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**FLORIDA A&M UNIVERSITY  
HEAD COACH, MEN'S BASKETBALL  
EMPLOYMENT AGREEMENT**

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**THIS EMPLOYMENT AGREEMENT** ("Agreement") is entered into by and between Florida Agricultural and Mechanical University ("FAMU" or "University"), on behalf of the FAMU Board of Trustees, (the "University") and Robert McCullum ("McCullum" or "Coach"). The University and McCullum are collectively referred to as "Parties."

**RECITALS**

**WHEREAS**, the University needs the services of an athletic coach to coach the University's men's basketball team; and

**WHEREAS**, McCullum represents that he meets the University's qualifications for the position of Head Coach of Men's Basketball and is available for employment in this capacity with the University; and

**WHEREAS**, the Parties desire to set forth the terms of their Agreement in writing.

In consideration of the mutual covenants, promises and conditions in this Agreement, the University and McCullum agree as follows:

**TERMS**

**1.0 GENERAL EMPLOYMENT TERMS**

- 1.1 Subject to the terms and conditions for employment with the University as provided in this Agreement, the University employs McCullum as Head Coach of the Men's Basketball team ("Sports Team") with the University's intercollegiate men's basketball program ("Program"), and McCullum understands, agrees to and accepts the terms and conditions for employment as outlined in this Agreement, including, without limitation to the U.S. and Florida Constitutions and laws as constitutionally permissible, § 1012.80, Florida Statutes, the rules, regulations, policies and procedures of the Florida Board of Governors and the University as now existing, amended, or hereafter promulgated.
- 1.2 McCullum shall work under the direct supervision of the Director of Intercollegiate Athletics of University ("Athletics Director") or the Athletics Director's designee, and shall confer with the Athletics Director on all matters requiring administrative and technical decisions. McCullum shall be under the overall general supervision of the President of the University. The Athletics Director and McCullum shall confer with the President, if a problem cannot otherwise be resolved between the Athletics Director and McCullum.
- 1.3 McCullum shall lead, recruit for, manage, supervise and promote the Men's Basketball Team and Program, and perform such other duties in the University's intercollegiate athletic program as may be assigned during the term of this Agreement and any extensions hereof.

**2.0 TERM**

- 2.1 THIS AGREEMENT IS SUBJECT TO REGULATION 10.106 OF THE FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES AND FLORIDA STATUTES, § 215.425(4)(a)1.
- 2.2 This appointment shall commence on July 1, 2021 and terminate on June 30, 2024, without further notice to Coach, unless terminated sooner as set forth in Section 5.0 herein..

McCullum hereby accepts such employment on the terms and conditions set forth in this Agreement.

- 2.3** As of July 1, 2021, McCullum acknowledges and represents that he has not been made any representations, oral or written, by any employee, representative or agent of the University that modify, conflict with, and/or vitiate the Terms of this Agreement. This Agreement; (i) shall supersede and replace any and all other prior or existing oral and/or written representations, known or unknown agreements made to McCullum by any employee, representative or agent of the University, if any, between the University and McCullum and (ii) any and all such prior or existing oral or written representations or agreements, if any, are null, void, and of no further force or effect.
- 2.4** The Parties agree that should another employment opportunity be presented directly or indirectly to McCullum and/or any individual, firm, or entity acting on his behalf or should he be interested in other employment during the term of this Agreement, he shall notify the Athletics Director or his/her designee of such opportunity or interest before any substantive discussions can be held by McCullum and/or any individual or entity acting on his behalf with any potential employer. This provision is essential to this Agreement and violation hereof may be considered cause for termination pursuant to Section 5.0 below of this Agreement.
- 2.5** This Agreement is renewable solely upon an offer from the University President and acceptance by McCullum, both of which must be in writing and signed by respective the Parties. This employment in no way grants McCullum a claim to tenure in employment, or any years of employment attributable to tenure within the University.
- 2.6** McCullum acknowledges and accepts that this Agreement shall be approved by the University Board of Trustees in order for his employment to become effective and that the University Board of Trustees has the authority to amend or alter the terms of this Agreement after it has been presented to him at any duly authorized University Board of Trustees meeting before this Agreement has been approved by the University Board of Trustees.

### **3.0 COMPENSATION & OTHER BENEFITS.**

- 3.1 Annual Salary.** In consideration for services and satisfactory performance of the conditions of this Agreement by McCullum, the University promises to provide McCullum an annual salary of \$150,000.00, biweekly \$5,747.12 effective July 1, 2020. The University's performance and obligation to pay under this Agreement is contingent upon the availability of funding and funds budgeted and approved annually by the University's Board of Trustees for its purposes. It is agreed that the compensation so paid shall be subject to the same payroll deductions/withholdings that apply to the University's Administrative & Professional ("A&P") employees, and as required by applicable state and federal laws and University rules, regulations and policies.
- 3.2 Complimentary Tickets.** McCullum shall have twelve (12) complimentary tickets provided to him from the University, at no charge, for each individual University home game sporting event.
- 3.3 Cell Phones.** Cell phone services (or reimbursement) will not be provided for McCullum.
- 3.4 Moving Expenses.** [RESERVED]

**3.5 Travel Expenses & Car Allowances.** McCullum shall receive reimbursement for travel expenses and car allowances, pursuant to state law and University regulations and policies.

**3.6 Benefits.** McCullum is employed by the University as an FLSA exempt A&P employee with employment terms governed by this Agreement. McCullum agrees that he shall be subject to the same University regulations, policies and payroll practices applicable to A&P employees, unless expressly waived or superseded by the terms of this Agreement. McCullum acknowledges that all regular A&P employment benefits may be adjusted from time to time as provided by the State of Florida and/or the University.

**A. Standard University Fringe Benefits.** McCullum shall be entitled to the standard University benefits provided to other regular, full-time, non-tenure earning, at-will-employees of the University in the A&P classification, including group insurance, vacation with pay, retirement programs, etc., and shall be eligible to participate in voluntary payroll deduction programs on the same basis and with the same employer contributions that apply to the University's A&P employees. The University shall not be responsible for any other compensation or monetary benefits to McCullum of any kind unless it is specifically set forth herein.

**B. Merit or Cost of Living Increases.** During the term of this Agreement, McCullum shall be eligible for merit and/or cost of living increases as the University may provide to A&P employees of the University. Such merit increases shall be based on McCullum's job duties and responsibilities, as distinguished from his win-loss record, and based upon the same process as is used for other A&P employees and shall consider prior evaluations and the expectations and goals as established with the Athletics Director.

**C. Performance Incentives (if earned).** While McCullum is serving as Coach, the University may provide the following performance incentives (athletic and academic) and no others. McCullum agrees that any Performance Incentives earned during the term of this Agreement will be paid subject to the availability of funds at the time the incentives are realized. McCullum also agrees that the University has 60 (sixty) days to pay the incentives. Specifically, McCullum's Performance Incentives are as follows:

**(i) Academic:** From and after July 1, 2021, and each year thereafter, for each year that the Sports Team achieves a graduation rate that equals or exceeds 85% based on the NCAA Graduation Success Rate ("GSR") or a succeeding model and the Sports Team's Academic Progress Rate ("APR") as calculated by the NCAA is above 975, the University shall pay to McCullum Two Thousand Dollars (\$2,000), if such funds are raised by FAMU's Athletic Department and are not paid from state appropriated funds.

**(ii) Athletic: Southwestern Athletic Conference (SWAC) & National Collegiate Athletic Association ("NCAA"):**

To the extent that the University receives or is awarded funds from the MEAC or any other athletic conference ("Conference") that the University becomes a member of after the effective date of this Agreement and/or the NCAA to pay the following:

- (a)** Conference Tournament Champion: Two Thousand Dollars (\$2,000.)
- (b)** Conference Men's Basketball Coach of the Year:  
One Thousand Dollars (\$1,000).
- (c)** Single Game Win over a Power Five Conference Opponent: Two Thousand Dollars (\$2,000)
- (d)** NCAA Tournament Single Game Win: Five Dollars (\$5,000).

- (e) NCAA Tournament Final Four Appearance: Ten Thousand Dollars (\$10,000).
- (f) Game Guarantees in excess of \$600,000 annually, Thirty- Thousand Dollars (\$30,000).

**(iii) Basketball Summer Camps:**

McCullum, subject to state law, the NCAA, and University rules, regulations, policies and procedures, may conduct and run summer youth basketball camps beginning in the summer of 2021. McCullum shall have the opportunity to use University facilities to house and conduct these camps in accordance with University regulations, policies, and procedures applicable to facility use and summer camps. The University does not guarantee or provide any supplemental compensation for the operation of on-campus summer camps. The use of the proceeds/monies from the camps by McCullum shall be subject to state law and University regulations and policies. The University shall approve the use of the proceeds/monies from the camps as income to the McCullum and any assistant men's basketball coaches, to the extent allowable under state law or University rules, regulations and policies. McCullum acknowledges that he and any other University employees assisting in such camps shall be required to take annual leave while conducting such summer basketball camps for compensation.

**D. Outside Employment.** While McCullum is employed as Coach at the University, he shall have the opportunity to pursue and engage in outside commercial endorsement activities and personal appearances that he secures on his own initiative including, but not limited to, radio shows, television appearances, personal appearances representing the University Program, apparel and footwear endorsements. These outside activities and appearances shall not conflict with any of the duties or activities referenced in this Agreement, nor shall they conflict with University rules, regulations, policies, and procedures, the NCAA, or the Conference. Such activities are independent of McCullum's employment with the University and the University shall have no responsibility or liability for any claims arising therefrom.

Further, McCullum shall obtain prior written consent from the Athletic Director before pursuing any outside activity as set forth in FAMU Regulation 10.122. If such employment is approved, McCullum hereby agrees:

- (i) Such outside activities shall not interfere with the full and complete performance by McCullum of the duties and responsibilities as provided herein;
- (ii) Not to accept or receive directly or indirectly any monies, benefit or any other gratuity from any person, corporation, representatives or athletic interests (as defined in NCAA Bylaw 6.4.2), FAMU Boosters or National Alumni Association or benefactor, if such action could violate the Conference, NCAA or University rules, procedures or regulations; and
- (iii) To report as directed to the President and Athletics Director in writing annually or more frequently if requested by the University, all athletically related income and/or benefits he receives from sources outside the University during the term of this Agreement. The University shall have reasonable access to all records of McCullum necessary to verify such reports and McCullum's compliance with this provision.

E. **Media.** McCullum shall maximize radio and television coverage favorable to the University. He is entitled to receive remuneration for such appearances, for any endorsements, or public presentations only after securing prior written consent as noted in Section 3.0 hereof. McCullum shall promote the Sports Team and Program in a positive manner and will also create goodwill with the outside sponsors of these appearances. The Parties agree that the University shall own all rights in and to the master game tapes and highlight tapes produced in connection with these appearances.

F. **Speeches/Apearances.** McCullum shall be entitled to deliver, make and grant speeches, appearances, and media interviews as well as write and release books, magazines and newspaper articles or columns and to retain any and all income derived therefrom. However, any and all speeches given pursuant to this subsection must be given by McCullum in his individual capacity, and not in his official capacity as a University employee. It is also expressly understood and agreed that this subsection does not pertain to any speech or appearance at a University-sponsored function. Any and all activities performed hereunder shall be subject to and carried out in accordance with Florida Board of Governors and FAMU intellectual property regulations, policies and procedures.

#### 4.0 **COACH'S DUTIES**

4.1 In consideration of the annual salary and other benefits, McCullum promises and agrees to be held directly accountable for the Sports Team's budget, scheduling, recruiting and training and other duties as follows: McCullum shall:

4.1.1 Faithfully and conscientiously devote best efforts to perform coaching duties stated herein and assigned by the Athletics Director and the President within the budget allocated;

4.1.2 Devote full-time attention and energy to the duties of Head Men's Basketball Coach as required herein to the administration, management and promotion of the University's Sports Team and Program and in such manner as to reflect positively on the University's image and reputation; and to avoid directly or indirectly any business, professional or personal activities or pursuits that would detract from or prevent him from devoting full-time to performance of the duties under this Agreement or that would embarrass the University or detract in any manner from the duties outlined herein including criminal arrests, prosecutions, convictions and/or guilty or *nolo contendere* pleas to first degree misdemeanors or any felonies;

4.1.3 Know, recognize, comply with and monitor compliance by student-athletes and assistant coaches with the laws, rules, regulations, policies and procedures governing the University and its employees, including but limited to Title IX, the constitution, by-laws and rules of the NCAA and the Conference, or any other conference or organization the University becomes a member of during the term of this Agreement, as now constituted or as they may be amended during the term hereof. McCullum shall immediately advise the President, Athletics Director, and Vice President of Audit and Compliance if he has reason to believe that a violation(s) has occurred or will occur and shall fully cooperate in any investigation of possible Conference or NCAA violations conducted or authorized by the University, the Conference or NCAA;

4.1.4 In accordance with NCAA Bylaw 11.1.2.1, as now or hereafter amended, promote, supervise and ensure that the assistant coaches and any other employees for which McCullum is administratively (directly or indirectly) responsible, comply

with the aforesaid policies, rules, and regulations; and to immediately advise the President, Athletics Director, and Vice President of Audit and Compliance if he has reasonable cause to believe violations have occurred or will occur and fully cooperate in any investigation of possible Conference or NCAA violations conducted or authorized by the University, Conference or NCAA;

4.1.5 Administer, manage and lead the Sports Team and Program in such a manner as to allow the Sports Team to effectively compete in the Conference and the NCAA women's basketball games, events and/or athletic programs;

4.1.6 Develop programs and procedures, in conjunction with the Office of Academic Services, with respect to the education, evaluation, recruitment, training, and coaching of student-athletes to compete successfully in academics and athletics while assuring the welfare of student-athletes;

4.1.7 Adhere to and observe the academic standards, requirements and policies of the University, Conference and NCAA in regard to the recruiting and eligibility requirements of prospective and current student-athletes for the Sports Team; and promote an environment in which admissions, financial aid and academic services for student-athletes and recruiting can be conducted consistent with the University's mission. McCullum and members of the Men's Basketball coaching staff, including assistant coaches, shall observe the University's academic standards, requirements and policies, at all times and shall not compromise or violate such at any time;

4.1.8 Encourage student-athletes to perform to their highest academic potential, which shall be evaluated by Academic Progress Rates, obtain the highest grades possible, and graduate timely, and work in cooperation with and support of the University's faculty, academic advisors and administrative officials to ensure that all student-athletes' academic requirements are met;

4.1.9 Maintain and cultivate effective relations with the Conference, NCAA, University alumni, media, public, students, faculty, staff and friends of the University with respect to the University's Sports Team;

4.1.10 Perform all other duties customarily performed by Head Men's Basketball Coaches of commensurate rank serving other Conference and NCAA member institutions;

4.1.11 Schedule yearly intercollegiate games subject to the final approval of the Athletics Director;

4.1.12 Provide evaluations of the intercollegiate Sports Team and assistant coaches to the Athletics Director within forty-five (45) days after the last game of the season; and

4.1.13 Perform all other duties as assigned by the President and/or Athletics Director.

**4.2** McCullum shall maximize radio and televisions coverage favorable to the University, but shall receive remuneration for such appearances, for any endorsements, or public presentations only upon securing prior written consent as noted in Section 3.0 hereof.

## 5.0 **TERMINATION OF EMPLOYMENT & OTHER DISCIPLINARY ACTIONS.**

The Parties acknowledge and agree that the services McCullum will provide as Men's Head Basketball Head are the essence of this Agreement. The Parties recognize that, except as provided herein, separation of McCullum's employment is governed by the University's regulations and policies.

**A. Prohibited Activities.** In addition to the University's regulations and policies, the following is a non-exclusive list of prohibited activities or omissions that, if violated, may lead to discipline for McCullum including, but not limited to, suspension for a period of time with or without pay or termination of employment of this Agreement for cause:

1. Failure or refusal by McCullum to comply with any of the terms of this Agreement, neglect by McCullum of any of the duties required by this Agreement, an unwillingness to perform such required duties to the best of McCullum's ability, or any other breach of this Agreement;
2. Any violation by McCullum or failure by McCullum to report such a violation of which he becomes or reasonably should have become aware of by any assistant coach, staff members, student-athlete or any other person under McCullum's supervision and/or control of the Athletic Requirements, or misleading or failing to timely and accurately respond to any reasonable requests or inquiries by the NCAA, Conference, University or any other governing body concerning or related to the supervision of the Program, or failure of any other University sport program to maintain the minimum single and multi-year APRs required of such programs by the NCAA;
3. Engaging in conduct which, in the sole determination of the University, violates any law including, but not limited to Title IX, or University regulation or policy; or engaging in any other conduct which, in the sole determination of the University is contrary to or adversely affects the mission, operations, or reputation of the University, including, but not limited to, acts of dishonesty, misrepresentation, fraud, violence, the abuse of alcohol drugs, domestic violence or spousal abuse, or other acts of violence, assault, or moral turpitude. Also, any conduct that results in a plea of guilty or nolo contendere by McCullum for any crime (except for minor traffic offenses), or criminal charge for which adjudication or prosecution was deferred or withheld (except for minor traffic offenses);
4. Directing or otherwise instructing any coach, assistant coach, student-athlete, or any other individual to mislead, or to fail or refuse to respond or provide information or documents in response to any reasonable requests or inquiries by the NCAA, Conference, University or any other governing body concerning or related to the Program or any other college or university athletics program with which McCullum may have been involved in the past;
5. Failure to supervise the assistant coaches and other coaching staff in a manner to prevent the NCAA, Conference or Title IX violations;
6. Failure or refusal by McCullum to report immediately to the University's NCAA Compliance Officer when McCullum knows or should have known or has reasonable cause to believe any of the following events have occurred, or are about to occur:
  - (a) Any member of a Program, including, but not limited to, any student-athlete, coach, assistant coach, or staff member, has or may have violated, or allowed or caused to be violated, any Athletic Requirements, law or University regulations or

policies, or has engaged in any serious or intentional violation of the law, or the University's regulations or policies;

(b) The Conference or NCAA intends to investigate or review any alleged violations of Athletic Requirements by the Program or other University sport program; or

(c) Any student, faculty or staff member, agent of the University, or any outside individual reportedly acting on behalf of the University who has a direct relationship with McCullum has, or may have, violated, or allowed or caused to be violated, or is alleging to know of a violation of any Athletic Requirements, law or University regulation or policy;

7. Significant or repetitive violations or major violations of any by-law, rule, regulation, policy or procedure of the Conference or NCAA, which may adversely affect the University's Sports Team or could result in the University being placed on probation or punished in any manner by the Conference or NCAA;

8. Any fraud or dishonesty by McCullum while performing the duties required by this Agreement, including, but not limited to, falsifying, altering or otherwise fraudulently preparing any document(s) or record(s) of, or required by, the University, NCAA, or Conference pertaining to recruits or student-athletes, transcripts, eligibility, forms, compliance reports, financial or expense reports, or any document pertaining or related to the Program;

9. If Coach is found in violation of Conference or NCAA regulations, while employed by the University or during prior employment at another NCAA member Institution, McCullum shall be subject to disciplinary or corrective action by the University as set forth in the provisions of the NCAA enforcement procedures. In addition, Coach may be suspended for a period of time, without pay, or McCullum's employment may be terminated if McCullum is found to have been involved in significant or repetitive violations of the NCAA, Conference or University rules, procedures or regulations;

10. Engaging in, assisting, encouraging, or soliciting others to engage in bookmaking, illegal gambling, or betting of any type involving any intercollegiate or professional athletic contest;

11. Possession, use, sale or manufacture of any narcotics, drugs, or other controlled substances or steroids or other chemicals in a manner prohibited by law or applicable Athletic Requirements, or allowing, encouraging, or condoning the possession, use, sale, or manufacture of any narcotics, drugs, or other controlled substances or steroids or other chemicals by any student-athlete, coach, assistant coach, or staff member, in a manner which is prohibited by law or by Athletic Requirements, or failure or refusal to fully participate and cooperate in the University's implementation and enforcement of any drug/alcohol testing program;

12. Engaging in conduct that is unlawful; conduct that constitutes moral turpitude as defined by state or federal statutes or as adjudicated by a court of competent jurisdiction or administrative tribunal; conduct in violation of any federal or state law, rule, regulation, policy or procedure; conduct in violation of any rule, regulation, policy or procedure of the Conference, NCAA, University or Florida Board of Governors; or conduct seriously prejudicial to the best interests of the University or its Sports Team;



13. Failure to fully and accurately report all additional sources of income in accordance with law, Athletic Requirements, University rules, regulations and policies, and this Agreement, or any other conduct by McCullum that, in the sole judgment of the University, reflects adversely on the University, including, but not limited to, information learned by the University after executing this Agreement that McCullum was found to have violated Athletic Requirements at any previous college, university or employer; or

14. Prolonged absence, i.e., at least three (3) consecutive days, from the University without consent from the President.

**B. Termination Obligations.**

1. **Termination by University Without Cause.** Notwithstanding paragraph 2.2 above and Section 5.0, B. 2. below of this Agreement, the University may terminate this Agreement at any time, without cause, by providing McCullum with two (2) months written notice of such termination. If, at any time the University desires to terminate without cause, there is less than two (2) months remaining in the Term, the required notice will be reduced to the period remaining in the Term. In the event this Agreement is terminated by the University without cause, McCullum's employment with the University shall cease on the effective date of the termination (i.e., the end of the requirement notice period) and after the effective date of termination, McCullum shall be entitled to compensation only for the period of time employed prior to the date of the termination. During the notice period, McCullum may be assigned to any other position for which he is qualified to perform. Notwithstanding any other provision of this Agreement, during the notice period McCullum's compensation shall be fixed at his annual base salary (as defined in Section 3.1) in effect on the date that the notice of termination is delivered. No further compensation, benefits, or obligations, including, but not limited to, bonuses, lump sum or base salary increases, performance incentives or other benefit payments, or any benefits set forth in Section 3.1 of this Agreement, will be due and owing from either party, except as required by law.

Notwithstanding paragraph 2.2 above and Section 5.0, B. 2 or any other provisions of this Agreement and in no circumstances shall the University's liability for termination without cause, if any, exceed up to twenty (20) weeks, which is prescribed in § 215.425, Florida Statutes, less required deductions and applicable withholdings for federal, state, and local taxes.

2. **Termination by University for Cause.** In the event this Agreement is terminated by the University for cause (as defined herein), McCullum's employment with the University shall cease on the date that written notice is delivered, and McCullum shall not be entitled to any further compensation or benefits whatsoever, including, but not limited to, bonuses, lump sum or base increases, or any benefits set forth in Section 3.0 of this Agreement. For the purposes of this subsection 2, "cause" shall be defined as any act or omission that amounts to neglect of McCullum's duties; grave dishonesty; insubordination or derogatory comments that adversely affect the University, any Program, or the University's athletics department; or a material breach of any University regulation or policy or term of this Agreement, including, without limitation, those activities prohibited under Section 5.0, A. above. "Cause" is further defined to include any reckless or knowing act or omission that is illegal (except for minor traffic offenses), fraudulent or involves moral turpitude or the inability of McCullum to perform the duties set forth in this Agreement.

3. **Termination by McCullum without Cause.**  
Voluntary Termination by McCullum Without Cause. In the event this Agreement is terminated by McCullum without cause while McCullum is serving as Coach,

McCullum's employment with the University shall cease and McCullum shall pay to the University (i) \$30,000, if terminated during the first (1st) year of the Agreement; or (ii) \$15,000, if terminated during the second (2nd) year of the Agreement, and (\$0) if terminated during the third (3rd) year of the Agreement. Any such payments shall be due and payable to the University no later than sixty (60) days after the effective date of termination. The Parties agree that all such payments shall not be deemed a penalty, but rather are liquidated damages to compensate the University for all costs, expenses, and damages incurred by McCullum's early termination of this Agreement, which costs, expenses, and damages cannot be predicted or calculated with precision, but which will include, without limitation, the costs of searching for a replacement, assembling new support staff, maintaining continuity within the Programs, and reputational harm.

#### **4. Termination by McCullum With Cause.**

**A.** In the event this Agreement is terminated by McCullum for cause (as defined in subsection 4. C. below), McCullum's employment with the University shall cease on the date that written notice is delivered and McCullum shall only be entitled to any remaining Annual Salary that has been earned and accrued. McCullum agrees to provide the University advance notice of employment elsewhere. No further compensation or obligations, including, but not limited to, position reassignment, will be due and owing from either party, except as required by law. For greater certainty, it is acknowledged and agreed by the Parties hereto that the payment(s) set forth in subsection 5.0, B. 1 shall be McCullum's sole remedy in the event of termination of the Agreement for cause by McCullum, and McCullum is entitled to no other pay, severance or termination pay or any other compensation, remuneration, benefits or other amount from the University, except any incentives that have been earned as of the date of termination under subsection 5.0, B. 1.

**B.** Any payment(s) referred to in subsection 4. A. shall be subject to all such withholdings and other deductions as may be required by any and all applicable county, local or federal law, and University payroll policies. Furthermore, any payment(s) that may become due under subsection 4. A. are conditioned upon McCullum's execution of a Release and Separation Agreement in a form to be provided (and acceptable to) the University. Upon termination, McCullum shall have no further obligations under this Agreement. McCullum shall not be entitled to any other compensation and benefits set forth in this Agreement. Payment made by the University as provided above will be in full satisfaction of all claims.

**C.** For purposes of subsection 4. A. above, "cause" will mean: (i) any failure of the University to pay any of the sums or benefits contemplated under this Agreement when such sums are more than thirty (30) days overdue, provided, however, that McCullum has made a written demand to the President that any sums or benefits due under this Agreement be paid and such sums remain unpaid for an additional thirty (30) day period; or (ii) a material breach of this Agreement, provided, however, that McCullum gives written notice to the President specifying the alleged material breach and the University fails to cure the alleged material breach (or initiate a cure) within sixty (60) days after such notice.

**5. Termination by Death or Disability.** The Parties agree that this is a personal service agreement and that in the event of McCullum's inability to perform the essential duties of his employment under this Agreement due to incapacity, as certified by two (2) physicians selected by FAMU, or death, this Agreement shall terminate and the University

shall have no further financial obligations to McCullum, his estate, heirs, representatives or assigns, other than accrued salary and benefits up to the date of his incapacity or death.

**6. Other Disciplinary Actions.** The University may take other disciplinary or corrective action short of termination for cause in the event of the occurrence of any act or omission that could be grounds for termination for cause or for any act or omission short of a ground for termination for cause including, without limitation, minor or nonmaterial violations of any Athletic Requirements, any term of this Agreement, or University regulations or policies. Other disciplinary or corrective action may include, but is not limited to, suspension without pay for up to thirty (30) days (extendable an additional thirty (30) days upon written notice), suspension with pay for up to sixty (60) days, or other disciplinary or corrective action, which may be authorized by University regulations or policies or the provision of the NCAA enforcement procedures.

**7. Notice and Appeal.** In the event the President determines that suspension without pay is warranted, the President will provide McCullum with written notice of the basis for the disciplinary action. Pillow can appeal the President's decision pursuant to University Regulation 10.206.

**6.0 REASSIGNMENT OF MCCULLUM'S DUTIES.** At the discretion of the President and the Athletic Director, McCullum may be reassigned from his duties at any time during the existence of this Agreement upon ten (10) days written notice to McCullum. The University will not be liable to McCullum for the loss of any collateral income, business opportunities or benefits that may result from McCullum's reassignment.

**7.0 SOLICITATION OF GIFTS.** McCullum may not solicit or accept personal gifts or cash or items of substantial value or accept anything other than reasonable social hospitality from any outside individual in accordance with Florida Law (Chapter 112, Florida Statutes), Athletic Requirements, and the University's regulations and policies, including the University's Code of Ethics.

**8.0 SEVERABILITY.** If, for any reason, any portion of this Agreement is held invalid or unconstitutional by any court or competent jurisdiction, such portion will be deemed a separate distinct and independent provision, and such holding will not affect the validity of any remaining portion of this Agreement.

**9.0 WAIVER OF CLAIMS.** The Parties agree that any and all claims any party may have against another are exclusively set forth in this Agreement and that no further damages or remedies will be owed as a result of any actual or consequential loss of the Parties, which might result from the termination of this Agreement, or from the exercise of any right set forth in Section 5.0 above. Such losses include, but are not limited to: loss of income or compensation; loss of any collateral income or benefits, or other business opportunities, which would have resulted from McCullum's position at the University; loss of sports camp(s), clinic(s) or other outside activity fees, loss of expected income or opportunities, or damages that may allegedly be sustained for any alleged humiliation or defamation resulting from any termination of this Agreement, or any exercise of any right set forth in Section 5.0 above, or any statements or documents that may be released to the press or public as a result thereof or the release of any documents as required by law. McCullum agrees and acknowledges that he will have no right of injunctive relief.

**10.0 WAIVER OF DEFAULT.** Any waiver of the Parties of any default or breach of any term or condition of this Agreement will not be deemed or construed as a waiver of any other default or further breach of the same, or any other, term or condition of this Agreement.

**11.0 SOVEREIGN IMMUNITY.** The Parties expressly acknowledge and agree that nothing contained in this Agreement is intended to constitute a waiver of sovereign immunity by the University, and that nothing will be construed or considered to constitute a waiver or relinquishment of any of the exemptions, rights,

privileges, or immunities as may be provided to the University or its officers, employees, or agents by federal or state law.

**12.0 GOVERNING LAW.** This Agreement shall be interpreted and construed and the rights and obligations of the Parties hereto shall be determined in accordance with the laws of the State of Florida, excluding its choice of law rules. Venue for any litigation arising out of this Agreement shall be in Leon County, Tallahassee, Florida.

**13.0 MEDIATION.** Any disputes arising under this Agreement must be mediated by a Florida Supreme Court Certified Circuit Court Mediator in Leon County, Florida. The Parties agree that mediation shall occur within forty-five (45) days of the date mediation is requested by either party. The mediator shall be agreed upon, but if the Parties are unwilling or unable to agree, the Parties agree that a mediated agreement shall be binding on the Parties. The Parties agree to abide by the mediator's agreement, pay mediator fees promptly and share them on an equal basis. Litigation may not be commenced until after mediation has been (i) declared an impasse by the mediator, or (ii) terminated in writing by one or both parties. Consistent with the requirements of Florida Statutes Sunshine Laws, the confidentiality provisions of the Mediation Confidentiality and Privilege Act, Florida Statutes, §§ 44.401-44.406, shall attach to any such pre-suit mediation.

**14.0 WAIVER OF JURY TRIAL.** AS A MATERIAL TERM OF THIS AGREEMENT, THE PARTIES DO EACH KNOWINGLY, WILLINGLY AND VOLUNTARILY, AND BY THEIR EXPRESS DESIRE AND INTENT, HEREBY EXPRESSLY WAIVE A TRIAL BY JURY ON ALL ISSUES, CLAIMS, COUNTERCLAIMS AND CROSS-CLAIMS OF ANY KIND OR NATURE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANYONE TO INDUCE THIS WAIVER OR JURY TRIAL OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT.

**15.0 PERSONAL CONTRACT.** The rights, obligations and duties of McCullum shall be personal and not succeeded to, assignable or delegable in any manner whatsoever. In addition, the Parties acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. The Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of the Parties to this Agreement.

**16.0 NO TRUST FUND.** Nothing contained in this Agreement and no action taken pursuant to the provisions of this Agreement shall create or be construed to create a trust of any kind. To the extent that McCullum acquires a right to receive payments from the University under this Agreement, the University's obligation to make such payments represents an unfunded promise or covenant to pay such amount running from the University to McCullum.

**17.0 TOTALITY OF AGREEMENT.** This Agreement, the applicable Athletic Requirements, and the University's rules, regulations and policies represent the entire agreement pertaining to McCullum's employment by and with the University and it supersedes any and all other prior oral or written agreements between the Parties. Additionally, each party acknowledges and agrees that they have entered into this Agreement knowingly and voluntarily after having the opportunity to review the Agreement and seek the advice of counsel regarding their respective rights in the Agreement. Further, this Agreement will be construed equally against the Parties and may not be modified or amended without the express written consent of all Parties to this Agreement.

**18.0 PUBLIC RECORDS.** The Parties agree and acknowledge that this Agreement and other applicable documents are subject to the Florida public records law, Chapter 119, Florida Statutes.

**19.0 TAXES.** All compensation and benefits received by McCullum from the University, including, but not limited to, tickets, and the use of stadium and athletic suites, may be treated as taxable income and

subject to taxation in accordance with Internal Revenue Service guidelines. McCullum agrees that he will report and pay any taxes that might be due to any taxing authority that is not otherwise reported by the University.

**20.0 IMPOSSIBILITY.** The University may cancel this Agreement at any time upon thirty (30) days' notice without further obligation due to a determination by the Florida Board of Governors or the University's Board of Trustees to eliminate the Program for lack of funds or a decision to discontinue the Program made in accordance with applicable laws, rules, regulations, policies and procedures of any and all governing bodies.

**21.0 NOTICE.** Any notice required or permitted to be given under this Agreement shall be sufficient if given in writing and shall be given by personal delivery, registered, or certified mail to the President's and Athletic Director's Offices, if to the University, or McCullum's residence, as such is on file in the Office of Human Resources, if to McCullum.

**22.0 UNIVERSITY PROPERTY.** All materials or articles of information including, but not limited to, records, student records, the Coach's records, statistics, or any other material or data in any form or medium furnished to McCullum by the University, or developed by McCullum on behalf of the University, or at the University's direction or supervision, are and shall remain the sole, proprietary and confidential property of the University.

**23.0 AGREEMENT HAS BEEN READ AND UNDERSTOOD.** McCullum acknowledges that he has read and understands the purpose, tenure and effect of this Agreement and he specifically acknowledges that he has had the opportunity to have been advised by an attorney, and or, has had the opportunity to consult with his attorney before signing this Agreement. McCullum acknowledges and represents that he has fully read and understands the foregoing provisions of this Agreement and/or that he has engaged the legal assistance from an attorney of his choosing, who has advise him of the terms and legal requirements and obligations set forth in this Agreement and Florida law and that he agrees and that the terms of this Agreement are reasonable and enforceable by the University, and that he further agrees to abide by this Agreement and terms and conditions set forth herein.

**24.0 MISCELLANEOUS.** The headings in this Agreement are for convenience only and shall not be used in construing or interpreting this Agreement. The term "University" as used herein, where applicable or appropriate, shall be deemed to include any duly authorized board, committee, officer, or employee of said entity. Whenever the context requires, the masculine shall include the feminine and neuter, the singular shall include the plural, and conversely.

This Agreement is subject to the United States and Florida Constitutions and laws as constitutionally permissible, and the regulations, policies and procedures of the Florida Board of Governors and FAMU, as now existing or hereafter promulgated.

**25.0 ENTIRE AGREEMENT; MODIFICATION.** This Agreement contains all the terms between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the Parties, superseding any other written or oral representations, statements, negotiations, or agreements to the contrary. This Agreement cannot be changed, modified or amended in any respect except by a written instrument signed by McCullum, the President and Athletics Director.

IN WITNESS WHEREOF, McCullum and the authorized representatives of University have executed this Agreement as fully executed below.

FLORIDA A&M UNIVERSITY  
BOARD OF TRUSTEES

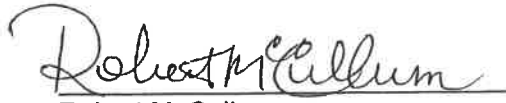
\_\_\_\_\_  
Larry Robinson  
President

\_\_\_\_\_  
Date

  
Kortne Gosha  
Director of Intercollegiate Athletics

May 13, 2021  
Date

COACH:

  
Robert McCullum  
Head Men's Basketball Coach

MAY 12, 2021  
Date

Approved as to Form and Legality.

\_\_\_\_\_  
FAMU, Office of the General Counsel    Date

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**FLORIDA A&M UNIVERSITY  
HEAD COACH, WOMEN'S BASKETBALL  
EMPLOYMENT AGREEMENT**

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**THIS EMPLOYMENT AGREEMENT** ("Agreement") is entered into by and between Florida Agricultural and Mechanical University ("FAMU" or "University"), on behalf of the FAMU Board of Trustees, (the "University") and Shalon Pillow ("Pillow" or "Coach"). The University and Pillow are collectively referred to as "Parties."

**RECITALS**

**WHEREAS**, the University needs the services of an athletic coach to coach the University's women's basketball team; and

**WHEREAS**, Pillow represents that she meets the University's qualifications for the position of Head Coach of Women's Basketball and is available for employment in this capacity with the University; and

**WHEREAS**, the Parties desire to set forth the terms of their Agreement in writing.

In consideration of the mutual covenants, promises and conditions in this Agreement, the University and Pillow agree as follows:

**TERMS**

**1.0 GENERAL EMPLOYMENT TERMS.**

**1.1** Subject to the terms and conditions for employment with the University as provided in this Agreement, the University employs Pillow as Head Coach of the Women's Basketball team ("Sports Team") with the University's intercollegiate women's basketball program ("Program"), and Pillow understands, agrees to and accepts the terms and conditions for employment as outlined in this Agreement, including, without limitation to the U.S. and Florida Constitutions and laws as constitutionally permissible, § 1012.80, Florida Statutes, the rules, regulations, policies and procedures of the Florida Board of Governors and the University as now existing, amended, or hereafter promulgated.

**1.2** Pillow shall work under the direct supervision of the Director of Intercollegiate Athletics of University ("Athletics Director") or the Athletics Director's designee, and shall confer with the Athletics Director on all matters requiring administrative and technical decisions. Pillow shall be under the overall general supervision of the President of the University. The Athletics Director and Pillow shall confer with the President, if a problem cannot otherwise be resolved between the Athletics Director and Pillow.

**1.3** Pillow shall lead, recruit for, manage, supervise and promote the Women's Basketball Team and Program, and perform such other duties in the University's intercollegiate athletic program as may be assigned during the term of this Agreement and any extensions hereof.

**2.0 TERM.**

**2.1** THIS AGREEMENT IS SUBJECT TO REGULATION 10.106 OF THE FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES AND FLORIDA STATUTES, § 215.425(4)(a)1.

- 2.2 This appointment shall commence on July 1, 2021 and terminate on June 30, 2024, without further notice to Coach, unless terminated sooner as set forth in Section 5.0 herein. Pillow hereby accepts such employment on the terms and conditions set forth in this Agreement.
- 2.3 As of July 1, 2021, Pillow acknowledges and represents that she has not been made any representations, oral or written, by any employee, representative or agent of the University that modify, conflict with, and/or vitiate the Terms of this Agreement. This Agreement (i) shall supersede and replace any and all other prior or existing oral and/or written representations, known or unknown agreements, made to Pillow by any employee, representative or agent of the University, if any, between the University and Pillow, and (ii) any and all such prior or existing oral or written representations or agreements, if any, are null, void, and of no further force or effect.
- 2.4 The Parties agree that should another employment opportunity be presented directly or indirectly to Pillow and/or any individual, firm, or entity acting on her behalf or should she be interested in other employment during the term of this Agreement, she shall notify the Athletics Director or his/her designee of such opportunity or interest before any substantive discussions can be held by Pillow and/or any individual or entity acting on Pillow's behalf with any potential employer. This provision is essential to this Agreement and violation hereof may be considered cause for termination pursuant to Section 5.0 below of this Agreement.
- 2.5 This Agreement is renewable solely upon an offer from the University President and acceptance by Pillow, both of which must be in writing and signed by respective the Parties. This employment in no way grants Pillow a claim to tenure in employment, or any years of employment attributable to tenure within the University.
- 2.6 Pillow acknowledges and accepts that this Agreement shall be approved by the University Board of Trustees in order for her employment to become effective and that the University Board of Trustees has the authority to amend or alter the terms of this Agreement after it has been presented to her at any duly authorized University of Board of Trustees' meeting before this Agreement has been approved by the University Board of Trustees.

### 3.0 **COMPENSATION & OTHER BENEFITS.**

- 3.1 **Annual Salary.** In consideration for services and satisfactory performance of the conditions of this Agreement by Coach, the University promises to provide Pillow an annual salary of \$100,000.00, biweekly \$3,831.41, effective July 1, 2021. The University's performance and obligation to pay under this Agreement is contingent upon the availability of funding and funds budgeted and approved annually by the University's Board of Trustees for its purposes. It is agreed that the compensation so paid shall be subject to the same payroll deductions/withholdings that apply to the University's Administrative and Professional ("A&P") employees, and as required by applicable state and federal laws and University rules, regulations and policies.
- 3.2 **Complimentary Tickets.** Pillow shall have twelve (12) complimentary tickets provided to her from the University, at no charge, for each individual University home game sporting event.
- 3.3 **Cell Phones.** Cell phone services (or reimbursement) will not be provided for Pillow.
- 3.4 **Moving Expenses.** [Reserved]



**3.5 Travel Expenses & Car Allowances.** Pillow shall receive reimbursement for travel expenses and car allowances, pursuant to state law and University regulations and policies.

**3.6 Benefits.** Pillow is employed by the University as an FLSA exempt A&P employee with employment terms governed by this Agreement. Pillow agrees that she shall be subject to the same University regulations, policies, and payroll practices applicable to A&P employees, unless expressly waived or superseded by the terms of this Agreement. Pillow acknowledges that all regular A&P employment benefits may be adjusted from time to time as provided by the State of Florida and/or the University.

**A. Standard University Fringe Benefits.** Pillow shall be entitled to the standard University benefits provided to other regular, full-time, non-tenure earning, at-will-employees of the University in the A&P classification, including sick and annual leave, group insurance, vacation with pay, retirement programs, etc., and shall be eligible to participate in voluntary payroll deduction programs on the same basis and with the same employer contributions that apply to the University's A&P employees. The University shall not be responsible for any other compensation or monetary benefits to Pillow of any kind unless it is specifically set forth herein.

**B. Merit or Cost of Living Increases.** During the term of this Agreement, Pillow shall be eligible for merit and/or cost of living increases as the University may provide to the University's A&P employees. Such merit increases shall be based on Pillow's job duties and responsibilities, as distinguished from her win-loss record, and based upon the same process as is used for other A&P employees, and shall consider prior evaluations and the expectations and goals as established with the Athletics Director.

**C. Performance Incentives (if earned).** While Pillow is serving as Coach, the University may provide the following performance incentives (athletic and academic) and no others. Pillow agrees that any Performance Incentives earned during the term of this Agreement will be paid subject to the availability of funds at the time the incentives are realized. Pillow also agrees that the University has 120 (one hundred and twenty) days to pay the incentives. Specifically, Pillow's Performance Incentives are as follows:

**(i) Academic:**

If the Sports Team achieves a graduation rate that equals or exceeds 85% based on the NCAA Graduation Success Rate ("GSR") or a succeeding model and the Sports Team's Academic Progress Rate ("APR") as calculated by the NCAA is above 950, the University shall pay to Pillow Two Thousand Dollars (\$2,000), if such funds are raised by FAMU's Athletic Department and are not paid from state appropriated funds.

**(ii) Athletic: Southwestern Athletic Conference ("SWAC") & National Collegiate Athletic Association ("NCAA"):**

To the extent that the University receives or is awarded funds from the SWAC or any other athletic conference that the University becomes a member of after the effective date of this Agreement ("Conference") and/or the NCAA to pay the following:

- (a) Conference Women's Basketball Champion (as the Athletic Conference defines the Conference Champion): Two Thousand Dollars (\$2,000).
- (b) Conference Women's Basketball Coach of the Year: One Thousand

- Dollars (\$1,000).
- (c) NCAA Tournament Single Game Win: Two Thousand Dollars (\$2,000).
- (d) NCAA Tournament win : Five Thousand Dollars (\$5,000).
- (e) NCAA Tournament Final Four Appearance: Ten Thousand Dollars (\$10,000)
- (f) Game Guarantees in excess of \$50,000 annually Five Thousand Dollars (\$5,000).

**(iii) Basketball Summer Camps:**

Pillow, subject to state law, the NCAA, and University rules, regulations, policies and procedures, may conduct and run summer youth basketball camps beginning in the summer of 2021. Pillow shall have the opportunity to use University facilities to house and conduct these camps in accordance with University regulations, policies, and procedures applicable to facility use and summer camps. The University does not guarantee or provide any supplemental compensation for the operation of on-campus summer camps. The use of the proceeds/monies from the camps by Pillow shall be subject to state law and University regulations and policies. The University shall approve the use of the proceeds/monies from the camps as income to the Pillow and any assistant women's basketball coaches, to the extent allowable under state law or University rules, regulations and policies. Pillow acknowledges that she and any other University employees assisting in such camps shall be required to take annual leave while conducting such summer basketball camps for compensation.

**D. Outside Employment.** While Pillow is employed as Coach at the University, she shall have the opportunity to pursue and engage in outside commercial endorsement activities and personal appearances that she secures on her own initiative including, but not limited to, radio shows, television appearances, personal appearances representing the University Program, apparel and footwear endorsements. These outside activities and appearances shall not conflict with any of the duties or activities referenced in this Agreement, nor shall they conflict with University rules, regulations, policies, and procedures, the NCAA, or the Conference, or the University's apparel and footwear endorsements. Such activities are independent of Pillow's employment with the University and the University shall have no responsibility or liability for any claims arising therefrom.

Further, Pillow shall obtain prior written consent from the Athletics Director before pursuing any outside activity as set forth in FAMU Regulation 10.122. If such employment is approved, Pillow hereby agrees:

- (i) Such outside activities shall not interfere with the full and complete performance by Pillow of the duties and responsibilities as provided herein;
- (ii) Not to accept or receive, directly or indirectly, any monies, benefit or any other gratuity from any person, corporation, representatives or athletic interests (as defined in NCAA Bylaw 6.4.2), FAMU Boosters or National Alumni Association or benefactor, if such action could violate the Conference, NCAA or University rules, procedures or regulations; and
- (iii) To report as directed to the President and Athletics Director in writing, annually or more frequently, if requested by the University, all athletically related income and/or benefits she receives from sources outside the University during the term of

this Agreement. The University shall have reasonable access to all records of Pillow necessary to verify such reports and Pillow's compliance with this provision.

**E. Media.** Pillow shall maximize radio and television coverage favorable to the University. She is entitled to receive remuneration for such appearances, for any endorsements, or public presentations, only after securing prior written consent as noted in Section 3.0 hereof. Pillow shall promote the Sports Team and Program in a positive manner and will also create goodwill with the outside sponsors of these appearances. The Parties agree that the University shall own all rights in and to the master game tapes and highlight tapes produced in connection with these appearances.

**F. Speeches/Apearances.** Pillow shall be entitled to deliver, make and grant speeches, appearances, and media interviews as well as write and release books, magazines and newspaper articles or columns and to retain any and all income derived therefrom. However, any and all speeches given pursuant to this subsection must be given by Pillow in her individual capacity, and not in her official capacity as a University employee. It is also expressly understood and agreed that this subsection does not pertain to any speech or appearance at a University-sponsored function. Any and all activities performed hereunder shall be subject to and carried out in accordance with Florida Board of Governors and FAMU intellectual property regulations, policies and procedures.

#### **4.0 COACH'S DUTIES.**

**4.1** In consideration of the annual salary and other benefits, Pillow promises and agrees to be held directly accountable for the Sports Team's budget, scheduling, recruiting and training and other duties as follows: Pillow shall:

4.1.1 Faithfully and conscientiously devote best efforts to perform coaching duties stated herein and assigned by the Athletics Director and the President within the budget allocated;

4.1.2 Devote full-time attention and energy to the duties of Coach as required herein to the administration, management and promotion of the University's Sports Team and Program and in such manner as to reflect positively on the University's image and reputation of the University; and to avoid, directly or indirectly, any business, professional or personal activities or pursuits that would detract from or prevent her from devoting full-time to performance of the duties under this Agreement or that would embarrass the University or detract in any manner from the duties outlined herein, including criminal arrests, prosecutions, convictions and/or guilty or *nolo contendere* pleas to first degree misdemeanors or any felonies;

4.1.3 Know, recognize, comply with and monitor compliance by student-athletes and assistant coaches with the laws, rules, regulations, policies and procedures governing the University and its employees, including, but limited to, Title IX, the constitution, by-laws and rules of the NCAA and the Conference, or any other conference or organization the University becomes a member of during the term of this Agreement, as now constituted or as they may be amended during the term hereof. Pillow shall immediately advise the President, Athletics Director, and Vice President of Audit and Compliance if she has reason to believe that a violation(s) has occurred or will occur and shall fully cooperate in any investigation of possible Conference or NCAA violations conducted or authorized by the University, Conference or NCAA;

4.1.4 In accordance with NCAA Bylaw 11.1.2.1, as now or hereafter amended, promote, supervise and ensure that the assistant coaches and any other employees for which Pillow is administratively, directly or indirectly, responsible, comply with the aforesaid policies, rules, and regulations; and to immediately advise the President, Athletics Director, and Vice President of Audit and Compliance if she has reasonable cause to believe violations have occurred or will occur and fully cooperate in any investigation of possible Conference or NCAA violations conducted or authorized by the University, Conference or NCAA;

4.1.5 Administer, manage and lead the Sports Team and Program in such a manner as to allow the Sports Team to effectively compete in the Conference and NCAA women's basketball games, events and/or athletic programs;

4.1.6 Develop programs and procedures, in conjunction with the Office of Academic Services, with respect to the education, evaluation, recruitment, training, and coaching of student-athletes to compete successfully in academics and athletics while assuring the welfare of student-athletes;

4.1.7 Adhere to and observe the academic standards, requirements and policies of the University, Conference and NCAA in regard to the recruiting and eligibility requirements of prospective and current student-athletes for the Sports Team; and promote an environment in which admissions, financial aid and academic services for student-athletes and recruiting can be conducted consistent with the University's mission. Pillow and members of the Women's Basketball coaching staff, including assistant coaches, shall observe the University's academic standards, requirements and policies, at all times and shall not compromise or violate such at any time;

4.1.8 Encourage student-athletes to perform to their highest academic potential, which shall be evaluated by Academic Progress Rates, obtain the highest grades possible, and graduate timely, and work in cooperation with and support of the University's faculty, academic advisors and administrative officials to ensure that all student-athletes' academic requirements are met;

4.1.9 Maintain and cultivate effective relations with the Conference, NCAA, University alumni, media, public, students, faculty, staff and friends of the University with respect to the University's Sports Team;

4.1.10 Perform all other duties customarily performed by Head Women's Basketball Coaches of commensurate rank serving other Conference and NCAA member institutions;

4.1.11 Schedule yearly intercollegiate games subject to the final approval of the Athletics Director;

4.1.12 Provide evaluations of the intercollegiate Sports Team and assistant coaches to the Athletics Director within forty-five (45) days after the last game of the season; and

4.1.13 Perform all other duties as assigned by the President and/or Athletics Director.

4.2 Pillow shall maximize radio and televisions coverage favorable to the University, but shall receive remuneration for such appearances, for any endorsements, or public presentations only upon securing prior written consent as noted in Section 3.0 hereof.

## 5.0 **TERMINATION OF EMPLOYMENT & OTHER DISCIPLINARY ACTIONS.**

The Parties acknowledge and agree that the services Pillow will provide as Coach are the essence of this Agreement. The Parties recognize that, except as provided herein, separation of Pillow's employment is governed by the University's regulations and policies.

**A. Prohibited Activities.** In addition to the University's regulations and policies, the following is a non-exclusive list of prohibited activities or omissions that, if violated, may lead to discipline for Pillow including, but not limited to, suspension for a period of time with or without pay or termination of employment of this Agreement for cause:

1. Failure or refusal by Pillow to comply with any of the terms of this Agreement, neglect by Pillow of any of the duties required by this Agreement, an unwillingness to perform such required duties to the best of Pillow's ability, or any other breach of this Agreement;
2. Any violation by Pillow or failure by Pillow to report such a violation of which she becomes or reasonably should have become aware of by any assistant coach, staff members, student-athlete or any other person under Pillow's supervision and/or control of the Athletic Requirements, or misleading or failing to timely and accurately respond to any reasonable requests or inquiries by the NCAA, Conference, University or any other governing body concerning or related to the supervision of the Program, or failure of any other University sport program to maintain the minimum single and multi-year APRs required of such programs by the NCAA;
3. Engaging in conduct which, in the sole determination of the University, violates any law including, but not limited to, Title IX or University regulation or policy; or engaging in any other conduct which, in the sole determination of the University, is contrary to or adversely affects the University's mission, operations, or reputation, including, but not limited to, acts of dishonesty, misrepresentation, fraud, violence, the abuse of alcohol, drugs, domestic violence or spousal abuse, or other acts of violence, assault, or moral turpitude. Also, any conduct that results in a plea of guilty or *nolo contendere* by Pillow for any crime (except for minor traffic offenses), or criminal charge for which adjudication or prosecution was deferred or withheld (except for minor traffic offenses);
4. Directing or otherwise instructing any coach, assistant coach, student-athlete, or any other individual to mislead, or to fail or refuse to respond or provide information or documents in response to any reasonable requests or inquiries by the NCAA, Conference, University or any other governing body concerning or related to the Program or any other college or university athletics program with which Pillow may have been involved in the past;
5. Failure to supervise the assistant coaches and other coaching staff in a manner to prevent the NCAA, Conference or Title IX violations;
6. Failure or refusal by Pillow to report immediately to the University's NCAA Compliance Officer when Pillow knows or should have known or has reasonable cause to believe any of the following events have occurred, or are about to occur:

(a) Any member of a Program, including, but not limited to, any student-athlete, coach, assistant coach, or staff member, has or may have violated, or allowed or caused to be

violated, any Athletic Requirements, law or University regulations or policies, or has engaged in any serious or intentional violation of the law, or the University's regulations or policies;

(b) The Conference or NCAA intends to investigate or review any alleged violations of Athletic Requirements by the Program or other University sport program; or

(c) Any student, faculty or staff member, agent of the University, or any outside individual reportedly acting on behalf of the University who has a direct relationship with Pillow has, or may have, violated, or allowed or caused to be violated, or is alleging to know of a violation of any Athletic Requirements, law or University regulation or policy;

7. Significant or repetitive violations or major violations of any by-law, rule, regulation, policy or procedure of the Conference or NCAA that may adversely affect the University's Sports Team or could result in the University being placed on probation or punished in any manner by the Conference or NCAA;

8. Any fraud or dishonesty by Pillow while performing the duties required by this Agreement, including, but not limited to, falsifying, altering or otherwise fraudulently preparing any document(s) or record(s) of, or required by, the University, NCAA, or Conference pertaining to recruits or student-athletes, transcripts, eligibility, forms, compliance reports, financial or expense reports, or any document pertaining or related to the Program;

9. If Coach is found in violation of Conference or NCAA regulations, while employed by the University or during prior employment at another NCAA member Institution, Pillow shall be subject to disciplinary or corrective action by the University as set forth in the provisions of the NCAA enforcement procedures. In addition, Coach may be suspended for a period of time, without pay, or Pillow's employment may be terminated if Pillow is found to have been involved in significant or repetitive violations of the NCAA, Conference or University rules, procedures or regulations;

10. Engaging in, assisting, encouraging, or soliciting others to engage in bookmaking, illegal gambling, or betting of any type involving any intercollegiate or professional athletic contest;

11. Possession, use, sale or manufacture of any narcotics, drugs, or other controlled substances or steroids or other chemicals in a manner prohibited by law or applicable Athletic Requirements, or allowing, encouraging, or condoning the possession, use, sale, or manufacture of any narcotics, drugs, or other controlled substances or steroids or other chemicals by any student-athlete, coach, assistant coach, or staff member, in a manner which is prohibited by law or by Athletic Requirements, or failure or refusal to fully participate and cooperate in the University's implementation and enforcement of any drug/alcohol testing program;

12. Engaging in conduct that is unlawful; conduct that constitutes moral turpitude as defined by state or federal statutes or as adjudicated by a court of competent jurisdiction or administrative tribunal; conduct in violation of any federal or state law, rule, regulation, policy or procedure; conduct in violation of any rule, regulation, policy or procedure of the Conference, NCAA, University or Florida Board of Governors; or conduct seriously prejudicial to the best interests of the University or its Sports Team;

13. Failure to fully and accurately report all additional sources of income in accordance with the law, Athletic Requirements, University rules, regulations and policies, and this Agreement, or

any other conduct by Pillow that, in the sole judgment of the University, reflects adversely on the University, including, but not limited to, information learned by the University after executing this Agreement that Pillow was found to have violated Athletic Requirements at any previous college, university or employer; or

14. Prolonged absence, i.e., at least three (3) consecutive days, from the University without consent from the President.

**B. Termination Obligations.**

**1. Termination by University Without Cause.** Notwithstanding paragraph 2.2 above and Section 5.0, B. 2. below of this Agreement, the University may terminate this Agreement at any time, without cause, by providing Pillow with two (2) months written notice of such termination. If, at any time the University desires to terminate without cause, there is less than two (2) months remaining in the Term, the required notice will be reduced to the period remaining in the Term. In the event this Agreement is terminated by the University without cause, Pillow's employment with the University shall cease on the effective date of the termination (i.e., the end of the requirement notice period) and after the effective date of termination, Pillow shall be entitled to compensation only for the period of time employed prior to the date of the termination. During the notice period, Pillow may be assigned to any other position for which she is qualified to perform. Notwithstanding any other provision of this Agreement, during the notice period Pillow's compensation shall be fixed at her annual base salary (as defined in Section 3.1) in effect on the date that the notice of termination is delivered. No further compensation, benefits, or obligations, including, but not limited to, bonuses, lump sum or base salary increases, performance incentives or other benefit payments, or any benefits set forth in Section 3.1 of this Agreement, will be due and owing from either party, except as required by law.

Notwithstanding paragraph 2.2 and Section 5.0, B. 2, or any other provisions of this Agreement and in no circumstances shall the University's liability for termination without cause, if any, exceed the maximum of twenty (20) weeks (provided that there are at least 20 weeks remaining on this Agreement), which is prescribed in Florida Statutes, § 215.425, less required deductions and applicable withholdings for federal, state, and local taxes.

**2. Termination by University for Cause.** In the event this Agreement is terminated by the University for cause (as defined herein), Pillow's employment with the University shall cease on the date that written notice is delivered to her, and she shall not be entitled to any further compensation or benefits whatsoever, including, but not limited to, bonuses, lump sum or base increases, or any benefits set forth in Section 3.0 of this Agreement. For the purposes of this subsection 2, "cause" shall be defined as any act or omission that amounts to neglect of Pillow's duties; grave dishonesty; insubordination or derogatory comments that adversely affect the University, the Program, or the University's athletics department; or a material breach of any University regulation or policy or term of this Agreement, including, without limitation, those activities prohibited under Section 5.0, A. above. "Cause" is further defined to include any reckless or knowing act or omission that is illegal (except for minor traffic offenses), fraudulent or involves moral turpitude or the inability of Pillow to perform the duties set forth in this Agreement.

**3. Termination by Pillow without Cause.**

Voluntary Termination by Pillow Without Cause. In the event this Agreement is terminated by Pillow without cause while Pillow is serving as Coach, Pillow's employment with the University shall cease and Pillow shall pay to the University (i) \$7,500, if terminated during the first (1<sup>st</sup>) year of the Agreement; or (ii) \$5,000, if terminated during the second (2<sup>nd</sup>) year of the

Agreement: or zero (\$0), if terminated during the third (3<sup>rd</sup>) year of the Agreement. Any such payments shall be due and payable to the University no later than sixty (60) days after the effective date of termination. The Parties agree that all such payments shall not be deemed a penalty, but rather are liquidated damages to compensate the University for all costs, expenses, and damages incurred by Pillows early termination of this Agreement, which costs, expenses, and damages cannot be predicted or calculated with precision, but which will include, without limitation, the costs of searching for a replacement, assembling new support staff, maintaining continuity within the Programs, and reputational harm.

**4. Termination by Pillow With Cause.**

**A.** In the event this Agreement is terminated by Pillow for cause (as defined in subsection 4. C. below), Pillow's employment with the University shall cease on the date that written notice is delivered and Pillow shall only be entitled to any remaining Annual Salary that has been earned and accrued. Pillow agrees to provide the University advance notice of employment elsewhere. No further compensation or obligations, including, but not limited to, position reassignment, will be due and owing from either party, except as required by law. For greater certainty, it is acknowledged and agreed by the Parties hereto that the payment(s) set forth in this subsection 5.0, B. 1. shall be Pillow's sole remedy in the event of termination of the Agreement for cause by Pillow, and Pillow is entitled to no other pay, severance or termination pay or any other compensation, remuneration, benefits or other amount from the University, except any incentives that have been earned as of the date of termination under this subsection 5.0, B. 1.

**B.** Any payment(s) referred to in subsection 4. A. shall be subject to all such withholdings and other deductions as may be required by any and all applicable county, local or federal law, and University payroll policies. Furthermore, any payment(s) that may become due under subsection 4. A. are conditioned upon Pillow's execution of a Release and Separation Agreement in a form to be provided (and acceptable to) the University. Upon termination, Pillow shall have no further obligations under this Agreement. Pillow shall not be entitled to any other compensation and benefits set forth in this Agreement. Payment made by the University as provided above will be in full satisfaction of all claims.

**C.** For purposes of subsection 4. A. above, "cause" will mean: (i) any failure of the University to pay any of the sums or benefits contemplated under this Agreement when such sums are more than thirty (30) days overdue, provided, however, that Pillow has made a written demand to the President that any sums or benefits due under this Agreement be paid and such sums remain unpaid for an additional thirty (30) day period; or (ii) a material breach of this Agreement, provided, however, that Pillow gives written notice to the President specifying the alleged material breach and the University fails to cure the alleged material breach (or initiate a cure) within sixty (60) days after such notice.

**5. Termination by Death or Disability.** The Parties agree that this is a personal service agreement and that in the event of Pillow's inability to perform the essential duties of her employment under this Agreement due to incapacity, as certified by two (2) physicians selected by FAMU, or death, this Agreement shall terminate and the University shall have no further financial obligations to Pillow, her estate, heirs, representatives or assigns, other than accrued salary and benefits up to the date of his incapacity or death.

**6. Other Disciplinary Actions.** The University may take other disciplinary or corrective action short of termination for cause in the event of the occurrence of any act or omission that could be grounds for termination for cause or for any act or omission short of a ground for termination for cause including, without limitation, minor or nonmaterial violations of any Athletic Requirements, any term of this Agreement, or University regulations or policies. Other



disciplinary or corrective action may include, but is not limited to, suspension without pay for up to thirty (30) days (extendable an additional thirty (30) days upon written notice), suspension with pay for up to sixty (60) days), or other disciplinary or corrective action, which may be authorized by University regulations or policies or the provision of the NCAA enforcement procedures.

**7. Notice and Appeal.** In the event the President determines that suspension without pay is warranted, the President will provide Pillow with written notice of the basis for the disciplinary action. Pillow can appeal the President's decision pursuant to University Regulation 10.206.

**6.0 REASSIGNMENT OF PILLOW'S DUTIES.** At the discretion of the President and the Athletics Director, Pillow may be reassigned from her duties at any time during the existence of this Agreement upon ten (10) days written notice to Pillow. The University will not be liable to Pillow for the loss of any collateral income, business opportunities or benefits that may result from Pillow's reassignment.

**7.0 SOLICITATION OF GIFTS.** Pillow may not solicit or accept personal gifts or cash or items of substantial value or accept anything other than reasonable social hospitality from any outside individual in accordance with Florida Law (Chapter 112, Florida Statutes), Athletic Requirements, and the University's regulations and policies, including the University's Code of Ethics.

**8.0 SEVERABILITY.** If, for any reason, any portion of this Agreement is held invalid or unconstitutional by any court or competent jurisdiction, such portion will be deemed a separate distinct and independent provision, and such holding will not affect the validity of any remaining portion of this Agreement.

**9.0 WAIVER OF CLAIMS.** The Parties agree that any and all claims any party may have against another are exclusively set forth in this Agreement and that no further damages or remedies will be owed as a result of any actual or consequential loss of the Parties, which might result from the termination of this Agreement, or from the exercise of any right set forth in Section 5.0 above. Such losses include, but are not limited to: loss of income or compensation; loss of any collateral income or benefits, or other business opportunities, which would have resulted from Pillow's position at the University; loss of sports camp(s), clinic(s) or other outside activity fees, loss of expected income or opportunities, or damages that may allegedly be sustained for any alleged humiliation or defamation resulting from any termination of this Agreement, or any exercise of any right set forth in Section 5.0 above, or any statements or documents that may be released to the press or public as a result thereof or the release of any documents as required by law. Pillow agrees and acknowledges that she will have no right of injunctive relief.

**10.0 WAIVER OF DEFAULT.** Any waiver of the Parties of any default or breach of any term or condition of this Agreement will not be deemed or construed as a waiver of any other default or further breach of the same, or any other, term or condition of this Agreement.

**11.0 SOVEREIGN IMMUNITY.** The Parties expressly acknowledge and agree that nothing contained in this Agreement is intended to constitute a waiver of sovereign immunity by the University, and that nothing will be construed or considered to constitute a waiver or relinquishment of any of the exemptions, rights, privileges, or immunities as may be provided to the University or its officers, employees, or agents by federal or state law.

**12.0 GOVERNING LAW.** This Agreement shall be interpreted and construed and the rights and obligations of the Parties hereto shall be determined in accordance with the laws of the State of Florida, excluding its choice of law rules. Venue for any litigation arising out of this Agreement shall be in Leon County, Tallahassee, Florida.

**13.0 MEDIATION.** Any disputes arising under this Agreement must be mediated by a Florida Supreme Court Certified Circuit Court Mediator in Leon County, Florida. The Parties agree that mediation shall occur within forty-five (45) days of the date mediation is requested by either party. The mediator shall be agreed upon, but if the Parties are unwilling or unable to agree, the Parties agree that a mediated agreement shall be binding on the Parties. The Parties agree to abide by the mediator's agreement, pay mediator fees promptly and share them on an equal basis. Litigation may not be commenced until after mediation has been (i) declared an impasse by the mediator, or (ii) terminated in writing by one or both parties. Consistent with the requirements of Florida Statutes Sunshine Laws, the confidentiality provisions of the Mediation Confidentiality and Privilege Act, Florida Statutes, §§ 44.401-44.406, shall attach to any such pre-suit mediation.

**14.0 WAIVER OF JURY TRIAL.** AS A MATERIAL TERM OF THIS AGREEMENT, THE PARTIES DO EACH KNOWINGLY, WILLINGLY AND VOLUNTARILY, AND BY THEIR EXPRESS DESIRE AND INTENT, HEREBY EXPRESSLY WAIVE A TRIAL BY JURY ON ALL ISSUES, CLAIMS, COUNTERCLAIMS AND CROSS-CLAIMS OF ANY KIND OR NATURE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANYONE TO INDUCE THIS WAIVER OR JURY TRIAL OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT.

**15.0 PERSONAL CONTRACT.** The rights, obligations and duties of Pillow shall be personal and not succeeded to, assignable or delegable in any manner whatsoever. In addition, the Parties acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. The Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of the Parties to this Agreement.

**16.0 NO TRUST FUND.** Nothing contained in this Agreement and no action taken pursuant to the provisions of this Agreement shall create or be construed to create a trust of any kind. To the extent that Pillow acquires a right to receive payments from the University under this Agreement, the University's obligation to make such payments represents an unfunded promise or covenant to pay such amount running from the University to Pillow.

**17.0 TOTALITY OF AGREEMENT.** This Agreement, the applicable Athletic Requirements, and the University's rules, regulations and policies represent the entire agreement pertaining to Pillow's employment by and with the University and it supersedes any and all other prior oral or written agreements between the Parties. Additionally, each party acknowledges and agrees that they have entered into this Agreement knowingly and voluntarily after having the opportunity to review the Agreement and seek the advice of counsel regarding their respective rights in the Agreement. Further, this Agreement will be construed equally against the Parties and may not be modified or amended without the express written consent of all Parties to this Agreement.

**18.0 PUBLIC RECORDS.** The Parties agree and acknowledge that this Agreement and other applicable documents are subject to the Florida public records law, Chapter 119, Florida Statutes.

**19.0 TAXES.** All compensation and benefits received by Pillow from the University, including, but not limited to, tickets, and the use of stadium and athletic suites, may be treated as taxable income and subject to taxation in accordance with Internal Revenue Service guidelines. Pillow agrees that she will report and pay any taxes that might be due to any taxing authority that is not otherwise reported by the University.

**20.0 IMPOSSIBILITY.** The University may cancel this Agreement at any time upon thirty (30) days' notice without further obligation due to a determination by the Florida Board of Governors or the University's Board of Trustees to eliminate the Program for lack of funds or a decision to discontinue the

Program made in accordance with applicable laws, rules, regulations, policies and procedures of any and all governing bodies.

**21.0 NOTICE.** Any notice required or permitted to be given under this Agreement shall be sufficient if given in writing and shall be given by personal delivery, registered, or certified mail to the President's and Athletics Director's Offices, if to the University, or Pillow's residence, as such is on file in the Office of Human Resources, if to Pillow.

**22.0 UNIVERSITY PROPERTY.** All materials or articles of information including, but not limited to, records, student records, the Coach's records, statistics, or any other material or data in any form or medium furnished to Pillow by the University, or developed by Pillow on behalf of the University, or at the University's direction or supervision, are and shall remain the sole, proprietary and confidential property of the University.

**23.0 AGREEMENT HAS BEEN READ AND UNDERSTOOD.** Pillow acknowledges that she has read and understands the purpose, tenure and effect of this Agreement and she specifically acknowledges that she has had the opportunity to have been advised by an attorney, and or, has had the opportunity to consult with her attorney before signing this Agreement. Pillow acknowledges and represents that she has fully read and understands the foregoing provisions of this Agreement and/or that she has engaged the legal assistance from an attorney of her choosing, who has advise her of the terms and legal requirements and obligations set forth in this Agreement and Florida law and that she agrees and that the terms of this Agreement are reasonable and enforceable by the University, and that she further agrees to abide by this Agreement and terms and conditions set forth herein.

**24.0 MISCELLANEOUS.** The headings in this Agreement are for convenience only and shall not be used in construing or interpreting this Agreement. The term "University" as used herein, where applicable or appropriate, shall be deemed to include any duly authorized board, committee, officer, or employee of said entity. Whenever the context requires, the masculine shall include the feminine and neuter, the singular shall include the plural, and conversely.

This Agreement is subject to the United States and Florida Constitutions and laws as constitutionally permissible, and the regulations, policies and procedures of the Florida Board of Governors and FAMU, as now existing or hereafter promulgated.

[THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY. SIGNATURTE PAGE FOLLOWS]

**25.0 ENTIRE AGREEMENT; MODIFICATION.** This Agreement contains all the terms between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the Parties, superseding any other written or oral representations, statements, negotiations, or agreements to the contrary. This Agreement cannot be changed, modified or amended in any respect except by a written instrument signed by Pillow, the President and Athletics Director.

**IN WITNESS WHEREOF,** Pillow and the authorized representatives of University have executed this Agreement as fully executed below.

**FLORIDA A&M UNIVERSITY  
BOARD OF TRUSTEES**

\_\_\_\_\_  
Larry Robinson  
President

\_\_\_\_\_  
Date

  
Kortne Gosha  
Director of Intercollegiate Athletics

\_\_\_\_\_  
5/28/2021

Date

**COACH:**



\_\_\_\_\_  
Shalon Pillow  
Head Women's Basketball Coach

\_\_\_\_\_  
5/28/2021

Date

\_\_\_\_\_  
Approved as to Legal Form and Sufficiency  
General Counsel

\_\_\_\_\_  
Date

**SECOND AMENDMENT TO  
EMPLOYMENT AGREEMENT  
BETWEEN  
WILLIE R SIMMONS  
(Head Football Coach)  
AND  
FLORIDA AGRICULTURAL AND MECHANICAL UNIVERSITY  
BOARD OF TRUSTEES  
A public body corporate of the State of Florida**

This Second Amendment to Employment Agreement (herein the “Amendment”) is dated as of this \_\_\_ day of June, 2021 by and between Florida Agricultural & Mechanical University Board of Trustees (herein the “University”) and Willie R. Simmons (“Simmons”).

WHEREAS, on or about December 15, 2017 the University and Simmons entered into an Employment Agreement pursuant to which the University agreed to employ Simmons as its head Football Coach from December 12, 2017 through and including December 31, 2022 (the “Original Agreement”); and

WHEREAS, on or about January 14, 2021, the University and Simmons entered into the First Amendment to Employment Agreement pursuant to which the University and Simmons agreed to a modification of the Original Agreement occasioned by the COVID-19-induced cancellation of the 2020 football season (the “First Amendment”); and

WHEREAS, the Original Agreement and the First Amendment together are hereinafter referred to as the Consolidated Original Agreement, a true and correct copy of which is attached hereto and made a part hereof as Exhibit “A”; and

WHEREAS, the parties desire to extend the term of the Consolidated Original Agreement and to modify certain other terms thereof.

NOW THEREFORE, for and in consideration of the foregoing, and for other good and valuable consideration, each to the other having been paid, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

- A. The Recitals and the Exhibits to this Second Amendment are hereby incorporated fully herein.
- B. Paragraph 2.1 of the Consolidated Original Agreement shall be amended to extend the termination date from December 31, 2022 to December 31, 2025
- C. The Consolidated Original Agreement is hereby amended as follows:

Paragraph 3.4 is deleted in the entirety and replaced with the following:

3.4 Incentive Compensation (if earned). Subject to the availability of funds, the Coach may receive the following performance incentives for the Program's improvement and exemplary performance (athletic and academic) and no others. Performance incentives will be awarded annually, if earned. Any additional compensation in excess of the annual compensation in accordance with Section 3.1 of this Agreement will be paid from Athletics and shall be subject to the availability of funds. Said incentives shall accrue after attainment of the goal or official announcement of the honor and, subject to the exception set forth in Paragraph 5.7, will be payable only if the Coach remains employed by the University as Head Football Coach on December 31<sup>st</sup> following the event(s) and actively coaches the team as of the date of any of the achievements or honors. Specifically, Football Head Coach Performance Bonuses are as follows:

3.4.1 If the Coach is employed by the University when the Program's Academic Progress Rate ("APR") is reported to the NCAA in any year during the term of this Agreement and the average of the Program's two most recently reported single-year APR is above 950, Coach will receive a bonus fund in an amount totaling \$2,500.

3.4.2 If the Coach wins the annual Florida Classic Contest, Coach will receive a bonus in an amount totaling \$5,000 to be paid from the proceeds of the Florida Classic.

3.4.3 If the Coach wins the annual Orange Blossom Football Classic Contest or a classic contest held in Atlanta, Georgia, Coach will receive a bonus in an amount totaling \$5,000 to be paid from the proceeds of such contest

3.4.5 If the Coach wins the Southwest Athletic Conference (SWAC) Championship, Coach will receive a bonus in an amount totaling \$20,000, to be paid from the proceeds (if any) of SWAC Championship.

3.4.6 If the Coach wins the Celebration Bowl, Coach will receive a bonus in an amount totaling \$100,000 to be paid from the proceeds (if any) of the Celebration Bowl.

3.4.7 If the Coach wins SWAC Conference Coach of the Year, Coach will receive a bonus in an amount totaling \$5,000.

3.4.8 If the Coach wins a football contest against a Division-1 FBS football opponent, the Coach shall receive a \$10,000 bonus to be paid from the proceeds (if any) of such contest.

3.4.9 If the team participates in the FCS Playoffs, Coach will receive a bonus in an amount totaling \$2,500.

The performance incentives shall accrue following the events listed above and shall be payable only if the Coach actively coaches the team as of the date the event listed in 3.4 occurs. Any bonus payable pursuant to this Section 3.4 shall be paid to Coach within forty-five (45) days of becoming payable. This Section 3.4 shall survive termination of this Agreement and any earned performance incentives shall be paid within forty-five (45) days of becoming payable regardless of early termination or in the event the Agreement expires.

D. Paragraph 3.5.3 is deleted in the entirety and replaced with the following:

3.5.3 By May 31 of each year during the term of this Agreement, beginning May 31, 2021, Coach shall meet with Athletic Director to establish the Program's recruiting budget for the next fiscal year.

E. Paragraph 5.7 of the Original Consolidated Agreement is amended to add the following:

In the event that the Coach accepts another coaching opportunity prior to December 31, 2024, then the Coach shall compensate the University according to the following schedule:

- 5.7.1 If Coach accepts a position as a head football coach at any institution of higher education, or with a professional football team, he shall pay, or cause to be paid, liquidated damages to the University in the amount of One Hundred Thousand Dollars (\$100,000.00).
- 5.7.2 If Coach accepts a position as an assistant football coach at any institution of higher education, or with a professional football team, he shall pay, or cause to be paid, liquidated damages to the University in the amount of Fifty Thousand Dollars (\$50,000.00).
- 5.7.3 If Coach accepts a coaching position with any institution of higher learning or with professional football team after December 31, 2024 but before the final football game of the 2025 season, the coach shall pay or cause to be paid liquidated damages to the university in the amount of Fifty Thousand Dollars (\$50,000)

All such amounts shall be paid in a lump sum payment within three months of Coach's acceptance of such coaching opportunity. Notwithstanding anything to the contrary, any amounts payable under this paragraph shall be offset by

any Football Head Coach Performance Bonuses that Coach has attained but which have not yet become payable at the time of Coach's acceptance of another coaching opportunity.

F. Paragraph 7.0 is deleted in the entirety and replaced with the following:

**7.0 SUPPORT STAFF**

Coach will have the ability to recommend the hiring and dismissal of nine (9) assistant coaches, one (1) Director of Football Operations, four (4) graduate assistant coaches, and one (1) administrative assistant dedicated to the Program (collectively "Support Staff"), subject to the approval of the President and the Athletic Director. Employment and discharge of such football assistants shall be affected under relevant Florida Law, Florida Board of Governors' and University rules, regulations, policies and procedures.

G. The remainder of the Consolidated Original Agreement not in conflict with the provisions of this Amendment are hereby restated as if fully set forth herein.

**IN WITNESS WHEREOF**, Simmons and the authorized representatives of University have executed this Agreement as fully executed below.

**FLORIDA A&M UNIVERSITY  
BOARD OF TRUSTEES**

**HEAD FOOTBALL COACH:**

\_\_\_\_\_  
Larry Robinson  
President

Willie R. Simmons  
Willie R. Simmons

Date :

5/18/21  
Date:

Kortne Gosha  
Kortne Gosha  
Vice President/Director of Intercollegiate Athletics

5/17/2021  
Date

Approved as to Form and Legality.

David C. [Signature] 05/17/2021  
FAMU, Office of the General Counsel Date