

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is entered by and between the BOARD OF GOVERNORS OF MISSOURI STATE UNIVERSITY ("University") and KIRK NELSON ("Coach Nelson") and is effective as of January 1, 2023 ("Effective Date").

WHEREAS, the University currently employs Coach Nelson as its Head Coach for Women's Soccer pursuant to an Athletics Employment Agreement - Head Coach ("Prior Agreement") for a term that is currently set to expire on June 30, 2023;

WHEREAS, the University desires to extend the term of Coach Nelson's employment as head coach of the University's intercollegiate Women's Soccer program ("Head Women's Soccer Coach") through December 31, 2025, under the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the promises, covenants, and agreements set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto mutual covenants and agreements of the parties hereto, the parties agree to the following terms and conditions:

1. **Term of Employment; Termination of Existing Agreement.** Beginning on January 1, 2023, and continuing through December 31, 2025, the University will employ Coach Nelson as its Head Women's Soccer Coach for a period beginning January 1, 2023, through December 31, 2025 ("Term") subject to renewal, cancellation, or termination under the terms and conditions provided in this Agreement. Each year within the Term, and each year within any renewal term thereafter, will be referred to as a "Contract Year." This Agreement terminates, supersedes, and replaces the Prior Agreement as of the Effective Date.

2. **Duties.** Coach Nelson shall be responsible for fulfilling the following duties during the terms of this Agreement:

- (a) **Head Coach.** During the Term, and any subsequent renewals (provided for in this Agreement), Coach Nelson shall serve the University as its Head Women's Soccer Coach, and shall at all times devote his whole time, attention, and energies to the conduct and coaching of the Team on behalf of the University, and to the administration and management of his coaching staff, and shall do and perform all services, acts, and things connected therewith as the Director of Athletics for the University, or his designee, shall from time-to-time direct, which are of a nature customarily and properly belonging to the duties of a Head Women's Soccer Coach at a college or university.
- (b) **Other Activities Permitted.** Notwithstanding any other language in the Agreement, Coach Nelson shall be permitted to conduct summer soccer camps or clinics for his sole benefit as further described herein. In addition, Coach Nelson shall be permitted to earn additional outside income through promotional endorsements and contracts, speaking engagements, and other third-party

opportunities so long as such activities are not inconsistent with this Agreement Contract, or NCAA regulations, and with the prior written approval of the Director of Athletics, which approval shall not be unreasonably withheld.

3. **Compensation.** As of the Effective Date, the University shall pay Coach Nelson the following compensation:

- (a) **Base Salary.** Beginning January 1, 2022, the University shall pay Coach Nelson an annual salary of Sixty-Five Thousand Dollars (\$65,000) ("Base Salary"), which translates to a gross monthly salary of approximately Five Thousand Four Hundred and Sixteen Dollars and Sixty-Six Cents (\$5,416.66) ("Monthly Adjusted Base Salary"). Subject to Section 7, for the duration of the Agreement, Coach Nelson's Base Salary shall be subject to all across-the-board salary increased provided to University's other employees.
- (b) **Payment Via University's Standard Payroll Procedure.** Coach Nelson's salary shall be paid in equal sums at such intervals as the University has established for its payroll procedure, less applicable taxes, and withholdings.
- (c) **Base Salary as Total Guaranteed Compensation.** The compensation specified in Section 3(a) represents the total guaranteed compensation due and owing Coach Nelson in consideration of his duties as the University's Head Women's Soccer Coach and his employment with the University under this Agreement.
- (d) **Eligibility for Incentive Payments.** Coach Nelson shall be eligible for additional incentive payments as specified in Section 6.

4. **Additional Entitlements.** In addition to the compensation described in Section 3, Coach Nelson shall receive all 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 Coach Nelson. It is agreed that the terms and conditions in the Faculty Handbook will not be regarded as a part of the Agreement, and that Coach Nelson is not on tenure-track and is not receiving tenure.

5. **Soccer Camp(s).** The University acknowledges that it is in the interest of the University to have a soccer camp(s) during the summer. In this regard, Coach Nelson may conduct annual soccer camp(s), and if so for his own benefit, and the University shall make available University facilities for that purpose, subject to the following provisions, as long as the Agreement remains in effect and is not canceled or terminated.

- (a) **Insurance Obligations.** Coach Nelson agrees to secure commercial general liability insurance to cover the operation of any camp permitted under this Section 5. Such policy limits insurance shall be in amounts no less than Five Hundred Thousand Dollars (\$500,000) per person, and Two Million Dollars (\$2,000,000) in

the aggregate, with the Board of Governors of Missouri State University named as an additional insured. No such insurance shall be construed to constitute a waiver of any sovereign, governmental or official immunity. Coach Nelson agrees to increase the liability limits if requested by the University as a result of a change in Missouri law.

- (b) **Mandated Reporter Training.** Coach Nelson will attend and require his staff to attend any University-required mandated reporter and/or Title IX trainings prior to conducting any soccer camps.
- (c) **Use of University's Athletic Facilities.** Coach Nelson shall be entitled to use the University's soccer fields, including locker rooms, in conducting soccer camps under this Section 5. Other University athletic facilities may also be used in conducting soccer camps, subject to scheduling and availability of these other athletics facilities. Coach Nelson shall work with the University's Director of Athletics, or his designee to schedule use of these other athletic facilities.
- (d) **Use of University's Housing System.** Coach Nelson shall be given access to the University's residency housing system for use in conjunction with the soccer camps, provided that he shall pay the then current daily summer rate charges per person for housing (including linens) in the summer.
- (e) **No Guarantee as to Number of Camp Participants.** Coach Nelson does not guarantee any number of soccer camp participants or enrollees.
- (f) **Registration Fee, Revenue for Soccer Camps.** The registration fee for each enrollee shall be established by Coach Nelson. Coach Nelson shall be allowed to retain all revenues and income generated by such camp.
- (g) **Use of University Name, Logs in Camp Brochures.** Coach Nelson may use the University names, logos, and depictions in brochures and similar camp documentation.
- (h) **Audit Right of University.** To the extent necessary to ensure compliance with all applicable NCAA rules, Coach Nelson shall provide all camp records to athletics administrators or other university administrators when requested, or as otherwise required by law. Examples of such records may include, without limitation, rosters, applications, free or discounted admissions, bank statements, expense records, and payroll records.

6. Other Compensation and Expenses.

- (a) **Achievement Payments.** During the Term of this Agreement, and subject to Section 7, Coach Nelson shall be entitled to receive certain payments (before taxes) if the Team performs to certain levels of achievement, in consideration of the additional effort and contributions of Coach Nelson in obtaining such

achievements. Specifically:

- (i) **Academic Progress Rate ("APR").** Coach Nelson shall be paid the amount of Five Hundred Dollars (\$500.00) for each year that the Team's NCAA calculated APR meets or exceeds an NCAA APR score of 985.
 - (ii) **MVC Conference Championship.** If the Team finishes a season as champion of the Missouri Valley Conference ("MVC") (or any other conference in which University's Team becomes a member), an additional One Thousand Four Hundred dollars (\$1,400) will be paid to Coach Nelson.
 - (iii) **MVC Conference Co-Championship.** If the Team finishes a season as co-champion in the MVC (or any other conference in which University's Team becomes a member), an additional One Thousand Four Hundred dollars (\$1,400) will be paid to Coach Nelson.
 - (iv) **MVC Post-Season Tournament Championship.** In any season that the Team wins the MVC's post-season tournament championship (or the post-season tournament championship of any other conference in which University's Team becomes a member), an additional Seven Hundred dollars (\$700) will be paid to Coach Nelson.
 - (v) **NCAA Posts-Season Championship Tournament.** In any season that the Team competes in the NCAA soccer post-season championship tournament, an additional Seven Hundred dollars (\$700) per tournament game won by the Team will be paid to Coach Nelson.
 - (vi) **Timing of Incentive Payments.** All such achievement payments will be paid to Coach Nelson within thirty (30) days of the dates earned and shall be paid even if the Agreement is terminated by either party for any reason.
- (b) **Expense Allowance.** All necessary and reasonable expenses incurred by Coach Nelson while recruiting or on official business for the University's Women's Soccer program will be paid to Coach Nelson, pursuant to and consistent with University policy. Such expenses must be approved by the University's Director of Athletics upon presentation of expense vouchers and supporting documents, and such approval shall not to be unreasonably withheld.
 - (c) **Use of Automobile.** Coach Nelson shall be furnished with an automobile, pursuant to a lease agreement with the University, for his business and personal use as long as the University and/or the Missouri State University Foundation receives such a vehicle via a trade-out with an automobile dealer in relation to a membership in The Bears Fund. The terms of the lease agreement shall control the use, maintenance, and insurance applicable to such automobile.
7. **Professional and Moral Conduct Required.** It is understood that Coach Nelson

is being employed by the University, a member institution of the NCAA, for the purpose of administering, conducting, and coaching the Team. Coach Nelson acknowledges and understands that NCAA Bylaw 11.1.1 imposes a presumption of head coach accountability for impermissible acts related to the Team that are committed by those who report to the head coach. Accordingly, Coach Nelson agrees that he will diligently conduct the Team under his direction in such a manner that NCAA regulations and codes of conduct, whether now existing or hereinafter enacted, will be fully complied with, in all particulars, including, but not limited to, the following:

- (a) Coach Nelson will make best efforts to ensure that the Team's student-athletes comport themselves with honesty and sportsmanship at all times.
- (b) Coach Nelson shall not accept compensation or gratuities of any kind whatsoever, either directly or indirectly, for representing a professional sports organization in the scouting or contacting of athletics talent or the negotiating of a contract.
- (c) Coach Nelson shall not knowingly participate in the management, coaching, officiating, supervision, promotion, or player selection of any all-star contest involving student-athletes which is not certified by the NCAA's Extra Events Committee.
- (d) Except as is ordinarily done by a soccer coach at a university, Coach Nelson shall not represent a student-athlete in the marketing of athletics ability or reputation to a professional sports team or professional sports organization and shall not receive compensation or gratuities of any kind, directly or indirectly, for such services.
- (e) Coach Nelson is required to provide a written detailed account annually to the University President for all athletically-related income and benefits from sources outside the University. Sources of such income shall include, but are not limited to, the following:
 - Income from annuities;
 - Sports camps;
 - Housing benefits (including preferential housing arrangements);
 - Country club memberships;
 - Complimentary ticket sales; and
 - Television and radio programs.
- (f) Coach Nelson is responsible for overseeing and managing the annual budget allocated for the Team to ensure both fiscal responsibility and that Team expenditures do not exceed the allocated program budget. In the event that program expenditures exceed the program budget in a given fiscal year, neither Coach Nelson nor any assistant coaches for the University's intercollegiate Women's Soccer team (including any strength and conditioning coaches) will be eligible to receive any achievement payments contemplated by Section 6(a) for the applicable athletic season, and their salaries will be subject to review and possible withholding.

of across-the-board salary increases for the subsequent fiscal year. Moreover, Coach Nelson agrees that, notwithstanding any other provision of this Agreement, in the event that Team expenditures exceed the allocated program budget, he may be subject to disciplinary action up to and including termination of employment.

8. Termination.

- (a) Termination Due to Expiration of Term.** If no extension of the Agreement beyond the Term is made, this Employment Contract shall terminate as of the last day of the Term (i.e., December 31, 2025).
- (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 Coach Nelson becomes totally disabled within the meaning of the University's disability insurance for employees of Coach Nelson's staff classification so that he qualifies under the University's long-term disability plan, or if Coach Nelson becomes permanently disabled. "Permanently disabled" shall mean physical or mental incapacity of a nature which prevents Coach Nelson 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 Coach Nelson University disability plan benefits are not sufficient to fund his 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 Coach Nelson receives his full compensation.
 - (ii) For just cause.** The term "just cause" is defined as acts by Coach Nelson constituting or involving dishonesty, moral turpitude, conviction of a felony, Level 1 or 2 infractions of NCAA rules and regulations that occur during the Term or any renewal term, prolonged absence from duty without the consent of the Athletic Director, and/or 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 Coach Nelson 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 Coach Nelson employment, under Section 8(b) (ii) above, Coach Nelson 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.

9. **Termination Without Cause.**

- (a) **Termination Without Cause by Coach Nelson.** Coach Nelson may Terminate this Agreement if he gives notice of termination to the Director of Athletics and pays, or causes another party to pay, the Liquidated Damages Amount (as defined and calculated herein) to the University. Subject to Section 9(d) below, the Liquidated Damages Amount will be calculated by multiplying the remaining months of the Agreement by Two Thousand Five Hundred Dollars (\$2,500.00), it being agreed by the parties that such liquidated sum shall be appropriate as damages to the University in the case of such cancellation or breach of contract by Coach Nelson, actual damages being difficult to determine. Said Liquidated Damages Amount shall be paid within thirty (30) days following the notice of termination by Coach Nelson. Such liquidated sum shall be a full and complete settlement of all amounts due University as a result of said termination of the Agreement by Coach Nelson.
- (b) **Termination Without Cause by University.** Notwithstanding any provision of this Agreement to the contrary, University may also elect to terminate this Agreement in any Contract Year by notification to Coach Nelson in writing, at the end of any contract year by notification to Coach Nelson in writing, on or before February 2 ("Termination Date"). It is understood and agreed that termination does not require just cause or any cause. In the event of termination by University, Coach Nelson shall receive, subject to Section 9(d), payment for the number of months remaining on the Agreement times Two Thousand Five Hundred dollars (\$2,500), it being agreed by the parties that such liquidated sum shall be appropriate as damages to Coach Nelson in the case of such cancellation by University, actual damages being difficult to determine. Said liquidated sum shall be paid within thirty (30) days following the Termination Date. In the event of cancellation by the University, such liquidated sum will be accepted by Coach Nelson as a full and complete settlement of all amounts would otherwise be payable to him after the Termination Date. MOSERS retirement will not be paid on the Liquidated Damages Amount. However, standard payroll deductions for social security and income tax shall be withheld. Coach Nelson will also be paid on or before the Termination Date any and all amounts actually earned by Coach Nelson on or before the Termination Date. Nothing herein shall be construed as limiting University's ability and right to terminate the Agreement for cause according to the terms of Section 9. The parties remain free to negotiate, by agreement, any other settlement amount or liquidated sum in the event of termination or alleged breach of this Agreement by either party, although they are not required to do so.
- (c) **Limitation of Liquidated Damages Payments.** Should either Coach Nelson or University exercise their right to terminate this Agreement as set forth in Section 9(a) or 10(b), the Liquidated Damage Amount due the other party shall be based on the number of months remaining on the Agreement, up to a maximum of twenty-four (24) months in the case of payment by the University and up to a maximum of

twelve (12) months in the case of payment by Coach Nelson.

- (d) **Relief of Duties Upon Cancellation or Termination.** Upon notification that employment will be terminated or that the Agreement will not be extended beyond its Term, Coach Nelson may be relieved by the Director of Athletics from some or all additional duties and, if so, Coach Nelson shall utilize all available accrued vacation prior to the termination date.


10. **Missouri Law.** This Agreement shall be interpreted and construed in a manner consistent with the laws of the State of Missouri, including, without limitation, the Missouri Sunshine Law, as set forth in Mo. Rev. Stat. § 610.010, *et. seq.* Coach Nelson acknowledges that the Agreement is a public document under the Missouri Sunshine Law, which the University may release without prior notice to him.


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

IN WITNESS WHEREOF, the parties have executed this Agreement is effective as of the Effective Date first indicated above.

COACH NELSON
UNIVERSITY

BOARD OF GOVERNORS
OF MISSOURI STATE


Kirk Nelson
Head Coach, Women's Soccer 12/16/22


Clifton M. Smart, III
President