

**AMENDED AND RESTATED EMPLOYMENT AGREEMENT  
BETWEEN  
CLEVELAND STATE UNIVERSITY  
AND  
SCOTT GARRETT**

THIS AMENDED AND RESTATED EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between Cleveland State University (the "University"), a state-supported institution of higher education and an instrumentality of the State of Ohio, and Scott Garrett ("Employee"), collectively "the Parties", and is effective July 1, 2021 (the "Effective Date").

WHEREAS, the Parties hereto are also parties to that certain Employment Agreement dated effective as of April 24, 2019 (the, "Original Agreement");

WHEREAS, the Parties hereto desire to amend and restate the Original Agreement as of the Effective Date, as set forth herein;

WHEREAS, the University desires to establish its right to the services of Employee as its Vice President and Director of Athletics on the terms and conditions set forth below, and Employee is willing to accept such employment on such terms and conditions;

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement, Employee and the University have agreed and do hereby agree as follows:

**1. Term of Agreement.**

- (a) The term ("Term") of this Agreement shall commence on the Effective Date and shall continue through June 30, 2026 (the "Expiration Date"), unless sooner terminated in accordance with the provisions of Section 14 below. A "Contract Year" shall run from July 1 through June 30 of the following year.
- (b) Each party shall notify the other in writing at least one year prior to the Expiration Date whether the party wishes to extend this Agreement. Regardless of whether such notice is given, Employee's employment will terminate at the end of the Term without further notice unless the Parties extend the Term of this Agreement or enter into a new employment agreement by mutual written agreement.

**2. Employment; Duties.**

- (a) *Employment.* The University hereby employs Employee, and Employee hereby accepts employment with the University, as the University's Vice President and Director of Athletics ("Director of Athletics"). The position for which Employee is employed is not eligible for tenure, and this employment in no way grants Employee a claim to tenure in employment, or any years of employment attributable to tenure within the University.
- (b) *Basic Duties.* Employee shall be responsible to the University's President for the duration of this Agreement (and at all times report directly to the University's President) with respect to all matters relating to his employment. Employee's duties include those customary for the Director of Athletics of a major National Collegiate Athletic Association ("NCAA") Division I institution, including:
  - (i) planning, directing, and coordinating a comprehensive program of intercollegiate athletics, maximizing performance of University's intercollegiate athletic teams consistent with the educational mission, traditions, integrity, and ethics of the University;
  - (ii) making recommendations to the University's President regarding the employment and compensation of all head coaches, and actively overseeing the employment of all employees of the University's Athletics Department;
  - (iii) undertaking best effort to maintain effective fiscal management of the Athletics Department's budget and operations;
  - (iv) promoting and representing the University's intercollegiate athletics program (the "Program") through personal appearances, speeches, press conferences, internet broadcasts or displays, and other similar activities and events;
  - (v) coordinating effective marketing and fundraising activities for the Program, including but not limited to meeting with donors and sponsors, and participating in fundraising activities and events;
  - (vi) promoting within the Program an atmosphere of compliance with, and actively supervising individuals under his direct or indirect supervision so as to maintain strict compliance with, the constitutions, bylaws, rules, and regulations of the NCAA, the Horizon League, and/or any other league or conference of which the University may be a member during the Term (the "Conference"), and any other athletics governing body to which the University may be subject (collectively, "Governing Body Requirements"). Employee acknowledges that he is well acquainted with the emphasis that the University places on strict compliance with applicable Governing Body Requirements and University Policies, rules, procedures, practices and directives. Accordingly, Employee shall use his best efforts to conduct the affairs of the Program with the utmost dignity and integrity, in full compliance with the foregoing;

- (vii) working effectively and cooperatively with key internal and external constituencies in furtherance of the Athletics Department's contribution to the University's educational mission;
  - (viii) adhering to, respecting, and following the academic standards and requirements of the University in regard to the recruiting and eligibility of prospective and current student-athletes in the Program. The academic standards, requirements, and Policies of the University shall not knowingly be compromised or violated at any time by Employee, or by anyone for whose direct or indirect supervision he is responsible pursuant to this Agreement or University Policies, rules, procedures, practices and directives. Employee shall monitor and encourage academic progress, in conjunction with faculty and the University, of student-athletes toward graduation, and Employee shall ensure cooperation by Athletics Department personnel with academic services and student services offered by the University for the benefit of student-athletes;
  - (ix) creating and enforcing high standards for "off the field" conduct by student-athletes, including academic achievement and appropriate personal conduct;
  - (x) maximizing attendance at University intercollegiate athletic events consistent with the University's educational mission; and,
  - (xi) such other duties not inconsistent with the preceding as the University's President may reasonably assign.
- (c) *Broadcasts.* Employee acknowledges that from time to time the University may be presented with opportunities for the production and distribution of radio, television, and/or internet broadcasts relating to the Program (the "Broadcasts"). Employee shall appear and participate in such Broadcasts in accordance with the instructions of the University. In addition, Employee acknowledges that the University may require Employee to record generic or topical television or radio announcements for the promotion of such Broadcasts, and such other shows or events as determined by the University for the promotion of the Program and of the University.
- (d) *Promotional Activities.* Employee acknowledges that from time to time opportunities to promote, publicize, and/or raise funds for the University and/or the Program, and/or to participate in promotional activities or events of advertisers, sponsors or affiliates of the University will be presented to the University. Such opportunities may involve personal appearances, speeches, press conferences, and other similar activities and events which shall include, but not necessarily be limited to, meeting with donors or sponsors. Employee acknowledges and agrees that he may be required to participate in or to make special appearances at such activities and events in accordance with the instructions of the University.
- (e) *Manufacturer Relationships.* Employee acknowledges that from time to time the University may enter into agreement(s) with one or more athletics footwear, equipment, and/or clothing manufacturer(s) (collectively, the "Manufacturer") for use by the Manufacturer of Employee's personal services and expertise and/or for

Employee's endorsement of the Manufacturer's products. In addition to providing such personal services and expertise to the Manufacturer, Employee shall grant to such Manufacturer the exclusive right and license to the unlimited use in any media (now known or hereafter created, including without limitation the internet) of Employee's name, *etc.*, as provided in Section 11 of this Agreement, in connection with the production, advertisement, marketing, promotion or sale of the Manufacturer's products. Throughout the Term, Employee shall take such actions as are necessary to enable the University to comply with its obligations under its agreement(s) with the Manufacturer, including without limitation wearing and/or using exclusively the products of the Manufacturer as and to the extent required by the relevant agreement. During the Term, Employee shall not enter into or maintain any endorsement, promotional, consulting or similar agreement (i) with any person or entity that licenses, manufactures, brands or sells athletic products, whether through retail locations, on-line, by direct mail, television shopping networks, or otherwise; (ii) that would prohibit or otherwise restrict the Manufacturer's use of Employee's name, *etc.*, as provided in Section 11 of this Agreement, or subject such use to a third party's approval; or (iii) that would otherwise cause the University to violate its agreement(s) with the Manufacturer.

- (f) *Communications.* Employee shall follow any and all protocols established by the President from time to time with respect to contact with University officials (including without limitation members of the Board of Trustees) and/or elected or appointed government officials about matters of concern relating to the Program and/or the Athletics Department; provided, however, Employee may, in his discretion, report matters of concern relating to the Program and/or the Athletics Department to the University's General Counsel, the University's Chief Compliance Officer, the University's Chief Human Resources Officer, the University's Title IX officer and the University's Clery (Campus Security) officer as appropriate, notwithstanding the protocols established by the President. The foregoing shall not be deemed to prohibit non-substantive social discourse between Employee and University or government officials in the context of social or other gatherings at which Employee and one or more University or government officials are present, but discussion of all substantive issues (including without limitation items of concern) about the Program or the Athletics Department shall be handled, subject to the limited exception above, in accordance with established protocols. In addition, Employee shall at all times recognize that as part of the University's administration and its publicly visible representative, Employee has an affirmative duty to support the Policies and academic and budget priorities of the University in his actions and in public discourse. To that end, Employee shall keep comments about University Policies or actions taken by University administrators in a positive tone, recognizing that any statements he makes about the University and its administrators are often publicized.
- (g) *Scheduling.* Employee shall at all times have authority for approving competition schedules for all athletics teams and may delegate this duty, in his discretion, to other Department employees, including Coaches or support staff.

3. **Standard of Performance; Outside Activities.** Throughout the Term, Employee shall devote Employee's attention and energy to the business and affairs of the University on a fulltime basis, exercising his best efforts, skills, and knowledge. Notwithstanding the preceding, Employee may also engage, in his personal capacity and not as an employee of the University, in any other permissible activities referred to in this Agreement as well as such other activities (*e.g.*, the making of advertisements) as are not inconsistent with:

- (a) the Governing Body Requirements;
- (b) the Policies, rules, procedures, practices, and directives of the University;
- (c) any other contract to which the University is a party; and,
- (d) the provisions of this Agreement.

Such activities and any use of the University's name or logos or association with the University in connection with such activities shall require the prior written approval of the President. No such other activities shall conflict with or be detrimental to Employee's duties as Director of Athletics nor be competitive with or otherwise detrimental to the University's interests. Notwithstanding the provisions hereof, the University acknowledges that Employee has or may have certain other business interests that, from time to time, require Employee's efforts, skills, and time including, without limitation, (a) serving as an officer or consultant, or on the boards of directors, of certain companies, (b) participating in charitable, civic, educational, professional, community or industry affairs, and (c) managing Employee's personal investments. Employee is permitted to participate in all of the foregoing in his personal capacity and not as an employee of the University so long as (i) no such activity, or such activities in the aggregate, materially interferes or conflicts with Employee's duties hereunder, and (ii) such activities shall not, in the aggregate, entail a time commitment by Employee greater than that existing as of the Effective Date without the prior written consent of the President. All outside activities described in this Section 3 are independent of Employee's employment with the University, and the University shall have no responsibility or liability for any claims arising from them. Employee agrees to indemnify and hold harmless the University and its trustees, directors, officers, and employees from and against any and all suits, claims, demands, damages, liabilities, costs and expenses, including reasonable attorneys' fees, arising from any such outside activity.

4. **Compliance with Applicable Rules.**

- (a) *Compliance.* In performing his duties under this Agreement, Employee shall be familiar with, shall adhere to, shall promote within the Program an atmosphere of compliance with, and shall actively monitor the Program's compliance with all applicable Governing Body Requirements. In addition, Employee shall adhere to all applicable Policies, rules, procedures, practices, and directives of the University as in effect from time to time (including, but not limited to, University Policies, procedures, rules, and/or regulations adopted for purposes of compliance with Title IX of the Education Amendments Act of 1972 ("Title IX"), the Violence Against Women Act's amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and/or any similar state or local law ("Title IX Policies")). Employee shall use his best efforts in good faith to cause all personnel whom he is responsible for supervising (directly or indirectly) and representatives of the University's athletics interests to comply with all applicable Governing Body

Requirements and University Policies, procedures, rules, and/or regulations.

- (b) *Reporting.* If Employee shall become aware of any fact, occurrence, circumstance or state of affairs that would cause a reasonable person to suspect a possible violation of any Governing Body Requirement, Employee shall immediately report such to the individual designated as the head of the University's athletic compliance office (who shall report to the University's Chief Compliance Officer) and, if the potential violation appears to be Level I or Level II as currently defined by NCAA Governing Body Requirements (or comparable conduct under any future NCAA violation classification system), to the President. In addition, Employee further acknowledges that for purposes of Title IX he is a "responsible employee"; consequently, without limiting Employee's reporting obligations under other University Policies, procedures, rules, and/or regulations, if Employee shall become aware of any fact, occurrence, circumstance or state of affairs that he is obligated to report pursuant to the Title IX Policies, he shall immediately and directly report such information to the University's Title IX Coordinator. If Employee shall become aware of any fact, occurrence, circumstance or state of affairs that would cause a reasonable person to suspect a possible violation of any other University Policies, procedures, rules, and/or regulations, Employee shall immediately report such to the University's General Counsel or to the University's Chief Compliance Officer.
- (c) *Obligation to Furnish Certain Information.* Employee shall furnish to the University, upon request, any information that the University deems necessary or useful for purposes of any investigation of any potential infraction of any Governing Body Requirement or University Policy, procedure, rule, and/or regulation. Employee shall cooperate fully with any University, Conference, and/or NCAA investigation and accept responsibility for maintaining the integrity of the investigation. This provision shall survive any expiration or termination of this Agreement.
- (d) *Consequences of Violation.* Without limiting the University's rights set forth in Section 13, in the event that Employee or the Program is found to be in violation of any Governing Body Requirement based on events occurring while Employee is or was employed by the University, whether the violation occurred prior to or during the Term, he shall be subject to disciplinary or corrective action as set forth in relevant NCAA, Conference, other governing body, and/or University disciplinary and/or enforcement procedures. In addition, without limiting other available remedies (including without limitation remedies for violation of any University Policy, procedure, rule or regulation), Employee may be suspended for a period of time without pay if the University has a good faith reason to suspect that Employee or the Program has been involved in serious violations of Governing Body Requirements, based on events occurring while Employee is or was employed by the University. For purposes of this subsection 4(d), serious violations shall include, but are not limited to, any intentional violation, or repetitive violations, or other violation(s) involving Employee that the University determines could reasonably be expected to result in sanctions against the involved university such as probation, vacation of athletic contest results, loss of scholarships, prohibition against Conference, championship or telecast appearances, restrictions on a coach's right to recruit, or any other similar

sanction that the NCAA, Conference or other governing body may impose under its Governing Body Requirements in effect from time to time, or any Level I or Level II violation involving the Program.

- (e) *Disclosure Concerning Prior Violations.* Employee represents that he has disclosed to the University any and all information concerning (i) litigation to which he is or has been a party that could reasonably be expected to reflect adversely upon or otherwise adversely affect the University, or (ii) previous Governing Body Requirement violations or facts, occurrences, circumstances or states of affairs that could reasonably be expected to give rise to such violations, committed by Employee or any individual under Employee's direct or indirect supervision prior to the Effective Date. Employee acknowledges that the University is relying on Employee's representation set forth in this subsection 4(e), that this representation is a material inducement for the University to enter into this Agreement, and that a material breach of this representation will constitute a material breach of this Agreement.

## **5. Compensation.**

- (a) **Salary.** During the Term, the University shall pay Employee an annual base salary of Two Hundred Five Thousand Dollars (\$205,000), payable in accordance with the University's payroll Policies and practices as in effect from time to time, and subject to applicable deductions and withholdings. Employee will be eligible for salary review annually in accordance with the results of the University's review of Employee's performance and with the University's Policies and practices concerning performance and salary review; provided, however, that in no event shall any such salary review result in a decrease of Employee's annual Base Salary other than as the result of a generally-applicable reduction in compensation impacting the Athletics Department or other group of University personnel of which Employee is a member; provided, further, that any decrease of Employee's annual Base Salary as the result of such a generally-applicable reduction in compensation shall not exceed the percentage reduction applicable to all such personnel. For all purposes under this Agreement, the term "Base Salary" shall refer to Employee's base salary rate then in effect pursuant to this Section 5, and shall not include any bonus, benefits or other amounts payable to Employee as provided in this Agreement.
- (b) **Supplemental Salary.** In addition to Base Salary, the University shall pay Employee the sum of Fifteen Thousand Dollars (\$15,000) if he is employed by the University on June 30<sup>th</sup> of each Contract Year during the Term. Employee may elect to defer this amount to any plan available to similarly situated employees of the University that allows for pre-tax elective deferrals. Deferrals and all other transactions involving the plan will be administered by the plan Employee selects in accordance with plan rules and procedures.
- (c) **Longevity Incentives.** Employee shall earn the following three (3) longevity incentives, each in the amount of Fifteen Thousand Dollars (\$15,000) for a total of \$45,000, if he is employed by University on June 30, 2024, June 30, 2025 and June 30, 2026; payment of such longevity incentives shall be based on Employee's operation of the Department of Athletics in a materially compliant and responsible manner, as determined by the University President in his sole discretion, which shall not be unreasonably withheld, conditioned or delayed. University shall pay each \$15,000 longevity incentive within thirty (30) days of it being earned.

(d) **Athletics Performance Bonuses.** In addition to the Base Salary, Longevity Bonus, and Additional Salary set forth above, upon completion of each Contract Year during the Term Employee shall be eligible for an Incentive Bonus, not to exceed Thirty Thousand Dollars (\$30,000) per contract year, less any applicable deductions and withholdings, based upon Employee's degree of success in:

- a. Fundraising
  - i. Total annual gifts of \$500,000 or more - \$3,000
  - ii. Total annual gifts of \$575,000 or more - +\$3,000
  - iii. Total unrestricted gifts of \$100,000 or more - +\$3,000
  - iv. # of personal development visits of 75 or more - +\$3,000
- b. Ticket Sales/Attendance
  - i. Men's basketball season ticket revenue over \$100,000 - \$3,000
  - ii. Men's basketball aggregate single game ticket revenue over \$50,000 - +\$3,000
  - iii. Men's basketball paid attendance (tickets distributed) per game over 1,500 - +\$3,000
  - iv. Men's basketball paid attendance (tickets distributed) per game over 2,000 - +\$3,000
- c. Academics
  - i. Fall cumulative team GPA 3.1 or higher - \$3,000
  - ii. Spring cumulative team GPA 3.1 or higher - +\$3,000
  - iii. All teams above multi-year APR threshold - +\$3,000
  - iv. Each team with perfect multi-year APR of 1,000 - \$1,000 each
  - v. Department overall GSR of 85 or higher - +\$3,000
- d. Athletic Performance
  - i. Any team outright regular season championship or conference tournament championship - +\$5,000 each
  - ii. Men's basketball NCAA Tournament appearance - +\$5,000
  - iii. Women's basketball NCAA Tournament appearance +\$2,000

6. **Benefits.** For so long as Employee is employed and actively performing his duties as the Director of Athletics, he shall be eligible to receive the following benefits. Employee acknowledges that certain of these benefits (or portions thereof) are taxable, and the value of such benefits (or such portions thereof) will be added to Employee's W-2 income and subject to deductions and withholdings as applicable.

- (a) *Standard Benefits.* Employee shall be entitled to participate in any welfare, health, and life insurance, and retirement benefit and incentive programs as may be adopted from time to time by the University on the same basis as that provided to similarly situated employees of the University and in accordance with the University's Policies as in effect from time to time.

- (b) *Vehicle Allowance.* The University shall, at its expense, provide Employee with a monthly vehicle stipend of Six Hundred Dollars (\$600).
- (c) *Complimentary Tickets.* Employee will receive up to eight (8) complimentary season tickets, or single-game admissions, for home games in any ticketed sport for the purpose of hosting family or personal acquaintances. Ticket distributions will be taxed according to University policy. Any other ticket distributions should be documented with an appropriate business purpose for the benefit of the Department, or purchased personally by the Employee;
- (d) *Hospitality/Special Events.* Employee will receive up to eight (8) complimentary passes/admissions for any donor hospitality areas administered by the Department related to home athletics contests, or other Department special events, for the purpose of hosting family or personal acquaintances. Admission will be taxed according to University policies. Any other access to hospitality or department special events should be documented with an appropriate business purpose for the benefit of the Department, or purchased personally by the Employee;
- (e) *Travel.* Employee and his immediate family (spouse, children) may travel with teams for away and postseason competition, at Director's discretion, for no cost. Employee shall be taxed for any expenses incurred by the department for said travel, according to University policy;

**7. Reimbursement of Expenses.**

- (a) *General Expense Reimbursement.* For so long as Employee remains employed and actively performing his duties as Director of Athletics, in addition to payment of expenses expressly provided for in this Agreement, the University shall pay on Employee's behalf all reasonable expenses necessarily incurred by him in the performance of his duties. All such expenses shall be reimbursed in accordance with University Policies and shall be subject to the approval of the President, which shall not be unreasonably withheld or delayed.
- (b) *Timing of Reimbursement.* Any expenses that are eligible for reimbursement under this Agreement shall be paid following submission of supporting documentation in accordance with University Policy.

**8. Disclosure of Outside Income.** Employee shall report annually, to the extent required by NCAA regulations, to the President of the University, on or before July 1 of each year during the Term, all athletically related income and benefits from sources outside the University, including but not limited to income from annuities, sports camps, housing benefits (including preferential housing arrangements), country club memberships, complimentary ticket sales, television and radio programs, and/or endorsement or consultation contracts earned during the prior contract year.

**9. Grants-in-Aid.** All University student-athlete grants-in-aid shall be awarded only upon prior approval of Employee or the individual designated as the head of the University's athletic

compliance office, within the procedural and Policy guidelines of the University, and in compliance with applicable Governing Body Requirements.

**10. Representation of the University.**

- (a) *By Employee.* Employee shall represent the University in a dignified manner and shall dress in attire appropriate to each occasion or setting at or in which he is present. He shall also conduct both his employment activities and his personal life in a manner that will not bring disgrace or embarrassment to the University or Employee; that will not in the University's reasonable discretion tend to shock, insult or offend the greater Cleveland and/or University alumni communities; that does not in the University's reasonable discretion manifest contempt or disregard for diversity, public morals or decency; and that complies with applicable University Policies, procedures and rules with respect to personal conduct.
- (b) *By Others under Employee's Supervision.* Employee shall use his best efforts in good faith to develop, implement and enforce policies and procedures, after consultation with the Department of Human Services, which (i) cause all University personnel for whose supervision he is responsible to conduct their activities in connection with the Program, and (ii) cause his direct reports to conduct their respective personal lives, in a manner:
  - (1) that will not bring disgrace or embarrassment to the University or themselves;
  - (2) that will not in the University's reasonable discretion tend to shock, insult or offend the greater Cleveland and/or University alumni communities;
  - (3) that does not in the University's reasonable discretion manifest contempt or disregard for diversity, public morals or decency; and,
  - (4) that complies with applicable University Policies, procedures and rules with respect to personal conduct.

**11. Use of Name, Etc.** Employee consents during the Term (and thereafter for purposes of historical references to Employee's time as the University's Director of Athletics) to the use of Employee's name, nickname, initials, autograph, signature, voice, video or film portrayals, photographic image or likeness, and any other means of endorsement or identification of or by Employee, including statistical, biographical or other information or data relating to Employee, by the University or by any party under contract with the University in the conduct and promotion of the University and/or the Program, and as otherwise contemplated by this Agreement.

**12. Termination of Employee's Employment.**

- (a) *Death.* In the event Employee's employment hereunder ceases prior to the Expiration Date by reason of Employee's death, the University shall pay any Accrued Obligations (as defined in subsection 12(f) below).
- (b) *Disability.* If, as a result of Employee's incapacity due to physical or mental illness or injury ("Disability"), Employee shall have been absent from the performance of Employee's duties with the University for 60 consecutive days or for a total of 90

days or more out of a period of 270 consecutive days, Employee's employment under this Agreement may be terminated by the University for Disability, subject to any requirements that may be imposed by applicable law. In such event, the University's sole liability shall be to pay Employee any Accrued Obligations (as defined in subsection 14(f) below), and for any disability benefits to which Employee may be entitled under a University group disability plan.

- (c) *Termination For Cause.* In addition to any other remedy permitted by this Agreement or applicable law, the University may at any time, by written notice, terminate Employee's employment or, in lieu of termination, impose other appropriate discipline at the University's sole discretion, for Cause. Employee will receive written notice of termination for Cause, which will include information regarding his right to appeal the termination decision. For purposes of this subsection 12(c), "Cause" shall be defined to include, as determined by the University in its reasonable and good faith discretion:

- (i) any material breach of this Agreement by Employee that, if susceptible to cure, is not cured by Employee after receipt of twenty (20) days advance written notice of such breach from the University;
- (ii) Violations of Governing Body Requirements.
  - (1) any act or omission, whether occurring prior to or during the Term, that the University determines constitutes a material violation of a Governing Body Requirement by or knowingly permitted by Employee; or
  - (2) any act or omission, whether occurring prior to or during the Term, that the University determines constitutes a violation of a Governing Body Requirement by personnel Employee is responsible for supervising (directly or indirectly), of which he is, or should be, aware and fails to immediately report as required by this Agreement; or
  - (3) any act or omission, whether occurring prior to or during the Term, that the University determines constitutes a violation of a Governing Body Requirement by any other representative of the institution's athletics interests of which he is, or should be aware, and fails to immediately report as required by this Agreement; or
  - (4) any act or omission, occurring during Employee's employment by the University, that the University determines constitutes a violation of a Governing Body Requirement for which he is otherwise responsible (including but not limited to responsibility by virtue of a failure to promote an atmosphere of compliance or to monitor personnel who report, directly or indirectly, to him), provided, however, that in order for any of the foregoing (1)-(4) to constitute Cause, the violation must be one which is regarded as a serious violation (e.g., repeated or intentional violations, or any violation(s) that the University determines could reasonably be expected to result in sanctions such as probation, vacation of athletic results, loss of scholarships, prohibition

against conference or championship or telecast appearances, restrictions on a coach's right to recruit, etc., or any Level I or Level II violation involving the Program, as currently defined by NCAA Governing Body Requirements (or comparable conduct under any future NCAA violation classification system). For purposes of this subsection 12(c)(ii), the decision as to whether a violation of a Governing Body Requirement has been committed, and/or whether a violation is a serious violation, rests solely with the University. However, if Employee is terminated for Cause under this subsection 12(c)(ii) and the applicable Governing Body renders a final determination establishing facts indicating that Cause as defined in this subsection 12(c)(ii) does not exist, provided there are no other facts or circumstances justifying a termination for Cause, the termination shall be treated as a termination without cause under subsection 12(d) below, and the provisions of subsection 12(d) shall apply and shall be Employee's sole remedy for any cause of action based on such termination;

- (iii) failure of Employee to fully and promptly cooperate with the University or any Governing Body in any investigation of possible violations of a Governing Body Requirement or University Policy, procedure, rule and/or regulation.
- (iv) material breach of any of the University's Title IX Policy by Employee (it being understood that the foregoing shall not limit the University's right to terminate this Agreement for Cause based upon violations of other University Policies, procedures, rules and/or regulations otherwise constituting Cause under this Section 12(c)) including without limitation as provided in subsection 12(c)(i) that, if susceptible to cure, is not cured by Employee after receipt of twenty (20) days advance written notice of such breach from the University;
- (v) prior to or during the Term, conviction of a criminal statute by Employee that constitutes a felony or constitutes a misdemeanor involving moral turpitude ;
- (vi) prior to or during the Term, conduct by Employee that in the University's reasonable discretion:
  - (1) brings disgrace or embarrassment to the University or Employee;
  - (2) tends to shock, insult, or offend the greater Cleveland and/or University alumni communities;
  - (3) manifests contempt or disregard for diversity, public morals or decency; or
  - (4) violates applicable University Policies, procedures, rules and/or regulations with respect to personal conduct; or
- (viii) any other act or omission by Employee, whether occurring prior to or during the Term, which brings serious discredit to the Program or the University, or

would be likely to cause prospective student-athletes to elect not to attend the University.

In the event of Employee's termination for Cause, this Agreement shall terminate without further obligation by the University, except for the payment of any Accrued Obligations (as defined in subsection 12(f) below).

Notwithstanding the language contained herein, University acknowledges that it is not its intent for this Agreement to be terminable for Cause in the event of a minor, technical, or otherwise immaterial violation of Section 12(c)(ii) or a violation that does not entail the risk of major institutional penalties. Moreover, in the event any such violation is subject to being cured by Employee, in the University's reasonable discretion and following notice thereof, provided such opportunity to cure does not cause any further harm or damage to the University or Employee, or cause any further harm to the welfare of any student-athlete, University agrees that it shall provide Employee with the opportunity to cure any such violation prior to invoking its right to terminate this Agreement for Cause.

(d) *Termination without Necessity of Demonstrating Cause.*

(i) The University may, by written notice, terminate Employee's employment without necessity of demonstrating Cause at any time. In the event that the University terminates Employee's employment pursuant to this subsection 12(d)(i) and as long as Employee continues to perform his duties as Director of Athletics through such termination date, the University shall pay Employee upon fulfillment of the requirements of this Section 12(d), as Employee's sole remedy based upon termination of this Agreement and in full and final satisfaction of any claims arising from termination of Employee's employment, a severance benefit in an amount equal to the remaining *pro rata* balance of Employee's Base Salary through the end of the Term.

(ii) Notwithstanding the foregoing, no severance benefit shall be paid pursuant to this Section 12(d) unless and until:

- (1) Employee timely and properly provides to the University an executed Release in a form reasonably satisfactory to the University; and,
- (2) Employee does not properly revoke that Release within seven days after the date he first provides the timely and properly executed Release to the University.

Employee must execute and return the Release to the University within 60 days following the date his employment with the University is terminated without Cause; no benefit will be due or provided to Employee if Employee fails to return the properly executed Release within the 60 day period. If the 60 day period begins in one calendar year and ends in a second calendar year, the severance benefit otherwise due to be paid during the portion of the period that falls within the first year will be delayed and paid at the end of the 60 day period.

(iii) Employee shall be required to mitigate damages or the amount of any

payment provided under this Agreement by seeking other employment in athletics administration within twelve (12) months following the termination date set forth in Section 12(d)(i) in order to receive the severance benefit contemplated by this Section 12(d). University shall continue to pay the severance benefit subsequent to Employee obtaining other employment. If Employee's subsequent employment is in athletic administration or other comparable employment ("Offset Employment"), then the severance benefit shall be reduced by earnings from Offset Employment earned or received during the balance of the term.

- (iv) The University shall not be permitted to reassign the Employee to another University position or set of responsibilities which limit his authority as Director of Athletics.

(e) *Termination by Employee.* Employee recognizes that his promise to work as Director of Athletics for the entire Term is of the essence to this Agreement, and the University relies on that promise in executing this Agreement. Employee also recognizes that the University is making a highly valuable investment in his continued employment by entering into this Agreement, and that its investment would be lost were he to resign or otherwise terminate his employment with the University prior to the Expiration Date. The Parties agree that Employee may, nevertheless, terminate his employment under this Agreement prior to the Expiration Date, subject to the terms of this Section 12(e), by giving the University not less than 30 days' advance written notice, and by tendering to the University an amount equal to one year of Employee's Base Salary of Two Hundred Five Thousand Dollars (\$205,000) at any time Employee terminates his employment before July 1, 2023 ("Buyout Payment"), with the exception that the Employee shall not be required to tender the University any amount if the Employee terminates his employment under this Agreement on or after July 1, 2023. Employee agrees that under no circumstance will he or his spouse, partner, agents, representatives or advisors reveal his termination of this Agreement pursuant to this Section 12(e) to anyone other than his spouse, partner, agents, representatives or advisors for a period of five days following notification to the University. Notwithstanding the foregoing, no Buyout Payment shall be owed pursuant to this Section 12(e) if:

- (1) The University formally reduces its athletic expense budget to an amount below Eleven Million Two-Hundred Fifty Thousand (\$11,250,000) Dollars annually; or
- (2) The University's athletic programs are reclassified to any level other than NCAA Division 1.

f) *Accrued Obligations.* As used in this Agreement, "Accrued Obligations" shall mean the sum of (i) any portion of Employee's Base Salary earned through the date of death or termination of employment, as the case may be, which has not yet been paid; (ii) any other compensation previously earned and accrued that has not yet been paid; and, (iii) unpaid eligible expense reimbursements pursuant to Section 7 above. "Accrued Obligations" shall not include any form of severance payment or contingent bonus, or benefit not yet vested in accordance with the terms of the applicable plan.

### **13. Confidential Information; Non-Solicitation; Non-Competition.**

- (a) *Confidentiality.* Employee acknowledges that while employed by the University Employee will occupy a position of trust and confidence and will receive and have access to Confidential Information, as defined below. Employee acknowledges that such Confidential Information is specialized, unique in nature, and of great value to the University, and that such information gives the University a competitive advantage. During the Term and thereafter, Employee shall not use the Confidential Information or disclose the Confidential Information to any third party, except (i) as required to perform Employee's duties to the University in a manner consistent with professional standards and obligations; (ii) as authorized by the University; (iii) in furtherance of the University's legitimate business interests; (iv) to comply with applicable law, regulations, Governing Body Requirements or accreditation standards; or (v) to the extent such Confidential Information shall have become public other than by Employee's unauthorized use or disclosure. Notwithstanding the foregoing, and except for disclosures required by applicable law, regulations or Governing Body Requirements, in no event shall Employee use or disclose Confidential Information if such use or disclosure could reasonably be expected to expose the University to competitive disadvantage or legal liability, or otherwise harm the University. For purposes of this Agreement, "Confidential Information" means any information not generally available to the public regarding the University or its actual or prospective students, employees, alumni or donors, including without limitation admissions information; fundraising information; information regarding actual or potential legal or regulatory proceedings; and any other information that should by its nature or context be recognized as proprietary and/or confidential.
- (b) *Return Of Documents And Property.* Employee agrees to deliver or return to the University, at the University's request at any time or upon termination or expiration of Employee's employment or as soon thereafter as possible, all property furnished by the University or prepared, maintained or acquired by Employee in the course of Employee's employment by the University, including without limitation computer equipment, keys, documents, computer tapes and disks, records, lists, data, drawings, prints, notes and all other written information, in any form or media and including all copies.
- (c) *Notification of Certain Communications.* Employee shall notify the President prior to engaging, either directly or indirectly through one or more representatives or intermediaries, in communications or discussions with a prospective employer other than the University with respect to potential employment in an athletics administrative position.
- (d) *Non-Competition.* Employee acknowledges that during the term of employment by University, he will gain Confidential Information concerning the Program and that the use of this Confidential Information by an opponent in the same league or conference as the University would place the Program at a serious competitive disadvantage. Accordingly, Employee expressly promises and agrees not to engage in employment with another NCAA Division I institution competing in the Conference, in any capacity, prior to the Expiration Date (unless the Employee's Agreement has been terminated without cause) and for a period of twelve (12) months thereafter. Notwithstanding the foregoing, University acknowledges and agrees that this Section 13(d) shall be void in the event

(i) the Term of this Agreement has not been extended on or before July 1, 2025; or (ii) University is no longer a member of the Horizon League Conference.

- (e) *Remedies for Breach.* Employee expressly agrees and understands that the remedy at law for any breach by Employee of this Section 13 will be inadequate and that damages flowing from such breach are not usually susceptible to being measured in monetary terms. Accordingly, it is acknowledged that upon Employee's violation of any provision of this Section 13 the University shall be entitled to obtain from any court of competent jurisdiction immediate injunctive relief and obtain a temporary order restraining any threatened or further breach as well as an equitable accounting of all profits or benefits arising out of such violation. Nothing in this Section 13 shall be deemed to limit the University's remedies at law or in equity for any breach by Employee of any of the provisions of this Section 13, which may be pursued by or available to the University.
- (f) *Survival of Provisions.* The obligations contained in this Section 13 shall, to the extent provided in this Section 13, survive the termination or expiration of Employee's employment with the University and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. Employee agrees that the restrictions set forth in this Section 13 are reasonable and necessary in order to adequately protect the University's interests, and agrees not to challenge the reasonableness of any such restriction in any proceeding to enforce it. If it is determined by a court of competent jurisdiction that any restriction in this Section 13 is excessive in duration or scope or otherwise unenforceable, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by law.

**14. Entire Agreement; Prior Agreements.**

- (a) This Agreement constitutes the entire agreement between the parties and terminates and supersedes any and all prior agreements, including the Original Agreement, and understandings (whether written or oral) between the parties with respect to the subject matter of this Agreement. Employee acknowledges and agrees that neither the University nor anyone acting on its behalf has made, and is not making, and in executing this Agreement, the Employee has not relied upon, any representations, promises or inducements except to the extent expressly set forth in this Agreement. In the event of any conflict between the terms of this Agreement and any University Policy, procedure, rule or regulation, the terms of this Agreement shall control.
- (b) Except as otherwise disclosed by Employee to the University, Employee affirms and represents that he is under no obligations to any current or former employer or other third party, or pursuant to any applicable statute or regulation, which are in any way inconsistent with, which impose any restriction upon, or which require any payment by or on behalf of Employee in view of, his employment by the University or his undertakings under this Agreement, or that prevent him from complying with any other agreement that the University has with a third party, including but not limited to any apparel company with which the University has a contract.

15. **Assignment; Successors.** This Agreement is personal in its nature and none of the parties hereto shall, without the consent of the others, assign or transfer this Agreement or any rights or obligations hereunder, provided that, in the event of the merger, consolidation, transfer, or sale of all or substantially all of the assets of the University with or to any other individual or entity, this Agreement shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor shall discharge and perform all the promises, covenants, duties, and obligations of the University hereunder, and all references herein to the "University" shall refer to such successor.
16. **No Third Party Beneficiaries.** This Agreement is not intended to benefit any third party, nor shall any person who is not a party hereto be entitled to enforce any of the rights or obligations of a party under this Agreement.
17. **Withholding.** Whether or not expressly stated in this Agreement, all compensation and any other benefits payable or provided pursuant to this Agreement shall be subject to withholding, payroll taxes, and such other deductions as may from time to time be required in accordance with applicable law and University Policies generally. Employee shall comply with all applicable reporting and record-keeping requirements in regard to compensation, benefits, and reimbursed expenses.
18. **Heading References.** Headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.
19. **Waiver; Modification.** Failure to insist upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of, or failure to insist upon strict compliance with, any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. This Agreement shall not be modified in any respect except by a writing executed by each party.
20. **Severability.** Subject to subsection 13(e) in the event that a court of competent jurisdiction determines that any portion of this Agreement is unenforceable or in violation of any law or public policy, only the portions of this Agreement that are unenforceable or that violate such law or public policy shall be stricken. All portions of this Agreement that are enforceable or that do not violate any law or public policy shall continue in full force and effect. Further, any court order striking any portion of this Agreement shall modify the stricken terms as narrowly as possible to give as much effect as possible to the intentions of the parties under this Agreement.
21. **Offset.** To the maximum extent permitted by law, the University shall be entitled to offset any amounts owed by it to Employee against any payment or compensation that is owing and unpaid by Employee to the University, in each case whether under this Agreement, under any other agreement between the parties, or otherwise.
22. **Notices.** All notices and other communications permitted or required under this Agreement shall be in writing, and shall be given by first-class mail (certified or registered with return receipt requested), facsimile, receipted overnight courier or hand delivery acknowledged in

writing by the recipient personally, and shall be deemed to have been duly given three days after mailing or immediately upon duly acknowledged receipt by hand delivery, or one day after deposit with an overnight courier, or facsimile to the respective persons named below. Either party may change such party's address for notices by written notice duly given in accordance with this Section 22.

If to the University: Cleveland State University  
Office of the President  
2121 Euclid Avenue, AC 302  
Cleveland, OH 44115

With a copy to: Cleveland State University  
Office of University Counsel  
2121 Euclid Avenue AC 327  
Cleveland, OH 44115

If to Employee: Scott Garrett  
c/o Robert Lattinville, Esq.  
8038 Lafon Place  
St. Louis, MO 63130

23. **Governing Law; Jurisdiction.** This Agreement and the legal relations thus created between the Parties shall be governed by and construed under and in accordance with the internal laws of the State of Ohio, without reference to its principles of conflicts of laws. Any and all disputes between the parties which may arise pursuant to this Agreement will be heard and determined before a court of the State of Ohio having jurisdiction over the subject matter in dispute. The parties acknowledge that such courts have jurisdiction to interpret and enforce the provisions of this Agreement, and the parties consent to, and waive any and all objections that they may have as to, personal jurisdiction and venue in such courts.
24. **Survival.** Sections 4(c), 6(a), 11, 12 (with respect to post-termination obligations) and 13-25 of this Agreement, as well as other obligations arising during the Term which by their context are to be performed in whole or in part subsequent to termination or expiration, shall survive the termination or expiration of this Agreement and, as applicable, will be fully enforceable thereafter in accordance with the terms of this Agreement.
25. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile transmission, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by the foregoing means shall be deemed to be their original signatures for all purposes.
26. **Approval by Board.** It is expressly understood and agreed by the parties that this Agreement and any subsequent amendments are not effective until approved, as required, by the University's Board of Trustees with respect to all terms of this Agreement.
27. **Other Acts.** Each Party shall, at the request of the other Party, execute and deliver whatever additional instruments, and do such other reasonable acts, as may be required or convenient in order to accomplish and carry out the intent of this Agreement.

28. **Full and Careful Consideration.** Employee acknowledges that he has been given the opportunity to fully and carefully consider this Agreement and all of its provisions, and to review this Agreement with legal counsel of his own choosing before signing it.
29. **Public Record.** Employee acknowledges that this Agreement is a public record subject to disclosure under the Ohio Public Records Act, Ohio Rev. Code § 149.43 *et seq.*

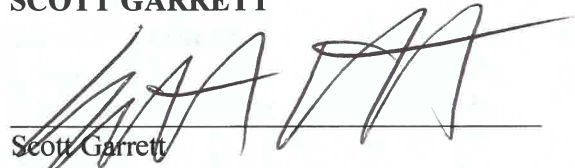
**IN WITNESS WHEREOF**, the University has caused this Agreement to be executed and delivered, and Employee has executed and delivered this Agreement, as of the respective dates set forth below.

**CLEVELAND STATE UNIVERSITY**

  
\_\_\_\_\_  
Harlan M. Sands, J.D., M.B.A.  
President

1-28-22  
\_\_\_\_\_  
Date

**SCOTT GARRETT**

  
\_\_\_\_\_  
Scott Garrett

2/1/2022  
\_\_\_\_\_  
Date