

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

DAVID BEATY and DB Sports LLC,)	
)	
Plaintiffs,)	Case No.
)	
v.)	JURY TRIAL DEMANDED
)	
KANSAS ATHLETICS, INC.,)	
)	
Defendant.)	

COMPLAINT

Plaintiffs David Beaty (“Coach Beaty”) and DB Sports LLC (“DB Sports”); collectively with Coach Beaty, “Plaintiffs”), by and through undersigned counsel, and for their Complaint against Defendant Kansas Athletics, Inc. (“Kansas Athletics” or “Defendant”), state and allege as follows:

NATURE OF THE ACTION

1. This is a civil action for breach of contract under Kansas law and violation of the Kansas Wage Payment Act under K.S.A. § 44-313.

PARTIES

Plaintiff David Beaty is an individual and citizen of the State of Texas.

2. Plaintiff DB Sports LLC is a limited liability corporation organized under the laws of the State of Kansas. Plaintiff DB Sports LLC’s sole member is a citizen of the State of Texas.

3. Defendant Kansas Athletics, Inc. is a not-for-profit company organized and existing under the laws of the State of Kansas. Its principal place of business is in Lawrence, Kansas. It may be served with process through its registered agent, Sheahon Zenger, 205 Wagnon Student

Athlete Center, University of Kansas, Lawrence, Kansas 66045 or wherever Mr. Zenger may be found.

JURISDICTION AND VENUE

4. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332 (diversity jurisdiction), because Plaintiffs and Defendant are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of costs and interest.

5. This Court has personal jurisdiction over Defendant because it is organized and exists under the laws of the State of Kansas, has its principal place of business in Kansas, and has engaged in the conduct alleged in this complaint in Kansas.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant resides in this District and a substantial part of the events or omissions giving rise to the claims in this action occurred in this District. Moreover, Plaintiffs and Defendant have contracted that this Court is a proper venue for the determination of disputes related to various contracts at issue in this suit.

INRODUCTION

7. Kansas Athletics hired Coach Beaty in December of 2014 to turn-around a football program beset with long-term problems.

8. In recognition of the nature of the problems and the time expected to properly address them, Kansas Athletics provided Coach Beaty a multi-year contract.

9. Kansas Athletics additionally entered into a multi-year contract with DB Sports.

10. Those collective agreements provide that Kansas Athletics would pay Coach Beaty stated sums of money should it terminate his employment without cause prior to the end of their respective terms.

11. In November 2018, Kansas Athletics exercised its undisputed right to terminate Coach Beaty without cause.

12. That termination without cause was confirmed privately, publicly, orally, and in writing, as was Kansas Athletics' contractual obligation to pay Coach Beaty the \$3 million dollars based on the termination without cause occurring prior to the end of the agreed-to terms.

13. Despite the clarity of the contractual language and the nature of Coach Beaty's termination without cause, Kansas Athletics officials began seeking avenues by which it could forgo the money owed to Coach Beaty or otherwise secure leverage by which it might negotiate a lesser amount.

14. In private meetings prior to and following the termination without cause, Kansas Athletics officials unabashedly raised the need to "find something" on Coach Beaty such as finding a "dead hooker in [Coach Beaty's] closet."

15. In the weeks after that unequivocal termination without cause and days after Coach Beaty declined to provide Kansas Athletics an extension under which it could remit the payments owed to him over a longer period of time, Kansas Athletics notified Coach Beaty of a self-initiated NCAA investigation being conducted looking into the conduct and behavior of – not Coach Beaty – but one of his subordinates that occurred, if at all, a year or more earlier.

16. Using the self-initiated investigation as an excuse, Kansas Athletics has refused to honor its contractual obligations and withheld the payments previously confirmed as owed to Coach Beaty. In fact, Kansas Athletics now has taken the unprecedented position that the results of its self-initiated investigation might somehow provide it the ability to retroactively reclassify Coach Beaty's termination as with cause, despite making no attempt to comply with the

requirements for a termination with cause and instead having long-ago terminated him without cause.

17. Kansas Athletics apparently wants to un-bake the proverbial cake it made. It unequivocally terminated Coach Beaty without cause. *Post hoc* attempts to change that now are unbecoming of the institution that Coach Beaty still holds in great regard. Nevertheless, Coach Beaty will not stand idle and do nothing while Kansas Athletics fails to honor its agreements and commitments to him.

ALLEGATIONS OF FACT

Coach Beaty's Rise in the Coaching Ranks

18. Coach Beaty first developed a reputation as an outstanding high school football coach in the Dallas-Fort Worth Metroplex.

19. Based on proven results both on and off the field, Coach Beaty quickly advanced through the major college football coaching ranks, with assistant coaching stops at Rice University, the University of Kansas, and Texas A&M University.

Kansas University Hires Coach Beaty

20. On or about December 5, 2014, Kansas Athletics hired Coach Beaty to become the Head Football Coach at the University of Kansas ("KU").

21. Coach Beaty was the fourth head football coach in six years for KU and was tasked with turning around a long-struggling program with major obstacles both on and off the field.

22. For instance, Coach Beaty inherited a KU team that had only filled approximately 60 out of the 85 scholarships allowed heading into the 2015 season.

23. Compounding the student-athlete shortage, the KU team had problems with student-athlete academic progress.

24. Coach Beaty understood that overcoming these difficult challenges would take time and conviction.

Coach Beaty's Contracts

25. So, did, apparently, KU and Kansas Athletics, as Kansas Athletics entered into a five-year Employment Agreement with Coach Beaty on December 8, 2014.

26. That Employment Agreement made clear that if Coach Beaty was ever terminated without cause, he would be entitled to compensation in the form of all payments owed under the agreement “for 24 months or up to December 31, 2019 (whichever occurs first.)”¹

27. Recognizing Coach Beaty’s positive progress, Kansas Athletics amended Coach Beaty’s Employment Agreement on December 1, 2016, to extend the term to seven years.²

28. That First Amendment to Employment Agreement imposed amended obligations on Kansas Athletics should it terminate Coach Beaty’s employment without cause:

[Section 7] In the event that Head Coach’s employment is terminated without cause . . . [Coach Beaty] shall be entitled to a payment . . . in the total amount of \$2,580,000.00 payable in six equal installments commencing on the last day of the month immediately following the month in which the termination date occurs and continuing on the last day of each succeeding month thereafter; the payments under this Section 7 and under Section 12 shall be considered as Liquidated Damages with no other sums or damages of any kind whatsoever paid by Athletics to Contractor.

. . .

[Section 12] Athletics shall have the right to terminate this Agreement without cause at any time upon written notice to Head Coach. In the event Athletics terminates this Agreement without cause, Athletics, in addition to all amounts due and owing under this Agreement up to the date of termination, shall be liable to Head Coach for a Liquidated Damages total payment of \$420,000.00 payable in six equal installments; other than payments under Section

1 A true and correct copy of Coach Beaty’s Employment Agreement is attached as Exhibit A to this Complaint.

2 A true and correct copy of Coach Beaty’s Amended Employment Agreement is attached as Exhibit B to this Complaint.

7 and payments under this Section 12, no other sums or damages of any kind whatsoever shall be paid by Athletics to Head Coach.

. . . The Liquidated Damages above shall be paid to Head Coach in six equal monthly installments commencing on the last day of the month immediately following the month in which the termination date occurs and continuing on the last day of each succeeding month thereafter.

The parties agree that such Liquidated Damages are in lieu of all other compensation and benefits owed to Head Coach, including annual and sick leave, otherwise owed to Head Coach under any and all other provisions of this Agreement . . .

29. In connection with Coach Beaty's Employment Agreement, Kansas Athletics also entered into a Professional Services Agreement with DB Sports.³

30. Mirroring in pertinent respects the Employment Agreement, the Professional Services Agreement included corresponding guaranteed payments in the event Coach Beaty was terminated without cause prior to end of the Contract.⁴

Coach Beaty Begins to Right the Ship

31. Over the next few seasons, Coach Beaty – with the help of outstanding assistant coaches and hard-working, committed student-athletes – began to increase the talent on and performance of the KU team.

32. On the field, Coach Beaty's KU teams set a record for the number of Big XII Players of the Week recognitions in a season; defeated The University of Texas for the first time since 1938; defeated Texas Christian University for the first time in KU's Big XII Conference history; and notched the first on-the-road victory and back-to-back wins since 2009.

3 A true and correct copy of DB Sports' Professional Services Agreement is attached as Exhibit C to this Complaint.

4 A true and correct copy of DB Sports' Amended Professional Services Agreement is attached as Exhibit D to this Complaint.

33. The talent level in the KU Football program was also on the rise. During Coach Beaty's tenure, KU Football produced its first unanimous All-Big XII First Team selection (Dorance Armstrong) and its first back-to-back All Big XII First Team selection (Daniel Wise).

34. Coach Beaty and his staff coached Steven Sims to second-all-time in career catches for KU, and Joe Dineen became the all-time leader in KU Football history in tackles for loss.

35. Just as important to Coach Beaty, if not more so, he and his staff were providing the off-the-field guidance and tools to ensure the student-athletes under his care became good, responsible, and contributing citizens.

36. Football graduation rates during Coach Beaty's tenure reached their highest levels in any three-year span in the team's history.

37. The team recorded the highest single-year graduation rate in the team's history—95% of seniors graduated with many going on to pursue post-graduate degrees.

38. The team's Academic Progress Rate increased every year.

39. The coaches, staff, and players volunteered thousands of hours with local organizations in Lawrence to give back to their community.

40. Players received comprehensive training on healthy relationships and consent, drugs and alcohol, personal finance, and respecting all individuals regardless of race, creed, gender, or orientation.

41. Under Coach Beaty, KU Football actively reframed and redefined what it means to be a student athlete and never shied away from tackling the issues that have impacted college athletics and society as a whole.

42. These efforts allowed Coach Beaty to confidently make one of his final public statements as the head coach of KU Football, “If you want a good man, get a Kansas football player.”

Jeff Long is Hired and Terminates Coach Beaty Without Cause

43. In July of 2018, Kansas Athletics hired Jeff Long as KU’s new Athletics Director (“AD Long”).

44. By November of 2018, AD Long and Kansas Athletics decided that, despite the positive steps forward in many areas under Coach Beaty, they would move in a different direction with KU football.

45. On November 4, 2018, AD Long verbally informed Coach Beaty in a private meeting that he was being terminated without cause and would not be returning for his contractually guaranteed fifth, sixth, and seventh seasons.

46. AD Long further promised Coach Beaty that, because he was being terminated without cause, Kansas Athletics would honor his Employment Agreement and the Professional Services Contract with DB Sports and pay the \$3 million dollars it owed for terminating him without cause.

47. That same evening, AD Long publicly confirmed in a press conference that Coach Beaty was being terminated without cause, that Kansas Athletics owed the money agreed to under the contracts, and that it would fulfill its obligations to Coach Beaty under those agreements.

48. Coach Beaty reasonably and foreseeably relied on these statements and agreed to stay on as football coach through the end of the season in order to smooth the coaching transition for KU.

49. On November 29, 2018, six days following the final game of the 2018 season, AD Long confirmed in a memorandum to Coach Beaty what he had privately promised Coach Beaty and publicly reiterated:

As discussed in my office on November 4, pursuant to Section 12 of your Employment Agreement, your Agreement with Kansas Athletics Inc. was terminated without cause effective November 24, 2018. All liquidated damages payments owed to you will be paid out consistent with Section 12 of your current amended Employment Agreement and Section 7 (D) of your current amended Professional Services Agreement.

I appreciate your contributions to the University of Kansas, Kansas Athletics, and Kansas Football during your time as Head Football Coach and wish you success in your future endeavors.⁵

50. However, despite AD Long's public, private, and written communications unequivocally stating that Coach Beaty was being terminated without cause and repeatedly acknowledging Kansas Athletics' agreement to make the guaranteed \$3 million-dollar payment, AD Long and others in Kansas Athletics were preparing other, private plans contrary to the commitments made to Coach Beaty.

51. In the days and weeks that followed, and on more than one occasion and in the presence of multiple KU and/or Kansas Athletics employees, AD Long and at least one other senior Kansas Athletics official commented that they needed to "find something on Coach Beaty," so they might avoid having to pay him the contractually owed \$3 million dollars.

52. More specifically, it was suggested by those same employees that Kansas Athletics needed to find "a dead hooker . . . in [Coach Beaty's] closet" to provide leverage in resolving their \$3 million dollar payment problem.

⁵ A true and correct copy of AD Long's written memorandum to Coach Beaty is attached as Exhibit E to this Complaint.

53. Kansas Athletics began by requesting an extended payment schedule purportedly to alleviate the tax implications of the \$3 million dollars it admittedly owed Coach Beaty.

54. Coach Beaty declined to extend the contracted payment schedule as requested by Kansas Athletics.

55. Shortly thereafter, on December 14, 2018, Coach Beaty received an unannounced letter from KU General Counsel Brian White (“Mr. White”) communicating, for the first time, that KU was affirmatively initiating an “investigation” to determine if one of Coach Beaty’s former subordinates had allegedly committed NCAA rules violations a year or more earlier.

56. Mr. White’s letter also incredibly ignored Coach Beaty’s prior termination without cause more than one month before and acted as if he were still a KU employee, stating that, because of KU’s self-examination, Coach Beaty’s already acknowledged severance payments would now be withheld until Kansas Athletics could evaluate the investigative results and determine whether Coach Beaty’s “separation” would be with or without cause.

57. Coach Beaty understood, however, that he had already and unequivocally been terminated without cause weeks earlier – publicly and privately, orally and in writing – and there had never been any mention or suggestion of impropriety or NCAA violations while he was employed.

58. He further understood that, under the terms of his contract, the withholding of his payments was without legal justification, but Kansas Athletics’ actions would now force him to obtain counsel to ensure that it would honor its contracts and commitments to him.

59. On December 20, 2018, counsel for Coach Beaty responded to the December 14th communication and indicated the belief that Kansas Athletics was using its self-initiated investigation as a subterfuge to avoid paying the money it clearly owed.⁶

60. The letter notified Kansas Athletics that Coach Beaty would treat the failure to timely pay under the contract as a material breach.

61. To date, Kansas Athletics has refused to respond in any way to Coach Beaty's letter and no payments have ever been made by Kansas Athletics to Coach Beaty.

62. As a result, Kansas Athletics is in material default.

63. Kansas Athletics' actions have also forced Coach Beaty to retain additional and separate counsel to address the NCAA allegation. In a December 21, 2018, letter to Kansas Athletics, Coach Beaty confirmed his willingness to promptly interview as part of KU's investigation and, in order to prepare, requested certain documents relating to his employment under the control of Kansas Athletics. Coach Beaty eventually received some of the documents he requested on February 1, 2019. To date, Kansas Athletics has not provided the majority of the documents Coach Beaty requested.

64. While Kansas Athletics was unwilling to act with any urgency, it has been more than willing to notify prospective employers that Coach Beaty is the subject of an open NCAA investigation. Coach Beaty believes this is yet another tactic by Kansas Athletics to pressure Coach Beaty into accepting something less than what is undisputedly owed.

65. After multiple requests for a date to be interviewed, Coach Beaty finally got the opportunity to sit for an interview on February 27, 2019. That was more than two months after Mr.

⁶ A true and correct copy of that December 20, 2018, letter is attached as Exhibit F to the Complaint.

White told Coach Beaty that he could be interviewed in order to clear his name and receive the payments he is owed.

66. Coach Beaty answered the investigators' questions fully.

67. He has not blocked KU officials from reviewing the transcript of his interview. In fact, he has offered to make his transcript available to KU officials consistent with NCAA bylaws.

68. After months of waiting for an interview Mr. White previously indicated would allow Kansas Athletics to proceed with payment, Kansas Athletics now claims that it cannot pay Coach Beaty the money it owes him until the investigation is finished.

69. The investigation could potentially last for months before it concludes. Kansas Athletics continues to move the goal posts to avoid its contractual obligations that it acknowledged publicly, privately, orally, and in writing many times before using a self-initiated investigation as a shield to delay or attempt to avoid them.

FIRST CAUSE OF ACTION
(Breach of Contract)

70. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

71. As described above, Plaintiffs and Defendant are parties to fully executed contracts, whereby Defendant owes Plaintiffs guaranteed payments after electing to terminate the contracts without cause.

72. Plaintiffs fully performed their obligations under the contracts.

73. Defendant has materially breached the Contract by not making the guaranteed payments owed, which Defendant has previously confirmed multiple times in multiple ways are owed subsequent to its election to terminate without cause.

74. Plaintiffs have been damaged by Defendant's breaches of the contracts.

SECOND CAUSE OF ACTION
(Kansas Wage Payment Act under K.S.A. § 44-313)

75. Plaintiff David Beaty incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

76. Plaintiff David Beaty is an employee covered by and subject to the Kansas Wage Payment Act, K.S.A. § 44-313, *et seq.*

77. The Kansas Wage Payment Act provides that employers must pay employees all wages due.

78. The remaining amounts owed to Plaintiff David Beaty constitute wages under the Kansas Wage Payment Act because they are compensation for labor or services rendered by an employee.

79. Defendant has failed to pay Plaintiff David Beaty all wages due in violation of the Kansas Wage Payment Act.

80. Defendant's failure to pay all wages due to Plaintiff David Beaty is willful.

81. Plaintiff David Beaty is entitled to judgment in his favor and a monetary award to compensate him for all wages due, interest, and statutory penalties, and all other damages and remedies allowed by law under the Kansas Wage Payment Act, as well as an award of costs.

PRAYER FOR RELIEF

82. Plaintiff David Beaty prays for judgment as follows:

- a. An award of damages to compensate him for Defendant's breaches of contract;
- b. An award of damages to compensate him for all wages due, plus interest under the Kansas Wage Payment Act, K.S.A. § 44-313, *et seq.*

- c. Statutory penalties under the Kansas Wage Payment Act, K.S.A. § 44-313, *et seq.*
- d. For attorneys' fees as may be under any and all applicable bases;
- e. For costs of suit incurred herein;
- f. Pre- and post-judgment interest at the maximum rate allowed by law;
- g. For such other further relief as the Court may deem just and proper.

83. Plaintiff DB Sports, LLC prays for judgment as follows:

- a. An award of damages to compensate it for Defendant's breach of contract;
- b. For attorneys' fees as may be under any and all applicable bases;
- c. For costs of suit incurred herein;
- d. Pre- and post-judgment interest at the maximum rate allowed by law;
- e. For such other further relief as the Court may deem just and proper.

DESIGNATION OF PLACE FOR TRIAL AND JURY DEMAND

Pursuant to Kan. Local Rule 40.2, Plaintiffs designate Kansas City, Kansas as the location for trial. Plaintiffs demand trial by jury.

Respectfully submitted,

/s/ James Griffin

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Counsel for Plaintiffs

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT is effective as of December 8, 2014, by and between Kansas Athletics, Inc. ("Athletics"), and David Beaty ("Head Coach").

WHEREAS, Athletics operates the intercollegiate athletics programs of the University of Kansas (KU), subject to the direction and control of the Chancellor of the University of Kansas; and

WHEREAS, Head Coach wishes to serve, and Athletics desires that Head Coach should serve as the head coach for the KU intercollegiate football program.

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

1. Employment

Athletics hereby employs Head Coach to perform all duties and responsibilities attendant to the position of Head Coach of the University's intercollegiate football team as set forth in this Agreement.

2. Term

This Agreement shall be for a Term of 5 years, from December 8, 2014 through December 31, 2019, unless earlier terminated as set forth herein.

3. Performance

Head Coach agrees to serve as head football coach for the term of this Agreement and to devote his full time and attention and give his best efforts and skill exclusively to the duties required of him as the KU head football coach. During the term of this Agreement, Head Coach shall report to and be under the immediate supervision of KU's Director of Intercollegiate Athletics (the "Director") or his designee and shall regularly confer with the Director or his designee on matters involving the operation of the football program. Head Coach shall not directly report to more than one person at any given time, and Athletics hereby agrees that in the event Head Coach does not report directly to the Director, the designee shall be either an Assistant or Associate Director of Athletics. Without limiting the generality of this Section 3, Head Coach's duties and responsibilities as the head football coach shall include, but not be limited to, the following:

- A. The competent and diligent performance of all reasonable duties as may be required by the Head Coach in connection with the supervision and administration of the KU football program. Such duties shall include, but are not limited to, supervising, evaluating, recruiting, training and coaching student-athletes to compete against major college competition; the evaluation of coaching staff; budget preparation and administration, for approval by the Director or designee, as it relates to the football program; and
- B. The professional and personal comportment at all times in a manner consistent with good sportsmanship and in accordance with the high moral, ethical, and academic



standards of Athletics and KU. At all times Head Coach shall exercise due care that all personnel and student-athletes under his supervision or subject to Head Coach's control or authority, comport themselves in a similar manner; and

- C. Compliance with the academic standards and requirements of KU with respect to the recruiting and eligibility of prospective and current student-athletes for the football program. Head Coach shall comply with the academic policies established by KU and the NCAA, including monitoring and encouraging the regular progress toward an academic degree of those student-athletes in the football program. Head Coach shall cooperate with academic counselors or similar persons to assist student-athletes in connection with the academic pursuits of the student-athletes and shall use his personal best to encourage and promote those efforts and the efforts of every student-athlete to obtain a baccalaureate degree; and
- D. The undertaking of his reasonable best efforts to comply with and assure that all persons under his supervision, including coaches and student-athletes, comply with the rules and regulations of the National Collegiate Athletics Association (NCAA), the Big Twelve Conference and such rules and regulations concerning intercollegiate athletics, athletics personnel, and student-athletes as may from time to time be promulgated by KU or Athletics. Head Coach shall observe and respect the principles of institutional control in every aspect of the football program. In the event that Head Coach becomes aware, or has reasonable cause to believe, that violations concerning these rules may have taken place, he shall report the same promptly to the Director; and
- E. The undertaking of his reasonable best efforts to competently and diligently perform all required tasks and activities of, and adherence to all standards, rules, and regulations established by applicable federal and state laws, including the Buckley Amendment, the Clery Act, Title IX, the Handbook for Faculty and Other Unclassified Staff of KU and Athletics' Policies and Procedures Manual, as either document may be amended from time to time. Head Coach hereby acknowledges that a complete copy of both KU's policies for Faculty and Other Unclassified Staff and a complete copy of Athletics' Policies and Procedures Manual are available at <https://documents.ku.edu/policies/provost/FacultyandUnclassifiedStaffHandbook.pdf> and <http://www.kuathletics.com/internal/kan-manual.html> respectively. In case of a conflict between KU's policies for Faculty and Other Unclassified Staff and Athletics' Policies and Procedures Manual, the terms of Athletics' Policies and Procedures Manual shall control. Head Coach acknowledges and agrees that he has received information regarding access to Athletics' Policies and Procedures Manual and he shall be governed by its terms; and
- F. Maintaining and enforcing conduct (both on and off the field) and disciplinary rules and sanctions fairly and uniformly for all student-athletes in the football program so as to ensure academic and moral integrity; and
- G. The performance of professional services as such services relate to the position of Head Coach and are as further set forth in Section 8 herein; and

- H. Head Coach shall not, without approval of the Director, arrange for or agree to the receipt by the assistant football coaches of any supplemental pay, bonus, or other form of payment from any outside source, except for income earned from the operation of Head Coach’s sports camps or clinics; and
- I. Head Coach may recommend the hiring, continued employment, job titles, dismissal, and compensation of the employees involved in the football program at KU with final approval by the Director. All such recommendations are subject to standard Athletics pre-employment inquiries, including NCAA and criminal background checks. Head Coach shall make no financial or employment commitments unless specifically authorized and approved by the Director, and the Director may not unreasonably or arbitrarily reject any job candidate chosen by Head Coach to fill a position within or connected to the KU football program; and
- J. Head Coach may recommend the scheduling of football games, with the final scheduling authority to be the responsibility of the Director. Director may not unreasonably or arbitrarily reject any scheduling recommendations made by Head Coach.

4. Salary

For all services to be performed by Head Coach in his capacity as head football coach, Athletics shall pay Head Coach a salary of \$225,000 per annum, payable in twelve (12) equal monthly installments on the last day of each month during the term of this Agreement. Said salary may be increased from time to time upon review by Athletics in an annual performance review and any such adjustment shall be effective upon the next payment date.

5. Incentive Payments

- A. The following incentive payments shall be paid to Head Coach in the event the football team achieves any of the goals corresponding to the amounts indicated:

Each Big 12 regular season game win	\$25,000
Big 12 regular season champion or co-champion	\$100,000
Coaching KU in bowl game	\$100,000
Coaching KU in the Fiesta Bowl, Rose Bowl, Orange Bowl, Sugar Bowl, Peach Bowl or Cotton Bowl	\$250,000
Coaching KU and winning the Fiesta Bowl, Rose Bowl, Orange Bowl, Sugar Bowl, Peach Bowl or Cotton Bowl	\$500,000
Head Coach named AP National Coach of the Year	\$50,000
Head Coach named Big 12 Coach of the Year	\$50,000

- B. It is the intent of the parties that the amounts set forth in Subsection 5(A) shall be cumulative with any other section and each other. For example: if the football team wins the Big 12 Regular Season Championship, wins seven Big 12 games and the Head Coach coaches the team in the Fiesta Bowl during the same season, Head Coach would receive \$525,000 (assuming no other provisions of this Section 5 were applicable); if the football team wins three Big 12 regular season games and the Head Coach is named the Big 12 Coach of the year, Head Coach would receive \$125,000.
- C. In the event this Agreement is terminated pursuant to Section 13 below, Head Coach shall repay to Athletics all Incentive Payments received for any achievement by Head Coach under this section 5 (A) if such achievement is subsequently vacated by KU or by the NCAA, in whole or in part, because of NCAA or Kansas University rules violations committed directly by Head Coach as determined by Athletics, KU, or the NCAA.

6. **Outside Income**

- A. In accordance with NCAA rules, Head Coach agrees that he shall provide to the Chancellor of the University of Kansas by September 1 of each year a detailed accounting in writing of all athletically related income and benefits from sources outside the institution. This report shall include the amount and source of income.
- B. Head Coach agrees that during the term of this Agreement, he will not engage in any outside activities, including but not limited to, commercial or private ventures including outside consulting agreements, using Head Coach's name or likeness by any commercial, public, or private entity, television, radio, or internet, unless such activities are expressly approved in writing and in advance by the Director and comply with NCAA and Big 12 bylaws, rules, and regulations and in compliance with Athletics' Policies and Procedures Manual. Head Coach agrees that any outside activities shall not conflict with or be inconsistent with his responsibilities under this Agreement including those set forth in Section 9 below. Head Coach further agrees that he shall not create a private foundation without the prior approval of the Director.
- C. Nothing in this Agreement shall constitute permission or license of Head Coach to use or authorize third parties to use KU's trademarks in connection with outside employment. A license to use the University's trademarks must be obtained from and approved by the Director. Nothing in this Agreement shall constitute permission or license for Head Coach to change or modify any existing trademarks or to create new trademarks for KU or its football program without the express written permission of the Director and the Chancellor of KU.

7. Professional Services

- A. Athletics shall pay to Head Coach for professional services rendered an income of not less than \$575,000 per annum (the "Guaranteed Net Income"), said payments beginning December 8, 2014 through March 2, 2015. Beginning March 3, 2015, Athletics shall pay DB Sports LLC ("Contractor") for professional services rendered by Head Coach an income of not less than \$575,000 per annum, said payments continuing through the term of this Agreement. Should the football team have a winning regular season record (defined as at least 6 wins and no more than 6 losses or bowl eligibility) during any season, the Guaranteed Net Income shall be increased by \$100,000, effective January 1st of the year after the winning regular season, and shall continue for the term of this Agreement. Duties under this section may include educational, public relations, and promotional duties as assigned by the Director.
- B. The payment amount set forth in Section 7 (A) above shall be made in twelve equal monthly installments due on the last day of every month.
- C. The payments to Head Coach and to Contractor described in this Section 7 are contingent upon Head Coach's participation and cooperation performing said duties as described in Section 7 (A) above and duties described in a separate Professional Services Agreement effective as of March 3, 2015, including but not limited to, the production of any Programs, including but not limited to radio shows, Internet features, or his occasional endorsement of products affiliated with and approved by Athletics or its marketing partner(s) as set forth in Section 9 below.
 - i. Athletics hereby agrees that it shall not enter into any agreement that would require Head Coach to endorse any specific product or products, except as provided in Section 9 below, without Head Coach's prior written consent, which shall not be unreasonably withheld.
 - ii. Athletics further agrees that Head Coach shall be entitled to earn and retain all revenues generated by his participation in outside activities not covered by this Agreement and approved by Athletics pursuant to Section 6 (B).
 - iii. Head Coach agrees that he shall use his best efforts to be available for interviews and other outside appearances as requested by Athletics and agrees that he shall actively participate in fundraising events hosted by the Williams Education Fund.
- D. In the event that Head Coach's employment is terminated without cause pursuant to Section 12 of this Agreement, Contractor shall be entitled to payment under this Section 7 for 24 months or up to December 31, 2019 (whichever occurs first); the payments under Section 12 shall be considered as liquidated damages with no other sums or damages of any kind whatsoever paid by Athletics to Contractor.

- E. In the event that Head Coach's employment is terminated pursuant to Sections 13 or 15 of this Agreement, Contractor shall be entitled to payment under this Section 7 up to the date of termination only.

8. NCAA and/or Big 12 Violations

- A. If KU, Athletics, the Big 12 Conference or the NCAA determines that Head Coach has violated NCAA or Big 12 regulations, or willfully and knowingly permitted any other person under his direct control or supervision to commit an NCAA or Big 12 violation, or if Head Coach failed to promptly report a violation or provide complete and accurate information to the Director, in addition to any remedies provided by this Agreement or at law, Head Coach agrees that he shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures, as now existing or as amended from time to time. Such action by the NCAA or Big 12 shall not preclude or, in any manner, affect Athletics right to take such other corrective or disciplinary action as it deems necessary or proper, including termination for cause.
- B. Head Coach further agrees that if he is found by KU, Athletics, the Big 12 Conference or the NCAA to be involved in significant, or repetitive or intentional violations (or a pattern of conduct which may constitute or lead to a major NCAA violation) of NCAA regulations, whether while employed at KU or during prior employment at another NCAA member institution, Head Coach may be suspended without pay for a period of time and/or the employment of Head Coach may be terminated for cause, as set forth in Section 13 below. Additionally, if Head Coach knew or should have known of a significant or repetitive or intentional violation of NCAA regulations, and he fails to promptly report it to the Director, he agrees that he may be suspended without pay and/or terminated for cause, as set forth in Section 13 below.
- C. Head Coach further agrees that he shall report promptly to the Director any violations known to Head Coach of governing athletic rules, including NCAA and/or Big 12 rules, or Athletics or KU rules, regulations or policies by any person under the Head Coach's direct control or supervision, including but not limited to assistant coaches and student-athletes.
- D. If Head Coach is fined by the Big 12 Conference or NCAA for any violation of the sportsmanship policy, such penalty shall be the sole responsibility of the Head Coach.
- E. Head Coach agrees to indemnify KU and Athletics for all costs and expenses, including attorneys' fees, incurred by KU and/or Athletics as a result of KU's football program being placed on probation due to a major, intentional, significant or repetitive violation of NCAA rules and regulations by Head Coach directly. Said payments by Head Coach shall not exceed \$500,000.

9. Apparel and Media Rights/Contracts

- A. Head Coach acknowledges that any apparel provided to or purchased by KU or Athletics by a manufacturer is subject to NCAA rules and regulations, as well as KU's property inventory procedures. All equipment must be sent directly to Athletics' Athletic Equipment Manager and shall be owned by Athletics. Any personal equipment or apparel that is provided to or purchased by Head Coach from an apparel dealer must be delivered to his home address, and cannot be received by KU or Athletics.

- B. All designs for merchandise incorporating any KU marks and/or logos (including verbiage), which may be sold or given away at any activities (camps, clinics, any athletic contests, etc.) involving any KU or Athletics employees, must be approved by the Director prior to production. All merchandising incorporating any KU marks and/or logos (including verbiage), which shall be sold or given away at any activities (camps, clinics, any athletic contests, etc.) involving any KU or Athletics employees, is subject to normal licensing approval and applicable royalty fees. All such merchandise must be purchased from University-approved, licensed manufacturers. A list of all University-approved, licensed manufacturers (including addresses and phone numbers) shall be available from the Director. Copies of all invoices for all merchandise incorporating any KU marks and/or logos (including verbiage) ordered for resale/give-away at any activities (camps, clinics, any athletic contests, etc.) must be forwarded to the Director for review and approval.

- C. Head Coach acknowledges that Athletics and KU have agreements with apparel and/or footwear manufacturers and distributors, as well as merchandise and beverage agreements, to provide footwear, apparel, equipment, and other products to Athletics for use by the football team and staff. Head Coach agrees he shall not negotiate a separate contract with any footwear, apparel, equipment or beverage manufacturer while serving as head football coach, and that he further agrees that he will not endorse any athletic footwear, apparel, equipment and/or beverage products and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel, equipment, or beverages. He further acknowledges that he shall comply with all terms of Athletics agreements with such apparel, footwear, equipment, merchandise, or beverage agreements that currently exist or that the University or Athletics may negotiate in the future. Athletics shall furnish the details of such agreements to Head Coach.

- D. Head Coach further acknowledges that Athletics possesses the sole and exclusive ownership rights to all media rights in KU football, including but not limited to coaches' shows, call-in programs, post-game and pre-game interviews, highlight shows, replay shows, and other programs (the "Programs") that may be offered currently or in the future on media outlets, including but not limited to the following: radio, all forms of television, internet, satellite, cable, broadband, high definition, DVD, video cassette, wireless and video-on-demand or any other

medium whatsoever whether now existing or developed in the future. As such, Athletics shall be entitled, at its option to produce and market the Programs or negotiate with third parties for the production and marketing of the Programs. Athletics shall be entitled to retain all revenue generated by the Programs, including but not limited to, that received from Program sponsors for commercial endorsements used during the Programs. All appearances by Head Coach on any radio, television, internet or any other Program must have the prior approval of the Director. It shall not be unreasonable for Athletics to withhold approval, and Head Coach shall not be permitted to participate in any business transactions or endorse any products or appear on any radio or television or internet or any other Programs, if Athletics reasonably determines that such participation may likely discredit or bring undue criticism to Athletics or KU or to infringe upon any contractual obligations of Athletics or, as determined by Athletics in its sole but reasonable discretion, are otherwise not in the best interests of Athletics or KU or which violate KU policy or local, state, or federal law. Head Coach may not associate KU's name, logos, trademarks, symbols, insignias, indicia, service marks, or reputation in connection with any such arrangements, directly or indirectly, without the prior written approval of the Director. In the event that the Director gives permission to Head Coach to use KU's name, logos, trademarks, symbols, insignias, indicia, service marks or reputation, such permission shall be non-exclusive and non-transferable, and such permission shall automatically expire upon Head Coach's resignation or termination from employment or upon written notice from KU.

- E. Head Coach agrees to, and hereby does, assign to Athletics and KU or its then current rights holder of one or more of the Programs all right, title and interest in Head Coach's name, nickname, initials, autograph, facsimile signature, likeness, photograph, and derivatives thereof, and Head Coach's picture, image, and resemblance and other indicia closely identified with Head Coach (collectively the "Property") in connection with the Programs or endorsements and in all other respects for purposes consistent with this Section and elsewhere in this Agreement. The assignment includes, but is not limited to, intellectual property rights under any and all trademarks and copyrights and any applications therefor which have been obtained or filed, and may be filed in the future with respect to the Property. Head Coach further agrees to, and hereby does, assign to Athletics and KU the Property associated with all previously broadcast, record or stored Programs. Nothing contained herein shall limit Coach's ability to use the Property in activities not associated with the Programs (subject to the approval provision of Section 6B of this Agreement).

10. Other Miscellaneous Benefits

So long as Head Coach continues as the head coach of the KU intercollegiate football program, Athletics agrees to provide, or pay, as the case may be, and only as directed by Head Coach, the following additional benefits:

- A. For the duration of his employment as head football coach, Head Coach shall receive the use of two automobiles, the model of which shall be the highest line of

the manufacturer or are mutually agreed upon, at no cost to Head Coach, subject to the procedures outlined in the Athletics' Policies and Procedures Manual.

- B. So long as Head Coach remains insurable, and either employed by Athletics or is receiving liquidated damages payments pursuant to Section 12 below, Athletics shall purchase and maintain a term life insurance policy for Head Coach in the amount of \$2,000,000. Head Coach shall be the owner of the policy and may designate the beneficiaries. Head Coach hereby agrees that Athletics may purchase an additional life insurance policy on Head Coach and, in recognition of Head Coach's value to Athletics and its programs, Athletics shall be the beneficiary of such policy.
- C. Athletics shall pay the reasonable travel and lodging expenses incurred by Head Coach's spouse in attending KU football games held outside the city of Lawrence, Kansas and the reasonable travel and lodging expenses incurred by Head Coach's two minor children in attending one KU football game held outside the city of Lawrence, Kansas.
- D. Head Coach shall be entitled to operate a summer football camp or clinics in accordance with the policies of KU, Athletics, the NCAA and Big 12 concerning the operation of such camps. Head Coach hereby acknowledges and agrees that within 60 days from the closing of any camp or clinic, Head Coach shall provide to Athletics a full accounting of the camp or clinic, including a statement of income and expenses, and an accounting of all distributions to all personnel working at the camp or clinic. Head Coach has the right to operate a camp or clinic at KU only as long as he is the Head Coach of the football program. Head Coach hereby acknowledges and agrees that Athletics shall receive a payment derived from said camp as a facilities use fee. The payment will be determined on an annual basis and specified in an annual camp contract that Head Coach shall sign with Athletics.
- E. Athletics shall pay all reasonable travel and entertainment expenses not reimbursed by another source whenever Head Coach represents KU or its athletics or football programs. Such representation is understood to include recruiting, appearances at camps or clinics, speaking engagements, and other occasions at which Head Coach represents KU and its athletics program.
- F. Head Coach shall be eligible to participate in all medical, dental, retirement and any other fringe benefit programs available to full-time benefits eligible employees of Athletics.
- G. Athletics shall make available to Head Coach up to 12 tickets for home football games upon his request at no cost to Head Coach for allocation at his discretion. Head Coach's tickets shall be located between the 35 yard lines on the west side of Memorial Stadium, said seats to be assigned by Athletics. In addition, Athletics shall make available to Head Coach up to 12 tickets for allocation at his discretion to all away football games and up to 12 tickets to bowl games. Any other tickets

requested by Head Coach shall be paid for directly by Head Coach and shall be his personal expense.

- II. Athletics shall provide to Head Coach up to 4 season tickets to men's and women's basketball games, said seats to be located on the lower level of Allen Fieldhouse between the free throw lines, said seats to be assigned by Athletics, and up to 4 tickets to the Big 12 Conference men's and women's basketball tournament games at which he personally attends and the NCAA men's and women's basketball tournament games in which he personally attends and KU participates, all at no cost to Head Coach. Any other tickets requested by Head Coach shall be paid for directly by Head Coach and shall be his personal expense.
- I. Athletics shall provide an Athletics designated Scholarship Suite to Head Coach in Memorial Stadium.
- J. Head Coach shall be provided a membership at a Lawrence country club. Athletics agrees to pay all monthly dues, greens fees, and all other business-related expenses.
- K. Any use of privately owned aircraft, including use of the university airplane, may only be for recruiting purposes. Head Coach's family members are not permitted on private aircraft unless their presence is in accordance with university policy.

11. Taxability of Benefits

Head Coach acknowledges and agrees that some benefits described in Section 10 above may constitute taxable income, and Head Coach agrees he will be responsible for payment of all appropriate taxes on such income. Head Coach also understands and agrees that Athletics will withhold taxes based on the value of the benefits described in Section 10 above, and based on the value of any other benefits or compensation provided by KU or Athletics and not otherwise listed herein.

12. Termination Without Cause

- A. Athletics shall have the right to terminate this Agreement without cause at any time upon written notice to Head Coach. In the event Athletics terminates this Agreement without cause, Athletics shall only be liable to Head Coach for the payment of liquidated damages as outlined in this section; no other sums or damages of any kind whatsoever shall be paid by Athletics to Head Coach.
- B. The obligation of Athletics to make the payments set forth herein shall be reduced and extinguished by and to the extent of any compensation Head Coach earns and actually receives from the date of termination without cause (the "offset"). Head Coach acknowledges a good faith duty and obligation to seek to obtain similar or related employment and to collect sums due him in connection with such employment.

- C. In the event that Head Coach obtains such other employment after being terminated by Athletics without cause, it shall be the obligation of Head Coach to notify Athletics and provide all documentation requested by Athletics to determine the amount of compensation received by Head Coach and the amount of offset Athletics may owe. Athletics shall have the right to review any such compensation offers to determine if such compensation is commensurate and reasonable prior to its approval of any offset payments. Should Athletics determine that such compensation is not commensurate, Athletics shall be entitled to “gross up” the salary as though Head Coach had received a salary commensurate with others similarly situated. For example, if Head Coach accepts an assistant coaching position for \$50,000 per year, and a salary commensurate (calculated by determining the average salary of the assistant coaches) with the other similarly situated coaches on staff, exclusive of coordinators and the head, is \$150,000, then Athletics would be obligated to pay Head Coach an additional \$650,000 per year through June 30, 2019—the difference between his Athletics salary and the commensurate salary for the new position, and subject to the time limitations set forth in Sections 12 (D) and 12 (E) below.
- D. Notwithstanding the above, if Athletics terminates this Agreement without cause prior to its expiration, Head Coach shall be entitled to, and shall accept as liquidated damages (less any offset), payment of his Salary (Section 4) and Professional Services at the then existing rate (Section 7) and payments pursuant to Section 12 (F) below for 24 months or up to December 31, 2019 (whichever occurs first).
- E. The liquidated damages shall be paid to Head Coach over a period of time equal to the number of full months remaining on the contract term or 24 months, whichever is less, in monthly installments commencing on the last day of the month immediately following the month in which the termination date occurs and continuing on the last day of each succeeding month thereafter during the payment period. The monthly payments by Athletics shall be subject to the offset and reduction as previously specified in this Section and apportioned, as feasible, on a monthly basis.
- F. Athletics shall remain responsible for the payment of any life insurance premiums due pursuant to Section 10 (B) above for as long as it is also responsible, pursuant to this Section 12, for the payment of liquidated damages payments to Head Coach. Additionally, Head Coach shall remain eligible to participate in all medical and dental insurance programs available to full-time benefits eligible employees of Athletics for as long as it is also responsible, pursuant to this Section 12, for the payment of liquidated damages payments to Head Coach, unless Head Coach is eligible for said medical and dental benefits in other employment.
- G. The parties agree that such liquidated damages are in lieu of all other compensation and benefits, including annual and sick leave, otherwise owed to Head Coach under any and all other provisions of this Agreement; and further such liquidated damages constitute reasonable compensation for losses that Head Coach will incur and are not a penalty.

13. Termination for Cause

- A. Athletics may, for cause, terminate Head Coach's employment at any time upon written notice to Head Coach.
- B. If such termination is for cause, Athletics shall be obligated to pay Head Coach all amounts owing up to the date of termination only. All obligations of Athletics to make further payments and/or to provide any other consideration, under this Agreement or otherwise, except to the extent already vested, shall cease immediately. Athletics shall not be liable to Head Coach for the loss of any amounts, collateral business opportunities, or any other benefits, perquisites or income resulting from activities such as, but not limited to camps, clinics, media appearances, television or radio shows, or from any other sources as a result of Athletics termination for cause of Head Coach's employment under this Agreement. Head Coach shall not be entitled to receive any benefits or payments that become due after the date of termination. Head Coach shall be eligible to purchase continued health insurance pursuant to COBRA for the period of time specified by COBRA at the time of termination.
- C. For purposes of this agreement, "cause" shall include misconduct, including but not limited to:
 - 1. the refusal, failure (other than the failure resulting from his incapacity due to physical or mental illness), fraud, or dishonesty of Head Coach in any material respect to comply with the reasonable directives of the Director or his designee or to perform the duties set forth in Section 3 above; or
 - 2. serious criminal conduct by Head Coach, including any felony, as determined by Athletics or any criminal conviction involving dishonesty, fraud, misappropriation, or embezzlement; or
 - 3. discreditable conduct that is inconsistent with the professional standards expected of a head coach of a collegiate sports team or that is seriously prejudicial to the best interests of KU or Athletics; or engaging in abusive or demeaning language or conduct to any student, including student-athletes, or employees, including employees of KU or Athletics; or be involved in conduct or activities that violate KU or Athletics' mission; or
 - 4. violations by Head Coach of NCAA rules and regulations, as set forth in Section 8 above; or
 - 5. failure by Head Coach to report promptly to the AD any violations known to Head Coach of governing athletic rules, including NCAA and/or Big 12 rules, or Athletics or KU rules, regulations or policies by assistant coaches, student-athletes or other persons under the direct control or supervision of Head Coach; or

6. fraud or dishonesty in preparing, falsifying, submitting, or altering documents or records of or for the NCAA, the Big 12 Conference, Athletics, or KU; or
7. commission of or participation in by Head Coach of any act, situation, or occurrence, or any conduct, which in Athletics' or KU's judgment brings Head Coach and/or KU into public disrepute, embarrassment, contempt, or ridicule or any public comments that disparage KU or Athletics, its personnel, programs, policies and/or departments, or that cause damage to KU's reputation.

- D. Prior to any termination for cause, Athletics shall provide written notice to Head Coach in accordance with Exhibit A that shall specify the grounds for termination and provide Head Coach with an opportunity (not less than five (5) calendar days) to respond to any allegations against him.
- E. Athletics shall have the right to take disciplinary or corrective action, short of suspension or termination for cause, against Head Coach for violation of any provision of this Agreement or for any reason which would allow termination for cause or suspension under this Section. Athletics is under no obligation to use progressive discipline. Should Athletics choose, at its option, to use progressive discipline for misconduct, the use of progressive discipline shall not create any future obligation for Athletics to use progressive discipline for future incidents.

14. Termination for Disability

If Head Coach's mental or physical incapacity precludes him from performing his duties herein and such condition shall continue for a period of more than 60 days, KU or Athletics shall have the right, upon written notice to Head Coach or his legal representative, to terminate Head Coach's employment. Upon notification of the mental or physical incapacity, KU or Athletics shall have the right to place Head Coach on administrative leave, said leave to be administered pursuant to Athletics' administrative leave policy.

15. Termination by Head Coach

- A. Head Coach agrees that during the term of this Agreement, he shall notify the Director or his designee of, and obtain permission prior to, any discussions by Head Coach, his agents or representatives, pertaining to coaching opportunities at any NCAA member institution, or any other coaching or non-coaching positions that may result in termination of his employment with Athletics.
- B. Head Coach recognizes that his promise to work at Athletics and KU for the entire term of this Agreement is the essence of this Agreement. In the event that Head Coach terminates this Agreement to accept another coaching position at any NCAA member institution or any other coaching or non-coaching positions that may result in termination of his employment with Athletics prior to the expiration of the term of this Agreement, Head Coach shall be responsible to pay, or have paid on his

behalf, liquidated damages to Athletics in an amount equal to two years of Head Coach's Salary (Section 4) and Professional Services (Section 7) in effect at the time of termination pursuant to this Section. The parties agree that such liquidated damages are fair and reasonable compensation for losses that Athletics will incur and are not a penalty, and shall be due and payable within sixty (60) days following Coach's termination or resignation or by agreement acceptable to both parties

- C. In the event Head Coach should terminate this Agreement, for whatever reason, Athletics shall be obligated in that event to pay Head Coach all amounts owed to Head Coach under this Agreement up to the date of termination only. Head Coach shall not be entitled to receive any other benefits or payments that become due after the date of termination except as expressly provided elsewhere in this Agreement.
- D. Termination by Head Coach may be initiated by providing the Athletic Director written notice of termination or resignation or by making a public announcement of acceptance of employment with any organization other than the University or Athletics.

16. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas, Kansas law on conflicts of law notwithstanding.

17. Consent to Jurisdiction and Venue

Any action brought under this agreement shall be brought only in the District Court of Douglas County, Kansas, or the United States District Court for the District of Kansas in Topeka, Kansas or Kansas City, Kansas, and each party waives the right to seek a change of venue to any courts other than those courts.

18. 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.

19. 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.

20. Effective Date

This Agreement and its terms and provisions shall be effective as of December 8, 2014.

21. 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.

22. Notice

Any notice or other communication hereunder will be in writing, sent via registered or certified mail, overnight courier, or confirmed facsimile transmission and will be deemed provided, if, (a) mailed, when deposited, postage prepaid, in the United States mail, (b) sent by overnight courier, one business day after delivery to such courier, and (c) sent by confirmed facsimile. Any notice or other communication will be addressed as set forth below, or to such other address as any party will advise the others in writing:

If to the University:

Office of the Chancellor
1450 Jayhawk Boulevard
Room 230
The University of Kansas
Lawrence, Kansas 66045
Facsimile: (785) 864-4120

with a copy to:

Office of the General Counsel
1450 Jayhawk Boulevard
Room 245
The University of Kansas
Lawrence, Kansas 66045
Facsimile (785) 864-4617

If to Athletics:

Director of Athletics
Kansas Athletics, Inc.
1651 Naismith Drive
Lawrence, Kansas 66045
Facsimile: (785) 864-5035

If to Head Coach:

David Beaty
Kansas Athletics, Inc.
1651 Naismith Dr.
Lawrence, KS 66045

with a copy to:

1 Degree Sports Management
Attn: Kyle Strongin
21 Music Square West
Nashville, TN 37203

23. Entire Agreement

This Agreement embodies the complete agreement concerning the employment of Head Coach by Athletics and shall, upon the effective date hereof, supersede any other oral and written agreements between the parties. The parties agree that neither of them has made any representations with respect to the subject matter of this Agreement or any representations, including the execution and delivery hereof, except as are specifically set forth herein and each of the parties hereto acknowledges that each has relied solely on his and its own judgment in entering into this Agreement with full opportunity to see advice of competent counsel.

24. Approval by University and Athletics


This Agreement shall not be binding upon Athletics until it is signed by the Director of Athletics and approved by the Chancellor of the University of Kansas, and the Compensation Committee of the Board of Directors of Kansas Athletics, Inc.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

KANSAS ATHLETICS, INC.

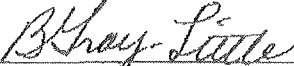
By 
Sheahon Zenger
Title: Director of Athletics


David Beaty
Title: Head Football Coach

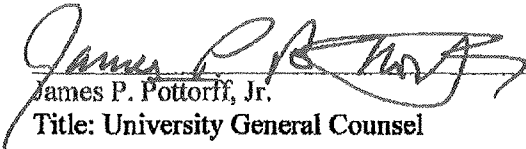


Kyle Strongin
Title: Agent for Head Football Coach

Approved by:



Bernadette Gray-Little
Title: Chancellor, The University of Kansas



James P. Pottorff, Jr.
Title: University General Counsel

ATTACHMENT A: DAVID BEATY EMPLOYMENT AGREEMENT

I. Procedures for Suspension and Termination

- (a) Employment may be suspended for a period of time, without pay, or terminated, with immediate cessation of salary payments and fringe benefits, for cause. Cause for suspension or termination shall be those causes specified in section 13 (C) of this Agreement, including, but not limited to, a significant or repetitive violation of any of the rules, regulations or policies of the Big 12 Conference or the National Collegiate Athletic Association, by Head Coach, or acts or omissions giving rise to an NCAA finding that the institution has committed a major violation of NCAA rules or regulations. A "significant or repetitive violation" under this Section shall be defined in accordance with the principles stated in Section 11.2.1. of the August 1, 2014 NCAA manual, or the then-existing section and NCAA manual.
- (b) The Director of Intercollegiate Athletics shall determine whether Head Coach shall be suspended or terminated for cause. Prior to suspension or termination for cause, Head Coach shall (i) be provided by Director written notice of the contemplated suspension or termination and a statement of the reasons and facts in support thereof and the effective date of such termination or suspension, which shall be no less than five calendar days after such written notice is delivered to Head Coach, and (ii) have five calendar days from receipt of such notice to deliver a written request for an appeal of the contemplated action. Written requests shall be delivered to the Office of the Chancellor. If no written request is received by the Chancellor as provided herein, a contemplated suspension or termination shall become final five calendar days following Head Coach's receipt of such notice, or on the date specified in the notice, whichever is later. In the event that Head Coach serves a timely written notice of appeal, the contemplated suspension or termination for cause shall be stayed until the appeal has been determined.
- (c) Within 30 calendar days following receipt of a written request for an appeal, the Chancellor shall appoint a three-person hearing board, composed of two individuals from the Board of Directors of Kansas Athletics, Inc. ("Athletics") and one other University or Athletics employee, to consider the matter and hear reasons for and against the contemplated action. Head Coach shall have the right to appear before the hearing board, with a representative if he desires, to comment on the reasons given for the contemplated action and to present reasons against it. The hearing board shall not be bound by formal or technical rules of evidence, and its procedures shall be non-adversarial. The hearing board shall send written findings of fact and recommendations on the matter to the Chancellor. The Chancellor will not be bound to follow the hearing board's recommendations, and may seek counsel from the Athletics Board. The Chancellor shall consider and

decide the appeal and shall notify, in writing, Head Coach, the Director of Intercollegiate Athletics, and the hearing board of the Chancellor's decision, which shall be final and binding as to the issue of cause for termination of suspension on Head Coach, Kansas Athletics, Inc. and The University of Kansas.

- (d) In the event employment is terminated pursuant to the terms and conditions set forth in this Attachment and the Agreement, Head Coach shall be entitled to all rights that have accrued under contract as of the termination date.
- (e) In the event of a conflict between these Procedures and Athletics' and the University's general terms, conditions, policies and procedures governing employment (as they may be modified from time to time), these Procedures shall govern.
- (f) If Head Coach is found in violation of NCAA regulations, he shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures, in addition to any other actions taken pursuant to the provisions of this Agreement.

Copy 4 of 4 copies

**FIRST AMENDMENT TO
EMPLOYMENT AGREEMENT**

THIS FIRST AMENDMENT TO THE DECEMBER 8, 2014 EMPLOYMENT AGREEMENT ("Employment Agreement") by and between Kansas Athletics, Inc. ("Athletics") and David Beaty ("Head Coach"), referred to from time to time herein as "the parties," is effective as of December 1, 2016.

WHEREAS, Athletics operates the intercollegiate athletics programs of the University of Kansas ("KU"), subject to the direction and control of the Chancellor of the University of Kansas; and

WHEREAS, pursuant to the Employment Agreement, Head Coach currently serves, and Athletics desires that he should continue to serve, as the Head Coach for the KU intercollegiate football program; and

WHEREAS, the parties wish to amend the Employment Agreement.

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

1. Section 2 of the Employment Agreement is amended to provide as follows:

2. Term

This Agreement shall be for a term beginning December 8, 2014, and ending December 31, 2021 unless earlier terminated, as set forth herein.

2. Section 4 of the Employment Agreement is amended to provide as follows:

4. Salary

For all services to be performed by Head Coach in his capacity as head football coach, Athletics shall pay Head Coach a salary of \$225,000 per annum, payable in twelve (12) equal monthly installments on the last day of each month during the term of this Agreement. Any future adjustments to the terms of this Agreement shall be agreed upon between the Director and Head Coach prior to further negotiations between the parties' representatives.

3. Section 5 of the Employment Agreement is amended to provide as follows:



5. Incentive Payments

- A. The following incentive payments shall be paid to Head Coach in the event the football team achieves any of the goals corresponding to the amounts indicated:

Each Non-Conference FBS game win	\$50,000
Each BCS/Power 5 game win	\$100,000
Big 12 regular season champion or co-champion	\$100,000
Coaching KU in bowl game (other than bowl games listed below)	\$200,000
Coaching KU and winning a bowl game (other than bowl games listed below)	\$100,000
Coaching KU in the Fiesta Bowl, Rose Bowl, Orange Bowl, Sugar Bowl, Peach Bowl or Cotton Bowl	\$250,000
Coaching KU and winning the Fiesta Bowl, Rose Bowl, Orange Bowl, Sugar Bowl, Peach Bowl or Cotton Bowl	\$500,000
Head Coach named AP National Coach of the Year	\$50,000
Head Coach named Big 12 Coach of the Year	\$50,000

- B. It is the intent of the parties that the amounts set forth in Subsection 5(A) shall be cumulative with each other. For example: if the football team wins two games against non-conference FBS opponents and two games against BCS/Power 5 opponents and the Head Coach is named the Big 12 Coach of the year, Head Coach would receive \$350,000. If the Head Coach wins six games against BCS/Power 5 opponents, two against FBS non-conference opponents and coaches the team in the Fiesta Bowl and wins the Fiesta Bowl, Head Coach would receive \$1,450,000.
- C. In the event this Agreement is terminated pursuant to Section 13 below, Head Coach shall repay to Athletics all Incentive Payments received for any achievement by Head Coach under this section 5 (A) if such achievement is subsequently vacated by KU or by the NCAA, in whole or in part, because of NCAA or Kansas University rules violations committed directly by Head Coach as determined by Athletics, KU, or the NCAA.

4. Sections 7 (A) and 7 (D) of the Employment Agreement are amended to provide as follows:

7. Professional Services

- A. Athletics shall pay to DB Sports LLC (“Contractor”) for professional services rendered by Head Coach an income of not less than \$1,375,000

per annum (the "Guaranteed Net Income"), said payments beginning December 1, 2016. Beginning on January 1, 2018 and occurring on each January 1 thereafter, the Guaranteed Net Income pursuant to this section shall increase by \$100,000 each year. Duties under this section may include educational, public relations, and promotional duties as assigned by the Director.

- D. In the event that Head Coach's employment is terminated without cause pursuant to Section 12 of this Agreement, Contractor shall be entitled to a payment under this Section 7 in the total amount of \$2,580,000.00 payable in six equal installments commencing on the last day of the month immediately following the month in which the termination date occurs and continuing on the last day of each succeeding month thereafter; the payments under this Section 7 and under Section 12 shall be considered as Liquidated Damages with no other sums or damages of any kind whatsoever paid by Athletics to Contractor.

- 5. Section 12 of the Employment Agreement is amended to provide as follows:

12. Termination Without Cause

- A. Athletics shall have the right to terminate this Agreement without cause at any time upon written notice to Head Coach. In the event Athletics terminates this Agreement without cause, Athletics, in addition to all amounts due and owing under this Agreement up to the date of termination, shall be liable to Head Coach for a Liquidated Damages total payment of \$420,000.00 payable in six equal installments; other than payments under Section 7 and payments under this Section 12, no other sums or damages of any kind whatsoever shall be paid by Athletics to Head Coach.
- B. The Liquidated Damages above shall be paid to Head Coach in six equal monthly installments commencing on the last day of the month immediately following the month in which the termination date occurs and continuing on the last day of each succeeding month thereafter.
- C. The parties agree that such Liquidated Damages are in lieu of all other compensation and benefits owed to Head Coach, including annual and sick leave, otherwise owed to Head Coach under any and all other provisions of this Agreement; and further constitute reasonable compensation for losses that Head Coach will incur and are not a penalty.

- 6. Section 15 (B) of the Employment Agreement is amended to provide as follows:

15. Termination by Head Coach


B. Head Coach recognizes and agrees that his promise to work at Athletics and KU for the entire term of this Agreement is the essence of this Agreement. In the event that Head Coach terminates this Agreement to accept another coaching position at any NCAA member institution or any other coaching or non-coaching positions that may result in termination of his employment with Athletics prior to the expiration of the term of this Agreement, Head Coach shall be responsible to pay, or have paid on his behalf, Liquidated Damages to Athletics in the amount of (1) \$3,000,000 should he terminate this agreement prior to December 31, 2018; (2) the amount of \$2,000,000 should he terminate this agreement between January 1, 2019 and December 31, 2020; or (3) the amount of \$1,000,000 should he terminate this agreement between January 1, 2021 and December 31, 2021. The parties agree that such Liquidated Damages are fair and reasonable compensation for losses that Athletics will incur and are not a penalty, and shall be due and payable within sixty (60) days following Head Coach's termination or resignation or by agreement acceptable to both parties.

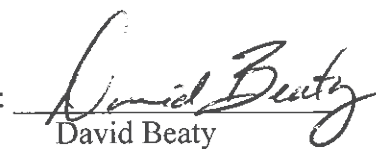
7. All other terms of the Employment Agreement shall remain shall remain unmodified by this amendment and in full force and effect.


IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to the Employment Agreement on the day and year first written above.

KANSAS ATHLETICS, INC.

DAVID BEATY


By: 
Sheahon Zenger
Title: Director of Athletics

By: 
David Beaty
Title: Head Football Coach

Approved by: 

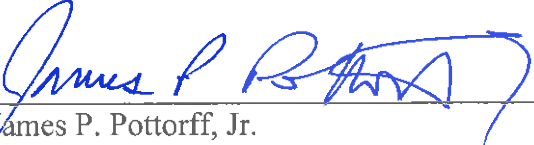
Kyle Strongin
Title: Agent for Head Football Coach

Approved by:



Bernadette Gray-Little

Title: Chancellor, The University of Kansas



James P. Pottorff, Jr.

Title: University General Counsel

Copy 3 of 4 copies

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made by and between Kansas Athletics, Inc. ("Athletics") and DB Sports LLC operating as a Kansas Limited Liability Company, domesticated in the State of Kansas, and reporting activity under a federal employer identification number of "Contractor"); and

WHEREAS Athletics and David Beaty (Head Coach) entered into an Employment Agreement effective December 8, 2014 ("Employment Agreement"); and

WHEREAS Athletics and Contractor wish to arrange for compensation through this Agreement for all educational, public relations, and promotional activities ("multimedia activities") as arranged by DB Sports LLC for Head Coach to perform under the terms of the Employment Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Athletics and Contractor agree as follows:

1. **Description of Services**

- A. During the term hereof and effective March 3, 2015, Contractor shall provide to Athletics, or cause to be provided, multimedia activities and services by Head Coach as reasonably requested by Athletics, pursuant to this Agreement and Sections 7 and 9 of the Employment Agreement.
- B. Contractor agrees that Athletics has the exclusive right to any and all of the services described in Section 1(a) of this Agreement and Sections 7 and 9 of the Employment Agreement ("the Services") and that the Services, and any performance similar to the Services, shall not be performed for any other person, corporation or entity during the term of this agreement without the consent of the Director of Intercollegiate Athletics of the University of Kansas.
- C. Contractor shall report to the Director of Intercollegiate Athletics or his designee (collectively the "Director"), to advise and inform Athletics regarding the services when necessary or appropriate and when otherwise requested to do so.

2. **Term of Agreement**

- A. The term of this Agreement shall be from March 3, 2015 to December 31, 2019 unless sooner terminated, as provided herein, or extended.
- B. This Agreement may be terminated by Athletics immediately (i) in the event that the Employment Agreement between Athletics and Head Coach is terminated by Head Coach pursuant to Section 15 of the Employment Agreement or if Head Coach is terminated for cause from the position of Head Football Coach of the University of Kansas ("KU") pursuant to Section 13 of the Employment



Agreement; (ii) if any person participating in the performance hereof on behalf of the Contractor is found to be involved in significant or repetitive or intentional violations (or a pattern of conduct which may constitute or lead to a major NCAA violation) of KU, NCAA or Big 12 Conference rules or regulations or if Contractor, knew or should have known of such violations and he fails to promptly report it to the Director; or (iii) if Contractor refuses to perform any duties or obligations imposed by this Agreement.

- C. In the event Head Coach's employment is terminated for cause as defined in Section 13 of the Employment Agreement with Athletics, Contractor shall be paid all amounts which have accrued under this Professional Services Agreement as of the termination date, and shall not be entitled to any further compensation.
- D. In the event Head Coach's employment is terminated by Athletics, other than for cause as defined in his Employment Agreement, Contractor shall be paid, as liquidated damages (less any offset as defined in Section 12 of the Employment Agreement), an amount equal to 24 months (or payments allocable for the remaining term of the Employment Agreement, whichever is less). The parties agree that such liquidated damages are in lieu of all other claims or damages under this contract and further constitute reasonable compensation for losses and are not a penalty and shall be apportioned, as feasible, on a monthly basis.
- E. In the event Contractor terminates this Agreement, Contractor shall be paid for services actually rendered as of the date of termination provided that nothing herein shall be construed as limiting the power of Athletics to exercise any rights, legal or equitable, existing in its favor in the event of such a termination or any breach of this Agreement by Contractor, including but not limited to those rights specified in Section 15B of the Employment Agreement.
- F. In the event of Head Coach's disability and such disability precludes him from performing his duties herein and such condition shall continue for a period of more than 60 days, KU or Athletics shall have the right, upon written notice to Head Coach to terminate Head Coach's employment and Athletics' obligations under this Agreement shall otherwise end.

3. Basis of Payment

Effective March 3, 2015, Athletics shall pay Contractor for Services rendered pursuant to this Agreement, the sum of \$575,000 annually through December 31, 2019 which shall be payable monthly for services rendered during the preceding month. Should the football team have a winning regular season record (defined as at least 6 wins and no more than 6 losses or bowl eligibility) during any season, the Guaranteed Net Income shall be increased by \$100,000, effective January 1st of the year after the winning regular season, and shall continue for the term of this Agreement. Duties under this section may include educational, public relations, and promotional duties as assigned by the Director.

4. Assignment

Neither this Agreement nor any rights, duties, interests or claims herein shall be assigned or transferred by Contractor except as expressly authorized in writing by Athletics.

5. Liability

Contractor shall indemnify and hold Athletics and KU, their trustees, officers, employees and agents, and each of them, harmless from and against any and all claims arising out of the work performed under this Agreement by Contractor and any and all of Contractor's employees, agents or subcontractors provided, however, that Athletics shall be responsible for all claims which are proximately caused by the negligent conduct of any trustees, officers, employees or agents of Athletics or KU other than those associated with Contractor.

6. Compliance with Laws

Contractor shall comply with all laws, statutes, regulations, rulings, rules or enactments that are applicable to the work described in Section 1 of this Agreement. The parties to this Agreement shall comply with, and this Agreement shall be subject to, any and all laws, rules, rulings, regulations and enactments governing Athletics and KU including, without limitation, those of the Big 12 Conference and National Collegiate Athletic Association.

7. Governing Law and Immunities

All questions concerning the construction, validity and interpretation of this Agreement will be governed by the laws of Kansas, the law on conflicts of law notwithstanding. Any legal action brought under this Agreement shall be brought in the state or federal district courts of the State of Kansas, and each party waives the right to seek a change of venue to any other courts.

8. Independent Status

Contractor is an independent contractor and in providing services hereunder shall not be deemed to be an agent of Athletics or KU. All persons performing services for Contractor in connection herewith shall be employees, agents or subcontractors of Contractor.

9. Severability

Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule, such invalidity, illegality or unenforceability will not affect any

other provision, but this Agreement will be reformed, construed and enforced as if such invalid, illegal or unenforceable provision had never been contained herein.

10. Notices

All notices, demands or requests from one party to the other may be personally delivered or sent by first-class mail, postage prepaid. Communications hereunder shall be deemed to have been made at the time of personal delivery or at the time of proper mailing. The address for the parties shall be as provided below or as provided by either party in writing subsequent to the execution of the Agreement:

If to Contractor:

DB Sports LLC
10940 S. Belmont Dr.
Olathe, KS 66061

with a copy to:

1 Degree Sports Management
Attn: Kyle Strongin
21 Music Square West
Nashville, TN 37203

If to the University:

Office of the Chancellor
1450 Jayhawk Boulevard
Room 230
The University of Kansas
Lawrence, Kansas 66045
Facsimile: (785) 864-4120

with a copy to:

Office of the General Counsel
1450 Jayhawk Boulevard
Room 245
The University of Kansas
Lawrence, Kansas 66045
Facsimile (785) 864-4617

If to Athletics:

Director of Athletics
Kansas Athletics, Inc.
1651 Naismith Drive

Lawrence, Kansas 66045
Facsimile: (785) 864-5035

11. Entire Agreement

This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein and this Agreement shall supersede all previous communications, representations, or agreements, both verbal or written, between the parties, regarding the subject matter contained herein.

12. Amendments

No amendment, modification or alteration of this Agreement shall be binding unless in writing, dated subsequent to the date hereof, and duly executed by both parties hereto.

13. No Waiver

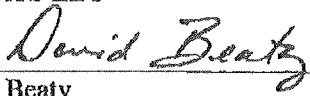
No waiver by the parties hereto of any default or breach of any covenant, term or condition of this Agreement shall be deemed to be a waiver of any other default or breach of the same or any other covenant, term or condition contained herein.

This Agreement is made as of the 13th day of March, 2015.

KANSAS ATHLETICS, INC.

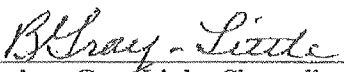
By: 
Sheahon Zenger
Director of Intercollegiate Athletics


DB SPORTS LLC

By: 
David Beaty
Title: Member and Manager


Kyle Strongin
Title: Agent for DB Sports LLC

Approved by:


Bernadette Gray-Little, Chancellor
The University of Kansas


James P. Pottorff, Jr.
Title: University General Counsel

Copy 4 of 4 copies

**FIRST AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT**

THIS FIRST AMENDMENT TO THE MARCH 13, 2015 PROFESSIONAL SERVICES AGREEMENT (“Professional Services Agreement”) by and between Kansas Athletics, Inc. (“Athletics”) and DB Sports LLC operating as a Kansas Limited Liability Company, domesticated in the State of Kansas, and reporting activity under the federal employer identification number of _____ (“Contractor”), referred to from time to time herein as the “parties,” is effective as of December 1, 2016.

WHEREAS Athletics and David Beaty (Head Coach) entered into an Employment Agreement effective December 8, 2014 (“Employment Agreement”) and a First Amendment to Employment Agreement effective December 1, 2016; and

WHEREAS Athletics and Contractor wish to arrange for compensation through this Agreement for all educational, public relations, and promotional activities (“multimedia activities”) as arranged by DB Sports LLC for Head Coach to perform under the terms of the Employment Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Athletics and Contractor agree as follows:

1. Sections 2 (A) and 2 (D) of the Professional Services Agreement are amended to provide as follows:

2. Term

- A. The term of this First Amendment to the Professional Services Agreement shall be from December 1, 2016 to December 31, 2021 unless earlier terminated, as provided herein.

- D. In the event Head Coach’s employment is terminated by Athletics, other than for cause as defined in his Employment Agreement, Contractor shall be paid all amounts which have accrued under this Professional Services Agreement as of the termination date and, as provided in Head Coach’s Employment Agreement, Head Coach shall be entitled to a payment in the amount of \$2,580,000 payable in six equal installments commencing on the last day of the month immediately following the month in which the termination date occurs and continuing on the last day of each succeeding month thereafter. The payments under this section shall be considered as Liquidated Damages; and other than the Liquidated Damages provided in



Section 12 of the Employment Agreement, no other sums or damages of any kind whatsoever shall be paid by Athletics to Contractor or Head Coach.

2. Section 3 is amended to provide as follows:

3. Basis of Payment

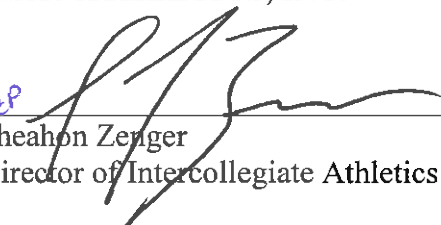
Effective December 1, 2016, Athletics shall pay Contractor for Services rendered pursuant to this Agreement, the sum of \$1,375,000 annually ("the Guaranteed Net Income"), said payments beginning December 1, 2016. Beginning January 1, 2018 and occurring on each January 1 thereafter, the Guaranteed Net Income pursuant to this section shall increase by \$100,000 each year. Duties under this section may include educational, public relations, and promotional duties as assigned by the Director.

7. All other terms of the prior Professional Services Agreement shall remain unmodified by this amendment and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Professional Services Agreement on the day and year first written above.

This Agreement is made as of the 1 day of December, 2016.

KANSAS ATHLETICS, INC.

By: 
Sheahon Zenger
Director of Intercollegiate Athletics

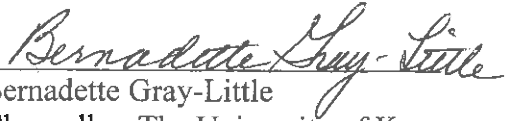
DB SPORTS, LLC

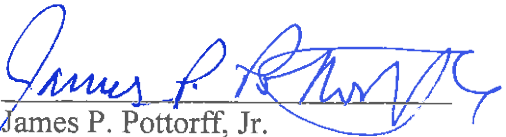
By: 
David Beaty
Member and Manager

Approved by:



Kyle Strongin
Agent for DB Sports, LLC


Bernadette Gray-Little
Chancellor, The University of Kansas


James P. Pottorff, Jr.
General Counsel, The University of Kansas

PERSONAL and CONFIDENTIAL

To: David Beaty
CC: Mike Vollmar, Senior Associate AD – Football
Administration
From: Jeff Long, Director of Athletics
Date: November 29, 2018
Re: Termination Without Cause

As discussed in my office on November 4, pursuant to Section 12 of your Employment Agreement, your Agreement with Kansas Athletics Inc. was terminated without cause effective November 24, 2018. All liquidated damages payments owed to you will be paid out consistent with Section 12 of your current amended Employment Agreement and Section 7 (D) of your current amended Professional Services Agreement.

I appreciate your contributions to the University of Kansas, Kansas Athletics, and Kansas Football during your time as Head Football Coach and wish you success in your future endeavors.

If you have any questions about your employee benefits, including continuing your health insurance through COBRA continuation coverage, please work directly with Frank Reeb. He can be reached at 785-864-7185 (Office) or 785-330-3203 (Cell).



JAMES D. GRIFFIN
816.268.9420
jgriffin@sakg.com

SCHARNHORST
AST
KENNARD
/GRIFFIN^{PC}

December 20, 2018

Via Federal Express, Facsimile: 913-945-5866
& CMRRR No. 7018 0040 0000 2953 5671

Brian A. White
KU OFFICE OF THE GENERAL COUNSEL
Mail Stop 2013
3901 Rainbow Blvd.
Kansas City, Kansas 66160

Re: *David Beaty Termination Without Cause; Severance Payments*

Dear Mr. White:

My Firm has been retained in connection with the above-referenced matter. Please direct all contractually related correspondence and communications accordingly. I have been provided a copy of your December 13, 2018, letter. Please allow this communication to serve as a response.

As you are aware, on or about November 4, 2018, Kansas Athletics Director Jeff Long terminated Coach Beaty's Employment Agreement (and the corresponding Professional Services Agreement) without cause effective November 24, 2018. Subsequently, Frank Reeb, KU Assistant Athletics Director, publicly confirmed that termination without cause in a University-issued press release making clear that, among other things, Coach Beaty had been terminated, that he was owed \$3 million (payable in six equal payments) based on the absence of cause, and that "Kansas w[ould] fulfill the terms of the contract." The decision to terminate without cause was reiterated by written memorandum on or about November 29, 2018, when Athletics Director Long unequivocally communicated that Coach Beaty's Employment Agreement was terminated without cause effective November 24, 2018, and that "all liquidated damages payments owed to [him would] be paid out consistent with Section 12 of [the] current amended Employment Agreement and Section 7 (D) of [the] current amended Professional Services Agreement." A copy of that memorandum is attached.

On or about December 14, 2018, Coach Beaty received your December 13, 2018, letter wherein he was apprised, for the first time, that information had been reported to officials at Kansas Athletics concerning the alleged "conduct and behavior" of one of Coach Beaty's subordinates that occurred, according to the letter, as far back as 11 months before Coach Beaty was terminated without cause. The letter was devoid of details on what alleged "conduct or behavior" was reported, but indicated that, while the NCAA had been notified of the supposed misconduct, the investigation was being conducted solely by Kansas Athletics, Inc.'s ("KAI") corporate counsel and outside counsel. I understand Coach Beaty has retained separate counsel for that investigation and that they have been in touch with your outside counsel. The letter concluded with a contractually unsupported indication that the severance payments already confirmed as owed to Coach Beaty would be unilaterally suspended until KAI's investigation was completed, and the findings would be evaluated to determine "whether [the]



Brian A. White
KU OFFICE OF THE GENERAL COUNSEL
December 20, 2018
Page 2 of 3

separation will be treated as a 'for cause or without cause separation.'"

This letter is disconcerting for several reasons. Most importantly, the record concerning Coach Beaty's termination is well-documented. He was terminated without cause pursuant to Paragraph 12 of the Employment Agreement in November. Any suggestion at this juncture that his termination was "for cause" or could somehow be re-classified as "for cause" *ex post facto* defies common sense or credulity and would appear to be in bad faith. Second, while I certainly hope this is not the case, the very timing and nature of this investigation appears to be an attempt to thwart KAI's contractual obligations acknowledged in person, in writing and publicly by its own leadership. Coach Beaty hasn't had a "separation" as characterized in your letter. He was terminated without cause as widely documented by Kansas Athletics. Please be advised that if Coach Beaty is forced to initiate legal proceedings related to this matter, we will seek to depose every current and former KU and KAI employee who participated in any meeting and/or discussion at any time regarding Coach Beaty's termination, and we will ask each of those individuals to recount every statement made by KAI officials alluding to efforts to find a way to escape the severance owed to Coach Beaty under the contract.

I do not believe anyone would credibly deny that my client has given his heart and soul to improving the lives of the young men he has coached and to improving the KU Football Program. He and his family have made close friends at KU and consider their time with Kansas as a special period in their lives. While Coach Beaty did not agree with the decision to move in a different direction, he has respected the decision and the process. The optics and timing of this investigation, however, lack reciprocation and are very disappointing. They have caused Coach Beaty and his family tremendous distress and have impeded his efforts to secure other coaching opportunities.


KAI's first severance payment is due on or before December 31, 2018. In the event KAI fails to timely tender payments in accordance with its contractual obligations, my client reserves his rights to pursue all available remedies, including, but not limited to, court intervention for breach of contract, related tort and statutory claims, attorneys' fees, court costs and interest. If you would like to discuss this matter further, feel free to contact me.

Sincerely,

SCHARNHORST AST/KENNARD GRIFFIN PC


James D. Griffin

JDG/mem



Brian A. White
KU OFFICE OF THE GENERAL COUNSEL
December 20, 2018
Page 3 of 3

CC: **Via E-Mail**
Michael P. Lyons
Christopher J. Simmons
Stephen Higdon
Deans & Lyons, LLP
325 N. St. Paul Street, Suite 1500
Dallas, Texas 75201

Via Federal Express, Facsimile: 785-864-4120
& CMRRR No. 7018 0040 0000 2953 5398

Office of the Chancellor
The University of Kansas
1450 Jayhawk Blvd., Room 230
Lawrence, Kansas 66045

Via Federal Express, Facsimile: 785-864-4617
& CMRRR No. 7018 0040 0000 2953 5381

Office of the General Counsel
The University of Kansas
1450 Jayhawk Blvd., Room 245
Lawrence, Kansas 66045

Via Federal Express, Facsimile: 785-864-5035
& CMRRR No. 7018 0040 0000 2953 5404

Director of Athletics
Kansas Athletics, Inc.
1651 Naismith Drive
Lawrence, Kansas 66045

PERSONAL and CONFIDENTIAL

To: David Beaty
CC: Mike Vollmar, Senior Associate AD – Football Administration
From: Jeff Long, Director of Athletics
Date: November 29, 2018
Re: Termination Without Cause

As discussed in my office on November 4, pursuant to Section 12 of your Employment Agreement, your Agreement with Kansas Athletics Inc. was terminated without cause effective November 24, 2018. All liquidated damages payments owed to you will be paid out consistent with Section 12 of your current amended Employment Agreement and Section 7 (D) of your current amended Professional Services Agreement.

I appreciate your contributions to the University of Kansas, Kansas Athletics, and Kansas Football during your time as Head Football Coach and wish you success in your future endeavors.

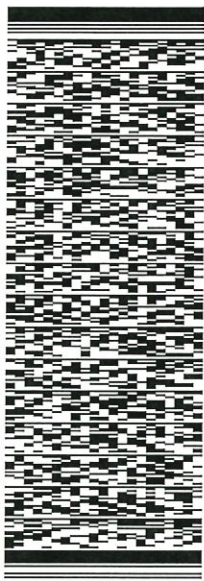
If you have any questions about your employee benefits, including continuing your health insurance through COBRA continuation coverage, please work directly with Frank Reeb. He can be reached at 785-864-7185 (Office) or 785-330-3203 (Cell).

ORIGIN ID:MKCA (816) 268-9400
JAMES D. GRIFFIN
SCHARNHORST AST KENNARD GRIFFIN PC
1100 WALNUT
SUITE 1950
KANSAS CITY, MO 64106
UNITED STATES US

SHIP DATE: 20DEC18
ACTWGT: 0.501LB
CAD: 11360252INET4040
BILL SENDER

TO **BRIAN A. WHITE**
KU OFFICE OF THE GENERAL COUNSEL
MAIL STOP 2013
3901 RAINBOW BLVD.
KANSAS CITY KS 66160
(913) 588-1281 REF: 922.002
INV. DEPT:
P.O.

552J2IE4AF/DCA5



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Shipment Receipt

Address Information

Ship to:

Brian A. White
KU Office of the General
Counsel
Mail Stop 2013
3901 Rainbow Blvd.
KANSAS CITY, KS
66160
US
913-588-7281

Ship from:

James D. Griffin
Scharnhorst Ast Kennard
Griffin PC
1100 Walnut
SUITE 1950
Kansas City, MO
64106
US
8162689400

Shipment Information:

Tracking no.: 774039244955
Ship date: 12/20/2018
Estimated shipping charges: 16.65 USD

Package Information

Pricing option: FedEx Standard Rate
Service type: Priority Overnight
Package type: FedEx Envelope
Number of packages: 1
Total weight: 0.50 LBS
Declared Value: 0.00 USD
Special Services:
Pickup/Drop-off: Drop off package at FedEx location

Billing Information:

Bill transportation to: Scharnhorst Ast Kennard Griffi-165
Your reference: 922.002
P.O. no.:
Invoice no.:
Department no.:

Thank you for shipping online with FedEx ShipManager at fedex.com.

Please Note

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1000, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details.
The estimated shipping charge may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable [FedEx Service Guide](#) or the FedEx Rate Sheets for details on how shipping charges are calculated.