

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (“Agreement”) is entered by and between the Board of Governors of **MISSOURI STATE UNIVERSITY**, Springfield, Missouri, (“University”) and Keith Guttin (“Coach Guttin”) and is effective as of July 1, 2022 (“Effective Date”).

WITNESSETH:

WHEREAS, the University desires to employ Coach Guttin as the Head Coach of the University’s intercollegiate baseball team, and Coach Guttin desires to serve in the position of the Head Coach of the University’s intercollegiate baseball team under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises, covenants, and agreements herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. Term of Employment

The University does hereby employ Coach Guttin for a three-year term commencing on July 1, 2022, and continuing through June 30, 2026 (“Term”) as the Head Coach of the University’s intercollegiate baseball team, subject to extension, renewal or termination, on the terms and conditions hereinafter provided.

2. Duties

During each year that the Agreement is in effect, Coach Guttin shall be responsible for fulfilling the following duties:

- (a) **Head Baseball Coach.** Coach Guttin shall well and faithfully serve the University in his total assignment, yet in regard to the position of his assignment relating to

athletics and as Head Coach in the sport of baseball, he shall at all times devote his whole time, attention, and energies to the conduct and coaching of baseball on behalf of the University, and to the administration and management of his coaching staff and shall do and perform all services, acts, and things connected therewith as the Director of Athletics and the Associate Director of Athletics for the University shall from time-to-time direct, which are of a nature customarily and properly belonging to the duties of a head coach in the sport of baseball.

- (b) **Other Activities Permitted.** Notwithstanding the foregoing provisions, Coach Guttin shall be permitted to conduct camps or clinics for his sole benefit as further described herein, camp activities other than any University related camp, accept promotional endorsements and contracts (provided that such endorsements and contracts do not compete with the products or services offered by University's sponsors or imply an endorsement on the part of the University), including but not limited to athletics sportswear, speaking engagements and commercials for his sole benefit not inconsistent with this Employment Agreement and NCAA regulations and subject to University approval. Similarly, Coach Guttin shall not permit his likeness or any phrase identified with him to be used in a manner that is detrimental to the rights of University's multi-media rights holder or in competition with any of University's existing sponsors.

3. **Compensation**

Effective July 1, 2022, the University shall pay Coach Guttin the following compensation:

- (a) **Base Salary.** On an annual basis, University shall pay Coach Guttin One Hundred Thirty-Seven Thousand Seven Hundred Fifty-One Dollars (\$137,751.00) (i.e.,

\$11,479.25 per month, base monthly rate, before withholdings) (“Base Salary”).

For the duration of the Agreement, Coach Guttin’s Base Salary shall be subject to any and all across-the-board salary increases provided to University’s other employees, including any across-the-board salary increases provided effective after January 1, 2023.

- (b) **Payment Via University’s Standard Payroll Procedure.** Coach Guttin’s salary shall be paid in equal sums at such intervals as University has established for its payroll procedure, less applicable taxes and withholdings.
- (c) **Additional Travel Reimbursement.** Coach Guttin will also receive \$750 to compensate for travel and meal expenses above the maximum state limits.
- (d) **Base Salary as Total Guaranteed Compensation.** The compensation specified in Section 3(a) represents the total guaranteed compensation due and owing Coach Guttin in consideration of his duties as University’s Head Baseball Coach.
- (e) **Eligibility for Incentive Payments.** Coach Guttin shall be eligible for additional incentive payments as specified in Section 6.

4. Additional Entitlements.

In addition to the compensation described in Section 3, Coach Guttin shall receive the following entitlements:

- (a) **Workmen's Compensation Insurance.** The University will provide Workmen's Compensation insurance for payment of any medical expense, and compensation, as provided by the laws of the State of Missouri, if Coach Guttin suffers an injury or incurs an occupational disease arising out of and in the course of

his employment. Compensability under such law is prescribed by state statute, and not by the University or by this contract.

- (b) **Retirement Fund.** The full contribution required for the Missouri State Employees Retirement System (MOSERS) will be paid by the University for Coach Guttin's retirement account.
- (c) **Other Benefits and Privileges.** The benefits and privileges accorded the University administrative, professional and staff employees, such as, but not limited to, paid vacation, sick leave, hospitalization/medical insurance, life insurance, long-term disability insurance, and other benefits established by the Board of Governors will likewise be accorded to Coach Guttin. It is agreed that the terms and conditions in the Faculty Handbook will not be regarded as a part of this agreement, and that Coach Guttin is not on tenure track and is not receiving tenure.

5. Camp(s).

University acknowledges that it is in the interest of the University to have a baseball camp(s) during the year. In this regard, Coach Guttin may conduct a baseball camp(s), and if so for his own benefit, and the University shall make available University facilities for that purpose, subject to the following provisions as long as the Agreement remains in effect and is not canceled or terminated.

- (a) **University Fee Per Camp Enrollee.** Coach Guttin agrees to pay the University the prevailing per person rate for each camp enrollee up to a maximum of 1,000 camp enrollees for the rental of Hammons Indoor Practice Facility. Upon his request, the University will give Coach Guttin the current prevailing rate. The University agrees to provide Coach Guttin, upon his request, with notice of any

expected increase in the prevailing rate by the preceding December 31 prior to the fiscal year the increase will be effective.

- (b) **Insurance Obligations.** Coach Guttin agrees to secure commercial general liability insurance to cover the operation of the camp. Such policy limits insurance shall be in amounts no less than Five Hundred Thousand Dollars (\$500,000) per person, and Two Million Dollars (\$2,000,000) in the aggregate, with the Board of Governors of Missouri State University named as an additional insured. No such insurance shall be construed to constitute a waiver of any sovereign, governmental or official immunity. Coach Guttin agrees to increase the liability limits if requested by the University as a result of a change in Missouri law.
- (c) **Mandated Reporter Training.** Coach Guttin will attend and require his staff to attend any University-required mandated reporter trainings prior to conducting any baseball camps.
- (d) **Use of University's Athletic Facilities.** Coach Guttin shall be entitled to use the Hammons Indoor Practice Facility under this Section 5. Other University facilities may also be used in conducting baseball camps, subject to scheduling and availability. Coach Guttin shall work with the University's Director of Athletics to schedule use of these other athletic facilities.
- (e) **Use of University's Housing System.** Coach Guttin shall be given access to the University's residency housing system for use in conjunction with the basketball camps, provided that she shall pay the-then current daily rate charged by the University's Department of Residence Life, Housing, and Dining Services for each camp enrollee. The University agrees to provide Coach Guttin, upon his request,

with notice of any increase in residence hall rates for the subsequent year by the preceding December 31.

- (f) **No Guarantee as to Number of Camp Participants.** Coach Guttin does not guarantee any number of baseball camp participants or enrollees.
- (g) **Registration Fee, Revenue for Basketball Camps.** The registration fee for each enrollee shall be established by Coach Guttin. Coach Guttin shall be allowed to retain all revenues and income generated by such camp, less fees referenced above in Sections 5(a) and (e).
- (h) **Use of University Name, Logos in Camp Brochures.** Coach Guttin may use the University names, logos, and depictions in brochures and similar camp documentation.
- (i) **Audit Right of University.** As it is the responsibility of the University to ensure that it is meeting NCAA rules-compliance responsibilities concerning sports camps, Coach Guttin shall provide all camp records to athletics administrators or other university administrators when requested, or as otherwise required by law. Examples of such records may include, without limitation, rosters, applications, free or discounted admissions, bank statements, expense records, and payroll records.

6. Other Compensation and Incentives

- (a) **Achievement Payments.** Coach Guttin shall be entitled to receive certain payments (before taxes) if the University's intercollegiate baseball team (the "Team") performs to certain levels of achievement.

- (i) **Conference Champions or Co-Champions.** In the event the team finishes as champions in the Missouri Valley Conference, an additional **\$2,500** will be paid for a conference championship and **\$1,400** will be paid for a conference co-championship.
- (ii) **Conference Post-Season Tournament.** In the event a post-season conference tournament is held, and the team is champion of that tournament, an additional **\$2,500** will be paid.
- (iii) **NCAA Baseball Tournament.** In the event the baseball team is invited to appear in the NCAA post-season tournament, Coach Guttin will be paid an additional **\$700** for each game appearance as well as one of the following: **\$5,000** if the team wins the NCAA Regional; **\$10,000** if the teams wins the NCAA Super Regional; **\$25,000** if the team advances to the NCAA Championship Series; or **\$50,000** if the team wins the NCAA College World Series.
- (iv) **Academic Progress Rate (“APR”).** Coach Guttin shall be paid the amount of Five Hundred Dollars (\$500.00) for each year that the Team’s NCAA calculated APR meets or exceeds the NCAA APR score of 985.
- (v) **MVC Coach of the Year.** In any year that Coach Guttin is named the Missouri Valley Conference Coach of the Year by the MVC coaches or the MVC media, he will receive an additional Two Thousand Five Hundred Dollars (\$2,500.00).

- (vi) **Timing of Incentive Payments.** All such achievement payments will be paid to Coach Guttin within thirty (30) days of the dates earned and shall be paid even if the Agreement is terminated by either party for any reason.
- (b) **Expense Allowance.** All necessary and reasonable expenses incurred by Coach Guttin while recruiting or on official business for the University's baseball or athletics program will be paid/reimbursed to Coach Guttin, pursuant to University policy, as well as expenses referenced above in Section 3(c). Such expenses must be approved by the University's Director of Athletics upon presentation of expense vouchers and supporting documents; such approval not to be unreasonably withheld.
- (c) **Use of Automobile.** University shall furnish Coach Guttin with an automobile, pursuant to a lease agreement with the University, for his business and personal use for the duration of this Agreement, as long as the University and/or the Foundation receives such a vehicle via a trade-out with an automobile dealer in relation to a membership in The Bears Fund. The terms of the lease agreement shall control the use, maintenance, and insurance requirements applicable to such automobile. Coach Guttin shall be responsible for ensuring that the automobile is insured with policy limits acceptable to the University, and the University shall pay/reimburse Coach Guttin all insurance and maintenance costs associated with his use of the automobile.
- (d) **Tax Withholding on Fringe Benefit Programs.** The University will only withhold taxes, FICA and MOSERS retirement benefits if required by law on the

fringe benefit programs on all payments made to Coach Guttin, unless authorized in writing by Coach Guttin.

7. Professional and Moral Conduct Required

It is understood Coach Guttin is being employed by University, which is a member institution of the National Collegiate Athletic Association ("NCAA"), for the purpose of administering, conducting, and coaching the Team. Accordingly, Coach Guttin agrees he will diligently conduct the baseball program under his direction in such a manner that NCAA regulations and codes of conduct now existing or hereinafter enacted, will be fully complied with, in all particulars, including, but not limited to, the following:

- (a) Coach Guttin will make best efforts to ensure that the Team's student-athletes comport themselves with honesty and sportsmanship at all times.
- (b) Coach Guttin shall not accept compensation or gratuities of any kind whatsoever, either directly or indirectly, for representing a professional sports organization in the scouting or contacting of athletics talent or the negotiating of a contract.
- (c) Coach Guttin shall not knowingly participate in the management, coaching, officiating, supervision, promotion, or player selection of any all-star contest involving student-athletes that is not certified by the NCAA's Extra Events Committee.
- (d) Except as is ordinarily done by a baseball coach at a university, Coach Guttin shall not represent a student-athlete in the marketing of athletics ability or reputation to a professional sports team or professional sports organization and shall not receive compensation or gratuities of any kind, directly or indirectly, for such services.

(e) Coach Guttin is required to provide a written detailed account annually to the University President for all athletically-related income and benefits from sources outside the University. Sources of such income shall include, but are not limited to, the following:

- Income from annuities;
- Sports camps;
- Housing benefits (including preferential housing arrangements);
- Country club memberships; and
- Complimentary ticket sales

Coach Guttin acknowledges that he has an affirmative obligation to cooperate fully in the NCAA/University infraction process, including the investigation and adjudication of a case of infraction. Furthermore, the Parties recognize that if Coach Guttin is found in violation of NCAA regulations he may be subject to disciplinary or corrective actions as set forth in the provisions of the NCAA infractions process, including suspension without pay and/or termination of employment under Section 8(b).

8. Termination.

- (a) **Termination Due to Expiration of Term.** If no extension of the Agreement beyond the term specified above is made, this Agreement shall terminate as of the last day of the term (i.e., June 30, 2026).
- (b) **Termination for Incapacity; Cause.** The Agreement may be terminated at any time during the term, by the University, upon the occurrence of any one of the following events:

- (i) **Termination Due to Incapacity.** The Agreement shall terminate automatically if Coach Guttin becomes totally disabled within the meaning of the University's disability insurance for employees of Coach Guttin staff classification so that he qualifies under the University's long-term disability plan, or if Coach Guttin becomes permanently disabled. "Permanently disabled" shall mean physical or mental incapacity of a nature which prevents Coach Guttin from performing his duties under the Agreement for a period of one hundred eighty (180) consecutive days. In the event termination occurs under this Section due to permanent disability at a time when Coach Guttin's University disability plan benefits are not sufficient to fund his compensation during the one hundred eighty (180) day waiting period to qualify under the University's long-term disability plan, the University will supplement those benefits to ensure Coach Guttin receives his full compensation.
- (ii) **For Just Cause.** The term "just cause" is defined as acts by Coach Guttin constituting or involving dishonesty in interactions with athletic or University administration, dishonesty when representing the University that brings ill repute to the University, moral turpitude that brings ill repute to the University, conviction of a felony, and major (i.e., Level I or Level II) or intentional infractions of NCAA rules and regulations, prolonged absence from duty without the consent of the Athletic Director, and willful disregard for the welfare and safety of University's student-athletes which has resulted in serious injury or death. No termination of employment for

alleged “just cause” shall occur without first giving Coach Guttin notice in writing of the cause alleged, and an opportunity to be heard.

- (iii) **Effect of Termination for Just Cause.** In the event the University terminates Coach Guttin’s employment, under Section 8(b)(ii) above, Coach Guttin shall not be entitled to any further compensation following the date of such termination, unless otherwise agreed to in writing by the University. He will, however, be entitled to all compensation and achievement payments earned through the date of termination.

9. Termination Without Cause by the Parties

- (a) **Termination Without Cause by Coach Guttin.** Coach Guttin may terminate the Agreement if he gives notice of termination to the Director of Athletics and pays, or causes another party to pay, the Liquidated Damages Amount (as defined and calculated herein) to the University. The Liquidated Damages Amount will be calculated based on the applicable Monthly Rate, as defined herein, and the remaining months of this Employment Agreement, except that no Liquidated Damages will be assessed if Coach Guttin either terminates the Agreement without cause on or after June 30, 2025, or retires from coaching baseball at the collegiate level. The Monthly Base Salary amount is defined as Eleven Thousand Four Hundred Seventy-Nine and 25/100 Dollars (\$11,479.25). The Liquidated Damages Amount is calculated by multiplying the number of months remaining in the Employment Agreement by the Monthly Rate, and dividing by two. The resulting sum is the Liquidated Damages Amount. For example, if Coach Guttin terminates the Agreement with 36 months remaining, the Liquidated Damages Amount would

be Two Hundred Six Thousand Six Hundred Twenty-Six and 50/100 Dollars (i.e., $36 \text{ months} \times \$11,479.25 = \$413,253$; $\$413,253/2 = \$206,626.50$). If Coach Guttin terminates the Agreement with 24 months remaining, the Liquidated Damages Amount would be One Hundred Thirty-Seven Thousand Seven Hundred Fifty-One Dollars (\$137,751) (i.e., $24 \text{ months} \times \$11,479.25 = \$275,502$; $\$275,502 / 2 = 137,751$).

The parties acknowledge and agree that the Liquidated Damages Amount contemplated by this Section 9(a) are intended to repay compensation previously received by Coach Guttin under the premise that he would fulfill the Term of the Agreement and that the Liquidated Damages Amount represents a legitimate, market rate fee to permit another employer to obtain Coach Guttin's services. Said Liquidated Damages Amount will be paid within thirty (30) days following the effective date of Coach Guttin termination of this Agreement.

- (b) **Termination Without Cause by University.** Notwithstanding any provision of the Agreement to the contrary, University may also elect to terminate the Agreement in any year by notification to Coach Guttin in writing, on or before June 30 ("Termination Date"). It is understood and agreed that termination does not require just cause or any cause. In the event of termination by University, Coach Guttin shall receive payment for the number of months remaining on the Agreement after the effective date times the base monthly rate. For example, if the University terminates the Agreement with twenty (20) months remaining, the liquidated damages for termination shall be Two Hundred Twenty-Nine Thousand Five Hundred Eighty-Five Dollars (\$229,585) (i.e., base monthly pay of \$11,479.25 X

20 months). Said liquidated sum will be paid within thirty (30) days following the termination date and will be in full and complete satisfaction of all amounts which would be otherwise payable to Coach Guttin after the termination date. MOSERS retirement will not be paid on the liquidated sum. Social Security (FICA, Medicare tax) only will be paid on said liquidated sum, and standard payroll deductions for Social Security and income tax will be withheld. Coach Guttin will also be paid on or before the Termination any and all amounts actually earned by Coach Guttin on or before the Termination Date.

10. Missouri Law

The laws of the State of Missouri shall govern this Agreement, including the Missouri Sunshine Law. Coach Guttin acknowledges that the Agreement is a public document under the Sunshine Law that University may release without prior notice to him.

11. Entire Agreement

This Agreement constitutes the entire understanding between the parties, all previous oral and written statements, negotiations, and Memorandum of Understanding having been incorporated herein. This Agreement supercedes all prior agreements and amendments between the parties and may only be amended by a writing signed by the parties.

[SIGNATURES FOLLOW ON PAGE 15]

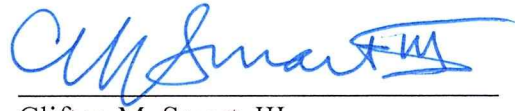
IN WITNESS WHEREOF, the parties have executed this Agreement with effective date as noted above.

**BOARD OF GOVERNORS OF
MISSOURI STATE UNIVERSITY**

ATTEST:



Secretary
Board of Governors



Clifton M. Smart, III
President



Keith Guttin
Head Coach of the University's
intercollegiate baseball team