

HEAD COACH EMPLOYMENT AGREEMENT

This Head Coach Employment Agreement ("Agreement") is entered into as of March 25, 2018 ("Effective Date") by and between Utah State University ("USU"), having an office at 1445 Old Main Hill, Logan, UT 84322, and Craig Smith ("Coach") c/o CAA Sports, 444 N. Michigan Avenue Suite 3540, Chicago, IL 60611 Attn.: Bret Just. USU and Coach each may be referred to herein as a "Party" or collectively as the "Parties."

WHEREAS, the Parties entered into a certain Letter of Agreement, dated March 25, 2018, and now desire to amend and replace in its entirety the Letter of Agreement with this Agreement to more fully and completely describe the employment of Coach at USU.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Definitions

1.1. "*Governing Athletic Rules*" shall mean any and all present or future legislation, rules, regulations, directives, written policies, bylaws and constitutions, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by the NCAA or the Conference or any successor of such association or conference, or by any other athletic conference or governing body hereafter having regulatory power or authority relating to the athletic program of USU. Governing Athletic Rules also shall include any acts of Congress or the State of Utah regulating college athletics, officials, athletes, and competition.

1.2. "*University Rules*" shall mean any and all present or future legislation, rules, regulations, directives, student athlete handbooks, written policies (including the policies found in USU's Policy Library (<https://www.usu.edu/policies/>), bylaws, and constitution, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by USU, including, without limitation, its President and Director, or by the Board of Trustees of USU.

2. Employment

2.1. Appointment. Subject to the terms and conditions of this Agreement, USU shall employ Coach as the head coach of its men's basketball team (the "Team"). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity. Consistent with USU Policy 390, Coach's employment is "at will" and, subject to the terms and conditions of this Agreement, may be terminated by USU at any time and for any lawful reason.

2.2. Supervision of Coach. Coach shall serve at the pleasure of USU's Vice President and Director of Athletics (the "Director") and shall report directly to the Director and shall confer with the Director or the Director's designee on all administrative and technical matters. Coach shall also confer with the Director or the Director's designee, and reach mutual agreement, before Coach promises to award any athletic scholarships to Coach's current or prospective student-athletes. Coach shall also be under the general supervision of USU's President. The Director will conduct an annual review of your performance as Head Coach for Men's Basketball. The specific schedule for this review will be established by the Director.

2.3. Institutional Control. The parties recognize that the Director is responsible to USU's President for the operation, review, and periodic evaluation of the entire athletic program at USU, including the men's basketball program. Coach recognizes and acknowledges the importance of the maintenance and observance of the principles of institutional control over every aspect of such program. Coach agrees to recognize and respect those relationships, the organizational structure of USU, and USU's role and participation in the athletic conference in which the Team competes ("Conference"). As of the Effective Date, the Conference is the Mountain West Conference. Within that structure, the Director and Coach shall mutually cooperate to implement the purposes of this Agreement, and Coach shall support and comply with the Director's efforts and instructions regarding any review of the athletic program.

2.4. Management and Supervision of Team. Coach shall manage and supervise the Team and shall perform such other duties in USU's athletic program, consistent with Coach's status as the head coach, as the Director may assign.

2.5. Conduct. Coach agrees to represent USU positively in public and private forums and shall not engage in conduct or act in such a manner that reflects adversely on USU, the Team, or USU's athletic programs. Coach shall perform Coach's duties and personally comport himself/herself at all times in a manner consistent with good sportsmanship and with the high moral, ethical, and academic standards of USU and its Athletics Department.

2.6. Background Check. Coach agrees that his/her employment is contingent upon USU's verification of credentials and other information required by law and/or USU policies, including but not limited to a criminal background check, which may be performed at any time during the Term in accordance with USU policy.

3. Term

3.1. Term. This Agreement is for a fixed term appointment commencing on March 25, 2018 and automatically terminating, without further notice to Coach, on March 31, 2023 ("Term"). Individual contract years may be referred to in this Agreement and shall have the following meaning:

Contract Year	Dates
Year 1	March 25, 2018 – March 31, 2019
Year 2	April 1, 2019 – March 31, 2020
Year 3	April 1, 2020 – March 31, 2021
Year 4	April 1, 2021 – March 31, 2022
Year 5	April 1, 2022 – March 31, 2023

3.2. Renewal. This Agreement is renewable solely upon an offer from USU and an acceptance by Coach, both of which must be in writing and signed by the Parties.

4. Compensation

4.1. Salary and Benefits. In consideration of Coach's services and satisfactory performance of all duties and responsibilities set forth in this Agreement, USU shall provide to Coach the following during the Term:

a) Base Annual Salary. A base annual salary minus applicable taxes and withholdings and payable in substantially equal monthly installments in accordance with normal USU procedures at the rate of \$550,000 ("Base Salary"); and

b) Professional Employee Benefits. Such normal employee benefits as USU provides generally to its senior administrative and professional staff, subject to the terms and

conditions of any applicable employee benefit plan, program, policy or agreement. The benefits include the following: medical and dental insurance, USU contributions to an approved retirement program, employer-funded life insurance and disability insurance, sick leave, annual leave, tuition reduction for Coach and eligible family members, and all other benefits currently provided to exempt, non-academic employees.

4.2. Incentive Compensation. Supplemental compensation shall be paid by USU to the Coach upon achievement of the following (hereinafter, individually, referred to as “Achievement”) within the Term:

Achievement	Amount
Team wins the National Championship	\$100,000
Team qualifies as a Final Four Participant	\$50,000
Team wins the Conference Tournament Championship	\$25,000
Team wins the regular season Conference Championship (either outright Champion or Co-Champion)	\$25,000
Team maintains a multi-year Academic Progress Rate (APR) of 952 Note: The APR report is published annually. This incentive compensation may be paid annually and will be triggered upon the publication of the multi-year APR of 952 or greater.	\$10,000
Team granted an at-large NCAA Tournament Bid	\$20,000
Team wins an NCAA Tournament First Four Game	\$10,000
Team wins an NCAA Tournament Game (excluding a First Four Game) Note: each win at an NCAA Tournament will qualify Coach for a \$20,000 incentive payment.	\$20,000
Team invited to the National Invitation Tournament	\$10,000
Team wins the National Invitation Tournament Championship	\$10,000
Team is ranked (Associated Press Poll) at the end of a season in the: Top 10 Top 20 Top 25 Note: This category of supplemental compensation is mutually exclusive, meaning that only one amount will be paid if the Team is ranked within the Top 25 (e.g. If the team was ranked as 14, then \$25,000 would be awarded; NOT \$25,000 for the Top 20 AND \$10,000 for the Top 25).	\$50,000 \$25,000 \$10,000
Coach is selected as the “Conference Coach of the Year” by the Conference as voted by the Conference coaches	\$10,000
Coach is selected as the national “Coach of the Year” by the Associated Press, the Atlanta Tipoff Club (Naismith College Coach of the Year), or the National Association of Basketball Coaches (NABC)	\$25,000
Team wins a rival game against BYU or University of Utah	\$5,000

Each amount of the Incentive Compensation as set forth above will be “earned” upon occurrence of the related Achievement and will be payable within thirty (30) days thereafter.

4.3. Media Rights and Endorsement Compensation. Subject to the terms of this Agreement and to any of USU’s existing radio, media, television or endorsement Agreement, Director will use his best efforts to negotiate separate contract(s) for radio and/or television for

the broadcast of "Coach's Shows" and for other endorsement rights associated with Coach. USU shall have the right to receive all proceeds from said "Coach's Shows" or endorsement agreements and will, whether or not these proceeds materialize, guarantee additional compensation ("Media Compensation") according to the following schedule:

Contract Year	Media Compensation
Year 1	\$100,000
Year 2	\$125,000
Year 3	\$150,000
Year 4	\$175,000
Year 5	\$200,000

The Media Compensation will be "earned" on a daily basis and payable thirty (30) days after each calendar quarter in substantially equal installments by March 31, June 30, September 30, and December 31, respectively. See Section 5.7 for more information on the contracts and Coach's duties associated with the Media Compensation.

4.4. Payment of Buyout. The Parties recognize that Coach's contract with his former employer, University of South Dakota ("USD"), requires a buyout payment to terminate Coach's contract with USD. USU agrees to pay an amount of up to \$206,250 ("Buyout Payment") to fulfill said buyout payment. USU confirms that a payment of \$206,250 was delivered to USD as of May 1, 2018. Coach, in consultation with his personal financial and tax advisors, shall minimize, within reasonable and prudent financial and tax practices, any tax impact associated with the Buyout Payment and shall provide USU with direction regarding the manner and time of making the Buyout Payment funds available. Should the buyout be taxed as Coach's income, USU will provide an additional payment to Coach to neutralize the actual tax impact to Coach. Coach agrees to provide written notice and supporting documentation of any such tax impact no later than April 20, 2019, whereupon USU will within thirty (30) days, issue a payment to Coach to neutralize said tax impact.

4.5. Vehicle. USU will provide Coach with one loaned, late-model sports utility vehicle for Coach's use (referred to as a "courtesy car") in keeping with the following uses (in order of priority): (i) business conducted in direct support of the Team's daily operations; (ii) official travel for the Team and/or the USU, as assigned; (iii) business conducted indirectly affecting the Team, such as lunches, meetings, etc.; and (iv) personal business and family support but secondary to the primary purpose of supporting the Team operations. This courtesy car will be provided to USU by supporters of USU Athletics. USU will withhold all applicable federal and state taxes related to Coach's use of the courtesy car, as required by the IRS and applicable law. Coach agrees to follow all USU and USU Athletic Department policies and procedures related to use of courtesy cars, including compliance with the law, insurance payments, and periodic reports of vehicle information. If, for whatever reason, a courtesy car is unavailable, then USU will no longer be required to provide Coach with use of a courtesy car, and the Parties will mutually agree on a stipend of \$700 per month to be used for all automobile related expenses (lease, car payment, insurance, fuel, etc.) to cover automobile usage for business purposes.

4.6. Moving Expenses. USU will pay the moving expenses for Coach's household in accordance with USU policy and state law, in an amount up to but not to exceed \$20,000. Further, pursuant to USU Athletic Department policy and practice, USU will pay or reimburse, in an amount not to exceed \$5,000, other related transition expenses, including, if needed, provision of temporary housing.

4.7. Country Club Membership. USU will ensure that the Logan Golf and Country Club grants to Coach membership for USU business purposes. Coach's membership will be subject to any terms and conditions imposed by the Logan Country Club, including but not limited to the right of the Logan Country Club to revoke membership. USU will not be responsible for any food minimum requirements or purchases of goods and services at the Logan Country Club. USU will withhold all applicable federal and state taxes related to providing the Country Club membership, as required by the IRS and applicable law.

4.8. Communication Allowance. Coach will be provided monthly communications allowance in the amount of \$150 per month. The allowance will be in accordance with University Policy 518.

4.9. Athletic Event Tickets. USU will provide Coach with (a) ten (10) season tickets in the lower bowl to regular season home Team games, (b) six (6) season tickets in the lower bowl to USU's home football games, (c) and two (2) parking passes per each home Team game and home football game. Further, USU will provide six (6) tickets to each of the Team's post-season games in which the Team is participating.

4.10. Youth Athletic Camps. Coach agrees that USU has the exclusive right to operate and control youth camps on its campus using USU facilities. USU hereby authorizes Coach, personally or through a company owned by Coach, to conduct summer youth basketball camps and to collect income associated therewith. Coach agrees that any such camps: (i) will be scheduled and coordinated with the Athletics Department and USU generally prior to any advertising or registration; (ii) must be covered by general liability insurance in amounts sufficient to cover the camp activities, said insurance to be acquired by Coach or Coach's company and to include USU as an additional insured; and (iii) may be conducted on USU's campus, provided that Coach enters into a written facility use agreement with USU, said agreement to include conventional terms for a third party to gain access to USU's facilities (i.e. assumption of liability, indemnification of USU, etc.). Coach agrees that the trademark, logos, and indicia of USU may only be used by Coach in connection with the camps after Coach receives the express written authorization of USU. Furthermore, Coach agrees not to use any trademark (i.e. Aggie, Big Blue, USU, etc.) in the name of any company Coach forms to administer and conduct the camps. Coach also agrees that the marketing (including website, marketing materials, etc.), camp participant supervision and instruction, general administration, and risks associated with any youth basketball camps will be the sole responsibility of Coach. In addition, the taxes and distribution of income (i.e. to assistant coaches) associated with the camps shall be the responsibility of Coach. Furthermore, Coach agrees to provide necessary camp documentation to the Director, or his designee (Associate Athletic Director of Compliance) to show compliance with NCAA rules upon Director's request. This documentation will include, but is not limited to, registration lists, discount/refund lists and explanations, employee compensations lists, and revenue/expense summaries.

4.11. Taxable Benefits. All compensation as set forth in Sections 4.1-4.9 received by Coach will be subject to applicable tax laws and, if appropriate, will be treated as taxable income subject to applicable withholding and other taxes.

4.12. Source of Funds. Funding for the compensation set forth in this Section 4 will come from a combination of USU Athletic Department funds, private funds donated to USU and the USU Foundation, and funds generated by contracts with vendors for athletic apparel and shoes and multimedia rights agreements. All payments set forth herein will be dependent upon and subject to the availability of funds to USU for the purposes set forth in this Agreement.

5. Coach's Specific Duties and Responsibilities

5.1. Best Efforts. Coach shall devote Coach's full time and best efforts to the performance of Coach's duties under this Agreement, including all duties that the Director may assign, and including all duties as set forth in Coach's then-current job description on file with the Department of Athletics. In addition, Coach shall perform such other and further duties and responsibilities as USU and/or the Director may establish from time to time at USU's discretion.

5.2. Team Welfare. Coach shall develop and implement programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team members to compete successfully while assuring their welfare.

5.3. Academics. Coach shall observe and uphold all academic standards, requirements and policies of USU and encourage Team members to perform to their highest academic potential. Coach recognizes that the primary mission of USU is to serve as an institution of higher learning and shall fully cooperate with the Director, the Sr. Associate Athletic Director of Student Athlete Services, and all academic counselors or similar persons designated by USU to assist student-athletes and shall use Coach's personal best efforts to encourage and promote those efforts. In that respect, Coach recognizes that the goal of USU is that every student-athlete obtain a baccalaureate degree and agrees to support fully the attainment of this goal. It is recognized by the Parties that a student-athlete may be declared ineligible for competition for academic reasons, because USU believes the student-athlete would not be an appropriate representative of USU under University Rules (as defined herein), as a disciplinary sanction under USU's Code of Student Conduct, or because USU believes that the student-athlete is not eligible according to the rules for athletic competition specified by the Conference or the NCAA or for similar reasons.

5.4. Compliance. Coach shall (i) know, recognize, and comply with all federal, state and local laws, as well as all applicable University Rules and Governing Athletic Rules, including, but not limited to, Conference rules and NCAA rules, in accordance with NCAA Bylaw 11.1.1.1; (ii) promote an atmosphere for compliance within the program supervised by Coach and monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to Coach; (iii) supervise and take appropriate steps to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible and the members of the Team know, recognize and comply with all such laws, University Rules and Governing Athletic Rules; and (iv) immediately report to the Director or the Director's designee (Associate Athletic Director of Compliance) knowledge of any violation or possible violation of University Rules or Governing Athletic Rules by any person or entity, including, but not limited to, USU staff, students, and representatives of USU's athletic interests. Coach shall cooperate fully in the NCAA infractions process, including the investigation and adjudication of a case (see NCAA Bylaw 19.2.3). Coach understands and agrees that any individual, including Coach, who is found in violation of NCAA regulations shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA infractions process (see NCAA Bylaw 19), including suspension without pay or termination of employment. Coach shall cooperate fully with the Director or the Director's designee (Associate Athletic Director of Compliance) at all times. Coach, or his Director-approved designee, shall review and approve in writing all requests for expense reimbursements by assistant coaches prior to submission to USU to reasonably ensure accuracy and compliance with all such laws, University Rules and Governing Athletic Rules, and upon such satisfactory

review, shall forward the same to USU with Coach's approval for payment. Coach shall at all times take reasonable action necessary to comply with and to implement the University Rules relating to substance abuse and to class attendance by students subject to Coach's direct control or authority, and to exercise reasonable care in an effort to assure that all personnel and students subject to Coach's direct control or authority comply with such policies. Coach represents and warrants that Coach has read such policies and that he will remain current as to the content of such policies. To the extent that any personnel matter is not addressed by the terms of this Agreement, University Rules will govern.

5.5. Gifts and Ethics. All salary or compensation of Coach for performance of coaching duties shall be paid only by USU, or as expressly approved in writing by the Director. To that end, Coach will not solicit or accept gifts of cash or of substantial value or accept hospitality, from any person, including without limitation, a person who is a "representative of the athletic interests of the University" as that term is defined in Governing Athletic Rules. Coach also recognizes that Coach is a State of Utah employee and, as such, must comply with the Utah Public Officers' and Employees' Ethics Act ("Utah Ethics Act") for public officials and state employees. Any violation of this provision as determined by USU will subject Coach to disciplinary action, up to and including discharge. Discharge under this provision will constitute "for cause" termination under the Agreement.

5.6. Other Activities. Coach shall not undertake any business, professional, or personal activities or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of USU, would reflect adversely upon USU or its athletic programs. To avoid entering into an agreement in conflict with a USU contract or commitment, or an agreement which would not be in USU's best interest, Coach shall submit to USU for review and approval prior to execution any agreement between Coach and a third party which relates in any way to Coach's employment at USU (including consulting or equipment agreements that relate to camps); however, USU shall not unreasonably withhold such approval. Coach must also report such outside income to USU in accordance with NCAA rules and USU policy. Coach shall avoid any conflict of interest and comply with USU's Conflicts of Interest policy. Coach shall not participate in any business transactions or endorse any products or appear on any radio or, television, internet, or any other programs, which may discredit or bring undue criticism to USU or impinge upon any contractual obligations of USU or, which in USU's sole but reasonable discretion, are otherwise not in the best interests of USU or which violate University Rules or state law.

5.7. Media, Promotions and Public Relations. Coach shall perform any services relating to the media, promotions and public relations as designated by the Director. Coach understands that, if requested by the Director or the Director's designee, Coach shall use Coach's best efforts (schedule permitting) to be available for interviews and other outside appearances.

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

b) Coach agrees, if requested by the Director or the Director's designee, to provide Coach's services to and perform on the Programs and to cooperate in the production, broadcasting, and telecasting of the Programs. Coach agrees to perform all other duties as reasonably requested by USU in order for the Programs to be successful. Coach also agrees to participate, if requested and as mutually agreed, in providing content to any USU website featuring Coach or the Team (as currently exists or may exist in the future) to either USU or USU's then-current third-party rights holder of such website.

c) Coach also agrees to, and hereby does, assign to USU or its then-current rights holder of one or more of the Programs all right, title and interest in Coach's name, nickname, initials, autograph, facsimile signature, likeness, photograph, and derivatives thereof, and Coach's picture, image and resemblance and other indicia closely identified with Coach (collectively the "Property") in connection with the Programs. The assignment includes, but is not limited to, intellectual property rights under any and all trademarks and copyrights and any applications therefore which have been obtained or filed, or may be filed in the future with respect to the Property. Coach further agrees to, and hereby does, assign to USU the Property associated with all previously broadcast, recorded or stored Programs. Nothing contained herein shall limit Coach's ability to use the Property in activities not associated with the Programs (subject to the approval provisions of Section 5.6. of this Agreement).

d) These provisions related to media, promotions and public relations shall be subject to renegotiation at any time Coach's underlying employment agreement is renegotiated or if USU decides to produce and market one or more of the Programs itself as opposed to selling the rights to produce and market one or more of the Programs to a third party.

e) Coach and Director agree to coordinate regarding Coach's media, promotions, and public relations responsibilities so that such responsibilities do not unreasonably interfere with Coach's Team and student athlete responsibilities.

5.8. Apparel, Shoe or Equipment Contracts. Coach agrees that USU has the exclusive right to select footwear, apparel and/or equipment for the use of its student-athletes and staff during official practices and games. Coach recognizes that, as of the Effective Date, USU has entered into an agreement with NIKE to supply USU with athletic footwear, apparel and/or equipment. Coach further agrees that he will not endorse any athletic footwear, apparel and/or equipment products, including NIKE, and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products, including NIKE.

5.9. Other Prospective Employment. Coach agrees to provide the Director with written notice prior to engaging in substantive discussions or negotiations for prospective employment with any other entity, including specifically any institution of higher learning or with any professional athletic team.

5.10. Trademarks. Coach may not associate USU's name, logos, trademarks, symbols, insignias, indicia, service marks or reputation in connection with any such arrangements, directly or indirectly, without the prior written approval of the Director and USU's Office of Trademark and Licensing Services. In the event that the Director and USU's Office of Trademark and Licensing Services give permission to Coach to use USU's name, logos, trademarks, symbols, insignias, indicia, service marks or reputation, such permission shall be non-exclusive and non-transferable, and such permission shall automatically expire upon Coach's resignation or termination from employment or upon written notice from USU.

5.11. Accounting of Income and Benefits. In accordance with NCAA and/or University rules, Coach shall provide a written detailed account (including the amount and source of all such income) to USU's President and the Director for all athletically related income and benefits from sources outside USU whenever reasonably requested, but in no event less than annually. Sources of such income shall include, but are not limited to, the following: (i) income from annuities; (ii) non-USU sports camps, clinics, and competitions; (iii) sports commentary at non-USU athletic events; (iv) country club memberships; and (v) fees for speaking engagements, etc. The approval of such athletically related income and benefits shall be consistent with University Rules related to outside income and benefits, if any, applicable to all full-time or part-time employees.

5.12. Assistant Coaches. Unless otherwise prohibited by University Rules, Coach shall have the responsibility and the sole authority to recommend to the Director the hiring of assistant coaches for the Team, with the final hiring decision to be made mutually by the Coach and the Director; provided that, when necessary or appropriate, such hirings be subject to the approval of USU's Board of Trustees. Subject to final approval of the Director, the Coach may terminate Team assistant coaches or make other employment sanction decisions regarding any Team assistant coach. The USU Athletic Department will annually (i) allocate a salary pool of five hundred sixty-five thousand dollars (\$565,000) to the basketball program to fund assistant basketball coach positions and other basketball operations and administrative positions, (ii) reserve an incentive compensation pool of up to forty-seven thousand and eighty-three dollars (\$47,083) for assistant coach incentive compensation associated with the Team being granted an at-large NCAA Tournament Bid.

5.13. Game Scheduling. Subject to University Rules and Governing Athletic Rules, the Director or the Director's designee has the right to contract for and establish the schedule of USU's Team, and to negotiate the terms of the various game contracts, as well as accepting invitations for pre-season or post-season play. Coach shall be reasonably consulted by the Director or the Director's designee as to the identity of opponents, playing site and time of play for any games hereafter scheduled. Although Coach and the Director or the Director's designee shall meet at least annually to discuss potential opponents, Coach may suggest potential opponents or discuss scheduling concerns at any time.

5.14. Athletic Conference. USU reserves the sole right to associate or disassociate with any athletic conference.

6. Termination by USU for Cause

6.1. Termination by USU for Cause. At all times, Coach serves at the pleasure of the Director. If the Director notifies (pursuant to Section 6.2) Coach at any time that USU is terminating this Agreement *for cause*, then no further payment or benefits shall be made to Coach as of the date of said termination outside of any earned but unpaid compensation (including, if applicable, Base Salary, Incentive Compensation, and/or Media Compensation, all of which shall be paid, if applicable, on a pro rata basis). *For cause* termination shall be defined as:

a) Insubordination, including but not limited to, deliberate and serious failure to follow reasonable instructions from the Director of Athletics or deliberate and serious failure to comply with University Rules or Governing Athletic Rules.

b) Neglect or inattention by Coach to the duties of head coach or Coach's refusal or inability to perform such duties after written notice has been given to Coach by the

Director or as determined by the Director, and Coach has continued such neglect, inattention, refusal or inability during a subsequent reasonable period specified by USU; or

c) A significant or repetitive or intentional violation of Governing Athletic Rules (or a pattern of conduct which may constitute or lead to an NCAA Level I or Level II violation) by Coach, as determined by USU; or

d) A significant or repetitive or intentional violation of any laws, University Rules, or Governing Athletic Rules (or a pattern of conduct which may constitute or lead to an NCAA Level I or Level II violation) by any person under Coach's supervision or direction (including, but not limited to, assistant Team coaches, Team operations personnel, and student-athletes) if Coach knew or should have known of the violation/conduct and failed (i) to use reasonable and timely best efforts to prevent the violation/conduct; and (ii) to immediately report the same to the Director; or

e) A material breach of contract terms, as determined by the Director, or

f) Any criminal conduct (excluding minor traffic violations); or

g) A material violation by Coach of any University Rules; or

h) A violation by Coach of the Utah Ethics Act; or

i) A violation by Coach of Utah Code Ann. 53B-7-106 (Personal use expenditures for officers and employees of institutes of higher education); or

j) A violation by Coach of any law of the State of Utah or the United States, that is seriously or materially prejudicial to the best interests of USU, as determined by USU; or

k) Fraud or dishonesty of Coach in the performance of Coach's duties or responsibilities under this Agreement as determined by USU; or

l) Fraud or dishonesty of Coach in preparing, falsifying, submitting, or altering documents or records of USU, NCAA or the Conference, or documents or records required to be prepared or maintained by law, Governing Athletic Rules or University Rules, or other documents or records pertaining to any recruit or student athlete, including without limitation, expense reports, transcripts, eligibility forms or compliance reports, or permitting, encouraging or condoning such fraudulent or dishonest acts by any other person, as determined by USU; or

m) Failure by Coach to respond accurately and fully to any request or inquiry relating to the performance of Coach's duties hereunder or the performance of Coach's duties during Coach's prior employment at any other institution of higher learning propounded by USU, NCAA, the Conference or other governing body having supervision over the athletic programs of USU or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as determined by USU; or

n) Counseling or instructing by Coach of any coach, student, or other person to fail to respond accurately and fully to any request or inquiry concerning a matter relevant to USU's athletic programs or other institution of higher learning which shall be propounded by USU, NCAA, the Conference or other governing body having supervision over the athletic programs of USU or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as determined by USU; or

o) A significant or repetitive or intentional failure by Coach to manage the Team in a manner that reflects the academic values of USU, as determined by USU; or

p) A significant or repetitive or intentional failure to promote and/or protect the safety, health, or welfare of USU student athletes to the best of his ability, as determined by USU; or

q) Soliciting, placing or accepting by Coach of a bet on any intercollegiate or professional athletic contest, or permitting, condoning or encouraging by Coach of any illegal gambling, bookmaking or illegal betting involving any intercollegiate or professional athletic contest whether through a bookmaker, a parlay card, a pool or any other method of organized gambling; or furnishing by Coach of information or data relating in any manner to basketball or any other sport to any individual known by Coach to be a gambler, better or bookmaker, or an agent of any such person, or the consorting or associating by Coach with such persons, as determined by USU; or

r) Use or consumption by Coach of alcoholic beverages, drugs, controlled substances, steroids or other chemicals as to impair Coach's ability to perform Coach's duties hereunder, or failure by Coach to fully cooperate in the enforcement and implementation of any drug testing program established by USU for student athletes, as determined by USU; or

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

t) Failure by Coach to report promptly to the Director or his designee in writing any violations or potential violations known to Coach of Governing Athletic Rules or University Rules including, but not limited to, those by Coach, the assistant coaches, students or other persons under the direct control or supervision of Coach, as determined by USU; or

u) Failure by Coach to obtain prior approval for outside activities as required by Section 5.6 of this Agreement and by NCAA rules; or

v) A significant or repetitive or intentional failure by Coach to report accurately all sources and amounts of all income and benefits as required by NCAA and/or University Rules, as determined by USU; or

w) Commission of or participation in by Coach of any act, situation, or occurrence or any conduct which, in USU's judgment, brings or may bring Coach and/or USU into serious public disrepute, embarrassment, contempt, scandal, or ridicule or which constitutes a substantial failure to perform in good faith the duties required of Coach as set forth in this Agreement or failure by Coach to conform Coach's personal conduct to conventional standards of good citizenship, with such conduct offending prevailing social mores and values and/or reflecting unfavorably upon USU's reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud, or violence that may or may not warrant arrest by the relevant authorities.

6.2. Notice. If USU terminates this Agreement *for cause*, it shall give written notice to Coach of its intention to so terminate this Agreement. Termination shall be effective upon Coach's receipt of the notice.

6.3. Termination for Cause/Loss of Compensation and Benefits. In the event this Agreement is terminated *for cause*, Coach shall NOT be entitled to receive any further compensation or benefits under this Agreement which have not been earned as of the date of termination (Coach is not deemed to have earned bonuses and supplemental compensation which Coach must repay to USU). In no case shall USU be liable to Coach for the loss of any collateral business opportunities, or any other benefits, perquisites, income or consequential damages suffered by Coach as a result of USU's termination of Coach's employment. In the event this Agreement is terminated by USU, Coach shall repay to USU all bonuses and supplemental

compensation received by Coach for the achievement of any specified milestone, objective or exceptional achievement set forth in Section 4.2, if such achievement is subsequently vacated by USU or the NCAA, if such vacation is due, in whole or in part, to the wrongful actions of Coach, as determined by USU or the NCAA.

6.4. **NCAA Considerations.** The Parties recognized that this sub-section encompasses findings or determinations of violations during employment of Coach at USU or any other institution of higher learning. As required by NCAA Bylaw 11.2.1, Coach is hereby notified that in addition to the actions USU may take in accordance with this Agreement, Coach is also subject to disciplinary or corrective action by the NCAA as set forth in the provisions of the NCAA enforcement procedures if Coach is found by the NCAA or USU to be in violation of NCAA Bylaws. Coach agrees that USU shall implement any such disciplinary or corrective actions imposed by the NCAA. Coach agrees that USU shall implement any such disciplinary or corrective actions imposed by the NCAA.

7. Termination For Convenience

7.1. **Liquidated Damages.** Subject to the terms of this Agreement, either USU and Coach may terminate this Agreement for convenience (also commonly referred to as a without cause basis). In the event either USU or Coach terminates this Agreement for convenience during the Term, including any extension thereof, the terminating Party will be responsible to pay liquidated damages in the amount of seventy-five percent (75%) of the pro-rated amount of the Total Base Compensation for all years remaining in the Term, had the Agreement not been terminated, as set forth below:

Contract Year	Total Base Compensation
Year 1	\$650,000
Year 2	\$675,000
Year 3	\$700,000
Year 4	\$725,000
Year 5	\$750,000

The "Total Base Compensation" is the Base Salary plus the Media Compensation as set forth in this Agreement and specifically excludes all other forms of compensation, including, but not limited to, the value of any USU benefits (health, retirement, life insurance, etc.), vehicle access, unachieved incentive compensation, youth sports camps, etc. If Coach is terminated by USU for convenience, other than achieved incentives, USU will not be obligated to pay any other amounts, benefits, or damages to Coach. Coach agrees that such liquidated damages shall fully compensate Coach for the loss of collateral business opportunities (whether media, public relations, camps, clinics, apparel or similar contracts, sponsorships or any other supplemental or collateral compensation or benefits of any kind) and Coach shall not be entitled to any further compensation and benefits under this Agreement.

7.2. **Notice.** If either Party terminates this Agreement for convenience, it shall give written notice to the other Party of its intention to so terminate this Agreement. Termination shall be effective upon the receiving Party's receipt of the notice.

7.3. **Re-Employment.** If USU terminates the Agreement for convenience, then Coach agrees to immediately seek re-employment as a head or assistant coach with compensation in keeping with fair market compensation rates. USU will be entitled to off-set its liquidated damage obligation by any employment compensation received by Coach after termination of this

Agreement, whether from athletic-related or non-athletic related sources. Under such a circumstance, Coach agrees to immediately inform USU in writing of any re-employment. If Coach fails to take reasonable steps in good faith to seek re-employment or seek compensation in keeping with fair market compensation rates, then USU may, at its discretion, withhold liquidated damages on a pro rata basis for any period of time where Coach is deemed to not be seeking re-employment in good faith.

7.4. Payment Schedule. If USU terminates the Agreement for convenience, then the liquidated damages set forth in Section 7.1 and qualified by the terms of re-employment set forth in Section 7.3 shall be paid to Coach in substantially equal monthly installments for a period of time equal to any remaining Term, had the Agreement not been terminated. If Coach terminates the Agreement for convenience, then the liquidated damages set forth in Section 7.1 shall be paid to USU within ninety (90) days of the Coach's notice of termination.

7.5. Release. If Coach is terminated by USU for convenience, then the Coach agrees that any payment obligation by USU shall be conditioned on Coach executing a comprehensive release in the form determined from time to time by USU in its sole and reasonable discretion. Generally, the release will require the Coach, on behalf of his successors, heirs, distributees, devisees, legatees and assigns to release and forever discharge USU and its trustees, officers, employees, directors, agents, attorneys, successors and assigns from any and all claims, suits and/or causes of action that grow out of or are in any way related to Coach's employment with USU, other than any claim that USU has breached this Agreement. This release will include, but not be limited to, any claim that USU violated the Public Health Services Act; 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, including in violation of public policy; claims of promissory estoppel or detrimental reliance, defamation, intentional infliction of emotional distress; or the public policy of any state; or any federal, state or local law relating to any matter contemplated by Coach. Coach understands and agrees that if the Coach fails to execute the release, Coach thereby agrees to forego any payment from USU. Coach acknowledges that Coach is an experienced person knowledgeable about the claims that might arise in the course of employment with USU 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. For purposes of this Section, any reference to Coach's "termination of employment" (or any form thereof) shall mean Coach's "separation from service" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), and Treasury Regulation Section 1.409A-1(h).

7.6. Recruitment. If this Agreement is terminated for convenience by Coach, then Coach shall not for a period of one (1) year after such termination by Coach recruit any high school athlete previously recruited by USU, unless such athlete had been recruited by any new institution employing Coach prior to the notice of termination by Coach to USU, unless otherwise agreed to by USU.

8. Effect of Termination and Additional Termination Provisions

8.1. Records and Information. Upon termination of this Agreement, whether for cause or for convenience, Coach agrees that all materials or articles of information, including, without limitation, personnel records, recruiting records, Team information, films, statistics or any other material or data, furnished to Coach by USU or developed by Coach on behalf of USU or at

USU's direction or for USU's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of USU. Within seventy-two (72) hours of the expiration of the Term or its earlier termination as provided herein, Coach shall immediately cause any such materials in Coach's possession or control, including, but not limited to, all keys, credit cards, telephones and computers (including all other technological devices) to be delivered to USU.

8.2. Obstruction. In the event of termination, whether for cause or for convenience, Coach agrees that Coach will not obstruct USU's ability to transact business. If Coach violates this provision, Coach will not be entitled to any post-termination benefits and will be required to return any that have been disbursed.

8.3. Death or Disability. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate automatically and shall be null and void upon the death of Coach or if Coach becomes disabled (as defined in Section 409A (a)(2)(C)) of the Internal Revenue Code or is otherwise unable to perform the essential functions of the job, with or without a reasonable accommodation immediately upon demand by USU. Under such a circumstance, no right, duty, obligation, payment, benefit, or any form of compensation shall be due to the Coach's heirs or estate.

9. Waiver

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

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

10. Miscellaneous

10.1. Choice of Law and Venue. The Agreement will be governed by the laws of the State of Utah, without regard to conflicts of laws principles. Venue for any lawsuits, claims, or other proceedings between the Parties relating to or arising under the Agreement shall be exclusively in the State of Utah.

10.2. Tax Advice. USU will not provide tax advice to Coach regarding the tax effects of this Agreement. USU encourages Coach to consult with independent tax advisors concerning the federal, state, and local tax effects of this Agreement. This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code and, to the maximum extent permitted by law, shall be administered, operated and construed consistent with this intent.

10.3. Attorneys' Fees and Costs. If Coach breaches any terms of this Agreement, to the extent authorized by Utah law, then Coach will be responsible for payment of all reasonable attorneys' fees and costs that USU incurred in the course of enforcing the terms of the Agreement, including demonstrating the existence of a breach and any other contract enforcement efforts. If USU breaches any terms of this Agreement, to the extent authorized by Utah law, then USU will be responsible for payment of all reasonable attorneys' fees and costs that Coach incurred in the course of enforcing the terms of the Agreement, including demonstrating the existence of a breach and any other contract enforcement efforts.

10.4. Government Records and Management Act. Coach acknowledges that USU is a governmental entity subject to GRAMA; that certain records within USU's possession or control, including without limitation, the Agreement, may be subject to public disclosure; and that USU's confidentiality obligations shall be subject in all respects to compliance with GRAMA. Pursuant to Section 63G-2-309 of GRAMA, any confidential information provided to USU that Coach believes should be protected from disclosure must be accompanied by a written claim of confidentiality with a concise statement of reasons supporting such claim. Notwithstanding any provision to the contrary in the Agreement, USU may disclose any information or record to the extent required by GRAMA or otherwise required by law, and to USU's employees, attorneys, accountants, consultants and other representatives on a need to know basis; provided, that such representatives shall be subject to confidentiality obligations no less restrictive than those set forth in the Agreement.

10.5. Notice. Any payment, notice, or other communication required or permitted to be given to either Party hereto shall be in writing and shall be deemed to have been properly given and effective: (a) on the date of delivery if delivered in person during recipient's normal business hours; or (b) on the date of attempted delivery if delivered by courier, express mail service or first-class mail, registered or certified. Such notice shall be sent or delivered to the respective addresses listed in the opening clause of this Agreement.

10.6. Assignment. Neither Party may assign, transfer, or otherwise dispose of its rights, interests, or duties hereunder, in whole or in part, to any third party without the other Party's prior written approval.

10.7. No Third Party Beneficiaries. The Parties do not confer any rights or remedies upon any person other than the Parties to this Agreement.

10.8. Relationship of Parties. In assuming and performing the obligations of this Agreement, the Parties are each acting as independent parties and neither shall be considered or represent itself as a joint venture, partner, agent or employee of the other.

10.9. Amendment. Any amendment and/or supplement of this Agreement shall come into force only after a written agreement is signed by both Parties. The amendment and supplement duly executed by both Parties shall be part of this Agreement and shall have the same legal effect as this Agreement.

10.10. Merger. This Agreement embodies the entire understanding of the Parties and supersedes all previous communications, representations, or understandings, either oral or

written, including the March 25, 2018 Offer Letter, between the Parties relating to the subject matter thereof.

10.11. Severability. The provisions of this Agreement are severable, and if any provision of this Agreement shall be determined to be invalid or unenforceable under any controlling body of the law, then such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions herein.

IN WITNESS THEREOF the Parties have caused this Agreement to be duly executed on their behalf by a duly authorized representative as of the Effective Date set forth above.

UTAH STATE UNIVERSITY

By: [Signature]

John Hartwell

Vice President and Director of Athletics

Date: 9/17/18

By: [Signature]

David T. Cowley

Vice President of Business and Finance

Date: 9/28/18

CRAIG SMITH

By: [Signature]

Date: 9/14/18