



EMPLOYMENT CONTRACT

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as "Agreement") is entered into by and between Michael K. Young (hereinafter referred to as "Coach") and VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (hereinafter referred to as the "University") and hereinafter referred to collectively as, the "Parties", and is effective July 9, 2019 (hereinafter referred to as the "Effective Date").

WHEREAS, Coach is currently employed by the University as the head coach of the University's Intercollegiate Men's Basketball team (the "Team"); and

WHEREAS, the University wishes to continue to employ Coach, in the capacity of head coach of the Team, upon the terms and conditions set forth in this Agreement, and Coach is willing to accept such employment on such terms and conditions; and

WHEREAS, this Agreement supersedes the Memorandum of Understanding between the Parties dated and effective as of April 7, 2019; and

WHEREAS, the University wishes to employ Coach, in the capacity of head coach of the Team, upon the terms and conditions set forth in this Agreement, and Coach is willing to accept such employment on such terms and conditions; and

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, Coach and the University have agreed and do hereby agree as follows:

1. **Term of Agreement.** The term of this Agreement ("Term") shall commence on the Effective Date and shall continue through March 31, 2024 (the "Expiration Date"), unless sooner terminated in accordance with the provisions of Section 17 below. This Agreement is subject to the Virginia Tech Faculty Handbook (the "Faculty Handbook") except as expressly modified or amended by this Agreement. The University and Coach agree that Coach shall not be assigned to any other position at the University other than Head Men's Basketball Coach during the term of this Agreement.

2. **Duties.**

(a) **Employment.** The University hereby employs Coach, and Coach hereby accepts employment with the University, as head coach of the Team upon all the terms and conditions set forth in this Agreement.

(b) **Basic Duties.** Coach shall report to the University's Athletics Director or his/her designee with respect to the performance of his duties. He shall be responsible to the Athletics Director or his/her designee with respect to all matters relating to his employment. Coach's duties shall include:

i. Serving as head coach for the Team (including without limitation the making of customary coaching decisions such as development and implementation of the systems and strategies used on the court, conduct of practice and training, selection of Team

members, deployment of players, and all other matters relating to the practice for and play of games, as well as the performance of all other duties customarily associated with the position of head coach of a National Collegiate Athletic Association ("NCAA") Division I Basketball program);

ii. Performing his duties and operating the University's intercollegiate basketball program with personal integrity and in a manner that is consistent with and in material compliance with all of the following, as applicable and as now or hereafter in effect during the Term: (A) federal, state and local laws, codes, rules, regulations and ordinances (collectively, "Laws"), (B) University policies, procedures, rules, regulations, and directives, including without limitation those related to admission practices, academic and other student discipline, and the effective administration of drug testing, education and use prevention (collectively, "University Requirements"), and (C) constitutions, bylaws, rules, regulations and interpretations of the NCAA, the Atlantic Coast Conference or any other league or conference of which the University shall become a member during the Term (the "Conference"), and any other governing body to which the University may be subject (collectively, "Governing Body Requirements").

iii. Promoting a culture of compliance with, and actively supervising assistant coaches, staff, student athletes and other individuals under his direct or indirect supervision so as to encourage and monitor for compliance with, all Governing Body Requirements.

iv. In conjunction with the University, engaging in reasonable efforts designed to ensure that all academic standards, requirements and policies of the University are observed by him and by individuals under his direct or indirect supervision at all times, including those in connection with the recruiting and eligibility of prospective and current student athletes for the University's intercollegiate basketball program.

v. Engaging in reasonable efforts designed to ensure that all student athletes recruited for the University's men's intercollegiate basketball program receive Coach's guidance in the importance of academic performance, are provided proper academic counseling, and are encouraged to and given every opportunity to meet the degree requirements necessary to graduate from the University.

vi. Recruiting, coaching and training student athletes with good character, talent and academic ability to compete successfully against college competition in a quality basketball program, and demonstrating concern for their welfare.

vii. As part of the University's Athletics Department and its publicly visible representative, supporting the policies and academic priorities of the University in his public actions and discourse, while building the University's men's intercollegiate basketball program.

viii. Keeping public 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.

ix. Assisting, as scheduling permits, to promote the University's athletics program by soliciting and encouraging contributions to and support for the University's men's

intercollegiate basketball program at a reasonable number of appropriate events and meetings, including meetings of the Hokie Club and Alumni Association.

x. Having primary responsibility for developing and administering the budget for the University's men's intercollegiate basketball program, subject to the approval of the Athletics Director or his/her designee.

xi. Submitting to the Athletics Director or his/her designee an annual evaluation of the University's men's intercollegiate basketball program, to include an evaluation of his coaching staff and such additional information as may be requested by the Athletics Director or his/her designee.

xii. Assisting the Athletics Director in a departmental leadership role by ensuring his sport's representation in meetings of the Athletics Department Head Coaches' meetings, as well as supporting the success of other University sports through a reasonable number of selected appearances.

xiii. Performing such other obligations as are set forth in this Agreement or otherwise reasonably assigned by the Athletics Director consistent with Coach's status as head coach of the Team.

(c) Broadcasts. Coach 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 Team and/or the University's athletics program in general (the "Broadcasts"). Coach shall appear and participate in such Broadcasts in accordance with the instructions of the University. The timing and location of such Broadcasts shall be mutually agreed upon by the Parties. In addition, Coach acknowledges that the University may require Coach to record generic or topical promotions for such Broadcasts, and such other shows or events as reasonably determined by the University for the promotion of the University's athletics program. As between the Parties, the University shall own all right, title and interest (including copyright) in and to the Broadcasts and any promotions or shows as aforementioned.

(d) Manufacturer Relationships. Coach acknowledges that from time to time the University may enter into one or more agreements with athletics equipment and/or apparel manufacturers (collectively, the "Manufacturer") for use by the Manufacturer of Coach's personal services and expertise in the sport of basketball and/or for Coach's endorsement of the Manufacturer's products. In addition to reasonably providing such personal services and expertise to the Manufacturer, Coach shall grant to such Manufacturer the exclusive right and license to the unlimited use in any media (now known or hereafter created, including the internet) of Coach's name, etc., as provided in Section 16 of this Agreement, in connection with the production, advertisement, marketing, promotion, or sale of the Manufacturer's products throughout the Term. Throughout the Term, Coach shall take such reasonable 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 thereby. During the Term, Coach 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, exclusively on-line, by direct mail, television shopping networks, or otherwise; (ii) that would prohibit or otherwise restrict the Manufacturer's use of Coach's name, etc., as provided in Section 16 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 without prior approval from the Athletics Director and the University.

(e) Internal Communications Protocols. Coach shall follow any and all protocols as reasonably established and communicated by the Athletics Director with respect to discussing matters of concern relating to the University's men's intercollegiate basketball program and/or the Athletics Department.

3. Standard of Performance: Outside Activities. Throughout the Term, Coach shall devote Coach's entire professional attention and energy to the business and affairs of the University on a full-time basis, exercising his best reasonable efforts, skills, and knowledge. Notwithstanding the preceding, Coach 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, participation in charitable endeavors) as are not inconsistent with (i) the Governing Body Requirements; (ii) the University Requirements; (iii) any other contract to which the University is a party of which Coach has prior notice; and (iv) the provisions of this Agreement. Such activities shall require the prior written approval through the standard University Reporting System. No such other activities shall conflict with or be detrimental to Coach's duties as head coach of the Team, or be competitive with or otherwise detrimental to the University's interests. Any contractual commitments made by Coach in connection with such activities must be coterminous with Coach's employment as head coach of the Team, and the use of any registered University marks in any such activities shall be subject to the written approval of the University and consistent with the University's trademark licensing program. All such activities, except as otherwise provided in this Agreement, are independent of Coach's employment with the University, and the University shall have no responsibility or liability for any claims arising from them. Coach agrees to indemnify and hold harmless the University, its Board of Visitors and its employees from any and all suits, claims, demands, damages, liabilities, costs and expenses, including reasonable attorney fees, arising from any such outside activity.

4. Compliance With Applicable Rules.

(a) Compliance. In performing his duties under this Agreement, Coach shall be familiar with, and shall adhere to and promote within the men's basketball program and the Athletics Department a culture of compliance with, all applicable Governing Body Requirements and University Requirements. Without limiting the generality of the foregoing, Coach shall not accept or receive directly or indirectly any monies, benefits or any other gratuities whatsoever from any person or entity if such action would be in violation of any applicable Governing Body Requirement, University Requirement or Law. Coach shall engage in reasonable efforts designed to cause all Team members and University personnel for whom he is responsible for supervising (directly or indirectly) to comply with all applicable Governing Body Requirements and University Requirements, and all applicable Laws in connection with University business. If Coach shall

become aware of any person violating any Governing Body Requirement and/or University Requirement, and/or any Law in connection with University business, Coach shall timely report such violation to the University's Athletics Director and Director of Compliance.

(b) Consequences of Violation. Without limiting other available remedies, in the event that Coach is found to be in violation of Governing Body Requirements while employed pursuant to this Agreement, he shall be subject to disciplinary or corrective action as set forth in relevant NCAA, Conference, and/or other governing body regulations. Without limiting other available remedies, Coach may be suspended without pay for a time period consistent with Governing Body Requirements, or Coach's employment may be terminated for Cause as provided for in this Agreement, if he is found to have been involved in repeated or significant violations of Governing Body Requirements. For purposes of this Agreement, significant violations are violations that the University reasonably determines could be expected to result in sanctions against the University such as probation, forfeiture of athletic contests, loss of scholarships, prohibition against league or conference championship or telecast appearances, or any other sanction of similar magnitude that the NCAA, Conference, or other governing body may impose under its Governing Body Requirements in effect from time to time.

5. Salary.

During the Term, the University will pay Coach compensation as set forth below:

	<u>Period</u>	<u>Base Salary</u>	<u>Supplemental Compensation</u>
i.	April 7, 2019 – March 31, 2020	\$500,000	\$ 1,500,000
ii.	April 1, 2020 – March 31, 2021	\$500,000	\$ 1,500,000
iii.	April 1, 2021 – March 31, 2022	\$500,000	\$ 1,750,000
iv.	April 1, 2022 – March 31, 2023	\$500,000	\$ 2,000,000
v.	April 1, 2023 – March 31, 2024	\$500,000	\$ 2,250,000

For all purposes under this Agreement, the term "Base Salary" shall refer to Coach's base salary rate then in effect pursuant to this Section 5, and shall not include any bonus, Supplemental Compensation, benefits or other amounts payable to Coach as provided in this Agreement. Base Salary shall be paid pursuant to and in accordance with the University's standard payroll protocol. The term "Supplemental Compensation" shall refer to Coach's compensation for services in media relations and Hokie Club appearances performed during the Term of the Agreement and is exclusive of club memberships, automobile allowances and other benefits, prerequisites or entitlements set out herein. Supplemental Compensation shall be paid on a quarterly basis, beginning July 16, 2019, in four equal installments on the sixteenth day of January, April, July, and October, with the last payment due on March 31, 2024. Together, Base Salary and Supplemental Compensation shall be referred to as "Annual Salary."

6. Incentive Compensation.

(a) Cumulative Incentives. During the Term, the University will pay Coach incentive as set forth below for the Team's achievements:

- i. ACC Coach of the Year (solo or shared): \$100,000;
- ii. National Coach of the Year (solo or shared by a nationally recognized body): \$ 250,000;
- iii. Team finishes as regular season ACC Champions (including a tie): \$250,000; and
- iv. Team wins ACC Conference tournament: \$100,000.

(b) Non-Cumulative Incentives. For Men's Basketball achievements, the following bonuses are non-cumulative and will be paid as a single bonus based on the highest achievement within each respective category (i.e. ACC and NCAA):

- i. Team finishes the regular season in Top 4 (including ties) of ACC: \$50,000; or
- ii. Team finishes the regular season in Top 8 (including ties) of ACC: \$25,000; and (if applicable)
- iii. Team appears in NCAA Round of 68: \$100,000;
- iv. Team advances to NCAA Round of 32: \$150,000;
- v. Team advances to NCAA Round of 16: \$200,000;
- vi. Team advances to NCAA Round of 4: \$250,000; or
- vii. Team wins NCAA National Championship: \$500,000.

(c) Assistant Coach Incentives. The three (3) full-time assistant coaches will receive the following performance incentives: 1-month base salary for NCAA Tournament Round of 68 appearance, or 2-months' salary for NCAA Round of 16 appearance, or 3-months' salary for NCAA Round of 4 appearance. These bonuses are non-cumulative and will be paid as a single bonus based on the highest achievement.

(d) GPA Incentives. The following GPA bonuses are non-cumulative and will be paid to Coach as a single bonus based on the highest achievement, beginning with the 2019- 2020 academic year:

- i. Men's Basketball Team Collective GPA of 2.70-2.79: \$25,000;
- ii. Men's Basketball Team Collective GPA of 2.80-2.99: \$30,000; or
- iii. Men's Basketball Team Collective GPA of 3.0 or higher: \$50,000.

(e) APR Incentives. The following APR bonuses are non-cumulative and will be paid as a single bonus based on the highest achievement, beginning with the 2019-20 academic year:

- i. APR of 970-979: \$25,000;
- ii. APR of 980-989: \$50,000; or
- iii. APR of 990 or higher: \$60,000.

(f) Payments. The University will pay Coach (or Assistant Coaches, as applicable) any incentive achievement as listed herein within SIXTY (60) days of the achievement being earned.

7. **Moving and Relocation.**

Once during the Term, the University will pay a stipend amount for reasonable moving expenses, and the University will pay Coach reasonable temporary housing expenses for FOUR (4) months, subject to standard state moving policies and applicable withholding under IRS rules to be paid when occurred.

8. **Withholding and Entire Compensation.**

Notwithstanding any of the foregoing provisions hereof, the University may withhold from payments to be made hereunder such amounts as it may be required to withhold under any applicable federal, state, or other law. The University and Coach hereby expressly acknowledge that the salary and benefits set forth in this Agreement constitute the entire compensation to which Coach is or may be entitled under this Agreement, and that Coach's entitlement to that compensation immediately ceases in all respects, other than amounts earned but not yet paid at the time of Termination, if Coach is terminated as defined in Section 17(c) of this Agreement.

9. **Benefits.**

(a) Standard Benefits. Coach shall be entitled to insurance benefits, paid vacation leave, sick leave and retirement benefits as other administrative professional ("AP") University employees. Such employee benefits are set out in detail in the Faculty Handbook, to which reference is here made and which provisions are incorporated herein by reference. To the extent any provisions of the Faculty Handbook are inconsistent with the terms of this Agreement, this Agreement shall prevail. Additionally, Coach may purchase COBRA benefits for eighteen (18) months after separation or termination provided Coach otherwise qualifies for such benefits.

(b) Automobiles. During the Term of this Agreement, University shall furnish to Coach the use of two (2) new or low mileage automobiles (to be replaced every two (2) years) which may be dealer cars, or, at the University's option, an annual automobile allowance for each vehicle at the then prevailing rate (currently \$9,750.00). For purposes of accurately calculating and reporting the value of his use of the automobile as gross income to him with respect to federal and state income taxation, Coach agrees to observe the same record keeping requirements established by the University for business and personal use of its motor vehicles by other employees. The University will pay the standard University policy mileage reimbursement rate for automobile allowance vehicles.

(c) Tickets. For so long as he is employed and acting as head coach of the Team pursuant to this Agreement, the University will provide to Coach pursuant to his request, at no charge:

- i. Up to EIGHTEEN (18) premium tickets to each University home men's intercollegiate basketball games;
- ii. Up to EIGHTEEN (18) all-session passes for the ACC post-season Conference tournament;
- iii. Up to TWELVE (12) tickets to each of the University's men's intercollegiate basketball NCAA tournament games in which the University plays;
- iv. Up to TWELVE (12) premium seating tickets to each home football game of the University's; and
- v. Up to TWELVE (12) premium tickets to each University home women's intercollegiate basketball games.

All use of such tickets shall be subject to applicable Governing Body Requirements.

(d) Country Club. During the Term of this Agreement, the University shall pay for initiation fees and all monthly dues associated with ONE (1) family membership at the Blacksburg Country Club for Coach and his family's use.

(e) Travel. Pursuant to Coach's request, up to TWO (2) seats on the team plane/bus for any regular or post-season road University's men's intercollegiate basketball games for use by Coach's immediate family members; and up to FIVE (5) trips annually for all immediate family members on work related trips with approval of the Athletics Director.

10. Reimbursement of Expenses. In addition to payment of expenses expressly provided for in this Agreement, the University shall pay on Coach'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 University's Athletics Director or his/her designee, which shall not be unreasonably withheld or delayed.

11. Disclosure of Outside Income: Information Rights.

(a) Reporting. Coach shall report annually in writing as required by the University and Governing Body all outside income and benefits during the preceding TWELVE (12) months from sources outside the University, including but not limited to income from sports camps, housing benefits (including preferential housing arrangements), country club memberships, complimentary ticket sales, television and radio programs, and endorsement or consultation contracts.

(b) Camp Accounting. Coach shall provide an annual accounting or report of the expenses and revenues of any Camp operated by Coach (or any entity controlled by him) pursuant to Section 11(c) upon request. The University shall have the right to conduct, at its expense, a full audit of any such Camp, using an accountant of its choice. University acknowledges and agrees that Coach shall be entitled to retain and distribute all income generated from the

operation of such camp(s) at Coach's discretion in accordance with all Laws, University and Governing Body Requirements.

(c) Obligation to Furnish Certain Information. Coach shall upon the University's request provide the University access to any information controlled by Coach and concerning the time period of Coach's employment at the University which the University reasonably determines is necessary for purposes of any investigation of any alleged infraction of any Governing Body Requirement involving the University's intercollegiate men's basketball program or the Athletics Department, in accordance with NCAA Bylaw 19.2. This provision shall survive any expiration or termination of this Agreement.

12. Assistant Coaches.

(a) Employment of Assistant Coaches. Coach understands and agrees that employment-related decisions involving assistant coaches and other Intercollegiate Men's Basketball personnel are under the purview of Coach, subject to approval by the Athletics Director and in compliance with athletics and University policies and procedures.

(b) Salary Pool. Coach will receive right to award reasonable performance bonuses for assistant coach staff positions, subject to available funding and the approval of the Athletics Director. The University will provide a budget of not less than \$1,200,000 for the annual compensation of THREE (3) full time assistants, FOUR (4) University Intercollegiate Men's Basketball support staff members and ONE (1) strength and conditioning coach. The University will also provide THREE (3) new or low mileage automobiles, which may be dealer cars, for use by the THREE (3) assistants. The University will provide the annual compensation for a certified athletic trainer and equipment manager.

13. Schedule. The annual schedule of contests for the Team shall be determined by the Coach or his designee in consultation with Athletics Director or his/her designee.

14. [Intentionally Omitted.]

15. Representation of the University.

(a) By Coach. Coach 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, in the University's determination: bring public disgrace or embarrassment to the University; manifest contempt or disregard for diversity, public morals or decency; or violate University Requirements with respect to personal conduct.

(b) By Others. Coach shall not allow, whether knowingly or by omission, University personnel for whom he is responsible for supervising (directly or indirectly) to conduct both their activities in connection with the Team and their respective personal lives in a manner that will, in the University's determination: bring public disgrace or embarrassment to the University; manifest contempt or disregard for diversity, public morals or decency; or violate University

Requirements with respect to personal conduct.

16. Use of Name, Etc. Coach consents to the use of Coach's name, nickname, initials, autograph, signature, voice, video or film portrayals, photograph, image or likeness, and any other means of endorsement or identification of or by Coach, including statistical, biographical, or other information or data relating to Coach, by the University or by any party under contract with the University in the conduct and promotion of the University's athletics program and as otherwise provided in this Agreement. This provision shall survive any expiration or termination of this Agreement.

17. Termination of Coach's Employment.

(a) **Death.** If Coach dies during the Term of this Agreement, this Agreement shall terminate forthwith. In the event of Coach's death during the Term of this Agreement, the University shall pay to Coach's estate all Accrued Obligations and any additional Annual Salary due him up to the end of the month in which Coach dies. In addition, Coach's beneficiaries shall be entitled to receive the employee benefits as set out in detail in the Faculty Handbook as incorporated herein above.

(b) **Disability.** If Coach cannot or does not perform his duties as the University's Head Men's Basketball Coach because of illness or incapacity of any type whatsoever for a cumulative total of more than six (6) months in any calendar year, the Athletics Director may terminate this Agreement, with the approval of the President of the University, or his or her designee, upon thirty (30) days written notice to Coach. Coach shall be entitled to receive the employee benefits as set out in detail in the Faculty Handbook as incorporated herein above. Coach and the University shall be relieved of all liabilities and/or obligations under this Agreement following such termination other than the obligation to provide Coach with all Accrued Obligations and any other amounts earned but not yet paid at the time of termination as well as applicable benefits described herein.

(c) **Termination For Cause.** In addition to any other remedy permitted by this Agreement or applicable law, the University may, by written notice from the Athletics Director, subject to the approval of the President, terminate Coach's employment for Cause at any time. For purposes of this Section 17(c), "Cause" shall be defined as:

- i. any material breach of this Agreement by Coach;
- ii. any act or omission, whether occurring prior to or during the Term, that after appropriate investigation the University reasonably determines constitutes a violation (as defined in Section 4(b)) of Governing Body Requirements committed or condoned by Coach;
- iii. any act or omission, whether occurring prior to or during the Term, that after appropriate investigation the University determines constitutes a violation (as defined in Section 4(b)) of Governing Body Requirements by personnel Coach is responsible for supervising (directly or indirectly) which Coach knows or reasonably should have known about and does not timely report as required by this Agreement;

iv. any act or omission, whether occurring prior to or during the Term, that after appropriate investigation the University determines constitutes a violation (as defined in Section 4(b)) of Governing Body Requirements by any other person which Coach knows about and does not timely report as required by this Agreement; or

v. any act or omission, whether occurring prior to or during the Term, that after appropriate investigation the University determines constitutes a violation (as defined in Section 4(b)) of Governing Body Requirements for which Coach is otherwise responsible under the applicable standards (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).

For purposes of this Section 17(c)(ii), the decision as to whether a violation of a Governing Body Requirement has been committed rests solely with the University, but shall be made only after appropriate investigation by the University and upon consideration of available information and circumstances, including if applicable, a final determination rendered by such Governing Body.

vi. conviction of (or entry into pre-trial intervention as a result of) any criminal statute that constitutes a felony or constitutes a misdemeanor involving moral turpitude;

vii. fraud or dishonesty, or gross misfeasance in the performance of Coach's University duties and responsibilities, including knowing involvement in arranging for academic fraud by or for a prospective or enrolled student-athlete(s) or knowing involvement in offering or providing prospective or enrolled student-athlete(s) improper inducements or extra benefits whether occurring prior to or during the Term;

viii. commission of any act, whether occurring prior to or during the Term, that in the University's determination: brings disgrace or embarrassment to the University; manifests contempt or disregard for diversity, public morals or decency; or violates applicable University Requirements with respect to personal conduct; or

ix. any other cause adequate to sustain the termination of any other University employee pursuant to the University's policies and procedures and Faculty Handbook.

x. Notwithstanding the language contained herein, the University acknowledges that it shall not be its intention to terminate Coach's employment for Cause in the event of a minor, technical, or otherwise immaterial violation of the terms contained in this Agreement; and furthermore, that prior to invoking its right to terminate this Agreement for Cause, the University shall afford Coach the reasonable opportunity to cure a breach or violation where such opportunity will not have a negative impact on the welfare of student-athletes or cause further or more serious harm to Coach's or University's reputation or standing in the community.

In the event of Coach'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 Section 17(f) below).

(d) Termination Without Necessity of Demonstrating Cause.

i. The University recognizes that its commitment to employ Coach as head coach of the Team for the entire Term is of the essence of this Agreement to Coach; however, the Parties agree that the University may, by written notice from the Athletics Director, subject to the approval of the President, terminate Coach's employment without necessity of demonstrating Cause at any time. In the event that the University terminates Coach's employment pursuant to this Section 17(d) and as long as Coach continued to perform services as head coach of the Team through such termination date, then in addition to any Accrued Obligations, the University shall pay Coach, as Coach's sole remedy based upon termination of this Agreement and in full and final satisfaction of any claims arising from termination of Coach's employment, liquidated damages as follows:

On or Before March 31, 2020 - \$7,000,000
On or Before March 31, 2021 - \$5,000,000
On or Before March 31, 2022 - \$3,500,000
On or Before March 31, 2023 - \$2,000,000
On or Before March 31, 2024 - \$1,000,000.

ii. At the sole election of the University, said sum shall be paid in multiple installments. The first installment will be calculated such that the amount paid will equal the tax withholdings due on the total amount of the sum according to the federal and state tax regulations then in effect. The remaining installments shall either be paid in the same manner as Coach's Base Salary or his Supplemental Compensation, less required withholding and exclusive of club memberships, automobile allowances and other benefits (retirement, health insurance, etc.), prerequisites or entitlements set out herein, in same manner as Coach's normal payments from the University for the duration of the remaining Term from the date of Termination.

(e) Termination by Coach.

i. Coach recognizes that his promise to work as head coach of the Team for the entire Term is of the essence of this Agreement to the University. Coach 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 Coach may, nevertheless, terminate his employment under this Agreement prior to the Expiration Date, subject to the terms of this Section 17(e), by giving the University written notice.

ii. In the event that Coach elects to terminate this Agreement prior to the Expiration Date, Coach or a designee or entity on his behalf shall pay the University within ninety (90) days of termination, as liquidated damages due the University and not as a penalty, but subject to reduction or waiver in the sole discretion of the University, the sum of:

On or Before March 31, 2020 - \$3,000,000
On or Before March 31, 2021 - \$1,500,000
On or Before March 31, 2022 - \$750,000
On or Before March 31, 2023 - \$500,000
On or Before March 31, 2024 - NONE

In such event the University's sole obligation to Coach shall be to pay any Accrued Obligations (as defined in Section 17(f)).

iii. Coach and the University acknowledge that the University will clearly be damaged if Coach terminates this Agreement prematurely and that it is difficult to calculate with reasonable certainty the amount of prospective damages. They further acknowledge that the amount and payment of liquidated damages provided above are reasonable in light of the anticipated and actual harm that will be caused the University in the event this Agreement is terminated prematurely by Coach pursuant to this Section 17(e).

(f) Accrued Obligations. As used in this Agreement, "Accrued Obligations" shall mean the sum of (i) any portion of Coach's Base Salary and Supplemental Compensation 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) any unreimbursed expenses previously incurred by Coach in the performance of his duties. "Accrued Obligations" shall not include any form of severance payment, vacation days or contingent bonus.

(g) No Consequential Damages, Etc.. In no case shall the University be liable to Coach for incidental or consequential damages of any sort (including without limitation the loss of any collateral business opportunities or any other benefits, perquisites or incomes resulting from activities such as, but not limited to, camps, media appearances (including television and radio shows), commercial endorsements, apparel, equipment or shoe contracts, consulting relations or from any other sources) based upon the termination of this Agreement pursuant to this Section 17, regardless of the basis (or lack thereof) for such termination.

18. Confidential Information.

(a) Confidentiality. Coach acknowledges that while employed by the University Coach will occupy a position of trust and confidence and will receive and have access to Confidential Information, as hereinafter defined. Coach 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, Coach shall not use the Confidential Information or disclose the Confidential Information to any third party, except (i) as required to perform Coach'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, Governing Body Requirements or accreditation standards; or (v) to the extent such Confidential Information shall have become public other than by Coach's unauthorized use or disclosure. Notwithstanding the foregoing, in no event shall Coach use or disclose Confidential

Information if such use or disclosure will expose the University to competitive disadvantage or legal liability, or will 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 information regarding actual or potential activities of the University; admissions information; fundraising information; financial statements, budgets, projections, or other financial information; the identities of persons under consideration for positions as trustees, officers or employees of the University; vendor contracts and/or pricing; customer information and/or pricing; information regarding actual or potential NCAA, Conference, 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. Coach agrees to deliver or return to the University, at the University's request at any time or upon termination or expiration of Coach's employment or as soon thereafter as possible, all property furnished by the University or prepared, maintained, or acquired by Coach in the course of Coach's employment by the University, including without limitation computer equipment, car, keys, credit card, documents, records, lists, data, drawings, prints, notes and all other written information, in any form or media and including all copies. Such property shall not include personal mementos and personally owned property of Coach.

(c) Notification of Certain Communications. The Parties agree that should another coaching opportunity be presented to Coach or should Coach be interested in another coaching position during the Term of this Agreement, Coach shall notify the Athletics Director of such opportunity or interest before Coach, or any representative of Coach, holds substantive discussions or engages in other substantive communications with anticipated coaching position principals.

(d) Remedies for Breach. Coach expressly agrees and understands that the remedy at law for any breach by Coach of this Section 18 may be inadequate and that damages flowing from such type of breach are not always susceptible to being measured in monetary terms. Accordingly, it is acknowledged that upon Coach's violation of any provision of this Section 18 the University shall be entitled to seek from any court of competent jurisdiction immediate preliminary and/or permanent injunctive relief 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 18 shall be deemed to limit the University's remedies at law or in equity for any breach by Coach of any of the provisions of this Section 18, which may be pursued by or available to the University.

(e) Survival of Provisions. The obligations contained in this Section 18 shall, to the extent provided in this Section 18, survive the termination or expiration of Coach's employment with the University and, as applicable, shall be fully enforceable thereafter in accordance with the terms of this Agreement. Coach agrees that the restrictions set forth in this Section 18 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 18 is excessive

in duration or scope or is 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.

19. **Entire Agreement; Prior Agreements.** This Agreement constitutes the entire agreement between the Parties and terminates and supersedes any and all prior agreements and understandings (whether written or oral) between the parties with respect to the subject matter of this Agreement, including without limitation Memorandum of Understanding between the Parties dated and effective as of April 7, 2019. Coach 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 Coach 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 Requirement, the terms of this Agreement shall control.

20. **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.

21. **No Third-Party Beneficiaries.** This Agreement is not intended to benefit any third party, nor shall any person who is not a party hereto, other than Coach's Estate and/or heirs upon Coach's death, be entitled to enforce any of the rights or obligations of a party under this Agreement.

22. **Withholding.** Whether or not expressly stated in this Agreement, the University shall make such deductions and withhold such amounts from each payment and benefit made or provided to Coach hereunder, as may be required from time to time by applicable Law. Coach shall comply with all applicable reporting and record-keeping requirements in regard to compensation, benefits, and reimbursed expenses.

23. **Construction.** Notwithstanding any provisions in this Agreement to the contrary: (i) this Agreement is intended to comply with Section 409A of the Internal Revenue Code and the regulations and interpretive guidance thereunder ("409A Requirements"), to the extent the Agreement is subject to the 409A Requirements and is not otherwise exempt under one of the applicable exemptions to the 409A Requirements; (ii) it is intended that any exercise of authority or discretion by the University or Coach under this Agreement shall comply with the provisions of the 409A Requirements so as not to subject Coach to the payment of any interest or tax penalty which may be imposed under the 409A Requirements; and (iii) this Agreement shall be interpreted and applied in all circumstances in a manner that is consistent with the intent of the parties that amounts earned and payable pursuant to this Agreement shall not be subject to the premature income recognition or adverse tax provisions of the 409A Requirements. Solely to the extent necessary to comply with Section 409A, a termination of employment shall not be deemed

to have occurred unless such termination is also a "separation from service" within the meaning of Section 409A and for purposes of any such provision of this Agreement, references to a "termination", "termination of employment" or like terms shall mean "separation from service." For purposes of Section 409A, Coach's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments, and each such installment payment shall likewise be treated as a separate and distinct payment for purposes of Section 409A.

24. Heading References. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

25. 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 hereto.

26. Severability. Subject to Section 18(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.

27. Notices. All notices and other communications under this Agreement shall be in writing and shall be given by receipted overnight courier, certified or registered mail with return receipt requested, or hand delivery acknowledged in writing by the recipient personally, and shall be deemed to have been duly given upon duly documented receipt by 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.

If to the University: Director of Athletics
 Virginia Tech
 352 Jamerson Athletic Center
 Blacksburg, VA 24061-0502

If to Coach: **Most recent address on file with the University or
University Office Address.**

With a copy to: Bret Just (via email: bret.just@caa.com)

28. **Governing Law; Jurisdiction.** This Agreement and the legal relations thus created between the Parties hereto shall be governed by and construed under and in accordance with the internal laws of the Commonwealth of Virginia without reference to the 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 federal or state court of competent subject matter jurisdiction located within the Commonwealth of Virginia. 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.

29. **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.

[Signatures Appear On Next Page]

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

**VIRGINIA POLYTECHNIC INSTITUTE AND
STATE UNIVERSITY**

By: 

WHIT BABCOCK

Title: Director of Athletics

Date: 7/9/19, 2019

By: 

TIMOTHY D. SANDS

Title: President

Date: 7/22/19, 2019

COACH


Michael K. Young

Date: 7/16/19, 2019

FIRST EMPLOYMENT CONTRACT AMENDMENT

WHEREAS, VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (hereinafter referred to as the "UNIVERSITY") and MICHAEL K. YOUNG (hereinafter referred to as "Young") entered into an Employment Contract effective July 9, 2019 (the "Contract"); and

WHEREAS, the University and Young are desirous of altering and amending said Contract to reflect a new Contract Term, Pay Increase, Retention Incentives, and Stipulated Damages; and,

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, the University and Young agree as follows:

A. Article 1, **Term of Agreement**. This Article is hereby amended as follows:

"March 31, 2024" shall be replaced with "March 15, 2027" and the "Expiration Date" shall be March 15, 2027 or the day after the final game of the 2026-2027 season, whichever is later. Starting on March 16, 2021, Contract Years shall run from March 16th to March 15th of the following year.

B. Article 5, **Salary**. The University and Young recognize the commitment that Young has made to the University. As such, Article 5, Salary, will be modified by making the last supplemental payment due on March 15, 2027, and by deleting subsections iii, iv and v in their entirety and by adding the following paragraphs numbered iii through and viii:

	<u>Period</u>	<u>Base Salary</u>	<u>Supplemental Compensation</u>
iii.	March 16, 2021 – March 15, 2022	\$500,000	\$1,750,000
iv.	March 16, 2022- March 15, 2023	\$500,000	\$2,000,000
v.	March 16, 2023 – March 15, 2024	\$500,000	\$2,250,000
vi.	March 16, 2024- March 15, 2025	\$600,000	\$2,150,000
vii.	March 16, 2025 – March 15, 2026	\$600,000	\$2,400,000
viii.	March 16, 2026 – March 15, 2027	\$600,000	\$2,400,000

Further, the payment dates for Supplemental Compensation are hereby amended as follows: Supplemental Compensation shall be paid on a quarterly basis beginning March 15, 2021, in four equal installments on the fifteenth day of March, June, September and December with the last payment due on March 15, 2027.

- C. Article 17(d)(i), **Termination Without Necessity of Demonstrating Cause**. The University and Young recognize the commitment that the Young has made to the University. As such, this section shall be modified by deleting the liquidated damages from years 2022 through 2024 and replacing and adding the following:

On or Before March 15, 2022 – \$12,000,000;
On or Before March 15, 2023 – \$10,000,000;
On or Before March 15, 2024 – \$8,000,000;
On or Before March 15, 2025 – \$6,000,000;
On or Before March 15, 2026 – \$4,000,000; or
On or Before March 15, 2027 – University shall pay Young the remaining amounts due under this Contract as scheduled herein.

- D. Article 17(e)(ii), **Termination by Coach**. The University and Young recognize the commitment that the University has made to Young. As such, this section shall be modified by deleting the liquidated damages from year 2022 and replacing and adding the following:

On or before March 15, 2022 – \$1,000,000;
On or before March 15, 2023 – \$1,000,000;
On or before March 15, 2024 – \$500,000;
On or before March 15, 2025 – \$250,000; or
On or before March 15, 2026 – NONE

- E. Article 12(c), **Salary Pool Increases**. The University and Young agree on the need to recruit and retain quality assistant coaches. As such, a new section, 12(c), shall be added as follows:

(c) **Salary Pool Increases**. Beginning April 1, 2021, and every other Contract Year thereafter during the Term of this agreement, subject to available funding and the approval of the Athletics Director, the University shall increase the Salary Pool set forth in section 12(b) above by \$100,000.

- F. Article 14, **Recruiting Travel**. The University and Young agree on the need to recruit and retain quality athletes and to reinforce and expand the recruiting base along the East Coast of the United States, particularly the entire state of Florida. As such, a new article, 14, shall be added as follows:

14. Recruiting Travel. The University and Young recognize the need to reinforce and expand the recruiting base along the East Coast of the United States, particularly the entire state of Florida. In order to meet this need, the University will reimburse Young for travel along the East Coast of the United States up to the following amounts as follows:

\$25,000 for Contract Year 2021-2022;
\$30,000 for Contract Year 2022-2023;
\$40,000 for Contract Year 2023-2024;
\$50,000 for Contract Year 2024-2025;
\$50,000 for Contract Year 2025-2026; and
\$50,000 for Contract Year 2026 -2027

With the approval of the Athletic Director, this travel may include members of Young's immediate family.

The effective date of this First Employment Contract Amendment shall be March 15, 2021. In all other respects, the Agreement with the effective date of July 9, 2019, shall remain in full force and effect and may not be further modified except by a writing signed by the University and Young.


VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY


Michael K. Young

Date 5-4-21


Timothy D. Sands
President

Date 6/2/21


Whit Babcock
Director of Athletics

Date 5/9/21