

## INDIANA UNIVERSITY EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made this 11th day of August, 2008, by and between THE TRUSTEES OF INDIANA UNIVERSITY (the "University"), a statutory body politic of the State of Indiana, and Thomas Crean (the "Employee") and constitutes the entire agreement between the parties and replaces any and all prior written and oral agreements between these two parties with respect to the subject matter hereof.

### ARTICLE I - PURPOSE

The Employee is hereby employed, effective April 2, 2008, by the University as the head men's basketball coach of the University's men's intercollegiate basketball team on the terms and conditions of this Agreement. The parties agree that, although this Agreement is athletics-related, the primary purpose of the University and, accordingly, of all its legal arrangements, including this Agreement, is educational. Thus, the educational purpose of the University shall have priority in the various provisions of this Agreement. The Employee recognizes the importance of the maintenance and observance of the principles of institutional control over every aspect of the athletic program, including men's basketball, at the University. The Employee agrees to recognize and respect the organizational structure of the University in the performance of his duties under this Agreement.

### ARTICLE II - POSITION

#### *2.01 Description of the Employee's Duties and Responsibilities*

A. *General Duties and Responsibilities.* Throughout the Term (as hereinafter defined), the Employee agrees as follows:

1. *Loyalty and Best Efforts.* The Employee agrees to devote his best efforts and abilities full-time to the performance of his duties for the exclusive benefit of the University. The Employee agrees to undertake and perform properly, efficiently, to the best of his ability and consonant with the standards of the University all obligations, duties and responsibilities attendant to the position of head men's basketball coach as are set forth in this Agreement (or as may be assigned to the Employee from time to time). The Employee shall act with honesty and sportsmanship at all times. The Employee recognizes that his actions are a direct reflection on the University, its athletic program and other individuals associated with the University, and he shall represent the University with honor and dignity and promote fair play and the generally recognized high standards associated with wholesome competitive sports.

2. *Rules Compliance.* The Employee agrees to fully and completely comply with the constitution (or other governing documents), bylaws, rules, regulations, policies, including self-imposed sanctions, procedures, sanctions (and other disciplinary action, including current self-imposed sanctions) and standards of the University, the National Collegiate Athletic Association (the "NCAA"), and the Big Ten Conference (the "Big Ten"), and any amendments thereto or interpretations thereof, or of any of their respective successors (collectively, the "Governing Rules"). The Employee further

agrees to fully and completely comply with any and all decisions, sanctions or other disciplinary action established or issued from time to time by, and any and all interpretations of the Governing Rules by, the University, including without limitation those of the University's Athletic Department (the "Athletic Department"), the NCAA and the Big Ten, or of any of their respective successors. The Employee acknowledges and agrees that his compliance obligations include strict adherence to all of the Governing Rules relating to the conduct and administration of the men's basketball program, including but not limited to those relating to recruiting, and that he is responsible for compliance with the foregoing by all of his assistant coaches and staff members, players and by all other individuals under his direct or indirect supervision, direction or control. In the event that the Employee becomes aware, or has reasonable cause to believe, that violations of any of the Governing Rules may have taken place as a result of an act or omission by him or anyone for which he is responsible, he shall report the same in writing promptly to the Director of Athletics (the "Director of Athletics") and the Faculty Athletics Representative of the University. The Employee shall cooperate fully in any review or investigation of possible violations of any of the Governing Rules conducted or authorized by the University, the NCAA or the Big Ten or any successor of any of them. For purposes of this Agreement the term "NCAA Rules" shall refer to the governing rules of (or issued or promulgated by) the NCAA or any successor of the NCAA. All additions, deletions or other changes or modifications during the Term to any of the Governing Rules (or interpretations thereof) shall automatically apply to this Agreement as and when such addition, deletion or other change or modification or interpretation is effective, without the necessity of a written modification of this Agreement.

B. *Specific Duties and Responsibilities.* The Employee shall have the following specific duties and responsibilities as head men's basketball coach, which list of specific duties and responsibilities supplements and is not exclusive of the other general duties and responsibilities provided for elsewhere in this Agreement or as are determined by the Director of Athletics (or his designee) from time to time:

1. *General Description and Responsibilities.* In his position as head men's basketball coach, the Employee is responsible for the duties normally associated with a Division I men's basketball program including: prospect evaluation, recruiting, training, coaching, competing successfully, student-athlete academic achievement, student-athlete conduct and welfare, compliance with the Governing Rules, personnel supervision and evaluation, budgetary control, scheduling assistance, promotions, public relations, development activities and the overall effective performance of the men's basketball student-athletes and men's basketball coaching staff.

2. *Specific Responsibilities.* In his position as head men's basketball coach, the Employee has these additional specific responsibilities:

a. Hire, train, supervise, and evaluate assistant coaches and support staff, including ensuring compliance with the Governing Rules by such coaches and support staff;

- b. Provide leadership for the effective recruiting, instruction and coaching of student-athletes, emphasizing fundamentals, conditioning, game preparation and strategy;
- c. Maintain an environment in which the pursuit of higher education is a priority as reflected by class attendance, grade point averages, the NCAA academic progress rates (APR), and the NCAA and federal graduation rates;
- d. Maintain the highest levels of competitive success in non-conference, Big Ten and NCAA competition;
- e. Participate in the marketing and promotional activities for the men's basketball program and the University's overall athletics program;
- f. Oversee all aspects of prospective student-athlete recruiting, including recruiting contacts, evaluations, official visits, telephone calls and other communications, and any travel-related activities of prospective student-athletes and the men's basketball coaching staff;
- g. Participate with media, alumni and civic groups consistent with the objectives of the athletics program (coordinated through the athletic department marketing staff);
- h. Work to integrate the student-athletes and team into the whole spectrum of academic life so as to complement the University and its mission;
- i. Work within, support and enforce the rules, regulations, guidelines and policies of the Athletic Department;
- j. Make best efforts to assist the Director of Athletics (or his designee) in the scheduling of men's basketball games;
- k. Provide positive and constructive public statements regarding the men's basketball team, athletics program, athletics staff, coaches, the University and the University staff and represent the University positively in public and private forums and in a manner that does not reflect adversely on the University;
- l. Make every effort, in recognition that academic success among student-athletes is a very high priority for the University, to cooperate with, assist, and support the efforts of the University's faculty and administrative officials as they work to assist the men's basketball student-athletes in meeting their academic requirements;
- m. Maintain a comprehensive knowledge of all of the Governing Rules and ensure strict compliance with the Governing Rules by all persons involved with the men's basketball program. Fully participate and cooperate in all compliance-related activities (and remain in contact with the compliance staff), procedures and evaluations conducted by the University, and require all of the men's

basketball assistant coaches, staff and others involved in the men's basketball program to adhere in all respects to the foregoing;

- n. Maintain discipline in the men's basketball program and be fair and protective of the student-athletes while motivating them;
- o. Maintain a working environment where everyone associated with the men's basketball program works together pursuing continuous improvement; and
- p. Maintain an environment in which the assistant coaches, staff and others involved in the men's basketball program comply in all respects with the Governing Rules.

### *2.02 The Employee May be Disciplined for Violations of the NCAA Rules*

Without limiting the University's rights as otherwise set forth in this Agreement (and notwithstanding any other provision of this Agreement), if the Employee is involved in any act or omission that may give rise to a finding that he, any member of the men's basketball staff, including assistant coaches, any of the men's basketball student-athletes and/or the University has violated any of the NCAA Rules, the Employee shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures or as otherwise determined by the University, including suspension without pay or termination of employment.

In addition (and without limiting any other rights of the University under this Agreement), the University may take any disciplinary or corrective action for any violation of this Agreement. Without limiting the foregoing, the University may in its sole discretion take disciplinary or corrective action in lieu of termination of the employment of the Employee by the University for Cause (as hereinafter defined) in the event of the occurrence of any act or event that could be grounds for termination of his employment by the University for Cause and/or pending a review or investigation of any such act or event. Disciplinary or corrective action may include, but is not limited to, suspension with or without pay, reduction of salary or other compensation otherwise payable under this Agreement or other disciplinary or corrective action which may be authorized by the NCAA enforcement procedures or may be determined by the University in its sole discretion.

### *2.03 Reporting Relationship*

The Employee shall report to the Director of Athletics.

## ARTICLE III - TERM OF EMPLOYMENT

### *3.01 Term of Employment*

The University hereby employs and the Employee hereby accepts employment hereunder for the period beginning on April 2, 2008, and ending on June 30, 2018, (the "Normal Expiration Date"), unless such employment is earlier terminated pursuant to the terms and conditions of this Agreement. The actual period of time that the Employee is employed by the University under the terms and conditions of this Agreement is referenced in this Agreement as the "Term."

## ARTICLE IV - COMPENSATION

### *4.01 Base Salary*

The base salary paid by the University to the Employee for services provided during the Term according to the terms and conditions of this Agreement shall be at the rate of Six Hundred Thousand Dollars (\$600,000.00) per year, payable in equal monthly installments and in accordance with the standard payroll practices of the University.

### *4.02 Periodic Personnel Evaluations*

The Employee's performance of his job duties and responsibilities will be evaluated by the Director of Athletics periodically, but no less than annually, during the Term. These evaluations also will take into account prior evaluations and the expectations and goals set for the Employee in such prior evaluations.

### *4.03 Fringe Benefits*

During the Term, the University will provide the Employee with the following fringe benefits (and no others):

A. *Standard University Employee Benefits.* The Employee shall be entitled to the standard University employee benefits appropriate to the Employee's classification (as described by the University's human resource policies), including, among other things, group life insurance, vacation with pay, family medical coverage and retirement contributions. If any benefit is based in whole or in part upon salary paid to the Employee, such benefit shall be based only on the Employee's base salary as provided for in Section 4.01 and shall not be based on any outside income or supplemental compensation paid in accordance with the provisions set forth in Sections 4.04, 4.05, 4.06, or Article V hereof.

B. *Supplemental Term Life Insurance.* The University shall purchase a supplemental life insurance policy for Employee payable to a designated beneficiary up to a face value of twenty million dollars (\$20,000,000) based on an annual premium of up to a maximum of fifteen thousand dollars (\$15,000). For income tax purposes, the annual premium shall be grossed up to take in account all applicable Federal income, State income, Social Security, and Medicare withholding taxes. If University determines that this term life insurance cannot be reasonably purchased from a commercial company, the University will pay employee fifteen thousand dollars (\$15,000) as a lump-sum at the beginning of each calendar year for Term of the Agreement. This amount shall be net of applicable Federal income, State income, Social Security, and Medicare withholding taxes.

C. *Expenses.* The University will reimburse the Employee for travel expenses reasonably incurred by him for the purpose of and in connection with the performance of his duties under this Agreement, including but not limited to expenses incurred while recruiting and work-related travel. Such reimbursement shall be made in accordance with the standard policies and procedures of the University (and the Athletic Department) upon presentation to the University of vouchers or other statements itemizing such expenses in reasonable detail. Such

reimbursement shall be at the rate provided by the University (and the Athletic Department) policies.

D. *Spouse and Children's Travel.* The Employee's spouse and children under the age of twenty-one (21) will be allowed to accompany him to all away basketball games, including pre-season and post-season tournaments, at the expense of the University or the Indiana University Foundation and in accordance with departmental and University travel regulations.

E. *Automobile.* The University shall make arrangements for and provide to the Employee on a loan basis two late model automobiles for his use during the Term. The University shall use its best efforts to obtain automobiles mutually acceptable to the parties. The University further agrees to provide appropriate liability and comprehensive automobile insurance subject to the University and the Athletic Department policies and procedures to cover the Employee in the use and operation of said vehicles during the Term.

F. *Game Tickets.* The University will provide the Employee eight (8) season tickets to the University's men's regular season home basketball games plus, at the Employee's request, up to sixty (60) single game tickets in the lower bowl for each of the University's men's regular season home basketball games. The University will provide the Employee with up to eight (8) single game tickets to the University's men's regular season away basketball games. The University will provide the Employee with up to eight (8) single game tickets to each of the University's men's post-season Big Ten, NCAA or NIT basketball tournament games in which the University's basketball team is participating, up to eight (8) tickets to each of the University's home football games, and up to eight (8) tickets to each home game of each of the University's other varsity intercollegiate athletic teams. The Employee is prohibited from and shall not re-sell these tickets.

#### 4.04 *Moving Expenses*

A. The University will reimburse the Employee for his household moving expenses in relocating to the Bloomington, Indiana, area in accordance with applicable policies of the University.

B. Upon receipt of a copy of the terms of the Employee's present contract with Marquette University that requires the Employee to pay Marquette University liquidated damages upon the termination of the Employee's contract, the University will pay the Employee the stated amount of liquidated damages; however, such amount shall not exceed six hundred fifty thousand dollars (\$650,000). In the event this amount is deemed to be income, the Employee will be responsible for any associated tax consequences.

#### 4.05 *Outside, Marketing and Promotional Income*

A. As part of his duties as head men's basketball coach, the Employee shall promote the University's men's basketball program, including but not limited to: (i) delivering, making and granting public appearances (as coordinated through the athletic media relations and marketing staff) and media interviews (as coordinated through the athletic media relations staff) and making himself available for newspaper articles and columns in connection with his position as head men's basketball coach; (ii) providing his full and complete cooperation with the broadcast

of any television, radio or other media programs related to the University's men's basketball program, including but not limited to coaches shows, pre-game and post-game shows, and off-season shows; and (iii) providing personal appearances, endorsements and compliance and cooperation with sponsorship and product and equipment supply agreements for the Athletic Department and the University's men's basketball program, including without limitation assisting in the performance of contracts for apparel and/or footwear for team student-athlete and staff use (and promoting, endorsing or consulting on such apparel or footwear), which contracts are to be negotiated exclusively by the University. In recognition of these services, the University shall pay the Employee the following amounts during the Term with the amount payable in twelve (12) equal monthly installments in accordance with the University's customary payroll procedures, less applicable taxes and other withholding required by law. This amount is subject to possible annual merit increases.

|         |                |
|---------|----------------|
| Year 1  | \$1,400,000.00 |
| Year 2  | \$1,480,000.00 |
| Year 3  | \$1,560,000.00 |
| Year 4  | \$1,640,000.00 |
| Year 5  | \$1,720,000.00 |
| Year 6  | \$1,800,000.00 |
| Year 7  | \$1,880,000.00 |
| Year 8  | \$1,960,000.00 |
| Year 9  | \$2,040,000.00 |
| Year 10 | \$2,120,000.00 |

The Employee acknowledges that the University will retain any and all monies offered by any third party: (i) in exchange for an agreement that the University's men's basketball team provide signage or other exposure, wear its shoes, apparel or use other equipment during competition or that the Employee and/or others shall wear, promote, endorse or consult with any third party concerning the design and/or marketing of such shoes, apparel or equipment; (ii) for radio, television and other media rights relating to the University's men's basketball program; (iii) for any endorsements, speeches, appearances or articles by the Employee; and (iv) for any other services rendered by the Employee in connection with or otherwise related to his role as head men's basketball coach unless the Director of Athletics consents in writing to the Employee retaining any such monies pursuant to Section 4.05.B.5. All contracts for athletics equipment and apparel shall be between the University and the vendor.

The University shall own all rights to any and all radio, television and internet programs and shall be entitled, at its option, to produce and to market the programs or to negotiate with third parties for the production and marketing of the programs. Except for commercial endorsements made directly by the Employee with the prior written consent of the Director of Athletics pursuant to Section 4.05.B.5, the University shall have the exclusive and primary right to contract with program sponsors for commercial endorsements by the Employee and to authorize the use of such endorsements during the programs. The Employee will not be required to commercially endorse or to act in concert with any sponsor whose product conflicts with or competes with a sponsor of the Employee previously approved in writing by the University. The best efforts required of the Employee under this section shall be the personal time and efforts

customarily exerted by head men's basketball coaches in the Football Bowl Subdivision (FBS) of Division I (formerly Division I-A) with respect to such activities at other institutions, including those in which the revenue is paid directly to the head men's basketball coach by such third party.

The Employee shall not appear without the prior written approval of the University in any competing television, radio and internet programs during the Term except routine news media interviews for which no compensation is received, nor shall the Employee endorse, sponsor or publicly promote any product or equipment which competes with the products or equipment of a sponsor or supplier of the men's basketball program.

B. *Other Provisions Concerning Outside and Promotional Activities.* The following general terms and conditions shall also apply to the Employee:

1. *University Obligations are Primary.* Outside activities by the Employee, whether or not authorized in accordance with this Agreement or approved by the Director of Athletics, shall not interfere with the full and complete performance by the Employee of his duties and obligations as a University employee, recognizing always that the Employee's primary obligations lie with the University and its student-athletes.
2. *Rules Control.* In no event shall the Employee accept or receive directly or indirectly any monies, benefit or any other gratuity whatsoever from any person, corporation, the University booster club or alumni association or other benefactor if such action would violate any of the Governing Rules.
3. *The University is Not Liable.* The Employee expressly acknowledges and agrees that any outside activities are independent of the Employee's University employment, and the University shall have no responsibility or liability for any claims arising from any of these activities.
4. *Prior Approval.* The Employee shall obtain prior written approval from the Director of Athletics before accepting or entering into any agreement or arrangement that directly or indirectly involves any outside income.
5. *Opportunities to Earn Outside Income.* Subject to the provisions of all the preceding paragraphs of Section 4.05 hereof, the Employee may have the opportunity to make additional outside income as follows:
  - a. *Commercial Endorsements.* The University and the Employee agree that the Employee, subject to obtaining advance written approval of the Director of Athletics, may undertake commercial endorsements of products and services (products and services not in conflict with his obligations in this Section 4.05) in which he identifies himself as the University's head men's basketball coach during such time as the Employee is assigned to such position but that he may not otherwise associate the University's name or trademarks or logos with an endorsement, and provided that all such agreements must cease at the earlier of the termination of this Agreement or when the Employee is no longer the head men's basketball coach.



b. *Other Opportunities.* From time to time, other opportunities may arise for outside income that are unanticipated at this time and that may be mutually beneficial to the parties. In such event, the Employee shall confer with the Director of Athletics and, upon the advance written approval of the Director of Athletics, the Employee may pursue such opportunities.

#### *4.06 On-Campus Summer Camp*

The University has the exclusive right to authorize summer youth athletic camps on its campus using the University facilities. The Employee shall have the opportunity to use the University's athletic facilities in connection with a summer youth boy's basketball camp run by the Employee for three (3) weeks each summer, provided that the University is reimbursed by the Employee for all of its actual and overhead expenses including room and board provided by the University and insurance, if provided by the University, incurred in the administration of the camp and in making supplies and facilities available. The Employee acknowledges and agrees that the three (3) weeks shall be designated by the University upon consideration of the preference of the Employee, and upon such conditions as may be required from time to time by the University's facilities during normal business hours. The reimbursable expenses shall be approved by the Director of Athletics and are subject to review and revision annually, if necessary, to cover actual and overhead expenses. Any net revenue from the camp will be allocated to the men's basketball program or staff as determined by the Employee. Unless otherwise approved in advance in writing by the Director of Athletics, the Employee must use accrued vacation time for participation in any off-campus camps. The Employee's participation in off-campus camps shall not occur during the same weeks as the Employee's summer youth boy's basketball camps at the University, nor shall it interfere with the Employee's responsibilities to the University or the effective operation of the men's basketball program. From year to year of this Agreement, a separate document shall be prepared setting forth the details of the camp expenses.

#### *4.07 Disclosure of Outside Income*

The Employee shall report and provide a detailed accounting annually in writing to the President of the University through the Director of Athletics, on or before June 30 of each year during the Term, of all income and benefits received from sources outside the University during the previous twelve (12) month period, and the University shall have reasonable access to all records of the Employee necessary to verify such report.

### ARTICLE V - SUPPLEMENTAL COMPENSATION

#### *5.01 Supplemental Compensation for the Big Ten Regular Season Conference Championship, Big Ten Tournament Championship and NCAA Men's Basketball Tournament Play*

The following provisions shall apply during the Term:

A. If the University men's basketball team, which is under the direct supervision of the Employee during the Term, wins "outright" or "ties" the regular season (not post-season tournament) conference men's basketball championship, the Employee will receive an additional amount of One Hundred Twenty-Five Thousand Dollars (\$125,000).

- B. If the University men's basketball team, which is under the direct supervision of the Employee during the Term, wins the conference men's post-season tournament basketball championship, the Employee will receive an additional amount of Fifty Thousand Dollars (\$50,000).
- C. If the University men's basketball team, which is under the direct supervision of the Employee during the Term, qualifies for the NCAA Division I Men's Basketball post-season Tournament, the Employee will receive an additional amount of Twenty-Five Thousand Dollars (\$25,000).
- D. If the University men's basketball team, which is under the direct supervision of the Employee during the Term, advances to the NCAA Division I Men's Basketball post-season Tournament round of thirty-two (32) teams, the Employee will receive an additional amount of Twenty-Five Thousand Dollars (\$25,000).
- E. If the University men's basketball team, which is under the direct supervision of the Employee during the Term, advances to the NCAA Division I Men's Basketball post-season Tournament round of sixteen (16) teams, the Employee will receive an additional amount of Thirty-Five Thousand Dollars (\$35,000), and each assistant coach who is coaching during that time will receive the equivalent of one month's salary as a bonus, subject to appropriate deductions and withholding.
- F. If the University men's basketball team, which is under the direct supervision of the Employee during the Term, advances to the NCAA Division I Men's Basketball post-season Tournament round of eight (8) teams, the Employee will receive an additional amount of Fifty Thousand Dollars (\$50,000).
- G. If the University men's basketball team, which is under the direct supervision of the Employee during the Term, advances to the NCAA Division I Men's Basketball post-season Tournament of four (4) teams, the Employee will receive an additional amount of One Hundred Twenty-Five Thousand Dollars (\$125,000).
- H. If the University men's basketball team, which is under the direct supervision of the Employee during the Term, wins the NCAA Division I Men's Basketball post-season Tournament Championship (National Champions), the Employee will receive an additional amount of Two Hundred Fifty Thousand Dollars (\$250,000).
- I. For exemplary work, as determined in the sole discretion of the Director of Athletics in consultation with the University President, the University may award the Employee a bonus in any given year of this Agreement.
- J. Any of such additional sums earned during the Term shall be payable July 1 following the Employee's completion of the related contract year as head men's basketball coach.

## ARTICLE VI - EMPLOYMENT TERMINATION

### *6.01 Termination by the Employee*

The parties agree that the Employee may terminate his employment by the University under this Agreement prior to the Normal Expiration Date upon the following terms and conditions:

A. *Written Notice by the Employee.* The Employee may terminate his employment by the University under this Agreement prior to the Normal Expiration Date by giving the University at least thirty (30) days' advance written notice of the termination of his employment with the University. Simultaneously with such notice, the Employee shall inform the University in writing of his employment plans following the termination of employment with the University.

B. *Effect of Termination.* If the Employee terminates his employment by the University under this Agreement prior to the Normal Expiration Date in accordance with the provisions of this Section 6.01.A, the Employee shall be obligated to pay to the University the amount provided in Section 6.01.C below and all obligations of the University to make further payments and/or to provide any benefits or other considerations hereunder shall cease as of the earlier of the effective date of the termination or the end of the month in which the notice of termination is given.

C. *Liquidated Damages.* The Employee recognizes that his promise to work for the University until the Normal Expiration Date is an essential consideration of and a material inducement for the University's decision to employ him as head men's basketball coach. The Employee also recognizes that the University is making a highly valuable investment in his continued employment by entering into this Agreement and its investment would be lost or diminished were he to resign or otherwise terminate his employment as head men's basketball coach with the University prior to the Normal Expiration Date. Accordingly, the Employee agrees that in the event he resigns or otherwise terminates his employment under this Agreement prior to the Normal Expiration Date, he will pay to the University as liquidated damages, and not as a penalty, the following amounts:

|              |             |
|--------------|-------------|
| Years 1 – 3  | \$3,000,000 |
| Years 4 – 5  | \$2,000,000 |
| Years 6 – 10 | \$1,000,000 |

This payment is to reimburse the University for expenses, including but not limited to (i) searching for, recruiting and hiring a new head men's basketball coach and coaching staff, (ii) relocating a new head men's basketball coach and coaching staff, and (iii) buying out the contract, if necessary, of a new head men's head basketball coach. The Employee expressly agrees that such amount is a reasonable approximation of the harm that the University will incur in the event of such resignation or termination by the Employee. The Employee shall pay such amount in full to the University within thirty (30) days after the date of the Employee's termination of employment. In the event a third party agrees to accept responsibility, directly or indirectly, for payment of these liquidated damages, the total payment according to the schedule above must be made within fifteen (15) days of the Employee ceasing to be the head men's basketball coach at the University.

## 6.02 *Termination by the University*

The parties agree that the employment of the Employee by the University under this Agreement prior to the Normal Expiration Date shall be subject to automatic termination or termination by the University, as applicable, upon the following terms and conditions:

A. *Termination upon Death or Disability.* The Employee's employment by the University under this Agreement shall terminate automatically if the Employee dies. The University may by written notice to the Employee terminate the Employee's employment by the University if the Employee becomes permanently disabled. "Permanently disabled," for purposes of this Agreement, shall mean physical or mental incapacity which makes the Employee unable to perform the essential function of his duties under this Agreement with or without reasonable accommodation.

If the Employee's employment by the University is terminated pursuant to this section because of the Employee's death, the Employee's salary and all other compensation and benefits shall terminate as of the end of the calendar month in which death occurs, except that the Employee's personal representative or other designated beneficiary shall be paid all such death benefits, if any, as may be contained in any benefit plan now in force or hereafter adopted by the University and due to the Employee thereunder.

If the Employee's employment is terminated by the University under this section because the Employee becomes permanently disabled, the Employee's salary and all other compensation and benefits shall terminate as of the end of the month in which the termination occurs, except as otherwise required by law and with respect to any disability benefits to which the Employee is entitled under any disability program in which he is enrolled.

B. *Action by the University for Cause.* The University may terminate the employment of the Employee by the University under this Agreement prior to the Normal Expiration Date for Cause. The term "Cause" shall include, in addition to and as examples of its normally understood meaning in employment contracts, any of the following:

1. Any violation by the Employee of any of the obligations, duties or responsibilities outlined in Section 2.01 or any refusal or unwillingness to perform any of such obligations, duties or responsibilities in good faith and to the best of the Employee's abilities;
2. Any conduct, including acts or omissions, of the Employee in violation of any criminal statute (excluding minor traffic offenses) whether prosecuted or not, or any act of moral turpitude;
3. Any conduct, including acts or omissions, of the Employee that may give rise to a finding of a violation of any of the Governing Rules, including but not limited to any conduct which may have occurred during any prior employment of the Employee at another NCAA member institution and for which the NCAA could hold the Employee responsible;

4. Any conduct, including acts or omissions, that may give rise to a finding of a violation of any of the Governing Rules by an assistant coach or any other staff member of the men's basketball staff or any other person under the Employee's supervision and direction, including student-athletes in the program, which violation the Employee knew or should have known of;
5. Any conduct, including acts or omissions, of the Employee which, in the sole judgment of the University, is seriously prejudicial to the best interests of the University or the Athletics Department or which violates the University's stated mission or which conduct may, in the sole judgment of the University, reflect adversely upon the University or its athletic program;
6. Any prolonged absence from the performance of the Employee's obligations, duties and responsibilities under this Agreement without the prior consent of the Director of Athletics;
7. Any cause adequate to sustain the termination of any other employee of the University of the Employee's classification;
8. Any failure to obtain the University's permission from the Director of Athletics to enter into an agreement for outside or promotional income as set forth in Section 4.05.B.4;
9. Any fraud or dishonesty of the Employee in the performance of any of his obligations, duties or responsibilities under this Agreement;
10. Any failure to maintain an environment in which all the members of the coaching staff and other members of the men's basketball staff comply with the Governing Rules;
11. Any failure by the Employee to comply with his obligations, duties and responsibilities under Section 7.01 or any material breach of the representations and warranties of the Employee in Section 7.02;
12. Any conduct, including acts or omissions, that misleads the University or the Director of Athletics about any matters related to the men's basketball program, including matters related to the Employee, any assistant coaches or other staff members or any student-athletes;
13. Any failure or refusal to recognize or cooperate with the Director of Athletics or other University officials, including any compliance personnel;
14. Fraud or dishonesty of the Employee in preparing, falsifying, submitting or altering documents or records of or to the University, the NCAA or the Big Ten, or documents or records required to be prepared or maintained by law, any of the Governing 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, provided that the Employee had actual knowledge of such fraudulent or dishonest acts or reasonably should have known about such fraudulent or dishonest acts;

15. Use or consumption by the Employee of alcoholic beverages, drugs, controlled substances, steroids or other chemicals in such degree and for such appreciable period as to impair significantly or materially his ability to perform his duties hereunder; or failure by the Employee to fully cooperate in the enforcement and implementation of any drug testing program established by the University for student-athletes;

16. The Employee's sale, use or possession of (or the Employee's permitting, encouraging or condoning a student-athlete, assistant coach or other athletic staff member to sell, use or possess) any narcotics, drugs, controlled substances, steroids or other chemicals, the sale, use or possession of which by the Employee, assistant coach, athletic staff member or student-athlete is prohibited by law or by the Governing Rules;

17. Soliciting, placing or accepting by the Employee of any bet on any intercollegiate or professional athletic contest, or permitting, condoning or encouraging by the Employee 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 the furnishing by the Employee of information or data relating in any manner to basketball or any other sport to any individual known by the Employee 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 the Employee with any of such persons; or

18. Any violation by the Employee of any term or condition of this Agreement which is not specified above and which is not remedied by the Employee within ten (10) days following receipt of written notice thereof provided such violation is susceptible of being remedied.

C. *Procedures for Termination for Cause.* If at any time the University has any reason to believe that Cause may exist to terminate the employment of the Employee pursuant to Section 6.02.B of this Agreement, the University shall have the right to conduct a review or investigation, either on its own initiative or in conjunction with the NCAA, the Big Ten or otherwise, with or without notice to the Employee. Upon request, the Employee shall cooperate with the University and its professional advisors in the conduct of the review or investigation to the full extent requested by the University, including but not limited to providing oral or written statement(s) under oath and providing originals or copies of any or all information, records or documents requested by the University.

If at any time the University has any reason to believe that Cause may exist to terminate the employment of the Employee pursuant to Section 6.02.B of this Agreement, the University shall have the right, upon written notice to the Employee, to suspend the Employee with pay until such time that the review or investigation is complete and the Employee is notified in writing that the Employee may resume his duties and responsibilities under this Agreement. Unless any exception is specifically set forth in writing as a part of the suspension notice to the Employee, the suspension shall be deemed to be a prohibition upon the Employee from engaging in any activities otherwise allowed by this Agreement, including but not limited to

recruiting, media activities, endorsements, or any interaction with any student-athletes or other members of the men's basketball staff.

"Cause" sufficient to terminate the employment of the Employee pursuant to Section 6.02.B of this Agreement shall initially be determined by the Director of Athletics in his sole discretion. The Director of Athletics may make this determination without conducting any prior review or investigation as contemplated above. If an initial determination is made by the Director of Athletics that Cause exists to terminate the employment of the Employee pursuant to Section 6.02.B of this Agreement, the University shall have the right to suspend the Employee from all of his duties with or without pay, as determined by the Director of Athletics in his sole discretion, pending termination of the employment of the Employee pursuant to Section 6.02.B of this Agreement. The University shall provide to the Employee a written notice of suspension pending termination of employment ("Notice Pending Termination"). The Notice Pending Termination shall provide (i) the reasons for such suspension and for the initial determination of Cause by the Director of Athletics, (ii) the effective date of the termination for Cause in the absence of a review of the initial determination of the Director of Athletics, and (iii) the procedure by which the Employee may seek a review of the initial determination of the Director of Athletics. Any suspension of the Employee with or without pay pursuant to this provision shall be deemed effective immediately upon delivery of the Notice Pending Termination to the Employee.

The Employee shall have the procedural right, upon written request, to a review of his suspension and pending termination as previously determined by the Director of Athletics. Such review may be initiated by the Employee by submitting a written request to the President of the University. Any request for a review shall (a) be sent within ten (10) days of the delivery of the Notice Pending Termination, and (b) shall set forth responses for each of the reasons that the Employee contends that the initial determination of Cause by the Director of Athletics is not appropriate. Any request for a review that does not follow the foregoing procedure in all respects shall be deemed waived by the Employee and the initial determination of Cause shall automatically become final and binding. Upon receipt of a proper request for a review, the President of the University shall consider the review and may, in his sole discretion, appoint one or more delegates to consider the review request. The President or his delegate(s) shall provide an opportunity for the Employee to be heard as to the specific reasons set forth as the basis for the suspension and the determination of Cause to terminate the employment of the Employee pursuant to Section 6.02.B of this Agreement. If after such opportunity to be heard, the President or his delegate(s) determines that the initial determination of the Director of Athletics is proper, the Employee shall be notified in writing of the decision by the President or his delegate(s) and the termination for Cause shall take effect on the date specified in the President's or delegate(s) notification. If the President or his delegate(s) determines that the initial determination of the Director of Athletics was not proper, then the President may order reinstatement of the Employee to his position on such additional terms and conditions as the President or his delegate(s), in his or their sole discretion, deems necessary to fulfill the purpose and intent of this Agreement. The decision of the President or his delegate(s) shall be final and binding on the Employee for all purposes.

The Employee acknowledges and agrees that the foregoing procedure is the exclusive procedure that will apply to any determination (or review or appeal of any determination) of Cause

sufficient to terminate the employment of the Employee pursuant to Section 6.02.B of this Agreement. The Employee waives his right to use or pursue any and all other procedures, including the grievance procedures, afforded to other employees of the University in connection with a termination of their employment by the University.

In the event that Michael McRobbie resigns or is terminated from his position as president of the University, the *Procedures for Termination for Cause* as described in this Section may be renegotiated with both parties making a sincere effort to formulate a post-termination procedure that includes impartial members of the University community. Employee has fourteen (14) calendar days after President McRobbie's notice of resignation or termination to invoke his right to renegotiate. If employee fails to invoke this right within the time period, then the *Procedures for Termination for Cause* remain as currently written.

D. *The University's Obligations upon Termination for Cause.* In the event that the employment of the Employee by the University under this Agreement is terminated for Cause in accordance with the provisions of Section 6.02.B and Section 6.02.C, all obligations of the University to make further payments of any compensation, including base salary, to provide fringe benefits, or to provide any other consideration hereunder shall cease as of the date that such termination shall become final and binding in accordance with the provisions of this Agreement.

E. *Action by the University without Cause.* The University may at any time terminate the employment of the Employee by the University prior to the Normal Expiration Date without Cause. Termination "without Cause" shall mean termination on a basis other than set forth in Section 6.02.B and Section 6.02.C above. Termination of the employment of the Employee by the University without Cause shall be effectuated by delivering to the Employee written notice of the University's intent to end this Agreement without Cause, which notice shall be effective upon the earlier of the date set forth in such notice or ten (10) days after receipt of such notice by the Employee.

F. *The University's Obligation upon Termination without Cause.* In the event that the employment of the Employee by the University under this Agreement is terminated without Cause in accordance with the provisions of Section 6.02.E, and subject to the provisions of Section 6.02.G and Section 6.02.H below, the University's sole obligation to the Employee shall be to continue to pay the Employee an amount representing the lesser of his then-current base annual salary as defined in Section 4.01 for the remainder of the Agreement, or Three Million Dollars (\$3,000,000). Irrespective of the total sum to be paid, this amount will be payable in monthly installments with appropriate withholding and deductions for taxes and other matters required by law. In no case shall the University be liable to the Employee for any payments for outside, marketing, or promotional incomes as defined in Section 4.05 or any other amount. By executing this Agreement, the Employee explicitly acknowledges and agrees that he is entitled to no other compensation or damages (compensatory, punitive or otherwise) as a result of the termination of this Agreement without Cause by the University.

G. *Mitigation of University's Obligation upon Termination without Cause.* The Employee is required to use his reasonable best efforts to mitigate the University's base salary continuation obligation under Section 6.02.F by making reasonable and diligent efforts as soon as practicable



following termination (under the circumstances and opportunities then prevailing) to obtain another comparable employment position or paid services opportunity, and the Employee agrees that the following employment or services opportunities shall constitute a comparable position or opportunity for purposes of this provision: media commentator with a national or regional network, broadcast station or cable company, professional basketball assistant or head coach, head men's basketball coach at a Division I college or university. If the Employee obtains a comparable position or services opportunity, then the University's obligation to pay the Employee as set forth in Section 6.02.F shall be offset and reduced dollar-for-dollar by the Employee's total compensation received or earned by the Employee (or an affiliate of the Employee) from such comparable position or services opportunity (excluding the employee benefits costs associated with such comparable position or services opportunity) during the applicable period of the base salary continuation. While the University's base salary continuation obligation under Section 6.02.F is in effect (and for a period of six (6) months thereafter), the Employee shall promptly report to the University on a quarterly basis on all compensation received or earned by him (or by any of his affiliates) during the prior three-month and six-month periods. The University may reduce future base salary continuation payments by any amount that the University is entitled to offset as a consequence of the foregoing provisions and at the conclusion of the base salary continuation period, the Employee shall be obligated to promptly pay to the University the full amount of any offset and reduction due to mitigation that the University is entitled to that was not fully recouped by the University through a previous offset and reduction.

H. *Release.* The Employee agrees that as a condition of receiving any post termination compensation under Section 6.02.F, except for earned but unpaid compensation to the date of termination and any legally protected rights the Employee has under any employee benefit plan, the Employee must execute a comprehensive release in the form determined from time to time by the University in its sole discretion. Generally, the release will require the University, the Employee (and his estate), administrators, successors, heirs, distributees, devisees, legatees and assigns to release and forever discharge the University and its trustees, officers, directors, agents, attorney, 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 the Employee's employment with the University. This release may include but shall not be limited to any claim that the University violated the Age Discrimination in Employment Act; the Older Worker's Benefit Protection Act; the Americans with Disabilities Act; Title VII of the Civil Rights Act of 1965 (as amended); 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 in violation of public policy, claims of promissory estoppel or detrimental reliance, defamation, intentional infliction of emotional distress; breach of contract; the public policy of any state; or any federal, state or local law relating to any matter contemplated by this Agreement. Upon termination of employment with the University, the Employee will be presented with a release and, if the Employee fails to execute the release, the Employee agrees to forfeit any payment from the University. The Employee acknowledges that he is an experienced person knowledgeable about the claims that might arise in the course of employment with the University and knowingly agrees that the payments upon termination provided for in this Agreement are satisfactory consideration for the release of all possible claims described in the release.

I. *Limitation on Liability.* The provisions of this Article VI exclusively govern the obligations of the University to the Employee (or his estate) in the event of termination of the employment of the Employee by the University and, except as specifically provided herein, neither the Employee nor his estate shall have any rights to any other compensation, damages (compensatory, punitive or otherwise) or benefits of any kind or amount. In addition, in no case shall the University be liable to the Employee for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from activities such as but not limited to camps, clinics, media appearances, radio, television, internet, marketing and promotional services, apparel or shoe contracts, basketball or equipment agreements, consulting relationships or from other sources that might produce promotional or outside income.

## ARTICLE VII - UNIQUE SERVICES

### *7.01 Other Coaching Positions*

The parties agree that should another coaching opportunity be presented to the Employee or should the Employee be interested in another coaching position during the Term, the Employee is to notify the Director of Athletics in writing (hard copy, not electronically) of such opportunity or interest before any discussions can be held by the Employee or any agent or intermediary of the Employee with the anticipated coaching position principals. Failure to do so is a material breach of this Agreement and a reason for termination of the employment of the Employee by the University for Cause under Section 6.02.B.

### *7.02 Representations and Warranties of the Employee*

As a material inducement to the University to execute and perform this Agreement, the Employee represents and warrants to the University that (A) he has not violated any of the NCAA Rules prior to the date of this Agreement and (B) he knows of no violation of any of the NCAA Rules by any assistant coach or staff member who was under his supervision, direction or control at any prior member institution of the NCAA and for which he could be held responsible or be subject to sanctions or other discipline from the NCAA.

## ARTICLE VIII - MISCELLANEOUS

### *8.01 Assistant Coaches*

The Employee shall have the authority to recommend the hiring and termination of assistant coaches for the University's men's basketball program subject to the approval of the Director of Athletics. All assistant coaches shall be University employees. It is understood that assistant coaches are immediately responsible to the Employee, who will assign the duties of each of the assistant coaches, and that the Employee is responsible for the activities of such assistant coaches as those activities relate to the educational purposes and the athletics interests of the University. It is further understood that the Employee and assistant coaches are responsible to the Director of Athletics for compliance in all respects with the Governing Rules.

#### *8.02 Scheduling*

The Director of Athletics and the Employee will work in concert to ensure that the men's basketball team's schedule allows the men's basketball program to meet and maintain the University's objectives of the overall intercollegiate athletics program of the Athletic Department. Ultimately, the schedule of games is the decision of the Director of Athletics.

#### *8.03 Withholding and Taxes*

Any payments made or benefits provided to the Employee by the University pursuant to this Agreement shall be subject to normal deductions and withholding for state, local and federal taxes and other amounts required by applicable law.

#### *8.04 Requirement of University Signature and Approval*

It is understood and agreed that this Agreement shall not be effective until signed by the University's President and Director of Athletics on behalf of the University.

#### *8.05 Choice of Law and Venue*

This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, and the laws of the State of Indiana shall govern the creation, validity, performance and enforcement of this Agreement and any recovery or remedy for breach or violation of this Agreement. All disputes related to this Agreement or any violation or breach of this Agreement shall be litigated exclusively in a state court located in Monroe County, Indiana, and the Employee expressly waives any right to pursue an action in another venue and any possible challenge to personal jurisdiction or venue.

#### *8.06 Assignment of this Agreement*

The Employee's rights and interests under this Agreement may not be assigned, pledged or encumbered by the Employee.

#### *8.07 Amendments to this Agreement*

This Agreement may be amended at any time only by a written instrument duly approved by the University through its designated representative and accepted by the Employee. Such approval and acceptance is to be acknowledged in writing, except that the foregoing shall not apply to increases in compensation and/or enhancements of fringe benefits which may be accomplished at any time in accordance with the terms and conditions of Article IV hereof.

#### *8.08 Severability*

If any provision or provisions hereof shall be deemed invalid or unenforceable, either in whole or in part, this Agreement shall be deemed amended to delete or modify, as necessary, the offending provision or provisions or to alter the bounds thereof in order to render it valid and enforceable.

#### *8.09 No Waiver of Default*

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

#### *8.10 Acknowledgement*

The Employee acknowledges that he has read and understands the foregoing provisions of this Agreement and that such provisions are reasonable and enforceable and he agrees to abide by this Agreement and the terms and conditions set forth herein.

#### *8.11 University Retains All Materials and Records*

All materials or articles of information, including without limitation personnel records, recruiting records, team information, films, video, statistics or any other material or data, furnished to the Employee by the University or developed by the Employee on behalf of the University or at the University's direction or for the University's use or otherwise in connection with the Employee's employment hereunder are and shall remain the sole and confidential property of the University. The University agrees to provide the Employee reasonable access to such materials, as approved by the Director of Athletics, for personal professional development purposes (not commercial purposes) while this Agreement is in effect. Within seven (7) days of the expiration of the term of this Agreement or its earlier termination as provided herein, the Employee shall immediately cause any such materials in his possession or control to be delivered to the University.

#### *8.12 The Employee Will Not Incur University Indebtedness*

It is mutually agreed and understood that the Employee shall not incur any indebtedness for or on behalf of the University without first securing the advance written approval of the Director of Athletics.

#### *8.13 "Force Majeure" Clause*

Neither party shall be considered in default in the performance of its obligations under this Agreement if such performance is prevented or delayed by Force Majeure. "Force Majeure" shall include but not be limited to war, hostilities, revolution, civil commotion, strike, lockout, epidemic, accident, fire, wind or flood or any law, order, proclamation, ruling, regulation or ordinance of any government or subdivision of government or any act of God.

#### *8.14 The Employee Solicitation of Donor Funds*

The Employee recognizes the overall positive impact to the University and the athletics program of a well-coordinated fundraising effort and agrees that any solicitations or requests for funding will be made only with prior approval from the athletic administration and the University's institutional advancement officials.

*8.15 The Employee Will Not Make Investments Inconsistent with University's Objectives*

During the period of employment hereunder, the Employee shall not make or continue to hold any investment in or be associated with any enterprise (e.g., gambling, alcoholic beverages) which could be deemed to be inconsistent with the University's objectives and philosophies or those of the NCAA or the Big Ten without having first obtained the approval of the Director of Athletics and the University President.

*8.16 No Tenure*


The Employee acknowledges and agrees that the position for which he is employed by the University (and any other position to which the Employee may be assigned) is not a tenure-track position, and will not lead to tenure.

*8.17 Notices*

Any notice or other communication which may be or is required to be given under this Agreement shall be in writing and shall be deemed to have been given on the earlier of the date actually received or on the close of business on the fifth business day next following the day when deposited in the United States Mail, postage prepaid, registered or certified, addressed to the party at the address set forth after its name below or such other address as may be given by such party in writing to the other: if to the Employee, Thomas Crean, Basketball Offices, Assembly Hall, Bloomington, IN 47408; if to the University, Director of Athletics, Indiana University, 1001 East 17th Street, Assembly Hall, Bloomington, IN 47408.

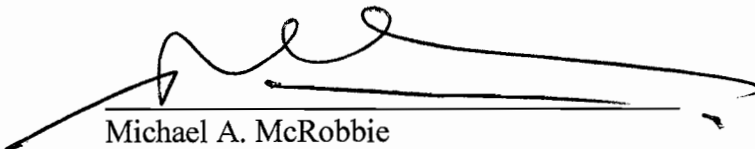
IN WITNESS WHEREOF, the parties hereto have executed this Agreement (or caused this Agreement to be executed) as of the day and year first written above.

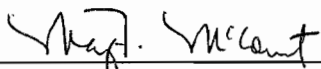
**"UNIVERSITY"**  
**THE TRUSTEES OF INDIANA UNIVERSITY**

  
\_\_\_\_\_  
Richard I. Greenspan  
Director of Intercollegiate Athletics

**"EMPLOYEE"**

  
\_\_\_\_\_  
Thomas Cream

  
\_\_\_\_\_  
Michael A. McRobbie  
President

  
\_\_\_\_\_  
MaryFrances McCourt, Treasurer