EMPLOYMENT AGREEMENT
BETWEEN
UNIVERSITY OF WISCONSIN-MADISON
DIVISION OF INTERCOLLEGIATE ATHLETICS
AND
KELCY MCKENNA

This EMPLOYMENT AGREEMENT ("Agreement") is made and entered into as of July 13, 2016 by and between the BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM through its duly authorized representatives, the University of Wisconsin-Madison Chancellor and its Director of Athletics ("University"), and Kelcy McKenna ("Coach").

NOW THEREFORE, University and Coach mutually agree as follows:

I. THE POSITION

A. Coach shall be employed to perform the duties of Head Women's Tennis Coach and shall work under the immediate supervision of the Director of Athletics or designee.

B. Coach's appointment is an unclassified "limited appointment," pursuant to the definition in the Wisconsin Statutes and Administrative Code applicable to such appointments, except that, to the extent this Agreement specifies the rights and obligations of the parties, this Agreement shall prevail. Neither termination nor re-assignment to another title and duties is appealable.

C. Coach understands and acknowledges that Coach is employed in a position of trust with access to vulnerable populations and that rules, policies and procedures related to this employment type must be adhered to including recurring criminal background checks. Coach shall be required to self-disclose certain criminal offenses that may occur during the course of employment.

II. SCOPE OF SERVICES/DUTIES

To fulfill the purpose of Coach's employment as Head Women's Tennis Coach, Coach, in a satisfactory and proper manner, shall:

A. Faithfully and conscientiously perform the usual and customary duties of her appointment and those more fully specified in this Agreement;

B. Devote full-time, attention, and energy to the duties of Head Women's Tennis Coach as required herein, and to the promotion of the University and its athletic program, and avoid any business or professional activities or pursuits that will prevent Coach from devoting full-time to the performance of her duties under this Agreement, or which will detract in any manner from the duties outlined herein;

C. Coach agrees to be a loyal employee of the University, to comply with all rules, regulations, policies and decisions established or issued by the University, and to adhere to, respect and follow the academic standards and requirements of the University in regard to the recruitment and eligibility of prospective and current student-athletes;

D. Coach agrees to abide by and comply with the constitution, bylaws, rules, regulations and interpretations (collectively "Legislation") of the National Collegiate Athletic Association (NCAA), Big Ten Conference and any applicable conferences with which the University may be affiliated (Conference), and University rules and regulations relating to the conduct and administration of the athletic program, including recruiting and eligibility rules, as now constituted or as any of the same may be amended during the term hereof. Coach shall also take all reasonable steps to ensure that all assistant coaches, student-athletes, and other individuals under her supervision comply with the aforementioned NCAA, Conference or University Legislation. In the event Coach becomes aware or has reasonable cause to believe that violations of NCAA, Conference or University Legislation may have taken place, she shall report the same promptly to the Director of Athletics or designee or the Division's Compliance Coordinator;

E. Coach agrees to cooperate and make full disclosure of all facts to the proper authorities should there be an investigation of the intercollegiate athletic program, including her conduct, by University, the NCAA , the Big Ten or any other applicable conference with which University may be affiliated.

III. TERM OF EMPLOYMENT

A. The term of this Agreement shall begin on July 13, 2016 and, unless terminated earlier pursuant to the terms contained herein, will end without further notice on June 30, 2019. Coach's month off shall be the month of July each year of the Agreement, except that this off month shall not apply in 2016. If Coach is engaged in activities on behalf of the University in her off month, which are within the course and scope of her position, she will qualify for state liability and worker's compensation coverage.

B. The term of this Agreement may be extended for additional periods upon such written terms and conditions as may be mutually agreed upon by the parties. In the event the term of Coach's employment with the University is so extended, this Agreement shall continue in full force and effect to the extent that it is not inconsistent with such subsequent written agreements.

C. The Director of Athletics or designee shall, at an appropriate time, conduct an annual review of Coach's performance under this Agreement utilizing the applicable evaluation criteria set forth by the Division of Intercollegiate Athletics.

IV. COMPENSATION

A. University agrees to pay Coach as compensation for services as Head Women's Tennis Coach an annual gross base salary of Ninety Five Thousand Dollars ($95,000). Said salary, less all applicable withholding, shall be paid to Coach in equal monthly installments except for the month of July (in years other than 2016) each year of the Agreement. Annual increases in base salary may be awarded each year in accordance with the pay plan approved by the Board of Regents, except that this shall not apply to any pay plan increase effective in 2016.

B. Coach shall be entitled to vacation, sick leave and other benefits available to limited appointees of the University, prorated on the length of appointment.

C. Coach shall have an opportunity to participate in the Division's Post Season Bonus Policy, subject to all the terms and conditions contained therein.

D. The University shall only be obligated to compensate Coach as specified in this Agreement. Nothing herein constitutes an agreement by the University to guarantee or provide Coach with any collateral sources of income or benefits. The annual gross base salary stated above specifically includes payment for any and all required television, radio or other media appearances on behalf of the University.

E. To help make your transition to Wisconsin go smoothly, the University will contribute towards moving expenses, subject to University and State rules. If you resign or are dismissed for cause prior to completing one year of employment, you agree to repay to the University the full amount provided for your moving expenses within thirty days of the effective date of such separation from employment. Should you resign or be dismissed for cause between 12 and 24 months, you will repay to the University fifty percent of the amount provided for your moving expenses within thirty days of the effective date of such separation from employment.

F. As additional compensation, the Division shall provide to Coach one annual automobile allowance as determined by the University. All expenses associated with automobile, including but not limited to liability, collision and comprehensive insurance shall be borne by Coach.

V. TERMINATION AND LIQUIDATED DAMAGES

A. By University.

University recognizes that the entire term of this Agreement is of the essence of this Agreement to Coach. University also recognizes that Coach is making a highly valuable contribution to University by entering into this Agreement, and that this contribution would be lost were University to terminate this Agreement prior to the expiration of its term. While recognizing these agreements and this entire Agreement, the parties agree that University may, nevertheless, terminate this Agreement prior to the conclusion of the term, but only upon the following terms and conditions.

1. Termination by University for just cause.

(a) University may terminate this Agreement at any time for just cause. The term "just cause" shall include, but not be limited to, any of the following:

(1) A violation by Coach of any of the terms and conditions of this Agreement, or refusal or unwillingness or inability to perform such duties in good faith and to the best of Coach's abilities that are not remedied after thirty (30) days written notice thereof to Coach;

(2) Any conduct of Coach which constitutes moral turpitude, which would constitute a criminal offense under Wisconsin law, or which would tend to bring public disrespect, contempt, or ridicule upon University;

(3) Fraud or dishonesty of Coach in the performance of her duties or responsibilities under this Agreement;

(4) A violation or failure to report a violation of any law, rule, regulation, constitutional provision or bylaw of University, the applicable conference, or the NCAA, which violation may, in the sole judgment of University, reflect adversely upon University or its athletic program, including any violation which may result in University being sanctioned or placed on probation by a conference or the NCAA;

(5) Prolonged absence from duty without University's written consent.

(b) Prior to termination for cause, University shall provide Coach with written notice of the factual basis for the proposed action and the intended effective date of termination. Coach shall have an informal opportunity to be heard by the Director of Athletics to discuss and rebut the alleged factual basis for the termination. The University has the sole authority to determine whether Coach's actions or inactions merit dismissal.

(c) In the event this Agreement is terminated for just cause, all obligations of University to make further payments and/or to provide any other consideration hereunder shall cease as of the date of such termination. In no case shall University be liable to Coach for the loss of any collateral business opportunities or any other benefits, perquisites, or income from any other sources.

(d) In the event Coach challenges such decision in a court of competent jurisdiction and the court determines that the University breached this Agreement by terminating Coach without cause, then the liquidated damages provision set forth in Article V, Section A.3 herein shall apply and shall be Coach's sole and exclusive remedy for any cause of action based on this Agreement.

2. Termination by University without cause.

This Agreement may be terminated at any time by University by delivering to Coach written notice of University's intent to terminate this Agreement without cause, which notice of termination shall be effective thirty (30) days after the date of delivery of such notice to Coach.

3. Liquidated damages upon termination by University without cause, with notice.

(a) The University shall have the right to terminate this Agreement prior to the expiration date without cause pursuant to Article V, Section A.2. In such event, the University shall pay to Coach or to Coach's estate or designated beneficiary should Coach die after termination but during the payment period, as her exclusive remedy in lieu of any and all other legal remedies, damages of any type, or equitable relief available to Coach, subject to Coach's duty to mitigate as set forth hereinafter, liquidated damages and not compensation in an amount equal to Coach's then current annual gross base salary less applicable withholdings for the period from the effective date of the termination to the end of the term, including any currently effective extension thereof. Coach may be required to use accumulated unused vacation and personal leave for the period from the effective date of the termination to the end of the term per the unclassified staff benefits regulations. University's obligation shall be paid on a monthly basis, prorated over the balance of the term of this Agreement.

(b) The University's obligation to pay liquidated damages is subject to Coach's duty to mitigate, as follows: In the event the University terminates this Agreement without cause, Coach agrees to mitigate the amount of liquidated damages to which she is entitled under this Agreement and to make reasonable and diligent efforts to obtain other employment as a coach with a club, high school, collegiate or professional program as soon as reasonably possible after termination of this Agreement. Coach agrees to immediately notify the University upon accepting such other employment. After Coach accepts any such new employment, the total amount of liquidated damages the University is obligated to pay and Coach is entitled to receive as specified herein shall be reduced on a monthly basis by an amount equal to Coach's annual gross base salary paid for such month under Coach's new employment agreement until the expiration date of the term of this Agreement as set forth in Article III herein.

(c) In either event, Coach will be entitled to continue her health insurance plan at her own expense through a private source or COBRA. As permitted by Wisconsin law, Coach may secure a conversion policy for her UW group term life insurance. Any other employee benefits that Coach was receiving at the time of termination will be terminated, including contributions to University retirement plans. In no case shall University be liable for the loss of any collateral business opportunities or any other benefits, perquisites, or income from any sources that may ensue as a result of University's termination of this Agreement without cause.

(d) The parties have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that termination of this Agreement by University without cause prior to its natural expiration may cause Coach to lose certain income, fringe benefits, supplemental compensation, or outside compensation relating to her employment at University, which damages are extremely difficult to determine fairly or with certainty. The parties further agree that the payment of such liquidated damages by University and acceptance thereof by Coach shall constitute adequate and reasonable compensation to Coach for the damages and injury suffered by Coach because of such termination by University. The parties acknowledge that the foregoing is not, nor should it be construed to be, a penalty, and shall be binding upon the parties.

4. For death or disability.

Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically and shall be null and void if Coach dies or becomes totally or permanently disabled within the meaning of the applicable retirement system or of any University income continuation program definition or is otherwise unable to perform the essential functions of the position. In the event Coach becomes disabled as defined in the applicable University retirement system or income continuation program or is otherwise unable to perform the essential functions of the position, University agrees to continue Coach's annual gross base salary less applicable withholdings for ninety (90) days from the date of disability. Said ninety (90) days shall include the use by Coach of all accumulated sick, vacation and personal leave. Termination hereunder is not subject to the provision for liquidated damages set forth in Article V, Section A.3 above.

B. By Coach.

Coach recognizes that her promise to work for University for the entire term of this Agreement is of the essence of this Agreement to University. Coach also recognizes that University is making a highly valuable investment in her continued employment by entering into this Agreement and that its investment would be lost were she to resign or otherwise terminate her employment with University prior to the expiration of the term of this Agreement.

While recognizing these agreements and this entire Agreement, the parties agree that Coach may, nevertheless, terminate this Agreement prior to its normal expiration, but only upon the following terms and conditions.

1. Termination by Coach.

This Agreement may be terminated by Coach by giving University written notice of the termination of her employment with University. In such event, if Coach accepts another coaching position at any time during the remaining term of this Agreement, Coach may be required to pay to the University, at University's sole discretion, in lieu of any and all other legal remedies, damages of any type or equitable relief available to the University, and without regard to actions by the University to mitigate its damages, liquidated damages and not compensation in an amount equal to one (1) year of Coach's then current annual gross base salary. However, this provision for liquidated damages by Coach shall not apply when said termination by Coach is for a bona fide retirement that does not involve any further activities by Coach as a Women's Tennis coach with any club, collegiate or professional program to the end of the term of this Agreement. It is agreed that Coach shall pay such liquidated damages on a monthly basis, prorated over the balance of the term of this Agreement.

The parties have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that University will incur administrative, recruiting, and resettlement costs in obtaining a replacement for Coach in addition to potentially increased compensation costs if Coach terminates this Agreement while serving as Head Women's Tennis Coach, which damages are extremely difficult to determine fairly or with certainty. The parties further agree that the payment of such liquidated damages by Coach and acceptance thereof by University shall constitute adequate and reasonable compensation to University for the damages and injury suffered by Coach because of such termination by University. The parties acknowledge that the foregoing is not, nor should it be construed to be, a penalty, and shall be binding upon the parties.

VI. NOTIFICATION REQUIRED PRIOR TO DISCUSSION WITH OTHER EMPLOYERS

The parties agree that should another employment opportunity be presented to Coach or should Coach be interested in other employment during the term of this Agreement, Coach shall notify the Director of Athletics or designee of such opportunity or interest before any discussions can be held by Coach with potential employer. This provision is essential to this Employment Agreement and violation thereof may be considered just cause for termination pursuant to Article V, Section A.1.

VII. DISCIPLINARY/CORRECTIVE ACTION

Pursuant to NCAA Bylaw 11.2.1, Coach understands and agrees that if Coach is found in violation of any NCAA or Conference Legislation or fails to report a violation, she shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures, including suspension without pay or termination of employment for significant or repetitive violations. It is understood and agreed that any such disciplinary or corrective actions shall be in addition to and in no way limit or restrict any actions the University may take pursuant to Article V herein.

VIII. OUTSIDE EMPLOYMENT, ACTIVITIES AND BENEFITS

A. Prior approval.

Pursuant to NCAA Bylaw 11.2.2, Coach shall discuss with and obtain annually prior written approval from the Director of Athletics before entering into any agreement under which she will receive athletically related income and benefits from sources outside the University, including but not limited to, income from annuities, sports camps, housing benefits, automobile benefits, country-club memberships, complimentary tickets, television and radio programs, speeches/appearances and written materials, commercial endorsements or consulting contracts with athletic shoe, apparel or equipment manufacturers or sellers, which approval shall not be unreasonably withheld. Additionally, Coach shall provide a written detailed account annually to the Chancellor of the University of all athletically-related income and benefits from sources outside the University. Coach agrees to provide to the University upon request copies of all records and contracts related to her athletically related income.

B. Reporting of previous receipt.

Coach shall annually report outside activities and interests and employment perquisites received during the previous year as required by Division policy and/or UWS Chapter 8.

C. Assignment of rights.

Coach acknowledges that the total compensation to be paid to Coach as Head Women's Tennis Coach is intended to include any and all amounts Coach might have expected to receive from (1) any television and radio shows and advertising revenues derived from those shows and (2) any arrangements with athletic shoe, apparel or equipment companies. It is therefore understood and agreed that any and all rights Coach has in the production and compensation for any television and radio shows and related advertising and any shoe, apparel or equipment arrangements are hereby assigned in their entirety to the University.

In connection with said assignment, Coach agrees as follows:

1. To grant University the right to use the Coach's name and likeness in promoting any television or radio show;

2. To grant University the right to permit others to sell all or a portion of the advertising for any such show;

3. To grant University the right to collect and retain the revenues generated from the sale of advertising on any such show;

4. To appear on any such show and to work cooperatively with the producer of such shows in scheduling taping sessions and other related production issues;

5. To work cooperatively with any shoe, apparel or equipment company to assist in the fulfillment of the University's obligations under any arrangement with the shoe, apparel or equipment company.

It is further expressly understood that the University may reassign any and all of the rights assigned to it by Coach.

D. Use of name and logos.

It is further understood and agreed that Coach shall not, directly or by implication, use University's name or logos in the endorsement of commercial or other products or services for personal gain or otherwise without the prior written approval of the Chancellor or designee.

IX. MEDICAL DECISIONS

Coach hereby understands and agrees that the final decision regarding student-athlete participation in organized practices and/or competitions shall be made by the Division's medical and training room staff. This provision is essential to this Employment Agreement and violation thereof may be considered just cause for termination pursuant to Article V, Section A.1.

X. UNIVERSITY PROPERTY

Not later than the effective date of termination or expiration of this Agreement, Coach shall return to the University any University issued automobile, equipment, cash advance, credit cards, telephone calling cards, University keys and other items, unless otherwise agreed to in writing by the University. Coach agrees that the University shall be authorized to deduct the value of any and all such un-returned items from her final University payroll check or liquidated damage payment.

Furthermore, Coach agrees that during her employment she will receive or be involved in the development of charts, films, books, reports, diagrams, and other paraphernalia, which shall be and remain the property of University, and she agrees to surrender such property upon demand by the Director of Athletics or designee. Any materials created on Coach's free time, and at her expense, shall remain her property.

XI. ACADEMIC POLICY AND GOVERNANCE

Coach understands that, by Wisconsin law and custom, the Board of Regents is responsible for the governance of all parts of the University of Wisconsin System. The Board of Regents have delegated to the University Chancellor all necessary authority and ultimate responsibility for intercollegiate athletics. The Chancellor has delegated all necessary responsibility and authority for the day to day operation of intercollegiate athletics to the Director of Athletics. The University faculty has certain responsibilities for the governance of the University, including academic and educational activities. The faculty have delegated to the Athletic Board all the faculty's responsibility and authority over such aspects of intercollegiate athletics.

XII. ACADEMIC SUPPORT

The personal and academic well-being of every student-athlete is the primary concern of the University and Athletic Board. Coach understands the importance of academic performance and agrees to take an active role to expedite the progress of each student-athlete toward a degree, and to cooperate with the Division's Academic Services staff to facilitate that progress.

XIII. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties, with respect to the matters contained herein, and there are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

XIV. SEVERABILITY/SAVING CLAUSE

If any provision of this Agreement shall be determined to be void, invalid, unenforceable, or illegal for any reason, it shall be ineffective only to the extent of such prohibition and the validity and enforceability of all the remaining provisions of this Agreement shall be deemed valid and shall remain in full force and effect.

XV. MODIFICATION

This Agreement may be amended only upon mutual agreement in writing by the parties.

XVI. ASSIGNMENT

Neither party may assign its rights or obligations under this Agreement except as specifically stated herein without the advance, written consent of the other party; provided, however, that nothing contained herein shall prohibit Coach from assigning, for collateral purposes only, her right to receive payments hereunder, including, but not limited to, her payments of salary under Article IV or liquidated damages under Article V.

XVII. GENERAL

A. Applicable laws and regulations.

All provisions of this Agreement are subject to the laws of the State of Wisconsin and the rules and regulations of the Board of Regents of the University of Wisconsin System or other University authority. It is expressly understood that these include, but are not limited to, the following:

(1) Policy on Outside Activities and Interests and Employment Perquisites for Division of Intercollegiate Athletics Personnel.

(2) Unclassified Staff Code of Ethics, Chapter UWS 8, Wisconsin Administrative Code.

XVIII. NOTICES

All notices, demands or other communications of any type given by either party hereto shall be void and of no effect unless given in accordance with the terms of this paragraph. All notices shall be in writing and delivered to the person to whom the notice is directed, either in person (provided that such delivery is confirmed), or by United States mail, postage prepaid, as a Registered or Certified item, return receipt requested. Notices delivered by personal delivery shall be deemed to have been given at the time of such delivery, and notices delivered by mail shall be effective when deposited in a Post Office or other depository under the care or custody of the United States Postal Service, enclosed in an envelope with proper postage affixed, and addressed as provided below. The proper addresses of the parties hereto are as follows:

If to University:
Barry Alvarez, Director of Athletics
University of Wisconsin-Madison
Kellner Hall, 1440 Monroe Street
Madison, WI 53711

If to Coach:
Kelcy McKenna
Women's Tennis Office
University of Wisconsin-Madison
Kellner Hall
1440 Monroe Street
Madison, WI 53711

Either party hereto may change the address for notice specified above by giving the other party hereto ten (10) days advance written notice of such change of address.

XIX. ACKNOWLEDGMENT

Coach acknowledges that she has read and understands the foregoing provisions of this Agreement, that such provisions are reasonable and enforceable, and that she agrees to abide by this Agreement and the terms and conditions set forth herein.

IN WITNESS WHEREOF, University and Coach have executed this Agreement in Madison, Wisconsin on the dates indicated below.

THE BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM:

By: Mark Pelman
Chancellor or Designee, University of Wisconsin Madison

Date: 7/19/16

By: Barry Alvarez
Barry Alvarez, Director of Athletics

Date: 7/15/16

COACH:

By: Kelcy A McK
Kelcy McKenna, Head Women's Tennis Coach

Date: 7.14.16