both athletically and academically;
- C. Being reasonably knowledgeable of and complying with: (1) all applicable federal and state laws governing intercollegiate athletics; and (2) all governing constitutions, by-laws, rules, policies, interpretations, and regulations of the National Collegiate Athletic Association ("NCAA"), the Southeastern Conference ("SEC"), LSU, and any other conference or Agreement (hereinafter collectively referred to as "Governing Athletics Regulations");
- D. Promptly reporting any known or reasonably suspected violation of Governing Athletics Regulations to the Athletic Director and the Director of Compliance;
- E. Understanding and complying with Title IX of the Education Amendments of 1972 and LSU policies on Title IX and sexual misconduct, including but not limited to Permanent Memorandum 73 ("PM-73") and, as a Responsible Person under PM-73, understanding and complying with the obligation to report incidents of sexual misconduct (including sexual harassment and sexual violence) and other inappropriate sexual conduct of which EMPLOYEE has knowledge or receives notice to LSU's Title IX Coordinator and other appropriate designee as required by PM-73;
- F. Cooperating fully in any investigation of possible violations of any Governing Athletic Regulations conducted or authorized by LSU, the SEC, or the NCAA at any time, and cooperating fully in any LSU internal investigation or inquiry;
- G. Reasonably observing, respecting, and promoting the principles of institutional control in the Program;
- H. Reasonably understanding, observing, upholding, and promoting LSU's written academic standards, requirements, and policies, and reasonably promoting an environment in which admissions, financial aid, academic services for student athletes, and recruiting can be conducted consistent with LSU's mission;
- I. Cultivating and maintaining reasonable interaction with members of the LSU community, in accordance with the policies and instructions of the Head Coach of the Team and the Athletic Director;
- J. Performing all duties in a manner consistent with good sportsmanship and in accordance with the high moral, ethical, and academic standards of the Department of Athletics and LSU;

- K. Using reasonable efforts, through due care and supervision, to ensure that all student athletes and other individuals under or subject to EMPLOYEE's control, authority, or supervision comply with all Governing Athletics Regulations and act in accordance with the high moral, ethical, and academic standards of the Program and LSU;
 - L. Using reasonable efforts to promote the goal of LSU that every student athlete obtains an undergraduate degree, and reasonably cooperating with academic counselors or similar persons designated by LSU to assist student athletes and the faculty and administrators of LSU in connection with the academic pursuits of student athletes; and
 - M. Performing all other reasonable duties customarily performed by Assistant Coaches at colleges or universities at the same competitive level as LSU.
5. **Sports Camps.** EMPLOYEE, subject to Governing Athletics Regulations and Athletic Department guidelines, rules and regulations, may work at sports camps or clinics at LSU. Except as expressly provided in this Agreement, LSU does not guarantee or provide any supplemental compensation or additional revenue from operation of sports camps or clinics.
6. **Base Salary.** LSU agrees to pay EMPLOYEE the Base Salary Amount annually, in 12 equal monthly installments, on LSU's regular monthly payroll date. The Base Salary Amount shall be reviewed at the end of each season of Program and may be adjusted at that time by the Athletic Director, subject to recommendation, review, and approval pursuant to LSU personnel policies and LSU Bylaws and Regulations. However, in no event will EMPLOYEE's Base Salary Amount be reduced as a result of any such review.
7. **Supplemental Compensation.** [THIS SECTION INTENTIONALLY LEFT BLANK.]
8. **Incentive Compensation.** In the event the Team participates in postseason game(s), EMPLOYEE may be eligible for Post-Season Incentive Compensation as additional compensation for the extra services required of EMPLOYEE in the preparation for and participation in post-season play, in accordance with LSU's policies and procedures, which may be payable from affiliated foundation funds. Post-Season Incentive Compensation shall be in the amounts and for meeting the goals set forth in Schedule A, which is attached to and made a part of this Agreement, and if payable, shall be paid within 60 days following the final postseason game in which Team participates. If EMPLOYEE does not actively coach the Team in the Position for any post-season game for any reason, EMPLOYEE shall not be entitled to Post-Season Incentive Compensation.
9. **Retirement and Fringe Benefits.** EMPLOYEE shall be entitled to the following benefits, part of which may be paid from affiliated foundation funds:
- A. Retirement and fringe benefit programs available to all unclassified professional LSU employees, with contributions and benefit amounts as defined by law. EMPLOYEE understands and agrees that no contributions for purposes of any State of Louisiana retirement program will be made by LSU or withheld from

EMPLOYEE's compensation except as to the Base Salary Amount and any earned Post-Season Incentive Compensation, and EMPLOYEE shall not be entitled to any retirement benefits that may otherwise be attributable to any other compensation paid pursuant to this Agreement. EMPLOYEE further acknowledges that sums paid under Sections 7 (Supplemental Compensation) and 10 (Additional Revenue) shall not be considered "base pay," "earned compensation," or "earnable compensation" as such terms are defined under Louisiana law, and shall not be included as compensation for the purpose of computation of retirement benefits. Retirement contributions are subject to the limitations of federal law and Louisiana law.

- B. An automobile entitlement of (1) an annual automobile allowance in an amount not to exceed \$800 per month or, to the extent consistent with state ethics law, use of courtesy vehicle provided by a dealership; and (2) related automobile insurance.
- C. As part of any third-party apparel and/or equipment related contract with LSU, EMPLOYEE acknowledges and agrees that team may be provided and/or allocated apparel and/or equipment from and by LSU, which apparel and equipment shall be used exclusively and solely by EMPLOYEE in furtherance of EMPLOYEE'S employment duties and team-related activities as applicable to EMPLOYEE'S employment with LSU.

10. Additional Revenue.

- A. Subject to compliance with Governing Athletics Regulations, including but not limited to current NCAA Bylaw 11.2.2 and 11.3.2, and LSU Permanent Memorandum 11 ("PM-11"), EMPLOYEE may earn or receive other revenue ("Additional Revenue") while employed by LSU, including working with sports camps or clinics, provided, however, that EMPLOYEE shall obtain prior written approval from the President before engaging in any commercial or private venture, including the use of EMPLOYEE's name by any commercial, public or private entity, which approval shall not be unreasonably withheld. EMPLOYEE shall report annually to the President and the Athletic Director, in writing, in compliance with NCAA Bylaws 11.2.2, 11.3.2.1, and 11.3.2.1.1, and any applicable LSU policy, all athletically-related income or benefits received by EMPLOYEE from sources outside LSU, and LSU shall have reasonable access to all records of EMPLOYEE to verify this report. LSU does not guarantee any amount of Additional Revenue.
- B. EMPLOYEE shall not, without written approval of the President and the Athletic Director and compliance with PM-11, arrange for or agree to the receipt by any other employee of any supplemental pay, bonus, or other form of payment from any outside source.
- C. Without the prior written approval of the President, EMPLOYEE shall not appear on, or in, any radio, television, or internet programs or other electronic medium other than those produced or sponsored by LSU, except routine news media interviews for which no compensation is received. EMPLOYEE shall not appear in

or make any advertisement or make any commercial endorsement without the prior written approval of the President and the Athletic Director.

11. Termination and Suspension.

A. **Termination by LSU for Cause.** This Agreement may be terminated for "cause" by LSU, acting through the President, at any time prior to its expiration, upon written notice to EMPLOYEE.

1. For purposes of this Section, "cause" for termination shall be defined particularly but not exclusively as:

- a. Commission of a Level I or II violation under NCAA bylaws or commission of a material and substantial violation (or repeated Level III and/or IV violations) of other Governing Athletics Regulations, or failing to promptly report any such violation by another person to the President and the Director of Compliance, or committing a material and substantial violation of any LSU policies, rules, or procedures that are believed or found to be within the scope and/or meet the definition of Governing Athletics Regulations;
- b. Commission of a material and substantial violation of Governing Athletics Regulations involving any aspect of the Program by any other person if either: (i) the violation occurs or continues to occur after EMPLOYEE knew or had constructive knowledge that it was about to occur or was occurring, or (ii) EMPLOYEE failed to follow reasonable policies and procedures established in writing by the Athletic Department or the Head Coach for the Program to prevent violations of Governing Athletics Regulations from occurring and to detect promptly any such violations which may occur;
- c. Commission of, or participation in by EMPLOYEE of any act, situation, or occurrence, which, in University's judgment, brings EMPLOYEE into public disrepute, contempt, scandal, or ridicule or failure by EMPLOYEE to conform EMPLOYEE's personal conduct to conventional standards of good citizenship with such conduct offending prevailing social mores and values and/or reflecting unfavorably upon LSU's reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud, or violence that may or may not rise to level of warranting criminal prosecution by the relevant authorities;
- d. Committing or being convicted of either: (i) any felony, or (ii) any misdemeanor involving gambling, drugs, or alcohol;
- e. Engaging in serious misconduct which either: (i) displays a continual, serious disrespect or continual, serious disregard for the

mission of LSU; (ii) brings EMPLOYEE into substantial public disrepute sufficient to materially impair EMPLOYEE's ability to perform the obligations contained herein without material adverse impact on the Team or Program; or (iii) constitutes moral turpitude or breaches the high moral and ethical standards applicable to EMPLOYEE as a visible representative of LSU;

- f. Unreasonable refusal or repeated failure to perform any duties imposed upon EMPLOYEE herein (including, but not limited to, those duties specified in this Agreement), or failing to perform the same to the best of EMPLOYEE's reasonable ability;
- g. Prolonged absence from LSU without consent, which will not be unreasonably withheld;
- h. Committing fraud in the performance of any duties and responsibilities herein, either with intent or reckless disregard for the truth, including but not limited to fraud or dishonesty in any written or verbal statements, including résumés, provided by EMPLOYEE to LSU in the application process or fraud in the preparation, falsification, or alteration of documents or records of LSU, the NCAA, or the SEC, or documents or records pertaining to any recruit or student athlete, including without limitation transcripts, eligibility forms, and compliance reports; or knowingly permitting any other person to commit such fraud;
- i. Failure to respond reasonably accurately and fully within a reasonable time to any reasonable requests or inquiry relating to the performance of any duties herein or at any prior employment at any other institution of higher learning propounded by LSU, the NCAA, the SEC or any other governing body having supervision over the athletic programs of LSU or such other institution of higher education, or required by law or Governing Athletics Regulations; or knowingly permitting any other person to fail to so respond;
- j. Participation in any gambling, bookmaking, wagering, or betting involving any athletic contest whether by soliciting, placing, or accepting a bet or wager or through a bookmaker, a pool, or any other method of gambling; or knowingly permitting any student athlete or other individual under EMPLOYEE's control, authority, or supervision to participate in such activity;
- k. Providing information or data, other than information or data provided to the general public through public presentation, relating in any manner to any intercollegiate sport or to any student athlete to any individual whom EMPLOYEE knows (or has constructive knowledge) to be a gambler, better, or bookmaker, or an agent of

any such person; or knowingly permitting any student athlete or other individual under EMPLOYEE's control, authority, or supervision to furnish such information or data;

- l. Use or consumption of alcoholic beverages or controlled substances, steroids, or other drugs or chemicals to such degree and for such appreciable period as to substantially impair EMPLOYEE's ability to perform the duties herein;
- m. Sale, purchase, use or possession of any controlled substances, steroids, or other drugs or chemicals, the sale, purchase, use, or possession of which by EMPLOYEE is prohibited by law or Governing Athletics Rules. The provisions of this subsection do not prohibit the use or possession of substances or drugs lawfully prescribed by a healthcare provider, and used in accordance therewith.
- n. Knowingly encouraging or allowing the sale, purchase, use, or possession by any student athlete or other individual under EMPLOYEE's control, authority, or supervision of any controlled substances, steroids, or other drugs or chemicals, the sale, purchase, use, or possession of which by such person is prohibited by law or Governing Athletics Rules;
- o. Failing reasonably to cooperate in the investigation and enforcement of Governing Athletics Regulations or in any LSU internal investigation or inquiry; or knowingly permitting any other person to fail to cooperate in such investigation and enforcement;
- p. Subject to any right of administrative appeal permitted or granted to EMPLOYEE by the NCAA or SEC, any finding or determination by the NCAA, SEC, or any commission, committee, council, or tribunal of the same, of any major or repetitive violations by EMPLOYEE of NCAA or SEC rules, or of any such major or repetitive violations by others under the direct supervision of EMPLOYEE which were knowingly and intentionally permitted, encouraged, or condoned by EMPLOYEE, or about which violations EMPLOYEE knew or should have known and should have acted reasonably to prevent, limit, or mitigate (it is recognized that this subsection includes findings or determinations of violations during employment of EMPLOYEE at any other institution of higher education);
- q. Failing to report promptly to the Director of Compliance any violations of Governing Athletics Regulations involving the Team of which EMPLOYEE has actual knowledge;

- r. Failure by EMPLOYEE to engage in, and use best efforts to ensure that personnel under EMPLOYEE's direct or indirect supervision engage in, safe and responsible treatment of student athletes on the Team, including without limitation failure to comply with any requirement pertaining to medical clearance for participation, or any other act or omission (including but not limited to physical and/or emotional abuse of student athletes) that creates, or could reasonably be expected to create, an unreasonable risk of harm to a student athlete;
 - s. Failure to comply with LSU policies, rules and regulations concerning Title IX, including specifically but not exclusively the reporting of any incident of sexual misconduct in accordance with LSU's Title IX policy and PM-73; or
 - t. Knowingly committing material violation(s) of the terms of this Agreement.
2. In the event of termination for cause, EMPLOYEE's Base Salary Amount, Supplemental Compensation (if any), and all other compensation and benefits provided for in this Agreement shall terminate on the termination date, and LSU shall not thereafter be liable to EMPLOYEE for any sums or damages other than compensation earned prior to the termination date. The termination date shall be the date on which the initial notice of termination is given, or on such later date as may be set forth by LSU in the notice of termination. Should the EMPLOYEE be reinstated following a hearing, EMPLOYEE shall be paid any lost compensation and benefits, retroactive to the date of the initial notice of termination.
3. Prior to termination for cause, EMPLOYEE shall be provided with written notice of contemplated termination and a statement of the grounds and facts in support thereof and shall have five calendar days from receipt of such notice to respond in writing and/or present documents or other written evidence to the Athletic Director.

After review any such response the Athletic Director or the Athletic Director's designee will provide EMPLOYEE written notice of a decision. Within five calendar days of receipt of the decision, EMPLOYEE may make a written request for a hearing to the President. If no such request is made, the decision of the Athletic Director is final. If a request for hearing is made, the President or the President's designee(s) will conduct the hearing. The hearing and related proceedings will not be open to the public. EMPLOYEE has the right to an advisor, including legal counsel, at the hearing but the advisor or counsel may not participate in the hearing, question witnesses or address the President or President's designee(s).

4. Within five calendar days of the hearing, EMPLOYEE will be provided written notice of the decision of the President, which will be final.
5. As required by NCAA Bylaw 11.2.1, EMPLOYEE is hereby notified that in addition to the actions LSU may take in accordance with this Agreement, EMPLOYEE is also subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures if EMPLOYEE is found by the NCAA or LSU to be in violation of NCAA Bylaws. EMPLOYEE agrees that LSU shall implement any such disciplinary or corrective actions imposed by the NCAA. EMPLOYEE further understands that EMPLOYEE has an affirmative obligation to cooperate fully in the NCAA infractions process, including the investigation and adjudication of a case, pursuant to this Agreement and NCAA Bylaw 11.2.1, and that such obligation continues in effect during and beyond the termination of this Agreement for any violations alleged to have occurred during EMPLOYEE's employment by LSU.

B. Termination by LSU without Cause.

1. LSU shall have the right to terminate this Agreement without cause upon written notice to EMPLOYEE. In such event, LSU will pay EMPLOYEE liquidated damages in lieu of any and all other legal remedies or equitable relief as detailed below and as provided in Schedule A.
2. In the event of termination by LSU without cause, EMPLOYEE's Base Salary, Supplemental Compensation (if any), Fringe Benefits, and all other compensation and benefits provided for in this Agreement shall terminate on the termination date, and LSU shall not thereafter be liable to EMPLOYEE for any sums or damages other than the liquidated damages provided for herein and any compensation earned pursuant to this Agreement prior to the termination date. The termination date shall be the date on which notice of termination is given, or on such later date as may be set forth by LSU in the notice of termination.
3. Liquidated damages under this Section will be paid in equal monthly installments over a period of time equal to the amount of time then remaining in the Term, including any extended term.
4. In the event of termination by LSU without cause, the amount of liquidated damages owed by LSU under this Section shall be reduced and extinguished by and to the extent of any compensation EMPLOYEE earns, receives, or is entitled to receive for athletics-related employment from any third party from the termination date until LSU's obligation pursuant to this Section to EMPLOYEE terminates or ceases to exist. EMPLOYEE shall exercise due diligence and good faith in seeking other athletically-related employment. In the event EMPLOYEE obtains such other employment, EMPLOYEE will notify LSU and provide any and all documentation requested by LSU

to determine the amount of compensation received by EMPLOYEE and the amount of offset due to LSU.

5. The parties have bargained for this liquidated damages provision giving consideration to the following. This is an agreement for personal services. The parties recognize that termination of this Agreement by LSU prior to its expiration by lapse of term would cause EMPLOYEE to lose the salary, supplemental compensation (if any), fringe benefits, certain other LSU-provided benefits, and possibly other income and benefits provided by third parties, which damages are impossible to determine with certainty. As such, the damages that may be suffered by EMPLOYEE in the event of a termination of this Agreement by LSU without cause are difficult to presently and accurately estimate. In addition, the parties expressly agree that the liquidated damages herein are not in any way a penalty.

C. Termination by EMPLOYEE Without Cause.

1. EMPLOYEE shall have the right to terminate this Agreement without cause upon 30 days written notice to LSU. In the event EMPLOYEE terminates this Agreement without cause, EMPLOYEE will pay LSU liquidated damages, in lieu of any and all other legal remedies or equitable relief. In the event of termination by EMPLOYEE without cause, EMPLOYEE's Base Salary, Supplemental Compensation (if any), Fringe Benefits, and all other compensation and benefits provided for in this Agreement shall terminate on the termination date, which, unless otherwise agreed to in writing by LSU on one hand and EMPLOYEE on the other hand, shall be the earlier of: (a) the date on which EMPLOYEE provides notice of termination to LSU; (b) the date on which EMPLOYEE accepts employment from another employer; or (c) the date on which EMPLOYEE performs any work or services of any kind or nature whatsoever on behalf of or for the benefit of another employer. LSU shall not thereafter be liable to EMPLOYEE for any sums or damages other than any compensation earned pursuant to this Agreement prior to the termination date. The Parties acknowledge that this provision is intended to obligate EMPLOYEE to repay unearned compensation and fees previously received under the premise that EMPLOYEE would fulfill the Term of this Agreement.
2. If EMPLOYEE terminates employment during the Term, EMPLOYEE will pay to LSU liquidated damages as provided on Schedule A. EMPLOYEE shall have the option to pay such amount in a lump sum or in equal monthly installments over a period of time equal to the amount of time then remaining in the Agreement, including any extended term.
3. Liquidated damages under this Section may be waived, in the sole discretion of the President, if EMPLOYEE is not in breach of any provision of this Agreement and LSU determines that such a waiver would serve the best interests of LSU, considering factors such as, but not limited to,

EMPLOYEE's length of service with LSU, whether EMPLOYEE is taking another athletically-related job, the impact the timing of EMPLOYEE notice has on the Team (whether it is given before, during, or after the Team's season and recruiting period), EMPLOYEE's ability and willingness to assist LSU if requested during any transition period (such as during post-season play after giving notice at the end of the regular season), ease of recruiting a replacement for EMPLOYEE, and the impact that the payment of liquidated damages would have on recruiting and retaining other similarly-situated coaches.

4. The parties have bargained for this liquidated damages provision giving consideration to the following. This is an agreement for personal services. The parties recognize that termination of this Agreement by EMPLOYEE prior to its expiration by lapse of term would cause LSU to incur administrative, recruiting, and resettlement costs in obtaining a replacement coach for Team, in addition to potentially increased compensation costs and loss of ticket revenues, which damages are impossible to determine with any certainty.
5. Unless notice of termination under this Section has been given by either party, neither EMPLOYEE nor EMPLOYEE's agent shall, under any circumstances, discuss or negotiate directly or indirectly prospective employment for EMPLOYEE with any other institution of higher education, professional athletic team, or other athletically-related (including media and sports marketing) prospective employer without giving at least 24 hours prior written notice to the President and the Athletic Director.

D. Suspension or Other Disciplinary Action.

1. In lieu of termination for cause, and apart from any rights it may have under this Agreement, LSU may impose disciplinary sanctions less severe than termination upon EMPLOYEE, up to and including suspension or leave without pay for a period no longer than 90 days for any act or omission which would be grounds for discipline or termination for cause. Imposition of such sanctions shall be at the discretion of LSU, which shall not be exercised arbitrarily or capriciously. Prior to suspension without pay under this provision, EMPLOYEE shall be provided written notice of the grounds for the suspension and shall have five calendar days from receipt of such notice to respond in writing to the Athletic Director. After review of any such response, the Athletic Director or the Athletic Director's designee(s) will provide EMPLOYEE with written notice of a decision and/or suspension.
2. Upon written notice and after reasonable opportunity to respond in writing, LSU may suspend EMPLOYEE for an indefinite period during any investigation by LSU, another governmental entity, or the NCAA or SEC to determine whether EMPLOYEE has violated any laws or Governing

Athletics Regulations. During such suspension, EMPLOYEE shall receive only the Base Salary and any compensation earned but not yet paid as of the date of the suspension, along with fringe benefits provided under Section 9 of this Agreement, and shall not be entitled to receive any other benefits, compensation or remuneration set forth in this Agreement for the period of such suspension. If the matter giving rise to the suspension is finally resolved completely in favor of EMPLOYEE, and does not otherwise represent an independent basis for termination herein for cause, LSU shall pay or make available to EMPLOYEE the benefits and other compensation herein otherwise payable to EMPLOYEE during the period of suspension. Any such benefits which are payable pursuant to this Agreement by an affiliated foundation shall only be paid by such foundation, subject to its approval. Suspension under this subsection shall not limit any rights of LSU to terminate EMPLOYEE for cause.

3. EMPLOYEE shall be subject to disciplinary or corrective action by the NCAA or SEC for any violation of NCAA and SEC regulations, respectively. Such action by the NCAA or the SEC shall not preclude or in any manner affect LSU's right to take such other corrective or disciplinary action as it deems necessary or proper, including termination for cause.
4. Notwithstanding any other provision of this Agreement to the contrary, if EMPLOYEE is suspended by the SEC or NCAA, EMPLOYEE shall automatically be suspended by LSU for the duration of the SEC or NCAA imposed suspension without further notice or process. During such suspension, EMPLOYEE shall not be entitled to receive any compensation, benefits or any other payments under this Agreement except for fringe benefits provided under Section 9 of this Agreement.

E. **Termination by Death or Disability.** In the event of the death of EMPLOYEE or the inability of EMPLOYEE to perform the obligations described in this Agreement with or without accommodation by reason of disability or some other occurrence beyond the control of either party, and such inability to perform has continued or will continue beyond a reasonable period of time, but not less than 60 days, this Agreement shall terminate as a termination with cause and all future obligations between the parties shall cease upon the termination date reasonably established by LSU, unless otherwise required by law.

F. **Waiver of Claims.** The financial consequences of termination of this Agreement or suspension herein are exclusively set forth herein. Therefore, with the sole exception of payments required by this Agreement, in any instance of termination for cause or without cause, or suspension or other disciplinary sanction effected in accordance with the procedures established in this Agreement, neither EMPLOYEE nor LSU shall be entitled to receive, and each hereby waives any claim against the other, and their respective board members, officers, directors, agents, employees, successors, and personal representatives for consequential damages by reason of any alleged economic loss, including without limitation loss

of collateral income, deferred income, loss of earning capacity, loss of business opportunity, loss of perquisites, loss of fees from speaking, camps or other outside activity, or damages allegedly sustained by reason of alleged humiliation or defamation or other non-compensatory and compensatory damages and attorney's fees resulting from the fact of termination, the public announcement thereof, or the release by LSU or EMPLOYEE of information or documents required by law. EMPLOYEE acknowledges that in the event of either termination of this Agreement for cause, without cause, or otherwise, or suspension or other disciplinary sanction effected in accordance with the procedures established in this Agreement, EMPLOYEE shall have no right to occupy the Position and that EMPLOYEE's sole remedies are provided herein and shall not extend to injunctive relief. EMPLOYEE further acknowledges and agrees that EMPLOYEE is not eligible for and will not be considered for or granted tenure by LSU.

12. **Discontinuation of the Program by the University.** Notwithstanding any provision to the contrary, in the event the University determines for any reason within its sole discretion to discontinue the Program as a Division I sport, LSU shall have the right to terminate this Agreement without further obligation to EMPLOYEE. Notice of termination under this Section shall be in writing and shall establish a date of termination no less than 90 days from the date of the notice or upon the End Date, whichever occurs first. In the event the right to terminate pursuant to this Section is exercised, all obligations between the parties shall cease effective on the date of termination.

13. **Retention and Return of all Materials, Records, and Other Items.** All documents, records, or materials, including without limitation personnel records, recruiting records, team information, films, statistics, or any other material or data furnished to EMPLOYEE by LSU or developed by EMPLOYEE on behalf of or at the expense of LSU or otherwise in connection with the employment of EMPLOYEE are and shall remain the sole and confidential property of LSU. Within 10 days of the expiration or termination of this Agreement, EMPLOYEE shall cause any such materials in EMPLOYEE's possession or control to be delivered to LSU. At the same time, EMPLOYEE shall return to LSU all credit cards, keys, computers, automobiles, mobile communication devices and other items belonging to LSU which were issued to or are in the possession of EMPLOYEE.

14. **Leave and Overtime.**

- A. **No Annual Leave.** Because of the specific nature of EMPLOYEE's job duties and the irregular times during which EMPLOYEE will be required to perform those job duties (for example, working in excess of 40 hours per week during Team's season, post-season, and recruiting period, while having fewer responsibilities in the off-season), EMPLOYEE acknowledges and agrees that EMPLOYEE will not earn or accrue annual leave.
1. EMPLOYEE's Base Salary Amount has been mutually negotiated with this understanding, and both EMPLOYEE and LSU agree that the Base Salary Amount would be less if EMPLOYEE were entitled to earn annual leave.

2. If any administrative tribunal, statewide elected official, or state board or commission with jurisdiction over such matters, or any court of competent jurisdiction, rules or publishes a formal written opinion or decision that Louisiana law requires EMPLOYEE to earn annual leave, and such rule or opinion is binding on LSU or LSU otherwise determines to comply with the opinion or ruling, then EMPLOYEE's Base Salary shall be reduced by the dollar value of the annual leave for which EMPLOYEE is credited (using the dollar value of such annual leave as of the date on which the opinion or ruling is published). This reduction shall be retroactive to the date on which EMPLOYEE's earning of annual leave is calculated to begin, and EMPLOYEE shall repay to LSU the amount of the reduction. EMPLOYEE shall pay LSU any amount owed as a result of this retroactive reduction in equal monthly installments for a period of 12 months (or such longer or shorter period as may be mutually agreed in writing by EMPLOYEE and LSU) from the date on which the EMPLOYEE is given notice that EMPLOYEE will be credited with annual leave pursuant to this Section. In the alternative, if not prohibited by the ruling or otherwise disallowed by law, EMPLOYEE may waive EMPLOYEE's right to annual leave (both retroactively and/or prospectively) in lieu of making the payments that would otherwise be required under this Section.
- B. **No Overtime.** EMPLOYEE qualifies and is designated as exempt under the Fair Labor Standards Act and is not be entitled to any overtime pay or compensatory leave for work in excess of 40 hours in any workweek.
- C. **Sick Leave.** EMPLOYEE will accrue and use sick leave in accordance with LSU policy.
- D. **Notice of Absence.** EMPLOYEE is required to receive authorization from the Athletic Director or the Athletic Director's designee prior to being absent from EMPLOYEE's usual duties and responsibilities, not to be unreasonably withheld.
15. **Non-Assignment.** Neither party may assign, transfer, alienate, or encumber any of its rights or obligations hereunder without the express written consent of the other party, except as otherwise specifically set forth in this Agreement.
16. **Entire Agreement.** This Agreement constitutes and expresses the entire agreement and understanding of the parties concerning the employment of EMPLOYEE by LSU and shall, upon the effective date hereof, supersede any other oral and written agreements between the parties. There are no oral or other agreements, understandings, promises, or representations between the parties affecting this Agreement. Both parties have relied solely on their own respective judgments in entering into this Agreement, with full opportunity to seek advice of competent counsel. It shall be construed, if necessary, without reference to the party that was the principal drafter of the Agreement.

17. **Indirect Actions Prohibited.** Any act which EMPLOYEE is prohibited from doing directly in this Agreement may not be done indirectly by EMPLOYEE or another person on EMPLOYEE's behalf or at EMPLOYEE's behest.
18. **Amendments to Agreement.** This Agreement may be amended only by a written instrument duly approved by LSU through its designated representatives and accepted by EMPLOYEE, such approval and acceptance to be acknowledged in writing.
19. **Severability.** If any provision of this Agreement shall be deemed invalid or unenforceable, either in whole or in part, this Agreement shall be deemed amended to delete or modify, as necessary, the offending provision or to alter the bounds thereof in order to render it valid and enforceable.
20. **No Waiver of Default.** No waiver by the parties hereto of any default or breach of any covenant, term or condition of this Agreement shall be deemed to be a waiver of any other default or breach of the same or any other covenant, term or condition contained herein.
21. **No Waiver of Sovereign Immunity.** It is expressly agreed and understood between the parties that nothing contained herein shall be construed to constitute a waiver or relinquishment by LSU of any rights to claim such exemptions, privileges and immunities as may be provided by law.
22. **"Force Majeure" Clause.** Neither party shall be considered in default of performance of any obligations under this Agreement if such performance is prevented or delayed by Force Majeure. "Force Majeure" shall be understood to be any cause which is beyond the reasonable control of the party affected and which is forthwith, by notice from the party affected, brought to the attention of the other party, including but not limited to war, hostilities, revolution, civil commotion, strike, lockout, epidemic, accident, fire, natural disaster, wind or flood or any requirements of law, or an act of God.
23. **Governing Law and Venue.** This Agreement shall be enforced and construed in accordance with the laws of Louisiana. Any civil action to enforce this Agreement shall be brought in a state or federal court having jurisdiction and domiciled in East Baton Rouge Parish, Louisiana.

THE PARTIES hereto, acknowledging that this Agreement is subject to approval of the Board of Supervisors, have executed this Agreement on the day, month and year first above written.

BOARD OF SUPERVISORS OF LOUISIANA
STATE UNIVERSITY AND AGRICULTURAL
AND MECHANICAL COLLEGE

By: W.F. Tate 8-9-21
William F. Tate, IV, President Date

D. Fitzgerald 8/4/21
Dan Fitzgerald Date

RECOMMENDED:

Scott Woodward
Scott Woodward, Director of Athletics

Donna K. Torres
Donna Torres, Interim Executive Vice President
for Finance and Administration/CFO

SCHEDULE A
SUPPLEMENTAL TERMS FOR DAN FITZGERALD

This Schedule A supplements and further defines the provisions of the Employment Agreement entered into between LSU and EMPLOYEE to which it is attached (the "Agreement"). In the event of a direct and clear conflict between the other provisions of the Agreement and this Schedule A, the provisions of this Schedule A shall control.

1. **Incentive Compensation Schedule.** Pursuant to Section 8 of the Agreement, Incentive Compensation is payable as follows.
 - A. **Post-Season Incentive Compensation.** Subject to the terms and conditions set forth in the Agreement, EMPLOYEE shall receive Post-Season Incentive Compensation in the amounts, and based on attaining the goals as outlined in the most recent Additional Compensation Policy for Post-Season Athletics approved by LSU at the time the additional compensation is attained.
 1. Post-Season Incentive Compensation as additional compensation for the extra services required of EMPLOYEE in the preparation for and participation in post-season play. If payable, Post-Season Incentive Compensation shall be paid within 60 days following the final postseason game in which Team participates.
 2. If EMPLOYEE does not actively coach the Team in the Position for any post-season game for any reason, including but not limited to termination or re-assignment of position, EMPLOYEE shall not be entitled to Post-Season Incentive Compensation.
2. **Liquidated Damages for Termination by LSU Without Cause.** Pursuant to Section 11(B)(1) of the Agreement, if LSU terminates employment during the Term without cause, LSU will pay EMPLOYEE liquidated damages in the amount of Base Salary for the unexpired Term with partial years and months pro-rated.
3. **Liquidated Damages for Termination by EMPLOYEE Without Cause.** Pursuant to Section 11(C)(2) of the Agreement, if EMPLOYEE terminates the Agreement, EMPLOYEE will pay LSU liquidated damages as follows for the remaining Term:
 - A. Fifty percent of all remaining Base Salary which would have been payable to EMPLOYEE for the remaining Term if EMPLOYEE accepts employment in a non-head coaching position with another SEC baseball program; or
 - B. Twenty percent of all remaining Base Salary which would have been payable to EMPLOYEE for the remaining Term if EMPLOYEE terminates employment for any other reason; however
 - C. No liquidated damages will be owed if EMPLOYEE accepts any collegiate head coaching position or any position in Major League Baseball.

4. Supplemental Provisions.

- A. EMPLOYEE shall receive a relocation incentive of \$30,000 to be used for relocation expenses. To receive these funds, EMPLOYEE must sign a Relocation Incentive Agreement which provides that all or part of the moving expense payment must be repaid to LSU if employment does not continue for at least two years from the Start Date. The parties agree that the repayment obligation shall not apply if EMPLOYEE terminates employment with LSU to accept any collegiate head coaching position or any position in Major League Baseball. All relocation benefits are taxable compensation subject to withholding and other appropriate deductions.

BOARD OF SUPERVISORS OF LOUISIANA
STATE UNIVERSITY AND AGRICULTURAL
AND MECHANICAL COLLEGE

By: William F. Tate, IV 8-9-21
William F. Tate, IV, President Date

Dan Fitzgerald 8/4/21
Dan Fitzgerald Date

RECOMMENDED:

Scott Woodward
Scott Woodward, Director of Athletics

Donna Torres
Donna Torres, Interim Executive Vice President
for Finance and Administration/CFO