

TENNESSEE TECHNOLOGICAL UNIVERSITY

AGREEMENT OF EMPLOYMENT

This Agreement is entered into by and between Tennessee Technological University (hereinafter "University") and Danielle Penner (hereinafter "Coach").

WHEREAS, University desires to utilize the services of Coach as Head Coach of its intercollegiate Softball program (hereinafter "Program") under the terms and conditions as set forth herein, and

WHEREAS, Coach agrees to provide his/her services as Head Coach of University's Program under the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the premises above recited, and of mutual covenants herein contained, the parties agree as follows:

1. Employment. Subject to the conditions stated in the provisions of this Agreement, University hereby employs Coach as Head Coach of its Program and Coach hereby agrees to and does accept the terms and conditions for said employment outlined herein. Coach shall perform such duties as are detailed in Section 4 of this Agreement. Coach also agrees to perform any duties that may be assigned in connection with the supervision and administration of the Program, and any such other duties and responsibilities as assigned by the University's Director of Athletics or designees. Coach, in addition to coaching duties, shall be available for public service duties on behalf of University, including but not limited to, fundraising and academic promotions, where no job related conflicts exist.
2. Term. The term of this Agreement shall begin on July 1, 2023, and shall terminate on May 31, 2028, subject to the conditions stated herein. This Agreement is renewable solely at the option of the University and in no way grants Coach a claim to tenure or continued employment with the University, or expectations of continued employment with the University.
3. Compensation. In consideration for Coach's services and satisfactory performance of the conditions of this Agreement, University agrees to pay Coach a monthly rate of \$6,166.67 for a total annual base salary of \$74,000.

3.1. Compensation shall be paid on a monthly basis on the last working day of each month. It is agreed that the compensation paid shall be subject to the same payroll deductions that apply to University's non-academic administrative employees.

3.2. Coach shall receive all State of Tennessee authorized salary increases, adjustments and bonuses on the same terms as apply to University's non-academic administrative employees. All salary payments shall be subject to withholding and other applicable taxes.

3.3. Coach shall be entitled to the full range of fringe benefits on the same terms as provided to other full-time non-academic administrative employees of the University.

4. Duties and Obligations of Head Coach. Coach will report to the Director of Athletics and will be responsible for the coaching, leadership, recruiting, supervision, and promotion of the Program at the University during the term of this Agreement and any extensions hereof, providing leadership in building and maintaining a competitive, quality program which will reflect the values and high standards of the University. Coach hereby agrees that the duties and obligations of Coach are the essence of the Agreement and to accept such employment and to devote his/her attention and best efforts, on a full-time basis, to the performance of his/her duties and obligations hereunder, which shall include, but are not limited to, the following:

4.1. Administering, managing, and leading the Program at the University in such a manner as to reflect positively on the image and reputation of the University at all times, in accordance with the University's mission and in conformance with National Collegiate Athletic Association (NCAA) and Ohio Valley Conference (OVC) rules and regulations and the policies and procedures of the University and its governing board within an approved budget.

4.2. Recommending for employment and managing assistant coaches and other staff necessary and appropriate to assist Coach in meeting his/her responsibilities hereunder which shall also include, but is not limited to, supervision and evaluation of administrative and Program staff.

4.3. Demonstrating commitment to and responsibility for NCAA, OVC, University, and governing board rules and policies compliance. This includes, but is not limited to, being knowledgeable of, adhering to, and assuring and monitoring compliance by all student-athletes, assistant coaches, staff,

volunteers, and boosters with applicable governing constitutions, bylaws, rules, policies, interpretations, and regulations of the NCAA, OVC, University, and its governing board. Coach shall immediately advise the Athletics Compliance Officer if Coach has reason to believe that violations have occurred or will occur and shall cooperate fully in any investigation of possible NCAA violations conducted or authorized by the University or NCAA at any time.

4.4. Supervising student-athletes in the Program and issuing appropriate disciplinary action when necessary.

4.5. Understanding, observing, upholding, valuing, and championing the University's academic standards, requirements, and policies; and promoting an environment in which admissions, financial aid, academic services for student-athletes, and recruiting can be conducted consistently with the University's mission, which shall include, but is not limited to, assisting with discipline of athletes failing to meet academic requirements and responsibilities, including but not limited to, minimum grade point averages and attendance at classes, study halls, and tutoring sessions. Coach shall consider the academic performance of individuals and team as of the utmost importance and shall formulate team policies and actions that encourage class/study hall/tutoring session attendance and academic performance that lead to timely progress toward degree for student-athletes.

4.5.1. Coach shall consistently lead his/her team to achieve a NCAA Academic Progress Rate (APR) benchmark equal to or greater than 970 each year.

4.5.2. Coach shall consistently lead his/her team to achieve a NCAA Graduation Success Rate (GSR) benchmark equal to or greater than 85 percent each year.

4.5.3. Coach shall consistently lead his/her team to achieve a NCAA Federal Graduation Rate (FGR) benchmark equal to or greater than 13 percentage points above the general student body each year.

4.6. Maintaining and cultivating effective relations with governing boards, associations, conferences, committees, institutional alumni, the media, the public, students, faculty, staff, and friends of the University with respect to the Program.

4.7. Fulfilling all radio and television appearance responsibilities for the Program; making sufficient public relations and public speaking appearances, including but not limited to, speaking engagements, fundraising activities, academic promotions, receptions at legislative meetings, governing board functions, alumni functions, booster activities, University development and foundation activities, news media appearances, and speaking engagements or other activities for not-for-profit organizations; cooperating with news media; and any other obligation assigned by the Director of Athletics. For the purpose of this provision, the Director of Athletics in his sole discretion will determine what constitutes sufficient appearances.

4.8. Teaching the mechanics and techniques of softball to team members, coaching student-athletes, overseeing daily practices, and analyzing and instructing student-athletes in areas of deficiency.

4.9. Directing the conditioning of student-athletes to achieve maximum athletic performance, assessing student-athletes' skills and assigning team positions, and evaluating own and opposing team capabilities to determine game strategy.

4.10. Other coaching duties and responsibilities, including but not limited to, analyzing performance and instructing student-athletes in game strategies and techniques to prepare them for athletic competition, observing student-athletes while they perform to determine need for individual or team improvement, coaching student-athletes individually or in groups, demonstrating Program sport techniques to prepare student-athletes for successful competition, overseeing daily practices of student-athletes to instruct them in areas of deficiency, and determining strategy during games, independently or in conference with other coaching staff members.

4.10.1. Coach shall perform his/her duties in such a way to provide for team success by finishing in the top third of the Conference standings each year.

4.11. Organizing and directing a recruiting program that seeks student-athletes who have the ability to perform at the highest level of success in the conference while ensuring that they have the ability to make progress toward degree and eventual attainment of a degree. Coach shall also seek to recruit student-athletes who bring praise to the team and the Department of Athletics for their character and behavior.

4.12. Exhibiting a high degree of sportsmanship in all actions as a coach during practices, games, pregame and postgame comments, and in the promotion and marketing of the Program and Department of Athletics, while emphasizing sportsmanlike behavior to staff and student-athletes with recognition of the high value placed on sportsmanship by the NCAA, OVC, and University.

4.13. Working in conjunction with the Director of Athletics in scheduling game opponents, including but not limited to, game guarantees to maximize attendance and support while being aware of and minimizing missed class time. The Director of Athletics shall have final approval of scheduling of Program games and game guarantees, including but not limited to, the number of guarantee games played and the amount of revenue required from playing such games.

4.14. Performing other duties as assigned by the Director of Athletics and/or his designee.

5. Camps and Clinics. Coach shall be allowed, as long as Coach is the Head Softball Coach, to conduct private softball camps/clinics. The camp dates shall be coordinated with other athletic camps and events held at University, with priority determined by the Director of Athletics based on facility limitations and gender equity concerns. The manner, means and details of the camps, including but not limited to, fees, giveaways, concessions, etc., must be submitted in writing to and approved by the Director of Athletics prior to the camp being advertised, and all camps shall be run within NCAA, OVC, University, and governing board rules, policies, and procedures, including but not limited to, policies related to the protection of minors on campus.

5.1. University shall not be compensated for Coach's use of practice or playing facilities. Other facilities, including but not limited to, non-playing or practice facilities such as swimming pools, residence halls, and dining facilities may be utilized provided University is compensated for such use at the best rate offered to any other group for the use of the same facilities. In addition, Coach agrees that he/she will not use University resources in the furtherance of any such camp, including but not limited to, staff time, postage, and vehicles without specific prior written approval from the Director of Athletics and without providing compensation for the use of such resources.

5.2. In consideration for University allowing Coach to use its practice or playing facilities without charge, Coach agrees to use University dining and residence halls if such services are required and to coordinate such use of campus facilities with other campus functions in Athletics or the University.

5.3. University is not responsible for and does not guarantee any revenue from camps. Moreover, since camp shall be a private venture, Coach shall not indicate directly or indirectly that it is a University camp except Coach shall be granted the right to use athletic logos, marks, nicknames, and colors, in the promotion and marketing of camps. The logos, marks, nicknames, and colors must be used in the manner as prescribed in Athletics policy, practice and procedures and prior approval for printed, screened or otherwise produced logos, marks, and colors; and further, shall only be ordered through an officially licensed representative. Only the Director of Athletics may grant a waiver of this last condition and it must be in writing signed by the Director of Athletics. All printed material shall be approved by the appropriate Athletics Compliance Officer at the University, must follow the approval process within University guidelines, and shall state in plain language that the camp is not a University-sponsored event.

5.4. Coach shall carry adequate public liability insurance, naming the University as an additional insured, with limits in an amount no less than the limits set forth in T.C.A. Section 9-8-307(e), and shall carry other appropriate forms of insurance, pay all taxes incident thereto, and otherwise protect and hold harmless University from any and all liability that may occur or arise out of the camp. At least two (2) weeks prior to the beginning of camp, Coach shall show evidence of insurance coverage for the camp that is satisfactory to the University, in its sole discretion, and provide a copy of the policy to the University at least three (3) days prior to the beginning of camp.

5.5. If Coach chooses to have a sports camp, Coach further agrees to abide by all NCAA rules and regulations in camp operations. As a part of the NCAA regulations, Coach agrees to provide to University or any auditor assigned by University any and all records of the camp, including but not limited to, financial receipts, deposits, bank statements, etc., as needed to insure compliance with NCAA rules and regulations.

6. Radio/TV/Promotional Appearances. In addition to public appearance responsibilities outlined in Section 4.7, University agrees to attempt to arrange for a pregame and/or postgame show during the

regular Program game radio broadcasts, and Coach agrees to provide commentary as required by the Director of Athletics. Coach also shall cooperate and provide commentary for promotional and marketing radio spots, TV spots, and other such spots as required by the Director of Athletics. Coach shall be available on a reasonable basis as requested by the Director of Athletics for personal appearances for the marketing and promotion of the Program and other Department of Athletics initiatives. Coach shall promote, market and otherwise make efforts to gain community and financial support for Program and the Department of Athletics in a cooperative manner with the ongoing efforts of the Department of Athletics. University reserves the right to use Coach's name, likeness, and information to promote the Program, Department of Athletics, and University.

7. Endorsement, Consultation, or Merchandising Contracts. Coach may pursue endorsement, consultation, or merchandising contracts with athletic shoe, apparel, or equipment manufacturers. All such contracts must be executed by Coach in his/her individual capacity and by the University and must be consistent with the University's procurement policies and guidelines.

8. University Name and Logos. Coach agrees that he/she shall not, directly or by implication, use University's name or logos in the endorsement of commercial products or services other than allowed for in this Agreement, and/or in no way use Coach's employee standing as Head Softball Coach for personal benefit or gain except as allowed by University, its governing board, and NCAA policies and regulations. Any agreements for consultation, gifts, gratuities, endorsements of commercial products, or serving on advisory boards (including but not limited to those of athletic sporting goods companies, etc.) shall have the prior written approval of the Director of Athletics, or if required by University or governing board policy, the President of the University. Coach is expressly not allowed to accept a fee based upon any and all Program or game contracts. Any violation of this provision may be considered a conflict of interest and grounds for termination of Coach for cause.

9. NCAA Bylaw 10. Coach is bound by NCAA Bylaw 10 of any current NCAA Manual to perform all duties in the ethical manner as required in that Article. Any violation of this provision may be considered grounds for termination of Coach for cause.

10. NCAA Bylaw 11. Coach is bound by NCAA Bylaw 11 of any current NCAA manual to perform all duties in the manner required in that Article. Any violation of this provision may be considered grounds for termination of Coach for cause.

10.1. Pursuant to Article 11.2.1 of the current NCAA Division I Manual or any future revision of the same, Coach is subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures, including but not limited to, suspension without pay or termination of employment at the sole discretion of the University for significant or repetitive violations of NCAA rules.

10.2. Pursuant to Article 11.2.2 of the current NCAA Division I Manual or any future revision of the same, Coach is required to provide a written detailed account annually to the President for all athletically-related income and benefits from sources outside the University. Coach shall provide the written accounting of all income received pursuant to these requirements annually at the choosing of the timing by the Director of Athletics and shall provide the report via the Director of Athletics. In addition, the approval of all athletically-related income and benefits shall be consistent with the University's policy related to outside income and benefits applicable to all full-time or part-time employees. Sources of such income shall include, but are not limited to, the following: income from annuities; sports camps; housing benefits (including but not limited to preferential housing arrangements); all club memberships, including but not limited to, country clubs; television and radio programs; and endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers. In addition to the above requirements of the NCAA, Coach agrees that fees for any speaking engagement shall be reported in the same manner.

10.3. Coach acknowledges that he/she understands that the sale or trade for personal benefit of complimentary tickets to University events is prohibited by University policy.

11. Seeking Other Employment in Athletics. Coach agrees that he/she shall not personally or through any agent actively seek, negotiate for, or accept other full-time or part-time employment in another University's athletics program during the term of this Agreement without first having obtained written consent from the Director of Athletics.

12. Conditions and Terms. Coach agrees to provide services as head coach consistent with the terms and conditions of this Agreement, the laws of the State of Tennessee, the policies and procedures of

University and its governing board, the constitution, bylaws and rules and regulations of the NCAA, and of any conference with which University may be affiliated. In addition to the aforesaid, Coach agrees to perform the services under this Agreement diligently and faithfully.

13. Disciplinary Actions. University may terminate the employment of Coach for cause, suspend Coach for a period of time it deems appropriate with or without pay, modify Coach's duties, or impose disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures or University and governing board policy upon the occurrence of any of the following:

13.1. Violation of any NCAA rule or regulation applicable to any prior or current employer of Coach which was at the time of such employment a member of the NCAA;

13.2. Involvement in any significant or repetitive violation of NCAA rules or regulations;

13.3. Involvement in any deliberate or negligent violation of NCAA rules or regulations;

13.4. Conviction of a felony or misdemeanor involving fraud, dishonesty, or moral turpitude;

13.5. Deliberate or negligent violation of any University or governing board policy or guideline;

13.6. Deliberate or negligent violation of any other term of this Agreement.

13.7. The above-specified actions may be taken if Coach has engaged in direct action, but also if Coach actually knew of or was negligent in discovering violations of NCAA rules or regulations or University and its governing board policies by Program staff, including but not limited to, assistant coaches, staff or boosters, and Coach failed to act on or attempt to correct such violations, and also, if Coach knew of violations of NCAA rules or regulations and did not report them to a proper authority as required by NCAA rules or Department of Athletics policies.

13.8. Cause shall also include misconduct, moral turpitude, or a pattern of unprofessional or unsportsmanlike behavior, insubordination, refusal, neglect, or failure to render services or otherwise fulfill the duties and obligations established in this Agreement.

13.9. Cause shall also include egregious personal conduct that is reasonably determined by the Director of Athletics or President to negatively, adversely, or materially affect the reputation or operation of the University and/or its athletics programs.

13.10. Coach may request review of an employment action only in accordance with applicable University Human Resources policies.

13.11. If this Agreement is terminated for cause as set forth above, Coach shall forfeit the right to continued payment of base salary and any related benefits as of the first day after the termination occurs.

14. Termination Prior to Expiration of Agreement. Notwithstanding any other provision of this Agreement, either party may terminate this Agreement upon thirty (30) days written notice to the other party.

15. Bonuses. Coach shall be entitled to a performance bonus of \$2,000 during any fiscal year that Program wins either the OVC regular season championship or the OVC post-season tournament championship; or if Coach is named OVC Coach of the Year. Bonus shall be limited to \$2,000 even if more than one of these events occur, except an additional bonus of \$500 shall be given for Program being selected to the NCAA playoffs as an automatic qualifier or at-large selection. Coach is only entitled to a bonus if Coach is employed as the Coach at the time of the triggering event.

15.1. Coach shall be entitled to cumulative NCAA Academic Progress Rate (APR) bonuses as follows:

- a. \$500 for a single year APR of at least 970.
- b. \$500 for a single year APR of 985 or above.
- c. \$1,000 for a four-year (multiyear) APR of 985 or above.

15.3. In order to obtain the APR bonus(es), Coach must be the head coach of the team that earns the single year APR and head coach of the team for each of the four years for a multiyear APR bonus, and must be employed in that position on the date the NCAA releases the APR data to the public.

16. Nondiscrimination. Coach shall not discriminate against any individual, including but not limited to, employment of assistant coaches and other Program staff, recruitment of players, and participants in summer camps because of race, religion, creed, color, sex, age, disability, veteran status, or ethnic or national origin or any other category protected by state or federal civil rights laws.

17. Death of Coach. This Agreement shall terminate automatically if Coach dies. Any such termination shall not be reason for payment of any compensation or remuneration as provided in this Agreement.
18. Renewal. This Agreement is renewable solely upon express written agreement of the parties provided; however, if the parties agree to the continuation of Coach's services after expiration of the aforesaid term without execution of a new agreement or amendment to extend the term, then this Agreement shall be extended automatically on a month-to-month basis until terminated by either party upon thirty (30) days prior written notice.
19. Non-Tenure Appointment. This employment in no way grants to Coach a claim to tenure in employment or any year of employment attributable to tenure.
20. Conditions and Terms. The employment relationship between Coach and University shall be determined by the terms and conditions of this Agreement and with any applicable policies of the University and its governing board.
21. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Tennessee without reference to its choice of law provisions. Any and all claims against the State of Tennessee, including University or its employees, based upon this Agreement shall be heard and determined by the Tennessee Claims Commission in the manner prescribed by law. Damages recoverable against University shall be limited expressly to claims paid by the Claims Commission pursuant to T.C.A. Section 9-8-301 *et seq.*
22. Severability. If any provision of this Agreement shall be determined to be void, invalid, unenforceable, or illegal for any reason, it shall be ineffective only to the extent of such determination, and the validity and enforceability of all remaining provisions shall not be affected thereby.
23. Drug Free Workplace. Coach agrees as a condition of his/her employment to abide by the Drug Free Workplace Act of 1988 and to notify Human Resources of any criminal drug conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
24. Elimination of Program. University may cancel this Agreement at any time upon reasonable notice in the circumstances that will in no case exceed thirty (30) days without further obligation due to

the State of Tennessee's reduction or elimination of funds to the University, a determination by its governing board to eliminate the Program, or a University decision to discontinue the Program.

25. Amendment. This Agreement may be amended only in writing, signed and agreed to by the University President, Director of Athletics, and Coach, and subject to governing board approval if required.

26. Entire Agreement. This Agreement contains the final and entire agreement and understanding between University and Coach and is the complete and exclusive statement of its terms. This contract supersedes all prior agreements and understandings, whether oral or written.

IN WITNESS WHEREOF, Coach and the duly authorized representatives of University have caused this Agreement to be executed on the dates indicated.

TENNESSEE TECHNOLOGICAL UNIVERSITY

DIRECTOR OF ATHLETICS:



Mark Wilson

Date: February 16, 2024

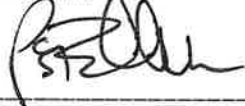
HEAD COACH:



Danielle Penner

Date: 02/09/2024

PRESIDENT:



Philip Oldham

Date: 4/19/2024