

## AGREEMENT

This Agreement ("Agreement") is made by and between the BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS ("the University" or "the Board"), acting for the University of Arkansas, Fayetteville's Athletics Department ("UAF"), and the undersigned COACH ("Coach").

### WITNESSETH

WHEREAS, the University and Coach mutually desire to enter into this Agreement to provide stability, certainty, and continuity for the football program in the mutual best interests of the Coach and the institution, including, but not limited to the University's football student-athletes, the football program, the Athletic Department, alumni, fans and supporters of Razorback athletics; and

WHEREAS, the University desires to provide certain incentives to Coach to fulfill the duties and responsibilities of his position throughout the 2012 Football Season (as defined herein); and

WHEREAS, Coach desires to be eligible to receive the incentives offered by the University; and

WHEREAS, the parties mutually desire to enter into this Agreement subject to the terms and conditions herein set forth; and

WHEREAS, the Athletic Department of the University is pleased to be only one of a handful of departments nationally that is self-supporting and does not rely upon appropriated tax dollars or student fees to operate, and the University will meet its obligations under this Agreement with the Athletic Department's self-generated revenues and private funds donated in support of the Athletic Department;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises contained herein, the parties covenant and agree as follows:

1. Longevity Incentive Compensation. Subject to the terms and conditions of this Agreement, Coach shall be eligible to receive an incentive payment equal to 33% of Coach's annual University salary ("Incentive Payment"). Coach's annual University salary is currently \$425,000.00. Accordingly, the amount of the Incentive Payment shall be One Hundred Forty One Thousand Six Hundred Sixty Seven Dollars (\$141,667.00).

(A) Bowl Game. In the event Coach performs his coaching duties and responsibilities through the end of any post-season bowl game or the National Championship Game (whichever game occurs later in time) in which the University's football team participates following the 2012 Football Season (as defined herein), then the University shall pay Coach the Incentive Payment. The Incentive Payment shall be subject to the approval of the Board of Trustees, and the University shall withhold all applicable state and federal taxes as required by

law. The Incentive Payment shall be in addition to post-season compensation in the amount of one (1) month of Coach's annual University salary that the University will provide to Coach for performing his coaching duties and responsibilities for such post-season bowl game or National Championship Game. Post-season compensation will be paid consistent with Board of Trustees Policy No. 1701.1 I.(D), which is incorporated herein by reference.

(B) No Bowl Game. In the event Coach performs his coaching duties and responsibilities through the end of 2012 Football Season (as defined herein) but the football team does not qualify for a post-season bowl game or is not invited to a post-season bowl game, then the University shall pay Coach the Incentive Payment. For purposes of this Agreement, the term "2012 Football Season" shall mean all non-conference and conference football games scheduled and played by the University's football team during the 2012 football season and shall also include the Southeastern Conference ("SEC") Football Championship Game in the event the football team wins the Western Division of SEC (the "2012 Football Season").

(C) Coach Voluntarily Terminates His Employment to Accept Other Employment. In the event Coach performs his coaching duties and responsibilities through the end of the 2012 Football Season and Coach voluntarily terminates and leaves his employment with the University to accept any other employment (whether such employment is athletically related or not) prior to any post-season bowl game or the National Championship Game (whichever game occurs later in time) in which the University's football team participates, then the Athletics Director shall have the sole discretion to determine whether to award the Incentive Payment to the Coach. In exercising his discretion, the Athletic Director may consider, among other factors, the best interests of the football program and the Coach given all circumstances relating to the football program at the end of the 2012 Football Season. The University recognizes that Coach's long-term professional interests may be best served by accepting other employment (whether athletically related or not) after the 2012 Football Season but prior to the football team's participation in a post-season bowl game. Although Coach's decision to accept such other employment shall not automatically disqualify Coach from receiving the Incentive Payment, the Athletic Director, in his sole discretion, shall have the sole right to make the final decision on whether to award the Incentive Payment to the Coach.

(D) Incentive Payment in the Event of Termination for Convenience by the University. In the event the University terminates Coach for convenience after the 2012 Football Season but prior to any post-season bowl game or the National Championship Game (whichever game occurs later in time), the University shall pay the Incentive Payment to Coach.

2. Termination at Convenience of the University. By giving written notice to Coach, Coach covenants and agrees that the University shall have the unilateral right to terminate Coach's employment for convenience for any reason at any time after the completion of the 2012 Football Season. In the event the University exercises its right to terminate for convenience, Coach agrees that the University may, in its sole discretion, either: (A) reassign Coach to a non-coaching position for a period not to exceed three (3) to six (6) months during which Coach will actively seek other employment; or (B) provide Severance Pay (as defined herein) to Coach for a period not to exceed three (3) to six (6) months during which Coach will

actively seek other employment. The source of funds to meet the University's obligation under either of the foregoing options shall be consistent with applicable law, and the University may use private funds donated for such purpose, funds that are self-generated through the activities of the Athletic Department or other legally permissible funds; provided, however, that the University shall not use appropriated taxpayer funds or student fees. Notwithstanding any other term or condition in this Agreement, Coach shall have an affirmative duty of mitigation to diligently seek and accept other employment in the event of Coach's termination for convenience. Additionally, in the event the University exercises its right to terminate for convenience under either option, Coach covenants and agrees that any agreements between Coach and The Razorback Foundation, Inc. ("RFI") shall automatically be null and void without any further action required, and Coach shall not be entitled to any other compensation of any kind or nature from the RFI after the date the University notifies Coach of his termination for convenience.

(A) Reassignment. In the event that the University exercises its right to terminate Coach for convenience after the completion of the 2012 Football Season and to reassign Coach to a non-coaching position, Coach covenants and agrees to carry out to the best of his ability all duties and responsibilities assigned by the Athletic Director or his designee. Coach understands and agrees that Coach's employment with the University shall automatically end no later than six (6) months after Coach is notified of his reassignment (the "Reassignment Period"); provided, however, that the Athletic Director shall have the right, in his sole discretion, to extend the Reassignment Period. During the Reassignment Period, the University shall continue to pay Coach his then current annual University salary as approved by the Board of Trustees in equal monthly installments on the last working day of each month and consistent with the University's standard payroll process.

Coach covenants and agrees that during the Reassignment Period, Coach shall use his best efforts to actively seek and accept other employment as part of Coach's duty of mitigation. If Coach does not locate other employment during the initial three (3) months of the Reassignment Period, Coach shall provide the Athletic Director or his designee with a monthly report of Coach's efforts to locate other employment during the final three (3) months of the Reassignment Period. Coach agrees to notify the Athletic Director or his designee in writing of any job offers Coach receives. Coach understands and agrees that he shall be responsible to accept and start other employment as soon as possible, and Coach agrees not to delay his acceptance or the starting date of other employment. If Coach begins his other employment prior to the end of the Reassignment Period, Coach shall not be entitled to any further compensation of any kind or nature from the University following Coach's final day of work at the University. In consideration for the opportunity to transition and seek other employment during the Reassignment Period, Coach covenants and agrees to execute the Release (as defined and detailed herein).

(B) Severance Pay. Subject to the terms and conditions of this provision and to Coach's duty of mitigation, the University shall pay such Severance Pay (as defined herein) to Coach in equal monthly installments (with any partial months being prorated) on the last working day of each calendar month in the same manner as if Coach had not been terminated for convenience and was being paid his then current University salary. The term "Severance Pay" shall mean

the total amount of all monthly salary payments the University makes to Coach for a period of time not to exceed six (6) months following the date Coach is provided written notice of his termination for convenience.

Coach shall use his best efforts to actively seek and accept other employment as part of Coach's duty of mitigation. If Coach does not locate other employment during the initial three (3) months following the notice of termination, Coach shall provide the Athletic Director or his designee with a monthly report of Coach's efforts to locate other employment during the next three (3) month period. Coach agrees to notify the Athletic Director or his designee in writing of any job offers Coach receives. Coach understands and agrees that he shall be responsible to accept and start other employment as soon as possible, and Coach agrees not to delay his acceptance or the starting date of other employment. As soon as Coach begins any other employment, Coach shall not be entitled to any further Severance Pay or compensation of any kind or nature from the University. In consideration for the Severance Pay and the opportunity to transition and seek other employment, Coach covenants and agrees to execute the Release (as defined and detailed herein).

(C) The Release. As a condition precedent to Coach's reassignment or to receiving any Severance Pay, Coach covenants and agrees to sign a release and waiver agreement (the "Release") discharging the Board of Trustees of the University of Arkansas and its Trustees, officials, representatives, and employees in their individual and official capacities, the University of Arkansas, Fayetteville and its officials, representatives, and employees in their individual and official capacities as well as The Razorback Foundation, Inc. and its officers, directors and employees (collectively, "The Released Parties") from and against any and all claims, causes of action or liabilities of any nature whatsoever in any way arising out of or related to Coach's employment with the University of Arkansas, Coach's termination for convenience, any aspect of Coach's employment with the University or any other issue that Coach raises, might raise or might have raised against any and/or all of The Released Parties, including, but not limited to, the following: any and all claims arising under or relating to any Federal or state constitutions, laws, regulations, common law, or any other provision of law. Coach acknowledges that this provision is a material term of this Agreement, and the University would not enter into this Agreement without Coach's assurance to execute a release and waiver agreement in exchange for being reassigned or receiving the Severance Pay. Coach intends for the University to rely upon this provision in entering into this Agreement.

Coach further covenants and agrees that, regardless of whether Coach has executed a release and waiver agreement as referenced above, any exercise of ownership or control by Coach over any partial or total payment of the Severance Pay (including, but not limited to, accepting or depositing any partial or complete payments of the Severance Pay) or accepting the opportunity to work in a non-coaching capacity during the Reassignment Period shall constitute an act of ratification and/or sufficient and valuable consideration which absolutely and unconditionally forever releases, discharges and waives any and all alleged liability of any of The Released Parties from and against any and all claims of any nature whatsoever (including, but not limited to, any and all claims arising from or relating to any Federal or state constitutions, laws, regulations, common law, or any other provision of law) relating to or arising out of Coach's employment at the University of Arkansas, and Coach's termination for

convenience of the University for any and all such claims which arise or may have arisen between the period beginning on the date of Coach's initial employment and the date of Coach's termination for convenience.

If the University terminates Coach for convenience and Coach files a lawsuit against any or all of The Released Parties, then Coach shall not be entitled to be reassigned or to receive any Severance Pay. If Coach or any person acting for Coach makes any threat or initiates any litigation against any of The Released Parties, then Coach covenants and agrees to repay all Severance Pay received by Coach to the University.

3. Dismissal for Cause. Coach may be dismissed for cause under procedures set forth hereinafter for any of the following reasons:

- (A) Knowing participation in significant or repetitive violations of the NCAA or SEC constitution, by-laws, rules, regulations, or interpretations thereof by the NCAA or SEC;
- (B) Authorizing or knowingly failing to report a major violation of the NCAA or SEC constitution, by-laws, rules, regulations, or interpretations thereof by the NCAA or SEC which involves or relates to the institution and/or any of its personnel and/or any "representatives of the institution's athletics interests" within a reasonable amount of time of his learning of such violation;
- (C) Conviction of a crime under federal or state law, excluding minor traffic offenses;
- (D) Prolonged absence from duty without the consent of the Athletics Director or his designee;
- (E) Engaging in unreasonable conduct in willful disregard for the welfare and safety of University student-athletes, including failure to adhere to the NCAA principle of student-athlete well being;
- (F) Otherwise engaging in conduct, as solely determined by the University, which is clearly contrary to the character and responsibilities of a person occupying Coach's position or which negatively or adversely affects the reputation of the University or University of Arkansas, Fayetteville's athletics programs in any way.

The procedures for dismissal for cause shall be as follows. In the event the Athletic Director believe there are grounds to terminate for cause, the Athletic Director shall discuss those reasons with Coach in person. If after such a discussion, the Athletic Director determines to proceed with a termination for cause, then the Athletic Director shall put the reasons for the termination in writing. Coach shall then have the right to present a written appeal to the

Chancellor and shall provide a copy of the appeal to the Athletic Director. If desired, the Athletic Director shall have the option to provide a written response to Coach's written appeal, and the Coach may submit a written reply to any additional response by the Athletic Director. The Chancellor shall review the termination letter, Coach's written appeal, any written response to the appeal prepared by the Athletic Director, any further reply by Coach, and any other documents forming the basis for the decision to terminate. At Coach's request, the Chancellor shall conduct an in person meeting with Coach. Following consideration of the written record and any in person meeting with Coach, the Chancellor shall issue a written decision on whether to uphold the decision to terminate for cause. The Chancellor's decision shall be provided to Coach and the Athletic Director and shall be final.

4. Other Disciplinary Action. The University may take other disciplinary or corrective action short of dismissal for cause in the event of the occurrence of any act or event which could be grounds for dismissal for cause under this Agreement; for failing to report a secondary violation by any person of the NCAA or SEC constitution, by-laws, rules, regulations or interpretations thereof by the NCAA or SEC, within a reasonable amount of time of his learning of such violations; or engaging in conduct which is clearly contrary to the character and responsibilities of his position. Other disciplinary or corrective action may include, but is not limited to, the following: suspension for a period of time without pay; reduction of salary and incentive compensation; or other disciplinary or corrective action as determined in the University's sole discretion.

5. Liquidated Damages. Coach covenants and agrees that the University is committing substantial financial resources to the success of its football program for the 2012 Football Season and that if Coach terminates this Agreement, to accept any other employment prior to the completion of the 2012 Football Season, then the University will suffer damages the amount, nature and extent of which is difficult to determine and which may include, but not be limited to, additional expenses to search for and employ another Coach, salary or other compensation to hire another Coach, tangible and intangible detriment to the University's football program and the support of its fans and donors. Accordingly, if Coach terminates his employment with the University to accept any other employment (whether athletically related or not) prior to the completion of the 2012 Football Season, Coach agrees to pay the University liquidated damages in an amount equal to the Incentive Payment. The parties covenant and agree that the amount of liquidated damages required to be paid to the University hereunder is fair and reasonable. In consideration of payment of the liquidated damages, the University will release Coach from any further obligations under this Agreement and will also release Coach's new employer, from any claims or actions that the University might have against such employer. Likewise, Coach shall release the University, its trustees, officers, representatives and employees from any claims or action Coach has, might have or might claim to have.

6. Covenant Not to Compete. The parties covenant and agree that the University is a member of the Southeastern Conference ("SEC") and competes against other SEC member institutions for students, faculty, and staff. Additionally, the parties covenant and agree that the University's football program competes against other SEC member institutions for prospective student-athletes, financial support, and prestige. The parties further covenant and agree that the competitiveness and success of the University's football program affects the

overall financial health and welfare of the Athletics Department and that the University maintains a vested interest in sustaining and protecting the well-being of its football program, including, but not limited to the recruitment of prospective student-athletes to the institution and the financial integrity of its athletics programs. To avoid harming the University's interests, Coach covenants and agrees that this covenant not to compete shall be in full force and effect during the 2012 Football Season and shall survive Coach's decision to terminate his employment with the University prior to the completion of the 2012 Football Season for any reason whatsoever. Coach and/or any individual or entity acting on Coach's behalf, shall not seek or accept employment in any coaching capacity with any other member institution of the SEC. This covenant not to compete, however, shall not apply if the University exercises its right to terminate Coach for convenience or for cause. In addition to the covenant not to compete in the SEC, Coach agrees that he (or any person or entity acting on his behalf) shall not actively seek any other employment without first obtaining permission from the Athletic Director, such permission not to be unreasonably withheld.

Nothing contained in this Agreement shall be deemed, construed or operate as a waiver of the University's sovereign immunity or any immunity to suit available to any members of the Board of Trustees or any University officials, employees or representatives. In the event of a breach or threatened breach of this provision, the University shall be entitled to injunctive relief as well as any other applicable remedies at law or in equity. Coach understands and agrees that without such protection, the University's interests would be irreparably harmed, and that the remedy of monetary damages alone would be inadequate. This covenant not to compete shall be independent of any other provision of this Agreement, and the existence of any claim or cause of action by Coach against the University, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of this provision by the University.

7. Death of Coach. This Agreement shall terminate automatically in the event of Coach's death.

8. Severability. If any provision of this Agreement or any amendment hereto is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable. The unenforceability or invalidity of any provision, however, shall not affect any other provision of this Agreement or any amendment hereto, and this Agreement and any amendments hereto shall continue in full force and effect, and be construed and enforced as if such provision had not been included, or had been modified as above provided, as the case may be.

9. Non-Assignment. Neither party may assign this Agreement without the prior written consent of the non-assigning party, except that the University may assign this Agreement in the event of a merger or reorganization of the University.

10. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the policies of the Board of Trustees of the University of Arkansas and the laws of the State of Arkansas without regard to its choice of law principles. Notwithstanding any other provision of this Agreement, nothing contained in this Agreement shall be deemed, construed or operate as a waiver of the sovereign immunity of the University or any

immunities to suit available to the members of the Board of Trustees or any University officials, employees or representatives.

11. Binding Effect. This Agreement binds and is for the benefit of the University and its successors, assigns and legal representatives and of Coach and his heirs, assigns, and personal representatives.

12. Notices. All notices, requests, demands, and other communications permitted or required by this Agreement will be in writing, and either delivered in person; sent by overnight delivery service providing receipt of delivery; or mailed by certified mail, postage prepaid, return receipt requested, restricted delivery to the other party. Any notice sent by hand delivery or by overnight courier will be deemed to have been received on the date of such delivery. Any notice sent by mail will be deemed to have been received on the third business day after the notice will have been deposited in the mail. All such notices and communications, unless otherwise designated in writing, will be sent to:

If to University: Vice Chancellor and Athletics Director  
P.O. Box 7777  
University of Arkansas  
Fayetteville, AR 72702

If to Coach: Paul Petrino  
P.O. Box 7777  
Fayetteville, AR 72702

Either party may amend his or its address for giving notice by providing written notice of any new address to the other party.

13. Headings and Recitals. The paragraph headings contained in this Agreement or any amendment hereto are for reference purposes only and will not affect in any way the meaning or interpretations of this Agreement. The Recitals set forth at the beginning of this Agreement shall be treated as substantive provisions of this Agreement and construed in harmony with the other terms and conditions herein contained.

14. Authority. Each party warrants and represents that he or it has the full right, power and authority to enter into this Agreement and make the agreements in this Agreement.

15. Entire Agreement and Amendment. This Agreement contains the entire agreement between the parties and supersedes any prior or contemporaneous agreement or representation, oral or written, between them. This Agreement may not be modified or changed except by a written instrument signed by both parties and agreed to by the Athletics Director and the Chancellor. Each party represents and warrants that it has not been influenced by any person to enter into this Agreement, nor relied on any representation, warranty, or covenant of any person except for those representations, warranties, and covenants of the parties set forth in this Agreement. The failure of either party to require performance by the other party of any provision of this Agreement or any amendment hereto shall not be deemed to subsequently affect the

party's rights to enforce a provision hereof. A waiver of a breach of any provision of this Agreement or any amendment hereto is not a waiver of any other breach of the provision or waiver of the provision.

Each party agrees: (a) that it will be unreasonable for either party to have or rely on any expectation not contained in the provisions of this Agreement or any amendments hereto; (b) that if either party has or develops an expectation contrary to or in addition to the provisions of this Agreement as the same may be amended from time to time, such party shall have a duty to immediately give notice to the other party; and (c) that if either party fails to obtain an amendment to this Agreement, as the same may be amended from time to time, after having developed an expectation contrary to or in addition to the provisions of this Agreement, such failure will be an admission for evidentiary purposes in any litigation that the expectation was not reasonable and was not part of the final binding Agreement between the University and Coach. The course of dealing between the University and Coach will not modify or amend this Agreement or any amendment hereto in any respect.

16. Time. Time is of the essence with regard to the performance of all aspects of this Agreement.

17. Mutual Drafting. The parties covenant and agree that the rule of construction that ambiguity is construed against the drafting party shall have no application in any dispute over the interpretation of this Agreement.


18. Independent Judgment. The parties represent and warrant to one another that this Agreement is entered into based on each party's independent analysis, with the advice of counsel if so desired, of the facts and legal principles relevant to the terms and conditions of this Agreement.


19. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement. Faxed or PDF signature pages shall be binding upon the parties provided that the original signature pages are exchanged within a reasonable period of time after their execution.

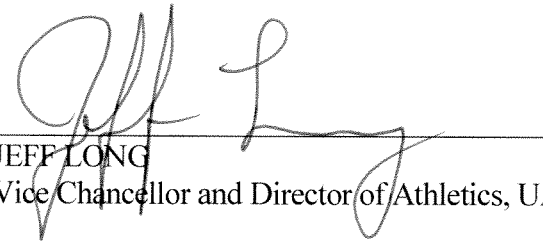
20. Disclosure of Agreement. Coach agrees that the University may release, without prior notice to Coach, a copy of this Agreement and any amendments to the Agreement, to any individual requesting a copy under the Arkansas Freedom of Information Act. As soon as practical after releasing the Agreement and/or any amendments to the Agreement, the University shall provide Coach with a copy of the request.

IN WITNESS WHEREOF, the parties hereto set their hands on this 14<sup>TH</sup> day of May, 2012, to be effective immediately.

BOARD OF TRUSTEES OF THE  
UNIVERSITY OF ARKANSAS, acting  
for the UNIVERSITY OF ARKANSAS,  
FAYETTEVILLE'S ATHLETICS  
DEPARTMENT

By:   
G. DAVID GEARHART  
Chancellor, UAF

By:   
Paul Petrino  
Offensive Coordinator

By:   
JEFF LONG  
Vice Chancellor and Director of Athletics, UAF