

## EMPLOYMENT CONTRACT

THIS EMPLOYMENT CONTRACT (hereinafter referred to as "Contract") is effective as of the 1<sup>st</sup> day of July 2007 by and between the University of Kentucky, (hereinafter referred to as the "University") and Mitchell Barnhart (hereinafter referred to as "AD").

The EMPLOYMENT CONTRACT made and entered into on January 15, 2003, as amended on June 14, 2005 is hereby terminated, effective as of June 30, 2007, and is replaced in all respects by this Contract. AD acknowledges receipt of all benefits due him under the previous Employment Contract.

1. Term. The University hereby employs Mitchell Barnhart as the Director of Athletics for the University of Kentucky for a period beginning July 1, 2007 and ending on June 30, 2012.

This Contract shall be continually extended by one additional year on each subsequent July 1, such that the term of this Contract is a constant five-year term, unless notice is given at the end of a year, on or before June 30<sup>th</sup> that the Contract will no longer be extended for an additional year, or this Contract is terminated as set forth in Paragraph eight (8) herein. For the purposes of this Contract, a "Contract Year" shall mean a twelve month period beginning July 1 of one year and ending on June 30 of the immediately succeeding year.

2. Duties and Authority. AD's specific duties shall be those generally consistent with the overall management, supervision, and administration of an athletics department at a NCAA Division I university.

a. AD's duties shall include the supervision, management, and administration of the Athletics Department, including the ticketing, budgeting, scheduling, fiscal management, promotion of the Athletics Department's programs, recruitment, supervision, discipline, and evaluation of Athletics Department staff and coaches, maintenance and observation of institutional control over every aspect of the Athletics Department programs and compliance by the Athletics Department in accordance with athletic rules and University rules as defined in Paragraph four (4) herein.

b. Additionally, AD shall, to the extent it does not interfere with his duties as Athletic Director, assist in the planning and implementation of development activities in conjunction with the Office of Development and perform such other general duties and responsibilities, consistent with the duties and existing demands upon an Athletic Director, which may be assigned from time to time by the President of the University.

c. AD shall submit all coach's contracts to the President, for approval.

d. AD shall make diligent efforts to monitor the University's athletic programs, pursuant to NCAA Division I Constitution 2.8.1., and to assure compliance with the all athletics rules by the Athletic Department, University staff, coaches, student-

athletes, and all other individuals and groups representing the University's athletics interests.

e. AD shall use his best efforts to avoid or minimize personal involvement and involvement by head coaches, assistant coaches, and student-athletes with non-employee "representatives of the athletic interests" of the University as that term is defined in the athletic rules, during games, practices, team travel, in the locker room, or as part of recruiting activities that might violate or cause a violation of the athletic rules.

This subsection is not intended to limit or restrict AD's development, public relations, marketing, or promotional activities on behalf of the Athletics Department and the University under circumstances which will not violate athletic rules.

3. Reporting Relationship. AD shall report directly to the President of the University or to such other person designated in writing by the President.

4. University Policy. AD agrees to comply with the athletic rules and University rules.

a. For purposes of this contract the athletic rules shall mean any and all present or future legislation, rules, regulations, directives, written policies, bylaws and constitutions, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by the National Collegiate Athletic Association [hereinafter the "NCAA"] or the Southeastern Conference [hereinafter the "SEC"] or any successor of such associations or conference, or by any other athletic conference or governing body or accrediting agency hereafter having regulatory power or authority relating to the athletic programs of the University.

b. AD shall comply with all University rules. University rules shall mean any and all present or future legislation, rules, regulations, directives, written policies, bylaws, and constitution, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by the University or by the Board of Trustees of the University of Kentucky, except where contrary to the express provisions of this agreement.

c. To the extent, however, that a conflict exists between the terms and provisions of said regulations and rules and this Contract, this Contract shall prevail.

d. In the event AD becomes suspicious, receives information, or learns about a possible significant violation of any athletic rule, AD shall report the same promptly to the President of the University, and the Senior Associate Athletics Director [hereinafter "AAD"].

5. Compensation. In consideration of AD's services hereunder, the University shall pay AD as follows:

a. Base Salary. Commencing on July 1, 2007 the University shall pay AD, an annual salary of Three Hundred Seventy-Five Thousand Dollars (\$375,000.00) per contract year plus an additional amount of One Hundred Thousand Dollars (\$100,000.00), said additional amount being paid in consideration of AD's participation in University of Kentucky sports radio and television programs and other athletic endorsement programs. The aggregate of these two salaries in the amount of Four Hundred Seventy-Five Thousand Dollars (\$475,000.00) shall be referred to as "base salary" in this Contract. Said "base salary" shall be payable in monthly installments in accordance with applicable University payroll policies.

(i) AD's performance of his job duties and responsibilities will be evaluated periodically by the President. Discretionary increases may be added to the base salary by the President in accordance with the performance evaluations. A salary increase, if any, shall become effective on the date it is approved by the President unless some other date is specified.

(ii) AD shall not have the opportunity to earn athletically-related outside income or benefits as a result of being the Director of Athletics. In no event shall AD solicit, accept, or receive directly or indirectly any personal monies, benefit, or any other gratuity (hereinafter "gifts") from any person, business, or entity that does business with the Athletics Department.

(iii) With prior written approval of the President of the University, AD may participate in non-University related, non-athletically-related outside business activities conducted off campus directly or through business enterprises owned by AD. Prior approval is not required for personal investing in passive instruments or publicly-traded companies.

Such outside activities shall not include commercial endorsements, radio and television programs, media events, public appearances, commercial advertisements, films or videotapes, and other similar enterprises in any and all media wherein AD participates as a paid principal or appearances or participation for pay in athletic sports camps or clinics.

(iv) AD shall report annually to the President any gifts totaling greater than \$250.00 in any calendar year and shall not accept any gifts totaling greater than \$1000.00 from a "representative of athletics interests" as that term is defined in

NCAA Bylaw 13.02.11. The President may authorize exceptions to these prohibitions where such exemptions would not create an appearance of impropriety. Small gifts received during holiday seasons by the AD shall be shared with all employees of the Athletics Department or donated to charity.

b. Incentive Compensation. Incentive Compensation is subject to the usual payroll deductions, but shall not be subject to the University's retirement plan matching contribution.

Incentives shall not be paid in any given year where significant NCAA violations have occurred in the particular sport which would, otherwise, cause the AD to earn the incentive or if the University is on probation for violations occurring in the particular sport during the AD's tenure. AD shall remain eligible to receive all other incentive payments not directly related to the particular sport in question.

(i) The University within thirty (30) days after the game in question, shall pay to AD One Hundred Thousand Dollars (\$100,000.00) if the men's football team plays in a post-season Bowl Championship Series bowl game sanctioned by the NCAA or Thirty Thousand Dollars (\$30,000.00) if the men's football team plays in a post-season bowl game sanctioned by the NCAA, other than a Bowl Championship Series bowl game. In no event shall the incentive bonus paid to the AD exceed the incentive bonus paid to the Head Football Coach.

(ii) The University within thirty (30) days after the game in question shall pay to AD Fifteen Thousand Dollars (\$15,000.00) if the women's basketball team wins the SEC Regular Season Championship title or wins the SEC Tournament Championship or participates in the NCAA Women's Basketball National

Championship Tournament. In no event shall the incentive bonus paid to the AD exceed the incentive bonus paid to the Head Women's Basketball Coach.

(iii) The University, within thirty (30) days after the game in question, shall pay to the AD Twenty Five Thousand Dollars (\$25,000.00) if the men's basketball team plays in the post-season NCAA Men's Basketball National Championship Tournament. In no event shall the incentive bonus paid to the AD exceed the incentive bonus paid to the Head Men's Basketball Coach.

(iv) The University within thirty (30) days after the game in question shall pay to AD an additional Twenty-Five Thousand (\$25,000.00) if the women's basketball team play in the NCAA Final Four Tournament. In no event shall the incentive bonus paid to the AD exceed the bonus paid to the Women's Basketball Head Coach.

(v) The University within thirty (30) days after the game in Question, shall pay to AD an additional Twenty-Five Thousand Dollars (\$25,000.00) if the men's basketball team plays in the NCAA Final Four Tournament. In no event shall the incentive bonus paid to the AD exceed the bonus paid to the Men's Basketball Head Coach.

These incentives are intended to reward the achievement of each team even in turn and are cumulative. By way of illustration if the men's football team participates in a Bowl Championship Series and both the women's and men's basketball team play in the NCAA Final Four Tournament AD shall receive One Hundred Ninety Thousand Dollars (\$190,000.00).

(vi) On June 30 of each Contract Year the University will pay AD other incentives relating to the accomplishment of defined goals related to the strategic objectives to be obtained in that year, established with the AD and the President's mutual agreement at the beginning of the Contract Year. These other incentives, if achieved, shall not exceed the amount of Fifty Thousand Dollars (\$50,000.00).

(vii) Longevity Incentive. So long as AD is employed as Athletics Director on June 30th of each year of the Contract term, AD shall be entitled to the payment of a retention incentive in the amount of Fifty-Thousand Dollars (\$50,000.00) each Contract year due and payable on June 30<sup>th</sup> of each Contract year. For each Contract year thereafter for which AD remains employed as the Director of Athletics, AD shall be entitled to the payment of a retention incentive in the amount of Fifty Thousand Dollars (\$50,000.00) due and payable on June 30 of each Contract year. Employee shall have no vested rights in any portion of these funds until the specified due date.

6. Additional Obligations of the University. In the discharge of AD's obligations the AD is required to promote and enhance the University's athletics program. In this regard and for the University's convenience during the term of this Contract, the University agrees to provide AD as follows:

a. Automobiles. The University annually shall provide or make arrangements on a loan basis two (2) full-size automobiles for business and personal use by AD or members of his immediate family. AD shall provide full coverage insurance on the vehicles and shall supply gasoline for personal use. All other costs of operating the

vehicles shall be paid by the University. AD shall be responsible for paying for any uninsured loss, damage, or repair to these vehicles.

b. Expenses. In accordance with applicable University rules, the University will reimburse AD for all ordinary and necessary travel and business expense directly arising out of or directly related to the performance of AD's duties.

c. Benefits. During the term of this Contract, the University agrees to continue to offer AD and his eligible dependents, the standard employee benefits offered to the University administrative staff. Standard benefits include, but are not limited to the health plan, life insurance, dental insurance, accidental death and dismemberment insurance and long term disability. The base salary as provided in Paragraph 5(a) shall determine benefits that are based upon salary.

d. Country Club Membership. The University will continue to provide or make arrangements for membership and initiation fees, if any, at a mutually agreed upon golf or country club. AD shall be responsible for payment of all expenses and costs associated with using the membership excluding monthly dues, which shall be paid by University.

e. Supplemental Life Insurance. In addition to any amounts of life insurance provided through the University's standard benefit package, University agrees to continue to provide AD with an additional term life insurance policy in the amount of One Million Dollars (\$1,000,000.00).

7. Use of University Trademarks. AD may not utilize or authorize third parties to utilize the University's trademarks or logos in connection with any outside activities permitted by this Contract without the express written permission of the

University's Licensing Director. A third party desiring to use the University's trademarks must obtain a license from the University's Licensing Program.

In the event AD receives permission to use the University's trademarks, such permission shall be non-exclusive and non-transferable, and such permission shall expire automatically upon AD's resignation or termination.

AD agrees that all logos, slogans, trademarks, or other indicia, including all copyright and other intellectual property rights therein, which relate to the University, including any of its athletics programs, or which would compete with the University's registered trademarks that are developed or created by AD or by others at AD's direction shall be owned by the University.

Any patentable invention or discovery, including computer software, created by AD during the term of this Contract shall be owned by the University in accordance with University rules.

8. Termination By University. AD recognizes that his promise to remain as the Director of Athletics for the entire term of this Contract is the essence of this Contract with the University. It is also recognized, however, that certain limited circumstance may make it appropriate for the University to terminate this Contract prior to the completion of the entire term.

a. Termination for Death or Disability. This Contract shall terminate automatically upon the death of AD. If this Contract terminates because of AD's death, AD's annual base salary and all other forms of compensation and benefits shall terminate as of the date on which death occurs, except that AD's personal representative or other

designated beneficiary shall be paid all such death benefits, if any, as may be contained in any benefit plan pursuant to the current University policy.

If during the term of this Contract AD becomes temporarily disabled, AD shall be entitled to receive those temporary disability payments and employment benefits specified in the current University regulations.

If AD's disability is or becomes permanent as defined in University's Long Term Disability Plan, this Contract shall terminate and all compensation and benefits provided by the University shall cease, except for such long term disability benefits which AD is entitled to receive.

b. Termination for Cause. The University shall have the right to terminate this Contract for cause prior to its expiration, and such right of termination shall exist notwithstanding any rights available to University under Paragraph 5(e) herein. The term "for cause" shall include, in addition to any other grounds set forth in University rules not inconsistent with the terms and intent of this Contract, any of the following:

(i) Neglect or inattention by AD of the standards, duties, or responsibilities assigned to or required of AD after reasonably specific written notice thereof has been given to AD by the President , and AD has continued such neglect or inattention during a subsequent period of not less than thirty (30) days;

(ii) Breach or violation by AD of any material clause of this contract;

(iii) Conviction of AD of any criminal violation (excluding minor traffic offenses or non-criminal offenses);

Division I Bylaw 19.02.2 by AD which may, in the sole judgment of the University, reflect adversely upon the University or its athletics program, including any violation which may result in the University being placed on probation by the NCAA or SEC and including any violation which may have occurred during AD's prior employment at another NCAA member institution;

(v) The making or rendition of a finding or determination by the NCAA or the SEC of a major violation, as defined by NCAA Division I Bylaw 19.02.2, of any athletic rule by members of any University coaching staff or alumni, booster club members, or student-athletes, which is permitted, encouraged, or condoned by AD, or about which violation AD knew or reasonably should have known and failed to act to prevent, limit, or mitigate;

(vi) Failure by AD to promptly report to the President of the University and the AAD any violation known to AD or information AD has received that a major violation may have occurred;

(vii) Fraud or dishonesty of AD in the performance of AD's duties or responsibilities;

(viii) Counseling or instructing by AD of any coach, student, or other person to fail or refuse to respond accurately and fully within a reasonable time to any inquiry or request concerning a matter relevant to the athletics programs of the University or of another institution of higher education which shall be propounded by the NCAA, SEC, the President or the AAD;

(ix) Intentional failure by AD to respond promptly, accurately, and fully to any reasonable request or inquiry by the University relating to the AD and the athletic rules or University rules; and

(x) Participating in unethical conduct.

In the event the AD is terminated for cause in accordance with these provisions AD shall not be entitled to receive any sum, compensation or benefit otherwise payable under Paragraph Five (5) herein.

Notwithstanding any other term of this agreement, it is not the intention of the parties that this contract be terminable for minor, technical or otherwise insignificant University regulations, or for NCAA or SEC violations which do not entail the risk of major institutional penalties, or where the AD has not been found to be responsible for any lack of institutional control under the Principles of Institutional Control as prepared by the NCAA Committee on Infractions.

c. Pre-Termination Hearing. "Just cause" sufficient to satisfy the provisions of Paragraph 8a shall be determined by the President of the University or his designee at a pre-termination hearing held for such purpose after at least seven (7) days' written notice to AD, which notice shall include a statement of the charges against AD.

The hearing shall consist of an explanation of the University's evidence and an opportunity for the AD to present his response. AD shall have the right to have an attorney present to advise him at the pre-termination hearing. The decision of the President or his designee shall be final.

d. Post-Termination Hearing. If AD is terminated for cause in accordance with Paragraph 8b, upon request within seven (7) days after the date of

termination, AD shall have the right to a post-termination hearing within a reasonable time after termination.

The post-termination hearing will be conducted by a panel of three (3) University administrators and/or faculty chosen by the President of the University.

The AD shall have the right to have an attorney present at such hearing, to call witnesses on his behalf and to cross-examine witnesses. A transcript of the hearing shall be made.

The rules of evidence shall not be applicable to such hearing.

After the conclusion of the hearing, the panel shall promptly make a recommendation to the President, and inform the AD of the recommendation.

As soon thereafter as possible, the President, or his designee, shall inform the AD of the termination decision. The decision of the President shall be final and binding. The parties agree the AD is not entitled to any hearing if he is terminated without cause pursuant to Paragraph 8e.

The procedure described herein shall also be applicable in the event of a suspension under Paragraphs 8h or 8i.

The provisions of this paragraph 8d replace any grievance procedure contained in University Human Resources Policies and Procedures.

e. Termination Without Cause. The University shall have the right at any time to terminate this Contract without cause and for its convenience prior to its expiration. Termination by the University without cause shall be effectuated by delivering to AD written notice of the University's intent to terminate without cause,

which notice shall be effective upon the earlier of the date for termination specified in the notice or fourteen (14) days after receipt of such notice by the AD.

If the University exercises its rights under Paragraph 8e to terminate this without cause, the AD shall be entitled to damages only as provided for in Paragraph 8f, and the provisions of Paragraph 8 shall have no further effect.

The parties agree that if this Contract is terminated without cause, then AD shall not be entitled to any pre or post-termination hearing.

f. Liquidated Damages. If the University terminates this contract without cause prior to its expiration in accordance with the provisions of Paragraph 8e, the University shall pay, and AD agrees to accept as liquidated damages, the base salary due for the remainder of the term of the contract then in effect, to be paid on a monthly basis.

The University's obligation to pay such liquidated damages shall be subject to AD's duty to mitigate the University's obligation as specified in Paragraph 8g.

The AD will be entitled to continue such insurance benefits at his own expense as required or permitted by law, but AD will not otherwise be entitled to any other benefit described in Paragraph five (5).

The parties have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that termination of this Contract by the University without cause prior to its expiration may cause the AD to lose certain benefits and incentives, supplemental compensation, or other athletically-related compensation associated with AD's employment at the University, which damages are extremely difficult to determine with certainty or fairly or adequately. The parties further

agree that the payment of such liquidated damages by the University and acceptance thereof by AD shall constitute adequate and reasonable compensation to AD for the damages and injuries suffered by him because of such termination by the University. The foregoing shall not be, nor be construed to be, a penalty.

g. Mitigation of Liquidated Damages. Notwithstanding the provisions of Paragraph 8f, AD agrees to mitigate the University's obligation to pay liquidated damages pursuant to Paragraph 8f and to make reasonable and diligent efforts to obtain equivalent employment, such as employment as an Athletics Director at an NCAA Division I college or university or with a professional sports team, as soon as possible after termination of this contract by the University pursuant to Paragraph 8e.

Upon AD's acceptance of any new employment, the University's obligation to pay the full amount of liquidated damages shall be reduced by the amount of the minimum guaranteed annual salary of the AD's new position.

AD agrees to notify the University within fourteen (14) days of the date AD accepts new employment of the minimum annual salary of the new employment.

h. Suspension for Cause. In lieu of termination for cause, the University may suspend AD for a period not to exceed ninety (90) days for any one or more of the acts or omissions representing grounds for termination for cause under Paragraph 8(b). During such a period of suspension, AD shall not be entitled to receive his annual base salary.

i. Suspension for Criminal or Other Charges. As an alternative or supplement to any other remedies available hereunder the University may suspend AD for the following:

(i) In the event of an indictment or information being filed against AD charging a felony; or

(ii) In the event of the commencement, filing, or delivery of any notice of formal inquiry or charge or in the event of a preliminary finding by NCAA, or SEC, or any commission, committee, council or tribunal of the same, alleging or finding one or more major, significant, or repetitive violations by AD personally of any athletic rule, or such violations by other persons about which violations AD knew or reasonably should have known, and failed to act to prevent, limit, or mitigate.

Such suspension may continue until final resolution of such matter or proceeding. During such suspension, AD shall receive only the current annual base salary and the benefits described Paragraph 6(c) and 6(e). AD shall not be entitled to receive any other benefits or incentives for the period of such suspension.

If the matter giving rise to the suspension is finally resolved completely in favor of AD , and does not otherwise represent an independent basis for termination hereunder for cause, University shall make the AD whole for incentives otherwise payable to AD during the period of suspension.

j. Suspension under this Paragraph 8j shall not limit or prevent the right of the University to act pursuant to Paragraphs 8b or 8e during or subsequent to such suspension

k. Termination by AD. AD shall have the right at any time to terminate this contract without cause and for his convenience prior to its expiration. Termination by the AD without cause shall be effectuated by delivering to the President written notice of the AD's intent to terminate this contract without cause, which notice

shall be effective upon the earlier of the date for termination specified in the notice or fourteen (14) days after receipt of such notice by the President. All compensation and benefits and all other obligations owed by the University to AD under this contract shall cease as of the termination date.

1. Employment Opportunity. Should another employment opportunity in intercollegiate athletics or professional sports management be presented to AD or should AD be interested in employment at another college or university or with a professional sports organization during the term hereof, the AD must notify the President of the University of such interest or opportunity. AD must receive permission from the President before any discussions can be held by AD with a prospective employer.

9. Miscellaneous.

a. This Contract may be amended at any time only by a written instrument duly signed by the University through its designated representative and by AD.

b. This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

c. Neither parties' rights and interests under this Contract may be assigned, pledged, or encumbered.

d. This Contract constitutes the full and complete understanding and agreement of the parties with respect to the employment of AD by the University and supersedes all prior understandings and agreements, oral or written, regarding AD's employment by the University.

e. No waiver by the parties hereto of any default or breach of any covenant, term, or condition of this contract shall be deemed to be a waiver of any other default or breach of the same or of any other covenant, term, or condition contained therein.

f. It is agreed and understood between the parties that nothing contained herein shall be construed to constitute a waiver by the University of its right to claim such exemptions, privileges and immunities as may be provided by law.

g. Any notice or other communication which may or is required to be given under this Contract shall be in writing and shall be deemed to have been given either when hand delivered to or on the earlier of the day actual received or on the close of business on the business day following the day when deposited in the United States mail, first class postage pre-paid, 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:**

Mitchell Barnhart  
Athletics Department  
Joe Craft Center  
Lexington, Kentucky 40506

With a copy to Employee's  
Address as shown on University's  
Human Resource's database.

**If to the University:**

President  
University of Kentucky  
Main Building  
Lexington, Kentucky 40506

With a copy to:  
General Counsel  
Main Building  
University of Kentucky  
Lexington, KY 40506


h. The invalidity or enforceability of any provision of this Contract

has no effect on the validity or enforceability of any other provisions. It is the desire of the parties hereto that a court judicially revise any unenforceable provisions to the extent required to make them enforceable.

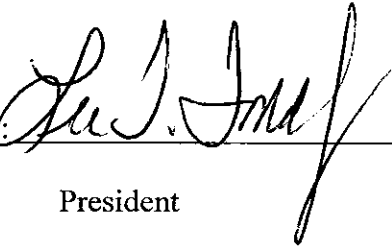
i. The sections and paragraph headings contained in this contract are for reference purposes only and will not affect in any way the meaning or interpretation of this Contract.

**IN WITNESS WHEREOF**, the parties hereto have executed this Contract


**UNIVERSITY OF KENTUCKY**

  
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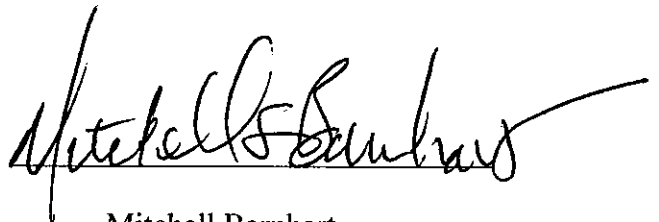
Witness

By:   
\_\_\_\_\_

President

  
\_\_\_\_\_

Witness

  
\_\_\_\_\_

Mitchell Barnhart