



Item: XIV.

Wednesday May 28, 2008

**SUBJECT:** New Business – Approval of Men’s Basketball Head Coach Contract

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**PROPOSED BOARD ACTION**

Approve an employment contract with Michael D. Jarvis, Sr., for the position of Florida Atlantic University Men’s Basketball Head Coach.

**BACKGROUND INFORMATION**

The position of Men’s Basketball Head Coach recently became open. The Athletics Department conducted an extensive search to fill the position, including interviewing multiple candidates on campus. Athletics Director Craig Angelos has determined that the best qualified candidate is Michael D. Jarvis, Jr. Mr. Jarvis meets all of the criteria for the position.

Mr. Jarvis will assume overall responsibility for all aspects of the Men’s Basketball Program, subject to the oversight of the Athletics Director. The university has negotiated with Mr. Jarvis a proposed employment contract that prescribes his rights and responsibilities consistent with industry standards for NCAA Division I men’s basketball programs.

Pursuant to the Board’s Operations Policies and Procedures, any employment contract that contains severance, termination, or separation from employment provisions inconsistent with the University’s Personnel Regulations must be approved by the Board. Mr. Jarvis’ proposed employment contract contains termination provisions that vary from the University’s Personnel Regulations by (1) adding specific actions that may constitute cause for dismissal and (2) adding a right of appeal to the President for any termination. Mr. Jarvis’ proposed employment contract contains severance provisions that vary from the University’s Personnel Regulations by providing him up to one year’s base salary if he is terminated without cause.

**IMPLEMENTATION PLAN/DATE**

The contract would be signed immediately upon Board approval, and Mr. Jarvis’ employment would commence May 29, 2008 and terminate May 28, 2012, unless otherwise amended.

**FISCAL IMPLICATIONS**

Mr. Jarvis will be paid an annual base salary of one hundred seventy-five thousand dollars and no cents (\$175,000.00). Mr. Jarvis is eligible for a five percent (5%) annual raise if specified levels of funds are available in the Florida Atlantic University Foundation’s Men’s Basketball Excellence Fund. Mr. Jarvis is also eligible for certain annual bonuses if ticket sales revenues

exceed budgeted amounts or if the team achieves certain performance benchmarks. All funds for Mr. Jarvis' salary and benefits will come from the University's Athletics budget.

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Supporting Documentation:

Proposed Employment Contract

Presented by: Craig Angelos

Phone: 561-297-4434

**FLORIDA ATLANTIC UNIVERSITY  
HEAD COACHING AGREEMENT  
(Men's Basketball Program)**

This Head Coaching Agreement ("Agreement") is made by and among the Florida Atlantic University Board of Trustees ("University" or "FAU"), a public body corporate of the State of Florida, and Michael D. Jarvis, Sr. ("Coach") (collectively the "Parties") as follows:

**1. PURPOSE.** It is the purpose of this Agreement, which is based upon the mutual intent of the Parties, for Coach to serve as the head coach for the University's Men's Basketball Program ("Program"). It is further the intent of the Parties that the Coach will be responsible for administering all aspects of the Program, subject to the oversight and supervision of the University's Athletic Director, and will consult with the University's National Collegiate Athletic Association ("NCAA") Compliance Officer in developing and maintaining the University's Program in compliance with the regulatory criteria of the NCAA and the Sun Belt Conference or other successor conference ("Conference") (collectively the "Athletic Requirements"), and the University's regulations and policies.

**2. COACH'S REPRESENTATIONS.** Coach warrants and represents to the University the following:

- A. He has the necessary knowledge, skills, qualifications, and experience to serve as the head coach of the University's Program.
- B. He is legally competent and able to enter into this Agreement and there exists no conflicting obligations or agreements with another college, university, or other individual or entity that prevents him from entering into this Agreement and fully performing the duties required by this Agreement.
- C. He is familiar with and shall comply with all Athletic Requirements regarding the University and his coaching responsibilities. Coach further acknowledges and agrees that he must become familiar with and shall comply with all the University's regulations and policies regarding his employment and the University regulations and policies applicable to the student athletes under his direction.
- D. He has fully disclosed to the Athletic Director and the University's NCAA Compliance Officer: 1) any and all past investigations of alleged violations of Athletic Requirements in which he has been involved directly, indirectly, as a witness or in some other capacity; 2) any lawsuits filed against him in his official or personal capacity arising out of any of his prior employment relationships; or 3) any and all instances in which he was investigated for misconduct related to the performance of his employment, including any alleged inappropriate misconduct involving former co-workers or the student athletes under his direction.

**3. TERM OF AGREEMENT.** The Parties agree that Coach will serve as the head coach of the University's Program for a term of four (4) years, commencing May 29, 2008, and ending May 28, 2012, unless this Agreement is otherwise modified or terminated by the Parties in accordance with the requirements set forth in this Agreement. Coach hereby accepts such employment on the terms and conditions set forth in this Agreement. This appointment shall be subject to prior termination as provided for in this Agreement and to the availability of annual appropriations by the Florida legislature.

**4. DUTIES.** Coach agrees that throughout the term of this Agreement he will devote his full time efforts and abilities for the exclusive benefit of the University and serve as the head coach of the Program. Coach's duties and obligations shall include, but not be limited to, the following requirements:

- A. Coach acknowledges and agrees that he must abide by any and all applicable Athletic Requirements and University regulations and policies relating to the conduct, administration and control of the Program as it is now constituted or as it may develop in the future. Coach acknowledges and agrees that he is responsible for the day-to-day operations and administration of the Program; the fiscally-responsible management of staff, budget and other resources; the hiring, management, and termination of assistant coaches, Program operations director, and Program administrative staff necessary and appropriate to assist Coach in meeting his responsibilities hereunder; and developing and implementing the Program's annual budget, subject to the Athletic Director's approval. Coach may also provide the Athletic Director a written annual evaluation of the strength and conditioning coach and academic advisor assigned to work with the Program, which the Athletic Director may consider at his discretion. Coach agrees to attend all required University meetings; to exercise fiscal integrity at all times; and to ensure that he and all assistant coaches show the utmost respect for all University students, faculty and staff and that Coach and his assistant coaches conduct themselves in a manner that positively represents the University and its educational mission.
- B. Coach acknowledges and agrees that if at any time during this Agreement that he becomes aware, or has reasonable cause to believe, that any player or coach of any of the University's athletic programs, or any University student, faculty, staff member, agent or any outside individual who reportedly is acting on behalf of the University has violated, or allowed or caused to be violated, any Athletic Requirements or University regulations or policies, or if Coach receives notice or information that the NCAA or the Conference intends to investigate or review any alleged violations of the Athletic Requirements of one of the University's athletic programs, or if Coach receives notice or information that any state or federal law is alleged to have been violated by any player or coach of any University athletic program, he must immediately report his knowledge or belief of the situation to the Athletic Director and the University's NCAA Compliance Officer.
- C. Coach acknowledges and agrees that he or any coach under his direction who is found to have violated applicable Athletic Requirements or University regulations or policies regarding required conduct may be subject to disciplinary or corrective action up to and including suspension without pay or termination of his or her employment.
- D. Coach acknowledges and agrees that he and all individuals under his direction, including assistant coaches, administrative personnel and student athletes in the Program, must cooperate with and support the University's faculty and administration in meeting the educational mission of the University. The University has primary responsibility and places a high priority on the academic success of its student athletes, and Coach agrees to support this objective by using his best efforts to ensure all classroom attendance, study table, grade point average, and graduation requirements are met by the student athletes under his direction, and agrees to coordinate and cooperate with any academic advisor designated to work with the individual student athletes. Coach acknowledges and agrees that he is responsible for the Program maintaining the minimum Academic Progress Rating required of Division I men's basketball programs by the NCAA.

- E. Coach acknowledges and agrees that his responsibilities also include, without limitation: (i) the maintenance and cultivation of effective relations with the governing boards, associations, conferences, committees, institutional alumni, the media, the public, students, faculty, staff and friends of the University with respect to the Program; (ii) teaching the mechanics and techniques of basketball to team members, coaching and recruiting student-athletes, overseeing daily practices, analyzing and instructing student-athletes in areas of deficiency; (iii) making fundraising appearances for the University's athletic department at least fifteen (15) times a year, as designated by the Athletic Director, (iv) performing all other duties customarily performed by a head basketball coach of commensurate rank serving other NCAA member institutions; and (v) performing such other duties as assigned by the Athletic Director and/or his designee consistent with Coach's position as Head Coach for the University's Men's Basketball Program.
- F. Coach acknowledges and agrees that he will assume primary responsibility, subject to the Athletic Director's approval, for developing the yearly basketball schedule and meeting institutional and conference goals, including an ongoing commitment to review the Program's scheduling model to increase Conference compatibility. To help off-set expenses for the University's athletic department, the Program will be required to play a sufficient number of games to generate at least \$155,000 in guaranteed game revenues for the 2008-09 season, with a minimum guarantee increase of five percent (5%) each year thereafter. Each season, fifty percent (50%) of all guaranteed game revenues exceeding the minimum required guarantee revenue amount (i.e., \$155,000 for the 2008-09 season) shall be deposited into the University Foundation's men's basketball Excellence Fund.

## **5. COMPENSATION & OTHER BENEFITS.**

- A. Annual Salary. Under the terms of this Agreement, Coach will be entitled to an annual base salary in the amount of one hundred seventy five thousand dollars and 00/100 cents (\$175,000.00), subject to appropriate deductions for taxes and benefits pursuant to regular University payroll practices, together with any and all non-salary employment benefits regularly provided to Administrative, Management and Professional (AMP) employees by the University and the State of Florida, subject to the availability of funds in the University's athletic department's annual budget or the University Foundation's men's basketball Excellence Fund. Coach will be entitled to a five percent (5%) increase in his annual base salary on June 30, 2009 if the balance in the University Foundation's men's basketball Excellence Fund exceeds twenty-five thousand dollars (\$25,000.00) on that date. Coach will be entitled to additional five percent (5%) increases in his annual base salary if the balance in the men's basketball Excellence Fund exceeds twenty-seven thousand five hundred dollars (\$27,500.00) on June 30, 2010, and thirty thousand two hundred fifty dollars (\$30,250.00) on June 30, 2011.
- B. Business Vehicle. For the period that Coach is head coach of the Program, the University will provide an automobile for the use of Coach. The business and personal use of the automobile will be reported monthly to the office of the University's Vice-President for Financial Affairs in a format determined by that office. The personal use of such automobile will be valued according to guidelines of the Internal Revenue Service and reported as income to Coach. Coach shall be required to pay expenses of maintenance, operation, fuel and insurance of the vehicle.

- C. Performance Incentives. When the coaching efforts of Coach result in the University team being recognized in any of the following ways with respect to the Program, Coach will be paid a one-time lump sum Performance Incentive pursuant to regular University payroll practices in the amount indicated:
- |   |                    |
|---|--------------------|
| a. Winning the Conference Championship:   | \$5,000.00         |
| b. Winning the Conference Coach of the Year:  | \$2,500.00         |
| c. Winning the National Coach of the Year:  | \$10,000.00        |
| d. Winning the Conference Tournament and receiving an automatic bid to the NCAA Tournament: | \$15,000.00        |
| e. Receiving an at-large NCAA Tournament Bid:   | \$10,000.00        |
| f. Winning a first, second or third round NCAA Tournament game:                             | \$10,000.00 (each) |
| g. Appearing in an NCAA Tournament Final Four game:   | \$15,000.00        |
| h. Appearing in the NCAA Tournament Championship game:                                      | \$20,000.00        |
| i. Winning the NCAA Tournament Championship:  | \$25,000.00        |
| j. Receiving an invitation to the NIT:  | \$5,000.00         |
| k. Appearing in an NIT Final Four game:   | \$10,000.00        |
| l. Receiving a top 10% NCAA APR recognition:  | \$7,500.00         |
| m. Receiving a top 25% NCAA APR recognition:  | \$5,000.00         |
- D. Ticket Sales Incentives. If Program ticket sales exceed 40,000 tickets sold for the 2008-09 season, Coach shall be entitled to a one-time lump sum bonus amount equivalent to ten percent (10%) of the dollar amount by which ticket sales net revenue exceeds the athletics department's annual budget goals for Program ticket sales net revenue. A similar formula will be used for each successive year of the Agreement, based on the budgeted goals of the Program's ticket sales net revenue established by the athletic department each year.
- E. Complimentary Tickets. Coach shall receive twenty (20) complimentary tickets to each Program home game. Assistant coaches in the Program shall receive six (6) complimentary tickets to each Program home game. These ticket allocations shall also apply to any post-season Program home games. Coach shall be provided the opportunity to purchase at face value up to forty (40) tickets allotted to the University for any post-season Program games. Coach shall be provided upon request up to six (6) complimentary tickets to each home game for all other University athletics teams.
- F. Assistant Coaches and Staff Salary. Coach shall be provided with a salary pool of \$180,000.00 per year for assistant coaches and Program support staff. Annual increases shall occur subject to the availability of funds in the University's athletics department's annual budget or the University Foundation's men's basketball Excellence Fund. Moving expenses of Program assistant coaches shall be paid by the University according to the University's moving expense policy, but in no event more than ten percent (10%) of the individual assistant coach's base salary.
- G. Athletic Products. Coach shall receive \$1,000.00 in retail Nike gear as part of the University's athletic department-wide arrangement. Assistant coaches shall receive \$500.00 in retail Nike gear as part of the University's athletic department-wide arrangement.

- H. Travel. The University shall provide travel and accommodations for Coach's wife to attend any University Conference tournament and NCAA tournament games. Provisions for assistant coach spouses to attend tournament games and for Coach's wife to attend regular season road games shall be subject to space and funding availability. Where feasible, travel arrangements for the team shall be made available for Coach to purchase for his wife at the rate charged the University, subject to availability from third-party providers. All travel shall be provided in accordance with Sections 112.061, Florida Statutes, processed in accordance with the University's travel policies and regular payroll practices, and reported as income to the Coach (or applicable assistant coach).
- I. Cell Phones. Cell phone services (or reimbursements) will be provided by the University for Coach and his assistant coaches in the reasonable discretion of the University and in accordance with existing University policy.
- J. NABC Convention. Coach and his assistant coaches shall be permitted to attend the NABC Convention every year, subject to the availability of funds in the University's athletics department's annual budget.

**6. OUTSIDE ACTIVITIES**. Coach acknowledges and agrees that the performance of coaching duties of Program is his primary responsibility to the University, and further agrees that he will not engage in other activity that may reflect detrimentally on or adversely affect the reputation of the University or that is in conflict with the Coach's primary responsibilities as head coach of the Program or with the University's interest or educational mission. Further, Coach acknowledges and agrees he must obtain prior written approval of the Athletics Director before engaging in any outside employment or other non-paid activities other than Coach's responsibilities to the University. Coach shall annually report outside employment for compensation, including all athletically-related income and benefits from sources outside the University and the time spent on all outside employment, through the Athletic Director to the President. The report shall include a detailed accounting of all income over Five Hundred Dollars (\$500.00) received by Coach for participation in any athletically-related activities. The date by which such reports must be submitted shall be determined by the University. Coach shall effectively communicate to outside employers that any approved outside employment is Coach's responsibility and that Coach does not act as an agent or representative of the University in such outside employment. University facilities, property, staff, or team images shall not be used in such outside employment except with permission of the Athletic Director, and payment of appropriate fees may be required. Under no circumstances shall the University guarantee any such outside employment. All outside employment shall be independent of Coach's employment at the University, and the University shall have no responsibility or liability for claims arising therefrom. In the event University dismisses Coach or terminates this Agreement, regardless of the reason or timing of such action, Coach acknowledges and agrees that he shall have no claim or cause of action against University or its guarantors for loss of any contract or income Coach may have otherwise received from outside employment

- A. Additional Forms of Compensation or Benefits. The following additional forms of compensation or benefits are permitted, if conducted in compliance with this Agreement, the law, Athletic Requirements and University regulations and policies:
  - a. Income from annuities;
  - b. Sports camps (see subsection 6C below);
  - c. Television and radio programs (see subsection 6B below);

- d. Endorsement or consultation contracts with athletic shoe, apparel or equipment manufacturers;
  - e. Affiliation with other sports groups or teams (e.g., coach of a national team).
- B. Coach's Shows. Coach shall have the opportunity to implement a radio and/or television show, subject to reasonable University approval and sponsor-related restrictions, and retain revenues in conjunction with the University's athletics' marketing company.
- C. Sports Camps and/or Clinics. Coach has the opportunity to conduct sports camps and/or clinics related to his particular sport on the University's campus for at least two (2) weeks each summer, subject to availability and the University's facilities use policies. Such sports camps/clinics, while independent of Coach's direct employment with the University, shall be conducted as follows:
  - a. For any sports camp or clinic conducted by Coach on the University campus or property or at any other site using the University's name, he agrees that he will be solely responsible for any taxes or expenses and liability incurred in operating such camps and/or clinics, and provide the Athletic Director and/or the University's NCAA Compliance Officer with proof of full liability insurance, including workers' compensation insurance, or any other insurance that may be required by law no later than seventy-two (72) hours prior to the start of any sports camp/clinic. Such insurance must specifically provide coverage in an amount not less than \$1,000,000.00 per incident for the University, the Board of Governors, the State of Florida, and any of their officers, employees, or agents, or the successors of any and each of them, against any and all claims or exposure which may result from any camp and/or clinic activities. Coach further agrees to indemnify and hold the University, the Board of Governors, the State of Florida, and any of their officers, employees, or agents, or the successors of any and each of them, harmless from any liability which may result from any camp and/or clinic activities, including any attorney's fees and costs which might be incurred as a result of any legal action.
  - b. Prior to the start of any camp/clinic Coach agrees to perform any and all necessary background checks regarding any individual who will be working at the camp/clinic in accordance with Florida law. Coach acknowledges and agrees that the failure or inability to provide proof of insurances or the background checks required by this Agreement no later than seventy-two (72) hours prior to the start of any camp/clinic will constitute grounds for the University to withdraw authorization for the use of its name and facilities until proof of insurance or completed background checks are provided.
  - c. Coach has the right to use any registered or unregistered University logo(s) or mark(s) for the marketing, advertising or promotional materials for any camp activity in which he is the primary participant or with which he is affiliated. Such usage is provided without charge to the Coach and may not be transferred to any third party or entity. Use of any registered or unregistered University logos or marks must be approved in writing by the Athletic Director or his designee. Upon approval Coach agrees that he will use any registered or unregistered University logos or marks in accordance with University policies and any licensing agreement between the University and its outside intercollegiate athletics licensing entity. Coach will be solely responsible for any tax consequences or obligations resulting from the use of the University's name, registered or unregistered service marks and/or logos, and any University facility or field.



d. Coach agrees to provide an annual financial statement to the Athletic Director and/or the University's NCAA Compliance Officer within thirty (30) days of the end of camp. Coach further agrees that the University will have the right to audit business records of the camp(s) upon ten (10) days written notice to Coach of its intent to do so.

**7. SOLICITATION OF GIFTS.** Coach may not solicit or accept personal gifts of 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 its Code of Ethics.

**8. TERMINATION OF EMPLOYMENT & OTHER DISCIPLINARY ACTIONS.** The Parties agree and acknowledge that the services Coach will provide as head coach of the University's Program are the essence of this Agreement. The Parties recognize that except as provided herein, separation of the Coach's employment is governed by the University's regulations and policies.

A. Prohibited Activities. Notwithstanding the University's regulations and policies, the following is a non-exclusive list of prohibited activities for a coach to engage in which if violated may lead to discipline for the Coach, including but not limited to suspension for a period of time with or without pay or termination of employment and this Agreement for cause:

- a. Failure or refusal by Coach to comply with any of the terms of this Agreement, neglect by Coach of any of the duties required by this Agreement, an unwillingness to perform such required duties to the best of Coach's ability, or other breach of this Agreement;
- b. Any violation by Coach of the Athletic Requirements, or failure to timely and accurately respond to any reasonable requests or inquiries by the NCAA, the Conference, the University or any other governing body concerning or related to the supervision of the Program or any other college or university athletic program with which Coach may have been involved in the past;
- c. Directing or otherwise instructing any coach, student athlete, or any other individual to fail or refuse to respond to, or personally failing or refusing to respond or provide information or documents in response to any reasonable requests or inquiries by the NCAA, the Conference, the University or any other governing body concerning or related to the Program or any other college or university athletic program with which Coach may have been involved in the past;
- d. Failure or refusal by Coach to report immediately to the Athletic Director and/or the University's NCAA Compliance Officer when Coach knows, or should have known or has reasonable cause to believe, any of the following events have occurred, or are about to occur:
  - (1) Any member of the Program 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;

- (2) The NCAA or the Conference intends to investigate or review any alleged violations of Athletic Requirements by the Program or any other University sports program;
- (3) 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 Coach has, or may have, violated, or allowed or caused to be violated, any Athletic Requirements, law or University regulation or policy;
- (4) Any fraud or dishonesty by the Coach 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, the NCAA, or the Conference pertaining to recruits or student athletes, transcripts, eligibility forms, compliance reports, financial or expense reports, or any other document pertaining or related to any sanction of the Program;
- (5) 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;
- (6) 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 in a manner which is prohibited by Law or by the Athletic Requirements, or failure or refusal to fully participate and cooperate in the University's implementation and enforcement of any drug/alcohol testing program; or
- (7) Any conduct by the Coach which violates any law or University regulations or policies, or which results in a plea of guilty or nolo contendere by Coach for any crime (except for minor traffic offenses), conviction of Coach for any crime (except for minor traffic offenses) or in which adjudication was withheld by the Court for any crime (except for minor traffic offenses), failure to fully and accurately report all additional sources of income in accordance with Law, Athletic Requirements, and University Rules, or any other conduct of the Coach which in the sole judgment of the University reflects adversely on the University or impairs its operations or the fulfillment of its educational mission, including but not limited to information that the Coach was found to have violated Athletic Requirements at any previous college or university.

B. Termination Obligations.

a. In the event this Agreement is terminated by the University for cause, Coach's employment with the University shall cease, Coach shall be entitled to one month's base salary and Coach shall not be entitled to any further compensation or benefits whatsoever except as required by law.

b. In the event this Agreement is terminated by Coach for cause or by the University without cause, Coach's employment with the University shall cease and Coach shall be

entitled to payment of his Annual Salary set forth in Section 5A above for one year or the remaining term of this Agreement, whichever is less. Such payment shall be made in one lump sum no later than 120 days after the effective date of termination. 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 the purposes of clarification, in the event this Agreement is terminated by Coach for cause or by the University without cause in the first or second year of this Agreement, the payment due to Coach from University shall be one year's salary.

c. In the event this Agreement is terminated by Coach without cause, Coach's employment with the University shall cease and Coach shall pay to the University: (i) \$300,000, if terminated during the first year of the Agreement; (ii) \$200,000, if terminated during the second year of the Agreement; or (iii) \$200,000 or Coach's annual base salary, whichever is less, if terminated during the third 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.

d. For the purposes of this Agreement, "cause" shall be defined as any act or omission that amounts to neglect of Coach's duties, grave dishonesty, conduct unbecoming a head coach, 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, specifically including without limitation those activities prohibited in Section 8A above. "Cause" is further defined to include any reckless or knowing act or omission that is illegal, fraudulent or involves moral turpitude or the inability of Coach to perform the duties set forth in this Agreement.

C. 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 which could be grounds for termination for cause or for any act or omission short of a grounds for termination for cause, including without limitation minor or nonmaterial violations of any Athletic Requirements 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, suspension with pay for up to ninety (90) days (extendable an additional thirty (30) days upon written notice), or other disciplinary or corrective action which may be authorized by University regulations or policies or the provisions of the NCAA enforcement procedures.

D. Notice and Appeal. In the event the Athletics Director determines that suspension without pay or termination for cause is warranted, the Athletics Director will provide Coach with written notice of the basis for his determination. Within five (5) business days of receipt of such notice, Coach may submit a written appeal of the Athletics Director's decision to the University President. The University President may request further information from Coach, the Athletics Director, or any other source, and may take such further action in consideration of Coach's appeal as he or she determines in his or her sole and absolute discretion. The University President shall provide Coach written notice of his or her disposition of Coach's appeal. The University President's decision shall constitute the University's final action with respect to any such appeal.

**9. SEVERABILITY.** If, for any reason, any portion of this Agreement is held invalid or unconstitutional by any court of 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.

**10. 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 result of any actual or consequential loss of the Parties which might result from the termination of this Agreement. 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 resulted from Coach's position at the University; loss of camp, clinic or other outside activity fees; loss of expected income; or other damages which may allegedly be sustained for any alleged humiliation or defamation resulting from any termination of this Agreement or any statements or documents which may be released to the press or public as a result thereof or the release of any documents required by law. Coach agrees and acknowledges that he will have no right of injunctive relief.

**11. 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.

**12. SOVEREIGN IMMUNITY.** The Parties expressly agree and acknowledge 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 offices, employees, or agents by federal or state law.

**13. 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.

**14. JURISDICTION AND VENUE.** The Parties agree that this Agreement is entered into and shall be performed primarily with Palm Beach County, Florida and that any court of competent jurisdiction located in Palm Beach County, Florida will be the appropriate venue and jurisdiction for the resolution of any dispute arising from this Agreement.

**15. PERSONAL CONTRACT.** The rights, obligations and duties of Coach 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 based upon this Agreement.

**16. 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 Coach 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 Coach.

**17. TOTALITY OF AGREEMENT.** This Agreement, the applicable Athletic Requirements, and the University's regulations and policies represent the entire agreement pertaining to the employment of Coach 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 had the opportunity to review the Agreement and to 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 the Agreement.

**18. PUBLIC DISCLOSURE OF THE AGREEMENT.** Both parties agree and acknowledge that this Agreement may be subject to the Florida public records law, Chapter 119, or other provisions.

**19. 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 or refer to 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.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates indicated below.

**Florida Atlantic University Board of Trustees**

By: \_\_\_\_\_  
Frank T. Brogan, President

Date: \_\_\_\_\_

**University Athletic Director**

By: \_\_\_\_\_  
Craig Angelos

Date: \_\_\_\_\_

**Coach**

By: \_\_\_\_\_  
Michael D. Jarvis, Sr.

Date: \_\_\_\_\_