
**FLORIDA A&M UNIVERSITY
HEAD COACH-MEN'S BASKETBALL
EMPLOYMENT AGREEMENT**

This **EMPLOYMENT AGREEMENT** (“**Agreement**”) is entered into by and between Florida Agricultural and Mechanical University Board of Trustees, (“**FAMU**” or “**University**”), and Robert L. McCullum (“**Coach**”). This Agreement is subject to the U.S. and Florida Constitutions and laws as constitutionally permissible, and the rules, regulations, policies, and procedures of the Florida Board of Governors and FAMU, the Board of Trustees and the University, as now existing, amended, or hereafter promulgated. The University and Coach are individually referenced “**Party**” and collectively referenced as “**Parties**.”

RECITALS

WHEREAS, the University is in need of the services of an athletic coach to coach the University’s Men’s Basketball team; and

WHEREAS, the Coach represents that he meets the University’s qualifications for the position of Head Men’s Basketball Coach and is available for employment in this capacity with the University; and

WHEREAS, the Parties desire to set forth the terms of this Agreement in writing.

In consideration of the mutual covenants, promises and conditions in this Agreement, the University and Coach agree as follows:

TERMS

1.0 EMPLOYMENT

- 1.1 Subject to the terms and conditions for employment with the University and stated in this Agreement, University employs Coach as Head Men’s Basketball Coach with the University’s intercollegiate Men’s Basketball Program (“**Program**”), and Coach understands, agrees to and accepts the terms and conditions for employment outlined in this Agreement including without limitation to Section 1012.80, Florida Statutes and the U.S. and Florida Constitutions and laws as constitutionally permissible, the rules, regulations, policies and procedures of the Florida Board of Governors and the University as now existing, amended, or hereafter promulgated.
- 1.2 Coach shall work under the direct supervision of the University’s Director of Athletics (“**Athletic Director**”) or Athletic Director’s designee, and shall confer with the Athletic Director on all matters requiring administrative and technical decisions. Coach shall be under the overall general supervision of the President of the University. The Athletic Director and Coach shall confer with the President if a problem cannot otherwise be resolved.

- 1.3 Coach shall lead, manage and supervise the Program, and perform such other duties consistent with the Program that may be assigned.

2.0 TERM

- 2.1 The appointment shall commence on June ___, 2017, and end on June ___, 2020, and is subject to the U.S. and Florida Constitutions and laws as constitutionally permissible, the rules, regulations, policies and procedures of the Florida Board of Governors and the University as now existing, amended or hereafter promulgated, and the conditions stated herein, including without limitation section 5.0. This appointment and any renewal or extension is also subject to the approval of the FAMU Board of Trustees.
- 2.2 This Agreement may be renewed beyond the period provided in paragraph 2.1 solely upon an offer from the University and acceptance by Coach, both of which must be in writing and signed by both Parties. This employment in no way grants Coach a claim to property interests or tenure in employment, or any years of employment attributable to tenure within the University.

3.0 COMPENSATION AND OTHER EMPLOYMENT INCENTIVES

- 3.1 In consideration for services and satisfactory performance of the conditions of this Agreement by Coach, University promises to provide Coach an annual salary of \$150,000, effective June ___, 2017. The University's performance and obligation to pay under the Agreement is contingent upon the availability of funding and funds budgeted and approved annually by the FAMU Board of Trustees for its purposes. It is agreed that the compensation so paid shall be subject to the same payroll deductions and withholdings that apply to the University's Administrative and Professional (A&P) employees and as required by applicable state and federal laws and University rules, regulations, policies and procedures.
- 3.2 *Standard University Fringe Benefits.* Coach shall be entitled to standard University benefits provided to other regular, full-time employees of the University in A&P classification, including, but not limited to, group insurance, vacation with pay, retirement programs, etc., and shall be eligible to participate in voluntary payroll deduction programs on the same basis and with the same employer contributions that apply to the University's A&P Services employees and as required by applicable state and federal laws and University rules, regulations, policies and procedures.
- 3.3 *Merit or Cost of Living Increases.* During the term of this Agreement, Coach shall be eligible for merit and/or cost of living increases as the University may provide to A&P employees of the University. Such merit increases shall be based on Coach's job duties and responsibilities, as distinguished from his win-loss record, and based upon the same process used for other A&P employees and shall take into account prior evaluations and the expectations and goals as established with the Athletic Director.

3.4 *Incentive Compensation (if earned)*. Subject to the availability of funds, the Coach may receive the following performance incentives for the Program's improvement and exemplary performance (athletic and academic) and no others. Performance incentives will be awarded annually, if earned. The cumulative amount of annual incentives earned may not exceed one (1) month salary of Coach. Any incentive compensation will be paid from Athletics, the Rattler Boosters, Inc., or from funds designated for athletics administration in FAMU Foundation, Inc., and shall be subject to the availability of funds. Said incentives shall accrue after attainment of the goal or official announcement of the honor and will be payable only if the Coach remains employed by the University as Head Men's Basketball Coach on March 31st following the event(s) and actively coaches the team as of the date of any of the achievements or honors. Specifically, Basketball Head Coach Performance Bonuses are as follows:

3.4.1 Academic Performance Incentives – Commencing July 1, 2017, and for each academic year thereafter that Basketball team players achieve:
(i) a graduation rate that equals or exceeds 85% based on the NCAA Graduation Success Rate (GSR) or a succeeding model, and
(ii) the team's Academic Progress Rate (APR) as calculated by the NCAA is above the NCAA defined cut score,

the University shall pay the Coach Five Thousand Dollars (\$5,000).

3.4.2 Athletic Performance Incentives – Athletic Conference and NCAA. The University shall pay no more than one (1) month's base salary for any one or combination of the following:
(i) Athletic Conference Championship (as the Athletic Conference defines the Conference Champion);
(ii) Tournament Championship;
(iii) Athletic Conference – Men's Coach of the Year; or
(iv) Athletic Performance Incentives – NCAA National Men's Coach of the Year by the American Basketball Coaches Association.

3.5 *Other Miscellaneous Compensation and Benefits*. In addition to the annual and incentivized compensation and benefits as provided above, Coach shall be provided with the following miscellaneous compensation and benefits associated with his position as Head Men's Basketball Coach of the University's Program.

3.5.1 Coach shall have eight (8) complimentary tickets provided to him by the University, at no charge, for all University sporting events.

3.5.2 Coach, subject to state law, NCAA, and University rules, regulations, policies and procedures, may conduct and run summer youth basketball camps beginning in the summer of 2017. Coach shall have the opportunity to use University facilities to conduct these camps subject to and in accordance with University regulations, policies, and procedures applicable to facility use and summer camps. The University does not guarantee or provide any supplemental compensation for the operation of on-campus summer camps.

3.5.3 Subject to availability and compliance with appropriate statutes, rules, regulations, policies and procedures, the Coach will be provided a courtesy car.

3.6 Outside Income. While Coach is employed as Head Men's Basketball Coach at the University, he shall have the opportunity to pursue and engage in outside commercial endorsement activities and personal appearances that Coach secures on his own initiative including, but not limited to, radio shows, television appearances, personal appearances representing the University Program, apparel and footwear. These outside activities and appearances shall not conflict with any duties or activities referenced in this Agreement, University contracts, rules, regulations, policies, and procedures, the NCAA, or the Mid-Eastern Athletic Conference ("MEAC"). Further, Coach shall obtain prior written consent from the Athletic Director before pursuing any outside activity.

3.6.1 Coach shall maximize radio and television coverage favorable to the University, but shall receive remuneration for such appearances, for any endorsements, or public presentations only upon securing prior written consent as noted in Section 6.0 hereof. Coach shall promote the Program in a positive manner and also create goodwill with the outside sponsors of these appearances. The Parties agree that the University shall own all rights in and to the master game tapes and highlight tapes produced in connection with these appearances.

3.6.2 Coach shall be entitled to deliver, make and grant speeches, appearances, and media interviews as well as write and release books, magazines and newspaper articles or columns, and to retain any and all income derived therefrom as noted in Section 6.0. However, any and all speeches given pursuant to this sub-section must be given by Coach in his individual capacity, and not in his official capacity as a University employee. It is also expressly understood and agreed that this sub-section does not pertain to any speech or appearance at a University-sponsored function. Any and all activities performed hereunder shall be subject to and carried out in accordance with Florida Board of Governors and FAMU intellectual property regulations, policies and procedures.

3.7 Game Guarantees. Men's Basketball game guarantee amounts received by Florida A&M University Athletics in excess of \$750,000 may be used by the Head Coach towards basketball operations for the fiscal year during which the guarantees are to be received. The Coach must specify intended use in writing for approval to the Athletic Director, or designee, of the aforementioned funds in excess of \$750,000 prior to May 1, before the start of each applicable fiscal year. Funds may not be used until written approval is received by the Director of Athletics or designee.

4.0 COACH'S DUTIES

4.1 In consideration of Coach's annual compensation and other benefits, Coach promises and agrees to be held directly accountable for the Program's budget, scheduling, recruiting, training and other duties as follows, and Coach shall:

- 4.1.1 Faithfully and conscientiously devote his best efforts to perform the coaching duties stated herein, and assigned by the Athletic Director and President;
- 4.1.2 Devote his full-time attention and energy to the duties of Head Men's Basketball Coach as required herein to the administration, management and promotion of the University's Program, and in such a manner as to reflect positively on the image and reputation of the University and which is consistent with University rules, regulations, policies and procedures; NCAA by-laws, rules, regulations and interpretations; and, MEAC by-laws, rules, regulations and interpretations;
- 4.1.3 Coach shall not engage in any activity directly or indirectly that would prevent Coach from devoting full-time to performance of the duties under this Agreement or that would embarrass the University or detract in any manner from the duties outlined herein, including, but not limited to, criminal arrests, prosecutions, convictions and/or guilty or nolo contendere pleas to first degree misdemeanors or felonies;
- 4.1.4 Know, recognize, and comply with and monitor compliance by student-athletes and assistant coaches with the laws, rules, regulations, policies and procedures governing the University and its employees, the constitution, by-laws, rules, and regulations of the NCAA and the MEAC, or any other conference or organization the University becomes a member of during the term of this Agreement, as now constituted or as they may be amended during the term hereof. Coach shall immediately notify the President, Vice President and Vice President of Audit and Compliance if Coach has reason to believe that a violation(s) has occurred or will occur and shall fully cooperate in any investigation of possible NCAA or MEAC violations conducted or authorized by the University, NCAA or MEAC;
- 4.1.5 Promote, supervise, and ensure that the assistant coaches and any other employees, for whom Coach is directly or indirectly administratively responsible, comply with the aforesaid laws, rules, regulations, policies and procedures, in accordance with NCAA Bylaw 11.1.2.1, as now or hereafter amended;
- 4.1.6 Administer, manage and lead the Program in such a manner as to allow it to effectively compete in the NCAA and MEAC;
- 4.1.7 Develop programs and procedures, in conjunction with the Office of Academic Services, with respect to the education, evaluation, recruitment, training, and coaching of student-athletes to compete successfully in academics and athletics while ensuring the welfare of student-athletes;
- 4.1.8 Cooperate with the University administration in monitoring the academic progress of student-athlete basketball players to facilitate pursuit of a baccalaureate degree. This includes, but is not limited to, ensuring that all academic standards, requirements and policies of the University, NCAA and MEAC are effectively adhered to at all times by Coach and members of the coaching staff regarding the recruiting and eligibility requirements of prospective and current student-athletes for the Program; also, promote an environment in which admissions, financial aid

and academic services for student-athletes and recruiting can be conducted consistent with the University's mission. The University's academic standards, requirements and policies shall be observed by the Coach and members of his staff, including assistant coaches, at all times and shall not be compromised or violated at any time;

- 4.1.9 Encourage student-athletes to perform to their highest academic potential, which shall be evaluated by APR, obtain the highest grade possible, graduate timely, and work in cooperation with and in support of the University's faculty, academic advisors and administrative officials to ensure that all student-athletes' academic requirements are met;
- 4.1.10 Ensure that all student-athletes recruited for the University's Program receive the utmost guidance from both Coach and his coaching staff regarding the importance of academic performance. This includes, but is not limited to, proper academic counseling by the University, which allows every opportunity for all student-athletes to meet the degree requirements necessary to graduate from the University;
- 4.1.11 Recruit, coach and train student-athletes who have good moral character, talent, and are academically able to compete at the collegiate level while demonstrating concern for their well-being. This includes ensuring that student-athletes are conducting themselves in an appropriate manner that will reflect positively on the University and the Program, both on and off the basketball court;
- 4.1.12 Discipline student-athletes for violations of Program rules, regulations, policies and/or procedures, or conduct detrimental to the Program; however, conduct of student-athletes in violation of the Student Code of Conduct (FAMU Regulation 2.012) shall be subject to discipline by the University;
- 4.1.13 Maintain and cultivate effective relations with the NCAA, MEAC, University alumni, media, public, students, faculty, staff and friends of the University with respect to the Program;
- 4.1.14 Keep public statements complimentary to the Program and the University;
- 4.1.15 Perform all other duties customarily performed by Head Men's Basketball Coaches serving other NCAA and MEAC member institutions;
- 4.1.16 Schedule yearly intercollegiate games subject to the final approval of the Athletic Director;
- 4.1.17 Provide evaluations of the Program and assistant basketball coaches to the Athletic Director within forty-five (45) days after the last game of each season; and
- 4.1.18 Perform all other duties as assigned by the Athletic Director or the President.

5.0 TERMINATION

- 5.1 Any non-reappointment, separation, or termination of this Agreement by FAMU prior to the TERM set forth in section 2.1 and any extension/renewal set forth in 2.2 may occur in accordance with FAMU Board Regulations, including without limitation FAMU Board Regulations 10.105 and 10.106, now existing or hereafter amended and/or promulgated.
- 5.2 The University shall also have the right to terminate this Agreement for cause at any time prior to its expiration, upon written notice to Coach, for the following reasons, which also constitute a breach of this Agreement:
- 5.2.1 Deliberate and serious violations of duties as set forth in this Agreement or the refusal or unwillingness to perform such duties;
 - 5.2.2 A violation of any term or condition of this Agreement not remedied after thirty (30) days written notice to Coach from the Athletic Director;
 - 5.2.3 Engaging in conduct which is unlawful, dishonest or immoral; conduct which constitutes moral turpitude as defined by state or federal statutes or as adjudicated by a court of competent jurisdiction or administrative tribunal; conduct in violation of any federal or state law, rule, regulation, policy or procedure; conduct in violation of any by-law, rule, regulation, policy or procedure of the NCAA, MEAC, Board of Governors or the University, including any such violation that may have occurred during Coach's employment with the University; or conduct seriously prejudicial to the best interests of the University or the Program;
 - 5.2.4 Failure by Coach to timely report to the University President, Athletic Director, and Vice President of Audit and Compliance, any violation of NCAA or MEAC rules by any student-athlete, athletics staff member, or other representative of the University's athletics interests about which Coach knows or should have known;
 - 5.2.5 Failure by Coach to supervise the coaching staff or other basketball staff in a manner to prevent NCAA or MEAC violations;
 - 5.2.6 Significant violations, repetitive violations or major violations of any by-law, rule, regulation, policy or procedure of the NCAA or MEAC, which may adversely affect the Program or could result in the University being placed on probation or punished in any manner by the NCAA or MEAC.
 - 5.2.7 Prolonged absence, i.e. at least three (3) consecutive days, from the University without consent of the Athletic Director or the President.
- Failure to exercise this right to terminate as to any particular breach of this Section 5.2 shall not be deemed a waiver as to any future right to terminate.
- 5.3 In the event of any such termination by the University for "cause" as defined above in Section 5.2, the Coach's salary and any other benefits, as set forth above in Section 3.0,

shall terminate as provided in such written notice, and the University thereafter shall not be liable to Coach for any damages.

- 5.4 In the event that the University terminates this Agreement without cause prior to the TERM set forth in section 2.1 and any extension/renewal set forth in 2.2, the University's liability, if any, shall not exceed that which is prescribed in Section 215.425, Florida Statutes, less required deductions and applicable withholdings for federal, state, and local taxes.
- 5.5 If Coach, the FAMU Men's Basketball Program, any assistant coach, and/or any graduate assistant is found in violation of MEAC or NCAA by-laws, rules, regulations, policies or procedures while employed by the University or during prior employment at another NCAA member Institution, the Coach shall be subject to disciplinary or corrective action by the University and as set forth in the provisions of the NCAA enforcement procedures. In addition, Coach may be suspended for a period of time, without pay, or the Coach's employment may be terminated for such significant or repetitive violations of NCAA, MEAC or University rules, by-laws or regulations, policies or procedures.
- 5.6 Notwithstanding any other provision of this Agreement, the Agreement shall terminate automatically and immediately if:
- 5.6.1 Coach dies.
 - 5.6.2 Coach becomes incapacitated or disabled and is unable to perform the essential functions of his job with or without reasonable accommodations;
 - 5.6.3 When funding for this time-limited, Auxiliary funded position is eliminated or reduced; or
 - 5.6.4 The parties mutually agree in writing.
- 5.7 Termination by the Coach. Coach shall have the right to terminate this Agreement in the event that the University breaches its obligation to pay Coach's annual compensation in accordance with Section 1.1 of this Agreement. Coach must give at least thirty (30) days written notice of such breach to the Athletic Director. If the University fails to cure such breach within thirty (30) days after its receipt of such written notice, Coach may give notice of termination within thirty (30) days after such cure period.
- 5.8 The parties agree that should another coaching opportunity be presented directly or indirectly to Coach and/or any individual, firm, or entity acting on Coach's behalf or should Coach be interested in other coaching during the term of this Agreement, Coach shall notify the Director of Athletics of such opportunity or interest before any substantive discussions can be held by Coach and/or any individual or entity acting on Coach's behalf with any potential employer. This provision is essential to this Employment Agreement and violation thereof may be considered just cause for termination pursuant to subsection 5.2 of this Employment Agreement.

6.0 OUTSIDE EMPLOYMENT

- 6.1 Coach agrees not to personally, or through any agent, actively seek, negotiate for or accept other full-time or part-time employment of any nature during the term of this Agreement

without first having obtained prior written consent from the President and the Athletic Director as set forth in University Regulation 10.122. If such employment is approved, Coach hereby agrees:

- 6.1.1 Such outside activities shall not interfere with the full and complete performance by the Coach of the duties and responsibilities as provided herein;
- 6.1.2 Not to accept or receive, directly or indirectly, any monies, benefits or any other gratuity from any other person, corporation, representatives of athletics interests (as defined in NCAA Bylaw 6.4.2), or Alumni Association or benefactor, if such actions would violate NCAA, Conference, Florida Law, Florida Board of Governors, or University rules, regulations, policies, and procedures.
- 6.1.3 To report to the President and Athletic Director in writing annually, or more frequently if requested by the University, all athletically related income and/or benefits Coach receives from sources outside the University during the term of this Agreement. The University shall have reasonable access to all records of the Coach necessary to verify such reports and the Coach's compliance with this provision.
- 6.1.4 Such activities are independent of Coach's employment with the University, and the University shall have no responsibility or liability for any claims arising therefrom.

7.0 SUPPORT STAFF

7.1 Coach will have the ability to recommend the hiring and dismissal of assistant basketball coaches or other basketball staff subject to the approval of the President and the Athletic Director. Employment and discharge of such basketball assistants shall be effected under relevant Florida Law, Florida Board of Governors' and University rules, regulations, policies and procedures.

7.2 Support Staff Salary Pool. While Coach is employed as Head Men's Basketball Coach at the University, he shall have an available support staff salary pool not to exceed \$150,000.00, subject to the availability of funds.

8.0 UNIVERSITY PROPERTY

All material or articles of information, including, but not limited to, records, student records, Coach's records, statistics or any other material or data in any form or medium furnished to Coach by the University, or developed by Coach on behalf of the University, or at the University's or Coach's direction or supervision, are and shall remain the sole, proprietary and confidential property of the University.

9.0 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.

10.0 SEVERABILITY

If any provision of this Agreement shall be determined to be void, invalid, unenforceable or illegal for any reason by any Court of competent jurisdiction or because of NCAA by-laws, rules, regulations, policies or procedures, it shall be ineffective only to the extent of such prohibition and the validity and enforceability of all the remaining provisions shall continue to be in full force and effect and be binding upon the Parties.

11.0 IMPOSSIBILITY

University may cancel this Agreement at any time upon thirty (30) days' notice without further obligation due to a determination by the Florida Board of Governors or the FAMU Board of Trustees to eliminate the Program for lack of funds, or a decision to discontinue the Program made in accordance with applicable laws, rules, regulations, policies and procedures of any and all governing bodies.

12.0 ASSIGNMENT

This Agreement is for the performance of personal services. It is personal to Coach and may not be assigned to any other person or entity without the express written consent of the University.

13.0 GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation arising out of or in connection with this Agreement shall be in Leon County, Florida.

14.0 NOTICE

Any notice that is required or permitted to be given under this Agreement shall be sufficient if given in writing and shall be given by personal delivery, registered or certified mail to the Athletic Director's Office if to the University, or to Coach's residence, as such is on file in the Office of Human Resources, if to Coach.

15.0 ACKNOWLEDGMENT

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

16.0 ENTIRE AGREEMENT/MODIFICATION

This Agreement contains all the terms between the University and Coach with respect to the subject matter hereof and shall govern the respective duties and obligations of the Parties. Neither party is relying upon any representation not contained in this Agreement. This Agreement supersedes any prior written or oral representations, statements, negotiations, or agreements between the Parties, and any such representations, statements, negotiations, or agreements shall be null, void and of no force or effect. This Agreement cannot be changed, modified or amended in any respect except by a written instrument signed by authorized representatives of both Parties. An authorized representative for FAMU is the President of the University and an authorized representative for the Coach is _____.

IN WITNESS THEREOF, Coach and the authorized representatives of the University have executed this agreement on this ___ day of _____, 2017.

**FLORIDA A&M UNIVERSITY
BOARD OF TRUSTEES:**

COACH:

Larry Robinson, Ph.D.
Interim President

Robert L. McCullum
Head Basketball Coach

Milton Overton
Athletic Director

Approved as to form.

University Attorney