

**THIRD AMENDMENT TO EMPLOYMENT AGREEMENT**

**THIS THIRD AMENDMENT TO EMPLOYMENT AGREEMENT** (“Amendment”) is made this February 12, 2024, by and between West Virginia University Board of Governors for and on behalf of West Virginia University (“University”) and Neal Brown (“Coach”).

**WHEREAS**, University and Coach entered into an Employment Agreement, dated June 21, 2019; a First Amendment to Employment Agreement, dated May 5, 2020; and a Second Amendment to Employment Agreement dated January 1, 2021 (collectively referred to as the “Agreement”);

**WHEREAS**, University and Coach now desire to further amend the Agreement; and,

**NOW, THEREFORE, WITNESSETH**, that for and in consideration of the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of all of which hereby is acknowledged by the parties hereto, University and Coach agree to amend the Agreement as follows:

1. The Termination Date, as it is defined in Article I, shall be further amended to now be 11:59 p.m. on the later of (i) December 31, 2027, or (ii) twenty-four (24) hours after completion of the University’s participation in any post-season bowl or College Football Playoff game following the 2027 NCAA regular season.
2. The compensation table, as set forth in Article III.A., shall be deleted and replaced with the following:

Agreement Year	Base Salary	Supplemental Compensation	Total Salary
2024	\$250,000.00	\$3,750,000.00	\$4,000,000.00
2025	\$250,000.00	\$3,750,000.00	\$4,000,000.00
2026	\$250,000.00	\$4,050,000.00	\$4,300,000.00
January 1, 2027 to Termination Date	\$250,000.00	\$4,150,000.00	\$4,400,000.00

3. Article VII.B.2. shall be deleted and replaced with the following:

University shall pay to Coach a severance benefit in the amount of seventy-five percent (75%) of the remaining Total Salary that would be paid to Coach

pursuant to the Agreement if Coach remained employed through the Termination Date (the "Severance Benefit"). The Severance Benefit shall be paid by the University in regular bi-weekly installments over the period from the effective date of termination through the Termination Date (the "Payment Period"). Notwithstanding the preceding sentence, with respect to any portion of the Severance Benefit that is payable in a calendar year after the calendar year in which the effective date of termination occurs ("Future Severance Pay"), a portion of the Future Severance Pay will be accelerated in an amount equal to the federal and state income tax withholdings that would have been remitted by the University if there had been a payment of wages equal to the income includible by Employee under Section 457(f) of the Internal Revenue Code, as amended (the "Code") as of the effective date of termination (Future Severance Pay otherwise payable to Employee will be offset in equal amounts by any such Future Severance Pay accelerated) and such portion will be paid by the end of the calendar year in which the effective date of termination occurs. The acceleration described in the preceding sentence is intended to comply with the requirements of Section 1.409A-3(j)(4)(iv) of the Code regulations (as it may be amended from time to time), and will be administered and construed in whatever manner is necessary to ensure such compliance.

4. Article VII.C.2., shall be further amended to delete and replace the schedule of liquidated damages due to be paid to University by Coach with the following:

Liquidated damages payable by Coach shall be ten percent (10%) of Remaining Total Salary regardless when the Termination for Convenience by Coach might occur.

Further, and for the avoidance of doubt, the footnote to the schedule shall also be deleted in its entirety.

The remaining clauses in this article still have full force and effect.

5. Coach represents and warrants that he is not aware of having violated any of the rules and regulations of the NCAA or of any threatened or pending NCAA investigation involving his conduct.
6. Except as set forth in this Amendment, the Agreement remains in full force and effect and is not amended.

IN WITNESS WHEREOF, the parties hereto shall consider this Amendment to be effective on the date first written above.

**West Virginia University Board of Governors**  
**On behalf of West Virginia University**

By:  3/4/24  
\_\_\_\_\_  
Wren Baker  
Vice President & Director of Athletics

  
\_\_\_\_\_  
Neal Brown

**SECOND AMENDMENT TO EMPLOYMENT AGREEMENT**

**THIS SECOND AMENDMENT TO EMPLOYMENT AGREEMENT** ("Amendment") is made this January 1, 2021, by and between West Virginia University Board of Governors for and on behalf of West Virginia University ("University") and Neal Brown ("Coach").

**WHEREAS**, University and Coach entered into an Employment Agreement, dated June 21, 2019 and a First Amendment to Employment Agreement, dated May 5, 2020 (collectively referred to as the "Agreement");

**WHEREAS**, University and Coach now desire to further amend the Agreement;

**NOW, THEREFORE, WITNESSETH**, that for and in consideration of the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of all of which hereby is acknowledged by the parties hereto, University and Coach agree to amend the Agreement as follows:

1. The Termination Date, as it is defined in Article I, shall be amended to now be 11:59 p.m. on the later of (i) December 31, 2026, or (ii) twenty-four (24) hours after completion of the University's participation in any post-season bowl or College Football Playoff game following the 2026 NCAA regular season.
2. The compensation table, as set forth in Article III.A., shall be deleted and replaced with the following:

Agreement Year	Base Salary	Supplemental Compensation	Total Salary
2021	\$250,000.00	\$2,900,000.00	\$3,150,000.00*
2022	\$250,000.00	\$3,250,000.00	\$3,500,000.00
2023	\$250,000.00	\$3,750,000.00	\$4,000,000.00
2024	\$250,000.00	\$3,850,000.00	\$4,100,000.00
2025	\$250,000.00	\$3,950,000.00	\$4,200,000.00
January 1, 2026 to Termination Date	\$250,000.00	\$4,150,000.00	\$4,400,000.00

\* Total Salary shall be subject to a ten percent (10%) reduction through June 30, 2021, as set forth in the First Amendment to Employment Agreement.

3. Article III.C.4., Annual Performance Incentives, shall be amended to conform to the following:

a. All references to "Exhibit A" shall be deleted and replaced with references to "Exhibit A2021," which is attached to this Amendment and is incorporated into the Agreement by this reference.

b. Coach shall only be entitled to receive a total of One Million Dollars (\$1,000,000.00) per Agreement Year as payment for incentives, except as otherwise provided herein. The limit per Agreement Year will be increased by Three Hundred Thousand Dollars (\$300,000.00) if the football team participates in the CFP championship.

4. Article III.C.8., Obligation to Troy University, having been fulfilled shall be deleted and replaced with the following:

**Retention Incentive.** Should Coach remain fully employed by University on March 1, 2022, then Coach shall, in addition to all other compensation and benefits, receive a retention incentive in the amount of Five Hundred Thousand (\$500,000.00) (the "Retention Incentive"). Such amount due under this provision shall be payable to Coach in a single, lump-sum payment, less applicable taxes and other appropriate withholdings, no later than thirty (30) days after the University's obligation has accrued.

5. The schedule of payments referenced in Article VII.B.2. shall be deleted and replaced with the following:

Date of Termination	Liquidated Damages Payable by University
On or before December 31, 2024	100% of Remaining Total Salary
January 1, 2025 to Termination Date	85% of Remaining Total Salary

6. Article VII.C.2. shall be deleted and replaced with the following:

Coach and University agree that the damages incurred by the University would be uncertain and not susceptible to exact computation, in the event of a Termination for Convenience by Coach. In such event, the University shall be paid liquidated damages according to the following schedule:

<b>Date of Termination</b>	<b>Liquidated Damages Payable by Coach</b>
On or before December 31, 2024	25% of Remaining Total Salary <sup>†</sup>
January 1, 2025 to Termination Date	12.5% of Remaining Total Salary

Fifty Percent (50%) of all required liquidated damages shall be paid to University within thirty (30) days of Coach's termination of the Agreement; Twenty Five Percent (25%) of all required liquidated damages shall be paid to University within one year of Coach's termination of the Agreement; and the remaining Twenty Five Percent (25%) of all required liquidated damages shall be paid to University within eighteen (18) months of Coach's termination of the Agreement. Provided, however, that the University and Coach reserve the right to mutually agree on a different timetable for the payment of liquidated damages.

At Coach's option, and in lieu of paying liquidated damages to University for a threatened Termination for Convenience by Coach, University (an "Assignor" in this limited context) and Coach each agree to assign their respective rights, liabilities and obligations to one another under the Employment Agreement ("the Transferred Interests") to a third-party Assignee designated by Coach; provided that the Assignee shall pay an Assignment Fee to University as consideration for the Transferred Interests. The Assignment Fee shall equal the exact amount as the liquidated damages otherwise payable to University for a termination for convenience by Coach under this Agreement (e.g., if the Assignment of Transferred Interests occurs in Agreement Year 2020, the Assignment Fee would total \$4 million). Regardless of Coach's option, the amounts owed to University under this section shall be paid.

<sup>†</sup> Amount payable by Coach for terminating this Agreement on or before December 31, 2024 shall only be Twelve and a Half Percent (12.5%) of Coach's remaining Total Salary if both President Gordon Gee and Athletic Director Shane Lyons are not serving in their current positions at the time of termination by Coach. For the avoidance of doubt, the amount owed by Coach to University shall remain Twenty-Five (25%) of Coach's remaining Total Salary so long as at least one (President Gee or Athletic Director Lyons) remains in their current position until January 1, 2025.

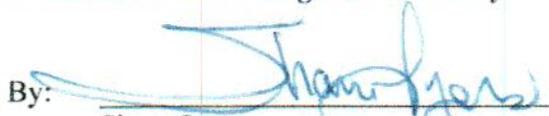
The parties have bargained for and agreed to the foregoing liquidated damages provisions, giving consideration to the fact that University will incur administrative, recruiting, resettlement, and other costs in obtaining a replacement for Coach, in addition to potentially increased compensation costs if Coach terminates this Agreement prior to its expiration, which damages are extremely difficult or impracticable to determine with certainty. The payment of the liquidated damages shall constitute adequate and reasonable compensation to the University for the damages and injury suffered because of termination by convenience by Coach; it is not, nor will it be construed to be, a penalty.

In consideration of the obligation of Coach to pay liquidated damages and other mutual promises herein, University agrees to irrevocably and unconditionally release and forever discharge, the Coach, on behalf of himself and his heirs and assigns, of and from any and all charges, claims, complaints, demands, liabilities, causes of action, losses, costs or expenses of any kind whatsoever, known or unknown, suspected or unsuspected, that University may have against the Coach, on behalf of himself and his heirs and assigns, by reason of any act, omission, transaction, or event occurring up to and including the Termination Date.

7. Coach represents and warrants that he is not aware of having violated any of the rules and regulations of the NCAA or of any threatened or pending NCAA investigation involving his conduct.
8. Except as set forth in this Amendment, the Agreement remains in full force and effect and is not amended.

**IN WITNESS WHEREOF**, the parties hereto shall consider this Amendment to be effective on the date first written above.

**West Virginia University Board of Governors  
On behalf of West Virginia University**

By:   
Shane Lyons  
Director of Intercollegiate Athletics

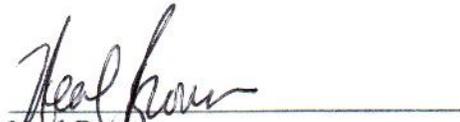
  
Neal Brown

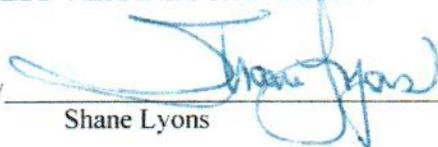
EXHIBIT A-2021

**ANNUAL PERFORMANCE INCENTIVES**

As set forth in the Agreement, Coach is entitled to the following annual performance incentives:

- a. Regular Season Wins (non-cumulative)
  - i. Eight (8) wins: \$100,000
  - ii. Nine (9) wins: \$125,000
  - iii. Ten (10) wins: \$150,000
  - iv. Eleven (11) wins: \$175,000
  - v. Twelve (12) wins: \$200,000
- b. Big 12 Conference (or any other athletic conference that University joins during the term of this Agreement) (cumulative)
  - i. Participating in Big 12 Championship Game: \$100,000
  - ii. Winning Big 12 Championship Game: \$150,000
  - iii. If the Big 12 Conference does not have a Conference Championship Game in a particular Agreement Year, and University is named the Big 12 (or successor conference) Champion in that same year: \$250,000
- c. Post Season Bowls (when team finishes with a regular season win-loss percentage at or above 0.500) (cumulative)
  - i. Non-College Football Playoff Bowl Appearance \$50,000
  - ii. College Football Playoff ("CFP") – New Year Six ("NY6") Bowl Appearance: \$150,000
  - iii. CFP – NY6 Bowl Win: \$150,000
  - iv. CFP Semifinal Appearance: \$200,000
  - v. CFP National Championship Appearance: \$250,000
  - vi. CFP National Championship Title: \$300,000
- d. Coach of the Year Awards (cumulative)
  - i. Big 12 Coach of the Year: \$50,000
  - ii. National Coach of the Year (only one) (Eddie Robinson, Walter Camp, Bobby Dodd, Bear Bryant, AP, American Football Coaches Association): \$100,000
- e. Academic Performance Rating (not cumulative)
  - i. 945 to, but not including 965: \$20,000
  - ii. 965 or higher: \$30,000

**WEST VIRGINIA UNIVERSITY  
BOARD OF GOVERNORS ON BEHALF OF  
WEST VIRGINIA UNIVERSITY**

By   
Shane Lyons

  
Neal Brown

**FIRST AMENDMENT TO EMPLOYMENT AGREEMENT**

**THIS FIRST AMENDMENT TO EMPLOYMENT AGREEMENT** ("Amendment") is made this May 5, 2020, by and between West Virginia University Board of Governors for and on behalf of West Virginia University ("University") and Neal Brown ("Coach").

WHEREAS, University and Coach entered into an Employment Agreement, dated June 21, 2019 ("Agreement");

WHEREAS, the COVID-19 pandemic continues to have an adverse financial impact on the University, the Department of Intercollegiate Athletics, and continues to disrupt the operations and performance of the Agreement;

WHEREAS, to assist the Department of Intercollegiate Athletics during this challenging time, Coach agrees to a ten percent (10%) reduction in Annual Base Salary and Supplemental Compensation (as defined in the Agreement);

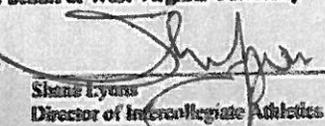
NOW, THEREFORE, WITNESSETH, that for and in consideration of the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of all of which hereby is acknowledged by the parties hereto, University and Coach agree to amend the Agreement as follows:

1. Total Salary, as set forth in Section III.A. of the Agreement, shall be reduced by ten percent (10%) from July 1, 2020 through June 30, 2021.
2. Except as set forth in this Amendment, the Agreement remains in full force and effect and is not amended.

IN WITNESS WHEREOF, the parties hereto shall consider this Amendment to be effective on the date first written above.

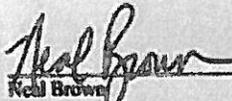
West Virginia University Board of Governors  
On behalf of West Virginia University

By:

  
Shane Lyons  
Director of Intercollegiate Athletics

Date:

5-7-2020

  
Neal Brown

Date:

5/5/20

**EMPLOYMENT AGREEMENT**

**THIS EMPLOYMENT AGREEMENT** ("Agreement") is made this 21st day of June, 2019, (the "Effective Date") by and between WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS FOR AND ON BEHALF OF WEST VIRGINIA UNIVERSITY ("University") and NEAL BROWN ("Coach").

**WHEREAS**, University and Coach agree that this Agreement shall supersede and replace the Letter of Agreement, dated January 4, 2019.

NOW THEREFORE, University and Coach agree as follows:

**I. EMPLOYMENT & TERM**

Subject to the terms and conditions of this Agreement, University agrees to continue employing Coach as Head Football Coach and Coach agrees to continue performing in this capacity for a term beginning on the Effective Date, and terminating at 11:59 p.m. on the later of: (i) December 31, 2024, or (ii) twenty-four (24) hours after completion of the University's participation in any post-season bowl or College Football Playoff game following the 2024 NCAA regular season ("Termination Date"). The one-year period beginning January 1 of each year shall be deemed to be an "Agreement Year" as that term is used in this Agreement. Coach agrees and understands that he has no expectation of future or continued employment beyond the Termination Date. Coach shall be employed as a full-time, exempt employee, by and subject to the rules and policies adopted by the University's Board of Governors and any other policies and procedures adopted by the University, all as they may be modified from time to time. Notwithstanding any University policy or rule to the contrary, for so long as Coach is employed at University, Coach will devote all of his working time and full professional effort to the duties required of his position, and Coach will have no gainful employment with any other person, firm, corporation or legal entity except upon prior written approval of the Director of Intercollegiate Athletics ("Director"), which shall not be unreasonably withheld. Furthermore, upon prior written approval of the Director, which shall not be unreasonably withheld, Coach may serve as a trustee, director, or officer to nonprofit, charitable, family, professional, and other organizations or entities only to the extent that such service does not interfere with and is not inconsistent with Coach's duties to the University.

**II. REPRESENTATIONS**

Coach represents and warrants that he has not violated any of the rules and regulations of the National Collegiate Athletic Association ("NCAA"), and that he is not aware of any threatened or pending NCAA investigation involving his conduct at any other NCAA member institution; excepting, any NCAA infractions or investigation already disclosed to University by Coach. Coach also represents and warrants that he is not subject to any undisclosed criminal conviction or pending investigation. Further, Coach warrants that his resume and credentials are true and accurate.

**III. COMPENSATION AND BENEFITS**

A. **Salary.** In consideration of services and satisfactory performance of the terms and conditions of this Agreement by Coach, University agrees to pay Coach an annual base salary of Two Hundred and Fifty Thousand Dollars (\$250,000.00) (the "Base Salary") for performance of duties related to traditional coaching activities, and "Supplemental Compensation" for performance of duties related to promotional activities described herein. University agrees to compensate Coach according to the following schedule:

Agreement Year	Base Salary	Supplemental Compensation	Total Salary
Effective Date to December 31, 2019	\$250,000.00	\$2,800,000.00	\$3,050,000.00
2020	\$250,000.00	\$2,850,000.00	\$3,100,000.00
2021	\$250,000.00	\$2,900,000.00	\$3,150,000.00
2022	\$250,000.00	\$2,950,000.00	\$3,200,000.00
2023	\$250,000.00	\$3,000,000.00	\$3,250,000.00
January 1, 2024 to Termination Date	\$250,000.00	\$3,050,000.00	\$3,300,000.00

Increases in Supplemental Compensation illustrated above shall be effective on January 1 of the respective Agreement Years. Regardless of the amounts, all Base Salary and Supplemental Compensation (collectively the "Total Salary") are stated on an annualized basis and shall be payable in at least semi-monthly installments. Payment of all Total Salary shall be in accordance with the payroll policies of University and subject to such deductions as may be required by applicable state and federal laws and regulations, and such employee benefit plans in which Coach elects to participate.

B. **Employee Benefits.** Coach will be eligible to participate in all employee benefit programs available to other University employees of like status. Such benefits shall be governed by University policies and the laws of the State of West Virginia and will include, among others, health insurance, retirement, annual leave, sick leave and all other standard benefits. Importantly, Coach agrees that he will take leave in accordance with University policies and authorizes University to process leave accordingly.

C. **Other Compensation and Incentives.**

1. **Courtesy Automobile:** Coach shall receive two (2) courtesy vehicles; provided, however, that prior to receipt of the vehicles, Coach shall separately agree to the terms and conditions of the Department of Intercollegiate Athletics' Wheels Club Driver Agreement.

2. **Tickets:** Coach may elect to receive the following:

- a. For each home football game hosted by the University, one (1) suite, or, if alternatively elected by Coach, a maximum of twenty-five (25) premium tickets;
- b. For each home men's basketball game, five (5) tickets;
- c. For each home women's basketball game, five (5) tickets; and
- d. If applicable, twenty (20) tickets for each Conference Championship game and post-season bowl game in which the University's football team participates.

Tickets (and access to suite) shall be distributed to Coach as allowed by law and by the rules and regulations of the University, the athletic conference in which the University is a member and participates in for Coach's sport and the NCAA, and are subject to applicable taxes.

**3. Camps:** Coach may be entitled to additional compensation for services performed related to the youth camp(s) or clinic(s) held on campus as part of the Department of Intercollegiate Athletics' operations consistent with the provisions of West Virginia University BOG Rules and Policies (specifically current BOG Policy No. 16), other applicable University policies, and state laws. Such additional compensation will be dependent upon the number of attendees, hours worked, or a percentage of net revenue generated by the camp(s) or clinic(s) as agreed upon by Coach and the Director or designee. If entitled to additional compensation, Coach will be required to use annual leave while working the camp(s) or clinic(s).

**4. Annual Performance Incentives:** In addition to Total Salary, University shall pay Coach annual performance incentives within forty-five (45) consecutive days of the end of the season in which earned as set forth in Exhibit A. Coach is entitled to payment of annual performance incentives if the University reaches the goal(s) set forth in Exhibit A and, to the extent the goal is an event, Coach participates in the event. Provided, however, that payment of all annual performance incentives shall be contingent on the football team achieving a 930 or higher multi-year Academic Progress Rate ("APR") in 2020 and thereafter. Accordingly, Coach will not receive any annual performance incentives for the upcoming year if the football team does not achieve a 930 or higher APR. For the avoidance of doubt, if the football team fails to achieve a 930 or higher APR, Coach will not receive any annual performance incentives until that mark is reached. By way of example, if the APR is below a 930 when it is announced in the Spring of 2020, the University will award no annual incentives to Coach in the upcoming 2020-21 season or any subsequent year until the APR is 930 or higher. Furthermore, Coach shall only be entitled to receive a total of Seven Hundred Fifty Thousand Dollars (\$750,000.00) per Agreement Year as payment for incentives, except as otherwise provided herein. The limit per Agreement Year will be increased by One Hundred Fifty Thousand Dollars (\$150,000.00) if the football team participates in CFP semifinal; likewise, the limit per Agreement Year will be increased by another One Hundred Thousand Dollars (\$100,000.00) if the football team participates in the CFP National Title Game.

**5. Athletic Apparel:** Coach shall receive an allocation of Five Thousand Dollars (\$5,000.00) retail value from the University's team apparel supplier which is subject to applicable taxes, if any.

(40081.1)

6. **Annual Dues:** University shall pay Coach's annual membership dues to such professional organizations related to Coach's duties as the Head Football Coach.

7. **Club Membership:** The University shall provide, through private dollars, a membership for Coach at the Pines Country Club. The value of the membership is subject to applicable taxes, if any.

8. **Obligation to Troy University:** The University will take reasonable steps to satisfy Coach's financial obligation of Three Hundred Thousand Dollars (\$300,000) to Troy University in a manner that is tax neutral to Coach.

#### IV. PERFORMANCE

Coach shall report to and be supervised by the Director; further, Coach will work with the Director or designee to establish a work schedule consistent with University policies and the position of Head Football Coach. Without limiting the foregoing, Coach shall conduct himself at all times in a manner which is consistent with being an instructor of students and which generally presents a positive representation of West Virginia University. The parties agree that, although this Agreement is athletics related, the primary purpose and priority of the University and this Agreement is to support the University's educational mission.

Coach shall comply with all local, state or federal laws, ordinances, rules or regulations, or of any of the written rules, regulations, policies, procedures or standards of the University, the Big 12 Conference (or any other athletic conference of which the University may become a member and participates in for Coach's sport) and the NCAA. Coach will avoid at all times throughout the term of his employment the existence or appearance of a conflict of interest or commitment and shall comply with the applicable provisions of the West Virginia Governmental Ethics Act, W. Va. Code §§ 6B-1-1 to 3-11 and all University rules and policies related to conflicts of interest and commitment. Further, Coach shall adhere to NCAA Bylaw 11.1, "Conduct of Athletics Personnel," in the performance of his duties. Pursuant to NCAA Bylaw 11.2.1, it is stipulated by the parties that if 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, including suspension without pay, and termination of employment for significant or repetitive violations.

Additionally, Coach shall not knowingly or negligently permit or condone, directly or indirectly, any student, employee or other individual subject to his control or supervision, to perform any act which reflects adversely in a material way on the University, its athletic programs, or otherwise adversely affects the operations of the football program in a material way or adversely impacts Coach's responsibilities under this Agreement in a material way. In the event Coach violates the foregoing, Coach may be subject to disciplinary action, consistent with the terms of this Agreement, including, but not limited to, suspension without pay, public or private reprimand, or, if appropriate, termination of employment as reasonably determined by the Director and as set forth in Section VII.A. herein.

Coach understands and agrees that in the course of his employment, Coach will receive and become aware of information, projects, and practices which are sensitive and confidential in nature. Coach agrees to keep all such information strictly confidential and further agrees not to communicate, disclose, divulge or otherwise use – directly or indirectly – such confidential and/or sensitive information for any purpose other than the necessary and appropriate business use related to Coach's position.

Subject to the budgetary limitations of the University's Athletic Department, the human resources policies and procedures (and all other relevant policies and procedures) of the University, and with the approval and oversight of the Director, or the Director's designee, Coach shall manage and, as necessary, allocate a personnel budget for on-field assistant football coaches (the "Personnel Budget"). The allocated Personnel Budget shall not be more than Three Million Five Hundred Thousand Dollars (\$3,500,000). The Director, subject to relevant University policies and procedures, may increase the budget in excess of the values stated herein. This Personnel Budget shall be utilized to provide each assistant coach with competitive compensation, including standard incentives.

With respect to managing assistant coaches, Coach shall provide advanced notice to Director prior to entering into any substantive discussions or negotiations with assistant coaches, their agents or representatives, regarding other coaching positions or responsibilities.

**V. UNIVERSITY'S RIGHT TO USE OR AUTHORIZE THE USE OF COACH'S NAME, IMAGE, AND LIKENESS.**

Notwithstanding anything to the contrary contained in this Agreement, Coach agrees that, for the duration of his employment, the University shall have the exclusive right, commercial or otherwise, to use Coach's name, nickname(s), initials, autograph, image, photograph, picture and other likeness and other indicia of or closely identified with Coach (collectively referred to as "Personal Indicia") for the benefit of the football program, the Athletics Department, the University, and with respect to any contracts or sponsorship agreements entered into between the University and any sponsor, manufacturer, media rights company or vendor of athletic apparel, shoes and other products or services. Additionally, the University shall have the exclusive rights, for the duration of Coach's employment, to authorize, license, or to grant any such sponsor, manufacturer, media rights company, vendor, or other party the right to use Coach's Personal Indicia; provided, however, that any such use shall be in good taste and does not reflect negatively upon Coach.

To the extent necessary, Coach hereby assigns to University all rights, title and interest to the use of his Personal Indicia, and any derivatives thereof, during the term of this Agreement, which assignment will terminate or expire when Coach's employment with University ends, except for uses related to Coach's tenure and performance at University. Coach, subject to this Agreement, is, and will remain, the sole and exclusive owner of his name and likeness and all proprietary and potentially proprietary rights therein.

Notwithstanding the foregoing provisions of this Section, it is specifically agreed and understood that the University shall retain the right to utilize and appropriately publicize the records of or relating to Coach, as well as other noteworthy accomplishments, and media relating thereto whether written, produced, obtained, made, given, taken, or created at any time while Coach is serving as head football coach for the University and that the right of the University to use such utilize such records and media will be perpetual and will not end at such time as Coach is no longer serving as head football coach for the University; provided, however, that any such use shall be in good taste and shall not reflect negatively upon Coach.

#### VI. PROMOTIONAL ACTIVITIES, PUBLIC APPEARANCES, & OUTSIDE INCOME

As part of Coach's responsibilities under this Agreement, Coach shall from time to time attend and participate in certain promotional activities as reasonably directed by the Director, or designee. University agrees to consult and coordinate with Coach before scheduling such promotional activities, whose consent to participate shall not be unreasonably withheld. Such promotional activities may include, but are not limited to appearances at events sponsored by the University, the Mountaineer Athletic Club, or any other University affiliated organizations; appearances and participation in radio, television and Internet programs produced by or on behalf of the University, its affiliated organizations, or other such programs licensed by the University. Such appearances and participation may include, but shall not necessarily be limited to, radio talk shows, pregame/postgame radio shows, television shows, Internet audio programs and occasional Internet features. Coach recognizes that he does not own the rights to radio, television, Internet and other programs that are broadcast or otherwise disseminated to the public in which Coach serves as a participant under this Agreement. University retains exclusive rights to services in the areas as specified herein.

Nothing contained herein shall be deemed to prevent Coach from arranging or participating in, and deriving income and/or benefits from sources outside of the University such as speaking engagements, camps, or clinics ("Outside Events"). Provided, however, Coach acknowledges and agrees that prior to committing to any Outside Events, he must notify the Director, or his designee, of the Outside Events and obtain approval in accordance with all University rules and policies. The Director may refuse to provide approval at his discretion but will not unreasonably withhold such approval. Coach may not make or participate in any Outside Events with businesses or corporations that compete with any of the University's corporate sponsors without advance written approval from the University. Additionally, Coach acknowledges that if any Outside Events occur during his normal University work hours, he must use annual leave while participating in such Outside Events. Further, regarding athletically-related income, Coach agrees to provide a written detailed account to the Director or designee, at least once annually, or more frequently upon reasonable request, for all athletically-related income, compensation, gratuities or benefits from any and all sources outside the institution.

Coach shall make no public appearance, either in person or by means of radio, television, Internet or other means or medium, or willingly allow the use of his name in connection with his

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relationship to the University, when any such appearance or use of name will result in a materially unfavorable reflection upon University or conflict with Coach's duties or University's rights under this Agreement.

The University recognizes that the spouse, or significant other/partner and/or immediate family member of the Head Football Coach is often called upon to devote substantial time and energy to activities which benefit the University. Your spouse or significant other/partner and/or immediate family member is hereby authorized to serve when called upon as a representative of the institution and to use facilities and other resources of the institution in the same manner as an employee when involved in such activity. Your spouse, significant other/partner and /or immediate family member is also hereby authorized to accept reimbursement from the University, for expenses incurred in connection with such activity, to the extent such reimbursements are authorized by the University.

## VII. TERMINATION

A. Termination for Cause by University. The University specifically reserves the right to terminate this Agreement without further obligation at any time for cause, which shall be deemed to include the following:

1. The commission by Coach of severe violations, as classified by the NCAA, whether intentional or negligent, or a pattern of any material violations, of the written rules, regulations, policies, procedures or standards of the NCAA, the University or, the Big 12 Conference (or any other conference of which University may become a member), or the allowing or condoning, whether directly or by negligent supervision, of any such violation by a student, coach or other individual subject to his control or supervision, or otherwise soliciting, directing or condoning such violation by any person;

2. Any conduct of Coach in violation of any federal, state, or local criminal statute (excluding minor traffic offenses), whether prosecuted or not, or any act of moral turpitude;

3. Substance abuse or habitual insobriety;

4. Material breach of Coach's duties or this Agreement by Coach;

5. Willful, negligent or intentional disregard in the performance of Coach's duties or gross insubordination by Coach of the reasonable instruction of the Director or his designees;

6. Fraud or dishonesty of Coach in the performance of his duties or responsibilities under this Agreement;

7. Material misrepresentation of Coach's educational or other qualifications for employment of Coach under this Agreement; or

8. Conduct by Coach that is clearly contrary to the character and responsibilities of a person occupying Coach's position, significantly offends the traditions and reputation of the University, brings serious discredit to the University, or substantially harms the University's reputation.

In the event that Coach is terminated for cause by University, Coach shall not be entitled to, nor shall University be required to provide, any portion of the compensation, benefits and/or incentives as set forth in Article III of this Agreement, or any other entitlements under this Agreement, except Total Salary, benefits and incentive compensation actually earned and accrued but unpaid through the date of termination, all of which shall be paid within thirty (30) consecutive days of termination less all applicable taxes and appropriate withholdings.

**B. Termination for Convenience by University.** In addition to the provisions set forth above, University also reserves the right to terminate Coach's appointment without cause, at University's convenience. In the event that University terminates Coach without cause the following shall occur:

1. Within thirty (30) days of termination University will pay to Coach all Total Salary and incentive compensation actually earned and accrued but unpaid under the terms of this Agreement and not paid as of the date of such termination, less all applicable taxes and other appropriate withholdings; and

2. Depending upon the date of termination, University will pay to Coach liquidated damages according to the following schedule, less all applicable taxes and other appropriate withholdings:

Date of Termination	Liquidated Damages Payable by University
On or before December 31, 2020	100% of Remaining Total Salary
January 1, 2021 to Termination Date (as defined in Article I herein)	75% of Remaining Total Salary

The parties agree that the aforementioned sums represent liquidated damages, are not a penalty, and shall be payable in equal monthly installments over the remaining contract term. Notwithstanding the foregoing schedules, the University and Coach reserve the right to mutually agree on a different timetable or a single lump sum payment of liquidated damages.

3. In consideration of the University's payment of all liquidated damages due to Coach as set forth above, and other mutual promises herein, Coach, on behalf of himself and his heirs and assigns, hereby irrevocably and unconditionally releases and forever discharges, individually and collectively, the University, and its officers, directors,

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employees, representatives, successors, assigns, and all persons acting by, through or in concert with the University (hereinafter collectively the "Institutional Parties"), of and from any and all charges, claims, complaints, demands, liabilities, causes of action, losses, costs or expenses of any kind whatsoever, known or unknown, suspected or unsuspected, that Coach may now have, has ever had, or in the future may have against the University and the Institutional Parties by reason of any act, omission, transaction, or event occurring up to and including the date of termination of this Agreement.

4. Notwithstanding Section VII.B.2, Coach shall notify University within fifteen (15) business days of the terms of accepting comparable football-related employment, including the amount of income resulting directly or indirectly. University's financial obligation under this Agreement shall be offset by any amounts Coach earns from comparable football-related employment over the remaining term of employment had this Agreement not been terminated (but excluding reasonable and usual non-monetary fringe benefits such as health and life insurance, club membership, courtesy tickets, and use of vehicles). For purposes of this Agreement, "football-related" shall mean performing services for any school or organization that participates in, regulates, or oversees football competition.

C. Termination by Coach. Coach agrees that he will not personally or, directly or indirectly, through any agent or representative, interview for, negotiate for, or accept other full-time or part-time employment of any nature at any time during the term of this Agreement without first having notified the Director in advance of such interview or negotiation. In the event that Coach terminates this Agreement other than by reason of his death or disability (herein, a "Termination for Convenience by Coach"), the following shall occur:

1. Within thirty (30) consecutive days of termination University will pay to Coach all Base Salary, Supplemental Compensation, and incentive compensation actually earned and accrued but unpaid under the terms of this Agreement and not paid as of the date of such termination, less all applicable taxes and other appropriate withholdings; and

2. Coach and University agree that the damages incurred by the University would be uncertain and not susceptible to exact computation, in the event of a Termination for Convenience by Coach. In such event, the University shall be paid liquidated damages according to the following schedule:

- a. Four Million Dollars (\$4,000,000) if Coach terminates prior to December 31, 2020;
- b. Three Million Five Hundred Thousand Dollars (\$3,500,000) if Coach terminates between January 1, 2021, and December 31, 2021; and
- c. Two Million Five Hundred Thousand Dollars (\$2,500,000) if Coach terminates between January 1, 2022, and December 31, 2022.
- d. One Million Dollars (\$1,000,000) if Coach terminates between January 1, 2023 and Termination Date.

With respect to amounts due for termination occurring on or before December 31, 2020, Coach will pay liquidated damages to University in the following manner: Three Million Dollars (\$3,000,000) within thirty (30) days of Coach's termination of the Agreement with the remaining amount due to University within one (1) year of termination. All other liquidated damages due for termination occurring on or after January 1, 2021, shall be paid to University within thirty (30) days of Coach's termination of the Agreement. Provided, however, that the University and Coach reserve the right to mutually agree on a different timetable for the payment of liquidated damages.

At Coach's option, and in lieu of paying liquidated damages to University for a threatened Termination for Convenience by Coach, University (an "Assignor" in this limited context) and Coach each agree to assign their respective rights, liabilities and obligations to one another under the Employment Agreement ("the Transferred Interests") to a third-party Assignee designated by Coach; provided that the Assignee shall pay an Assignment Fee to University as consideration for the Transferred Interests. The Assignment Fee shall equal the exact amount as the liquidated damages otherwise payable to University for a termination for convenience by Coach under this Agreement (e.g., if the Assignment of Transferred Interests occurs in Agreement Year 2020, the Assignment Fee would total \$4 million). Regardless of Coach's option, the amounts owed to University under this section shall be paid.

The parties have bargained for and agreed to the foregoing liquidated damages provisions, giving consideration to the fact that University will incur administrative, recruiting, resettlement, and other costs in obtaining a replacement for Coach, in addition to potentially increased compensation costs if Coach terminates this Agreement prior to its expiration, which damages are extremely difficult or impracticable to determine with certainty. The payment of the liquidated damages shall constitute adequate and reasonable compensation to the University for the damages and injury suffered because of termination by convenience by Coach; it is not, nor will be construed to be, a penalty.

In consideration of the obligation of Coach to pay liquidated damages and other mutual promises herein, University agrees to irrevocably and unconditionally release and forever discharge, the Coach, on behalf of himself and his heirs and assigns, of and from any and all charges, claims, complaints, demands, liabilities, causes of action, losses, costs or expenses of any kind whatsoever, known or unknown, suspected or unsuspected, that University may have against the Coach, on behalf of himself and his heirs and assigns, by reason of any act, omission, transaction, or event occurring up to and including the Termination Date.

**D. Inability to Perform.** In the event of the inability of Coach to continue to perform the essential functions of his position under this Agreement by reason of death, disability resulting in the inability to perform for ninety (90) days or longer, or permanent retirement, this Agreement shall terminate and all future obligations between the parties shall cease. The parties further agree that in the event that Coach is unable to continue to perform his obligations under this Agreement and the Agreement is terminated pursuant to this Article VII (D), Coach shall be entitled to all earned and accrued Total Salary, benefits and incentive compensation earned but unpaid as of the

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date of his inability to perform and for a period of six (6) months thereafter, or December 31, 2024, whichever occurs first. Such compensation shall be paid to Coach or his estate or beneficiaries, as the case may be, in addition to standard University benefits, if any.

**E. Coach's Obligation Upon Separation from University.** All materials or articles of information, including without limitation, keys, keycards, cell phones, computers, equipment, parking passes, unused athletic event tickets and the like, the right to claim such tickets of the like, automobiles, personnel records, recruiting records, team information, video, statistics or any other material documents, correspondence, or other data furnished to the Coach by the University or developed by the Coach, whether directly or by others under his supervision and control, on behalf of the University for the University's use or otherwise in connection with the Coach's employment hereunder shall remain the sole property of the University. Coach shall cause any and all such materials in his possession or control to be delivered to the University by or before close of business on the date of his termination of employment. This provision shall apply equally to written and electronic materials and records. Coach understands that he will be responsible to pay for any lost, damaged, or unreturned University property by or before close of business on the date of his termination of employment. Notwithstanding the foregoing, Coach shall, to the extent permitted by University rules and policies, be entitled to retain a copy of records relating to staff, prospective student-athletes, and team information, as well as video, statistics or any other material documents, and correspondence. Further, upon reasonable request by the Director, Coach shall disclose to the Director all such records and documents he has retained.

### **VIII. GRIEVANCE PROCESS**

Resolution of any employment grievance filed by Coach shall be governed by the West Virginia Public Employees Grievance Procedure (W. Va. Code §§ 6C-2-1 to -7).

### **IX. HEADINGS**

The headings of the articles and sections contained in this Agreement are for reference purposes only and shall not be deemed to control or affect the meaning or construction of any provision of this Agreement.

### **X. ENTIRE AGREEMENT; AMENDMENT**

It is mutually understood that this Agreement and the attached cover letter and exhibits contain all of the terms and conditions to which the parties have agreed and that no other understandings or representations, either oral or written, unless referenced in the preceding paragraphs, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto. Any modification, amendment or addendum to this Agreement shall be effective only if made in writing and signed by both parties hereto.

**XI. SEVERABILITY**

If any provision of this Agreement is held invalid or otherwise unenforceable, the enforceability of the remaining provisions shall not be impaired thereby, and such remaining provisions shall remain in full force and effect.

**XII. APPLICABLE LAW**

This Agreement is made and entered in Monongalia County in the State of West Virginia, and the laws of West Virginia shall govern its validity, interpretation, performance, and enforcement by the parties of their respective duties and obligations hereunder.

**XIII. VOLUNTARY AGREEMENT**

This Agreement is the result of arm's-length negotiation between the parties, and the parties have had the opportunity to be represented by counsel of their own choosing, which includes but is not limited to, legal advice of tax consequences relative to the compensation herein. Each party enters into this Agreement freely and voluntarily and with the full intent to be bound hereby.

**XIV. NOTICE**

Any and all notices required or permitted to be given under this Agreement will be sufficient if furnished in writing and sent by registered or certified mail to the other party at the address stated here:

**COACH:** Last Address on File with the University

With a Copy to:  
Russ Campbell & Patrick Strong  
Balch Sports  
1901 6<sup>th</sup> Ave. N., Ste. 1500  
Birmingham, AL 35203

**UNIVERSITY:** Director of Intercollegiate Athletics  
West Virginia University  
PO Box 0877, Morgantown, WV 26507-0877

With a Copy to:  
General Counsel's Office  
West Virginia University  
105 Stewart Hall, PO Box 6204, Morgantown, WV 26506-6204

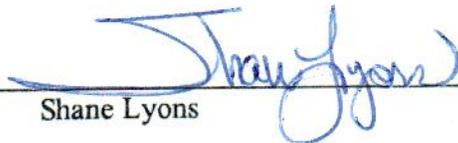
HEAD FOOTBALL COACH

BY THEIR SIGNATURES BELOW, the parties have executed this Agreement as of the day and year first above written.

WEST VIRGINIA UNIVERSITY  
BOARD OF GOVERNORS ON BEHALF  
OF WEST VIRGINIA UNIVERSITY

By

Shane Lyons



Neal Brown

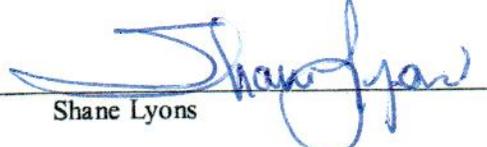
EXHIBIT A - OTHER COMPENSATION, AND INCENTIVES

**ANNUAL PERFORMANCE INCENTIVES**

As set forth in the Agreement, Coach is entitled to the following annual performance incentives:

- a. Big 12 Conference (or any other athletic conference that University joins during the term of this Agreement) (cumulative)
  - i. Participating in Big 12 Championship Game \$100,000
  - ii. Winning Big 12 Championship Game \$150,000
  - iii. If the Big 12 Conference does not have a Conference Championship Game in a particular Agreement Year, and University is named the Big 12 (or successor conference) Champion in that same year: \$250,000
- b. Post Season Bowls when team finishes with a regular season win-loss percentage at or above 0.500 (cumulative)
  - i. Non-College Football Playoff Bowl Appearance (Big 12 Lower Tier) \$25,000
  - ii. Non-College Football Playoff Bowl Win (Big 12 Lower Tier) \$25,000
  - iii. Non-College Football Playoff Bowl Appearance (Big 12 Higher Tier- Alamo, Camping World, Texas) \$50,000
  - iv. Non-College Football Playoff Bowl Win (Big 12 Higher Tier- Alamo, Camping World, Texas) \$50,000
  - v. College Football Playoff ("CFP") Bowl Appearance \$150,000
  - vi. CFP Bowl Win \$150,000
  - vii. CFP Semifinal Appearance \$200,000
  - viii. CFP National Championship Appearance \$250,000
  - ix. CFP National Championship Title \$300,000
- c. Coach of the Year Awards (cumulative)
  - i. Big 12 Coach of the Year \$50,000
  - ii. National Coach of the Year (only one) (Eddie Robinson, Walter Camp, Bobby Dodd, Bear Bryant, AP) \$100,000
- d. Academic Performance Rating (not cumulative)
  - i. 945 to, but not including 965 \$20,000
  - ii. 965 or higher \$30,000

WEST VIRGINIA UNIVERSITY  
 BOARD OF GOVERNORS ON BEHALF OF  
 WEST VIRGINIA UNIVERSITY

By   
 Shane Lyons

  
 Neal Brown