

## RETENTION PAYMENT AGREEMENT

THIS RETENTION PAYMENT AGREEMENT is effective as of July  
1, 2003, by and between the University of Kansas ("University") and Lewis Perkins ("Perkins").

WHEREAS, the University of Kansas, through the University of Kansas Athletics Corporation, operates the intercollegiate athletics programs of the University, subject to the direction and control of the Chancellor of the University of Kansas; and

WHEREAS, the University has entered an Employment Agreement ("Employment Agreement") with Perkins, effective July 1, 2003, by which Perkins shall serve as the Director of Intercollegiate Athletics ("Athletics Director") of the University; and

WHEREAS, the University desires to assure that Perkins shall continue as Athletics Director through at least June 30, 2009.

NOW, THEREFORE, in consideration of the mutual representations, agreements, and promises herein contained, the parties hereto agree as follows:

1. **Retention Payment.** If Perkins serves continuously as the Athletics Director through June 30, 2009, the University shall pay to Perkins not later than August 1, 2009 an after tax sum of \$1.3 million. That is, after withholdings for state and federal tax purposes, Perkins shall receive \$1.3 million.

2. **Vesting.** Except as specifically described elsewhere in this agreement, this payment to Perkins shall not vest unless Perkins serves through June 30, 2009 as Athletics Director. Should Perkins not serve as Athletics Director through June 30, 2009, then, except as hereinafter specifically provided to the contrary,, Perkins shall have no legal or equitable interest in or right to this Retention payment. It is specifically understood by the parties that this Retention Payment Agreement is intended to encourage Perkins to remain as the Athletics Director for a minimum of six (6) years.

3. **Termination Without Cause.** In the event the University terminates Perkins's Employment Agreement without cause, he shall receive an after tax payment of \$216,667 for every full year he has been employed as Athletics Director. A "full year" shall be defined as a year beginning on July 1 and ending on June 30, such that the first full year shall occur on June 30, 2004. Additionally, for any portion of a year less than a full year in which he has been employed as Athletics Director, this payment shall include an amount established by dividing by 365 a numerical figure derived from multiplying the number of calendar days served during the partial year by the amount of \$216,667. This payment shall be made in the event termination without cause occurs at any time up to and including June 30, 2009. In the event Perkins's employment is terminated without cause after such date, this provision is no longer effective. Any payment under this provision shall be made within 30 days. Perkins agrees to accept this

compensation as liquidated damages for University's termination under the provisions of this paragraph, and understands and agrees that such liquidated damages are in lieu of all other compensation and benefits owed to Perkins under any and all other provisions of this Agreement and further constitute reasonable compensation for losses that Perkins may incur and are not a penalty. Further, in the event that Robert E. Hemenway is no longer Chancellor during the term of this Agreement, at Perkins's sole discretion, Perkins may renegotiate the terms and retention payment amounts of this Agreement and such renegotiation shall not result in any diminishment of the retention payment amounts currently provided by this Agreement.

**4. Termination in the Event of Perkins's Death or Disability.** In the event of Perkins's death, his estate shall receive an after tax payment of \$216,667 (that is, 1/6<sup>th</sup> of the \$1.3 million after tax amount set forth in Paragraph 1 above) for every full year Perkins has been employed as Athletics Director. In the event of Perkins's full disability, as disability is determined and administered by the state of Kansas, Perkins shall receive an after tax payment of \$216,667 for every full year Perkins has been employed as Athletics Director. A "full year" shall be defined as a year beginning on July 1 and ending on June 30, such that the first full year shall end on June 30, 2004. This payment shall be made in the event Perkins's death or disability occurs at any time up to and including June 30, 2009. In the event Perkins dies or is disabled after such date, this provision is no longer effective. Any payment under this provision shall be made within 30 days.

**5. Termination for Cause.** In the event the University terminates Perkins's Employment Agreement for cause, as defined in Perkins's Employment Agreement, Perkins shall receive no payment under this Retention Payment Agreement.

**6. Payments and tax withholding.** All payments that become due to Perkins under this Agreement shall be payable by the University in cash or immediately available funds. Perkins recognizes the University is obligated to withhold federal and state income taxes and Medicare tax contributions from the amounts credited to him and that the net total amount credited to him on July 1, 2009 will be no more and no less than the amount of \$1.3 million. The gross amount of the check shall be determined by a calculation as follows: \$1,300,000 divided by the result obtained by subtracting from 1 the sum of the Medicare and the top federal and Kansas state marginal rates for the tax year 2009. For example if the Medicare rate is 1.35%, the federal rate is 30% and the Kansas state rate is 7%, the total of 38.35% subtracted from 1 would be .6165. \$1,300,000 divided by .6165 would equal \$2,108,678. \$2,108,678 would then be the gross check payable.

**7. Termination by Perkins.** In the event Perkins terminates his Employment Agreement with the University, he shall receive no payment under the terms of this Retention Payment Agreement, the specific purpose of the Agreement being to encourage Perkins to remain the Athletics Director through at least June 30, 2009.

**8. Change in taxation.** In the event federal or state tax rates materially change or the laws and regulations concerning the taxation of an employee of a tax-exempt organization are substantially altered, revised or amended, the parties agree the after tax amount of the payment due Perkins under this agreement shall remain \$1.3 million.

9. **Transfer of rights and benefits.** The rights and benefits of Perkins under this Agreement shall not be assigned, transferred or conveyed, except that, in the event of Perkins's death, the right to receive any Retention payment to which Perkins would then otherwise be entitled, shall be paid to Perkins's estate.

10. **Other employment agreement.** Perkins will be employed by the University as the Athletics Director. The payments provided by this Retention Payment Agreement shall be in addition to all other compensation and benefits that are due Perkins as provided for in his Employment Agreement with the University. The terms of this Agreement shall not affect the terms of any other agreement between the University and Perkins.

11. **Consent to jurisdiction and venue.** This Agreement shall be governed by and construed under the laws of the State of Kansas, rules of conflicts of law notwithstanding, and any action brought pursuant to this Agreement shall be filed in the state courts or the federal courts of the State of Kansas, and each party waives the right to seek a change of jurisdiction to any courts other than those courts.

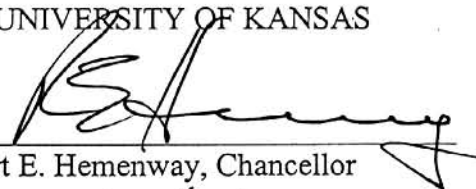
12. **Severability.** If any provision of this Agreement shall be determined to be void, invalid, unenforceable or illegal for any reason, this Agreement shall be ineffective only to the extent of such prohibition and the validity and enforceability of all remaining provisions shall not be affected thereby.

13. **Amendments, modifications, and extensions.** In order to be enforceable, any amendments, modifications, or extensions to this Agreement must be in writing and signed by all parties hereto.

14. **Waiver.** Waiver by any party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach hereof.

IN WITNESS WHEREOF, the parties hereto have set their hands.

THE UNIVERSITY OF KANSAS

By:   
Robert E. Hemenway, Chancellor

Date: 8/25/02

By:   
Lewis Perkins

Date: 7/22/03