

EMPLOYMENT CONTRACT

This Employment Contract (hereinafter referred to as the "Contract"), effective the 29th day of November, 2015, is hereby made by and between **VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY** (hereinafter referred to as the "UNIVERSITY"), and **JUSTIN J. FUENTE** (hereinafter referred to as "FUENTE").

WITNESSETH:

WHEREAS, the University desires to employ Fuente as the Head Football Coach of Virginia Polytechnic Institute and State University; and

WHEREAS, Fuente desires to accept the offer of employment;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the University hereby employs Fuente as the Head Football Coach of the University and Fuente hereby accepts employment as Head Football Coach of the University under the following terms and conditions:

ARTICLE I

DUTIES:

The parties agree that Fuente's enumerated duties are as follows:

1. Reports to the Director of Athletics, as well as to the Executive Associate Director of Athletics, or a subsequent day-to-day "sport oversight" of Director of Athletics' choosing, and is held responsible for the planning, developing, administering, and evaluating of the football program.

2. Advises the football staff and team of those intercollegiate and NCAA rules and policies as directed and so interpreted by the administration of the University and diligently seeks to ensure that the program is accountable to him for ongoing compliance.

3. Recruits, directs, supervises, and evaluates the assistant football coaching staff and all related football support personnel.

4. Recommends selection, compensation, discipline, and discharge of assistant football coaches.

5. Recommends students to receive athletic grant-in-aid scholarships.

6. Conducts and controls training and conditioning and helps promote drug education and testing programs for student-athlete football players, using program development input from support sources, e.g., the Head Trainer, Nutritionist, and Strength and Conditioning Coach.

7. Develops, supervises, and conducts the recruiting program for prospective student-athlete football players.

8. Ensures that student-athletes are informed and/or trained on the contents of the Student Athlete Handbook, appropriate University sources for assistance regarding financial aid, academic advisement, career development, counseling, life skills development, and general student needs provided by the University and the Athletic Department.

9. Seeks to provide appropriate program safety requirements under the supervision of the head athletic trainer and team physician assigned by the University, and relies upon their professional advice.
10. Determines individual and team strengths in developing strategies for skill improvement and competitive requirements.
11. Instructs the coaching staff and the student-athletes in the required rules of football.
12. Supervises all games, scrimmages, and practices, and organizes the conduct of practices and scrimmages, and delegates these responsibilities to an appropriate staff member in his absence.
13. Fairly disciplines student-athletes for infractions of team rules and University regulations relevant to team matters, or team policies, subject to applicable provisions of the Student Athlete Handbook, University policies, and Athletic Department policies.
14. Responsible for expending operational resources budgeted to the football program in a manner consistent with University policy.
15. Coordinates with the Sports Information Director the preparation of brochures, programs, statistical reports, and press releases in support of the program.
16. Works with Hokie Club Office in fund-raising efforts to support the program.
17. Oversees the preparation and update of the equipment inventory for the football program from delegated personnel.

18. Directs football staff activity relating to public relations and promotion functions for the football program.
19. Assists the University administration in monitoring of the academic progress of student-athletes to facilitate pursuit of a baccalaureate degree.
20. Represents the University in organizations governing the football program as deemed necessary, such as NCAA, the ACC or any successor conference or affiliation.
21. Performs duties reasonably assigned by the Director of Athletics, mutually agreed upon to be pertinent to the function of the football program.
22. As schedule permits, assists and promotes the University's athletic program by soliciting and encouraging contributions to and support for the University's intercollegiate football program.
23. As schedule permits, represents the University and its football program at appropriate events and meetings, including meetings of the Hokie Club and Alumni Association.

ARTICLE II

The term of this Contract shall be for six (6) years, beginning November 29, 2015, and ending on December 31, 2021 (the "Term"), and this Contract shall be subject to the Virginia Tech Faculty Handbook ("Faculty Handbook") except as expressly amended by this Contract. University and Fuente agree that Fuente shall not be assigned to any other position at University other than Head Football Coach during the term of this Contract.

ARTICLE III

COMPENSATION:

In consideration of Fuente's services and for his performance of the terms, conditions, and duties stated herein, the University agrees to compensate Fuente in the following manner:

A. Annual Salary.

The University will pay Fuente a base salary of Five Hundred Thousand Dollars (\$500,000.00) annually on a calendar year basis. The 2015 base salary shall be prorated based upon the number of days in the Term that occurred during 2015 (33/365).

B. Vehicles.

The University will provide Fuente with the use of two (2) new automobiles (replaced every two years) which may be dealer cars, or, at the University's option, an equivalent automobile allowance at the then prevailing University rate. The University will pay for gas (or mileage) for business related purposes, service, maintenance, and insurance only on vehicles provided by the University, not for automobile allowance vehicles. The University will pay the standard University policy mileage reimbursement rate for automobile allowance vehicles.

C. Supplemental Compensation:

Fuente shall be paid supplemental compensation for services in media relations and Hokie Club appearances performed while employed by the University. The supplemental compensation shall be as follows:

1. \$2,700,000.00 for the year beginning January 1, 2016;

2. \$2,750,000.00 for the year beginning January 1, 2017;
3. \$2,850,000.00 for the year beginning January 1, 2018;
4. \$2,950,000.00 for the year beginning January 1, 2019;
5. \$3,050,000.00 for the year beginning January 1, 2020; and
6. \$3,150,000.00 for the year beginning January 1, 2021.

These sums shall be paid on a quarterly basis, beginning January 1, 2016, in four equal installments on the first days of January, April, July, and October. Supplemental Compensation for 2015 shall be at the 2016 annual rate, but prorated based on the number of days in the Term that occurred during 2015 (33/365).

D. Club Membership.

The University will pay the initiation fees and annual dues for Fuente's membership in the Blacksburg Country Club for so long as he serves as the University's head football coach, including any time Fuente may be out on sick leave as set forth in the Faculty Handbook.

E. University Benefits.

Fuente shall be entitled to insurance benefits, paid vacation leave, sick leave and retirement benefits as other administrative professional ("A/P") University employees. Such employee benefits are set out in detail in the Faculty Handbook, to which reference is here made and which provisions are incorporated herein by reference. To the extent any provisions of the Faculty Handbook are inconsistent with the terms of this Contract, this Contract shall prevail. Additionally, Fuente may purchase COBRA benefits for eighteen

months after separation or termination provided Fuente otherwise qualifies for such benefits.

F. Recognition of Exemplary Performance.

The Director of Athletics may recommend to the University that Fuente be recognized for exemplary performance. Upon receipt of such recommendation, the University may award appropriate recognition to Fuente. Such recognition may, but need not, take the form of a monetary award. In any event, in addition to any recognition and/or bonus pursuant to the previous three sentences, the University agrees that the bonus structure hereinafter set out applies throughout this Contract:

1. Athletic Achievement Incentive Compensation

a. In any year the University Football Team plays in the Atlantic Coast Conference Championship Game (or other conference with which the University is affiliated), University shall pay Fuente a noncumulative bonus of \$25,000.00 for making the championship game or \$50,000.00 for winning the championship game (per season);

b. In the event Fuente is named "conference coach of the year," whether the title is solo or shared, University shall pay Fuente a bonus of \$25,000.00 per season;

c. In the event Fuente is named "National Coach of the Year," whether the title is solo or shared, by The Associated Press, Maxwell Football Club, or ABC/ESPN, University shall pay Fuente a bonus of \$50,000.00 per season;

d. In the event the University Football Team plays in post-season game(s) in addition to the conference championship game, University shall pay Fuente one of the following non-cumulative bonuses for the highest achievement (per season):

(i) For playing in an ACC-Defined Tier II Bowl Game, University will pay Fuente \$50,000.00;

(ii) For playing in an ACC-Defined Tier I Bowl Game, University will pay Fuente \$75,000.00;

(iii) For playing in an NCAA Four-Team College Football Playoff, University will pay Fuente \$125,000.00; or

(iv) For winning the NCAA FBS College Football Championship, University will pay Fuente \$250,000.00.

e. University represents that it will incorporate a bonus structure in the contracts of Fuente's nine (9) full-time assistant coaches that will provide the following non-cumulative athletic achievement incentive compensation:

(i) One and one-half (1½) month's salary for playing in an ACC-Defined Tier I Bowl Game; or

(ii) One (1) month's salary for playing in an ACC-Defined Tier II Bowl Game.

All bonuses and payments under Paragraph F(1) shall be paid within thirty (30) days of the event giving rise to the bonus (but shall be deemed to have been earned on the day they were achieved).

2. Academic Achievement Incentive Compensation

Beginning with the 2015-2016 academic year and each successive academic year thereafter, University shall pay Fuente \$25,000.00 for each academic year in which the football team achieves an Academic Progress Rate ("APR") of 965 or higher. This incentive will begin to accrue, if applicable, upon the release of the 2015-2016 academic year APR in the Spring of 2017. This incentive will be paid within thirty (30) days of accrual (but will be deemed to have been earned on the final day of each applicable academic year).

G. Outside Contracts

The parties agree that all contracts between Fuente and persons, parties, or legal entities of any type, outside of the University, shall conform to the requirements of Sections 2.14, 2.15, and 2.16 of the Faculty Handbook, and shall first receive prior written approval (which shall not be unreasonably withheld) from the University's President for all athletically related income, inclusive of and in accordance with NCAA Bylaw 11.2.2 and its subparts and any amendments.

H. Tickets.

University shall make available at no cost to Fuente the following tickets:

1. A suite of University's choosing for each home football contest;
2. Six (6) tickets to each home basketball game;

All tickets provided in this section are for Fuente's use for the advancement of University interests and shall not be sold or rented to others.

Within five (5) days after the conclusion of each event for which Fuente

receives tickets, Fuente shall provide the Compliance Office with a written list of persons to whom Fuente provided tickets. The parties agree that the tickets and suite are provided to advance the Universities interests and the tickets and suite under no circumstances should be considered income, subject to the applicable provisions of the Internal Revenue Code.

I. Moving Expenses.

University will pay Fuente's reasonable moving expenses and reasonable temporary housing expenses, both of which are subject to the University's relocation policy, for up to four (4) months or until Fuente's family relocates to Blacksburg, whichever occurs first.

University will pay reasonable moving expenses and reasonable temporary housing expenses, both of which are subject to the University's relocation policy, for up to nine (9) of Fuente's coaching staff and their immediate families, for up to three (3) months or until the individual staff members relocate to Blacksburg, whichever occurs first.

J. Withholding.

Notwithstanding any of the foregoing provisions hereof, the University may withhold from payments to be made hereunder such amounts as it may be required to withhold under any applicable federal, state, or other law.

K. Entire Compensation.

The University and Fuente hereby expressly acknowledge that the salary and benefits set forth in this Article III constitute the entire compensation to which Fuente is or may be entitled under this Contract, and that Fuente's

entitlement to that compensation immediately ceases in all respects if Fuente is terminated for "good cause" as defined in Article VIII of this Contract.

ARTICLE IV

STAFF AND SCHEDULING:

Fuente shall have the right to select and retain, consistent with the football budget that has been approved by University, assistant coaches, and practice/game/support/scouting video personnel in accordance with the following:

A. University will provide a budget of up to \$3,400,000.00 for the annual compensation of nine (9) full time assistants. Additional funding in excess of \$3,400,000.00 may be available upon the mutual agreement of Fuente and the Director of Athletics and subject to University policies.

B. University will provide a budget of \$420,000.00 for the annual compensation (and creation of positions, if applicable) of a director of operations, a strength and conditioning coach, video coordinator, and director of recruiting. These positions are subject to the mutual agreement of Fuente and the Director of Athletics and shall comply with NCAA rules and University policies.

ARTICLE V

LONG TERM ILLNESS OR INCAPACITY:

If Fuente cannot or does not perform his duties as the University's head football coach because of illness or incapacity of any type whatsoever for a cumulative total of more than six (6) months in any calendar year, the Director

of Athletics may terminate this Contract, with the approval of the President of the University, or his or her designee, upon thirty (30) days written notice to Fuente. Upon termination of this Contract due to illness or incapacity as described herein, Fuente shall be entitled to receive the accrued but unpaid portion of the Supplemental Compensation described in Article III, Section C of this Contract. In addition, Fuente shall be entitled to receive the employee benefits as set out in detail in the Faculty Handbook as described in Article III, Section E of this Contract. Fuente and the University shall be relieved of all liabilities and/or obligations under this Contract following such termination.

ARTICLE VI

DEATH:

If Fuente dies during the term of this Contract, this Contract shall terminate forthwith. In the event of Fuente' death during the term of this Contract, the University shall pay to Fuente' estate any compensation due him up to the end of the month in which Fuente dies, as well as any installment of the Supplemental Compensation described in Article III, Section C of this Contract, accrued but unpaid at his death. In addition, Fuente' beneficiaries shall be entitled to receive the employee benefits as set out in detail in the Faculty Handbook as described in Article III, Section E of this Contract.

ARTICLE VII

CONDITIONS OF EMPLOYMENT:

Fuente shall devote his entire time, attention, energies and abilities to his duties as the University's Head Football Coach, and during his employment, except as hereafter provided, he shall not engage in any other business or occupation, which is or is not pursued for profit, gain or other personal advantage, without first obtaining the written approval of the Director of Athletics (subject to the provisions of Article III.G., above).

Fuente shall have the right to incorporate himself into a personal service corporation for the purposes of protecting his personal assets from liability resulting from sports camps or other professional activities, and/or to shelter self-employed income in the appropriate retirement plan vehicles resulting from sources outside the University's system, and approved herein.

Any income resulting from clinics, camps, professional activities, endorsements, speaking engagements, or other self-employment income generated from activities relating to his conduct as Head Football Coach shall be non-W-2 income and paid directly to Fuente, but reportable to the NCAA and IRS.

Furthermore, it is recognized that any of the aforementioned income and benefits shall be subject to NCAA rules and regulations regarding the reporting and institutional controls regarding coach's outside income as required by that governing body and its members, and must be consistent with University and the Commonwealth's policies and procedures.

Fuente shall have the right to operate football camps during the summer months, using the University's facilities, personnel and other services provided he pays a reasonable cost for the use thereof (at the best rates otherwise offered by the University for such types of athletic camps), complies with institutional and NCAA rules, and provides adequate insurance against any claim, demand, or action that might arise as a result of such operations. Staff compensation shall be solely subject to Fuente's control and Fuente's responsibility.

The University and Fuente agree that all materials and work product created or developed by Fuente specifically within scope of his employment, and all rights of any and every kind that Fuente may have shall be governed by the University's Intellectual Property Policy No. 13000 and the applicable laws of the Commonwealth of Virginia.

Fuente shall conduct such travel as necessary to carry out his duties as Head Football Coach, and he shall be entitled to reimbursement for transportation and per diem expenses as authorized by State law and University policy upon presentation of the appropriate vouchers and receipts.

University's will reimburse Fuente's business expense of up to \$500,000.00 for the exit fee/liquidated damages owed to University of Memphis. University will provide Fuente these funds upon presentation of a valid receipt from the University of Memphis and a completed University reimbursement request. Fuente agrees that these funds are solely for the purpose of paying the exit fee/liquidated damages to the University of

Memphis. In the event that University of Memphis were to return any portion of the exit fee/liquidated damages payment to Fuente, then Fuente will return the portion to University.

ARTICLE VIII

TERMINATION AND SUSPENSION:

The Director of Athletics shall have the right to terminate this Contract, subject to the approval of the President of the University, or his or her designee, for "good cause." A termination for "good cause" shall immediately relieve the University of any and all liabilities and/or obligations to Fuente under this Contract, other than moneys then due for services performed since the last monthly installment of the annual base salary was paid and the accrued but unpaid portion of the supplemental compensation up to the date of termination and any accrued or earned bonuses that have not yet been paid. University shall give Fuente thirty (30) days written notice of any termination or suspension for "good cause". For purposes of this Contract, "good cause" shall be defined as follows:

- A. Refusal or failure to furnish information requested of Fuente in writing by the University, relevant to an investigation of a possible football program violation or an NCAA or ACC bylaw or regulation;
- B. Refusal to cooperate with the NCAA, ACC or University staff in the investigation of possible football program violations of NCAA or ACC bylaws or regulations;

- C. Knowing involvement in arranging for academic fraud by or for prospective or enrolled student-athletes;
- D. Knowing involvement in offering or providing prospective or enrolled student athletes improper inducements or extra benefits provided such conduct rises to the level of an NCAA Level I or Level II violation by Fuente, or Fuente's staff if Fuente knew or should have known of such violation;
- E. Knowingly furnishing the NCAA, ACC or the University false or misleading information concerning Fuente or any staff member's or student-athlete's involvement in or knowledge of a violation of an NCAA or ACC bylaw or regulation;
- F. Knowingly providing information concerning intercollegiate athletics to individuals involved in organized gambling activities;
- G. Knowingly soliciting a bet on any inter-collegiate team or accepting a bet on any University team;
- H. Knowingly participating in any gambling activity that involves intercollegiate athletics through a bookmaker, a parlay card or any other method employed by organized gambling;
- I. Receiving benefits for facilitating or arranging a meeting between a student athlete and an agent or a financial advisor or a known representative of an agent or financial advisor provided such conduct rises to the level of an NCAA Level I or Level II violation by Fuente;
- J. Conviction of a felony or a crime of moral turpitude;

K. Committing any NCAA Level I or Level II violations, as reasonably determined by the University;

L. Committing Level I or Level II violations of NCAA rules or policies in connection with the football program if committed by any personnel or by any student athlete or other "representative of the University's athletic interests" (as defined by the NCAA), whereby, in all of the foregoing, Fuente knew or should have known of such violation, had prior knowledge of the violation and did not prevent or try to prevent the violation, and/or concealed or failed to report the violation. Furthermore, this shall include instances wherein Fuente should have known of such a Level I violation being committed within the football program if committed by any personnel or by any student athlete or other "representative of the University's athletic interests" (as defined by the NCAA), and had Fuente known of such violation, Fuente would have reasonably been able to prevent such violation from continuing to occur.

It is not the intention or desire of University that Fuente's employment be terminable for minor, technical or otherwise insignificant acts of misconduct by Fuente, or for minor, technical or otherwise insignificant University regulations or NCAA or ACC violations which do not entail the risk of Level I institutional penalties. Furthermore, it is not the intention or desire of the University that this Agreement be terminable if Level II or lesser violations occur after Fuente has properly exercised institutional control under the Principles of Institutional Control as prepared by the NCAA Committee on Infractions. In order to properly maintain institutional control, Fuente shall be notified by the Compliance Office of

any and all alleged violations committed by Fuente, any assistant football coach or any football staff member for whom Fuente is responsible. Fuente shall then report to the Director of Athletics any corrective or disciplinary action taken to remediate the alleged violations.

M. Material breach of significant written Athletic Department policies or other significant written University policies and procedures (provided Fuente is given written notice thereof by the University and Fuente subsequently fails to cure such material breach within the immediately following fifteen (15) days).

In addition to all other termination and disciplinary rights of the University, pursuant to Bylaw 11.2.1 of the NCAA Constitution, or its subsequent iteration, if Fuente is found to be in violation of NCAA regulations, Fuente shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA infractions process, including suspension without pay or termination of employment for significant or repetitive violations.

ARTICLE IX

STIPULATED DAMAGES:

A. In the event University elects to terminate Fuente's Contract as Head Football Coach without "good cause" as defined in Article VIII, University will pay stipulated damages to Fuente consisting of the base salary and supplemental compensation remaining in Fuente's contract from the date of written notice of termination. Said sum shall be paid in the same manner as Fuente's supplemental compensation (exclusive of club memberships, automobile

allowances and other benefits, perquisites, or entitlements set out herein), less required withholding, in equal quarterly installments for the duration of the remaining contract term from the date of written notice of termination. Fuente agrees to accept these payments as his exclusive remedy as follows:

1. If University terminates prior to December 15, 2016, University will pay Fuente \$15,000,000.00;

2. If University terminates on or after December 15, 2016, and prior to December 15, 2017, University will pay Fuente \$12,000,000.00;

3. If University terminates on or after December 15, 2017, and prior to December 15, 2018, University will pay Fuente \$9,000,000.00;

4. If University terminates on or after December 15, 2018, and prior to December 15, 2019, University will pay Fuente \$5,000,000.00;

5. If University terminates on or after December 15, 2019, and prior to December 15, 2020, University will pay Fuente \$3,000,000.00;

6. If University terminates on or after December 15, 2020, and prior to August 31, 2021, University will pay Fuente \$1,500,000.00; or

7. If University terminates on or after August 31, 2021, University will pay Fuente \$500,000.00.

B. In the event Fuente resigns or otherwise voluntarily terminates his employment with the University and accepts employment as an NCAA FBS football coach or as an NFL football coach during the term of this Contract stated in Article II, Fuente agrees to pay and the University agrees to accept as its remedy stipulated damages paid within one hundred eighty (180) days of

Fuente's acceptance of employment as an NCAA FBS football coach or as an NFL football coach the amounts set forth below. The parties agree that the term "coach" as used for the purpose of stipulated damages is meant to be defined broadly and include any affiliation with an NCAA, FBS school, or NFL team, including but not limited to a consultant, position coach, recruiter, fundraiser, media relations, or any other position, whether paid or volunteer, that would be beneficial financially, commercially, competitively, or through publicity, to the FBS school or NFL team.

1. If Fuente terminates prior to December 15, 2016, Fuente will pay University \$7,000,000.00;
2. If Fuente terminates on or after December 15, 2016, and prior to December 15, 2017, Fuente will pay University \$6,000,000.00;
3. If Fuente terminates on or after December 15, 2017, and prior to December 15, 2018, Fuente will pay University \$5,000,000.00;
4. If Fuente terminates on or after December 15, 2018, and prior to December 15, 2019, Fuente will pay University \$3,000,000.00;
5. If Fuente terminates on or after December 15, 2019, and prior to December 15, 2020, Fuente will pay University \$1,000,000.00; or
6. Fuente will owe no stipulated damages if he terminates after on or after December 15, 2020.

Fuente may terminate this Contract without the obligation to pay stipulated damages in the event University materially breaches this Contract and fails to

cure the breach within fifteen (15) days written notice from Fuente specifically outlining the breach.

C. Both University and Fuente waive any and all defenses as to the validity of the stipulated damages stated in this Contract as they may appear on the grounds that such stipulated damages are void as penalties or are not reasonably related to actual damages. The parties agree that each has carefully considered the amount of stipulated damages and agree that stipulated damages reflect the amount needed by each party as reasonable compensation for all losses each may incur. Notwithstanding the payments described above, Fuente shall be entitled to receive the accrued but unpaid portion of the base compensation and supplemental compensation up to the date of written termination.

ARTICLE X

WAIVER OF BREACH:

The waiver by either party of a breach of any provision of this Contract shall not operate or be construed as a waiver by that party of any subsequent breaches.

ARTICLE XI

SEVERABILITY:

In the event that any provision of this Contract shall be deemed invalid, unreasonable, or unenforceable by any Court of competent jurisdiction or

because of NCAA Rules or Bylaws, such provision shall be stricken from the Contract or modified so as to render it reasonable, and the remaining provisions of this Contract or the modified provision shall continue in full force and effect and be binding upon the parties so long as such remaining or modified provisions reflect the interest of the parties at the date of this Contract. Any such stricken items shall be subject to renegotiation at the first possible time, subject to right of refusal by the University.

ARTICLE XII

NOTICE:

All notices hereunder shall be in writing and shall be given by personal delivery, registered or certified mail to the following addresses:

As to FUENTE:

Justin J. Fuente
Athletics Department (0502)
Jamerson Athletics Center
21 Beamer Way
Blacksburg, VA 24061

As to UNIVERSITY:

Director of Athletics
Virginia Tech
352 Jamerson Athletic Center
Blacksburg, Va. 24061-0502

ARTICLE XIII

APPLICABLE LAW:

This Contract shall be construed in accordance with the laws of the Commonwealth of Virginia.

ARTICLE XIV

SUCCESSORS AND ASSIGNS:

This Contract shall insure to the benefit of and be binding upon the successors and assigns of Fuente.

ARTICLE XV

HEADINGS:

The headings at the beginning of each paragraph and sub-paragraph of this Contract are for convenience only and shall not in any way affect the interpretation of any paragraph of this Contract or the entire Contract.

ARTICLE XVI

EXECUTION IN COUNTERPARTS:

This Contract may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Contract.

ARTICLE XVII

REMEDIES:

Unless expressly waived herein, the remedies provided for in this Contract or otherwise available to the parties shall be cumulative and no one such remedy shall be exclusive of any other and the exercise of any one shall not preclude the exercise or be deemed to be a waiver of any right or remedy

at law or in equity which may be available to a party, including any rights to damages or injunctive relief.

ARTICLE XVIII

ADDITIONAL DOCUMENTS:

The parties shall execute and deliver any and all additional papers, documents and other instruments and shall do any and all further acts and things reasonable necessary in connection with performance of their obligations hereunder to carry out the intent of this Contract.

ARTICLE XIX

TAX COMPLIANCE – SECTION 409A OF THE INTERNAL REVENUE CODE.

Notwithstanding any provision of this Contract to the contrary, all provisions of this Contract shall be construed and interpreted to comply with Section 409A of the Internal Revenue Code of 1986, as amended (“Section 409A”), and if necessary, any provision shall be held null and void to the extent such provision (or part thereof) fails to comply with Section 409A or regulations thereunder. For purposes of Section 409A, all payments to be made upon a termination of employment under this Contract may only be made upon a “separation from service” within the meaning of such term under Section 409A, each payment of compensation made under this Contract shall be treated as a separate payment of compensation, and the right to a series of installment payments under this Contract is to be treated as a right to a series of separate

payments. Any amounts payable under this Contract solely on account of an involuntary separation from service within the meaning of Section 409A shall be excludible from the requirements of Section 409A, either as involuntary separation pay or as short-term deferral amounts (e.g., amounts payable under the schedule prior to March 15 of the calendar year following the calendar year of involuntary separation) to the maximum possible extent. To the extent that any amounts payable under this Contract are not excludible from the requirements of Section 409A under the involuntary separation pay exception or as short-term deferral amounts, such amounts shall be payable on fixed dates or pursuant to a fixed payment schedule, as provided in this Contract. In no event shall Fuente, directly or indirectly, designate the calendar year of payment. Further, any reimbursements or in-kind benefits provided under this Contract that are subject to Section 409A shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirements that (i) any reimbursement is for expenses incurred during the period of time specified in the employment agreement, (ii) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during calendar a year may not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year, (iii) the reimbursement of an eligible expense will be made no later than the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit. Notwithstanding anything in this Contract to the contrary, any

right of the University to offset or otherwise reduce any sums that may be due or become payable by the University to Fuente or for the account of Fuente, by an overpayment or indebtedness of Fuente, shall be subject to limitations imposed by Section 409A.

ARTICLE XX

SUCCESSOR ORGANIZATIONS:

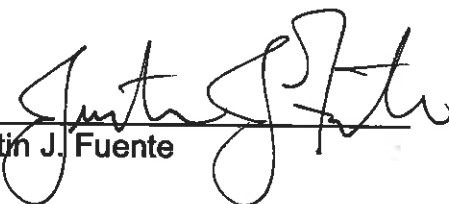
Use of the terms "NCAA," "ACC," and "FBS," shall include their successor organizations, conferences, series, championship, or playoff.

ARTICLE XXI


ENTIRE CONTRACT:

This Contract represents the entire understanding of the parties, and neither party is relying upon any representation not contained in this Contract.

IN WITNESS WHEREOF, the parties have signed this Contract on the 14th day of April, 2016.


Justin J. Fuente

VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY


Timothy D. Sands
President


Whit Babcock
Director of Athletics