

HEAD COACH OF WOMEN'S SWIMMING AND DIVING

PERSONNEL POLICIES FOR STAFF MEMBERS

Employment Contract

This Employment Contract ("Contract"), effective on the ultimate date set forth in the signature blocks hereto, by and between The Regents of the University of California, on behalf of the University of California, Berkeley campus (hereinafter "University") and **Teri McKeever** (hereinafter "Coach") pursuant to Personnel Policies for Staff Members (hereinafter "PPSM") Policy 3 (Contract Position). This Contract and the Contract Addendum set forth the terms and conditions of Coach's employment. This Contract supersedes and replaces all previous contracts or other agreements between the parties. The Contract Addendum is fully incorporated by reference into this Contract. In consideration of the mutual promises set forth herein, the parties agree as follows:

1. **EMPLOYMENT.** University hereby employs Coach as Head Coach of **Women's Swimming and Diving** and Coach hereby accepts said employment, under the terms and conditions hereinafter set forth.
2. **PERFORMANCE OF DUTIES.** Coach agrees to faithfully and diligently devote substantially full time to the performance of the duties in said position, including those duties set forth in Paragraph 7 and any additional duties or the reassignment of duties as required by the Director of Intercollegiate Athletics or the Sport Supervisor (including cooperating with any third parties with whom University has contractual commitments). Coach agrees that Coach will not engage directly or indirectly in any activity that would materially detract from her ability to perform Coach's obligations hereunder. Without limiting the foregoing, Coach shall perform the following duties and have the following responsibilities:
 - (a) Coach is responsible for the athletic performance of **Women's Swimming and Diving** team – based on outcome targets agreed upon with Director of Intercollegiate Athletics or Sport Supervisor each year.
 - (b) Supervise personnel, including assistant coaches, operational staff, and others, as assigned by the Athletic Director or Sport Supervisor, providing orientation and training as appropriate.
 - (c) Performance Review
 - i. Successfully complete post-season performance review with Director of Intercollegiate Athletics and Sport Supervisor.
 - ii. Complete annual formal written performance reviews for all direct reports.
 - (d) Regular attendance and participation at coaches meetings and departmental specific meetings.
 - (e) Conduct the **Women's Swimming and Diving** team with integrity and manage the **Women's Swimming and Diving** team within the confines of established budget, standards and reasonable expectations of the University. Adhere to University policies regarding fiscal responsibility.

- (f) Build relationships with external stakeholders (donors, sponsors, patrons), fulfill all required fundraising activity, and actively participate with Development staff and others to create a development community and support for the Department and the **Women's Swimming and Diving** program.
- (g) Comply with and support compliance with NCAA, **Pac-12**, and University legislation and policies, including (a) conducting himself/herself and **Women's Swimming and Diving** in conformance with the Constitution, bylaws, legislation and regulations of the NCAA, as such may be amended from time to time; (b) promptly advising the Sport Supervisor, Director of Intercollegiate Athletics, or Faculty Athletic Representative if Coach has reason to believe that violations have occurred or will occur; and (c) promoting an atmosphere of compliance with and supervising and maintaining responsibility for Coach's staff and **Women's Swimming and Diving** student-athletes to ensure compliance with the Constitution, bylaws, legislation, and regulations of the NCAA, as such may be amended from time to time.
- (h) **NCAA Infractions.** As required by the NCAA Bylaws, and notwithstanding any other provision of this Agreement, the parties hereby stipulate that:
 - i. As set forth in NCAA Bylaw 11.2.1(a) and 19.2.3, Coach has an affirmative obligation to cooperate fully in the infractions process, including the investigation and adjudication of any case involving allegations of infractions. Such cooperation includes cooperation with any internal University investigation, but also cooperation with NCAA enforcement staff, the NCAA Complex Case Unit, the NCAA Committee on Infractions, the NCAA Independent College Sports Adjudication Panel and the Infractions Appeals Committee (collectively "NCAA Enforcement Staff") in order to further the objectives of the NCAA, its infractions program, and its independent alternative resolution program.
 - ii. As set forth in NCAA Bylaw 11.2.1(b), if Coach is found to be in violation of any rule or regulation of the NCAA, Coach shall be subject to disciplinary or corrective actions as set forth in the provisions of the NCAA enforcement procedures. Coach agrees that the University shall implement any such disciplinary or corrective actions imposed by the NCAA.
 - iii. As set forth in NCAA Bylaw 19.2.3, "full cooperation" includes, but is not limited to:
 - (a) Affirmatively reporting instances of noncompliance to the NCAA via standard University process (e.g. reporting to Athletic Director or Compliance Office) in a timely manner and assisting in developing full information to determine whether a possible violation has occurred and the details thereof;
 - (b) Timely participation in interviews and providing complete and truthful responses;
 - (c) Making a full and complete disclosure of relevant information, including timely production of materials or information requested, and in the format requested;
 - (d) Disclosing and providing access to all electronic devices used in any way for business purposes;

- (e) Providing access to all social media, messaging and other applications that are or may be relevant to the investigation; and
 - (f) Preserving the integrity of an investigation and abiding by all applicable confidentiality rules and instructions.
 - (i) Demonstrate consistent support for student services and community programs.
 - (j) Follow the University's standards and best practices for recruiting, including:
 - i. Recruit student-athletes who meet the University's and Athletic Department's academic and athletic standards and can represent the University with the highest character and integrity.
 - ii. Develop and implement a clear structure and rationale to the recruiting process.
 - iii. Demonstrate due diligence in the recruitment process and compliance with applicable recruiting policies and regulations.
 - (k) Follow the University's standards related to the eligibility of prospective and current student athletes and be otherwise responsible for academic performance of **Women's Swimming and Diving** team based on academic goals for the team agreed upon with Director of Intercollegiate Athletics or Sport Supervisor.
3. **DURATION.** This appointment is for a definite term as set forth in the Contract Addendum, as extended or earlier terminated in accordance with this Contract ("Term"). Except as set forth herein, the appointment shall terminate automatically on the termination date unless terminated earlier pursuant to the terms of this Contract. Should this Contract be extended, it shall terminate automatically upon the expiration date of the extension. In addition, this appointment or any extension thereof may be terminated in accordance with Paragraphs 9, 10, 11, 12, 13, or 14 of this Contract.
4. **WAIVER OF PROCEDURAL RIGHTS.** Coach understands and agrees that if this Contract is terminated under Paragraphs 9-14, Coach is waiving Coach's rights to any process Coach might otherwise be due, including a Skelly hearing, a post-deprivation hearing and/or a liberty interest hearing. Coach attests that Coach is voluntarily waiving Coach's rights to such processes in exchange for the bargained for consideration in Paragraph 5 of this Contract and the Contract Addendum.
5. **COMPENSATION AND BENEFITS.** The Head Coach of **Women's Swimming and Diving** position is assigned to title code 0332; which is in the Managers and Senior Professionals group in the PPSM Program (or equivalent title based upon the personnel program provisions in effect at the time).

(a) COMPENSATION AND HOURS OF WORK

The annual base salary for this position shall be as set forth in the Contract Addendum and payable in substantially equal monthly installments during the Term. Payments of the annual base salary and all other compensation shall be in accordance with the payroll policies of the University and subject to such deductions as may be required by applicable laws and regulations, or as authorized by Coach. Changes in compensation shall be only by written contract revision signed by both parties, or by University pursuant to Paragraph 9 of this Contract.

Coach understands and agrees that, should other non-represented University employees be subject to a pay cut, reduction in time, furlough, or any other type of reduction in compensation, or any combination of them as a result of the University President's declaration of fiscal emergency, Coach may be subject to the same pay cut, reduction in time, furlough or any other type of reduction in compensation, or any combination of them under the same terms and for the same period. Any such pay cut, reduction in time, furlough, or any other type of reduction in compensation, or any combination of them shall automatically become a term of this Contract without any further action by either party.

(b) VACATION

Coach will not be required to report paid time off or vacation leave during the Term, provided Coach has received advance written approval from the Sport Supervisor. Accordingly, Coach shall not accrue vacation leave during the Term.

(c) SICK LEAVE

Coach shall be entitled to sick leave for absence due to illness as set forth in Paragraph 6 and the Contract Addendum Paragraph 4. In addition, the Director of Intercollegiate Athletics may grant leave to Coach with or without pay for other reasons, including illness.

(d) HEALTH & WELFARE BENEFITS

Coach shall participate in health and welfare benefits subject to the eligibility requirements of the University Benefit Program Group Insurance Regulations. Coach shall participate in the University Retirement Plan subject to the Standing Orders of the Regents of the University governing retirement and the terms of the UCRP. Should any Group Insurance Regulation or Standing Order of the Regents change during the Term, Coach's coverage shall be changed accordingly.

6. APPLICATION OF PERSONNEL POLICIES FOR STAFF MEMBERS AND OTHER POLICIES OF GENERAL APPLICATION TO UNIVERSITY EMPLOYEES.

The PPSM Personnel Policies listed below and annexed hereto are incorporated into this Contract:

PPSM Policy 1	General Provisions
PPSM Policy 2.210	
III.A	General Leave Provisions
III.C	Sick Leaves
III.D	Leaves Related to Life Events
III.H	Holidays
PPSM Policy 3	Contract Position (definition only)

PPSM Policy 63
PPSM Policy 70

Investigatory Leave
Complaint Resolution only for complaints alleging violation of PPSM Policy 12 - Nondiscrimination in Employment; Sections III D-H and only to the extent that Sections III D-H are applicable to Managers and Senior Professional employees, except that Step III fact-finding for medical separation shall not be available to Coach
Staff Personnel Records
Conflict of Interest

PPSM Policy 80
PPSM Policy 82

With regard to PPSM Policy 2.210.III.C.3 (Parental Bonding Leave), Coach may use up to 40 days of paid leave, which shall be used after Coach first has used 20 sick days. If Coach does not have 20 days of sick leave, leave without pay shall be used during the first 20 days. In addition, with written approval of the Sport Supervisor, some or all remaining eligible sick leave may be used after the 40 day paid leave has been exhausted.

No other PPSM Personnel Policies shall apply. PPSM Personnel Policies may change from time to time. Any changes to policies referenced above shall be applicable to Coach and shall be incorporated into this Contract. General policies and regulations that are applicable to all University employees shall be applicable to Coach. This specifically includes the following:

- University of California Policy Discrimination, Harassment, and Affirmative Action in the Workplace;
- Compendium Of Conflict Of Interest And Integrity Policies – Guidance;
- University of California Conflict Of Interest Code;
- University Of California Policy On Reporting And Investigating Allegations Of Suspected Improper Governmental Activities (Whistleblower Policy);
- University Of California Policy For Protection Of Whistleblowers From Retaliation And Guidelines For Reviewing Retaliation Complaints (Whistleblower Protection Policy);
- University of California Policy on Sexual Harassment; and
- Policies Applying To the Disclosure of Information from Student and Staff Personnel Records.

7. **CONDUCT AND PERFORMANCE OF COACH.** In the performance of Coach's duties, Coach shall be directly responsible to and under the supervision of the University's Director of Intercollegiate Athletics or the Sport Supervisor. The parties agree that, although this Contract is sports-related, the primary purpose of the University and its intercollegiate athletics program is educative. Thus, the educative purposes of the University shall have priority in the various provisions of this Contract. Coach's conduct shall at all times be in a manner consistent with Coach's position as an instructor of students. Coach shall make no public appearance, either in person or by means of radio, television, or other medium or otherwise knowingly allow the use of Coach's name in connection with Coach's relationship to the University when any such appearance or use of name may result in an unfavorable reflection upon the University.

8. **ATHLETICALLY RELATED INCOME AND/OR BENEFITS.** Coach hereby assigns to University all rights of any kind that Coach may have during the Term to enter into promotional, endorsement, or consultation contracts regarding the provision of in-kind goods, compensation or other financial remuneration that is in any way tied to Coach's affiliation with University ("Coach Agreements"). During the Term, Coach shall not enter into any such Coach Agreements except in accordance with this Section. If such contracts are determined to be desirable by the University, at its sole discretion, the University has the option to decide to execute such contracts.

Notwithstanding the foregoing, Coach may enter into Coach Agreements with the advance written approval of the Director of Intercollegiate Athletics and shall annually report in writing any income from sources outside the University related to Coach's affiliation with University or status as coach for University (including income from non-University sport camps, income from annuities, housing benefits, ticket sales, radio, television and other media programs of any kind) through the Director of Intercollegiate Athletics to the Chancellor.

Coach shall neither participate in, nor allow Coach's name or likeness to be used in connection with, any commercial activity without prior written consent from the Director of Intercollegiate Athletics or the Sport Supervisor. "Commercial activity," as used herein, shall include any appearance by Coach off the field of play, either in person or on radio or television, or the preparation by Coach of any news story or article for publication by any newspaper or periodical, irrespective of whether Coach receives any financial remuneration.

Coach may participate in **Women's Swimming and Diving** summer camp/clinic programs managed and run by third-party providers approved in writing by the University or run and managed by the University. Any compensation associated with such camps shall be provided by the approved third-party provider(s) and Coach is reminded that such participation is subject to applicable law, and conflict of interest, disclosure and other requirements identified in this contract.

9. **DISCIPLINE AND TERMINATION.** Pursuant to this Paragraph 9, Coach may be disciplined, including terminated, for cause. For purposes of this Paragraph 9, cause includes:
- a. Breach of any provision of this Contract, as determined by University, including neglect or inattention by Coach to Coach's duties or failure to obtain prior approval for outside activities or to report accurately all sources and amounts of income and benefits, as required by this Contract and by NCAA rules.
 - b. Misconduct, including fraud or dishonesty of Coach in the performance of Coach's duties or responsibilities under this Contract, as determined by University.
 - c. Failure to maintain appropriate standards of performance.
 - d. Failure to properly represent the University and the University's athletic programs in private and public forums, including by the commission of, participation in, or

condoning of any act, situation or occurrence that, in University's judgment, brings Coach or University into public disrepute, embarrassment, contempt, scandal or ridicule. This subsection encompasses findings or determinations of violations during the Term at any institution of higher education.

- e. A violation by Coach, as determined by University of any University policy or procedure or any applicable law or regulation.
- f. Coach's sale, use or possession of any narcotics, drugs, controlled substances, steroids or other chemicals for which the sale, use or possession is prohibited by law or by the associations or agencies that govern the operation of athletic programs or athletic competition to which the University adheres. Likewise, the Coach's permitting, encouraging or condoning any such conduct by an assistant coach, other athletic staff member, or student athlete.
- g. Direct or indirect breach, as determined by University, whether willful or through negligence, of any of the rules and standards of the associations or agencies that govern the operation of athletic programs or athletic competition to which the University adheres, including the NCAA, Pacific-12 Conference, youth, collegiate, and master's amateur athletics. Without limiting the foregoing, discipline, including termination, shall result from a significant or repetitive or intentional violation (or pattern of conduct that may constitute or lead to a major violation) by Coach or any person under Coach's supervision and direction (including assistant coaches, other athletic staff member, and student athletes), as determined by University.
- h. Failure to follow the high moral and ethical standards commonly expected of Coach as a leading representative of the Department of Intercollegiate Athletics at the University.

Discipline under this Paragraph 9 may subject Coach to penalties including public or private reprimand, monetary fines, adjustments in compensation, suspension with or without pay, or termination, as determined by the Director of Intercollegiate Athletics.

Coach is hereby notified that in addition to the actions University may take in accordance with this Contract, Coach is also subject to disciplinary and corrective action by the NCAA if Coach is found by the NCAA or University to be in violation of NCAA Bylaws.

If Coach is terminated pursuant to this Paragraph 9, no further payment or benefits shall be made to Coach; provided that University has the discretion to pay to Coach all or part of earned compensation, including performance-based compensation, earned as of the effective date of termination, taking into account Coach's compliance with the obligations set forth in the Contract, including Paragraphs 2 and 7 thereof. If Coach is terminated pursuant to this Paragraph 9, all future rights and obligations of the parties hereto and hereunder thereupon shall cease. In no case, shall University be liable to Coach for the loss of any collateral business opportunities, or any other benefits, perquisites, income or consequential damages suffered by Coach as a result of University's termination of Coach's employment.

10. **TERMINATION BY DEATH OR DISABILITY OF COACH OR BY FORCE MAJEURE.** If Coach dies, this Contract shall thereupon terminate and all future obligations between the parties under this Contract shall cease. In the event that Coach becomes disabled and there is no reasonable accommodation that will enable her to perform all of her essential job functions under this Contract and her inability to perform has continued or will continue beyond a reasonable period of time, as determined by the University consistent with applicable law, this Contract shall thereupon terminate and all future obligations between the parties under this Contract shall cease. In the event of Coach's inability to continue to perform all of her essential job functions under this Contract by reason of some other occurrence beyond the control of either party to this Contract, this Contract shall thereupon terminate and all future obligations between the parties under this Contract shall cease. Because of the exigencies of operating an NCAA Division I program, Coach acknowledges that a termination pursuant to this Section 10 shall not be deemed a termination without cause under Paragraph 12 below.
11. **TERMINATION BY MUTUAL AGREEMENT.** In addition to and exclusive of the foregoing provisions, there is also reserved to both parties the right upon mutual written agreement to terminate this Contract without cause at any time. Except as may be otherwise agreed to between the parties, in the event the right to terminate pursuant to this Paragraph 11 is exercised, all future obligations between the parties ceases effective the date of termination.
12. **TERMINATION BY UNIVERSITY WITHOUT CAUSE.** In addition to and exclusive of the foregoing provisions, there is also reserved to the University the right to terminate this Contract without cause at any time by giving written notice to Coach of such decision. Except as set forth below, in the event the University terminates this Contract without cause pursuant to this Paragraph 12, the University shall pay to Coach as liquidated damages, in lieu of any and all other legal remedies or equitable relief, the following sum(s):

In the event the University terminates Coach's employment pursuant to this Section, the University shall pay to Coach the base salary for the remainder of the Contract Year (as identified in Paragraph 2.A titled "Compensation – Base Salary" in the Contract Addendum) during which Coach was terminated, as well the base salary for all remaining Contract Years, based upon the percentages as outlined below:

Contract Year 1 - **100%** of base salary for the Contract Year
Contract Year 2 - **100%** of base salary for the Contract Year
Contract Year 3 - **75%** of base salary for the Contract Year
Contract Year 4 - **50%** of base salary for the Contract Year
Contract Year 5 - **25%** of base salary for the Contract Year

The University's obligation pursuant to this paragraph shall not extend beyond the Term. For purposes of this Paragraph 12, base salary is as identified in Paragraph 2.A titled "Compensation – Base Salary" in the Contract Addendum. These payments to Coach by University shall be paid in substantially equal monthly installments during what would

have been the remaining term of this Contract had it not been terminated. University shall also pay to Coach all compensation including performance-based compensation earned by Coach prior to the effective date of termination. University shall not be liable to Coach for any University benefits, which are not vested at the time of termination, nor for any collateral business opportunities or other benefits associated with Coach's position as Coach.

The parties recognize that a termination of this Contract by the University prior to its natural expiration may cause Coach to lose certain benefits, supplemental compensation, or outside compensation relating to Coach's employment at the University, which damages are difficult to determine with certainty. Accordingly, the parties agree to this liquidated damages provision, subject to mitigation, as a fair measure of Coach's losses and not as a penalty.

Notwithstanding the liquidated damages provisions herein, Coach agrees to take affirmative steps to mitigate University's obligations to pay damages that may be sustained by virtue of termination pursuant to this Paragraph 12 by making reasonable and diligent efforts to obtain employment. Any amounts to be paid by the University to Coach pursuant to this Paragraph 12 shall be reduced by any amounts received, or to be received at a later date, by Coach from any source for any position, in and for rendition of services by Coach during the period of time in which Coach, pursuant to this Contract, would have been employed by the University if this Contract had not been terminated by the University without cause. Coach agrees to provide information about her mitigation efforts on a regular basis, in order to comply with her responsibilities pursuant to this Paragraph. In the event Coach enters an employment agreement, or receives compensation during the period of time in which Coach, pursuant to this Contract, would have been employed by the University if this Contract had not been terminated, Coach shall promptly provide to the University written documentation, such as an offer letter or contract, of any such employment and of the amounts of such compensation. Coach shall also promptly inform the University of amounts of compensation to be paid at a later date for duties performed during this period. Coach warrants that in the event of a termination pursuant to this Paragraph 12, Coach shall not enter into any employment arrangements (including "volunteer" or "trial" arrangements) utilizing waived, deferred, or partially deferred compensation arrangements or any other mechanism by which compensation for services is delayed until after the Term has ended. Coach agrees that if Coach enters into any employment arrangement that does not provide reasonable compensation consistent with Coach's experience for the position accepted, Coach waives the right to, and the University shall have no obligation to pay, any remaining payments due to Coach under this Paragraph 12. Coach's signature on this Contract constitutes Coach's permission to any third party to promptly release to University upon University's request any contracts or other documents related to Coach's provision of services to any such third party, which permission Coach warrants that Coach shall not revoke for so long as University makes the payments due under this Paragraph 12.

Coach's right to payment under this Paragraph 12 is subject to Coach's execution of a waiver and release of claims at the time of employment termination, in the form attached as Appendix A and incorporated herein by reference.

In the event that Coach brings a claim in violation of the attached waiver and release of claims, all obligations of the University hereunder shall cease, and Coach shall repay forthwith and in full any and all post-termination payments received by Coach from the University under this Paragraph 12.

13. **DISCONTINUATION OF WOMEN'S SWIMMING AND DIVING BY UNIVERSITY.** In the event University determines for any reason within its sole discretion to discontinue the sport of **Women's Swimming and Diving** as a Division I sport, this Contract shall terminate automatically six (6) months from the final day of competition of that sport, or upon its expiration date, whichever date is sooner. Except as may be otherwise agreed to between the parties, in the event the right to terminate pursuant to this Paragraph 13 is exercised, all obligations between the parties shall cease effective the date of termination. Termination action taken pursuant to this Paragraph 13 of this Contract is not reviewable under Policy 70, Complaint Resolution.
14. **TERMINATION BY COACH.** Coach recognizes that Coach's promise to work for the University for the entire Term of this Contract is of the essence of this contract to the University. Coach also recognizes that the University is making a highly valuable investment in Coach's continued employment by entering into this Contract and its investment would be lost were Coach to resign or otherwise terminate Coach's employment with the University prior to the expiration of the Term, the loss of which University cannot be reasonably or adequately compensated in damages in an action at law. Moreover, Coach recognizes that during Coach's employment, Coach shall gain confidential information concerning University's athletic program and that use of this confidential information by another athletic program and at a **Pac-12** athletic program in particular would place University at a serious competitive disadvantage. Additionally, Coach acknowledges that University would incur significant and substantial administrative, recruiting, and resettlement costs and loss of ticket revenue were Coach to leave University employment before the expiration of the Term and that such costs and losses are difficult to ascertain with certainty.

In the event Coach terminates Coach's employment pursuant to this Section, Coach shall pay to the University **50%** of the base salary for the remainder of the Term (as identified in Paragraph 1 titled "Term" in the Contract Addendum).

The University waives any right to receive liquidated damages if Coach terminates this Contract in order to retire from coaching.

Coach understands that this Paragraph 14 is a material term of this Contract and that any breach of this paragraph will substantially harm University. Coach therefore agrees that, in the event Coach fails to pay the liquidated damages specified herein, University shall be

entitled to seek and enforce its full rights and remedies hereunder, including an action for full payment and damages.

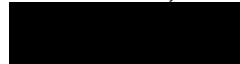
The parties agree that Coach's payment of the liquidated damages set forth in this Paragraph 14 is a fair measure of University's costs and losses and not as a penalty. Once paid, such payment shall constitute University's sole compensation.

Except as may be otherwise agreed to between the parties, in the event the right to terminate pursuant to this Paragraph 14 is exercised, all future obligations between the parties ceases effective the date of termination.

15. **ENTIRE AGREEMENT.** It is mutually understood that this Contract contains all of the terms and conditions to which the parties have agreed and that no other understandings or representations, either oral or written, unless expressly referenced herein, regarding the subject matter of this Contract shall be deemed to exist or to bind the parties hereto and that any modification, amendment, or addendum to this Contract shall only be by written instrument signed by each party hereto.
16. **INTERPRETATION.** No provision or part of this Contract which shall prove to be invalid, void or illegal shall in any way affect, impair or invalidate any other provision or part, and such other provisions and part shall remain in full force and effect.
17. **APPLICABLE LAW.** This Contract is made and entered into in the State of California, and the laws of California shall govern its validity and interpretation and the performance by the parties of their respective duties and obligations under this Contract.
18. **NOTICES.** All required notices and statements in connection with this Contract shall be in writing given to the parties at the addresses designated below, or such other addresses as either party may later designate in writing to the other.

If to Coach:

Teri McKeever, Women's Swimming and Diving



(510) 642-9450
mckeever@berkeley.edu


If to the UNIVERSITY:

James Knowlton, Director of Intercollegiate Athletics
University of California, Berkeley
Intercollegiate Athletics
115 Haas Pavilion #4422
Berkeley, CA 94720-4422

(510) 642-5316
(510) 642-3399 FAX
jim.knowlton@berkeley.edu

IN WITNESS WHEREOF, the parties hereto shall consider this Contract to be effective upon obtaining signatures as identified below, Coach's successful completion of the University Background Check Process, and signature of the Oath of Allegiance and other documents as necessary.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA:

By:  1/7/20
James Knowlton Date
Director of Intercollegiate Athletics

COACH:

By:  1-7-20
Teri McKeever Date
Head Coach

HEAD COACH OF WOMEN'S SWIMMING AND DIVING

PERSONNEL POLICIES FOR STAFF MEMBERS

Contract Addendum

This Contract Addendum, effective on the ultimate date set forth in the signature blocks hereto, hereby defines certain terms for the Contract entered into on **January 1, 2020**, between The Regents of the University of California (hereinafter "University") and **Teri McKeever** (hereinafter "Coach"). This Contract Addendum supersedes and replaces all previous contract addenda. All of the terms of the Contract remain as first written unless modified in this Contract Addendum.

1. **TERM:** The term of the Contract begins on **January 1, 2020**, and terminates on **April 30, 2024** subject to the early termination provisions set forth in the Contract. Notwithstanding the foregoing, by providing Coach written notice at least ten (10) days in advance of the termination date set forth above, University may extend the term of the Contract in the event that Coach and University are negotiating a new contract but have not reached final agreement. If extended, the Contract will terminate on the earlier to occur of: (a) the effective date of the new contract executed by both University and Coach; and (b) the date that is five (5) days after Coach or University provides written notice to the other party that such party is terminating further negotiations.

2. **COMPENSATION:**

A. Base Salary

The annual base salary prorated monthly for this position shall be as follows:

<u>Contract Year</u>	<u>Annual Base Salary</u>
1. 01/01/20 – 04/30/20	\$242,500
2. 05/01/20 – 04/30/21	\$242,500
3. 05/01/21 – 04/30/22	\$242,500
4. 05/01/22 – 04/30/23	\$242,500
5. 05/01/23 – 04/30/24	\$242,500

B. Performance Based Compensation

At the discretion of the Director of Intercollegiate Athletics, in the event the University's **Women's Swimming and Diving** team or Coach achieves any of the following accomplishments, Coach may receive the following enumerated performance bonuses for each Contract Year in which such performance is achieved provided Coach is and has been in compliance with the obligations set forth in the Contract, including Paragraphs 2 and 7 thereof, and provided that the team's four year average Academic Progress Rate is ≥ 930 . Annual performance bonuses shall be paid no later than sixty (60) days following the end of the season in which such performance bonuses are earned.

<u>Accomplishment</u>	<u>Maximum Bonus Amount</u>
Coach wins Conference Coach of Year	\$2,000
Coach wins National Coach of Year	\$3,000
Coach is named to Olympic or World Championship Coaching Staff	\$3,000
Student-Athlete named to Olympic or World Championship team	\$2,000
Per Individual American or World Record Broken	\$3,000
Team wins Conference Championship	\$4,000
Per Individual or Relay NCAA Title	\$2,000
Team finishes in Top 4 at NCAA Championship	\$13,000
Team finishes in Top 2 at NCAA Championship	\$12,000
Team wins NCAA Championship	\$10,000

Coach is eligible to receive identified bonuses for all levels of accomplishment achieved in a Contract Year.

C. Athletic Equipment/Apparel Contract Payments

Coach authorizes the University, during the Term, to enter into agreements with athletic equipment and apparel suppliers which may require services on the part of the Coach including consultation, endorsement of products, and promotional appearances. Coach agrees to abide by such requirements, however, such requirements shall not unreasonably interfere with Coach's primary duties as Head Coach of **Women's Swimming and Diving**.

3. OTHER COMPENSATION:

Any or all of the following perquisites and benefits may be withdrawn by the Director of Intercollegiate Athletics at any time and shall be subject to any University policies as may be in effect from time to time.

A. Tickets


Coach is entitled to receive complimentary tickets to Cal Athletic events based on the applicable Department policy.

4. **SICK LEAVES:** Coach shall accrue and may use sick leave in accordance with the applicable provisions of the Personnel Policies for Staff Members in effect at the time during each month of this Contract, as modified by this Contract Section 6 with respect to Parental Bonding Leave. Unused sick leave shall be carried forward for the duration of Coach's employment with the University in accordance with applicable personnel policies in effect at the time.
5. **HEALTH AND WELFARE BENEFITS:** Coach is appointed for **100%** of full-time and is eligible for all University health, welfare, retirement, and other benefits commensurate with the percent time appointment.

6. **REPORTING LINE:** Coach shall report directly to the Sport Supervisor and indirectly to the Director of Intercollegiate Athletics.

This Contract Addendum shall be effective upon obtaining signatures as identified below and signature of other employment documents as necessary.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA:

By:  1/7/20
James Knowlton Date
Director of Intercollegiate Athletics

COACH:

By:  1-7-20
Teri McKeever Date
Head Coach

APPENDIX A

WAIVER AND GENERAL RELEASE OF CLAIMS

This Waiver and General Release (hereafter "Release") is entered into by and between Teri McKeever (hereafter "Coach") and THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, on behalf of the UNIVERSITY OF CALIFORNIA, BERKELEY campus (hereafter "University") (collectively referred to as the "Parties").

RECITALS

WHEREAS, Coach's contract was amended by the University on January 1, 2020, as Head Coach – Women's Swimming and Diving; and

WHEREAS, Coach's employment is governed by the terms of an existing Employment Contract, the terms of which are incorporated hereto; and

WHEREAS, pursuant to Paragraph 12 of her Employment Contract, Coach may be terminated by the University without cause; and

WHEREAS, pursuant to Paragraph 12 of her Employment Contract, in order to receive liquidated damages under this provision, Coach must execute a waiver and release of all claims against the University at the time of her employment termination.

NOW, THEREFORE, Coach and the University agree as follows:

1. **RELEASE OF ALL CLAIMS ("RELEASED CLAIMS").** Coach agrees to hereby forever release and discharge the University, including all agents, successors, assigns, affiliates, attorneys, employees, and all other representatives (hereafter collectively referred to as "Releasees"), from any and all causes of action, judgments, liens, indebtedness, damages, losses, claims (including attorneys' fees and costs), liabilities and demands of whatsoever kind and character that she may now or hereafter have against the University arising from incidents or events occurring on or before the Effective Date of this Release of Claims. The release set out in this paragraph specifically covers any and all claims arising from or related to Coach's employment with and separation from University employment, or arising from any act or omission by any Releasee occurring before the Effective Date of this Release (hereafter "Released Claims"). The release set out in this paragraph is intended to include any and all claims arising under statutory or common law, including but not limited to: claims under the Immigration Reform and Control Act; the Family Medical Leave Act and the Higher Education Employer-Employee Relations Act; and claims of employment discrimination (such as, but not limited to claims under Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, the California Fair Employment and Housing Act, the Americans with Disabilities Act, the Equal Pay Act of 1963, the Age Discrimination in Employment Act), and claims under the law of contract and tort; and federal and state claims growing out of allegations of retaliation based on alleged or actual whistleblowing activities; and claims arising under University policies and/or collective bargaining

agreements; but excluding claims within the exclusive jurisdiction of the Workers Compensation Appeals Board and any other claims that cannot lawfully be released by private agreement.

2. **COVENANT NOT TO SUE.** Coach promises never to file or cause to be filed a lawsuit or internal University proceeding to assert any Released Claim. Nothing in this Release shall affect the U.S. Equal Employment Opportunity Commission's ("EEOC") rights and responsibilities to enforce Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, as amended, or any other applicable law, nor shall anything in this Release be construed as a basis for interfering with Coach's protected right to file a charge with, or participate in an investigation or proceeding conducted by the EEOC or any other state, federal or local government entity; EXCEPT THAT, if the EEOC or any other state, federal or local government entity commences an investigation or issues a complaint on Coach's behalf, Coach specifically waives and releases her right, if any, to recover any monetary or other benefits of any sort whatsoever including rights to reinstatement to University employment.

3. **SECTION 1542 RIGHTS WAIVED.** The Parties understand and expressly agree that the release set forth in this Release extends to all claims of whatever nature and kind, known or unknown, suspected or unsuspected, vested or contingent, past, present or future, arising from or attributable to any incident or event relating to Coach's University employment occurring in whole or in part on or before the Effective Date of this Release or Coach's separation from employment pursuant to this Release, and that any and all rights granted under Section 1542 of the California Civil Code, ARE HEREBY EXPRESSLY WAIVED.

Section 1542 of the California Civil Code reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HER WOULD HAVE MATERIALLY AFFECTED HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

It is the intention of the parties that the releases contained in this Release comply with the provisions of the Older Workers Benefits Protection Act (29 U.S.C. 5 626). To comply with Section 626(f) of that statute and to effectuate the release by Coach of any potential claims under the federal Age Discrimination in Employment Act ("ADEA"), Coach acknowledges and agrees as follows: (a) she has carefully reviewed this Release and understands the terms and conditions it contains; (b) she has been advised of the right to consult any attorney or representative of her choosing to review this Release; (c) she is receiving consideration which is above and beyond anything of value to which she is already entitled; (d) she does not waive rights or claims that may arise after the Effective Date of this Release; and (e) she has twenty-one (21) days from receipt of this document to consider the terms and to sign it. Coach may sign this document sooner, but if she does so, she acknowledges by signing that the decision to sign was hers and hers alone, and that as a result, she voluntarily has waived the balance of the 21-day review period. Coach shall also have seven (7) days after executing this Release to reconsider and revoke this Release. Any revocation must be in writing no later than the close of business of the seventh (7th) day following

Coach's execution of this Release. This Release shall not become enforceable until the seven (7) day revocation period has expired, or until the date of the last signature, whichever is later. If Coach revokes this Release, it shall not be effective or enforceable and she will not receive the consideration described herein. Notwithstanding any other provision of this Release, the University will have no payment obligation pursuant to this Release until the expiration of seven (7) days after Coach delivers an executed copy of this Release to the University.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, intending to be legally bound, Coach has signed as of the day and year written below.

COACH:

By: NOT FOR EXECUTION AT THIS TIME

Teri McKeever
Head Coach

Date