

**BOWLING GREEN STATE UNIVERSITY  
EMPLOYMENT CONTRACT FOR  
DIRECTOR OF INTERCOLLEGIATE ATHLETICS**

This employment agreement ("Agreement") is effective as of September 1, 2010 and is made by and between Bowling Green State University, a state-assisted institution of higher education established and existing under the laws of the State of Ohio ("the University"), and Gregory A. Christopher ("Christopher"), an individual residing at 421 Knollwood Drive, Bowling Green, Ohio 43402. The University and Christopher may be referred to herein as the "Parties" and each individually as a "Party".

This Agreement supersedes any and all prior agreements, understandings, whether oral or written, between the Parties or their representatives with respect to the subject matter herein.

The Parties intending to be legally bound hereby agree as follows:

**1.0 TERM AND EXTENSIONS**

- 1.1 Base Term of Agreement. Unless earlier terminated pursuant to Sections 3.5, 5.0 or 6.0, or extended in accordance with Section 1.2, this Agreement shall continue in force and effect for three (3) years from September 1, 2010 to and including August 31, 2013 (the "Base Term").
  - 1.1.1 As used in the Agreement the term "Contract Year" shall mean the twelve month period beginning September 1 and ending August 31 of the following year.
- 1.2 Extensions. This Agreement may be extended beyond the Base Term upon an offer from the University and acceptance by Christopher, both of which must be in writing and signed by the Parties in accordance with Section 8.3 (each an "Extended Term"). In no event shall anything in this Agreement be deemed to grant Christopher a right to, or a claim of tenure for the purposes of continued employment or retention beyond the Base Term or the then current Extended Term, or a right to renewal of the Base Term or the then current Extended Term of this Agreement.

**2.0 POSITION**

- 2.1 Appointment. The University hereby offers, and Christopher hereby accepts, employment by the University as its *Director of Intercollegiate Athletics* ("DIA "). In the capacity of the DIA , Christopher shall report to the President of the University (the "President"), who shall be responsible for the day-to-day management and supervision of Christopher.
- 2.2 Personnel Policies. Unless otherwise inconsistent with a term or condition of this Agreement, Christopher shall be subject to all personnel policies, procedures and regulations of the University as may, from time to time, be applicable to administrative staff employees including, but not limited to, those dealing with the assignment and reassignment of such staff.

### **3.0 DUTIES AND RESPONSIBILITIES**

- 3.1 Full-Time Duties. DIA shall devote his full-time attention and efforts to performing the duties of the DIA. Such duties are deemed to include, but not limited to, managing the intercollegiate athletic programs and activities of the University, marketing, fundraising, activities designed to promote the University's athletic program and the academic achievement of its student-athletes, and such other duties as may be assigned by the President.
- 3.2 Conflicts. The DIA shall not directly or indirectly own, manage, control, render services for, or be associated with any business, enterprise, or activity that: (a) is in competition with the University or any component thereof; (b) is selling goods or services to the University; or (c) would conflict with or prevent the DIA from complying with the requirements of Section 3.1 dealing with the performance of his duties.
- 3.3 Comportment. Except as otherwise required by law, Christopher shall not engage in any activity or conduct that has the purpose or effect of reflecting unfavorably on the University, or causing embarrassment to the University, or otherwise detracting from its reputation or the reputation of the University's athletics program.
- 3.4 Standards. Christopher agrees to observe, uphold, and promote –
- (a) the academic standards, requirements, and policies of the University (including, but not limited to, its *Code of Ethics and Conduct*) and to encourage student-athletes to perform to their highest academic potential, obtain the highest grades commensurate with that potential, and graduate in a timely manner;
  - (b) University employment policies with specific application to coaches and athletic department staff;
  - (c) rules, regulations, policies, and decisions established or issued by the University including, but not limited to, those dealing with the acquisition of goods and services by the University; and
  - (d) the constitution, bylaws and interpretations of the National Collegiate Athletics Association ("NCAA") and all NCAA, Mid-American Conference ("MAC"), Central Collegiate Hockey Association ("CCHA"), and University rules and regulations relating to the management and administration of the University's Intercollegiate Athletics Department.
- 3.5 Consequences for Non-Compliance. If Christopher is determined to be in violation of NCAA rules and regulations, Christopher shall be subject to disciplinary or remedial action as set forth in the NCAA enforcement procedures. In addition to the foregoing, if Christopher has committed or knowingly permitted a significant, repetitive, or deliberate violation of NCAA, MAC, CCHA, or University policies, rules and regulations: (a) Christopher shall be subject to suspension (with or without pay) under this Agreement for

such period of time as the University may deem appropriate; or (b) this Agreement may be terminated for just cause. Any action for such suspension or termination shall be conducted in accordance with the provisions of Section 5.1 of this Agreement.

- 3.6 Representations. Christopher warrants and represents that he will comply with all applicable laws, rules, and regulations of the United States, the State of Ohio, and such other local governments that may have jurisdiction over the University and the conduct or performance of Christopher under this Agreement. Christopher further warrants and represents that as of the effective date of this Agreement and of the date of his signature below, he has never been determined to be in violation of the constitution, bylaws or interpretations of the NCAA, the MAC, or any other NCAA Conference, the CCHA, or any other athletic conference, organization, or association.

#### 4.0 COMPENSATION

- 4.1 Pay. Christopher shall be entitled to the following: (a) base salary ("Base Salary"); and (b) incentive pay ("Performance Bonuses"). All such payments from the University are subject to deductions and withholding for state, local and federal taxes and for any retirement or other benefits to which Christopher is entitled or in which he participates.

4.1.1 Base Salary. Commencing on September 1, 2010, Christopher will be paid a gross salary of \$163,665.20 per contract year, prorated for periods of service less than a full contract year, for services and satisfactory performance of the terms and conditions of this Agreement. Base Salary shall be payable to Christopher in equal monthly installments and in accordance with and through the University's payroll process. Christopher shall be eligible to receive applicable across the board and/or merit increases effective September 1, 2011 and each September 1 thereafter during the term of this Agreement, if justified by evaluation of his performance by the President. Any amount to be awarded to Christopher as a merit increase shall be determined by the same process then in use for evaluating and rewarding meritorious performance by administrative staff employees of the University.

- (a) Market Adjustments. Commencing on September 1, 2010, Christopher shall receive a Market Adjustment to his base salary of \$10,000 per contract year, prorated for periods of service less than a full contract year, for each of the following contract years: 2010-2011; 2011-2012; and 2012-2013.

4.1.2 Performance Bonus. Christopher shall earn the following bonuses based on achievement of the events described for each:

- (a) Contributions to the Falcon Club. Commencing on September 1, 2010, the DIA shall receive a bonus in the amount noted herein for the percent increase of total donations made to the Falcon Club as compared to the total contributions made to the Club for the preceding contract year:

- (i) If at least 10% but less than 15%.. \$2,500
  - (ii) If 15% but less than 20% ..... \$5,000
  - (iii) If 20% or greater ..... \$7,000
- (b) Commercial Marketing. Beginning on September 1, 2010, and continuing annually thereafter, the DIA shall receive a bonus in the amount noted herein for the percent increase of total marketing support as compared to the total marketing support received during the preceding contract year:
- (i) If at least 10% but less than 15% ....\$2,500
  - (ii) If 15% but less than 20% .....\$5,000
  - (iii) If 20% or greater .....\$7,000

For purposes of this paragraph (b) the term “marketing support” shall mean contributions, fees, commissions, license fees and royalties, and advertisement revenues actually received by the University as a result of the direct efforts of the DIA (as determined in the sole discretion of the President) and as consideration owing to the University pursuant to a legally enforceable agreement executed in accordance with University policy and procedures. Sources of such marketing support may arise under commercial contracts between the University and commercial enterprises dealing with such matters as corporate sponsorships, food and beverage sales, licensing of intellectual property, merchandise sales, auxiliary events, and the provision of media rights for University sports events.

- (c) Development. Beginning on September 1, 2010, and continuing annually thereafter, the DIA shall receive a bonus in the amount noted herein for the percent increase of net fundraising revenues as compared to the net fundraising revenues received during the preceding contract year.

For purposes of this paragraph (c) the term “net fundraising revenues” shall mean total donations (including, but not limited to, funds for capital projects, endowment funds, and funds received to finance deferred gifts) received by the University as a direct result of the efforts of the DIA (as determined in the sole discretion of the President) less Falcon Club giving and the costs incurred by the DIA to generate such donations, but only to the extent that such costs are directly attributable to such efforts and are paid or reimbursed by the University, the Bowling Green State University Foundation, Inc, or the Bowling Green State University Alumni Association Inc.:

- (i) If at least 10% but less than 15% .....\$5,000
  - (ii) If 15% but less than 20% .....\$7,500
  - (iii) If 20% or greater .....\$10,000
- (d) Lead Annual Gifts For purposes of this section a “Lead Annual Gift” is a received gift from a donor that is not less than \$1,000 and not more than \$10,000.

Commencing with the 2010-2011 contract year, Christopher shall receive a bonus of \$7,500 to be paid at the end of each contract year if the following performance measures are met:

- (i) The number of lead annual gift donors to Intercollegiate Athletics in the 2010-2011 contract year exceeds the number of lead annual gift donors in the 2009-2010 contract year by 10% or more.
  - (ii) The number of lead annual gift donors to Intercollegiate Athletics in the 2011-2012 contract year exceeds the number of lead annual gift donors in the 2010-2011 contract year by 10% or more.
  - (iii) The number of lead annual gift donors to Intercollegiate Athletics in the 2012-2013 contract year exceeds the number of lead annual gift donors in the 2011-2012 contract year by 10% or more.
- (e) Major Gifts. For purposes of this section a “Major Gift” is a single received gift of greater than \$50,000 that Christopher personally closed or for which Christopher led the team that closed the gift. The determination of whether Christopher closed or led the team that closed the Major Gift shall be in the sole discretion of the President.

#### 1. Number of Gifts

Commencing with the 2010-2011 contract year, Christopher shall receive a bonus of \$7,500 to be paid at the end of each contract year if the following performance measures are met:

- (i) The number of Major Gifts to Intercollegiate Athletics received in the 2010-11 contract years exceeds the number of Major Gifts received in the 2009-2010 contract year by 10% or more.
- (ii) The number of Major Gifts to Intercollegiate Athletics received in the 2011-2012 contract years exceeds the number of Major Gifts received in the 2010-2011 contract year by 10% or more.

- (iii) The number of Major Gifts to Intercollegiate Athletics received in the 2012-2013 contract years exceeds the number of Major Gifts received in the 2011-2012 by 10% or more.

2. Total Amount of Major Gifts

For each contract year where there is an increase of 20% or more in the gross amount of Major Gifts to BGSU Intercollegiate Athletics received over the preceding contract year Christopher shall be paid a bonus of \$7500.

- (f) Football Team. Commencing with the 2010-2011 football season through the term of this Agreement, the DIA shall receive a bonus based upon the performance of the University's football team as follows:
- (i) \$2,000, if the football team should win the East Division of the Mid-American Conference; and
  - (ii) \$4,000, if the football team should win the Mid-American Conference Championship; and
  - (iii) \$3,000, if the football team should be invited to a post season bowl game, other than a Bowl Championship ("BCS") bowl game; and
  - (iv) \$7,500, if the football team should be invited to a BCS post season bowl game.
- (g) Basketball Teams. Commencing with the 2010-2011 basketball season through the term of this Agreement, DIA shall receive a bonus based upon the performance of each University basketball team as follows:
- (i) \$4,000, if the basketball team should win the Mid-American Conference Championship; and
  - (ii) \$4,000, if the basketball team should win the Mid-American Conference tournament; and
  - (iii) \$3,000, if the basketball team receives an invitation to the NCAA post season tournament; and
  - (iv) \$1,000, for each round win during the NCAA post season tournament; and
  - (v) \$7,500, if the basketball team should play in the NCAA post season tournament championship game.

- (h) Hockey Team. Commencing with the 2010-2011 hockey season through the term of this Agreement, DIA shall receive a bonus based upon the performance of the University's hockey team as follows:
- (i) \$4,000, if the hockey team should win the CCHA championship; and
  - (ii) \$4,000, if the hockey team should win the CCHA tournament; and
  - (iii) \$3,000, if the hockey team receives an invitation to the NCAA post season tournament; and
  - (iv) \$1,000, for each round win during the NCAA post season tournament; and
  - (v) \$7,500, if the basketball team should play in the NCAA post season tournament championship game.
- (i) Other Teams.
- (i) Commencing with the 2010-2011 academic year, through the term of this Agreement, the DIA shall receive a bonus for all other intercollegiate athletic teams of the University that win a NCAA conference championship, or qualify for post season NCAA tournament play as follows:
    - (I) \$2,500, if the team should win the MAC championship; and
    - (II) \$2,500, if the team should win the MAC tournament or comparable tournament event for that sport; and
    - (III) \$2,500, if the team receives an invitation to the NCAA post season tournament; and
    - (IV) \$1,000, for each round win during the NCAA post season tournament; and
    - (V) \$4,000, if the team should play in the NCAA post season tournament championship game.
  - (ii) Commencing with the 2010-2011 academic year, through the term of this Agreement, the DIA shall receive a bonus based on the number of student-athletes, who are members of the University's various intercollegiate athletic teams and who are invited to

participate in a post season nationally recognized championship. Such bonus shall be as follows:

- (I) \$1,000, if three but not more than five students are so invited; or
  - (II) \$2,500, if six or more students are invited.
- (j) Graduation Rate. Commencing with the academic year ending in May 2011, and for each academic year thereafter during the term of this Agreement, DIA shall receive a bonus based on the percent of all student-athletes who are members of University teams, as follows:
  - (i) \$4,000, if the overall six-year Graduation Success Rate (GSR) reported by the NCAA for BGSU is 80% or greater; and
  - (ii) \$7,500, if BGSU shall attain the highest overall six-year GSR reported by the NCAA for the institutions in the Mid-America Conference.
- (k) Academic Achievement. Commencing with the 2010-2011 academic year, Christopher shall receive a bonus based on the average academic performance of all student-athletes who are members of University teams. Such bonus shall be as follows:
  - (i) \$3,500, in the event that the mean grade point average of all such student-athletes is at least 3.00, but less than 3.20; and
  - (ii) \$5,000, in the event that the mean grade point average of all such student athletics is 3.20 or higher.
- (l) Reese or Jacoby Cup. Commencing with the 2010-2011 academic year, and for each year thereafter during the term of this Agreement, the DIA shall receive a bonus of \$4,000 if the University should be awarded (i) the Reese, or (ii) the Jacoby Cup. In the event that both the Reese and the Jacoby Cups are awarded in the same year the maximum amount payable under this subsection (j) shall be \$8,000.
- (m) Director's Cup Standing. Commencing with the 2010-2011 competition year, and for each year thereafter during the term of this Agreement, the DIA shall receive a bonus based on the University's overall ranking in the National Association of Collegiate Directors of Athletics ("NACDA") Director's Cup standings as follows:
  - (i) \$1,500, if the University should rank in the top 100 of the Director's Cup;



- (ii) \$4,000, if the University is the highest ranked MAC institution in the Director's Cup standing; and
- (iii) \$2,000, if the University is ranked second, third or fourth among MAC institutions only in the Director's Cup standing.

4.1.2.1 Bonus pay under this section shall be due and payable to the DIA no later than 45 days after the date on which the right to the payment first accrues. All such payments shall be made through the usual University's payroll process.

4.2 Standard Benefits. Standard University employee benefits available to members of the administrative staff will be provided to Christopher as an employee of the University. These include, but are not limited to, vacation and sick leave, employee health and group life insurance benefits and optional coverage for Christopher's family, and contributions to an available retirement program. As required by state law, Christopher shall contribute to his retirement account each month through withholding from his paycheck.

4.3 Supplemental Benefits. In addition to the standard benefits provided for in Section 4.2, the DIA will be provided with the following supplemental benefits –

- (a) Automobile. In order to facilitate his representation of the University, the University will provide a leased or loaned vehicle to the DIA . Christopher shall be the primary driver of the vehicle. Automobile insurance on the vehicle will be provided by the University, with the DIA listed as an additional insured party. Continued use of the car by the DIA is dependent on maintenance of a safe driving record by the DIA . The University will pay for regular routine maintenance associated with the DIA 's use of the car. The make and model of the car described in this subsection (a) shall be within the discretion of the University, after consultation with the DIA .
- (b) Expense Account. The University will reimburse Christopher for reasonable travel and out-of-pocket expenses incurred by him for the purpose of and in connection with the performance of his duties under this Agreement. Such reimbursement shall be made in accordance with the applicable policies and procedures of the University, provided that, nothing contained herein shall be deemed to supersede or modify any University travel policy, procedure, or regulation.
- (c) Club Membership. For the purpose of promoting, advocating and soliciting support for the University's athletic program, and subject to the conditions described in (i), (ii), and (iii) in this subsection (c), the University shall make available for use by the DIA a membership (including associated monthly dues and related assessments) in a country club that is selected by him but approved in advance by the University. The conditions referred to in the previous sentence are as follows:

- (i) The University shall not pay nor be liable for any expense incurred by DIA for food, beverages, green fees, and other charges, of whatever nature, associated with use of such club's facilities or services, except that, the University shall pay for those expenses relating to properly documented business expenses incurred while conducting University business that are submitted for payment or reimbursement in accordance with University policy;
  - (ii) The payments made on behalf of DIA pursuant to the provisions of this paragraph (c) shall be subject to such policies and procedures of the Athletic Department and the University as may from time to time be in effect; and
  - (iii) In no event shall an expense be paid or advanced under this paragraph (c) if that would result in the payment of any amount to a club or other association that the University reasonably believes is engaging in discriminatory practices that are prohibited by law, rule, regulation, or University policy.
- (d) University Golf Privileges and Use of Student Recreation Center. The DIA shall have: (i) playing privileges at Forrest Creason golf course without the payment of green fees; and (ii) use of the Student Recreation Center without the payment of any customary fee or charge.
- (e) Executive Physical Examination. The DIA shall be reimbursed his reasonable expenses actually incurred for an annual physical during the term of this Agreement, provided that –
- (i) the amount of such reimbursement is net of that portion of the expenses covered by insurance; and
  - (ii) the University shall not reimburse more than \$500 (the "Maximum Reimbursement Amount") in such net expenses during any 12-month period during the term of this Agreement, provided that, for each such period the Maximum Reimbursement Amount shall be increased by 10% from the Maximum Reimbursement Amount applicable to the previous 12-month period.

4.4 Opportunities to Earn Outside Income. Subject to the requirements of Section 3.2, the DIA shall have the opportunity to earn outside income as provided for in this Section 4.4. In accordance with NCAA By-Law 11.2.2, sources of outside income may include, but are not limited to: income from annuities; sports camps; housing benefits (including preferential housing arrangements); country club memberships; complimentary ticket sales; television and radio programs; endorsement or consultation contracts with athletic shoe, apparel or equipment manufacturers.

- (a) General Provisions Concerning Outside Income. The following general terms and conditions shall apply to each instance that Christopher seeks to make arrangements to earn outside income while the DIA .
- (i) Such outside activities shall not interfere with the full and complete performance by Christopher of his duties and obligations as a University employee, recognizing always that Christopher's primary obligations and alliance of fair dealing and good faith rest with the University and its students.
  - (ii) In no event shall Christopher accept or receive directly or indirectly any money, benefit or any other gratuity whatsoever from any person, corporation, University booster club or alumni association or other benefactor if such action would violate NCAA legislation or the constitution, bylaws, rules, and regulations or interpretations thereof of the NCAA, CCHA, and MAC as now or hereafter enacted. Changes of such legislation, constitution, bylaws, rules, regulations or interpretations shall automatically apply to this Agreement without the necessity of a written modification.
  - (iii) Christopher shall obtain the advance written approval of the President before entering into such agreements, which approval shall not be unreasonably withheld. Activities involving use of University facilities, resources, or the name of the University shall be the subject of a separately negotiated and written agreement between the Parties.
  - (iv) Such outside activities are independent of Christopher's University employment and the University shall have no responsibility or liability for any claims arising therefrom. Christopher agrees to indemnify and hold harmless the University, its trustees, officers, employees, and agents, from any and all claims based on or arising out of such outside activities.
- (b) Disclosure of Outside Income. On or before June 30 of each year, Christopher shall report in writing to the President of the University, all income earned from sources during the preceding 12-month period from outside sources described in paragraph (a). The University shall have reasonable access to all records of Christopher necessary to verify such report.

4.5 Taxes. The University shall provide Christopher an IRS form W-2 for that portion of his consideration subject to withholding and an IRS form 1099 for that portion of compensation that is not subject to withholding. The University is not a guarantor of the taxable status of the consideration described in this Section 4.0. Accordingly, should part or all of such consideration ever be treated by any taxing authority as if it were "taxable" even though not reported to such authority by the University, Christopher agrees to indemnify and hold harmless the University from any taxes assessed against him,

including any penalties, fines, expenses, or assessments with respect to the aforementioned consideration.

## **5.0 TERMINATION BY UNIVERSITY**

5.1 Termination by University for Cause. Prior to the expiration of the Base Term, or the then current Extended Term, this Agreement may be terminated by the University for either:

- (a) Christopher's Incapacity. Such incapacity shall be deemed to exist if Christopher is unable to perform the essential functions of his duties with or without reasonable accommodation; or
- (b) Just Cause. Just Cause shall be determined by the President, who shall have the administrative authority to order the immediate suspension of Christopher from his duties, with or without pay, pending termination of this Agreement.

5.1.1 Definition. For purposes of this Agreement the term "Just Cause" shall include one or more of the following:

- (i) a significant, repetitive, or deliberate violation by Christopher of his job duties or refusal or unwillingness by Christopher to perform such duties in good faith and to the best of his abilities;
- (ii) any conduct by Christopher that is in violation of a criminal statute;
- (iii) if Christopher has committed a significant, repetitive, or deliberate violation of any law, rule, regulation, constitutional provision, policy, bylaw or interpretation of the University, the CCHA, MAC, or the NCAA;
- (iv) if Christopher has knowingly permitted, by action or inaction, a significant, repetitive, or deliberate violation of any law, rule, regulation, constitutional provision, policy, bylaw or interpretation of the University, the CCHA, MAC, or the NCAA by a member of the athletic department staff, coaching staff or any other person under Christopher's supervision and direction, including student-athletes;
- (v) conduct or activity by Christopher that is inconsistent with the provisions of Section 3.3 (Comportment); or
- (vi) any other cause adequate to sustain the termination of a University administrative staff employee.

5.1.2 Procedure. In the event the University initiates a termination action (or immediate suspension prior to a termination decision) pursuant to Section 5.1, the University will notify Christopher of such action, in writing, and shall specify the reasons for

such action (the "Notice"). The Notice to Christopher shall afford him a reasonable period of time, in the discretion of the University, to respond to such reasons and to identify persons and/or documents that may be probative of relevant issues. The failure to respond to the Notice in a timely manner shall be deemed to constitute Just Cause for termination. If a response is received in a timely manner, the University shall have ten (10) days to render a final termination decision, provided that, the President, in his discretion, may extend such time period as he deems appropriate under the circumstances.

- 5.1.3 Consequences. In the event this Agreement is terminated in accordance with the provision of this Section 5.1, all obligations of the University to make further payment and/or to provide any other consideration hereunder shall cease as of the end of the month in which such termination is effective. If this Agreement is not terminated after the imposition of a suspension under this Section 5.1, the University may, in the exercise of its discretion, reimburse Christopher for his lost University compensation, if any, during the time of suspension.

- 5.2 Termination by University Without Cause. Prior to the expiration of the Base Term, or the then current Extended Term, this Agreement may be terminated by the University Without Cause. For purposes of this Agreement the term "Termination Without Cause" shall mean a termination for the convenience of the University and for reasons other than those described in Section 5.1.

- 5.2.1 Procedure. A Termination Without Cause shall be effectuated by delivery to Christopher of a written advisement of the University's intent to terminate this Agreement, for other than incapacity and Just Cause (the "Advisement"). Such Advisement shall provide at least thirty (30) days notice before such termination becomes effective. In its discretion, the University may assign Christopher duties to be performed at sites other than the University or any of its facilities during such 30-day or longer notice period.

- 5.2.2 Consequences. Subject to the provisions of Section 5.2.3, if the University exercises its right to terminate the Agreement under this Section 5.2, the University shall pay to Christopher, as liquidated damages, the following:

- (a) an amount equal to the greater of: (1) 12 months of Christopher's base salary, including any applicable market adjustments, then in effect at the time of termination, payable in 12 equal monthly installments, with the first such payment commencing within 10 days after the effective date of the termination, or (2) \$250,000, payable in 12 equal monthly installments, with the first such payment commencing within 10 days after the effective date of the termination,
- (b) any incentive pay due under Section 4.1.2 if the right to such pay first accrued prior to the effective date of termination; and

- (c) payment for such accrued leave as may be permitted under then existing University policies dealing with the payment for the accrued leave of administrative staff employees.

5.2.2.1 In lieu of the monthly payments described in section 5.2.2 (a), the Parties may mutually agree to maintain Christopher as an employee of the University on administrative leave with pay during such 12-month period. In such event, Christopher shall be entitled to Standard Benefits, as described in Section 4.2 except for the accumulation of any additional paid leave otherwise accruing during such period of administrative leave.

#### 5.2.3 Duty to Mitigate; Determination of Damages

- (a) The University's obligation to pay 12 months of Base Pay under Section 5.2.2 (a) shall be subject to Christopher's duty to mitigate his damages. Christopher hereby agrees to mitigate such damages by making reasonable and diligent efforts to obtain comparable employment, such as a director of intercollegiate athletics at a university or senior administrative position with a professional sports team, as soon as reasonably possible after termination of this Agreement that is effected under this Section 5.2. If Christopher should obtain such new employment prior to the last installment payment of liquidated damages, the University's financial obligation under Section 5.2.2 (a) shall cease. Christopher hereby warrants and represents that he shall contact the President, in writing, immediately upon obtaining such new employment. For purposes of this Section 5.2.3 the term "employment" includes the provision of services for compensation, whether by a contract of employment, employment at-will, or through a consulting contract as an independent consultant.
- (b) The parties have bargained for and agreed to the liquidated damages provision of Section 5.2.2(a) giving consideration to the fact that termination of the Agreement by the University without cause prior to its natural expiration may cause Christopher to lose certain benefits, supplemental compensation, or outside compensation relating to his employment at the University, which damages are difficult to determine with certainty. The Parties further agree that the payment of such liquidated damages by the University and acceptance thereof by Christopher shall constitute adequate, reasonable, and complete compensation to Christopher for any and all damages and injury he may have sustained arising out of his recruitment, employment or termination by the University. The liquidated damages provided for herein are not, nor shall be construed to be a penalty.

5.2.4 COBRA and Other Benefits. Nothing contained herein is intended to adversely affect, in any way, Christopher's rights under law to –

- (1) continued health insurance, pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act (Public Law 99-272, Title IX); and
- (2) any other legal right he may have pursuant to an "employee benefit plan", as such term is defined under Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended.

## **6.0 TERMINATION BY CHRISTOPHER**

Christopher may terminate this Agreement prior to its expiration of the Base Term or the then current Extended Term, subject to the following:

- 6.1 Permission to Negotiate. The Parties agree that should another employment opportunity requiring the performance of duties similar to the duties required hereunder ("new employment") be presented to Christopher, or should Christopher be interested in new employment during the term of this Agreement, Christopher must promptly notify the President of such opportunity or interest. Written permission within 48 hours must be given to Christopher by the President before any discussions may be held by Christopher with the principals who may offer, or influence the offering of that opportunity, which written permission shall not be unreasonably withheld. Notwithstanding the provisions of the preceding two sentences, such permission shall not be required: (a) if Christopher received a Notice pursuant to Section 5.1.2 or an Advisement pursuant to Section 5.2.1; or (b) there is 90 days or less remaining on the Base Term or then current Extended Term and the University has advised Christopher of its decision not to extend this Agreement further.
- 6.2 Written Notice of Termination. If in compliance with Section 6.1, Christopher may terminate this Agreement by giving the President thirty (30) days advance written notice of his intention to terminate. Such notice must include Christopher's employment plans following the termination of employment with the University.
- 6.3 Termination of University's Obligations Under Agreement. Upon termination of this Agreement by Christopher and payment of all amounts then owing by the University to Christopher pursuant to the terms of this Agreement, all obligations owed by the University to Christopher under this Agreement shall cease as of the effective date of the termination.

## **7.0 GOVERNING LAW**

- 7.1 Ohio Law. This Agreement shall be interpreted, controlled, and enforced in accordance with the substantive laws of Ohio. A Party may only commence an action against the other Party in a court of competent jurisdiction located in Ohio. The Parties to this Agreement hereby submit to personal jurisdiction in Ohio for the purposes of enforcing this Agreement.

- 7.2 Amicable Resolution. Prior to commencing any litigation by one Party against the other over a disputed matter, the Parties agree that they will meet in good faith for the purpose of seeking an amicable resolution, provided that, nothing contained herein shall be deemed to prevent the University from seeking equitable relief from a court of competent jurisdiction to protect the intellectual property rights of the University or its reputation in the community.
- 7.3 Limitation on Damages. In no event shall the University be liable to Christopher for any indirect, special or consequential damages, compensation or loss of profits, loss of any outside or collateral business opportunities, anticipated revenue, savings or goodwill, or other economic loss of Christopher, or any costs, expenses or interest related thereto, under any theory of law or equity, arising out of or in any way related to this Agreement or his recruitment or employment by the University even if advised of the possibility thereof. Christopher shall be restricted to actual loss and the limitations on damages specified in Sections 3345.40 and 2743.02(A)(2) of the Ohio Revised Code.
- 7.4 Time for Filing. In any claim for damages arising hereunder or arising under his employment with the University, Christopher agrees that any claim or lawsuit relating to an alleged breach of this Agreement, or the provision of his services to the University, must be filed within six months after the date of the breach or employment action that is the subject of the claim or lawsuit. Christopher waives any statute of limitations to the contrary.

## **8.0 OTHER TERMS AND CONDITIONS**

- 8.1 Board of Trustee Approval. Christopher's employment is subject to approval by the University's Board of Trustees.
- 8.2 Prohibition on Assignments. Christopher's rights and interests under this Agreement may not be assigned, pledged or encumbered by Christopher.
- 8.3 Entire Agreement; Modifications. This writing contains the entire Agreement of the Parties. No representations were made or relied upon by any Party other than those expressly set forth herein. No agent, employee, or representative of a Party is empowered to alter, modify, waive, or supplement any of the terms in this Agreement unless such alteration, modification, waiver, or supplement is done in writing and signed by the signatories below, or other authorized persons designated, in writing, by such signatories. The Parties hereto waive the right to amend the provisions of this section orally.
- 8.4 Severability. If any provision hereof shall be deemed invalid or unenforceable, either in whole or in part, this Agreement shall be deemed amended to delete or modify, as necessary, the offending provision in order to render it valid and enforceable.
- 8.5 State Instrumentality. It is expressly agreed and understood between the Parties that the University is an instrumentality of the State of Ohio and that nothing contained herein



shall be construed to constitute a waiver or relinquishment by the University of its right to claim such exemptions, privileges and immunities as may be provided by law.

- 8.6 Ownership of Materials. All materials or articles of information, including without limitation, personnel records, marketing and development materials, recruiting records, team information, films, statistics, or any other material or data, furnished to Christopher by the University or developed by Christopher on behalf of the University or at the University's direction or for the University's use or otherwise in connection with Christopher's employment hereunder are and shall remain the sole and confidential property of the University. Within 10 (ten) days of the expiration of the term of this Agreement or its earlier termination as provided herein, Christopher shall immediately cause any such materials in his possession or control to be delivered to the University.
- 8.7 Notices. All notices, demands or other communications of any type given by either Party hereto shall be void and of no effect unless given in accordance with the terms of this Section 8.7. All notices shall be in writing and delivered to the person to whom the notice is directed, either in person (provided that such delivery is confirmed by the delivery person), or by United States mail, postage prepaid, as a Registered or Certified item, return receipt requested. Notices delivered by personal delivery shall be deemed to have been given at the time of such delivery and notices delivered by mail shall be effective when deposited in a Post Office or other depository under the care or custody of the United States Postal Service, enclosed in a wrapper with proper postage affixed and addressed as provided below. The proper addresses of the Parties hereto are as follows:

If to the University:

President  
Bowling Green State University  
Bowling Green, Ohio 43403

With a copy to: Office of General Counsel  
Bowling Green State University  
Bowling Green, Ohio 43403

If to Christopher:

Gregory A. Christopher  


Each Party reserves the right to change the designation of its representative specified in this Section 8.7 by a unilateral modification to this Agreement signed by that Party's signatory below and forwarded to the other Party's representative pursuant to this Section 8.7.

## 9.0 ACKNOWLEDGEMENT

By signing this Agreement Christopher is acknowledging that he has carefully read and fully understands the provisions of this Agreement and that he has been advised to seek the advice of his personal attorney prior to his execution of this Agreement. Christopher further acknowledges that he has not relied on any representation or statement, written or oral, not set forth in this Agreement and that he is signing this Agreement knowingly and voluntarily, without coercion or duress.

**IN WITNESS WHEREOF**, the Parties, intending to be legally bound thereby, have executed this Agreement on the date indicated below under their respective signatures.

 02/25/11  
\_\_\_\_\_  
Gregory A. Christopher

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Carol A. Cartwright  
President  
Bowling Green State University

3/8/11  
\_\_\_\_\_  
Date