

EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made between The University of Toledo (the "University") and Tod Kowalczyk ("Coach"). In consideration of the mutual promises hereinafter contained, and intending to be legally bound hereby, the parties agree as follows:

1.0 EMPLOYMENT.

1.1 Head Coach. Subject to the terms and conditions of this Agreement, the University will employ Coach as head coach of the intercollegiate basketball team ("Team"). Coach represents and warrants that he is fully qualified to serve, and is available for immediate employment, in this capacity.

1.2 Reporting. Coach is responsible, reports directly to the Athletic Director of Intercollegiate Athletics ("Athletic Director") and will confer with the Athletic Director or the Athletic Director's designee on all administrative and technical matters.

1.3 Duties. Coach manages and supervises the basketball team and will perform such other duties in the University's athletic program, consistent with his status as head coach, as the Athletic Director may assign.

2.0 TERM.

2.1 Length. This Agreement is for a term of five (5) years commencing March 31, 2010 and ending on March 31, 2015. The Term will automatically extend for an additional two years on March 31, 2013, expiring March 31, 2017, subject to the conditions stated herein.

2.2 No Tenure. This Agreement does not grant Coach a claim to tenure in employment, nor do Coach's service pursuant to this Agreement count in any way toward tenure at the University. This Agreement does not grant any expectancy of employment or reemployment except as expressly provided by the terms herein.

3.0 COACH'S SPECIFIC DUTIES AND RESPONSIBILITIES.

3.1 Duties. In consideration of the compensation and other benefits specified in this Agreement, Coach will:

- 3.1.1 Devote full time, attention and energies to the duties of head coach as stated under this Agreement, including all duties that the Athletic Director may assign;
 - 3.1.2 Develop and implement programs and procedures with respect to the evaluation, training and coaching of student team members to compete successfully while assuring their welfare;
 - 3.1.3 Observe and uphold all academic standards, requirements and policies of the University;
 - 3.1.4 Know, recognize and comply fully with the rules, regulations and policies of the National Collegiate Athletic Association (NCAA) and of the University, and to take every reasonable precaution to ensure that all members of his staff comply with same, and to immediately advise the Athletic Director if there is reasonable cause to believe violations have occurred or will occur.
 - 3.1.5 Represent the University positively in public and private forums and not engage in conduct that reflects adversely on the University or its athletic program.
- 3.2 Assistant Coaches. Coach has the primary responsibility and authority to recommend to the Athletic Director the hiring and termination of assistant coaches for the basketball team, but the final decision will be made by the Athletic Director, subject to the approval of the University's Board of Trustees. The Athletic Director will not hire a candidate not recommended by Coach.
- 3.3 Scheduling. Coach has the primary responsibility with respect to the scheduling of the basketball team's competitions, in consultation with Athletic Director, which shall include the identification, selection, and negotiation with opponents for the non-conference schedule.
- 3.4 Outside Income. During the term of this Agreement, Coach will have the opportunity to earn outside income, but only upon the terms and conditions set forth herein. Sources of outside income may include, but are not limited to: sports camps, television and radio programs, endorsements or consultation contracts with athletic apparel, shoes or equipment manufacturers, vendors or other entities;

income from speeches, appearances and written materials. The following terms and conditions apply to each case in which Coach receives outside income as a result of his position as head basketball coach.

- 3.4.1 Such outside activities cannot interfere with the full and complete performance by Coach and his duties and obligations as a University employee, recognizing always that Coach's primary obligations lie with the University and its students.
- 3.4.2 In no event will Coach accept or receive, directly or indirectly, any monies, benefits or any other gratuity whatsoever from any person, corporation, booster club or alumni association or other benefactor if such action would violate the NCAA Constitution, bylaws, rules or regulations or interpretations thereof by the NCAA as now or hereafter enacted. Changes in the Constitution, bylaws, rules, regulations or interpretations automatically apply to this Agreement without the necessity of a written modification.
- 3.4.3 Coach must obtain the advance written approval of the Athletic Director and the President of the University before entering into such agreements. Activities involving use of University facilities or the name of University, such as sports camps, will be subject to separately negotiated and written agreements between the parties which will not be unreasonably withheld. Coach is not permitted to participate in any business transactions or endorse any products or appear on any radio or television programs that may discredit or bring undue criticism to the University.
- 3.4.4 Such activities are independent of Coach's University employment and the University has no responsibility or liability for any claims arising therefrom. Coach agrees to indemnify and hold harmless the University, its trustees, officers, employees and agents from any and all claims based on such outside activities.
- 3.4.5 Coach may not, under any circumstances, accept employment as a coach at any other institution of higher education or with any professional sports team, requiring performance of duties prior to the expiration of this

Agreement, without the prior approval of the Athletic Director and President of the University.

3.4.6 Coach will report, whenever reasonably requested - but no less than annually on or before October 1 of each year - in writing to the President of the University, through the Athletic Director, all athletically related income from sources outside the University. Such income may include, but not be limited to, income from sports camps, housing benefits, complimentary ticket sales, television and radio programs and endorsements or consultation contracts with athletic apparel, shoe or equipment manufacturers, vendors or other entities. Athletic Director, as well as the President or his designee, shall have reasonable access to all records of Coach necessary to verify such report.

3.5 Budgeting. During the term of this Agreement, Coach will have the authority to develop and administer the Men's Basketball Budget for the overall benefit and development of the Men's Basketball Program as he deems necessary and appropriate to advance the athletic and academic levels of achievement for the Program. The development of the Budget and the administration of the overall budget, as discussed above, shall be subject to the review and approval of the Athletic Director and all other required levels of University review and approval. Such approval of the development and administration of the budget by the Coach shall not be unreasonably withheld, to the extent that the Coach's administration of the Program budget does not result in expenditures in excess of the total amount of funding approved in the Program budget, unless otherwise approved by the Athletic Director. At all times during the term of this Agreement or any extension, renegotiation or renewal hereof the Athletic Director, the President and the Board of Trustees hereby agree and commit that the Men's Basketball Program shall be funded, by the University, as a high priority athletics Program. The Men's Basketball Program in terms of its operational budget (to include team travel, allocated funds for recruiting, game guarantees, salaries, equipment and other essential athletic and administrative expenses) shall at all times be amongst

the leading Programs in the Conference and other elite Division I Men's Basketball Programs in comparable Conferences.

4.0 COMPENSATION.

In consideration of Coach's services and satisfactory performances of the conditions of this Agreement, the University promises to provide Coach, the following described compensation:

- 4.1 Annual Base Salary. An annual base salary of \$280,000 payable in bi-weekly installments in accordance with normal University payroll procedures for administrative unclassified employees. In any year of the contract term, such annual salary increases as may be determined appropriate by the Athletic Director and the President and approved by the University's Board of Trustees, will take effect July 1 of that year.
- 4.2 Benefits. Employee benefits as the University provides generally to its administrative unclassified employees in existence at the time of the Employees initial employment or as revised and/or substituted from time to time by the University.
- 4.3 Marketing Compensation. While Coach is serving as head coach of the intercollegiate basketball team, he will receive additional compensation in the amount of \$30,000 annually in the form of marketing income, including, but not limited to, sponsorships, television and radio shows, rollover sponsor fees, speaking engagements and any other talent fee payments, in consideration for which Coach agrees that he will perform television and radio shows, speeches and other appearances as reasonably requested by the University. This additional compensation will increase annually in the amount of \$15,000, beginning March 30, 2011. Coach will receive this additional compensation in one lump sum subsequent to the season including all post-season tournament play, and which shall be paid within thirty (30) days of the end of the season and/or post season play whichever is later. If Coach is terminated for cause during a season, he shall not be entitled to any portion of the marketing income. If Coach is terminated without cause, he shall be entitled to a pro-rata share of the marketing income for only the period of time he actually performed the marketing responsibilities and in

no way, is entitled to any marketing compensation if he is not working in the capacity of the Coach.

4.4 Incentive Bonus Compensation.

4.4.1 Mid-American Conference West Championship and West Co-Championship Incentive. If the men's intercollegiate basketball team should win the Mid-American Conference (MAC) Western Division Championship, or be a co-champion in any given year while Coach is head coach, he will receive a bonus of an additional five percent (5%) of his annual base salary. These amounts are cumulative.

4.4.2 MAC Championship Incentive. If the men's intercollegiate basketball team participates in the MAC Championship game while Coach is head coach, he will receive a bonus in the amount of five percent (5%) of his base salary. If the men's intercollegiate basketball team should win the MAC Championship while Coach is head coach, he will receive a bonus in the amount of five percent (5%) of his base salary (i.e. a total of ten percent (10%) of his base salary). The above referenced amounts are cumulative.

4.4.3 NCAA Post-Season Tournament. If the men's intercollegiate basketball team participates in the NCAA post-season tournament game in any given year while Coach is head coach, he will receive a bonus of ten percent (10%) of his annual base salary. For each round the team advances, Coach will receive a bonus of five percent (5%) of his annual base salary. These amounts are cumulative.

4.4.4 NIT Post-Season Tournament Incentive Bonus: If the men's intercollegiate basketball team participates in the NIT post-season tournament while Coach is head coach, he will receive a bonus of two and a half percent (2.5%) of his annual base salary.

4.4.4.1 The parties further agree as to this provision that if the Men's Intercollegiate Basketball Team participates in the NIT post-season tournament while Coach is head coach and if the University hosts a home game for the tournament, then Coach will receive a bonus of

five percent (5%) of his annual base salary. Further, for each round the team advances in the NIT post-season tournament, Coach shall receive a bonus of five percent (5%) of his annual base salary. These amounts are cumulative.

4.4.5 Academic Progress Rate. If the men's intercollegiate basketball team roster of eligible players in any given year while Coach is the head coach, achieves an APR (Academic Progress Rate as adopted by the NCAA) score of 925 or greater, Coach will receive a bonus of five percent (5%) of his annual base salary. These amounts are cumulative.

4.4.5.1 The APR related to the above incentive shall be calculated based upon the student-athletes on the men's basketball roster as of September 1, 2010 and after. Consequently, the APR of the prior rosters shall not impact the calculations of the APR related to Coach's incentive under the agreement.

4.4.6 Professional Recognition. During his employment as head coach of the University's men's intercollegiate basketball team, Coach will receive the following supplemental, non-cumulative compensation in consideration of his efforts in being recognized as the Coach of the Year from the following organizations:

4.4.6.1 Mid-American Conference Coach of the Year, a bonus in the amount of two and a half percent (2.5%) of his base salary.

4.4.6.2 NABC District Coach of the Year, a bonus in the amount of five percent (5%) of his base salary.

4.4.6.3 NABC Coach of the Year, a bonus in the amount of ten percent (10%) of his base salary.

4.5 Deductions. Said supplemental compensation and bonuses are subject to and contingent upon any then current NCAA limitations applicable to the division of competition in which the University basketball team competes. Compensation is subject to payroll deductions, including federal, state and local taxes and mandatory contributions to the state retirement system that apply to the University's administrative, unclassified employees.

4.6 Insurance Benefits. The University will provide Coach with health care coverage and life and disability insurance, in accordance with the standard medical package provided to administrative, unclassified employees.

4.7 Additional Benefits.

4.7.1 While Coach is serving as head coach of the intercollegiate basketball team, he will have the use of one (1) full size SUV automobile in accordance with University Policy Number 3364-35-04 and the car dealership agreement. Coach shall obtain the necessary insurance coverage at his cost in accordance with this Policy. Coach will immediately return the automobile to the University upon termination or expiration of this Agreement, except as provided herein. In the event that the University terminates the Coach with or without cause, at the full discretion of the Athletic Director, Coach may be given a reasonable period of time to procure an alternative means of transportation before he is required to return the automobile to the University, for a period up to thirty (30) days after the effective or actual date of termination, whichever is later. If exercised, Coach shall be responsible for all costs associated with the vehicle, including but not limited to, maintenance, fuel, etc. and shall comply with University Policy Number 3364-35-04 and the dealership agreement.

4.7.2 Further, Coach will be entitled to a membership at a country club as long as the board of directors of said country club provides a membership. The University will pay Coach's business expenses, not to exceed the annual budget for such expenses, unless otherwise approved by the Athletic Director for expenses incurred in the performance of the Coach's duties. If the board of directors of the country club withdraws the donated membership for the head basketball coach, the University will use its best efforts to obtain a donated membership elsewhere from a country club of comparable quality and will then reinstate this Agreement to pay Coach's business expenses.

5.0 TERMINATION BY UNIVERSITY.

5.1 Termination by University for Cause – At all times, Coach serves at the pleasure of the Athletic Director. No further payment or benefits shall be made to Coach if the Athletic Director notifies Coach that it is terminating this Agreement for cause, which, in addition to any of its other normally understood meanings in employment contracts shall include, but not be limited to, the following:

- 5.1.1 Neglect or inattention by Coach to the duties of Head Men's Basketball Coach or Coach's refusal or inability to perform such duties after written notice has been given to Coach by the Athletic Director or as determined by the Athletic Director, and Coach has continued such neglect, inattention, refusal or inability during a subsequent reasonable period specified by University; or
- 5.1.2 (a.) A significant and/or intentional violation of University Rules or Governing Athletic Rules (which would constitute an incurable and material breach of this Employment Agreement or which would constitute a major violation of the Governing Athletic Rules of the Conference or the NCAA); or a pattern of repetitive secondary violations of a same or similar nature which taken together are deemed to be equivalent to a major violation of the Governing Athletics Rules of the Conference and/or the NCAA as contemplated by the Constitution and Bylaws of the NCAA and Conference, as determined by the University based upon substantial evidence or as adjudicated by the Conference and/or the NCAA; or
- (b.) Significant or intentional or repetitive secondary violations of University or Governing Athletics Rules which are deemed to be major violations, as contemplated above in 5.1.2 (a.), by the assistant coaches, the Men's Basketball support staff, student athletes or any other personnel in his direct chain of supervision for which he had prior actual knowledge of a potential violation and failed to deter such violation, or which he had subsequent knowledge of such violation and failed to notify the University of the violation and to take appropriate corrective and/or disciplinary

action or which he directed such violation, as determined by the University based upon substantial evidence or as adjudicated by the Conference and/or the NCAA;

- 5.1.3 A material breach of the terms and conditions of this Employment Agreement, as determined by the Athletics Director, based upon substantial evidence, or a conviction under a state of Ohio statute or a United States federal felony criminal statute or a misdemeanor statute resulting in incarceration of thirty (30) days or more (excluding minor traffic violations); or
- 5.1.4 A significant violation of University Rules which would be deemed a material and incurable breach of the Coach's duties and responsibilities as provided under the terms and conditions of this Employment Agreement or a violation of the Ohio Ethics Laws as determined by an Opinion of the Attorney General's Office and/or the Ohio Ethics Commission which would be deemed a material breach of the Coach's duties and responsibilities under the terms and conditions of this Employment Agreement; or
- 5.1.5 Fraud or dishonesty of Coach in the performance of his duties or responsibilities under this Agreement as determined by University; or
- 5.1.6 Fraud or dishonesty of Coach in preparing, falsifying, submitting or altering documents or records of University, NCAA, or documents or records required to be prepared or maintained by law, Governing Athletic Rules or University Rules, or other documents or records pertaining to any recruit or student-athlete, including without limitation, expense reports, telephone logs, transcripts, eligibility forms or compliance reports, or permitting, encouraging or condoning such fraudulent or dishonest acts by any other person, as determined by University; or
- 5.1.7 Failure by Coach to respond accurately and fully to any request or inquiry relating to the performance of his duties hereunder or the performance of his duties during his prior employment at any other institution of higher learning propounded by University, NCAA, or other governing body

having supervision over the athletic programs of University or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as determined by University; or

- 5.1.8 Counseling or instructing by Coach of any coach, student or other person to fail to respond accurately and fully to any request or inquiry concerning a matter relevant to University's athletic programs or other institution of higher learning which shall be propounded by University, NCAA, or other governing body having supervision over the athletic programs of University or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as determined by University; or
- 5.1.9 Soliciting, placing or accepting by Coach of a bet on any intercollegiate or professional athletic contest, or permitting, condoning or encouraging by Coach of any illegal gambling, bookmaking or illegal betting involving any intercollegiate or professional athletic contest whether through a bookmaker, a parlay card, a pool or any other method of organized gambling; or furnishing by Coach of information or data relating in any manner to football or any other sport to any individual known by Coach to be or whom he should reasonably know to be a gambler, better or bookmaker, or an agent of any such person, or the consorting or associating by Coach with such persons, as determined by University; or
- 5.1.10 Illicit or excessive use or consumption by Coach of alcoholic beverages, drugs (illicit or legal), controlled substances, or steroids (except as prescribed by a physician) during the performance of his duties, or as to impair his ability to perform his duties hereunder as determined by the University in accordance with State and Federal Law regarding employees with substance abuse problems; or failure by Coach to fully cooperate in the enforcement and implementation of a legal and equitable drug testing program established by the University for the testing of student-athletes, by the University which is uniformly and equitably administered to all student athletes of the University; or

- 5.1.11 Coach's sale, use or possession, or Coach's permitting, encouraging or condoning by a student-athlete, assistant coach or other athletic staff member of the sale, use or possession of any narcotics, drugs, controlled substances, steroids or other chemicals, the sale, use or possession of which by Coach or such student-athlete is prohibited by law or by Governing Athletic Rules, as determined by University; or
- 5.1.12 Failure by Coach to report promptly to the Athletic Director and to the Office of Compliance Services in writing any violations known to Coach of Governing Athletic Rules or University Rules by Coach, the assistant coaches, students or other persons under the direct control or supervision of Coach, as determined by University; or
- 5.1.13 Failure by Coach to obtain prior approval for outside activities as required by Section 3.4 et seq. of this Agreement and by NCAA rules or to report accurately all sources and amounts of all income and benefits as required by NCAA rules and Section 3.4.6 of this Agreement, as determined by University; or
- 5.1.14 It is recognized that this Section 5.0 encompasses findings or determinations of violations during employment of Coach at University or any other institution of higher learning. As required by NCAA Bylaw 11.2.1, Coach is hereby notified that in addition to the actions University may take in accordance with this Agreement, Coach is also subject to disciplinary or corrective action by the NCAA as set forth in the provisions of the NCAA enforcement procedures if Coach is found by the NCAA or University to be in violation of NCAA Bylaws.
- 5.1.15 Notice. If University terminates this Agreement for cause under this Section 5.0 or Section 5.2, it shall give written notice to Coach of its intention to so terminate this Agreement and the intended effective date of termination.
- 5.1.16 Termination for Cause/Loss of Compensation and Benefits. In the event this Agreement is terminated for cause under Section 5.0, Coach shall not be entitled to receive any further compensation or benefits under this

Agreement. In no case shall University be liable to Coach for the loss of any collateral business opportunities, or any other benefits, perquisites, income or consequential damages suffered by Coach as a result of University's termination of his employment.

5.2 Termination by University Without Cause. The University may terminate this Agreement prior to its expiration without cause. Termination without cause means termination of this Agreement on any basis other than those set forth in Section 5.1 above. Termination without cause will be effectuated by delivery by the University to Coach of written notice of the University's intent to terminate this Agreement without cause, and provide at least 30 days notice before such termination becomes effective. If the University exercises its right to terminate the Agreement under this section, Coach will be entitled to damages only as provided below.

5.3 Liquidated Damages Upon Termination by University Without Cause. If the University terminates this Agreement without cause prior to its expiration, the University will pay to Coach, as liquidated damages, the following amount:

5.3.1 Subject to the mitigation provision below, the University will pay Coach his base salary due under Section 4.1 and any bonuses or additional compensation due under Section 4.0 of this Agreement from the effective date of termination through the current term of this Agreement. Further, the Coach will be entitled to all expenses incurred in the performance of his duties as Head Coach but not yet reimbursed or otherwise received by the date of the termination.

5.3.2 The University's obligation will be paid on a monthly basis and is subject to Coach's duty to mitigate the University's obligation as set forth below. The University's obligation will not include any payments for any other benefits provided herein, except that Coach may continue his health insurance plan and group life insurance at his own expense in accordance with then existing laws and regulations regarding the continuation of such benefits after termination of employment with the University.

5.3.3 In no case is the University liable for the loss of any marketing, incentive, or bonuses set forth in Section 4, or for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from University or outside activities.

5.3.4 The parties have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that termination of the Agreement by the University without cause prior to its natural expiration may cause Coach 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 Coach constitute adequate and reasonable compensation to Coach for any damages and injury he suffered because of such termination by the University. The foregoing is not, nor is construed to be, a penalty.

5.4 Mitigation of Damages by Coach if University Terminates Without Cause.

Notwithstanding the provision of Section 5.3, Coach agrees to make reasonable efforts to mitigate the University's obligations to pay liquidated damages set forth above and to make reasonable and diligent efforts to obtain comparable employment, such as a coaching position at a university or with a professional team (or league), after termination of this Agreement by the University without cause. After Coach obtains such new employment as specified herein above, the University's obligation to pay liquidated damages under this Agreement shall be reduced by the amount of Coach's new monthly base salary through the current term of this Agreement.

6.0 TERMINATION BY COACH.

Coach recognizes that his promise to work for the University for the entire term of this Agreement is of the essence of this Agreement to the University. Nevertheless, Coach may terminate this Agreement prior to its expiration, but only under the following terms and conditions:

6.1 Written Notice. Coach may terminate this Agreement by giving the Athletic Director 4 days advance written notice of his intention to terminate.

6.2 Termination of University's Obligations Under Agreement. Upon termination of this Agreement by Coach and payment of all amounts then owing through the effective date of termination by the University to Coach pursuant to the terms of this Agreement, all obligations owed by the University to Coach under this Agreement shall cease as of the effective date of the termination. In no case is the University to be liable for the loss of any marketing, incentive, or bonuses set forth in Section 4, or for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from University or outside activities.

6.3 Buy-Out. If Coach accepts employment with another university prior to the termination of this Agreement, Coach must pay the following as liquidated damages:

6.3.1 if such employment occurs prior to March 15, 2012, the entire first year's salary of \$280,000;

6.3.2 if such employment occurs between March 16, 2012 and March 15, 2013, the amount of \$175,000; or

6.3.3 if such employment occurs after March 15, 2013, no amount shall be due from Coach.

7.0 PROPERTY OF THE UNIVERSITY.

All materials or articles of information, including without limitation, personnel records, recruiting records, team information, films, statistics, or any other material or data, furnished to Coach by the University or developed by Coach on behalf of the University or at the University's direction or for the University's use or otherwise in connection with Coach's employment are and remain the sole property of the University. Within 10 days

of the expiration of the term of this Agreement or its earlier termination as provided herein, Coach must immediately cause any such materials in his possession or control to be delivered to the University.

8.0 BOARD OF TRUSTEES.

This Agreement is be subject to the approval of University's Board of Trustees.

9.0 ASSIGNMENT.

Neither party may assign its rights or delegate its obligations under this Agreement.

10.0 NOTICES.

Any notices, requests or demands required or permitted hereunder must be in writing and are deemed to have been given when received, if delivered in person to the Coach or the Athletic Director, or after 3 business days following the mailing thereof by certified, first class mail, postage prepaid, return receipt requested, to:

If to the University to:

Michael E. O'Brien,
Executive Director for Intercollegiate Athletics
The University of Toledo
2801 W. Bancroft, MS 302
Toledo, Ohio 43606

If to Coach to:

Tod Kowalczyk
The University of Toledo
2801 W. Bancroft, MS 302
Toledo, Ohio 43606

11.0 COMPLETE AGREEMENT.

This Contract sets forth the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements, contracts promises, representations, warranties, statements, arrangements and understandings, if any, among the parties hereto or their representatives. No waiver, modification or amendment of any provision, term or condition hereof is valid unless in writing and signed by the parties and any such waiver, modification or amendment is valid only to the extent therein set forth.

12.0 BINDING EFFECT.

This Contract is binding upon and inure to the benefit of the parties hereto and their respective successors, heirs and assigns.

13.0 GOVERNING LAW.

This Agreement shall be governed by and construed under the laws of Ohio.

14.0 SEVERABILITY.

Any provisions of this Agreement which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction are, as to such jurisdiction, ineffective only to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction does not invalidate or render unenforceable such provision in any other jurisdiction.

15.0 CONFIDENTIALITY.

Coach acknowledges that University is subject to the Ohio Revised Code §149.43, et seq., and any and all laws pertaining to public records.

This Employment Agreement is signed by the parties or their duly authorized representatives to be effective as of March 30, 2010.


COACH



Tod Kowalczyk

6/24/10
Date

THE UNIVERSITY OF TOLEDO

By: 

Lloyd A. Jacobs, M.D.,
President

Date

By: 

Michael E. O'Brien,
Vice President/Director of Athletics

6/24/10
Date

**FIRST AMENDMENT
TO THE EMPLOYMENT AGREEMENT
BY AND BETWEEN
THE UNIVERSITY OF TOLEDO
AND
TOD KOWALCZYK**

This FIRST AMENDMENT amends the EMPLOYMENT AGREEMENT (the "Agreement") by and between The University of Toledo (the "University") and Tod Kowalczyk ("Coach").

RECITALS

WHEREAS, the University and Coach entered into the above mentioned Agreement effective March 30, 2010 and the parties wish to amend the Agreement as set forth below.

NOW THEREFORE, the University and Coach agree as follows:

AMENDMENT

1. Section 2.1, Length, is deleted in its entirety and replaced with the following:

2.1 Length. This Agreement is for a term of seven (7) years commencing March 31, 2010 and ending on March 31, 2017. The Term will automatically extend for an additional two years on March 31, 2015, expiring March 31, 2019, subject to the conditions stated herein.

2. Section 6.3, Buyout, is deleted in its entirety and replaced with the following:

6.3 Buy-Out. If Coach accepts employment with another university prior to the termination of this Agreement, Coach must pay the following as liquidated damages:

6.3.1 if such employment occurs prior to March 15, 2014, the entire first year's salary of \$280,000;


6.3.2 if such employment occurs between March 16, 2014 and March 15, 2015, the amount of \$175, 000; or

6.3.3 if such employment occurs after March 15, 2015, no amount shall be due from Coach.

3. All other provisions of the Agreement will remain in full force and effect, it being understood that, in the event of a conflict between the terms of this FIRST AMENDMENT and the, the terms of this FIRST AMENDMENT take precedence.

IN WITNESS WHEREOF, the parties have executed this FIRST AMENDMENT effective _____, 2012.


COACH




Tod Kowalczyk

5/14/12
Date

THE UNIVERSITY OF TOLEDO

By: 
Lloyd A. Jacobs, M.D.,
President

5/10/2012
Date

By: 
Michael E. O'Brien,
Vice President/Director of Athletics

5/11/12
Date

**SECOND AMENDMENT
TO THE EMPLOYMENT AGREEMENT
BY AND BETWEEN
THE UNIVERSITY OF TOLEDO
AND
TOD KOWALCZYK**

This SECOND AMENDMENT amends the EMPLOYMENT AGREEMENT (the "Agreement") by and between The University of Toledo (the "University") and Tod Kowalczyk ("Coach").

RECITALS

WHEREAS, the University and Coach entered into the above mentioned Agreement effective March 30, 2010, that was thereafter amended effective March 30, 2012, and the parties wish to further amend the Agreement as set forth below.

NOW THEREFORE, the University and Coach agree as follows:

AMENDMENT


1. Section 2.1, Length, is deleted in its entirety and replaced with the following:

2.1 Length. This Agreement is for a term of nine (9) years commencing March 31, 2010 and ending on March 31, 2019. The Term will automatically extend for an additional two years on March 31, 2017, expiring March 31, 2021, subject to the conditions stated herein.

2. All other provisions of the Agreement will remain in full force and effect, it being understood that, in the event of a conflict between the terms of this SECOND AMENDMENT and the Agreement or First Amendment, the terms of this SECOND AMENDMENT take precedence.

IN WITNESS WHEREOF, the parties have executed this SECOND AMENDMENT effective _____, 2013.

COACH

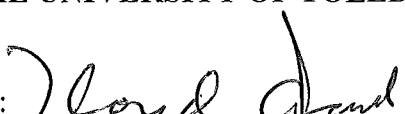


Tod Kowalczyk

5-30-13

Date

THE UNIVERSITY OF TOLEDO

By: 

Lloyd A. Jacobs, M.D.,
President

6/7/13

Date

By: 

Michael E. O'Brien,
Vice President/Director of Athletics

6/7/13

Date

**THIRD AMENDMENT
TO THE EMPLOYMENT AGREEMENT
BY AND BETWEEN
THE UNIVERSITY OF TOLEDO
AND
TOD KOWALCZYK**

This THIRD AMENDMENT amends the EMPLOYMENT AGREEMENT (the "Agreement") by and between The University of Toledo (the "University") and Tod Kowalczyk ("Coach").

RECITALS

WHEREAS, the University and Coach entered into the above mentioned Agreement effective March 30, 2010, that was thereafter amended effective March 30, 2012, and a second amendment effective June 7, 2013, and the parties wish to further amend the Agreement as set forth below.

NOW THEREFORE, the University and Coach agree as follows:

AMENDMENT

1. Section 2.1, Length, is deleted in its entirety and replaced with the following:


2.1 Length. This Agreement is for a term of eleven (11) years commencing March 31, 2010 and ending on March 31, 2021. The Term will automatically extend for an additional two years on March 31, 2019, expiring March 31, 2023, subject to the conditions stated herein.

2. Section 4.1 is hereby amended by deleting "\$280,000" and replacing it with "\$325,000."

3. All other provisions of the Agreement will remain in full force and effect, it being understood that, in the event of a conflict between the terms of this THIRD AMENDMENT and the Agreement, First Amendment, or Second Amendment, the terms of this THIRD AMENDMENT take precedence.

IN WITNESS WHEREOF, the parties have executed this THIRD AMENDMENT effective March 28, 2014.

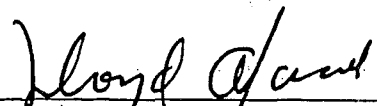
COACH



Tod Kowalczyk


Date: 4/1/14

THE UNIVERSITY OF TOLEDO

By: 

Lloyd A. Jacobs, M.D.
President

Date: 3/31/14

By: 

Michael E. O'Brien
Vice President/Director of Athletics

Date: 4/1/14

**FOURTH AMENDMENT
TO THE EMPLOYMENT AGREEMENT
BY AND BETWEEN
THE UNIVERSITY OF TOLEDO
AND
TOD KOWALCZYK**

This FOURTH AMENDMENT amends the EMPLOYMENT AGREEMENT (the "Agreement") by and between The University of Toledo (the "University") and Tod Kowalczyk ("Coach").

RECITALS

WHEREAS, the University and Coach entered into the above mentioned Agreement effective March 30, 2010, that was thereafter amended effective March 30, 2012, June 7, 2013, and March 28, 2014, and the parties wish to further amend the Agreement as set forth below.

NOW THEREFORE, the University and Coach agree as follows:

AMENDMENT

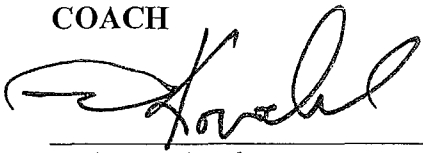
1. Section 4.4.2 is hereby deleted in its entirety and replaced with the following:

4.4.2 MAC Championship Incentive. If the men's intercollegiate basketball team wins the MAC Championship Tournament while Coach is head coach, he will receive a bonus in the amount of five percent (5%) of his base salary. If the men's intercollegiate basketball team should win the MAC regular season championship while Coach is head coach, he will receive a bonus in the amount of five percent (5%) of his base salary (i.e. a total of ten percent (10%) of his base salary). The above referenced amounts are cumulative.

2. All other provisions of the Agreement will remain in full force and effect, it being understood that, in the event of a conflict between the terms of this FOURTH AMENDMENT and the Agreement, First, Second or Third Amendments, the terms of this FOURTH AMENDMENT take precedence.

IN WITNESS WHEREOF, the parties have executed this FOURTH AMENDMENT effective July 1, 2014.

COACH

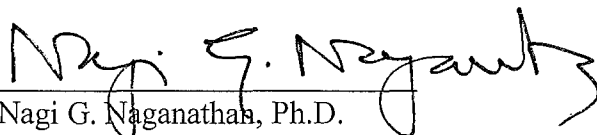


Tod Kowalczyk

10-9-14

Date

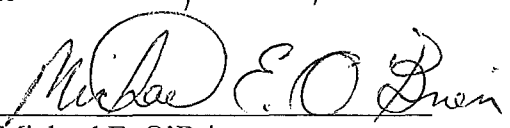
THE UNIVERSITY OF TOLEDO

By: 

Nagi G. Naganathan, Ph.D.
ASME Fellow, Interim President

11/24/2014

Date

By: 

Michael E. O'Brien,
Vice President/Director of Athletics

10/9/14

Date

FOURTH AMENDMENT
TO THE EMPLOYMENT AGREEMENT
BY AND BETWEEN
THE UNIVERSITY OF TOLEDO AND
TOD KOWALCZYK

This FOURTH AMENDMENT amends the EMPLOYMENT AGREEMENT (the "Agreement") by and between The University of Toledo (the "University") and Tod Kowalczyk ("Coach").

RECITALS

WHEREAS, the University and Coach entered into the above mentioned Agreement commencing March 31, 2010, that was thereafter amended effective March 30, 2012, a second amendment effective June 7, 2013, and a third amendment effective March 28, 2014 and the parties wish to further amend the Agreement as set forth below.

NOW THEREFORE, the University and Coach agree as follows:

AMENDMENT

1. Section 4.4.5, Academic Progress Rate, is deleted in its entirety and replaced with the following:

4.4.5 Academic Progress Rate. If the men's intercollegiate basketball team roster of eligible players in any given year while Coach is the head coach, achieves an APR (Academic Progress Rate as adopted by the NCAA) score of 930 or greater, Coach will receive a bonus of five percent (5%) of his annual base salary. These amounts are cumulative.

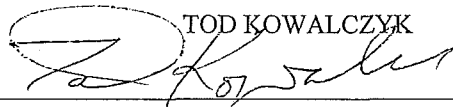
4.4.5.1 The APR related to the above incentive shall be calculated based upon the student-athletes on the men's basketball roster as of September 1, 2015 and after. Consequently, the APR of the prior rosters shall not impact the calculations of the APR related to Coach's incentive under the agreement.

2. All other provisions of the Agreement will remain in full force and effect, it being understood that, in the event of a conflict between the terms of this FOURTH AMENDMENT and the Agreement, First Amendment, or Second Amendment, or Third Amendment, the terms of this FOURTH AMENDMENT take precedence.

IN WITNESS WHEREOF, the parties have executed this FOURTH AMENDMENT effective June 1, 2015.

THE UNIVERSITY OF TOLEDO

TOD KOWALCZYK



Name: _____
Title: _____
Date: _____

Date: 5-26-15



Michael E. O'Brien
Vice President/Director of Athletics

Date: 6/1/15

**SIXTH AMENDMENT
TO THE EMPLOYMENT AGREEMENT
BY AND BETWEEN
THE UNIVERSITY OF TOLEDO
AND
TOD KOWALCZYK**

This SIXTH AMENDMENT amends the EMPLOYMENT AGREEMENT (the "Agreement") by and between The University of Toledo (the "University") and Tod Kowalczyk ("Coach").

RECITALS

WHEREAS, the University and Coach entered into the above mentioned Agreement effective March 30, 2010, that was thereafter amended effective March 30, 2012, June 7, 2013, March 28, 2014, July 1, 2014 and June 1, 2015, the parties wish to further amend the Agreement as set forth below.

NOW THEREFORE, the University and Coach agree as follows:

AMENDMENT

1. Section 2.1, Length, is deleted in its entirety and replaced with the following:

2.1 Length. The Term of the Agreement extends through March 31, 2023. On March 31, 2021, the Term will automatically extend for an additional two years, expiring March 31, 2025, subject to the conditions stated herein.

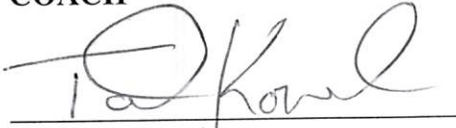
2. Section 4.3, Marketing Compensation, is supplemented with the italicized language:

4.3 Marketing Compensation. While Coach is serving as head coach of the intercollegiate basketball team, he will receive additional compensation in the amount of \$30,000 annually in the form of marketing income, including, but not limited to, sponsorships, television and radio shows, rollover sponsor fees, speaking engagements and any other talent fee payments, in consideration for which Coach agrees that he will perform television and radio shows, speeches and other appearances as reasonably requested by the University. This additional compensation will increase annually in the amount of \$15,000, beginning March 30, 2011 *until March 30, 2023, at which point the Marketing Compensation will remain fixed*. Coach will receive this additional compensation in one lump sum subsequent to the season including all post-season tournament play, and which shall be paid within thirty (30) days of the end of the season and/or post season play whichever is later. If Coach is terminated for cause during a season, he shall not be entitled to any portion of the marketing income. If Coach is terminated without cause, he shall be entitled to a pro-rata share of the marketing income for only the period of time he actually performed the marketing responsibilities and in no way, is entitled to any marketing compensation if he is not working in the capacity of the Coach.

3. All other provisions of the Agreement will remain in full force and effect, it being understood that, in the event of a conflict between the terms of this SIXTH AMENDMENT and the Agreement, First Amendment, Second Amendment, Third Amendment, Fourth Amendment and Fifth Amendment, the terms of this SIXTH AMENDMENT take precedence.

IN WITNESS WHEREOF, the parties have executed this SIXTH AMENDMENT effective March 21, 2018.

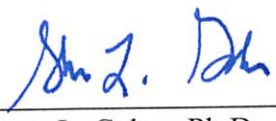
COACH



Tod Kowalczyk

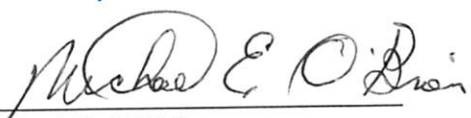
3/23/18
Date

THE UNIVERSITY OF TOLEDO

By: 

Sharon L. Gaber, Ph.D.,
President

3/23/18
Date

By: 

Michael E. O'Brien,
Vice President/Director of Athletics

3/23/18
Date