



Summary of Athletic Contract Robert Kirby, Assistant Men's Basketball Coach

		Current	Proposed	Change	%	Notes
Basic	Term Ends	N/A	6/30/2019	3 Year		a
	Base Salary	\$ 330,000	\$ 350,000	\$ 20,000	6%	a
	Supplemental Media Comp.			\$ -		
Incentive	Post-Season (max)	\$ 79,200	\$ 84,000	\$ 4,800	6%	b
	Academic (max)	\$ -	\$ -	\$ -		
Benefits	Automobile	\$ 9,600	\$ 9,600	\$ -		a
	Club Membership	Yes	Yes			a
	Other					c
Total Certain Compensation		\$ 330,000	\$ 350,000	\$ 20,000	6%	d

Notes

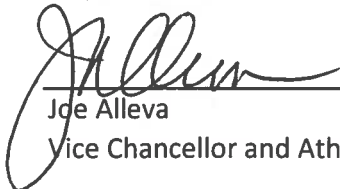
(a) Coach Kirby is a new hire. The "current" figures listed are the amounts earned by the prior assistant men's basketball coach. The proposed amounts are those contained in the proposed contract for Coach Kirby. Club membership is at the option of the Head Coach.

(b) Post-season incentive is based on Board Policy which allows up to 24% of base salary for team SEC and NCAA performance.

(c) Reimbursement of moving expenses in accordance with LSU policy and a one-time payment of \$5,000 to be used for miscellaneous relocation expenses not otherwise reimbursed, and temporary housing for up to 60 days.

(d) Total Certain Compensation includes all compensation which the coach is contractually guaranteed to receive annually. It does not include the value of any fringe benefits, such as car and cell phone allowances, nor any one-time amounts, such as contract buy-outs or relocation allowances.

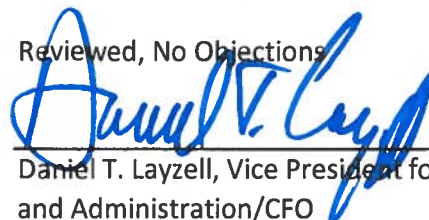
Recommended



Joe Alleva

Vice Chancellor and Athletic Director

Reviewed, No Objections



Daniel T. Layzell, Vice President for Finance
and Administration/CFO

Reviewed, No Objections



Tom Skinner, LSU General Counsel

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made and entered into as of this 18th day of April, 2016, by and between 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 F. King Alexander, its duly authorized President, and Robert Kirby ("EMPLOYEE"):

1. **Definitions.** For purposes of this Agreement, the following terms shall have the meaning shown:

- A. "LSU A&M": The campus of LSU which is located in Baton Rouge, Louisiana.
- B. "President": The President of LSU.
- C. "Athletic Director": The Vice Chancellor and Director of Athletics at LSU A&M.
- D. "Base Salary Amount": The annual sum of Three Hundred Fifty Thousand and No/100 (\$350,000.00) Dollars.
- E. "Start Date": April 18, 2016.
- F. "End Date": June 30, 2019.
- G. "Program": The intercollegiate Men's Basketball program at LSU A&M.
- H. "Team": The intercollegiate athletic team which is a part of the Program.

2. **Employment.** LSU does hereby employ EMPLOYEE as an Assistant Coach of the Team. EMPLOYEE will report directly to the Head Coach of the Team and through him to the Athletic Director. It is the goal of the parties that Employee will serve in such position throughout the term of this Agreement. It is understood, however, that LSU retains the

right to assign Employee to other positions within LSU with different duties without penalty during the term of this Agreement, provided that Employee will not be assigned to any position which is not consistent with Employee's education and training. EMPLOYEE hereby agrees to accept such employment and to devote full-time attention to the performance of the duties herein.

3. **Duties and Responsibilities.** As Assistant Coach of Team, EMPLOYEE's duties and responsibilities shall include the following, all subject to law, LSU policy, and the directives, input, and advice of the Athletic Director and the Head Coach of the Team:

- A. Performing all duties reasonably assigned to EMPLOYEE by the Head Coach of the Team or the Athletic Director;
- B. Promoting the success of the Team and its student athletes both athletically and academically;
- C. Being reasonably knowledgeable, with reasonable assistance from LSU, of: (i) all applicable federal and state laws governing intercollegiate athletics; and (ii) all governing constitutions, by-laws, rules, policies, interpretations, and regulations of the NCAA, the Southeastern Conference (SEC), LSU, and any other conference or organization of which LSU is or becomes a member during the term of this Agreement; all hereinafter collectively referred to as "**Governing Athletics Regulations**";
- D. Complying with all Governing Athletics Regulations;

- E. Promptly reporting any known or reasonably suspected violation(s) of Governing Athletics Regulations to the Athletic Director and the Associate Athletic Director for Compliance;
- F. Cooperating fully in any investigation of possible NCAA violations conducted or authorized by LSU or the NCAA at any time;
- G. Reasonably observing, respecting, and promoting the principles of institutional control in the Program;
- H. Reasonably understanding, observing, and upholding 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. Using reasonable efforts to exercise 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;
- K. Using reasonable efforts to promote the goal of LSU that every student athlete obtain a baccalaureate 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;

- L. Performing these duties at all times 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; and
- M. Performing all other reasonable duties customarily performed by intercollegiate football assistant coaches of commensurate position serving other NCAA member institutions.

4. **Term.** The term (the “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 12 of this Agreement. This Agreement will automatically be renewed for an additional period of one year effective the day after the End Date and each anniversary thereof unless the Agreement has been terminated pursuant to Section 12 or written notice of non-renewal has been given by either party at least 30 days before the End Date.

5. **Base Salary.** LSU agrees to pay EMPLOYEE the Base Salary Amount annually, in twelve (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.

6. **Supplemental Compensation.** This section left intentionally blank.

7. **Incentive Compensation.**

A. **Post-Season Incentive Compensation.** In the event the Team participates in post-season game(s), EMPLOYEE may earn 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. The additional sum or sums, if payable, shall be considered earned only if EMPLOYEE is coaching Team on the date of the game at which a post-season goal is attained (or, for SEC Regular Season Champion, the date of the last SEC game in Team's sport played by any SEC team during the regular season) and shall be paid within sixty (60) days following the final post-season game in which Team participates. This 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. Post-Season Incentive Compensation may be payable from affiliated foundation funds, subject to approval of LSU and the affiliated foundation.

B. **Academic Incentive Compensation.** In the event LSU adopts policies and procedures providing for incentive payments to EMPLOYEE for attainment by the Team of certain academic performance goals, LSU will pay EMPLOYEE Academic Incentive Compensation in accordance with those policies and procedures. The additional sum or sums, if payable, shall be considered earned on the date(s) set forth in such policies and procedures. More than one (1) academic incentive may be earned by EMPLOYEE during a single contract year; however,

the total amount of Academic Incentive Compensation shall not exceed any cap established for such compensation in LSU's policies and procedures. Academic Incentive Compensation may be payable from affiliated foundation funds, subject to approval of LSU and the affiliated foundation. To be eligible for such compensation, EMPLOYEE must be employed by LSU on the date on which the incentives are considered earned.

8. **Retirement and Fringe Benefits.** EMPLOYEE shall be entitled to participate in the retirement and fringe benefit programs available to all unclassified professional LSU employees, with contributions and benefit amounts (including state retirement benefits) based only upon the Base Salary Amount and any Post-Season Incentive Compensation and in accordance with the limitations of state retirement law. EMPLOYEE acknowledges that no retirement contribution shall be withheld from any Supplemental Compensation or Academic Incentive Compensation, and further that LSU will not, and is not obligated to, make any EMPLOYEE contributions based upon payments other than Base Salary Amount and any Post-Season Incentive Compensation. During the term of this Agreement and in accordance with applicable LSU policy and applicable law, EMPLOYEE will also receive the following benefits, part or all of which may be payable from affiliated foundation funds, subject to approval of LSU and the affiliated foundation:

- A. Membership(s) in a social club, such as the University Club of Baton Rouge, provided that: (i) monthly dues shall be payable from affiliated foundation funds, subject to approval of such affiliated foundation; (ii) business-related (non-personal) expenses incurred in accordance with LSU and foundation policy will be

reimbursed from affiliated foundation funds; and (iii) EMPLOYEE shall be responsible for payment of all personal charges;

B. Mobile communications device and service for business purposes; and

C. (i) An annual automobile allowance in an amount determined by the Athletic Director in his sole discretion, but which shall not exceed \$800 per month or, to the extent consistent with state ethics law, use of courtesy vehicle(s) provided by dealership(s); and (ii) related automobile insurance reimbursed from affiliated foundation funds.

9. Additional Revenue.

Subject to compliance with Governing Athletics Regulations, including but not limited to current NCAA Bylaws 11.2 and 11.3, *et seq.*, and LSU's PM-11, EMPLOYEE may earn or receive other revenue ("Additional Revenue") while employed by LSU, including sponsoring or working with sports camps or clinics, provided, however, that EMPLOYEE shall obtain prior written approval, which approval shall not be unreasonably withheld, 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. EMPLOYEE shall report annually to the President and the Athletic Director on January 31st, in writing, in compliance with NCAA Bylaw 11.2.2 and 11.2.2.1, and any applicable LSU policy, all income from sources other than LSU or affiliated foundation(s), and LSU shall have reasonable access to all records of EMPLOYEE to verify this report. Except as provided in this Section 9, LSU does not guarantee any amount of Additional Revenue.

10. **Sports Camps.** Subject to Governing Athletics Regulations and Athletic Department guidelines, rules and regulations, EMPLOYEE may operate or work at sports camps/clinics at LSU. LSU does not guarantee or provide any supplemental compensation or additional income to EMPLOYEE from operation of sports camps/clinics. EMPLOYEE shall not be permitted to sell, assign, lease, donate or otherwise transfer any ownership, assets or interests in such a camp or clinic to any other person or entity, without the prior written approval of the President.

11. **Assignment and Retirement Benefits.**

Sums, if any, paid or authorized under Section 6 (Supplemental Compensation), 7.B (Academic Incentive Compensation), 8 (Retirement and Fringe Benefits), 9 (Additional Revenue), and 10 (Sports Camps) of this Agreement shall not be considered “base pay,” “earned compensation,” or “earnable compensation” as such terms are defined in Louisiana Revised Statutes 11:403 and 11:701, or other applicable Louisiana retirement laws, and shall not be included as compensation for the purpose of computation of retirement system contributions by EMPLOYEE or LSU or in the computation of retirement benefits payable to EMPLOYEE. Only the Base Salary Amount and any Post Season Incentive Compensation earned pursuant to Section 7.A shall be considered for the purpose of computation of retirement system contributions by EMPLOYEE or by LSU or in the computation of benefits, all subject to the limitations of state retirement law.

12. **Termination.** This Agreement may be terminated by the parties as follows:

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. 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 notice of termination is given, or on such later date as may be set forth by LSU in the notice of termination.

Any decision as to the existence of cause for termination shall not be made arbitrarily or capriciously by LSU, and EMPLOYEE will be afforded a reasonable opportunity to present LSU, through the President and Athletic Director, with facts or information relevant to the stated cause(s) for termination.

For purposes of this Section, "cause" for termination shall include but not be limited to the following:

- (1) Committing a material violation of Governing Athletics Regulations, or failing promptly to report any known or reasonably suspected material violation by another person to the Athletic Director and the Associate Athletic Director for Compliance;
- (2) Committing or being convicted of either: (i) any felony; or (ii) any misdemeanor involving gambling, drugs, or alcohol;
- (3) Engaging in serious misconduct which: (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 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;
- (4) Unreasonably refusing or repeatedly failing to perform any duties imposed upon EMPLOYEE herein (including, but not limited to, those duties and responsibilities set forth in Section 3 of this Agreement), or failing to perform the same to the best of EMPLOYEE's reasonable ability, after written notice to EMPLOYEE of LSU's reasonable expectation;
 - (5) Knowingly committing material or repeated violations of any provision of this Agreement, provided said initial violations are not cured within ten (10) days of EMPLOYEE's receipt of written notice of the same;
 - (6) Prolonged absence from LSU without its consent, which will not unreasonably be withheld;
 - (7) (i) Committing fraud in the performance of any duties and responsibilities herein, including, but not limited to, 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 (ii) counseling, instructing, encouraging, or knowingly permitting any other person to commit such fraud;
 - (8) (i) Failing to respond accurately and fully within a reasonable time to any reasonable requests or inquiry relating to the performance of any duties herein or during any prior employment at any other institution of higher learning, which request or inquiry is 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 (ii) counseling, instructing, encouraging, or knowingly and intentionally permitting any other person to fail to so respond;
- (9) (i) Participating 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 (ii) counseling, instructing, encouraging, or knowingly and intentionally permitting any student athlete or other individual under or subject to EMPLOYEE's control, authority, or supervision to participate in such activity;
- (10) (i) Furnishing any information or data, other than information or data provided to the general public through press conferences, news releases, and the like, relating in any manner to any intercollegiate sport or any student athlete to any individual whom EMPLOYEE knows (or has constructive knowledge) to be a gambler, bettor, or bookmaker, or an agent of any such person; or (ii) counseling, instructing, or encouraging any student athlete or other individual under EMPLOYEE's control, authority, or supervision to furnish such information or data;
- (11) Using or consuming 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;
- (12) Selling, purchasing, using, or possessing 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;

- (13) Knowingly encouraging or permitting 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;
- (14) (i) Failing to reasonably cooperate in the investigation and enforcement of Governing Athletics Regulations; or (ii) counseling, instructing, or encouraging any other person to fail to cooperate in such investigation and enforcement;
- (15) Subject to any right of administrative appeal permitted or granted to EMPLOYEE by the NCAA or SEC, the making or rendition of a 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 sub-section includes findings or determinations of violations during employment of EMPLOYEE at any other institution of higher education);
or

- (16) Failing to report promptly to the Athletic Director and the Associate Athletic Director for Compliance any material violations of Governing Athletics Regulations involving the Team of which EMPLOYEE has actual knowledge.

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 compensation or sums otherwise due under the terms of this Agreement, and in lieu of any and all other legal remedies or equitable relief as detailed below. In the event of termination by LSU without cause, EMPLOYEE's Base Salary Amount, 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 written notice of termination is given, or on such later date as may be set forth by LSU in the written notice of termination.
- (2) Liquidated damages under this Section 12.B will be the Base Salary Amount and the Supplemental Compensation Amount for the remaining term of this Agreement, including any extended term. A partial year shall be pro rated.
- (3) Liquidated damages under this Section 12.B will be paid in equal monthly installments over a period of time equal to the amount of time then remaining in the term of this Agreement, 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 12.B shall be reduced and extinguished by and to the extent of any compensation EMPLOYEE earns, receives, or is entitled to receive from the termination date until LSU's obligation pursuant to this Section 12.B to EMPLOYEE terminates or ceases to exist. EMPLOYEE shall exercise due diligence and good faith in seeking other athletically-related employment as soon as practicable at a prevailing market salary resulting from arm's length negotiations. In the event EMPLOYEE obtains 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 a contract 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, 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 to 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 all liquidated damages provided for herein are not in any way a donation or a penalty, but rather are a good faith estimate of damages that will be incurred in the event of termination.

C. Termination by EMPLOYEE Without Cause.

- (1) EMPLOYEE shall have the right to terminate this Agreement without cause upon 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 Amount, 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 and EMPLOYEE, shall be the earlier of: (i) the date on which EMPLOYEE provides written notice of termination to LSU; (ii) the date on which EMPLOYEE accepts employment from another employer; or (iii) 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. EMPLOYEE shall be obligated and hereby agrees to provide LSU written notice of termination within twenty-four (24) hours of accepting employment, whether verbally or in writing, with 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.
- (2) Liquidated damages under this Section 12.C shall be (i) fifty 50% percent of all remaining guaranteed Base Salary and Supplemental Compensation due under the Agreement on the termination date if EMPLOYEE accepts employment in a coaching position with another Southeastern Conference basketball program; or (ii) twenty (20%) percent of the remaining guaranteed compensation due under the

contract if hired for a coaching position with a basketball program outside of the Southeastern Conference. 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. EMPLOYEE must notify LSU in writing of the payment option he elects on or before the date the first monthly installment would be due. If EMPLOYEE elects the lump sum option, payment in full shall be due on or before sixty (60) days after the termination date. If EMPLOYEE elects to pay in monthly installments, each installment shall be due on or before the last day of each remaining month in the Agreement.

- (3) The parties have bargained for this liquidated damages provision, giving consideration to the following: This is a contract for personal services. The parties recognize that termination of this Agreement by EMPLOYEE prior to its expiration by lapse of term, including any extended term, would cause LSU to incur administrative, recruiting, and resettlement costs in obtaining a replacement for EMPLOYEE's position with Team, in addition to potentially increased compensation costs and loss of ticket revenues, loss of recruits or current student-athletes, and intangible damages such as damages to LSU and/or the Program's reputation and goodwill, which damages are impossible to determine with any certainty. EMPLOYEE recognizes that his promise to work for LSU until this Agreement's expiration by lapse of term (including any extended term) is an essential consideration of and a material inducement for LSU's decision to employ him in the position described in Section 2, above. EMPLOYEE also recognizes that

LSU is making a highly valuable investment in his continued employment by entering into this Agreement and its investment would be lost or diminished were he to resign or otherwise terminate his employment with LSU prior to the End Date (including any extended term). The payment owed pursuant to this liquidated damages provision is to reimburse LSU for expenses resulting from EMPLOYEE's early resignation or termination, including but not limited to: (i) searching for, recruiting and hiring a replacement for EMPLOYEE, (ii) relocating a replacement employee, and (iii) buying out the previous contract, if applicable, of a replacement employee. EMPLOYEE expressly agrees that the amount of liquidated damages provided for herein is a reasonable approximation of the harm that LSU will incur in the event of such early termination by EMPLOYEE. In addition, the parties expressly agree that all liquidated damages provided for herein are not in any way a donation or a penalty, but rather are a good faith estimate of damages that will be incurred in the event of termination.

- (4) Unless notice of termination under this Section 12 has been given by either party, neither EMPLOYEE nor EMPLOYEE's agent or representative shall, under any circumstances, discuss or negotiate directly or indirectly prospective employment 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 Athletic Director.

D. Suspension or Other Disciplinary Action.

- (1) In lieu of termination for cause, and apart from any rights it may have under Section 12.A, 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 ninety (90) days for any act or omission which would be grounds for termination for cause. Imposition of such sanctions shall be at the discretion of LSU, which shall not be exercised arbitrarily or capriciously.

- (2) 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 Amount, 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 affiliated foundation, subject to its approval. Suspension under this sub-section shall not be considered a waiver of nor shall it 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 or 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.

- E. **Termination by Death or Disability.** In the event of the death of EMPLOYEE or the incapacity of EMPLOYEE to perform the obligations described in this Agreement with or without reasonable accommodation by reason of illness or some other occurrence beyond the control of either party, and such inability to perform has continued or will continue indefinitely or beyond a reasonable period of time, which shall not be less than sixty (60) days, unless otherwise mutually agreed to by the parties in writing, 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 expectation income, 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 set forth in Section 2, above, 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.

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 LSU's employment of EMPLOYEE are and shall remain the sole and confidential property of LSU. Within ten (10) days following 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, mobile communication devices and other items belonging to LSU which were issued to or are in the possession of EMPLOYEE.
14. **Annual Leave and Overtime.** 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 will not earn or accrue annual leave, nor will EMPLOYEE be entitled to any overtime pay or compensatory leave for work in excess of 40 hours in any one week. EMPLOYEE's Base Salary 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.

- A. 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 he will be credited with annual leave pursuant to this Section 14. In the alternative, if not prohibited by the ruling or otherwise disallowed by law, EMPLOYEE may waive his right to annual leave (both retroactively and/or

prospectively) in lieu of making the payments that would otherwise be required under this Section 14.

- B. EMPLOYEE will accrue and use sick leave in accordance with LSU policy.
- C. EMPLOYEE is required to receive authorization from Head Coach of Team (or the Head Coach's designee) prior to being absent from EMPLOYEE's usual duties and responsibilities.

15. **Entire Contract.** This Agreement, including Schedule A, 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 or 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.

16. **Amendments to Contract.** 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. Except where expressly indicated in this Agreement, the written approval of the LSU Board of Supervisors shall be required to amend or waive any terms or conditions set forth herein. EMPLOYEE expressly acknowledges that it would be unreasonable to rely upon any oral representations, or any representations made by anyone other than the particular LSU

representative(s) authorized by this Agreement, that purport to amend or waive any terms of this Agreement.

17. **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.
18. **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.
19. **Sovereign Immunity Not Waived.** 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.
20. **"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, wind or flood or any requirement of law, legislative enactment, or executive order, or an act of God.

21. **Governing Laws.** 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 subject matter and personal jurisdiction over the parties that is domiciled in East Baton Rouge Parish, Louisiana.

THE PARTIES hereto 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: F. King Alexander
F. King Alexander, President Date
Louisiana State University and
Agricultural and Mechanical College

Robert Kirby 6-10-16
Robert Kirby Date

RECOMMENDED:

Joseph Alleva
Joseph Alleva, Vice Chancellor and Athletic Director
Louisiana State University and
Agricultural and Mechanical College

Daniel T. Layzell
Daniel T. Layzell, Vice President for Finance and Administration/CFO
Louisiana State University and
Agricultural and Mechanical College

Schedule A – Supplemental Terms for Robert Kirby

This Schedule A supplements and further defines the provisions of the Employment Agreement dated April 18, 2016, entered into between LSU and Robert Kirby, 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. Subject to the terms and conditions set forth in Section 7.A of 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.
2. Section 8 of the Agreement is supplemented to add the following subsections after the end of subsection C:
 - D. One-time reimbursement of household moving expenses in accordance with LSU policy and state law;
 - E. One payment of \$5,000 to be used for miscellaneous relocation expenses not reimbursed in accordance with the provisions of subsection D above; and
 - F. Temporary housing at a site chosen by the Athletic Director for a period not to exceed 60 days.
3. All other provisions of the Agreement remain unchanged.

Approved:

By: F. King Alexander
F. King Alexander, President
Louisiana State University and
Agricultural and Mechanical College

Robert Kirby
Robert Kirby

RECOMMENDED:

Joseph Alleva
Joseph Alleva, Vice Chancellor and Athletic Director
Louisiana State University and
Agricultural and Mechanical College

Daniel T. Layzell
Daniel T. Layzell, Vice President for Finance and Administration/CFO
Louisiana State University and
Agricultural and Mechanical College