

## **SETTLEMENT AGREEMENT AND RELEASE**

This SETTLEMENT AGREEMENT AND RELEASE (“Agreement”) is entered into by and between Linc Darner (“Mr. Darner”) and the Board of Regents of the University of Wisconsin System, doing business as the University of Wisconsin–Green Bay together with all of its employees and agents (collectively, the “University”).

Whereas the parties have agreed it is in their mutual best interests to resolve all outstanding claims, issues, and disputes regarding the Mr. Darner’s employment at the University, the parties hereby agree to the following terms and conditions.

1. This Agreement is a full, final, and complete compromise and settlement, and neither party claims to be a prevailing party.
2. The University’s obligations in this Agreement are contingent on the execution of this Agreement and in consideration for (1) a full release and hold-harmless from Mr. Darner in regard to any past or present claims, complaints, disputes, liabilities, or obligations against the University and its officials, agents, and employees arising up to the date of final execution of this Agreement and (2) mutual assent that by operation of the terms of this Agreement, Mr. Darner’s employment with the University shall end effective May 18, 2020.
3. Mr. Darner agrees to provide the University a Form W-9 to facilitate the payments made under Sections 4(c) and 4(d) below; the University will provide a Form 1099-MISC to Mr. Darner to document the payments made under Sections 4(c) and 4(d) below.
4. By executing this Agreement, the University makes the following promises to Mr. Darner:
  - a. The University shall ensure continued health insurance coverage at current levels for Mr. Darner and his family until (1) Mr. Darner or his spouse becomes eligible for coverage under a comparable health insurance plan by virtue of employment or (2) December 31, 2021, whichever occurs first.
  - b. The University agrees to make any necessary COBRA payments to continue the coverage described in subsection (a) above. The amount of any COBRA payments made shall be deducted from payments described in subsection (c) below and the same amount shall be added to first payment subject to offset in subsection (d) below.
  - c. The University shall make guaranteed payments to Mr. Darner on the following schedule:
    - i. \$120,000 on May 21, 2020,
    - ii. \$120,000 on the first business day after January 1, 2021,
    - iii. Twelve (12) monthly payments of \$20,000 beginning on May 1, 2021, through April 1, 2022;
    - iv. Twelve (12) monthly payments of \$20,000 beginning on May 1, 2022, through April 1, 2023;
  - d. Subject to offset under the terms of Section 5 below, the University shall make the following payments to Mr. Darner:
    - i. Twelve (12) monthly payments of \$20,000 beginning on May 1, 2023, through April 1, 2023;

"2024"

Initial: s/ MA; Date: 5/20/2020

Initial: LDS; Date: 05/20/2020

- e. The University shall pay out the cash value of Mr. Darner's current leave balances in accordance with standard payroll processes after the end of Mr. Darner's employment.
  - f. The University will provide Mr. Darner the opportunity to review and approve a joint press release acknowledging Mr. Darner's accomplishments and announcement a mutual decision to part ways.
5. Mr. Darner agrees to make reasonable and diligent efforts to mitigate the University's obligations under Section 4(d) by obtaining comparable employment. "Comparable employment" is defined as employment as a head or assistant professional or collegiate basketball coach. If Mr. Darner subsequently obtains comparable employment prior to the expiration of the term of this Agreement, any compensation, excluding customary non-monetary fringe benefits, earned by Mr. Darner or any entity controlled by Mr. Darner shall offset the University's obligation to pay Mr. Darner under Section 4(d). The University shall only be obligated to pay the difference between its obligation in Section 4(d) and any compensation earned by Mr. Darner. Mr. Darner agrees to notify the University within fifteen (15) days after accepting any comparable employment and provide documentation of any compensation earned through such employment.
6. Pursuant to Section 4(a), Mr. Darner agrees to notify the University within fifteen (15) days after either he or his spouse accepts any employment that provides eligibility for coverage under a comparable health insurance plan.
7. Mr. Darner hereby releases and holds harmless the University and its officials, agents, and employees from all claims, liabilities, and obligations of any nature arising up to the date of final execution of this Agreement. The parties agree not to sue or commence or continue any administrative proceedings against each other on any claim or cause of action that is known or should be known by either party arising prior to that date.
8. By executing this Agreement, Mr. Darner hereby, with force and effect on the date of execution:
  - a. Knowingly and voluntarily waives any prior, current, or future claims or rights against the University and its former or present officials, agents, and employees, including those arising under the Wisconsin Fair Employment Act; Title VII of the Civil Rights Act, as amended; the Fair Labor Standards Act; Section 504 of the Rehabilitation Act, as amended; the Equal Pay Act; the federal Family and Medical Leave Act; the Wisconsin Family and Medical Leave Act; and the Age Discrimination in Employment Act, as amended by the Older Workers Benefit Protection Act;
  - b. Acknowledges that he has read this Agreement and fully understands it and accepts the terms for compensation to be received under the terms of this Agreement for the purpose of making a full and final compromise, adjustment, and settlement of all matters hereinabove mentioned;
  - c. Has been advised through this Agreement that he may obtain the consultation and advice of a licensed practicing attorney before executing the Agreement and has had the opportunity to do so;
  - d. Has notice that he has the opportunity to take up to 21 calendar days to consider this Agreement before signing it and explicitly waives his right to revoke this Agreement

within seven calendar days after its execution in order to receive compensation as set forth in this Agreement.

9. Nothing within this Agreement or any compensation paid under this Agreement represents an admission of fault or liability on the part of the University and its officials, agents, and employees. This Agreement represents the mutual decision of the parties to resolve any potential disputes and avoid the necessary risk, expense, delay, and effort associated with any pursuit of civil or administrative claims.
10. The parties agree not to disclose the nature and terms of this Agreement, unless as required by applicable state or federal law. Further, the parties agree not to publicly disparage each other or seek contact with the media regarding the nature and terms of this Agreement, and not to disseminate any recorded information regarding the nature and terms of this Agreement to the extent authorized and permitted by law and policy. The University further affirms and agrees that the chancellor, athletic director, and other University officers shall not discuss the terms of this Agreement publicly nor make any disparaging statements regarding Mr. Darner whatsoever.
11. This Agreement constitutes the entire agreement between the parties on the subject matter contained herein. All prior or contemporaneous oral or written agreements or understandings not included in this Agreement have no force and effect. The terms of this Agreement may not be modified except by written agreement signed by the parties.
12. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. Proper and exclusive venue for any dispute arising out of this Agreement shall be in the state or federal courts located in Wisconsin.
13. The parties agree that this Agreement may be executed in multiple counterparts and that this Agreement shall be effective upon execution of copies of identical forms by both parties.
14. The parties agree that if any provision of this Agreement is held to be invalid, void, or unenforceable for any reason, the remaining provisions shall continue in full force and effect.
15. The parties represent that each signor of the Agreement has the authority to bind the entity on whose behalf s/he has signed to the extent necessary to make the Agreement effective.

This Agreement shall have full force and effect upon the execution of both parties by their respective signatures below.

(over)

Linc Darner

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**BOR, by the University of Wisconsin–Green Bay**

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Date

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**Approved as to form:**

/s/ Scott R.L. Love

Scott Love

Attorney for Mr. Darner

Date

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**Approved as to form:**

/s/ Noah E. Brisbin

Noah E. Brisbin

Attorney for UW–Green Bay

Linc Darner



Date

Approved as to form:

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Scott Love  
Attorney for Mr. Darner

BOR, by the University of Wisconsin-Green Bay



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5/18/2020

Date

Approved as to form:

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/s/ Noah E. Brisbin  
Noah E. Brisbin  
Attorney for UW-Green Bay