

**California State University
MPP Athletics Definite Term Appointment Letter**

Welcome to the California State University. Pending the successful completion of a criminal background screening check, I am pleased to offer Kalen DeBoer (Employee) an appointment to the position of Head Football Coach at California, State University, Fresno, within the California State University Management Personnel Plan (§ 42720 et seq. of Title 5 of the California Code of Regulations) (the MPP). A copy of the MPP is attached to this letter. This appointment is subject to the provisions of the MPP (unless otherwise specified), applicable state and federal law, and the rules, regulations, policies and procedures of the California State University (CSU) system and California, State University, Fresno. This appointment includes the following provisions:

ARTICLE I – NATURE OF APPOINTMENT

- 1.01 In accordance with Article 2.2 § 42723 of Title 5, no tenure or permanent status is granted with this appointment and no tenure or permanent status can be achieved within the MPP. Further, the University may assign or reassign Employee to different duties in the same position, or to other positions with different duties, during the term of this appointment.
- 1.02 This appointment does not establish consideration for subsequent employment or any further rights. Subsequent employment will occur only if a new written appointment offer is made by California, State University, Fresno and a new written Appointment Letter is signed by Employee and California, State University, Fresno and, if required, the Fresno State Athletic Corporation.
- 1.03 Although this appointment is sports-related, the primary purpose of the University and all of its arrangements with its coaches, including this appointment, is educational. Thus, the educational purposes of the University will have priority in the various provisions of this Letter

ARTICLE II – PUBLIC DOCUMENT

- 2.01 This Appointment Letter is a public document and the University may release copies of the Appointment Letter to persons requesting the same.

ARTICLE III – TERM OF EMPLOYMENT

- 3.01 **Term of Appointment.** The term of this appointment commences on January 4, 2020 and ends on January 1, 2025, unless sooner terminated in accordance with Article 3.02 or Article 6 below.
- 3.02 **Non-Retention.** The MPP defined in Article 2.2 of Title 5 is an integrated personnel system addressing employment rights, benefits, and conditions for employees designated as “management” or “supervisory” under HEERA (Higher Education Employer-Employee Relations Act). Under the MPP, California, State University, Fresno reserves the right to non-retain Employee from employment at any time without cause prior to the completion of the term of appointment. If Employee is non-retained under this paragraph, Employee will be paid eighty (80) percent of the total base salary [For purposes of this provision, “total base salary” is a combination of the base salary listed in Section 5.01(a) of the Agreement and the salary obligations described in Section 4.01 of the Fresno State Athletic Corporation’s Consulting Services Agreement with the Employee.] remaining due to Employee through the end date of this appointment on a monthly basis, unless Employee accepts comparable professional employment. Two jobs are comparable for this

purpose if they are of the same nature and if the pay, benefits, and working conditions are substantially similar. If Employee obtains comparable employment, including employment as a head or assistant coach, analyst, or any other football program support position at the collegiate or professional level, as well as any other position related to the sport of football including television studio or analyst positions, any earnings through this other employment will offset and be deducted from the payment owed through non-retention under this paragraph. The payment owed as a result of non-retention will be paid by the Fresno State Athletic Corporation. Apart from the payment described in this paragraph that is owed as a result of non-retention, this appointment and all obligations of California, State University, Fresno and the Fresno State Athletic Corporation shall terminate upon non-retention.

- 3.03 Roll Over.** The term of this Agreement shall be extended for one (1) year for each season in which Fresno State achieves five or more conference wins and finishes the regular season with a record above .500. This Agreement may only be extended a maximum of three seasons, in 2020, 2021 and 2022 whether the games are played in the fall and/or spring semester of these three seasons. In the event any of these football seasons is entirely cancelled or shortened to fewer than six conference games, the Employee would be allowed to earn an extension in the 2023 season. If any of the three seasons are shortened, and the team plays a schedule with at least six conference games, the Employee may earn the extension by finishing with a regular season record above .500.

ARTICLE IV – POSITION

- 4.01 Description of Employee's Responsibilities.** Employee will abide by and comply with the constitution, bylaws, rules and interpretations of the NCAA (NCAA Legislation), of the athletic conference of which the Football program is a member (Conference Legislation), and all University rules and regulations relating to the conduct and administration of the Football program (University Legislation), as now constituted or as they may be amended during the term of this appointment. The applicable NCAA Legislation, Conference Legislation, and University Legislation is incorporated by reference to this appointment, and will prevail over any inconsistent terms of this appointment. Modifications, changes, additions or deletions to NCAA Legislation, Conference Legislation, or University Legislation will automatically apply to this appointment without the necessity of a written modification. In the event Employee becomes aware, or has reasonable cause to believe, that violations of NCAA Legislation, Conference Legislation, or University Legislation may have taken place, Employee must report these promptly to the Athletic Department's Director of Compliance as well as Employee's immediate supervisor. Employee has an affirmative obligation to cooperate fully in any NCAA infractions process, including the investigation and adjudication of any case (see NCAA Bylaw 19.2.3).

Employee will adhere to, respect and follow the academic standards and requirements of the University with regard to the recruiting and eligibility of prospective and current student-athletes. All academic standards, requirements, and policies of the University shall be observed by Employee and members of Employee's staff, including assistant coaches, at all times and must not be compromised or violated. It is the goal and desire of both the University and Employee that student-athletes in the Football program will achieve at the highest possible academic level, with the expectation that the team's NCAA Academic Progress Rate will meet or exceed NCAA threshold minimums and the graduation rate for these student-athletes will be at least above the graduation rate for the general undergraduate student population at the University, or the Employee will provide a written Graduation Rate Improvement Plan to be placed in the Employee's Open Personnel File. Employee will receive evaluation in Employee's annual performance review on the academic progress of the Football program's student-athletes.

Employee is responsible for these general responsibilities relating to the Football program: overall management and administration of the Athletic Program Name, implementation of and compliance with the budget of the program, and the recruiting, training, supervision, evaluation and performance of student-athletes and coaching staff. Employee will also have responsibility for the

scheduling of contests and opponents, but the Director of Athletics or their designee is the final authority in approving of the Athletic Program Name's schedule of contests and opponents.

Employee is also responsible for the following:

- 1) Make every effort, in cooperation with and support of athletics department's administrative and support officials, to ensure that all student-athletes' academic and general welfare issues are addressed.
- 2) Having complete knowledge of, and maintaining strict compliance with, the NCAA and conference rules and regulation; as well as attending all department rules education meetings unless the Director of Athletics or their designee gives prior approval for Employee's absence from such meetings.
- 3) Maintain reasonable discipline and be fair and empathetic; and developing positive relationships with the student-athletes, while motivating them to excellence in athletic and non-athletic endeavors.
- 4) Recruiting exceptional prospective student-athletes who have a reasonable opportunity to gain a degree from California, State University, Fresno and managing the team's roster in a manner that conforms to the department's stated policies regarding squad size, out-of-state residents, and junior college and four-year institution transfers.
- 5) Be reasonably available to, and cooperate with, the media and appearing before faculty, administrators, students, alumni, benefactors and civic groups as requested or assigned by the sport supervisor, Director of Athletics or their designee.
- 6) Working to integrate intercollegiate athletics into the spectrum of academic life to complement the University and its mission in the community.
- 7) Working within the confines of all rules, regulations, guidelines, policies and procedures of the athletics department; and ensuring that those staff members within Employee's charge do as the same.
- 8) Ensuring that public statements remain complimentary regarding the athletics program and the University.
- 9) Maintaining a professional, collegial, mature and rational demeanor and attitude at all time.
- 10) Advancing the efforts of the Department of Athletics and the University toward diversity and gender equity. Fully supporting and abide by the CSU and California, State University, Fresno commitment to gender equity in education, including athletics, and full compliance with Title IX of the Education Amendments to the Civil Rights Act of 1964. Fully supporting and abiding by CSU and California State University, Fresno commitment to maintain a working and learning environment where every student, employee, and community member is treated with dignity and respect. Fully supporting and complying with California, State University, Fresno commitment to maintain a safe and healthy living and learning environment for everyone.
- 11) Maintaining Employee's own university email, voice mail, and cell phone, at which they can be contacted directly or receive electronic and voice messages.
- 12) Accurately reporting all vacation and sick leave time and ensuring that those in Employee's charge do the same.

13) Relationship Appearances: Employee will make a reasonable number of personal appearances to assist the University and/or the University's multimedia rights holder in the marketing of projects described above or in the maintenance of positive alumni relations. The University and/or the multimedia rights holder may use Employee's services for the selling of commercial sponsorships through entertainment activities such as golf tournaments, dinners, receptions, personal appearances such as speeches to alumni groups, radio stations, sponsors and the like, and Employee agrees to participate in such events as reasonably requested by the University and/or the multimedia rights holder. Such appearances must be scheduled at times that are mutually convenient to the Employee, the University and/or the multimedia rights holder. The University shall reimburse Employee for all reasonable and necessary out-of-pocket expenses incurred in making such personal appearances. Employee agrees not to appear on any commercial radio, TV station or website broadcast or available in California, or states adjoining California, other than those radio, television stations and websites that are affiliated with the University and/or the multimedia rights holder, other than in normal sportscasts of two minutes or less, without prior written permission from the University or the multimedia rights holder.

4.02 Reporting Relationship and Annual Evaluations.

- a. Reporting Relationship.** Employee shall report to the Director of Athletics or their designee. Employee's job duties and responsibilities will be reviewed, revised and assigned from time to time by Employee's reporting superior, whether it is the Director of Athletics or their designee. Employee is expected to work closely with a variety of Athletics Department and University staff on all matters affecting the University's athletics program or otherwise connected with the discharge of their duties as an employee of the University. Employee is expected to raise any employment or workplace issues with their reporting superior and, when appropriate, with the Director of Athletics.
- b. Annual Performance Evaluations.** Employee's performance of their job duties and responsibilities as described in this Appointment Letter and the Head Football Coach position description, which is attached, will be initially evaluated after six months of service and thereafter annually.

These evaluations will take into account prior evaluations and the expectations and goals set for Employee in prior evaluations, as well as the following:

- 1) Annual NCAA Academic Progress Rate (APR);
- 2) Annual team grade point average (team GPA);
- 3) Annual NCAA academic progress multi-year rate;
- 4) Federal Graduation Rate (trending);
- 5) NCAA Graduation Success Rate;
- 6) Compliance with NCAA, California State University, Fresno, and CSU rules and regulations
- 7) Quantity and nature of Student-Athlete Code of Conduct violations;
- 8) Quantity and nature of NCAA compliance secondary violations;
- 9) Quantity and nature of Student-Athlete Drug/Alcohol violations;
- 10) Compliance with roster management, as assigned;
- 11) Fiscal management efficiency and integrity;
- 12) Team Win/Loss percentage;
- 13) Regular season conference finish;
- 14) Conference Tournament finish/NCAA Championship qualification;
- 15) Computed national ranking (RPI, Sagarin, etc.);
- 16) Computed strength of schedule (RPI, Sagarin, etc.);
- 17) Subjective national rankings and polls;
- 18) Compliance with scheduling assignment (Home/Away);

- 19) Quantity and nature of reprimands regarding sportsmanship;
- 20) Quantity and nature of ICA letters of admonishment and reprimand regarding operations;
- 21) Student-Athlete evaluation ratings and comments;
- 22) Attendance of mandatory staff meetings (both excused and unexcused); and
- 23) Professionalism in representing California State University, Fresno and the CSU.

Employee will also be evaluated according to terms in the Fresno State Department of Athletic's campus policy on coaches if applicable.

ARTICLE V – COMPENSATION

5.01 Compensation.

- a. Base Salary.** The base salary paid by the University to Employee for their services and the satisfactory performance of the terms and conditions of this Appointment Letter in the position of Head Football Coach, will be at the rate of \$27,500 per month or \$330,000 on an annual basis, payable in equal monthly warrants by the University to Employee on or about the last day of each consecutive calendar month during the term of this appointment. The Employee will not be eligible for MPP merit salary increases or any other general MPP salary increases, but the monthly amount could be subject to an adjustment if there are any furloughs implemented of all MPP employees throughout the CSU system.
- b. Supplemental Compensation.** The Fresno State Athletic Corporation will pay to Employee supplemental compensation based upon the criteria set forth below so long as Employee is employed by California, State University, Fresno in the position of Head Football Coach. The annual bonus determination process will begin at the completion of each fiscal year. The process will continue until all applicable data has been quantified and confirmed, but will be paid out no later than November 30th of the following fiscal year. The Athletic Corporation will make a good faith effort to pay the Employee any earned bonuses prior to November 30 of the following fiscal year if all applicable data is confirmed earlier than this date. In the event that Employee is no longer employed by Fresno State at the time the process of determination is completed and the applicable data has been quantified and confirmed, Employee shall receive any bonuses earned as set forth at b(1) and b(2) during the academic year of the termination on a pro rata basis, relative to the date of separation and the academic year in question; and all remaining bonuses (Performance bonuses 5.02 (c)(a) through (e)) otherwise earned subject to confirmation of meeting all criteria described in this section (5.02(b)) shall be paid in full to the Employee by November 30 of the following fiscal year. Any obligations for bonus payments made when the Employee is no longer employed by Fresno State are subject to the discretion and approval of the President and Director of Athletics if they determine any bonus payout to the Employee is detrimental to the University's interest. Supplemental compensation is neither reported to CalPERS, nor eligible for inclusion in any Cal PERS retirement calculation.

Coach acknowledges and agrees that in order to qualify for any bonus under any portion of this Agreement, Coach must operate within the football program's established budget parameters and follow normal and accepted departmental and University fiscal policies and procedures, and otherwise comply with Athletics Department, University, Mountain West and NCAA rules and regulations. More specifically, Coach understands that he will not receive any bonuses if the program is determined to be fiscally irresponsible with spending for budget controllable items (team travel, recruiting, meals, temporary help and equipment). Coach also understands that he will not receive any bonus(es) under any provision herein if the University, Mountain West or NCAA concludes or has a reasonable basis to believe that Coach participated in or failed to report any [significant] level of violations of University, Mountain West or NCAA rules or regulations.

Employee will receive an annual bonus in the amounts set out below (non-incremental) (including performance bonuses); provided that the team's annual NCAA Academic Progress Rate (APR) is at or above 930 as applicable for that fiscal year. Any adjustments in NCAA policy will be reflected appropriately and will be implemented by mutual consent and the specific goals are met are as follows:

1) Annual NCAA APR

- a) At or above 950 provides \$50,000
 - b) At or above 960 provides \$60,000
 - c) At or above 970 provides \$70,000
 - d) At or above 980 provides \$80,000
 - e) At or above 990 provides \$90,000
- Only one may be awarded.*

2) Annual Team GPA (Fall/Spring Semesters)

- a) 2.6 to 2.699 provides \$30,000
 - b) 2.7 to 2.799 provides \$35,000
 - c) 2.8 to 2.899 provides \$40,000
 - d) 2.9 and above provides \$45,000
- Only one may be awarded.*

c. Performance Bonuses. If the University football team achieves any of the performance goals set forth below during the term of this appointment, Employee shall receive additional compensation in the following amounts:

a) Achievement of Regular-Season Wins

- 1) At or above 7 wins provides \$25,000
- 2) At or above 8 wins provides \$25,000
- 3) At or above 9 wins provides \$25,000
- 4) At or above 10 wins provides \$30,000
- 5) At or above 11 wins provides \$50,000

The regular season win bonuses will be cumulative; assumes affiliation with Mountain West Conference. Any change in either the membership or the conference affiliation requires adjustments to reflect the appropriate level of competition. Adjustment will be based on BCS conference power rankings. If any season is shortened but the team plays at least six games, Employee may earn one of the following bonuses: (i) \$15,000 for a .667 winning percentage or higher; \$20,000 for a .800 winning percentage or higher [\$35,000 if the team has an 8-1 season]; or \$30,000 for a 1.000 winning percentage [\$50,000 if the team has a 9-0 season]. For purposes of this agreement, a "shortened" season is one in which the team plays less than 10 regular season games.

b) Conference Success

- 1) Regular Season Co-Conference Championship (OR) Divisional Champion with advancement to championship game provides \$50,000
 - 2) Winner of conference championship game provides \$75,000
- Only one may be awarded; assumes affiliation with Mountain West Conference. Any change in either the membership or the conference affiliation requires adjustments to reflect the appropriate level of competition.*

c) Bowl Participation

- 1) Participation in a conference-associated or at-large bowl provides \$50,000. (OR) \$75,000 for winning said bowl.
- 2) Participation in a New Year's Six Bowl provides \$150,000. (OR) \$300,000 for winning said bowl.

- 3) Participation in College Football Playoff National Championship Semifinal game provides \$400,000.
- 4) Participation in College Football Playoff National Championship game provides \$500,000. (OR) winning said College Football Playoff National Championship provides \$1,000,000.
Only one may be awarded.

d) Final College Football Playoff National Standing

- 1) Top 25 provides \$50,000
- 2) Top 10 provides \$75,000
Only one may be awarded.

e) Individual Honors

- 1) Conference Coach of the Year Awards provides \$20,000
- 2) National Coach of the Year Award provides \$40,000
Only one National Coach of the Year award will be provided & only one from among the four apply: Walter Camp; Eddie Robinson; Paul "Bear" Bryant; and the American Football Coaches Association.

- 1) **Use of Automobile:** The Fresno State Athletic Corporation will provide Employee with the exclusive use of an automobile, including insurance, repairs and gas. The Employee is responsible for payment of gas for the Employee's personal use of the vehicle. Any personal use of the vehicle by the Employee is considered as imputed income for tax purposes.
- 2) **Country Club Membership.** Employee will have the option for the provision of country club privileges as provided through the California State University, Fresno corporate membership program for the term of this Supplemental Letter of Appointment. The Employee is responsible for payment for the Employee's personal expenses relating to the club's membership.
- 3) **Complimentary Tickets to Athletic Events:** The Fresno State Athletic Corporation will provide access to the Employee with twelve (12) complimentary season tickets on west side of stadium and twenty (20) "bench seating" season tickets to football. Employee has option to receive six (6) men's basketball, volleyball, softball and baseball. The value of any tickets utilized by the Employee is considered as imputed income for tax purposes. These tickets are intended for Employee's personal use and seat locations will be determined by the Athletics Ticket Office based upon availability.

d. Benefits. Employee will receive the standard benefits provided through employment with the University as outlined in the MPP Benefits Summary.

e. Reassignment. If Employee is reassigned pursuant to the MPP, Employee will be paid 80 percent of Employee's base salary at the time of reassignment, subject to subsequent adjustments in accordance with MPP policies and procedures. The University will provide Employee with a description of the duties in the reassigned position.

5.02 Opportunities to Earn Outside Income. Employee may, at the discretion of the Director of Athletics, be permitted to engage in activities and enter into agreements with other persons for additional compensation, benefits or perquisites that relate to but are separate and independent from Employee's employment as Head Football Coach at California, State University, Fresno subject to the following conditions.

Before being entered into, these agreements must be approved in writing by the Director of Athletics to ensure that they do not conflict with Employee's employment obligations, violate any conflict of interest laws, rules, or regulations, prejudice the best interests of California, State

University, Fresno and its Athletics Department, or interfere with the performance of Employee's duties for California, State University, Fresno. Employee is required to comply with the conflict of interest laws, rules, and regulations that govern the CSU.

In addition to the above conditions, the following terms and conditions shall apply in each instance in which Employee seeks to make, or makes, arrangements to earn outside income as a result of their employment as Head Football Coach.

- a. University Obligations Are Primary.** Outside activities must not interfere with the full and complete performance by Employee of their duties and obligations as a University employee, recognizing always that Employee's primary obligations lie with the University and its students.
- b. Compliance with Laws, Rules and Regulations.** In no event may Employee accept or receive, directly or indirectly, any monies, benefits, services or other gratuity whatsoever from any person, business entity, University booster club, alumni association or other benefactor, if such action would violate: (A) any applicable law, statute or regulation; (B) applicable policy, rule, or regulation of the University; or (C) NCAA legislation or Conference Legislation. Changes to NCAA Legislation, Conference Legislation, or University Legislation will automatically apply to this Appointment Letter without the necessity of a written modification.
- c. University Is Not Liable.** Employee's arrangement(s) for outside income and outside activities are independent of Employee's University employment, and the University will have no responsibility or liability for payment of any income or for any claims arising therefrom under any circumstances. Employee agrees to defend, indemnify, and hold the University harmless with respect to claims of any type whatsoever that arise from or relate in any way to Employee's outside activities and outside income.
- d. Commercial Endorsements.** Employee may undertake commercial endorsements of products and services subject to the following: no mention or use of California, State University, Fresno or use of California, State University, Fresno identifiable equipment or facilities; no use of the University's marks, slogans, logos, or music. Prior to extensive discussion regarding any commercial endorsements, Employee will review the existing environment with their sport supervisor to ensure that there are no potential conflicts with departmental or University policies or Athletics Department sponsorship agreements. All further discussions or negotiations with any third party regarding endorsements must include the Director of Athletics or their designee.
- e. Income From Written Materials.** Employee may write and release books, articles, or columns in connection with their position as Head Football Coach. Employee agrees to act in a professional manner and to protect the best interest of the University and Department of Athletics in all such matters.
- f. Shoe, Apparel and Equipment Contracts.** Employee may not enter into any contracts with parties who have an exclusive use agreement with California, State University, Fresno or the Fresno State Athletic Corporation, or which would be in conflict with a contract, corporate sponsorship, or endorsement of the University or the Fresno State Athletic Corporation. Contracts that are not prohibited may include contracts with shoe, apparel, sports-related equipment or supply vendors, manufacturers, distributors or sellers that are not subject to the conflicts or prohibitions noted above. Prior written approval by the Athletic Director is required for any contracts not precluded.
- g. Sport Camps.** Employee may conduct youth sport camps and realize the additional income. All sport camps must comply with all NCAA, University, and department policies, procedures, and regulations and must be approved in advance by the Director of Athletics. If approved sport camps are conducted in conjunction with the University, Employee may use name, marks, slogans, music or logos of the University. If the sport camps are conducted independent of the

California, State University, Fresno campus, Employee is prohibited from utilizing any reference to the University including name, marks, slogans, music, or logos.

- h. Income From Coach-Participation Broadcast Properties.** Employee shall be required to participate in regularly-scheduled radio, television, internet-based broadcast programming, or any other medium related to California, State University, Fresno, Head Football Coach (e.g., coach's show, pregame show, etc.). In all regularly-scheduled media programs when the coach is expected to represent the interests of any California, State University, Fresno team, the University, the Department of Athletics, or the Fresno State Athletic Corporation, the University or its representatives will maintain all rights to the broadcasting properties and will be solely responsible for arranging any agreements with a broadcast partner. Employee agrees to act in a professional manner and protect the best interest of the University and Department of Athletics in all matters whether or not the Employee is expected to comment on any California, State University, Fresno team, the University, the Department of Athletics, the Fresno State Athletic Corporation, or any of their agents or employees.
- i. Disclosure of Outside Income.** In accordance with NCAA regulations, Employee will report annually in writing to the University's President, through the Director of Athletics, on or before July 15th of each year, all athletically related income from all sources outside the University and Employee must provide reasonable access to all records of Employee necessary for the University to verify the information contained in such report(s).

ARTICLE VI –TERMINATION, SUSPENSION OR OTHER DISCIPLINE

- 6.01 Employee May Be Disciplined for Violations of NCAA, Conference and University Rules and Regulations.** If, after a University or NCAA investigation, Employee is found to have violated NCAA, athletic conference, or University rules or regulations either during prior employment at another NCAA member institution or while employed by the University, Employee will be subject to disciplinary or corrective action. Moreover, if Employee is found in violation of NCAA regulations, Employee will be subject to the disciplinary or corrective action as set forth in the provisions of the NCAA infractions process (NCAA Bylaw 19), including suspension without pay or termination of employment. Employee has an affirmative obligation to cooperate fully in any University investigation; and an affirmative obligation to cooperate fully in any NCAA infractions process, including the investigation and adjunction of any such case (see NCAA Bylaw 19.2.3).
- 6.02 Termination, Suspension or Other Discipline for Cause.** Notwithstanding any other provision of this Appointment Letter, this appointment may be terminated by California, State University, Fresno, without further obligation of the CSU (including that which is contained in paragraph 3.02), California, State University, Fresno, or the Fresno State Athletic Corporation, or Employee may be suspended with or without pay for a period determined by the President or their designee; if the President or their designee finds that Employee has committed any of the following acts or omissions:

 - a) gross negligence;
 - b) insubordination;
 - c) violation or knowing participations in any violation, or failure to report violations by California, State University, Fresno coaches, athletes, or department staff of which Employee has knowledge, of the rules of the NCAA or an athletic conference of which California State University Fresno is a member;
 - d) failure to cooperate fully in any NCAA infractions process, including the investigation and adjudication of any such case (see NCAA Bylaw 19.2.3);
 - e) violation of University policies;
 - f) dishonesty;
 - g) immoral conduct;
 - h) unprofessional conduct

- i) incompetence;
- j) failure or refusal to perform the normal and reasonable duties of the position;
- k) conviction of a felony or conviction of a misdemeanor involving moral turpitude;
- l) fraud in securing this appointment;
- m) addiction to the use of controlled substances;
- n) drunkenness on duty;
- o) conduct which is seriously prejudicial to the best interests of California, State University, Fresno, or its athletic program or which is a material violation of the University's mission;
- p) failure to perform or violation of any of the terms, duties or responsibilities set forth in this Appointment Letter;
- q) any cause adequate to sustain the dismissal of any other California, State University, Fresno employee under applicable law and California, State University, Fresno policies and procedures.

Employee may use the reconsideration procedures available under Article 2.2 § 42728 of Title 5.

In the event this appointment is terminated for cause in accordance with the provisions of this Appointment Letter, all California, State University, Fresno, and the Fresno State Athletic Corporation obligations to Employee under this appointment will cease. In no case will the University be liable to Employee for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from activities such as, but not limited to, camps, clinics, media appearances, apparel or shoe contracts, consulting relationships, or from any other source whatsoever that may ensue as a result of the University's termination of this appointment.

- 6.03 Death or Disability.** In the event of Employee's death this Agreement shall terminate. If such event occurs during a football season, any combined salary and earned bonuses shall be paid to Employee's estate or designee through the end of that season. In the event Employee is disabled for a total of 90 consecutive days, Fresno State shall have the option to terminate this Agreement and the Consulting Services Agreement. A decision to terminate the Agreement pursuant to this provision shall not be deemed a non-retention as that term is defined in Section 3.02 of this Agreement and the University will have no obligation to pay the Employee as would otherwise be necessary under Section 3.02.

ARTICLE VII – LIMITATION ON SEEKING OTHER EMPLOYMENT

- 7.01 Limitation.** Employee has special, exceptional and unique knowledge, skill and ability as a coach at the intercollegiate level which, in addition to the continued acquisition of coaching experience at the University, as well as the University's special need for continuity in its athletics program, renders Employee's services unique. Employee will not seek, discuss, or negotiate for employment requiring performance of duties prior to the expiration or termination of this appointment without first personally notifying the Director of Athletics.
- 7.02 Release From Limitations.** Employee will be released from the restrictions of paragraph 7.01 of this Appointment Letter in the event the University exercises its right to reassign Employee from their position as Head Football Coach, as provided in paragraph 1.01 of this Appointment Letter.
- 7.03 Constructive Resignation.** If Employee seeks other employment in violation of paragraph 7.01, or is reassigned from the position of Head Football Coach during the term of this Appointment Letter and refuses to accept the reassignment or perform the duties to which Employee may be reassigned, Employee will be deemed to have resigned their employment and, as of the date such other employment has begun or refusal has occurred, all compensation and other obligations owed by the University to Employee under this Appointment Letter will cease. In no case will the University be liable for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from activities such as, but not limited to, camps, clinics, media

appearances, apparel or shoe contracts, consulting relationships, or from any other sources whatsoever that may ensue as a result of Employee's termination of this appointment. The provisions of this subsection are without prejudice to any rights the University may have under applicable state or federal law. In the event Employee is deemed to have resigned, Employee may use the reconsideration procedures available under Article 2.2 § 42728 of Title 5.

- 7.04 **Liquidated Damages.** The University and Employee agree that coaches of intercollegiate athletic teams at the University conduct their professional activities under circumstances unique in the University community and among University employees, including evaluation and scrutiny of program performance by the public and the media and control by external rules and regulations. The Employee engenders the loyalty and commitment of student-athletes and fans, which can be lost if the Employee leaves the University prior to the expiration of the Term of Appointment. The amount, nature and extent of such costs are difficult if not impossible to compute and ascertain with certainty but which will include and not be limited to: (i) searching, recruiting and hiring another head football coach and (ii) buying out the contract, if necessary, of a new head football coach and assistant coaching staff. If Employee chooses to resign his position as Fresno State Head Football Coach prior to the completion of Term of the Agreement, he shall pay the Athletic Corporation an early-departure fee of \$1,500,000 unless the resignation is directly related to Employee's health or family concerns to the Employee and the Employee does not accept comparable employment for at least two years from the effective date of his resignation from the University. If the Employee is on furlough and receiving a reduced salary as a result of the furlough, the amount that the Employee would owe for the early departure fee will be reduced by the same proportionate percentage that his salary was reduced as a result of the furlough.

ARTICLE VIII – MISCELLANEOUS

- 8.01 **Assistant Coaches.** Subject to any limitations that may be imposed by the NCAA or the athletic conference of which the University is a member, the University may provide the Football program with assistant coaches. Employee will have the authority to recommend the hiring and termination of assistant coaches for the Football program subject to the approval of the Director of Athletics, as the University's appointing authority, or the University President's designee. It is understood that assistant coaches are immediately responsible to Employee, who will assign the duties of each of the assistant coaches, and that Employee is responsible for the activities of assistant coaches as those activities relate to the educational purposes and the athletic interests of the University. It is further understood, that assistant coaches are responsible for compliance with the policies of the University, including the Athletics Department, with applicable collective bargaining agreements, and with the rules and regulations of the NCAA, and the constitution, bylaws, rules, regulations, legislation and all official interpretations thereof of the NCAA, and the rules and regulations of the athletic conference of which the University is a member, and that Employee is required to immediately report any known or reasonably suspected violations of such rules and regulations to Employee's immediate supervisor and the Associate Athletics Director for Compliance. In addition, each year that Employee serves as Head Football Coach, Employee will be responsible for conducting written evaluations of each assistant coach on their staff pursuant with University policy or to the terms of the Collective Bargaining Agreement.
- 8.02 **University Retains All Materials and Records.** All materials or articles of information, including, without limitation, personnel and student-athlete records, recruiting records, team information, videos, films, statistics or any other material or data, furnished to Employee by the University or developed by Employee on behalf of the University or at the University's direction or for the University's use or otherwise in connection with Employee's employment hereunder are and will remain the sole and confidential property of the University. Within three (3) days of the expiration of the term of this Appointment Letter or its earlier termination as provided herein or the reassignment of Employee from their position as Head Football Coach, Employee will deliver any such materials in their possession or control to the University.

- 8.03 Employee Will Not Incur Indebtedness.** Employee will not incur any indebtedness or sign any contracts for or on behalf of the University or the Fresno State Athletic Corporation.
- 8.04 Employee Will Not Make Investments Competitive With University Objectives.** During the period of employment, Employee will not make or continue to hold any investment in or be associated with any enterprise that could be deemed to be competitive with the University's objectives and philosophies or with the University's intercollegiate program, without first having obtained the written approval of the University's President.
- 8.05 Notice.** Any notice or other communication which may be or is required to be given under this Appointment Letter will be in writing and will be deemed to have been given on the earlier of either the day actually received or on the close of business on the fifth business day next following the day when deposited in the United States Mail, postage prepaid, registered or certified, addressed to the party at the address set forth after its name below or such other address as may be given by such party in writing to the other.

If to Employee: Kalen DeBoer



If to University: California, State University, Fresno
Director of Athletics
1620 E. Bulldog Lane, M/S OF87
Fresno, CA 93740

- 8.06 Personnel File.** A copy of the executed Appointment Letter will be placed in the Employee's Personnel File within five days (5) from the date of completed execution of this Appointment Letter.
- 8.07 Supersede Provision.** This Appointment Letter supersedes any other communications between Employee and the University with respect to the terms of employment. Any promises or statements of inducement made by any agent or representative of the University that are not contained in this Appointment Letter will not be valid or binding on the University.
- 8.08 Expiration of Offer.** If Employee has not accepted by the close of business on February 28, 2021, this offer expires automatically. The Appointment Letter must be returned to the office of the Director of Athletics for processing on or before the expiration date.

Your written acceptance of this appointment is required. If you decide to accept this appointment, please date and sign in the space provided below and return the original of this letter to me. A copy is provided for your records. Written acceptance of the terms of this appointment by the Fresno State Athletic Corporation is also required.

DocuSigned by:

3EDB5C788E84C0...
Saul Jiménez-Sandoval, Ph.D.
Interim President

2/19/2021
Date

The signatures below manifests acceptance by the Fresno State Athletic Corporation of its obligations under paragraph(s) 3.02 and 5.01b of this Appointment Letter.

DocuSigned by:

F2A2744DF3084BA...
Deborah S. Adishian-Astone
Vice President for Administration and CFO

2/23/2021

Date

DocuSigned by:

61454778D859425...
Terrance Lumey
Director of Athletics

2/23/2021

Date

My signature below manifests my acceptance of the appointment as described in this Appointment Letter.

DocuSigned by:

8C2B771E8E8E4F5...
Kaien DeBoer

2/23/2021

Date

DEPARTMENT OF ATHLETICS
CONSULTING SERVICES AGREEMENT

This Department of Athletics Consulting Services Agreement (“Agreement”) is made effective as of January 4, 2020 by and between the CALIFORNIA STATE UNIVERSITY, FRESNO ATHLETIC CORPORATION (Athletic Corporation) (including any successor in interests to the Athletic Corporation or any entity assigned the interests of the Athletic Corporation by means of a legal name change or other legal assignment of interests) and Kalen DeBoer (“Consultant”).

ARTICLE I: PURPOSE

1.01 Purpose. Consultant is in the business of providing consulting services to college athletics programs and the Athletic Corporation wishes to engage Consultant to promote and support the athletics program at California State University, Fresno (“University”). This consulting agreement shall be coterminous with the employment of Consultant by the University as its Head Football Coach and shall terminate automatically if and when the Consultant is no longer employed by the University following his non-retention as Head Football Coach for any reason. Notwithstanding the foregoing, the rights and obligations set forth in Section 3.02 of this Agreement shall survive the termination of this Agreement and remain in effect. The Athletic Corporation has received all necessary consent and approval required under Consultant’s letter of appointment with the University and supplements thereof (“Letter of Appointment”).

ARTICLE II: SCOPE OF SERVICES

2.01 Scope of Services. Consultant shall be engaged by the Athletic Corporation to promote the Football Program and the Department of Athletics at the University through the use of public appearances, personal hosting, television, radio, video, film, internet and other communication formats (hereinafter referred to as “promotional assistance”).

2.02 Description of Consultant’s Services.

a. General Nature of Services. In providing promotional assistance, Consultant shall conduct itself in a professional manner at all times while engaged in activities attendant to the University’s Department of Athletics and the Athletic Corporation. All services and responsibilities of Consultant to the Athletic Corporation shall be at the specific direction of the University’s Director of Athletics and his/her designated representative(s).

b. Specific Responsibilities. Consultant is responsible for:
(1) using its best efforts, consistent with the objectives of the University’s athletics program, to work within and undergird the activities of the Athletic Corporation; and,

(2) making itself reasonably available to help ensure the best-possible maximum news media coverage and exposure of the University's athletics program and athletics activities, and perform certain marketing, promotional and advertising functions connected therewith; and,

(3) making itself reasonably available for public appearances, personal hosting, and participation on radio and television broadcasts, film, internet webcasts and other communication formats.

2.03 Reporting Relationship. Consultant shall report directly to the University's Director of Athletics and his/her designated representative(s) and obtain promotional assistance directives and approval of all its activities.

2.04 Consultant's Actions and Control of Employees. Consultant's actions and the performance of its obligations under this Agreement shall be carried out through its officers, directors, employees and other agents. Athletic Corporation shall have the right to reject any employee or other agent of Consultant (including officers and directors) in the performance of any specific obligation of Consultant under this Agreement. Consultant's activities shall in all events comply with all rules, regulations and bylaws of the University, the University's Department of Athletics, Athletic Corporation, NCAA and athletic conference in which the University is a member.

2.05 Conflict of Interest. Consultant will not perform consulting services with clients whose interest conflicts with either the Athletic Corporation or the University. Consultant agrees that neither the Athletic Corporation, nor University, shall have any responsibility or liability for loss of income to Consultant, nor any related claims for collateral business activities based on any decision that a client or activity, for which approval is withheld, is a conflict of interest.

2.06 Broadcast Payments. Any compensation or fee the Consultant receives for participating in such broadcast programming or other medium which relate to the consulting services being provided by the Consultant hereunder shall either be tendered by the Consultant to the Athletic Corporation or shall be offset against payments to be made by the Athletic Corporation to Consultant under this Agreement. Any broadcast opportunity which falls outside the parameters of this section shall be governed by Section 5.02 of the Supplemental Letter of Appointment (should be referred to as the Definite Term Appointment Letter (DTAL)).

2.07 Consultant's Other Business Endeavors. Consultant shall be free to pursue other business opportunities, so long as they do not conflict with the Athletic Corporation or the University as provided above in Section 2.05. Provided, however, the following activities shall be subject to the following conditions:

a Sport Camps. All sport camps must comply with all NCAA, University, and Department policies, procedures and regulations. If the sport camps are conducted on the Fresno State campus, Consultant may utilize name, marks, slogans, music or logs.

Any compensation or fee the Consultant receives for participating in camps or clinics shall not be offset against payments to be made by the Athletic Corporation to Consultant under this Agreement.

b. Shoe, Apparel and Equipment Contracts. Consultant may not enter into any contracts with shoe, apparel, sports-related equipment or supplies vendors, including with manufacturers, distributors or sellers or any party which would be in conflict with a contract, corporate sponsorship, or endorsement of the University or Athletic Corporation. Prior written approval from the Director of Athletics or his/her designee is required for any contracts not precluded. Prior written approval, for any contracts not precluded, shall be provided by the Director of Athletics in accordance with the California State University system wide policy for supplemental income.

ARTICLE III: TERM OF AGREEMENT

3.01 Term of Agreement. This Agreement shall commence on January 4, 2020 and shall continue until January 1, 2025. The term may be extended consistent with the provisions in Section 3.03 (Rollover) of the Supplemental Letter of Appointment.

3.02 Cancellation. The Athletic Corporation reserves the right to cancel this Consulting Services Agreement if the Consultant no longer serves in the position as the University's Head Football Coach prior to the completion of the term.

The Athletic Corporation reserves the right to cancel this Agreement if Consultant is terminated as a University employee after being non-retained without cause as the University's Head Football Coach prior to the completion of the Contract Term, subject to the following:

- a) Except as otherwise provided below, following the termination of the Consultant without cause as the University's Head Football Coach, Consultant will be entitled to receive a) eighty percent (80%)' of his remaining unpaid fee, to be paid in equal monthly installments through the end of the term of this Agreement if he is non-retained any time from the date of this Agreement; unless Consultant subsequently accepts comparable professional employment or consultation. If such employment or consultation is obtained, any earnings through other employment or consultation will offset the amounts otherwise due under this Section 3.02. For purposes of this Agreement, "comparable professional employment or consultation" shall include employment as a head or assistant coach, analyst, or any other football program support position at the collegiate or professional level, as well as any other position related to the sport of football including television studio or analyst positions,
- b) In the event Consultant voluntarily resigns his position as the University's Head Football Coach (or is deemed to voluntarily resign), or if his employment as the University's Head Football Coach is terminated for cause in accordance with the provisions of his Supplemental Letter of Appointment,

all Athletic Corporation's obligations to Consultant under this Agreement subsequent to that date shall cease.

- c) In no case shall the Athletic Corporation be liable to Consultant for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from activities such as, but not limited to, camps, clinics, media appearances, apparel or shoe contracts, consulting relationships, or from any other source whatever that may ensue as a result of the termination of Consultant's appointment as the University's Head Football Coach.

3.03 Cancellation by Consultant. The Consultant automatically cancels this Consulting Services Agreement if Consultant chooses to resign his position as the University's Head Football Coach prior to the completion of the Contract Term, the Consultant will pay the Athletic Corporation an early-departure fee of \$1,500,000 as referenced in the Letter of Appointment.

ARTICLE IV: CONSULTING SERVICES FEE

4.01 Consulting Service Fee. From January 4, 2020 through December 31, 2020, Consultant shall be paid fees as provided herein, consisting of an annual fee at \$970,000 or \$80,833 per month.

From January 1, 2021 through December 31, 2021, Consultant shall be paid fees as provided herein, consisting of an annual fee at \$1,020,000 or \$85,000 per month.

From January 1, 2022 through December 31, 2022, Consultant shall be paid fees as provided herein, consisting of an annual fee at \$1,070,000 or \$89,166 per month.

From January 1, 2023 through December 31, 2023, Consultant shall be paid fees as provided herein, consisting of an annual fee at \$1,120,000 or \$93,333 per month.

From January 1, 2024 through December 31, 2024, Consultant shall be paid fees as provided herein, consisting of an annual fee at \$1,170,000 or \$97,500 per month.

The amounts described in this Section may be adjusted in compliance with Section 3.03 of the Supplemental Letter of Appointment for any additional years of service earned. Any adjustment based on compliance with Section 3.03 will not result in a decrease of fees.

ARTICLE V – MISCELLANEOUS

5.01 Independent Contractor/No Agency. It is the express intention of the parties that Consultant is an independent contractor and not an agent, joint venture, partner, broker or broker-dealer for or on behalf of the Athletic Corporation. Consultant is not authorized to, and shall not (i) take any action on behalf of the Athletic Corporation or otherwise bind the Athletic Corporation to any agreement, except as expressly authorized hereunder or in writing by the Athletic Corporation. Neither the Athletic Corporation nor Consultant shall be liable for the debts or obligations of the other.

5.02 Non-Exclusive Relationship. This Agreement is intended to create a nonexclusive relationship between Consultant and the Athletic Corporation during the Contract Term and Consultant may perform services for other parties in any location at any time during the Contract Term so long as such services do not interfere with the timely provision of Services hereunder and may seek out and perform any other business opportunities during the Contract Term. Consultant hereby warrants, represents and covenants to the Athletic Corporation that: a) Consultant has the right and authority to enter into this Agreement and to perform fully all of his obligations herein; b) Consultant has all necessary or required licenses, permits and approvals necessary to perform the Services; and c) Consultant is not a party to any other agreement or under any other obligation to any third party which would prevent Consultant from entering into this Agreement and complying with the terms and conditions set forth herein.

5.03 Assignment. Neither this Agreement, any right hereunder, nor any interest herein, shall be assigned or transferred by Consultant without the express written consent of the Athletic Corporation, in its sole and absolute discretion.

5.04 Hold Harmless. The Athletic Corporation agrees to hold Consultant harmless and indemnify Consultant from all expenses, any claims, liabilities, judgments, suits, demands, losses, expenses or damages, including reasonable attorneys' fees and court costs, arising out of the performance by Consultant of his duties hereunder ("Claims"), excepting therefrom claims caused by the negligence, gross negligence or willful misconduct of Consultant, or his breach of this Agreement ("Excluded Claims"). Consultant agrees to hold the Athletic Corporation, its officers, directors, consultants, stockholders and representatives ("Athletic Corporation Parties") harmless and indemnify the Athletic Corporation Parties from all expenses, any claims, liabilities, judgments, suits, demands, losses, expenses or damages, including reasonable attorneys' fees and court costs, arising out of the Excluded Claims. It is expressly understood and agreed that the provisions of this paragraph shall survive the termination of this Agreement to the extent the cause arose prior to termination. It is expressly agreed the liability of any party under this Agreement shall be limited in all cases to actual compensatory damages (excluding special, indirect, exemplary, consequential, punitive and similar damages).

5.05 Governing Law. This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the internal, substantive laws, of the State of California, without giving effect to the conflict of law principles thereof.

5.06 Jurisdiction, Venue and Service of Process. The parties agree that the state and federal courts sitting in Fresno, California will have exclusive jurisdiction over any action arising out of or related to this Agreement. By execution and delivery of this Agreement, each of the parties hereto accepts for itself and in respect of its property, generally and unconditionally, the exclusive jurisdiction of the aforesaid courts.

5.07 WAIVER OF JURY TRIAL. ANY ACTION, DEMAND, CLAIM OR COUNTERCLAIM ARISING UNDER OR RELATION TO THIS AGREEMENT WILL BE RESOLVED BY A JUDGE ALONE AND EACH OF THE PARTIES WAIVE ANY RIGHT TO A JURY TRIAL

5.08 Remedies for Breach. Consultant agrees that money damages will not be a

sufficient remedy for any breach of the obligations under this Agreement by the Consultant and that the Athletic Corporation shall be entitled to injunctive relief and to specific performance as remedies for any such breach. Consultant agrees that the Athletic Corporation shall be entitled to such relief, including temporary restraining orders, preliminary injunctions and permanent injunctions, without the necessity of proving actual damages and without the necessity of posting a bond or making any undertaking in connection therewith. Any such requirement of a bond or undertaking is hereby waived by Consultant and Consultant acknowledges that in the absence of such a waiver, a bond or undertaking might otherwise be required by the court. Such remedies shall not be deemed to be the exclusive remedies for any breach of the obligations in this paragraph, but shall be in addition to all other remedies available at law or in equity which other remedies shall not be prejudiced. In any action taken by the Athletic Corporation to enforce its rights under this Agreement, the Athletic Corporation shall be entitled to recover its costs incurred in connection with such enforcement from Consultant, including, without limitation, reasonable attorneys' fees.

5.09 Entire Agreement. This Agreement is the entire agreement of the parties and supersedes any prior agreements between them, whether written or oral, with respect to the subject matter hereof. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.

5.10 Severability. The invalidity or unenforceability of any provision of this Agreement, or any terms thereof, shall not affect the validity of this Agreement as a whole, which shall at all times remain in full force and effect.

5.11 Waiver. Failure or delay on the part of either party hereto to enforce any right, power, or privilege hereunder shall not be deemed to constitute a waiver thereof. Additionally, a waiver by either party or a breach of any promise hereof by the other party shall not operate as or be construed to constitute a waiver of any subsequent waiver by such other party.

5.12 Headings. The headings of the paragraphs contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of any provision of this Agreement.

5.13 Counterparts. This Agreement may be executed in one or more counterparts, none of which need contain the signature of more than one party hereto, and each of which shall be deemed to be an original, and all of which together shall constitute a single agreement.

CONSULTANT

DocuSigned by:
By: Kalen DeBoer
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Kalen DeBoer

Dated: 2/23/2021

ATHLETIC CORPORATION

DocuSigned by:
By: Terrance Tumey
61454778D659425...
Terrance Tumey, Director of Athletics

Dated: 2/23/2021

DocuSigned by:
By: Deborah S. Adishian-Astone
F2A2744DF3084BA...
Deborah S. Adishian-Astone, Board Chair

Dated: 2/23/2021