

EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is entered by and between the Board of Governors of Missouri State University, Springfield, Missouri (“University”), and Kyle Moats (“Mr. Moats”) and is effective May 23, 2022 (“Effective Date”).

WITNESSETH:

WHEREAS, the University desires to continue to employ Mr. Moats as its Director of Athletics, and Mr. Moats desires to continue said employment; and

WHEREAS, the University and Mr. Moats have agreed to terms and conditions of this Agreement for his continued employment, and desire to reduce their agreement to writing.

NOW THEREFORE, in consideration of the promises, covenants, and agreements herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. Term of Employment

The University does hereby employ Mr. Moats for a four-year term commencing June 1, 2022, and continuing through May 31, 2026 (“Term”) as its Director of Athletics, subject to cancellation or termination, on the terms and conditions hereafter provided. On or before May 31, 2025, the President of the University will meet with Mr. Moats to evaluate his performance and discuss his continued employment with the University.

2. Duties

Mr. Moats shall well and faithfully serve the University as its Directors or Athletics and shall at all times devote his whole time, attention, and energies to directing the intercollegiate athletics program (“Program”) on behalf of the University and shall do and perform all services, acts, and things connected with the Program as the President of the University shall from time-to-time direct, which are of a nature customarily and properly belonging to the duties of a Director of Athletics. These duties include, but are not limited to, the following:

- (a) making recommendations to the University administration and Board of Governors regarding the employment and salary of all Programs personnel;
- (b) the assignment of duties and supervision of all Program personnel;
- (c) planning, supervising, and coordinating the budget, fundraising, marketing, and public relations activities for the Program;
- (d) supervising and ensuring rule compliance by coaches within the Program; and

- (e) attending Administrative Council and participating in the making of University policy and the prioritization of University activities.

Mr. Moats shall be permitted to earn additional outside income, including promotional endorsements and speaking engagements, only with the prior written approval of the President of the University. Mr. Moats will provide a written detailed account annually to the President of the University for all athletically related income and benefits from sources outside the University.

3. Compensation

The University shall pay Mr. Moats an annual, gross salary of One Hundred Eighty-Five Thousand Dollars (\$185,000.00) (“Salary”), commencing on June 1, 2022. Mr. Moats shall remain eligible for any across-the-board salary increases provided by the University on or after July 1, 2022, and for merit increases as contemplated by the Employee Handbook. Additionally, Mr. Moats shall be eligible for additional incentive payments specified in Section 5 of the Agreement.

4. Additional Entitlements

The benefits and privileges accorded the University administrative, professional and staff employees, such as, but not limited to, paid vacation, sick leave, workers compensation, Missouri State Employees Retirement System (“MOSERS”), hospitalization/medical insurance, life insurance, long-term disability insurance, and other benefits established by the Board of Governors will likewise be accorded to Mr. Moats. It is agreed that the terms and conditions in the Faculty Handbook will not be regarded as a part of the Agreement, and that Mr. Moats is not a faculty member on tenure-track and is not receiving tenure.

5. Other Compensation and Incentives

Mr. Moats shall be entitled to receive certain payments (before taxes) if University teams perform to certain levels of achievement.

(a) Student Academic Achievement

Mr. Moats shall be paid the amount of Two Thousand Five Hundred Dollars (\$2,500.00) should all University teams’ NCAA calculated Academic Progress Rate (APR) meet or exceed APR Cut Score.

(b) Conference Placements

In the event the men’s or women’s basketball team, the football team, the indoor volleyball team, the baseball team, or the men’s soccer team finishes as champions or co-champions in the Missouri Valley Conference, an additional Two Thousand Dollars (\$2,000.00) will be paid to Mr. Moats for each championship. In the event any other team finishes as champions or co-champions in the conference in which it participates, Mr. Moats will be paid an additional One Thousand Dollars (\$1,000.00) for each championship.

(c) **NCAA Men's or Women's Basketball Tournament**

In the event the Men's or Women's basketball team is invited to appear in the NCAA post-season tournament, Mr. Moats will be paid an additional Two Thousand Dollars (\$2,000.00).

(d) **Club Membership**

The University will pay periodic dues for Mr. Moats and his family, which shall entitle them to a membership at Twin Oaks Country Club.

6. Professional and Moral Conduct Required

The employment and performance of Mr. Moats is subject to the policies, rules, and regulations of the University, the Constitution, and Bylaws of the National Collegiate Athletic Association, and the constitutions and rules of any intercollegiate athletic conference of which the University is a member. Violations of such constitutions, bylaws, policies, rules, or regulations shall be sufficient cause for disciplinary action as may be reasonable and appropriate under the applicable constitution, bylaws, policies, rules, or regulations.

7. Termination

This Agreement may terminate upon the occurrence of any one of the following events:

(a) **Termination Due to Expiration of Term**

If no extension of the Agreement beyond the term specified above is made, this Agreement shall terminate as of the last day of the Term (i.e., May 31, 2026).

(b) **Termination for Incapacity; Cause**

The Agreement may be terminated at any time during the term, by the University, upon the occurrence of any one of the following events:

- (i) **Termination Due to Incapacity.** The Agreement shall terminate automatically if Mr. Moats becomes totally disabled within the meaning of the University's disability insurance for employees of Mr. Moats' staff classification so that he qualifies under the University's long-term disability plan, or if Mr. Moats becomes permanently disabled. "Permanently disabled" shall mean physical or mental incapacity of a nature which prevents Mr. Moats from performing his duties under the Agreement for a period of one hundred eighty (180) consecutive days. In the event termination occurs under this Section due to permanent disability at a time when Mr. Moats' University disability plan benefits are not

sufficient to fund him compensation during the one hundred eighty (180) day waiting period to qualify under the University's long-term disability plan, the University will supplement those benefits to ensure Mr. Moats receives his full compensation.

- (ii) **For Just Cause.** The term "just cause" is defined as acts by Mr. Moats constituting or involving dishonesty in interactions with athletic or University administration, dishonesty when representing the University that brings ill repute to the University, moral turpitude that brings ill repute to the University, conviction of a felony, and major infractions of NCAA rules and regulations, prolonged absence from duty without the consent of the Athletic Director, and willful disregard for the welfare and safety of University's student-athletes which has resulted in serious injury or death. No termination of employment for alleged "just cause" shall occur without first giving Mr. Moats notice in writing of the cause alleged, and an opportunity to be heard.
- (iii) **Effect of Termination for Just Cause.** In the event the University terminates Mr. Moats' employment, under Section 7(b)(ii) above, Mr. Moats shall not be entitled to any further compensation following the date of such termination, unless otherwise agreed to in writing by the University. He will, however, be entitled to all compensation and achievement payments earned through the date of termination.

8. Cancellation

(a) Cancellation by Mr. Moats

- (i) **Retirement.** If Mr. Moats retires from his employment, he may cancel the Agreement in any year if he gives ninety (90) days written notice of cancellation in writing without any consideration or payment.
- (ii) **Cancellation to Seek Other Employment.** If, prior to June 30, 2025, Mr. Moats elects to obtain other employment outside the University or otherwise cancels this Agreement, Mr. Moats agrees to pay the University One Hundred Eighty-Five Thousand Dollars (\$185,000.00) as liquidated damages.

(b) Cancellation by the University

Notwithstanding any provision of the Agreement to the contrary, the University may also elect to cancel the Agreement in any year by providing ninety (90) days notification to Mr. Moats in writing. It is understood that cancellation does not require just cause or any cause. In the event of cancellation by the University, Mr. Moats will be entitled to a liquidated sum, in full and complete settlement of all amounts which would otherwise be payable to Mr. Moats after the cancellation date. If the University opts to cancel the Agreement during the first three (3) years of the Agreement (i.e., between June 1, 2022-May 31, 2025), the liquidated sum

shall be One Hundred Eighty-Five Thousand Dollars (\$185,000.00). If the University opts to cancel the Agreement at any between June 1, 2025-May 31, 2026, the liquidated sum shall be Mr. Moats current monthly salary multiplied by the months remaining in the term of the Agreement. Said liquidated sum will be paid within thirty (30) days following the cancellation date. MOSERS retirement will not be paid on the liquidated sum. Social Security (FICA, Medicare tax) only will be paid on said liquidated sum, and standard payroll deductions for social security and income tax will be withheld. Mr. Moats will be paid on or before the Cancellation Date amounts actually earned by him on or before the Cancellation Date.

9. Missouri law

The laws of the State of Missouri shall govern this Agreement, including the Missouri Sunshine Law. Mr. Moats acknowledges that this Agreement is a public document under the Missouri Sunshine Law and that University may release this Agreement without prior notice to him.

10. Entire Agreement

This Agreement constitutes the entire understanding between the parties, all previous oral and written statements, and negotiations having been incorporated herein. It may only be amended by a writing signed by the parties.

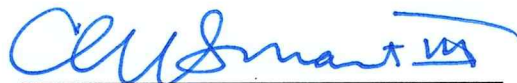
[SIGNATURES FOLLOW ON PAGE 6]

IN WITNESS WHEREOF, the parties have executed this Agreement with effective date as noted above.

**BOARD OF GOVERNORS OF
MISSOURI STATE UNIVERSITY**

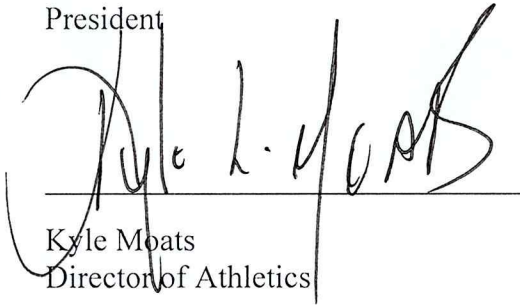
ATTEST:

5/23/22



Secretary
Board of Governors

Clifton M. Smart, III
President



Kyle Moats
Director of Athletics