

**ASSISTANT ATHLETIC DIRECTOR - PLAYER PERSONNEL  
EMPLOYMENT AGREEMENT  
(one-year term: 2019 - 2020)**

The Ohio State University ("Ohio State") and Mark Pantoni ("Pantoni") agree as follows:

**1.0 Employment**

1.1 Subject to the terms and conditions of this Employment Agreement (the "Agreement"), Ohio State shall employ Pantoni as the Assistant Athletic Director - Player Personnel of its football team (the "Team"). Pantoni represents and warrants that he is fully qualified to serve, and is available for employment, in this capacity.

1.2 Pantoni shall serve at the pleasure of Ohio State's Head Football Coach ("Head Coach"), be responsible, and report directly, to the Head Coach and confer with the Head Coach or his designee on all administrative matters.

1.3 The parties recognize that Ohio State's Director of Athletics ("Director") is responsible to Ohio State's President for the operation, review and periodic evaluation of the entire athletic program at Ohio State, including the football program. Pantoni recognizes and acknowledges the importance of the maintenance and observance of the principles of institutional control over every aspect of such program. Pantoni agrees to recognize and respect those relationships and the organizational structure of Ohio State. Within that structure, the Director and Pantoni shall mutually cooperate to implement the purposes of this Agreement, and Pantoni shall support and comply with the Director's efforts and instructions regarding any such review of the athletic program.

1.4 Pantoni shall assist in the management and supervision of the Team and shall perform such other duties in Ohio State's athletic program, as the Head Coach or the Director may assign.

1.5 Pantoni agrees to represent Ohio State positively in public and private forums and shall not engage in conduct or act in such a manner that reflects adversely on Ohio State or its athletic programs. Pantoni shall perform his duties and personally comport himself at all times in a manner consistent with good sportsmanship and with the high moral, ethical and academic standards of Ohio State and its Department of Athletics (the "Department").

**2.0 Term**

2.1 This Agreement is for a fixed-term appointment commencing on February 1, 2019 and terminating, without further notice to Pantoni, on January 31, 2020.

2.2 This Agreement is renewable solely upon an offer from Ohio State and an acceptance by Pantoni, both of which must be in writing and signed by the parties.

2.3 This Agreement in no way grants Pantoni a claim to tenure in employment, nor shall Pantoni's service pursuant to this Agreement count in any way toward tenure at Ohio State.

### **3.0 Compensation**

#### **3.1 During the term of this Agreement:**

(a) Ohio State shall pay Pantoni an annual base salary of \$200,000 ("Base Salary"), which shall be subject to all applicable withholdings and payable in accordance with Ohio State's normal payroll practices;

(b) Pantoni shall be entitled to participate in all employee retirement and welfare benefit plans and programs made available to Ohio State's senior administrative and professional employees as a group, as such plans and programs may be in effect from time to time and subject to Pantoni satisfying any eligibility requirements of such plans and programs. Notwithstanding the foregoing, nothing in this Agreement shall prevent Ohio State from amending or terminating any retirement, welfare or any other employee benefit plans, programs or policies from time to time as Ohio State deems appropriate in its sole discretion;

(c) If the Team is awarded the title of Big Ten<sup>1</sup> (or applicable equivalent) Conference Champions or Co-Champions, Ohio State shall pay Pantoni supplemental compensation in an amount equal to 8.5% of Pantoni's Base Salary at Pantoni's then-current rate. Ohio State shall pay Pantoni any such supplemental compensation within 60 days of the conclusion of the Team's last regular or post-season competition, whichever is later;

(d) If the Team wins the Big Ten Conference championship game, Ohio State shall pay Pantoni supplemental compensation in an amount equal to 4.25% of Pantoni's Base Salary at Pantoni's then-current rate. Ohio State shall pay Pantoni any such supplemental compensation within 60 days of the conclusion of the conference championship game;

(e) If the Team participates in a post-season, College Football Playoff ("CFP") bowl game, Ohio State shall pay Pantoni supplemental compensation in an amount equal to 17% of Pantoni's Base Salary at Pantoni's then-current rate. Ohio State shall pay Pantoni any such supplemental compensation within sixty (60) days of the conclusion of the bowl game;

(f) If the Team has nine (9) wins in a given season and participates in a post-season, non-CFP bowl game, Ohio State shall pay Pantoni supplemental compensation in an amount equal to 4.25% of Pantoni's Base Salary at Pantoni's then-current rate. Ohio State shall pay Pantoni any such supplemental compensation within sixty (60) days of the conclusion of the bowl game;

(g) If the Team participates in the semi-finals (but not the finals) of the College Football Playoffs, Ohio State shall pay Pantoni supplemental compensation in an amount equal to 21.25% of Pantoni's Base Salary at Pantoni's then-current rate. Ohio State shall pay Pantoni any such supplemental compensation within 60 days of the conclusion of the semi-final CFP game; and

(h) If the Team wins its semi-final CFP game, and participates in the finals of the College Football Playoffs, Pantoni is not entitled to receive the supplemental compensation set forth in Section 3.1(g) above. Instead, Ohio State shall pay Pantoni supplemental compensation in an amount equal to 25.5% of Pantoni's Base Salary at Pantoni's then-current

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<sup>1</sup> "Big Ten" or "Big Ten Conference" shall mean the Big Ten Conference, its successor or any other athletic conference of which Ohio State may be a member.

rate. Ohio State shall pay Pantoni any such supplemental compensation within 60 days of the conclusion of the final CFP game.

Any payments made under this Section 3.1 shall be subject to all applicable withholdings.

3.2 Pantoni agrees that Ohio State has the exclusive right to operate youth football camps on its campus using Ohio State facilities. Pantoni thereby agrees to assist in the marketing, supervision, instruction and/or general administration of Ohio State's football camps. Pantoni also agrees that Pantoni will perform all obligations mutually agreed to by the parties. Pantoni may receive a bonus, less applicable withholdings, in an amount determined by Ohio State after Ohio State determines the revenues and expenses from such camps. Camp bonuses shall be paid after (a) the appropriate camp documentation and payment requests have been received by Ohio State, (b) the payment of the then-current Administrative and Facilities Charge to Ohio State and (c) determination and approval of such camp income supplemental payments by Pantoni or his designee. Unless otherwise specifically required by law, any such payment shall not be taken into account in any retirement or other benefit program for which Pantoni may be eligible.

3.3 All salary or compensation provided to Pantoni for the performance of Pantoni's duties shall be paid only by Ohio State. To that end, Pantoni will not solicit or accept gifts of cash or of substantial value or accept hospitality, from any person, including without limitation, a person who is a "representative of the athletic interests" of Ohio State as that term is defined in Governing Athletic Rules<sup>2</sup>.

3.4 As additional compensation, Pantoni shall receive an automobile stipend of six hundred dollars (\$600.00) per month, less applicable withholdings. Liability, collision and comprehensive insurance and all additional operational expenses associated with said automobile shall be procured and borne by Pantoni.

3.5 As additional compensation, Ohio State will annually, without charge, provide to Pantoni six (6) tickets in Ohio Stadium to each home football game. Pantoni shall also receive, without charge, two (2) tickets to each home men's basketball game. Pantoni may receive (or may have the right to purchase) additional tickets to home and away football games if offered by Ohio State, at the discretion of the Director or his designee. Pantoni shall comply with all University Rules<sup>3</sup> applicable to such tickets, including, but not limited to, the prohibition against re-selling tickets.

3.6 All fringe benefits received by Pantoni will be subject to applicable tax laws and, if appropriate, will be treated as taxable income subject to applicable withholding and other payroll taxes.

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<sup>2</sup> "Governing 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 NCAA or the Big Ten Conference or any successor of such association or conference, or by any other athletic conference or governing body hereafter having regulatory power or authority relating to the athletic program of Ohio State. Governing Athletic Rules also shall include any acts of Congress or the State of Ohio regulating college athletics, officials, athletes, and competition.

<sup>3</sup> "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 Ohio State and/or the Department of Athletics, including, without limitation, its President and the Director, or by Ohio State's Board of Trustees.

#### **4.0 Pantoni's Specific Duties and Responsibilities**

**4.1 In consideration of the compensation specified in this Agreement, Pantoni shall:**

**(a) Devote Pantoni's full time and best efforts to the performance of Pantoni's duties as directed by the Head Coach under this Agreement, including all duties that the Head Coach or the Director may assign as provided in Section 1.4 hereof, and including all duties as set forth in Pantoni's then-current job description on file with the Department;**

**(b) Assist in the development and implementation of programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team members to compete successfully while assuring their welfare;**

**(c) Observe and uphold all academic standards, requirements and policies of Ohio State and encourage Team members to perform to their highest academic potential. Pantoni recognizes that the primary mission of Ohio State is to serve as an institution of higher learning and shall fully cooperate with the Department's Office of Student Athlete Support Services and all academic counselors or similar persons designated by Ohio State to assist student-athletes and shall use his personal best efforts to encourage and promote those efforts. In that respect, Pantoni recognizes that the goal of Ohio State is that every student-athlete obtain a baccalaureate degree, and agrees to support fully the attainment of this goal. It is recognized by the parties that a student-athlete may be declared ineligible for competition for academic reasons, because Ohio State believes the student-athlete would not be an appropriate representative of Ohio State under University Rules, as a disciplinary sanction under Ohio State's Code of Student Conduct, or because Ohio State believes that the student-athlete is not eligible according to the rules for athletic competition specified by the Big Ten Conference or the NCAA<sup>4</sup> or for similar reasons;**

**(d) Know, recognize and comply with all federal, state and local laws, as well as all applicable University Rules and Governing Athletic Rules; including, but not limited to, the Big Ten Conference and the NCAA, assist in supervising and taking appropriate steps to ensure that any employees for whom Pantoni is administratively responsible and the members of the Team know, recognize and comply with all such laws, University Rules and Governing Athletic Rules; and immediately report to the Head Coach and to the Department's Office of Compliance Services in writing if Pantoni has reasonable cause to believe that any person or entity, including without limitation, representatives of Ohio State's athletic interests, has violated or is likely to violate or may potentially have violated any such laws, University Rules and Governing Athletic Rules (with the exception of Ohio State's Sexual Misconduct Policy, which obligations are detailed in Section 4.1(e) below). Pantoni shall cooperate fully with the Department's Office of Compliance Services at all times;**

**(e) Pantoni shall abide by Office of Human Resources Sexual Misconduct Policy 1.15. Pantoni shall report promptly to Ohio State's Title IX Coordinator any incident of sexual misconduct (as defined in Office of Human Resources Sexual Misconduct Policy 1.15, including but not limited to, sexual harassment, sexual assault, sexual exploitation, relationship violence, and stalking) when Pantoni receives a disclosure of sexual misconduct or becomes aware of information that would lead a reasonable person to believe that sexual misconduct may have occurred involving anyone covered by Ohio State's Sexual Misconduct Policy. This includes any incident or information whether related to the victim/survivor or the alleged perpetrator, or both;**

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<sup>4</sup> "NCAA" shall mean the National Collegiate Athletic Association and its successors.

(f) Pantoni shall engage in safe and responsible treatment of student-athletes on the Team and Pantoni shall avoid behavior that could jeopardize a student-athlete's health, safety, welfare or that could otherwise cause harm or risk causing harm to a student-athlete; and

(g) Pantoni shall have such other and further duties and responsibilities as Ohio State and/or the Director may establish from time to time at its discretion.

4.2 Pantoni shall not undertake any business, professional or personal activities or pursuits that would prevent Pantoni from devoting Pantoni's full time and best efforts to the performance of Pantoni's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of Ohio State, would reflect adversely upon Ohio State or its athletic programs. Pantoni shall comply with Ohio State's staff Conflicts of Interest policy. Pantoni also recognizes that Pantoni is covered by Ohio Ethics Laws for public officials and state employees and represents that Pantoni has received a copy of this law from Ohio State and has completed and returned the form acknowledging receipt of such law prior to or commensurate with Pantoni's first day of employment. Any violation of this provision as determined by Ohio State will subject Pantoni to disciplinary action, up to and including discharge. Discharge under this provision will constitute "for cause" termination under the Agreement.

#### 4.3 Media, Promotions and Public Relations.

(a) Pantoni's compensation shall include Pantoni's services, if requested, related to the media, promotions and public relations. Pantoni recognizes that the local and national media interest in the Team and the football program in general is extremely high. In order to satisfy such interest, Pantoni understands that, if requested by the Head Coach or the Director or the Director's designee, he shall use his best efforts (schedule permitting) to make himself available for interviews and other outside appearances.

(b) Pantoni agrees that Ohio State shall own all broadcasting and telecasting rights to all live and recorded Ohio State coach's shows, call-in programs, post-game and pre-game interviews, highlight shows, replay shows, and other programs (hereinafter called "Programs") that may be offered currently or in the future on media outlets, including but not limited to, radio and all forms of television, Internet, satellite, cable, broadband, high definition TV, DVD, video cassette, wireless and video-on-demand. Ohio State shall be entitled, at its option, to produce and market the Programs or negotiate with third parties for the production and marketing of the Programs.

(c) Pantoni agrees, if requested by the Head Coach or the Director or the Director's designee, to provide Pantoni's services to and perform on the Programs and to cooperate in the production, broadcasting, and telecasting of the Programs. Pantoni agrees to perform all other duties as reasonably requested by Ohio State in order for the Programs to be successful. Pantoni also agrees to participate, if requested, in providing content to Ohio State's website(s) (with a current domain name of "ohiostatebuckeyes.com") to either Ohio State or Ohio State's then-current third-party rights holder of such website(s).

(d) Pantoni also agrees that he shall not regularly appear in any regularly-scheduled radio broadcast on radio stations other than WBNS and the affiliates of the Ohio State Network (collectively "Other Radio Broadcasters"), and shall not promote or endorse Other Radio Broadcasters or their programs. In addition, Pantoni shall not appear on radio in any regular coach's show, call-in show or interview show on any Other Radio Broadcasters and shall not

appear on television in any regular coach's show, call-in show or interview show other than those produced by Ohio State or Ohio State's then-current rights holder. Pantoni agrees that he will make a reasonable effort not to appear live or on tape at the time that any of the coaches' or game shows are being broadcast on WBNS and/or the Ohio State Network or at the time that the football coach's show or the weekly football highlight show is being broadcast on television. This shall not prohibit Pantoni from appearing in routine news media interviews from which Pantoni receives no compensation, or from appearing in any other media (consistent with this Agreement). Ohio State's Athletic Communications Office will make reasonable efforts to assist Pantoni with these obligations.

(e) Pantoni also agrees to, and hereby does, assign to Ohio State or its then-current rights holder of one or more of the Programs all right, title and interest in his name, nickname, initials, autograph, facsimile signature, likeness, photograph, and derivatives thereof, and his picture, image and resemblance and other indicia closely identified with Pantoni (collectively the "Property") in connection with the Programs. The assignment includes, but is not limited to, intellectual property rights under any and all trademarks and copyrights and any applications therefore which have been obtained or filed, or may be filed in the future with respect to the Property. Pantoni further agrees to, and hereby does, assign to Ohio State the Property associated with all previously broadcast, recorded or stored Programs. Nothing contained herein shall limit Pantoni's ability to use the Property in activities not associated with the Programs (subject to the approval provisions of Section 4.6. of this Agreement).

4.4 Apparel, Shoe or Equipment Contracts. Pantoni agrees that Ohio State has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff during official practices and games. Pantoni recognizes that Ohio State has entered into an agreement with NIKE to supply Ohio State with athletic footwear, apparel and/or equipment. In order to avoid entering into an agreement with a competitor of NIKE or an agreement which would not be in Ohio State's best interest, Pantoni shall submit all outside consulting agreements to Ohio State for review and approval prior to execution, including consulting or equipment agreements which relate to football camps. Pantoni must also report such outside income to Ohio State in accordance with Governing Athletic Rules and University Rules. Pantoni further agrees that he will not endorse any athletic footwear, apparel and/or equipment products, including NIKE, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products, including NIKE.

4.5 Pantoni agrees to provide the Head Coach and Director with notice if Pantoni (or any representative of Pantoni) has been contacted by (or initiates contact with) any person with respect to Pantoni's prospective employment at an institution of higher learning or professional football team. Such notice shall be provided prior to engaging in discussions or negotiations for prospective employment with any other institution of higher learning or with any professional athletic team. In the final year of this Agreement, Pantoni is granted permission to discuss such employment with any person or entity at any time after the final day of the regular men's football season. It is particularly understood that on-going rumors or media reports of such negotiations are damaging to Team morale and recruiting, and therefore the parties expressly agree that time is of the essence as to the provisions of this Section 4.5, and that the same shall be strictly construed.

Except as provided in Section 5.3 hereof, Pantoni shall not, under any circumstances, accept employment as a Director of Player Personnel at any other institution of higher learning or with any professional athletic team, requiring performance of duties prior to the expiration (or earlier termination) of this Agreement, without the prior written approval of the Director.

4.6 Subject to the foregoing, Pantoni may, with the prior written approval of the Director and the Head Coach, enter into separate arrangements for sports camps, radio and television programs, endorsements (if permissible under state law and University Rules) and any other agreement or arrangement in which Pantoni provides services in exchange for compensation or benefits to Pantoni or his family, including but not limited to, outside consulting agreements set forth in Section 4.2 and/or Section 4.4 hereof. Pantoni shall submit all outside consulting arrangements to Ohio State for review and approval prior to execution. Pantoni must also report such outside income to Ohio State in accordance with Governing Athletic Rules and University Rules. Pantoni shall not be permitted to participate in any business transactions or endorse any products or appear on any radio or, television, internet or any other programs, which may discredit or bring undue criticism to Ohio State or impinge upon any contractual obligations of Ohio State or, which in Ohio State's sole discretion, are otherwise not in the best interests of Ohio State or which violate University Rules or state law. Pantoni may not associate Ohio State's name, logos, trademarks, symbols, insignias, indicia, service marks or reputation in connection with any such arrangements, directly or indirectly, without the prior written approval of the Director and Ohio State's Office of Trademark and Licensing Services. In the event that the Director and Ohio State's Office of Trademark and Licensing Services give permission to Pantoni to use Ohio State's name, logos, trademarks, symbols, insignias, indicia, service marks or reputation, such permission shall be non-exclusive and non-transferable, and such permission shall automatically expire upon Pantoni's resignation or termination from employment or upon written notice from Ohio State.

4.7 In accordance with Governing Athletic Rules and University Rules, Pantoni shall provide a written detailed account (including the amount and source of all such income) to Ohio State's President and the Director for all athletically related income and benefits from sources outside Ohio State whenever reasonably requested, but in no event less than annually. Sources of such income shall include, but are not limited to, the following: (a) income from annuities; (b) income from non-Ohio State sports camps and clinics; (c) income from sports commentary at non-Ohio State athletic events; (d) country club memberships; and (e) fees for speaking engagements.

4.8 Pantoni shall not enter into any agreement that would prohibit Pantoni from making personal appearances at activities or functions associated with The Coca-Cola Company or Coca-Cola Bottling Company Consolidated (or Ohio State's then-current exclusive beverage sponsorship agreement sponsor or bottler). The preceding sentence shall not be construed to require Pantoni to make such appearances unless they have been negotiated in good faith and mutually agreed to between all relevant parties.

4.9 Pantoni shall at all times take reasonable action necessary to comply with and to implement the policies of Ohio State relating to substance abuse and to class attendance by students subject to his direct control or authority, and to exercise reasonable care in an effort to assure that all personnel and students subject to his direct control or authority comply with such policies. Pantoni represents and warrants that he has read such policies and that he will remain current as to the content of such policies.

4.10 To the extent that any personnel matter is not addressed by the terms of this Agreement, University Rules will govern.

## **5.0 Termination**

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

- (a) Neglect or inattention by Pantoni to the duties of the Assistant Athletic Director - Player Personnel or Pantoni's refusal or inability to perform such duties after written notice has been given to Pantoni by the Head Coach or as determined by the Head Coach, and Pantoni has continued such neglect, inattention, refusal or inability during a subsequent reasonable period specified by Ohio State; or
- (b) A significant or repetitive or intentional violation (or a pattern of conduct which may constitute or lead to a Level I or Level II violation) of any Governing Athletic Rules (as determined by Ohio State) by Pantoni or any other person under Pantoni's supervision and direction, including, but not limited to, student-athletes; or
- (c) A breach of contract terms, as determined by the Director, or a violation by Pantoni of a criminal statute or regulation (excluding minor traffic violations); or
- (d) A violation by Pantoni of any University Rules or violation by Pantoni of any law of the State of Ohio or the United States, including but not limited to, Ohio's ethics laws, as determined by Ohio State; or
- (e) Fraud or dishonesty of Pantoni in the performance of his duties or responsibilities under this Agreement as determined by Ohio State; or
- (f) Fraud or dishonesty of Pantoni in preparing, falsifying, submitting or altering documents or records of Ohio State, NCAA or the Big Ten Conference, or documents or records required to be prepared or maintained by law, Governing Athletic Rules or University Rules, or other documents or records pertaining to any recruit or student-athlete, including without limitation, expense reports, transcripts, eligibility forms or compliance reports, or permitting, encouraging or condoning such fraudulent or dishonest acts by any other person, as determined by Ohio State; or
- (g) Failure by Pantoni to respond accurately and fully to any request or inquiry relating to the performance of his duties hereunder or the performance of his duties during his prior employment at any other institution of higher learning propounded by Ohio State, NCAA, the Big Ten Conference or other governing body having supervision over the athletic programs of Ohio State or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as determined by Ohio State; or
- (h) Counseling or instructing by Pantoni of any coach, student or other person to fail to respond accurately and fully to any request or inquiry concerning a matter relevant to Ohio State's athletic programs or other institution of higher learning which shall be propounded by Ohio State, NCAA, the Big Ten Conference or other governing body having supervision over the athletic programs of Ohio State or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as determined by Ohio State; or



(l) Failure by Pantoni to manage the Team in a manner that reflects the academic values of Ohio State, as determined by Ohio State; or

(j) Soliciting, placing or accepting by Pantoni of a bet on any intercollegiate or professional athletic contest, or permitting, condoning or encouraging by Pantoni of any illegal gambling, bookmaking or illegal betting involving any intercollegiate or professional athletic contest whether through a bookmaker, a parlay card, a pool or any other method of organized gambling; or furnishing by Pantoni of information or data relating in any manner to football or any other sport to any individual known by Pantoni to be or whom he should reasonably know to be a gambler, better or bookmaker, or an agent of any such person, or the consorting or associating by Pantoni with such persons, as determined by Ohio State; or

(k) Use or consumption by Pantoni of alcoholic beverages, drugs, controlled substances, steroids or other chemicals in such degree as to impair his ability to perform his duties hereunder, or failure by Pantoni to fully cooperate in the enforcement and implementation of any drug testing program established by Ohio State for student-athletes, as determined by Ohio State; or

(l) Pantoni's sale, use or possession, or Pantoni's permitting, encouraging or condoning by a student-athlete, assistant coach or other athletic staff member of the sale, use or possession of any narcotics, drugs, controlled substances, steroids or other chemicals, the sale, use or possession of which by Pantoni, athletic staff member or such student-athlete is prohibited by law or by Governing Athletic Rules or University Rules, as determined by Ohio State; or

(m) Failure by Pantoni to report promptly to the Director and to the Office of Compliance Services in writing any violations or potential violations known to Pantoni of Governing Athletic Rules or University Rules (with the exception of Ohio State's Sexual Misconduct Policy, which obligations are detailed in Section 5.1(p) below) including, but not limited to, those by Pantoni, Head Coach, the assistant coaches, student-athletes or other persons under the direct control or supervision of Pantoni, as determined by Ohio State; or

(n) Failure by Pantoni to obtain prior approval for outside activities as required by Section 4.4 or Section 4.6 of this Agreement or by Governing Athletic Rules or to report accurately all sources and amounts of all income and benefits as required by Governing Athletic Rules and University Rules and Section 4.7 of this Agreement, as determined by Ohio State; or

(o) Commission of or participation in by Pantoni of any act, situation, or occurrence or any conduct which, in Ohio State's judgment, brings Pantoni and/or Ohio State into public disrepute, embarrassment, contempt, scandal or ridicule or which constitutes a substantial failure to perform in good faith the duties required of Pantoni in Section 4.1 herein or failure by Pantoni to conform his personal conduct to conventional standards of good citizenship, with such conduct offending prevailing social mores and values and/or reflecting unfavorably upon Ohio State's reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud or violence that may or may not warrant arrest by the relevant authorities; or

(p) Failure by Pantoni to promptly report to Ohio State's Title IX Coordinator any incident of sexual misconduct (as defined in Office of Human Resources Sexual Misconduct Policy 1.15, including but not limited to, sexual harassment, sexual assault, sexual exploitation, relationship violence, and stalking) when Pantoni receives a disclosure of sexual misconduct or becomes aware of information that would lead a reasonable person to believe that sexual

misconduct may have occurred involving anyone covered by Ohio State's Sexual Misconduct Policy. This includes any incident or information whether related to the victim/survivor or the alleged perpetrator, or both; or

(q) Failure by Coach to engage in safe and responsible treatment of student-athletes on the Team or failure by Coach to avoid behavior that could jeopardize a student-athlete's health, safety, welfare or that could otherwise cause harm or risk causing harm to a student-athlete.

It is recognized that this sub-section (5.1(a)-(q)) encompasses findings or determinations of violations during employment of Pantoni at Ohio State or any other institution of higher learning.

As required by NCAA Bylaw 11.2.1, Pantoni is hereby notified that in addition to the actions Ohio State may take in accordance with this Agreement, Pantoni is also subject to disciplinary or corrective action by the NCAA as set forth in the provisions of the NCAA enforcement procedures if Pantoni is found by the NCAA or Ohio State to be in violation of NCAA Bylaws. Pantoni agrees that Ohio State shall implement any such disciplinary or corrective actions imposed by the NCAA.

5.1.1 Notice. If Ohio State terminates this Agreement *for cause* under Section 4.2 or Section 5.1, it shall give written notice to Pantoni of its intention to so terminate this Agreement and the intended effective date of termination.

5.1.2 Termination for Cause/Loss of Compensation and Benefits. In the event this Agreement is terminated *for cause* under Section 4.2 or Section 5.1, Pantoni shall not be entitled to receive any further compensation or benefits under this Agreement which have not been earned as of the date of termination. Furthermore, Pantoni is not deemed to have earned supplemental compensation under Sections 3.1(c)-(h) if Pantoni must repay Ohio State in accordance with Section 5.7. In no case shall Ohio State be liable to Pantoni for the loss of any collateral business opportunities, or any other benefits, perquisites, income or consequential damages suffered by Pantoni as a result of Ohio State's termination of Pantoni's employment *for cause*.

5.2 Termination by Ohio State Other Than For Cause. If Pantoni's employment hereunder is terminated by Ohio State other than *for cause* (as delineated in Sections 4.2 and 5.1 above):

5.2.1 (a) Severance. If such termination occurs between February 1, 2019 and December 31, 2019, Pantoni shall be entitled to receive continued payment of the Base Salary (as described in Section 3.1(a)) in substantially equal monthly installments and subject to all applicable withholdings, until January 31, 2020; provided, however, that any such payments scheduled to occur in the first three months following Pantoni's termination of employment shall not be paid until the last day of the third month after the date of termination.

(b) The payments described in Section 5.2.1(a) shall hereinafter be referred to collectively as the "Post-Termination Payments" and the period during which such payments are made shall hereinafter be referred to as the "Post-Termination Payment Period." The Post-

Termination Payments shall fully compensate Pantoni for the loss of collateral business opportunities (whether media, public relations, camps, clinics, apparel or similar contracts, sponsorships or any other supplemental or collateral compensation or benefits of any kind) and Pantoni shall not be entitled to any further compensation and benefits under this Agreement.

5.2.2 If Pantoni's employment is terminated by Ohio State other than *for cause* (as delineated in Section 4.2 and Section 5.1 above), all employee benefits shall cease in accordance with the terms and conditions of the applicable employee benefit plans, programs and policies.

5.2.3 Notwithstanding the foregoing, the Post-Termination Payments shall be subject to the following:

- (a) Pantoni acknowledges and expressly agrees that he shall be required to mitigate any payments to him under Section 5.2.1(a) and recognizes that Pantoni's mitigation obligation is an essential term of this Agreement;
- (b) Pantoni acknowledges and expressly agrees that he shall be required to make every reasonable and diligent effort as soon as practicable following his termination to seek and secure a Comparable Position. For purposes of this Agreement, a "Comparable Position" shall include other employment at the market rate for similar Division I collegiate football positions or professional football positions or other positions appropriate for Pantoni's skill set (a "Comparable Position"). Pantoni shall provide Ohio State, upon request, with evidence that Pantoni is actively seeking other employment. Pantoni shall notify Ohio State immediately if Pantoni has obtained other employment or has been engaged to provide services, either as an employee or an independent contractor;
- (c) If Pantoni obtains any other employment or is engaged to provide service (regardless of whether the employment or engagement constitutes a Comparable Position), then the Post-Termination Payments shall be reduced by Pantoni's total compensation from all sources directly related to such position(s) (including, without limitation, salary, deferred compensation, signing bonuses or other compensation income, except not including the employee benefits costs associated with such position(s)) (the "Mitigation Compensation"). Each monthly Post-Termination Payment that would otherwise be payable under Section 5.2.1(a) that is payable during the time that Pantoni has such position(s) shall be reduced by the gross amount of the monthly Mitigation Compensation; and
- (d) Pantoni agrees that as a condition of receiving the Post-Termination Payments, Pantoni must execute a comprehensive release within sixty (60) days of the date of Pantoni's termination in the form determined from time to time by Ohio State in its sole discretion.

Generally, the release will require Pantoni and Pantoni's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees, legatees and assigns to release and forever discharge Ohio State, its past, present and future trustees, officers, employees, directors, agents, attorneys, successors and assigns from any and all claims, suits and/or causes of action that grow out of or are in any way related to Pantoni's employment with Ohio State, other than any claim that Ohio State has breached the terms of the release agreement. This release will include, but not be limited to, any claim under or out of the Equal Pay Act; the Civil Rights Acts of 1964, as amended; the Civil Rights Acts of 1866 and 1871 (42 U.S.C. Sections 1981, 1983, 1985, et seq.); Title VII of the Civil Rights Act of 1964; the United States Constitution; the Age Discrimination in Employment Act; the Older Worker's Benefit Protection Act; the Americans with Disabilities Act; the Family and Medical Leave Act; any state, federal law or local ordinance prohibiting discrimination, harassment or retaliation in employment; any claim for wrongful discharge, including in violation of public policy; claims of promissory estoppel or detrimental reliance, defamation, intentional infliction of emotional distress; or the public policy of any state; Chapter 4112 of the Ohio Revised Code and any other provision of the Ohio Revised Code; and any other federal, state or local law concerning employment, or in any other manner regulating or otherwise concerning wages, hours or any other terms or conditions of employment. Upon Pantoni's termination of employment with Ohio State, Pantoni will be presented with a release and if Pantoni fails to timely execute the release, Pantoni agrees to forego any Post-Termination Payments. Pantoni acknowledges that Pantoni is an experienced person knowledgeable about the claims that might arise in the course of employment with Ohio State and knowingly agrees that the Post-Termination Payments provided for in this Agreement are satisfactory consideration for the release of all possible claims described in the release;

- (e) Pantoni agrees that as a condition of receiving the Post-Termination Payments, Pantoni shall provide a copy of his Form W-2s and Form 1099s related to Pantoni's position(s) to Ohio State's HR Director for Athletics for each calendar year during which all or a portion of the Post-Termination Payment Period occurs; and
- (f) Pantoni agrees that his failure or refusal to provide the notice and documentation set forth in this Section 5.2 shall relieve Ohio State of its financial obligations under this Agreement to pay the Post-Termination Payments.

5.2.4 For purposes of this Section 5.2 and 5.8, any reference to Pantoni's "termination of employment" by Ohio State (or any form of the phrase "termination of employment") shall mean Pantoni's "separation from service" within the meaning of Section 409A of the Internal Revenue Code and Treasury Regulation Section 1.409A-1(h).

**5.3 Termination by Pantoni. If Pantoni terminates this Agreement:**

(a) Pantoni shall provide Ohio State with written notice of his termination of this Agreement; and

(b) Pantoni shall not be entitled to receive any further unearned compensation or benefits under this Agreement (Pantoni is not deemed to have earned bonuses and supplemental compensation under Sections 3.1(c)-(h) which Pantoni must repay to Ohio State in accordance with Section 5.7 hereof); and

(c) Pantoni shall not be entitled to receive any further compensation or benefits under this Agreement; and

(d) Pantoni shall not for a period of one (1) year after such termination by Pantoni contact or otherwise seek to recruit any high school athlete previously contacted or recruited by Ohio State, unless such athlete had been recruited or contacted by any new institution employing Pantoni prior to the notice of termination by Pantoni to Ohio State.

**5.4 Records and Information. All materials or articles of information, including, without limitation, personnel records, recruiting records, Team information, films, statistics or any other material or data, furnished to Pantoni by Ohio State or developed by Pantoni on behalf of Ohio State or at Ohio State's direction or for Ohio State's use or otherwise in connection with Pantoni's employment hereunder are and shall remain the sole property of Ohio State. Within seventy-two (72) hours of the expiration of the term of this Agreement or its earlier termination as provided herein, Pantoni shall immediately cause any such materials in his possession or control, including, but not limited to, all keys, credit cards, telephones and computers (including all other technological devices) to be delivered to Ohio State.**

**5.5 Death or Disability. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate automatically and shall be null and void upon the death of Pantoni or if Pantoni becomes disabled (as defined in Section 409A(a)(2)(C) of the Internal Revenue Code) or is otherwise unable to perform the essential functions of the job, with or without a reasonable accommodation immediately upon demand by Ohio State.**

**5.6 Interference with Athletes. In the event of termination, Pantoni agrees that Pantoni will not interfere with Ohio State's student-athletes or otherwise obstruct Ohio State's ability to transact business. If Pantoni violates this provision, Pantoni will not be entitled to any post-termination benefits, including any Post-Termination Payments, and will be required to return any that have been disbursed.**

**5.7 Recovery of Compensation and Reimbursement. In the event this Agreement is terminated, Pantoni shall repay to Ohio State all compensation received by Pantoni for the achievement of any specified milestone, objective or exceptional achievement set forth in Sections 3.1(c)-(h), if such achievement is subsequently vacated by Ohio State or the NCAA, and such vacation is due, in whole or in part, to the wrongful actions of Pantoni, as determined by Ohio State or the NCAA. In addition, in the event that it is determined, by Ohio State or the NCAA, that Pantoni was involved in NCAA infractions that cause Ohio State to pay penalties to the NCAA, then Pantoni shall reimburse Ohio State for such amounts Ohio State must pay to the NCAA.**

**5.8. Non-Renewal.** If Ohio State informs Pantoni on or after January 1, 2020 that his employment will terminate on the last day of the term and the Agreement will not be renewed, then, in addition to Pantoni's Base Salary, if any, that would be paid in January 2020 in accordance with Ohio State's normal payroll practices, Ohio State shall pay Pantoni a lump sum payment equal to:

(a) thirty (30) days of Pantoni's Base Salary *less*

(b) Pantoni's Base Salary for the number of days remaining in the term from the date of notice of non-renewal.

Such lump sum payment shall be paid within thirty (30) days following Pantoni's termination of employment and shall fully compensate Pantoni for the loss of collateral business opportunities (whether media, public relations, camps, clinics, apparel or similar contracts, sponsorships or any other supplemental or collateral compensation or benefits of any kind). Upon expiration of the Agreement, all employee benefits shall cease in accordance with the terms and conditions of the applicable employee benefit plans, programs and policies. Notwithstanding anything in this Section to the contrary, Pantoni shall not be entitled to such lump sum payment or any other compensation if he resigns from employment prior to the last day of the term, as set forth in Section 5.3 hereof.

#### **6.0 Board of Trustees**

This Agreement shall be subject to the approval of Ohio State's Board of Trustees. In addition, the payment of any compensation pursuant to this Agreement shall be subject to the approval of Ohio State's annual operating budget by Ohio State's Board of Trustees and the sufficiency of legislative appropriations.

#### **7.0 Waiver**

No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a particular default in the performance of this Agreement shall not constitute a waiver of any other or subsequent default. The resort to a particular remedy upon a default shall not constitute a waiver of any other available remedies.

The financial consequences of termination of this Agreement or suspension thereunder are exclusively set forth herein. Therefore, with the sole exception of payments required by this Agreement, in any instance of termination for cause or without cause or suspension effected in accordance with the procedures established in this Agreement, neither Pantoni nor Ohio State shall be entitled to receive, and each hereby waives any claim against the other and their respective officers, Board of Trustees, directors, agents, employees, successors, heirs and personal representatives, for consequential damages allegedly sustained by reason of any alleged loss of business opportunity, loss of perquisites, loss of speech income, camp income or other outside income, or expectation income, or damages allegedly sustained by reason of alleged humiliation, emotional distress, defamation or loss of consortium resulting from the fact of termination, the public announcement thereof or the release by Ohio State or Pantoni of information or documents which are required to be released by law. Pantoni acknowledges that in the event of termination of this Agreement for cause, without cause or otherwise, or suspension hereunder, he shall have no right to occupy the position of Assistant Athletic Director - Player Personnel and that his sole remedies are provided herein and shall not extend to injunctive relief.

**8.0 Severability**

If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall remain in effect.

**9.0 Assignment**

Neither party may assign its rights or delegate its obligations under this Agreement without the consent of the other party, which shall not be unreasonably withheld.

**10.0 Governing Law and Jurisdiction**

This Agreement shall be subject to and construed in accordance with Ohio law. Any action based in whole or in part on this Agreement must be brought in a court of competent jurisdiction in the State of Ohio.

**11.0 Entire Agreement; Amendments**

This Agreement constitutes the entire Agreement of employment between the parties and supersedes all prior understandings, written or oral, with respect to the subject of employment. No amendment or modification of this Agreement shall be effective unless in writing and signed by both parties.

**12.0 Background Check**

If Pantoni is a new employee to Ohio State, Ohio State is required to conduct a background check on Pantoni pursuant to Office of Human Resources Policy 4.15. Pantoni's employment is contingent upon Ohio State's verification of credentials and other information required by law and/or Ohio State policies, including but not limited to a criminal background check.

**13.0 Notice**

Any notice provided for herein shall be in writing and shall be deemed to have been given, delivered, or served when delivered personally to the party who is to receive such notice or when mailed by U.S. registered or certified mail, postage prepaid, to such party. Unless hereinafter changed by written notice to Pantoni, any notice to Ohio State shall be sent to:

The Director of Athletics  
The Ohio State University  
The Department of Athletics  
2400 Olentangy River Road  
Columbus, Ohio 43210

With a copy to:  
Julie D. Vannatta  
The Ohio State University  
Office of Legal Affairs  
1590 N. High Street, Suite 500  
Columbus, Ohio 43201

Unless hereinafter changed by written notice to Ohio State, any notice to Pantoni shall be hand-delivered to Pantoni, mailed to his home address on file or mailed to the following address:

Mark Pantoni  
Woody Hayes Athletic Center  
2491 Olentangy River Road  
Columbus, Ohio 43210

**14.0 Tax Advice / Internal Revenue Code Section 409A**

Ohio State will not provide tax advice to Pantoni or Pantoni's beneficiary regarding the tax effects of this Agreement. Ohio State encourages Pantoni and Pantoni's beneficiaries to consult with their own tax advisors concerning the federal, state, and local tax effects of this Agreement. This Agreement is intended to comply with the requirements of Sections 409A and 457(f) of the Internal Revenue Code and, to the maximum extent permitted by law, shall be administered, operated and construed consistent with this intent. Any reimbursements or in-kind benefits provided under this Agreement that are subject to Section 409A of the Internal Revenue Code shall be made or provided in accordance with the requirements of Section 409A of the Internal Revenue Code, including, where applicable, the requirements that (a) any reimbursement is for expenses incurred during Pantoni's life, but in no event later than the expiration of the term of this Agreement, (b) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during a taxable year may not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year, (c) the reimbursement of an eligible expense will be made no later than the last day of the taxable year following the taxable year in which the expense is incurred, and (d) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit.

This Agreement is signed by the parties or their duly authorized representative to be effective as of February 1, 2019.

THE OHIO STATE UNIVERSITY

ASSISTANT ATHLETIC DIRECTOR  
- PLAYER PERSONNEL



Eugene D. Smith  
Senior Vice President and  
Wolfe Foundation Endowed Athletics Director

Mark Pantoni

Date: 2/19/19

Date: 2/18/19



Michael Papadakis  
Interim Senior Vice President of Business  
and Finance & Chief Financial Officer

Date: 3/7/19