

## SEPARATION AGREEMENT

THIS SEPARATION AGREEMENT ("*Agreement*") is entered into on February 22, 2008, and is effective February 22, 2008 (the "*Effective Date*"), by and between THE TRUSTEES OF INDIANA UNIVERSITY, a statutory body politic of the State of Indiana ("*Indiana University*"), and KELVIN SAMPSON, an individual residing in the State of Indiana ("*Sampson*").

### RECITALS

WHEREAS, Indiana University and Sampson are parties to an Employment Agreement, dated April 20, 2006 (the "*Employment Agreement*"), pursuant to which Sampson was employed as the head men's basketball coach of Indiana University's men's intercollegiate basketball team; and

WHEREAS, the parties have agreed that the Employment Agreement shall be terminated and that Sampson separate from employment with Indiana University as of the Effective Date;

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Indiana University and Sampson hereby agree as follows:

### AGREEMENT

#### Section 1. Resignation; Full Satisfaction.

(a) Subject to the terms and conditions of this Agreement, Sampson hereby resigns, effective immediately, from the position of head men's basketball coach of Indiana University's men's intercollegiate basketball team. To the extent Sampson holds any other position or may claim a right to any other position as an employee or otherwise with Indiana University or any of its affiliates, Sampson also resigns and relinquishes all rights and benefits to any such position.

(b) The Employment Agreement is hereby terminated for all purposes and shall be of no further force or effect. Neither Indiana University nor Sampson shall have any rights or obligations under the Employment Agreement.

(c) Except as expressly set forth in this Agreement, Sampson shall not be entitled to any other compensation or benefits from Indiana University, including, without limitation, any other severance or termination benefits (whether pursuant to the Employment Agreement or otherwise).

(d) Sampson agrees that he has been paid all monies due to him from Indiana University on account of wages, compensation, commissions, bonuses, paid time off, benefits and all other entitlements in respect of Sampson's services on or prior to the Effective Date other than (i) payments to his regular compensation through the Effective Date at the rate in effect immediately prior to the Effective Date (i.e. taking into account the previously agreed upon

reduction of \$500,000) and (ii) reimbursements of reasonable and necessary expenses incurred prior to the Effective Date in accordance with Section 4.03 of the Employment Agreement and the past practices and policies of Indiana University (the "*Accrued Compensation and Reimbursements*").

(e) Sampson shall immediately return to Indiana University any and all property of Indiana University in his possession or control.

**Section 2. Compensation.** (a) Subject to the prior execution by Sampson (and delivery to Indiana University) of a Release in the form of Exhibit A attached hereto, as contemplated by Section 6 hercof (the "*Sampson Release*"), and so long as Sampson has not revoked the Sampson Release, Indiana University shall pay to Sampson the sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00) upon expiration of the seven (7) day revocation period, as further described in Section 6 (the "*Revocation Period Expiration Date*") with no notice of revocation having been delivered by Sampson to Indiana University or its legal counsel. If due in accordance with this Section 2, such payment shall be paid by Indiana University within five (5) days following the Revocation Period Expiration Date.

(b) Indiana University shall pay or reimburse, as applicable, Sampson for the Accrued Compensation and Reimbursements as of the Effective Date in accordance with the standard payroll and expense reimbursement practices and policies of Indiana University.

**Section 3. Taxes; No Gross-Up.** All amounts and benefits paid, provided or reimbursed to Sampson pursuant to Section 2 of this Agreement shall be subject to all applicable local, state and Federal income and employment taxes and other withholdings required by law. All amounts and benefits paid, provided or reimbursed to Sampson pursuant to Section 2 of this Agreement or otherwise shall be free of any obligation on the part of Indiana University or any of its Affiliates to compensate Sampson for the tax consequences directly or indirectly resulting therefrom.

**Section 4. Covenants and Agreements.**

(a) **Cooperation.** Sampson shall fully cooperate with Indiana University with respect to any NCAA investigation, proceeding or hearing relating to or directly or indirectly arising out of (i) Sampson's activities as the head men's basketball coach of Indiana University's men's intercollegiate basketball team or (ii) the operations or activities of Indiana University's men's intercollegiate basketball team or any coaches or staff members during the period from April 20, 2006 through and including the Effective Date (collectively, the "*NCAA Matters*").

(b) **Non-Interference and Encouragement.** Sampson shall not interfere in any way with the activities of the varsity men's basketball team and shall not discourage the current members from cooperating in the transition to a new head coach, from remaining active members of the team, and from playing to their full potential in all competition events.

**Section 5. Releases.** In exchange for the promises of Indiana University set forth herein, Sampson shall execute the Sampson Release in the form attached hereto as Exhibit A as soon as practicable following the date hereof, but after having been given twenty-one (21) days to consider all of its terms, which consideration period Sampson may voluntarily waive through execution of the Sampson Release before the expiration of the consideration period. As it relates to claims under the Age Discrimination in Employment Act ("ADEA") and the Older Workers Benefit Protection Act ("OWBPA") only, Sampson shall have seven (7) calendar days after signing the Sampson Release in which he may revoke his release of said claims. If Sampson fails to execute the Sampson Release by March 17, 2008, then this Agreement shall immediately terminate and be of no further force and effect. As it pertains to a release of claims under the ADEA or OWBPA, the Sampson Release shall become effective and enforceable eight (8) calendar days after its execution, assuming Sampson does not revoke within the seven (7) day revocation period. All other provisions of the Sampson Release shall become effective and enforceable upon execution; provided, however, that if Sampson exercises his right to revoke his claims under the ADEA or OWBPA, Indiana University may revoke this Agreement in its entirety during the seven (7) calendar day period following Sampson's revocation. In exchange for the promises of Sampson set forth herein and in the Sampson Release, Indiana University shall on the Effective Date hereof execute and deliver the Release to Sampson, a copy of which is attached hereto as Exhibit B (the "IU Release"); provided, however, if Sampson fails to execute the Sampson Release by March 17, 2008, then the IU Release delivered by Indiana University to Sampson pursuant to this Section 6 shall immediately terminate and be of no further force and effect.

**Section 6. The Term Person.** For purposes of this Agreement, the term "**Person**" means and includes any individual, sole proprietorship, corporation, partnership, joint venture, association, limited liability company, joint-stock company, trust, unincorporated organization, or any other entity or organization including a government or political subdivision or an agency, officer, department, commission, board, bureau or instrumentality thereof.

**Section 7. Nonassignability, Binding Agreement.**

(a) By Sampson. Sampson shall not assign or delegate this Agreement or any right, or interest under or in this Agreement without Indiana University's prior written consent (which consent may be given or withheld in the sole and absolute discretion of Indiana University).

(b) By Indiana University. Indiana University shall not assign or delegate this Agreement or any right, or interest under or in this Agreement without Sampson's prior written consent (which shall not be unreasonably withheld).

(c) Binding Effect. Except as limited under Sections 8(a) and 8(b), this Agreement shall be binding upon and inure to the benefit of the parties, any successors to or assigns of Indiana University, Sampson's heirs and the personal representatives or executors of his estate.

**Section 8. Severability.** If a court of competent jurisdiction makes a final determination that any term or provision of this Agreement is invalid or unenforceable, and all rights to appeal the determination have been exhausted or the period of time during which any appeal of the determination may be perfected has been exhausted, the remaining terms and provisions shall be unimpaired and the invalid or unenforceable term or provision shall be deemed replaced by a term or provision that is valid and enforceable and that most closely approximates the intention of the parties with respect to the invalid or unenforceable term or provision, as evidenced by the remaining valid and enforceable terms and conditions of this Agreement.

**Section 9. Amendment.** This Agreement may not be modified, amended, or waived in any manner except by an instrument in writing signed by both parties to this Agreement.

**Section 10. Waiver.** The waiver by either party of compliance by the other party with any provision of this Agreement shall not operate or be construed as a waiver of any other provision of this Agreement (whether or not similar), or a continuing waiver or a waiver of any subsequent breach by a party of a provision of this Agreement. Performance by either of the parties of any act not required of it under the terms and conditions of this Agreement shall not constitute a waiver of the limitations on its obligations under this Agreement, and no performance shall estop that party from asserting those limitations as to any further or future performance of its obligations.


**Section 11. Governing Law and Venue.** Notwithstanding any state or jurisdiction's conflict of laws principles to the contrary, the laws of the State of Indiana shall govern the validity, performance, enforcement, interpretation and all other aspects of this Agreement. Any lawsuit related to the creation, interpretation, or performance of this Agreement, or to recover for its breach shall be filed exclusively in a court located in Monroe County, Indiana.

**Section 12. Notices.** All notices required or desired to be given under this Agreement shall be in writing and shall be deemed to have been given if delivered: (i) in person and receipted for by the party to whom the notice is directed; (ii) mailed by certified or registered United States mail, postage prepaid, not later than the day upon which the notice is required to be given pursuant to this Agreement; or (iii) delivered by nationally recognized expedited courier, shipping prepaid or mailed to sender, on the next business day, after the date on which it is so sent, and addressed as follows:

(i) If to Indiana University, to:

Director of Athletics  
Indiana University  
1001 East 17<sup>th</sup> Street  
Assembly Hall  
Bloomington, IN 47408-1590

(ii) If to Sampson:

[REDACTED]   
[REDACTED]  
[REDACTED]

With a copy to:

Mark Carmony  
Career Sports and Entertainment  
600 Galleria Parkway  
Suite 1900  
Atlanta, GA 33039

Either party may, by giving notice to the other party, change the address to which notice shall thereafter be sent.

**Section 13. Prior Agreements.** Except as expressly provided in this Agreement, this Agreement, including the Sampson Release and the IU Release, is a complete and total integration of the understanding of the parties. This Agreement supersedes all prior or contemporaneous negotiations, commitments, agreements, writings, including employee policies or handbooks, and discussions with respect to the subject matter of this Agreement, and all prior negotiations, commitments, agreements, writings and discussions will be of no force or effect.

**Section 14. Headings.** The headings of the Sections of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction of this Agreement.

**Section 15. Third-Party Beneficiaries.** Except as expressly provided in the Agreement, the Sampson Release or the IU Release, no Person other than Indiana University or Sampson (including his executors, administrators or heirs) shall be entitled to enforce any provision of or have any of the rights and remedies under this Agreement, the Sampson Release or the IU Release.


**Section 16. Execution of Agreements.** Each of the he parties shall execute all agreements, documents or instruments necessary to fully effect the terms and conditions of this Agreement. This Agreement may be executed in two (2) counterparts, each of which for all purposes shall be deemed to be an original but both of which together shall constitute one and the same Agreement. Only one counterpart signed by the party against which enforcement is sought needs to be produced to evidence the existence of this Agreement.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

"INDIANA UNIVERSITY"

THE TRUSTEES OF INDIANA UNIVERSITY

By: Wm. H. McLean   
Treasurer

"SAMPSON"

Kelvin Sampson  
Kelvin Sampson

RELEASE OF ALL CLAIMS

In exchange for the agreement of The Trustees of Indiana University ("*Indiana University*") to enter into the attached Separation Agreement ("*Separation Agreement*") and for the performance of the obligations of Indiana University set forth therein, I hereby release (i) Indiana University and all past and/or present officers, directors, stockholders, partners, members, trustees, employees, agents, representatives, administrators, staff members, attorneys, insurers, fiduciaries, successors and assigns of any Person (as defined in the Separation Agreement) in their individual and/or representative capacities (hereinafter collectively referred to as the "*Released Parties*"), from any and all causes of action, suits, agreements, promises, damages, disputes, controversies, contentions, differences, judgments, claims and demands of any kind whatsoever ("*Claims*") that I or my heirs, executors, administrators, successors and assigns ever had, now have or may have against the Released Parties, whether known or unknown to me, by reason of my employment and/or cessation of employment with Indiana University, or otherwise involving facts or circumstances that occurred on or prior to the date that I have signed this Release, other than (1) a Claim that Indiana University has failed to pay me the amounts contemplated by Section 2 of the Separation Agreement or has otherwise breached the terms of the Separation Agreement, (2) a Claim with respect to any breach or violation by Indiana University of the IU Release executed and delivered by it (and not revoked) and referred to in Section 6 of the Separation Agreement (collectively, the "*Excluded Claims*"). Such released Claims include, without limitation, any and all Claims under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 ("*ADEA*"), the Rehabilitation Act of 1973, the Civil Rights Act of 1871, the Civil Rights Act of 1991, the Fair Labor Standards Act, the Employee Retirement Income Security Act of 1974, the Americans with Disabilities Act, the Family and Medical Leave Act of 1993, the Indiana Civil Rights Law (all as amended), the Older Workers Benefit Protection Act of 1990 ("*OWBPA*"), and any and all other federal state or local laws, statutes, rules and regulations pertaining to employment, as well as any and all Claims under state contract or tort law including, but not limited, to those based on allegations of wrongful discharge, breach of contract, promissory estoppel, defamation and infliction of emotional distress.

With respect to any claim that I might have under the Age Discrimination in Employment Act of 1967, as amended:

- (a) I do not waive rights or claims that may first arise after the date of this Release;
- (b) My waiver of said rights or claims under the Age Discrimination in Employment Act is in exchange for the consideration reflected in this Release;
- (c) I acknowledge that I have been advised in writing to consult with an attorney prior to executing this Release and that I have consulted with my attorney prior to executing this Release;

(d) I acknowledge that I have been given a period of a least twenty-one (21) days within which to consider this Release; and

(e) Indiana University and I agree that I have a period of seven (7) days following the execution of this Release within which to revoke the Release.

This Release, as it pertains to a release of claims under the ADEA or OWBPA shall become effective and enforceable eight (8) calendar days after its execution. All other provisions of the Release or parts thereof shall become effective and enforceable upon execution; provided, however, that if I exercise my right to revoke my release of claims under the ADEA or OWBPA, Indiana University may revoke this Release in its entirety during the seven (7) calendar day period following my revocation.

I represent that I have not filed, and will not hereafter file, any lawsuit against any of the Released Parties relating to (x) my employment and/or cessation or termination of employment with Indiana University any of the Released Parties, or (y) otherwise involving any facts or circumstances that occurred on or prior to the date that I have signed this Release, other than with respect to any Excluded Claims. Notwithstanding any other provision of this Release, I acknowledge that this Agreement is not intended to (a) prevent me from filing a charge or complaint including a challenge to the validity of this Agreement, with the EEOC; (b) prevent me from participating in any investigation or proceeding conducted by the EEOC; or (c) establish a condition precedent or other barrier to exercising these rights. While I have the right to participate in an investigation, I understand that I am waiving my right to any monetary recovery arising from any investigation or pursuit of claim on my behalf. I further acknowledge that I have the right to file a charge alleging a violation of the ADEA and/or the OWBPA with any administrative agency and/or to challenge the validity of the waiver and release of any claim I might have under the ADEA without either: (i) repaying to the Released Parties the amounts paid by it to me under this Agreement; or (ii) paying to the Released Parties any other monetary amounts (such as attorney's fees and/or damages).

I understand and agree that Indiana University's payments to me and my signing of this Release do not in any way indicate that Indiana University believes that I had any viable Claims against any of the Released Parties or that any of the Released Parties admit any liability to me whatsoever.

I have read this Release carefully, have been given at least twenty-one (21) days to consider all of its terms, have been advised to consult with an attorney and any other advisors of my choice, and fully understand that by signing below I am giving up any right that I have to sue or bring any Claims (other than the Excluded Claims) against any of the Released Parties. I have not been forced or pressured in any manner whatsoever to sign this Release, and I agree to all of its terms voluntarily. I agree and understand that, by this release, I AM GIVING UP ALL RIGHTS AND CLAIMS I MAY HAVE AGAINST INDIANA UNIVERSITY AND ITS EMPLOYEES AND AGENTS CONCERNING MY EMPLOYMENT BASED UPON OR ARISING DIRECTLY OR INDIRECTLY OUT OF, OR IN ANY WAY RELATED TO, ANY



AND ALL OF THE MATTERS, TRANSACTIONS, EVENTS, OR OTHER CIRCUMSTANCES OCCURRING PRIOR TO THE DATE OF THIS AGREEMENT.

I understand and agree that this Release will be governed by Indiana law, to the extent not preempted by federal law.

[I understand that I have 7 days from the date I have signed this Release below to revoke this Release as it pertains to my claims under the ADEA or OWBPA, that this Release will not become effective until the 8<sup>th</sup> day following the date that I have signed this Release, and that if I revoke this Release as it pertains to my claims under the ADEA or OWBPA, Indiana University may revoke the Separation Agreement and this Release in its entirety during the seven (7) calendar day period following my revocation.]

February 22, 2008

Kevin Sampson  
Kelvin Sampson

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MONROE    )

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 22<sup>nd</sup> day of February, 2008.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(printed name)

\_\_\_\_\_  
Notary Public

My Commission Expires:

County of Residence:

\_\_\_\_\_

\_\_\_\_\_

RELEASE OF ALL CLAIMS

In exchange for the agreement of Kelvin Sampson ("*Sampson*") to enter into the attached Separation Agreement ("*Separation Agreement*") and for the performance of the obligations of Sampson set forth therein, Indiana University hereby releases Sampson from any and all causes of action, suits, agreements, promises, damages, disputes, controversies, contentions, differences, judgments, claims and demands of any kind whatsoever ("*Claims*") that it ever had, now have or may have against Sampson, whether known or unknown, by reason of Sampson's employment and/or cessation of employment with Indiana University, or otherwise involving facts or circumstances that occurred on or prior to the date that Indiana University has executed this Release, other than any Claim with respect to any breach or violation by Sampson of (i) the IU Release executed and delivered by it and referred to in Section 6 of the Separation Agreement or (ii) the Separation Agreement (collectively, the "*Excluded Claims*").

Indiana University understands and agree that Sampson's signing of this Release does not in any way indicate that Sampson believes that Indiana University had any viable Claims against Sampson or that Sampson admits any liability of wrongdoing whatsoever.

The undersigned hereby expressly warrants and represents that a duly authorized representative of Indiana University has executed this Release.

**[Remainder of Page Intentionally Blank]**

THE TRUSTEES OF INDIANA UNIVERSITY

By:

Its:

1

) SS:

)

(signature)

(printed name)

**Notary Public**

~~My Commission Expires:~~

County of Residence: