

**BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM**

ATHLETIC COMMITTEE

June 23, 2022

Item G.3. **McNeese State University's** request for approval of a contract with Ms. Gabrielle Moore, Head Women's Tennis Coach, effective July 1, 2022.

EXECUTIVE SUMMARY

Under this three-year agreement, through June 30, 2025, Coach will earn \$48,000 annually. University may permit additional (non-recurring) supplemental pay to Coach for team participation in post-season events in accordance and as stipulated by the University policy titled Bonuses for Specific and Extraordinary Achievement and as allowed by NCAA bylaws. During the term, Coach shall have the opportunity to earn Bonus Compensation paid for by the McNeese State University Foundation as follows:

- Tennis Incentives:
 - \$1,000 – Regular Season Championship
 - \$1,000 – Conference Tournament Championship
 - \$500 – Conference Coach of The Year
- Academic Incentives:
 - \$1,000 – 985 or higher single year APR

All Bonus Compensation for Tennis Incentives shall be paid on the last University payroll date of June, in the same calendar year following the events for which the Bonus Compensation for Tennis Incentives is earned.

If the University terminates the agreement without cause, Coach shall be entitled to an amount equal to all remaining compensation, including but not limited to, Base Salary (including the University Foundation Premium) and Benefits that would have been due to Coach under this agreement had Coach remained employed by University from the date of termination through the end of the term. The parties agree that any amounts due beyond June 30 of the fiscal year when termination occurs will be funded solely by the McNeese State University Foundation athletic related accounts.

In the event Coach terminates this contract without cause to accept a position as a head or assistant coach at a different University or Community College or other educational organization or any professional athletic organization, Coach or third party shall pay University the following amounts as liquidated damages:

- If Coach terminates the contract between July 1, 2022 and June 30, 2025, University shall be entitled to receive \$10,000 from Coach or from third party.

RECOMMENDATION

It is recommended that the following resolution be adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves McNeese State University's request for approval of a contract with Ms. Gabrielle Moore, Head Women's Tennis Coach, effective July 1, 2022.

**HEAD WOMEN'S TENNIS COACH
CONTRACT OF EMPLOYMENT**

STATE OF LOUISIANA

PARISH OF CALCASIEU

This contract is made and entered into between McNeese State University through its President, Dr. Daryl V. Burckel, McNeese State University Foundation represented by Dr. Wade Rousse and **GABRIELLE MOORE** (hereinafter referred to as "COACH"). This agreement is subject to the approval of the Board of Supervisors of the University of Louisiana System, the management board for McNeese State University (the "Board"). Therefore, the terms and conditions set forth in this agreement should not be considered a valid contract until approval is provided by the Board.

1.0 Employment

- 1.1 McNeese State University (the "University") does hereby employ COACH as **Head Women's Tennis Coach** and COACH does hereby accept employment and agrees to perform all of the services pertaining to Women's Tennis which are required of COACH, as well as, other services as may be contemplated hereunder, all as prescribed by the University through its President and Athletics Director.
- 1.2 COACH shall be responsible, and shall report, directly to the University's Director of Athletics (the "Director") and shall confer with the Director or the Director's designee on all administrative and technical matters. COACH shall also be under the general supervision of McNeese State University's President.
- 1.3 COACH shall manage and supervise the team and shall perform such other duties in McNeese State University's athletic program as the Director may assign.
- 1.4 COACH agrees to represent McNeese State University positively in public and private forums and shall not engage in conduct that reflects adversely on McNeese State University or its athletic programs.

2.0 Term

- 2.1 The term of this contract is for a fixed period of thirty-six (36) months, commencing on the **1st day of July 2022**, and terminating without further notice to COACH on the **30th day of June 2025**.
- 2.2 This contract is renewable solely upon an offer from McNeese State University and an acceptance by COACH, both of which must be in writing, signed by the parties, and approved by the Board. This contract in no way grants COACH a claim to tenure in employment, nor shall COACH'S service pursuant to this contract count in any way toward tenure at McNeese State University.
- 2.3 This contract may be amended or extended at any time during the period of this contract by mutual agreement of all parties.

3.0 Compensation

- 3.1 In consideration of COACH'S services and satisfactory performance, McNeese State University shall pay COACH a base annual (12-month) salary in the amount below:
\$48,000
- 3.2 The University does not guarantee amounts due under this contract beyond the current year of performance. Should the contract be terminated for any reason, amounts due shall be determined in accordance with section 13 of this contract.
- 3.3 The University may permit additional (non-recurring) supplemental pay to COACH for specific and extraordinary achievement in accordance and as stipulated by the University policy as allowed by NCAA Division I bylaw 11.3.2.3.
- 3.4 In this appointment, in accordance with ULS Policy Number FS.111.XXI.-1, COACH will not accrue Compensatory Leave and COACH will be exempt from taking leave when the University is officially closed at holiday breaks.
- 3.5 COACH may be eligible for cost of living or merit pay increases in addition to the stated base salary. COACH is also subject to pay adjustment according to economic circumstances that affect all employees in the unclassified state service.

- 3.6 During the Term, COACH shall have the opportunity to earn Bonus Compensation, paid for by the McNeese State University Foundation.

Tennis Incentives:

\$1,000 – Regular Season Championship

\$1,000 – Conference Tournament Championship

\$500 – Conference Coach of The Year

Academic Incentives:

\$1,000 – 985 or higher single year APR

All Bonus Compensation for Tennis Incentives shall be paid on the last University payroll date of June, in the same calendar year following the events for which the Bonus Compensation for Tennis Incentives is earned.

All Bonus Compensation for Academic Incentives shall be paid on the last University payroll date of June of the following Calendar year.

4.0 Contracts for Broadcast and/or Telecast

- 4.1 COACH may host a radio or television show to promote the McNeese State University Tennis Team, with approval from the Athletic Director and Sport Supervisor.
- 4.2 It is specifically agreed that in the filming or producing of such shows, COACH acts for himself/herself in his/her private capacity and not as an agent or employee of the University and that this contract constitutes merely a license to use the property and facilities subject to the conditions hereafter stated:
- (a) The COACH agrees to pay the University all out-of-pocket costs incurred by the University in the filming or production of the show.
 - (b) Long distance phone calls, University supplies, printing, postage, University vehicles, etc., will be utilized on a complete University cost recovery basis.
 - (c) Complete records will be maintained regarding income and expenditures associated with said show and available for verification by University auditors.
 - (d) The COACH agrees to protect, indemnify and save harmless the University from and against any and all expenses, damages, claims, suits, actions, judgments, and costs whatsoever, including reasonable attorney's fees, arising out of or in any way connected with any claim or action for property loss, personal injury or death resulting from said show.
 - (e) The COACH is an independent contractor during said radio or television activities and, as a University employee, will undertake to observe all general rules and policies of the University. This paragraph is designated to assure that nothing be done which is inconsistent with the maintenance of an educational campus environment and the character of a State institution which makes its facilities open to persons without discrimination.
 - (f) The Director of Intercollegiate Athletics will be the administrative officer of the University who will be advised by the COACH of any problems or questions which may arise out of the radio or television show.
- 4.3 Any compensation received by COACH for the participation in the radio or television show shall be solely for the benefit of COACH and not the University, except for reimbursements as otherwise provided for herein and in accordance with University policy relating to camps or clinics conducted by Athletic Department personnel.

5.0 Camps and Clinics

- 5.1 COACH may operate a camp for the teaching of athletic pursuits on the University property to the end of better utilization of the facilities and with suitable compensation paid to the University for the use of such facilities. The use of University facilities will be determined by the availability of those facilities as established by the University. COACH must adhere to the Policy for Use of Campus Facilities.
- 5.2 It is specifically agreed that in the operation of such camps, COACH acts for himself/herself in his/her private capacity and not as an agent or employee of the University and that this contract constitutes merely a license to use the property and facilities subject to the conditions hereafter stated:
- (a) Special setups or changes in original setup of facilities will be taken care of by the COACH with no cost to the University.
 - (b) The COACH agrees to pay the University all outofpocket costs incurred by the University in making the facilities available for the camps.
 - (c) The COACH agrees to secure a policy of insurance in a company approved by the University's Risk Management Office under which the Board of Supervisors of the University of Louisiana System, the University, its agents and servants, are named as the insured (or as an additional insured) which provides:

1. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of Louisiana and Employers Liability coverage if COACH hires any employees to work at such camps or clinics;
 2. Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage;
 3. Other Insurance Requirements: provided in the Policy for Use of Campus Facilities.
- (d) Annual leave must be requested to cover the dates of the camp operation for all University personnel involved.
 - (e) Complete records will be maintained regarding income and expenditures associated with said camp and available for verification by University auditors.
 - (f) The COACH agrees to protect, indemnify and save harmless the University from and against any and all expenses, damages, claims, suits, actions, judgments, and costs whatsoever, including reasonable attorney's fees, arising out of or in any way connected with any claim or action for property loss, personal injury or death during the operation of said camp activities.
 - (g) The COACH is an independent contractor during said camp activities and, as such, is licensed to use certain facilities of the University. The COACH, as a University employee, will undertake to observe and require campers and its staff to conform to the general rules applicable to the use of University facilities. This paragraph is designated to assure that nothing be done which is inconsistent with the maintenance of an educational campus environment and the character of a State institution which makes its facilities open to persons without discrimination.
 - (h) The Director of Intercollegiate Athletics will be the administrative officer of the University who will be advised by the COACH of any problems or questions which may arise out of the operation of summer camps.

6.0 Courtesy / Leased Vehicle Benefit

- 6.1 The COACH may receive a courtesy/leased vehicle if an arrangement can be made through a local dealership. The benefit shall not be considered earned income for the purpose of computation of retirement benefits, and COACH shall be responsible for all applicable taxes. The University has no obligation to furnish a vehicle to COACH. The arrangements for a vehicle may be made by either the Athletics Director or COACH.
- 6.2 Insurance on any courtesy / leased vehicle must be paid for by the dealership, the COACH, or some other arrangement agreed to by the Athletics Director.
- 6.3 The COACH may be reimbursed for miles driving the courtesy / leased vehicle on school-sponsored business as authorized and approved following the University of Louisiana System Athletic Travel Policy No. IA-V.(2a).

7.0 Employee Benefits

- 7.1 The COACH shall participate in the mandatory employee benefit plans and be eligible for optional employee plans as would any other University unclassified employee. Such benefit will be based upon COACH's base annual salary as provided by University.

8.0 Outside Income and/or Benefits

- 8.1 With approval from the University President and in accordance with University and Board policies, COACH shall be authorized to earn other revenue while employed by the University, but such activities are independent of his/her University employment, and the University shall have no responsibility for any claims arising there from. COACH shall be entitled to retain revenue generated from his/her operation of **Women's Tennis** camps and/or **Women's Tennis** clinics in accordance with University policy relating to camps or clinics conducted by Athletic Department personnel. All outside income will be subject to approval in accordance with the Board of Supervisors for the University of Louisiana System policies (Adopted 2/24/95). Coach shall report annually in writing to President all athletically-related income, revenue, and/or benefits Coach receives from sources outside University, and Coach shall abide by all NCAA regulations regarding outside compensation. Examples of outside income include, without limitation, income or benefits from (1) Endorsement or consultation contracts with apparel companies, equipment manufacturers, or television or radio programs; (2) ownership, control, or management of a foundation, organization, or other entity; and (3) participation in athletic camps outside of those offered by the University. All outside compensation must also comply with the Louisiana Code of Governmental Ethics.
- 8.2 Notwithstanding the above or anything else herein to the contrary, if COACH receives athletically related income or benefits totaling more than \$600 per year from any source or combination of sources other than Employer, COACH must report all such income or benefits to the PRESIDENT in writing at least annually. Examples include, without limitation, income or benefits from (1) endorsement or consultation contracts with apparel companies, equipment manufacturers, or television or radio programs; (2) ownership, control, or management of a foundation, organization, or other entity; and (3) participation in athletic camps outside of those offered by Employer (see Bylaw 11.2.2.).

9.0 Apparel, Equipment Endorsements

- 9.1 The University shall pay to COACH any funds for which he/she is responsible in obtaining for the University through his/her endorsements of show, apparel, or equipment manufacturers. The benefits shall not be considered earned income for the purpose of computation of retirement benefits, and COACH shall be responsible for all applicable taxes.

10.0 Compliance with NCAA and Conference Rules and Regulations, and University Policies and Procedures

- 10.1 COACH shall abide by the NCAA and Conference rules and regulations and the policies and procedures of the University. Pursuant to NCAA Bylaw 11.2.1, Coach understands that Coach has an affirmative obligation to cooperate fully in the infractions process, including the investigation and adjudication of a case (see NCAA Bylaw 19.2.3). If found in violation of NCAA regulations, COACH shall be subject to disciplinary or corrective action as set forth in the NCAA enforcement procedures (NCAA Constitution 11.2.1). If found in violation of Conference rules and regulations, or University policies and procedures, COACH shall be subject to disciplinary or corrective action as set forth by Conference rules and regulations or University policies and procedures. COACH may be suspended for a period of time, without pay, or the employment of COACH may be terminated if COACH is found to be involved in deliberate and serious, or repetitive, violations of NCAA regulations (NCAA Constitution 11.2.1), Conference rules and regulations, or University policies and procedures.
- 10.2 COACH shall also abide by the State of Louisiana Code of Government Ethics, University Policy and Procedures, and the policies and procedures of the University of Louisiana System. In public appearances he/she shall at all times conduct himself/herself in a manner that befits a University official and shall always attempt to create goodwill and a good image for the University.
- 10.3 COACH shall promote an atmosphere for compliance within the program supervised by the COACH and shall monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the COACH (NCAA Division I Bylaw 11.1.2.1 Responsibility of Head Coach).
- 10.4 COACH and Employer acknowledge and agree that (1) COACH has an affirmative obligation to cooperate fully in the NCAA infractions process, including the investigation and adjudication of a case (see NCAA Bylaw 19.2.3 for examples of full cooperation), and (2) an individual who is found in violation of NCAA regulations shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA infractions process (see NCAA Bylaw 19), including suspension without pay or termination of employment

11.0 Compliance with Local, State and Federal Laws

- 11.1 COACH shall abide by the laws of the local, state and federal governments. COACH may be suspended for a period of time, without pay, or the employment of COACH may be terminated if COACH is found to be involved in violation or gross disregard of local, state or federal laws.

12.0 Women's Tennis Staff and Scheduling

- 12.1 Adhering to the University hiring policies, COACH shall have the authority to select associate / assistant coaches upon approval by the Athletics Director, the President, and the Board of Supervisors for the University of Louisiana System. Associate / assistant coaches shall be appointed as University unclassified personnel.
- 12.2 All scheduling must be reviewed and have final approval from the Director of Athletics and/or Deputy AD for Finance.

13.0 Termination

- 13.1 Either party may terminate this agreement without just cause prior to the expiration of its terms by giving five (5) days written notice to the other party. Prior to termination of COACH, the University will obtain approval from the President of the University of Louisiana System.
- 13.2 COACH may be terminated by the Athletic Director at any time for violation or gross disregard of state or federal laws (excluding minor offenses or those punishable by citation), or deliberate and serious violations of NCAA, conference, or university rules, regulations, policies or procedures, or engaging in conduct, which is clearly contrary to the character and responsibilities of a person occupying the position of **Head Women's Tennis Coach** or which substantially negatively or substantially adversely affects the reputation of the University or McNeese State University athletics or for any violation of this contract; provided, however, prior to termination, University shall meet with COACH to notify him of alleged offending behavior under this clause, following which COACH will have fourteen (14) days to cure alleged offending behavior or violation. University shall provide a good faith opportunity for COACH to cure alleged behavior or violation. In the event of such termination, COACH will receive thirty (30) calendar days notice of termination or thirty (30) calendar day's regular pay in lieu of such notice. All compensation, including salary, benefits and other remuneration incidental to employment, cease upon termination. The judgment as to whether the conduct of COACH constitutes cause under this provision shall not be exercised arbitrarily, capriciously or in a discriminatory manner by the University. No damages or other amounts than are specified in this section 13.2 shall be due if termination is for just cause.
- 13.3 The University may at any time, and in its sole discretion, terminate the employment of COACH for any reason.

(a) In the event the University terminates the contract, without cause, University shall pay to Coach, within ninety (90) days and on a date mutually agreed upon by University and COACH, an amount equal to all remaining compensation, including, but not limited to Base Salary (including the University Foundation Premium) and Benefits that would have

been due to COACH under this Agreement had COACH remained employed by University from the date of termination through the end of the Term. Any lump sum payments shall be paid in lump sum on the date the payment would have been due and payable had the COACH remained employed until the expiration of the Term. In addition, University will pay to COACH, within thirty (30) days in which University exercises its right to Terminate this Agreement without cause, any compensation or Bonus Compensation actually earned and accrued but unpaid, as well as all expenses incurred in the performance of his duties but not yet reimbursed or otherwise received by the date of the termination, less all applicable taxes and other withholdings. The parties agree that any amounts due beyond the current fiscal year shall be funded solely by the McNeese State University Foundation athletic related accounts.

- 13.4 In the event COACH terminates this Contract without cause to accept a position as a head or assistant tennis coach at a different University or Community College or other educational organization or any professional athletic organization, COACH or third party shall pay University the following amounts which shall be deemed as agreed upon liquidated damages owed to McNeese State University because the costs the University will incur to search for and hire a new tennis head coach are difficult to determine. COACH shall have no further liability under this Agreement upon University's full reimbursement by a third party for the liquidated damages. Such liquidated damages shall be received by University within 90 days of termination. The amount of such reimbursements will be calculated as follows:

- If COACH terminates the contract between July 1, 2022 and June 30, 2025, University shall be entitled to receive \$10,000, from COACH or from third party.

- 13.5 COACH shall promptly report to the University's Title IX Coordinator or Deputy Title IX Coordinator any Known Violation(s) of the University or the University of Louisiana System's Sexual Misconduct Policy (including, but not limited to sexual harassment, sexual assault, sexual exploitation, domestic violence and stalking) that involve any student, faculty, or staff or that is in connection with a University sponsored activity or event. Any emergency situation shall be immediately reported to 911 and/or law enforcement. For purposes of this paragraph, a "Known Violation" shall mean a violation or an allegation of a violation of Title IX and/or the University's or the University of Louisiana System's Sexual Misconduct Policy that COACH is aware of or has reasonable cause to believe is taking place or may have taken place.

The University may terminate this Agreement for cause pursuant to the for-cause-termination provisions of this Agreement for any determined violation by COACH for failure to report a Known Violation of: Title IX of the Education Amendments of 1972; the University's Sexual Misconduct Policy; or the University of Louisiana System's Sexual Misconduct Policy.

- 13.6 Should COACH's contract be terminated for just cause, the University shall not be liable for any payments or benefits specified in this contract past the effective date of termination. Just cause for termination shall include, but not be limited to:
- (a) violation or gross disregard of local, state, or federal laws, NCAA or Conference rules or regulations, or University policies or procedures, as well as
 - (b) engaging in conduct, as solely determined by the University, which is clearly contrary to the character and responsibilities of a person occupying the position of Head Women's Tennis Coach or which negatively or adversely affects the reputation of the University or McNeese State Athletics in any way.

14.0 Fundraising

- 14.1 All fundraising activities by COACH must be pre-approved by the Director, or his designee, and coordinated with the Vice President for University Advancement to ensure that such activities are in line with the mission of the department and in compliance with University policies.

15.0 Severability

- 15.1 If any provision of the Contract shall be deemed invalid or unenforceable, either in whole or in part, this Contract 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.

16.0 Force Majeure

- 16.1 Neither party shall be considered in default performance of his or its obligations under this Contract 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 requirements of law, or an act of God.

17.0 Previous Agreements

- 17.1 This employment contract shall supersede and replace any and all previous employment contracts that may have been entered between the parties to this agreement.

IN WITNESS WHEREOF, the parties have executed this act in the presence of the undersigned competent witness.

WITNESSES:

Jessica Pousson

Jessica Pousson

Jessica Pousson

Del Kingrey

Gabrielle Moore Date 5/20/2022
Gabrielle Moore, Head Women's Tennis Coach
McNeese State University

Heath Schroyer Date 5/18/22
Heath Schroyer, Director of Athletics
McNeese State University

Wade Rousse Date 5/24/22
Dr. Wade Rousse, Vice President
McNeese Foundation

Dr. Daryl V. Burckel Date 5.24.22
Dr. Daryl V. Burckel, President
McNeese State University

Approved by the Board of Supervisors of the University of Louisiana System at its meeting on the _____ day of _____, 20_____.

SECRETARY – Board of Supervisors

**BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM**

ATHLETIC COMMITTEE

June 23, 2022

Item G.4. **Nicholls State University's** request for approval of a contract extension with Mrs. Mary "DoBee" Plaisance, Head Women's Basketball Coach, effective May 18, 2022.

EXECUTIVE SUMMARY

The contract extension is effective beginning May 18, 2022 through April 30, 2023. All terms and agreements of the original contract dated October 25, 2018, remain intact with the extended termination date of April 30, 2023.

RECOMMENDATION

It is recommended that the following resolution be adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves Nicholls State University's request for approval of a contract extension with Mrs. Mary "DoBee" Plaisance, Head Women's Basketball Coach, effective May 18, 2022.



Nicholls State University

Office of the President

P.O. Box 2001 | Thibodaux, LA 70310 | 985.448.4003 | 985.448.4920 [F]

G.4.

June 2, 2022

Via Electronic Transmittal Only

Dr. Jim Henderson
University of Louisiana System President
1201 North Third Street, Suite 7-300
Baton Rouge, LA 70802

Dear Dr. Henderson:

Nicholls State University requests consideration and approval of the following to be placed on the agenda for the June 23, 2022 meeting of the Board of Supervisors for the University of Louisiana System:

Amendment to Employment Contract for Mary “DoBee” Plaisance.

Thank you for your assistance in this matter.

Sincerely,

Jay Clune
President

JC/apf

Enclosures

c: Dr. Sue Westbrook, Provost/Vice President for Academic Affairs
Mr. Terry Braud, Vice President for Finance & Administration
Mr. Jonathan Terrell, Athletic Director
Dr. Michele Caruso, Vice President for Student Affairs
Dr. Todd Keller, Vice Provost
Mr. Steven Kenney, Assistant Vice President for Human Resources, CDIO & Title IX Coordinator
Ms. Paulette Mayon, Internal Auditor
Ms. Claire Bourgeois, Faculty Senate President
Ms. Renee Hicks, Assistant Vice President of Institutional Effectiveness Access & Success
Ms. Monique Crochet, Executive Director of External Affairs

AMENDMENT TO
CONTRACT OF EMPLOYMENT
HEAD WOMEN'S BASKETBALL COACH

STATE OF LOUISIANA
PARISH OF LAFOURCHE

This Amendment ("Amendment") is made and entered into on the 18th day of May, 2022 between Nicholls State University through its President, Dr. Jay Clune and Mrs. Mary "DoBee" Plaisance (hereinafter referred to as "COACH"). This Amendment is subject to the approval of the Board of Supervisors of the University of Louisiana System ("Board"), the management board for Nicholls State University, and therefore the terms and condition set forth in this Amendment should not be considered a valid contract until approval is provided by the Board.

The parties entered into the original contract agreement ("Agreement") on October 25, 2018 with a set maturity date of April 30, 2022. The parties hereto, by their signatures affixed hereto below, agree that the original contract agreement is hereby modified, amended, and changed, as written below:

2.0 Term

2.1 The term of the Agreement is amended and extended to terminate on April 30, 2023, unless extended under the terms of the Agreement.

12.0 Title IX and Sexual Misconduct Policy Reporting and Compliance

12.1 COACH shall promptly report to the University's Title IX Coordinator or Deputy Title IX Coordinator any Known Violation(s) (including, but not limited to sexual harassment, sexual assault, sexual exploitation, domestic violence, and stalking) that involve any student, faculty, or staff or that is in connection with a University sponsored activity or event. Any emergency situation shall be immediately reported to 911 and/or law enforcement. For purposes of this paragraph, a

“Known Violation” shall mean a violation or an allegation of a violation of Title IX and/or the University’s or the University of Louisiana System’s Sexual Misconduct Policy that COACH is aware of or has reasonable cause to believe is taking place or may have taken place.

12.2 The University may terminate this Amendment and Agreement for cause pursuant to the for-cause-termination provisions of the Agreement for any determined violation by COACH for failure to report a Known Violation of:

1. Title IX of the Education Amendment of 1972; or
2. The University’s Sexual Misconduct Policy; or
3. The University of Louisiana System’s Sexual Misconduct Policy

13.0 Notices

13.1 Any notice or other communication which is required to be given under this Amendment and/or the Agreement shall be in writing and shall be deemed to have been given on the earlier of the day actually received or the close of business on the fifth business day next following the day when deposited in the U.S. Mail, postage prepaid, registered or certified, addressed to the party at the address set forth after the name below or such other address as may be given by such party in writing.

If to COACH:


If to the University: Nicholls State University
P.O. Box 2070
Thibodaux, LA 70310
Attention: President

If to the Colonel Athletic Association:
Colonel Athletic Association
P.O. Box 2070
Thibodaux, LA 70310
Attention: Executive Director


All terms and conditions of the original Agreement shall remain in full force and effect except as otherwise modified and amended by the new terms and conditions set forth in this Amendment.

Thus Agreed To, by and between the herein named parties, on this 18 day of ^{Mary (DP)}~~April~~, ^(DP)~~2022~~.


NICHOLLS STATE UNIVERSITY


Dr. Jay Clune
President, Nicholls State University

COACH: Mary "DoBee" Plaisance


Mrs. Mary "DoBee" Plaisance
Nicholls State University Head Women's
Basketball Coach

COLONEL ATHLETIC ASSOCIATION


Mr. Jonathan Terrell
Athletic Director, Nicholls State University

Approved by the Board of Supervisors of the University of Louisiana System at its meeting on the ____ day of _____, 2022.

Secretary – Board of Supervisors

**BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM**

ATHLETIC COMMITTEE

June 23, 2022

Item G.5. **Nicholls State University's** request for approval of a contract with Mr. James Austin Claunch, Head Men's Basketball Coach, effective July 1, 2022.

EXECUTIVE SUMMARY

Under the proposed agreement, effective through June 30, 2026, Coach's annual salary is \$155,800 per year paid by the University and the Colonel Athletic Association. The Colonel Athletic Association, subject to the terms and conditions of this agreement, will pay Coach a vehicle allowance of \$4,200 annually. During the time of employment, Coach will have the opportunity to receive the following earned salary supplements/incentives, funded by the Colonel Athletic Association:

- \$5,000 – if team wins conference regular season championship;
- \$10,000 – if team wins Southland Conference Men's Basketball Tournament Championship (in a year where Coach wins both regular season and tournament championship, only the tournament championship incentive would be applicable);
- \$2,500 – if Southland Conference Coach of the Year;
- \$5,000 – NCAA Tournament At Large Selection;
- \$5,000 – per victory in the NCAA Tournament;
- \$2,500 – for National Invitation Tournament appearance;
- \$1,000 – per victory in the NIT;
- \$1,500 – CIT or CBI Tournament Appearance;
- \$1,500 – 20-win season;
- \$5,000 – Per victory against a guarantee game opponent (only applies if Coach secures at least \$450,000 in guarantee game revenues, in accordance with Section 12.1 of this agreement);
- \$5,000 – Per victory against a team that is ranked in the top 25 either in the AP or Coaches National Poll at the time the game is played (does not apply if opponent is a guarantee game opponent);
- \$500 – Any contract year in which the men's basketball team's cumulative GPA is 3.0 or greater;
- \$500 – Any contract in year in which the men's basketball team's GSR (graduation success rate) is 70% or above;
- \$1,000 – Any contract year in which the men's basketball team's APR (academic performance rate) is 980 or above.

In the event University terminates the contract without cause, Coach is entitled to \$320,000 if terminated without cause during Years 1 and 2 of the contract, and the remaining base salary that he would have earned in Years 3 and 4 of the contract. Amounts payable for the year that come due during the current fiscal year ending June 30 shall be paid by the University. The remaining amounts payable that come due beyond the current fiscal year shall be solely funded by the Colonel Athletic Association, subject to the terms and conditions of this agreement.

If Coach terminates this agreement without cause to become employed as a basketball coach or staff member of any rank or standing with another institution, Coach would be liable to the University for liquidated damages of \$80,000.

RECOMMENDATION

It is recommended that the following resolution be adopted:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the University of Louisiana System hereby approves Nicholls State University's request for approval of a contract with Mr. James Austin Claunch, Head Men's Basketball Coach, effective July 1, 2022.



Nicholls State University

Office of the President

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G.5.

June 2, 2022

Via Electronic Transmittal Only

Dr. Jim Henderson
University of Louisiana System President
1201 North Third Street, Suite 7-300
Baton Rouge, LA 70802

Dear Dr. Henderson:

Nicholls State University requests consideration and approval of the following to be placed on the agenda for the June 23, 2022 meeting of the Board of Supervisors for the University of Louisiana System:

Employment Contract for James Austin Claunch.

Thank you for your assistance in this matter.

Sincerely,

Jay Clune
President

JC/apf

Enclosures

c: Dr. Sue Westbrook, Provost/Vice President for Academic Affairs
Mr. Terry Braud, Vice President for Finance & Administration
Mr. Jonathan Terrell, Athletic Director
Dr. Michele Caruso, Vice President for Student Affairs
Dr. Todd Keller, Vice Provost
Mr. Steven Kenney, Assistant Vice President for Human Resources, CDIO & Title IX Coordinator
Ms. Paulette Mayon, Internal Auditor
Ms. Claire Bourgeois, Faculty Senate President
Ms. Renee Hicks, Assistant Vice President of Institutional Effectiveness Access & Success
Ms. Monique Crochet, Executive Director of External Affairs

**CONTRACT OF EMPLOYMENT
HEAD MEN'S BASKETBALL COACH**

STATE OF LOUISIANA

PARISH OF LAFOURCHE

This "Agreement" is made and entered into on the 1st day of July 2022, between Nicholls State University ("University") through its President, Dr. John Clune, Jr., and Mr. James Austin Claunch (hereinafter referred to as "COACH"), and replaces the Contract of Employment dated October 28, 2020, which was previously executed between the parties and approved. This agreement is subject to the approval of the Board of Supervisors of the University of Louisiana System (the "Board"), the management board for Nicholls State University, and therefore the terms and conditions set forth in this Agreement should not be considered a valid contract until approval is provided by the Board.

1.0 Employment

- 1.1 University does hereby employ COACH as head men's basketball coach and COACH does hereby accept employment and agrees to perform all of the services pertaining to basketball (athletic program), which are required of COACH, as well as, other services as may be contemplated hereunder, all as prescribed by the University through its President and Athletics Director.
- 1.2 COACH shall be responsible, and shall report, directly to Nicholls State University's Director of Athletics (the "Director") and shall confer with the Director or the Director's designee on all administrative and technical matters.

COACH shall also be under the general supervision of the Nicholls State University President.

- 1.3 COACH shall manage and supervise the team and shall perform such other duties related to the men's basketball program and University's athletic program as the Director may reasonably assign (but in no event shall such other duties constitute a reassignment to another position at Nicholls State University).
- 1.4 COACH agrees to represent University positively in public and private forums. In public appearances COACH shall at all times conduct himself in a manner that befits a University official and shall always attempt to create goodwill and a good image for the University. COACH shall not engage in conduct that reflects adversely on the University or its athletic programs.
- 1.5 Due to the nature of the position, the Board of Supervisors prohibits the earning of compensatory time. In lieu of compensatory time, COACH will be exempted from having to take leave when the university is officially closed.

2.0 Term

- 2.1 The "Term" of this Agreement is for a fixed period commencing on the 1st day of July 2022, and terminating without further notice to COACH on the 30thth day of June 2026, unless extended under the terms of this Agreement.
- 2.2 This Agreement is renewable solely upon an offer from the University's President and an acceptance by COACH, both of which must be in writing, signed by the parties, and approved by the Board. This Agreement in no way

grants COACH a claim to tenure in employment, nor shall COACH'S service pursuant to this Agreement count in any way toward tenure at University.

- 2.3** This Agreement may be amended or extended at any time during the Term of this Agreement by mutual signed agreement of both parties, and approved by the Board.

3.0 Compensation

- 3.1** In consideration of COACH'S services and satisfactory performance of this Agreement, the University shall pay COACH an annual base salary of One Hundred Fifty-Five Thousand Eight Hundred Dollars (\$155,800.00) per year for the Term of this agreement, on a bi-weekly basis, as well as all related benefits, subject to applicable taxes. COACH's annual base salary shall be funded as follows: the sum of One Hundred Forty Thousand Eight Hundred Dollars (\$140,800.00) shall be funded directly by the University and the sum of Fifteen Thousand Dollars (\$15,000.00) shall be funded by the Colonel Athletic Association (CAA) and paid through the University to COACH. Since the CAA is not a party to this Agreement, it is understood and agreed that if at any time during the Term CAA fails to make its contribution towards COACH's salary as provided above, in no way shall that act relieve University from its obligation to compensate COACH an annual salary equal to One Hundred Fifty-Five Thousand Eight Hundred Dollars (\$155,800.00) per year during a fiscal year.
- 3.2** COACH may be eligible for annual cost of living or merit pay increases in addition to the stated base salary. The COACH also may be subject to pay

adjustments according to economic circumstances that affect all employees of the University in the unclassified staff service.

3.3 The CAA will use best efforts to secure the use of a vehicle for COACH, or the CAA will pay COACH a vehicle allowance of Four Thousand Two Hundred Dollars (\$4,200.00) annually, in monthly installments of Three Hundred Fifty Dollars (\$350.00) each month throughout the Term of this Agreement. Since the CAA is not a party to this Agreement, it is understood and agreed that if at any time during the Term CAA fails to make its contribution towards COACH's car allowance as provided above, in no way shall that act relieve University from its obligation to provide to COACH the vehicle or car allowance set forth above.

3.4 The University does not guarantee amounts due under this contract beyond the current year of performance. Should the contract be terminated for any reason, amounts due shall be determined in accordance with Paragraph 10.

4.0 Incentive Compensation

4.1 During the Term of this Agreement, COACH will have the opportunity to receive the following earned salary supplements/incentives. These salary supplements / incentives are cumulative, unless otherwise stated, and shall be subject to all mandatory withholdings and are inclusive of employer matches for retirement and Medicare payments. The supplements shall be funded by the Colonel Athletic Association (CAA) and paid through University payroll (since the CAA is not a party to this Agreement, it is understood and agreed

that if at any time during the Term CAA fails to fund any earned incentives as set forth below, University agrees to fund any of said incentives).

- (a) \$5,000 – Regular Season Conference Championship
- (b) \$10,000 – Southland Conference Men's Basketball Tournament Championship (in a year where COACH wins regular season and tournament championship, only the tournament championship incentive would apply)
- (c) \$2,500 – Conference "Coach of the Year" honors
- (d) \$5,000 – NCAA Tournament At Large Selection
- (e) \$5,000 - Per victory in the NCAA Tournament
- (f) \$2,500 – National Invitation Tournament appearance
- (g) \$1,000- Per victory in the NIT
- (h) \$1,500 – CIT or CBI Tournament Appearance
- (i) \$1,500 - 20-win season
- (j) \$5,000 – Per victory against a guarantee game opponent (only applies if COACH secures at least Four Hundred Fifty (\$450,000.00) in guarantee game revenues, in accordance with Section 12.1 of this Agreement)
- (k) \$5,000 – Per victory against a team that is ranked in the top 25 either in the AP or Coaches National Poll at the time the game is played (does not apply if opponent is a guarantee game opponent)
- (l) \$500 – Any contract year in which the men's basketball team's cumulative GPA is 3.0 or greater
- (m) \$1,000 – Any contract year in which the men's basketball team's APR (academic performance rate) is 980 or above
- (n) \$500 – Any contract in year in which the men's basketball team's GSR (graduation success rate) is 70% or above

- 4.2 Incentives for Head Coaches: COACH is eligible to participate and receive incentives in addition to and above the incentives in section 4.1 as outlined and according to the terms in the policy "Nicholls State University Athletics Incentives for Head Coaches" as long as said policy remains in existence and is active.

5.0 Camps and Clinics

- 5.1 COACH may operate a camp for the teaching of athletic pursuits on the University property to the end of better utilization of the facilities and with suitable compensation paid to the University for the use of such facilities, but in no event shall said suitable compensation reward University a profit. The use of University facilities will be determined by the availability of those facilities as established by the University. Any monies earned during said camp or camps in excess of compensation paid to the University and all expenses related to the camp or camps shall be fully retained by COACH.

- 5.2 It is specifically agreed that in the operation of any private camp (LLC), COACH acts for himself in his private capacity and not as an agent or employee of the University and that is Agreement constitutes merely a license to use the property and facilities subject to the conditions hereafter stated:

- a) The COACH agrees to secure a policy of insurance in a company approved by the University's Risk Management Office under which the Board of Supervisors of the University of Louisiana System, the University, its agents and servants, are named as the insured (or as an additional insured) which provides:
 - A. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of Louisiana and Employers Liability coverage if COACH hires any employees to work at such camps or clinics.

- B. Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
- b) Annual leave must be requested to cover the dates of the camp operation for all University personnel involved.
- c) Complete records will be maintained regarding income and expenditures associated with said camp and available for verification by University auditors.
- d) The COACH is an independent contractor during said camp activities and, as such, is licensed to use certain facilities of the University. The COACH, as a University employee, will undertake to observe and require campers and its staff to conform to the general rules applicable to the use of University facilities. This paragraph is designated to assure that nothing be done which is inconsistent with the maintenance of an education campus environment and the character of a State institution which makes facilities open to persons without discrimination.
- e) The Director of Intercollegiate Athletics will be the administrative officer of the University who will be advised by the COACH of any problems or questions which may arise out of the operation of summer camps.

6.0 Employee Benefits

- 6.1 COACH shall participate in the mandatory benefit plan and be eligible for optional employee plans as would any other University unclassified employee. Such benefit will be based upon COACH's base annual salary as provided by University.
- 6.2 For each Men's Basketball season, COACH shall be entitled to a total of twelve (12) tickets per home men's basketball game.

7.0 Outside Income-Subject to Compliance with Board Rules

- 7.1 The COACH shall be authorized to earn other revenue while employed by the University. Such activities are independent of his University employment and

the University shall have no responsibility for any claims arising there from. COACH shall be entitled to retain revenue generated from his operation of basketball camps and/or basketball clinics in accordance with University policy relating to camps or clinics conducted by Athletic Department personnel and as noted in section 5.0. All outside employment and income will be subject to approval in accordance with the Board of Supervisors for the University of Louisiana System and University policies.

- 7.2** Notwithstanding the above or anything else herein to the contrary, if COACH receives athletically related income or benefits totaling more than \$600 per year from any source or combination of sources other than the University, COACH must report all such income or benefits to the University President in writing at least annually. Examples include, without limitation, income or benefits from (1) endorsement or consultation contracts with apparel companies, equipment manufacturers, or television or radio programs; (2) ownership, control, or management of a foundation, organization, or other entity; and (3) participation in athletic camps outside of those offered by the University.

8.0 Compliance with NCAA, Conference, University, System, and State Rules

- 8.1** In accordance with NCAA Constitution 11.2.1, COACH shall abide by the rules and regulations of the NCAA, Conference and University rules. If found in violation of NCAA regulations, COACH shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA infractions process, including suspension without pay or termination of employment for significant or repetitive violations; provided, however, COACH's employment may only

be terminated under this Agreement if COACH is found, after the exhaustion of all appeals, to be in violation of a Level I or Level II violation as set forth more specifically below.

8.2 COACH bears the responsibility of using his best efforts to ensure that the men's basketball team maintains at least the minimum APR threshold of 930. Increasing APR scores is a product of recruiting academically ambitious student-athletes. It is the responsibility of COACH to ensure that student-athletes are maintaining their eligibility. Academic achievement and student-athlete graduation are of the highest priority for student-athletes. If the minimum APR threshold is increased by the NCAA during the Term of this Agreement, this paragraph will be amended to reflect the same.

8.3 COACH shall also abide by the State of Louisiana Code of Government Ethics, University Policy and Regulations, and the policies and regulations of the University of Louisiana System. In public appearances he shall at all times conduct himself in a manner that befits a University official and shall always attempt to create goodwill and a positive image for the University.

8.4 COACH and University acknowledge and agree that (1) COACH has an affirmative obligation to cooperate fully in the NCAA infractions process, including the investigation and adjudication of a case (see NCAA Bylaw 19.2.3 for examples of full cooperation), and (2) an individual who is found in violation of NCAA regulations shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA infractions process (see NCAA Bylaw 19), including suspension without pay or termination of employment; provided, however, COACH's employment may only be terminated under this Agreement

if COACH is found, after the exhaustion of all appeals, to be in violation of a Level I or Level II violation as set forth more specifically below.

9.0 Men's Basketball Staff

- 9.1** COACH shall have the authority to select unclassified men's basketball personnel upon authorization by the Athletic Director and approval by the Board of Supervisors for the University of Louisiana System following the University hiring policies.
- 9.2** COACH is expected to supervise the men's basketball staff in compliance with NCAA, Conference and University rules and regulations. Further as described in NCAA Constitution 11.1.1.1, Responsibility of Head Coach., COACH is responsible for the actions of all institutional staff members who report, directly or indirectly, to the COACH, and it is COACH's responsibility to promote an atmosphere of compliance within the basketball program and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program.
- 9.3** During the Term of this Agreement, the aggregate salary pool for men's basketball personnel shall be a minimum of One Hundred Fifty Thousand Six Hundred Dollars (\$150,600.00). Such compensation shall be allocated to the staff by COACH's discretion and subject to approval of the University President and Athletic Director whose approval shall not be unreasonably withheld. COACH and University will work in good faith to establish a reasonable incentive bonus pool for staff to be allocated by COACH's discretion and subject to approval of the University President and Athletic Director whose approval shall not be unreasonably withheld. The University shall pay One Hundred Twenty-Six

Thousand Six Hundred (\$126,600.00) of the salary pool amount. The Colonel Athletic Association shall pay Twenty-Four Thousand (\$24,000.00) of the salary pool amount. Since the CAA is not a party to this Agreement, it is understood and agreed that if at any time during the Term CAA fails to make its contribution towards COACH's salary pool as provided above, in no way shall that act relieve University from its obligation to provide COACH a salary pool of no less than \$150,600.00 as provided above.

9.4 The CAA will use best efforts to secure the use of a vehicle for assistant basketball coaches, or the CAA will provide a vehicle pool pay for the assistant basketball coaches in the aggregate allowance amount of Nine Thousand Four Hundred Dollars (\$9,400.00) annually, in monthly installments of Seven Hundred Eighty-Three and 33/100 Dollars (\$783.33) each month throughout the Term of this Agreement. The pool shall be distributed at the discretion of the COACH, subject to the approval of the University President and Athletic Director. Since the CAA is not a party to this Agreement, it is understood and agreed that if at any time during the Term CAA fails to make its contribution towards assistant basketball coaches' vehicle allowance as provided above, in no way shall that act relieve University from its obligation to provide to the assistant basketball coaches the vehicle or car allowance of \$9,400.00 as set forth above.

10.0 Termination

10.1 Either party may terminate this Agreement without just cause prior to the expiration of its terms by giving thirty (30) days written notice to the other party, and by fulfilling the termination obligations set forth in Section 10.3

or 10.4. Prior to the termination of COACH, UNIVERSITY will obtain approval from the President of the University of Louisiana System.

10.2 (a) COACH may be terminated by the Director at any time for misconduct, substantial and manifest incompetence, violation or gross disregard of state or federal laws constituting a felony, and deliberate, repetitive and serious violations of NCAA that rise to a Level I or Level II violation (as defined by the NCAA Rules as amended from time to time), conference, or university rules, regulations, policies, or procedures, or availability of sufficient funding as provided by the Louisiana Legislature in its annual Appropriation of funds to the Institution (“Termination For Cause”). In the event of such Termination For Cause, COACH will receive thirty (30) calendar days’ notice of termination, and such Termination For Cause shall be subject to COACH’s Right to Remedy under 10.2(b). All compensation, including salary, benefits, and other remuneration incidental to employment, cease upon termination. The judgment as to whether the conduct of COACH constitutes “Cause” under this provision shall not be exercised arbitrarily, capriciously, or in a discriminatory manner by the University, and shall be subject to COACH’s Right to Remedy under Section 10.2(b). No damages shall be due if termination is for just “Cause”.

10.2 (b) Prior to issuing a notice of termination or suspension, University shall give COACH a written notice of a violation, detailing the reasons for such termination or suspension, and provide COACH the “Right to Remedy” it within thirty (30) days (“Cure Period”) unless the reasons for such termination or suspension are not susceptible to being cured. Notwithstanding the

foregoing, COACH shall not be suspended or terminated, and pay shall not be withheld, during the Cure Period set forth in this Section 10.2(b), unless the reasons for such termination or suspension are not susceptible to being cured.

10.3 The University may at any time, and in its sole discretion, terminate the employment of COACH for any reason (“Termination Without Cause”). In the event the University terminates the Contract during any year as noted below, without cause, the COACH shall be entitled to the following payment as set forth below:

-Year 1 (July 1, 2022 – June 30, 2023): \$320,000.00

-Year 2 (July 1, 2023 – June 30, 2024): \$320,000.00

-Year 3 (July 1, 2024 – June 30, 2025): The remaining base salary owed through the balance of the Term.

-Year 4 (July 1, 2025 – June 30, 2026) : The remaining base salary owed through the balance of the Term.

Amounts listed above are not cumulative and COACH shall only be entitled to the applicable amount noted above for the year in which an event of termination may occur. Amounts due as liquidated damages which come due during the University’s current fiscal year in which COACH is terminated without cause, ending June 30 shall be paid by the University, while all other amounts due shall be paid by the CAA. Since the CAA is not a party to this Agreement, it is understood and agreed that if at any time during the Term CAA fails to make its contribution towards COACH’s liquidated damages as specified in this Section 10.3 in no way shall that act relieve University from its obligation to provide COACH the liquidated damages as set forth above for amounts due in the then applicable fiscal year. The

liquidated damages shall be due and payable in the same manner as outlined in Section 3.1.

Notwithstanding anything to the contrary contained in this section 10, to the extent applicable, the parties acknowledge that Code section 457(f) may require some or all of the semi-monthly payments described above to be taxable to COACH before their scheduled payment dates. Therefore, unless in the reasonable opinion of the University's counsel that Code section 457(f) does not apply, the University will pay the Applicable Portion (as defined below) of amounts due as set forth above before the scheduled payment dates to the extent permitted by Treasury Regulation Section 1.409A-3(j)(4)(iv) (a "Tax Distribution"); each subsequent payment shall be reduced by a pro-rated portion of any Tax Distribution. The "Applicable Portion" means an amount, as determined by the University, equal to the federal, state, local, and foreign income tax withholding that would have been remitted by the University if there had been a payment of wages equal to the income includible by COACH under Code Section 457(f) at the relevant time.¹

10.4 In the event COACH terminates this Agreement without cause during the Term to become a basketball coach or staff member of any rank or standing with another institution, then, COACH or a designee of COACH shall pay to the University, in lieu of all other legal remedies, liquidated damages of Eighty Thousand Dollars (\$80,000.00) ("Liquidated Damages"). The Liquidated Damages shall be due and payable over six (6) months in six (6) equal

¹ Language is intended to track language in 409A regulations that permits deferred compensation to be accelerated upon a Code 457(f) income inclusion event.

payments from the date of the termination. If COACH terminates this Agreement for health or personal reasons, then COACH shall have no responsibility, obligation, or liability to the University. Notwithstanding anything to the contrary contained in this Agreement, University agrees that COACH's obligations as contained in this Section 10.4 shall be waived by the University if the University's men's basketball program is no longer a participating member of a Division-I conference or if Jonathan Terrell is no longer the University's Athletic Director. Notwithstanding the foregoing, if University is relegated to a non-Division-I conference due to NCAA imposition or membership requirement changes that University no longer qualifies for, and not due to a decision taken by University absent any NCAA membership changes, Liquidated Damages referenced in this section shall be reduced by fifty percent (50%).

10.5 COACH may be terminated at any time due to financial circumstances in which the University and/or the University of Louisiana System has declaration of financial exigency. Such a termination can be based on consideration of budgetary restrictions, and priorities for maintenance of program and services. In the event of such termination, COACH will receive six (6) months notice of termination or six (6) months regular pay in lieu of such notice. Moreover, at the time such notice is given to COACH, COACH may terminate this Agreement without any obligation to pay University Liquidated Damages. All compensation, including salary, benefits, and other remuneration incidental to employment, cease upon termination.

11.0 Fundraising

11.1 All fundraising activities by COACH must be pre-approved by the Athletic Director to ensure that such activities are in compliance with University policies.

12.0 Additional Program Funding

12.1 The Men's Basketball program, at a minimum will earn game guarantees, each fiscal year equal to Four Hundred Fifty Thousand (\$450,000.00) Dollars. All game guarantee events shall be approved in advance by the Athletic Director, or his assign, said approvals not being unreasonably withheld. In the event that the program realizes less than the game guarantee minimum amount in a fiscal year the shortfall shall be managed by adjusting the program operating budget as follows until the shortfall has been eliminated: (a) Men's Basketball program non-personnel operating expenses shall be reduced by the amount of the shortfall up to Twenty Thousand (\$20,000.00) Dollars; (b) If additional shortfall exists after reductions made in section 12.1 (a) above, then Men's Basketball program personnel expenses shall be reduced by an amount up to Forty-Five Thousand (\$45,000.00) Dollars to eliminate the shortfall; (c) the amount of shortfall in excess of adjustments under 12.1 (a) and (b) collectively shall be managed by the athletic department.

13.0 Section 409A

13.1 The Intent of the parties is that payments and benefits under this Employment Agreement comply with or be exempt from Section 409A of the Internal Revenue Code and the regulations and guidance promulgated thereunder (collectively,

“Section 409A”) and, accordingly, to the maximum extent permitted, this Employment Agreement shall be interpreted to be in compliance therewith. If COACH notifies the University (with specificity as to the reason therefore) that COACH believes that any provision of this Agreement (or any award of compensation, including benefits) would cause COACH to incur an additional tax or interest under Section 409A or the University independently makes such determination, the University shall, with consent of COACH, reform such provision to attempt to comply with or be exempt from Section 409A. To the extent that any provision hereof is modified in order to comply with Section 409A, such modification shall be made in good faith and shall, to the maximum extent reasonably possible, maintain the original intent and economic benefit to COACH and the University of the applicable provision without violating the provisions of Section 409A.

13.2 Solely to the extent necessary to comply with Section 409A, a termination of employment shall not be deemed to have occurred for purposes of the applicable provisions of this Agreement providing for the payment of amounts or benefits subject to Section 409A upon or following a termination of employment unless such termination is also a “separation from service” 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.”

13.3 All expenses or other reimbursements paid under this Agreement or otherwise hereunder 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 next following the calendar year in which COACH incurs such expense or pays such related tax. With regard to any provision herein that provides for reimbursement of costs and expenses or in-kind benefits, except as permitted by Section 409A, (i) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange or another benefit, (ii) the amount of expenses eligible for reimbursement, or in-kind benefits to be provided, during any calendar year may not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year, provided that the foregoing clause (ii) shall not be violated with regard to expenses reimbursed under any arrangement covered by Internal Revenue Code Section 105(b) solely because such expenses are subject to a limit related to the period the arrangement is in effect and (iii) such payments shall be made on or before the last day of the calendar year following the calendar year in which the expense occurred.

- 13.4** 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.

14.0 Title IX and Sexual Misconduct Policy Reporting and Compliance

- 14.1** COACH shall promptly report to the University's Title IX Coordinator or Deputy Title IX Coordinator any Known Violation(s) of the University or University of Louisiana System's Sexual Misconduct Policy (including, but not limited to sexual harassment, sexual assault, sexual exploitation, domestic violence and stalking) that involve any student, faculty, or staff or that is in connection with a University sponsored activity or event. Any

emergency situation shall be immediately reported to 911 and/or law enforcement. For purposes of this paragraph, a “Known Violation” shall mean a violation or an allegation of a violation of Title IX and/or the University’s or the University of Louisiana System’s Sexual Misconduct Policy that COACH is aware of or has reasonable cause to believe is taking place or may have taken place.

14.2 The University may terminate this Agreement for cause pursuant to the for-cause- termination provisions of this Agreement for any determined violation by COACH for failure to report a Known Violation of:

1. Title IX of the Education Amendment of 1972; or
2. The University’s Sexual Misconduct Policy; or
3. The University of Louisiana System’s Sexual Misconduct Policy

15.0 Notices

15.1 Any notice or other communication which is required to be given under this Agreement shall be in writing and shall be deemed to have been given on the earlier of the day actually received or on the close of business on the fifth business day next following the day when deposited in the U.S. Mail, postage prepaid, registered or certified, addressed to the party at the address set forth after its name below or such other address as may be given by such party in writing.

If to Coach:

With a copy to:

Priority Sports & Entertainment
325 N. LaSalle Dr., Suite 650
Chicago, IL 60654
Attention: Dan Eveloff

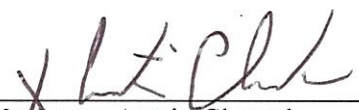
If to the University:

Nicholls State University
P.O. Box 2070
Thibodaux, LA 70310
Attention: President

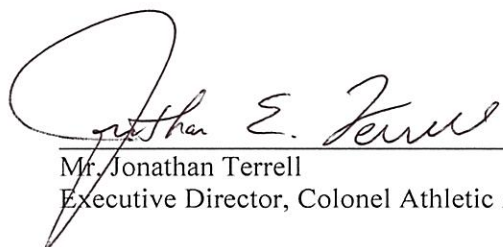
Thus Agreed To, by and between the herein named parties, on this 9th day of June,
2022.



Dr. John Clune, Jr.
President, Nicholls State University



Mr. James Austin Claunch
Nicholls State University Head Men's
Basketball Coach



Mr. Jonathan Terrell
Executive Director, Colonel Athletic Association

Approved by the Board of Supervisors of the University of Louisiana System at its meeting on the
_____ day of _____, 2022.

Secretary – Board of Supervisors