

ATHLETICS
09.08.14



**CONTRACT FOR EMPLOYMENT
OF HEAD SOFTBALL COACH
WICHITA STATE UNIVERSITY**

THIS CONTRACT OF EMPLOYMENT is by and between the WICHITA STATE UNIVERSITY INTERCOLLEGIATE ATHLETIC ASSOCIATION, INC. (hereinafter "ICAA"), a corporation affiliated with WICHITA STATE UNIVERSITY, a state educational institution of Kansas (hereinafter "WSU") and KRISTI BREDBENNER (hereinafter "Ms. Bredbenner").

WITNESSETH:

WHEREAS, ICAA requires the services of an individual to serve as head coach for the intercollegiate softball team (hereinafter "Head Coach") of Wichita State University; and

WHEREAS, Ms. Bredbenner has successfully served as the Head Coach since 2011; and

WHEREAS, the parties are mutually desirous of extending the current employment relationship with an updated and restated Agreement; and

WHEREAS, ICAA and Ms. Bredbenner believe it to be in their mutual best interest to enter into this contract for employment (hereinafter "Agreement") and to specifically set forth the terms and conditions of their agreement in writing;

NOW, THEREFORE, in consideration of the above premises and the individual and mutual promises of the parties hereinafter set forth, and for other good and valuable consideration, it is hereby agreed by and between the parties hereto:

1. *Term of Employment*

1.1. This Agreement shall be considered to have commenced as of July 01, 2014, and shall terminate as of June 30, 2019.

1.2. This Agreement in no way grants Ms. Bredbenner a claim to tenure in employment at WSU or with ICAA, nor shall Ms. Bredbenner's service as Head Coach pursuant to this Agreement count in any way toward tenure at WSU.

1.3. Notwithstanding any other provision of this Agreement, said Agreement will terminate automatically if Ms. Bredbenner dies or becomes totally or permanently disabled as defined by the ICAA's retirement program, its workers compensation program or by any other applicable supplemental disability program.

2. Responsibilities of Head Coach

2.1. Ms. Bredbenner shall well and faithfully serve as Head Coach and shall at all times devote her whole time, attention and energies to the conduct and coaching of the intercollegiate softball program of WSU (hereinafter "Program"), and to the administration and management of the Program in a fiscally responsible manner within established operating budgets.

2.2. Ms. Bredbenner shall diligently perform the traditional duties of Head Coach, including by way of example and not by way of limitation, recruiting, planning and running practices and workouts, scheduling games and overseeing travel arrangements, hiring and supervising assistant coaches, managing a budget and supporting fund-raising efforts.

2.3. Ms. Bredbenner shall be responsible, and shall report directly, to WSU's Director of Intercollegiate Athletics (hereinafter "AD"), or the AD's designee, and shall confer with the AD or the AD's designee on all administrative and technical matters.

2.4. Ms. Bredbenner shall observe and uphold all academic standards, requirements and policies of WSU and encourage Program athletes to perform to their highest academic potential and to graduate.

2.5. Ms. Bredbenner agrees to know, or become knowledgeable within a reasonable period of time, recognize, abide by and comply with all rules, regulations, policies or requirements which have been or may be promulgated by or which are applicable to ICAA, WSU, the Missouri Valley Conference (hereinafter "Conference") or the National Collegiate Athletic Association ("NCAA"); supervise and take appropriate steps to ensure that Ms. Bredbenner's assistant coaches, any other employees for whom Ms. Bredbenner is administratively responsible and the Program athletes know, recognize, abide by and comply with all such rules, regulations, policies or requirements; and immediately report to the AD and to the ICAA's Associate Director of Compliance if Ms. Bredbenner has reasonable cause to believe that any person or entity, including by way of example and not by limitation, representatives of WSU or ICAA's athletic interests, has violated, has possibly violated, or is likely to violate any such rules, regulations, policies or requirements. Ms. Bredbenner shall cooperate fully with the ICAA's Associate Director of Compliance at all times.

2.6. Ms. Bredbenner shall avoid any business, professional or personal activities or pursuits that would prevent Ms. Bredbenner from devoting full time to performance of the duties as Head Coach as set forth in this Agreement, or which would otherwise detract in any manner from the duties outlined herein, or that, in the opinion of ICAA, would reflect adversely upon the Program, ICAA or WSU.

2.7. Ms. Bredbenner's job performance will be assessed annually by the AD and/or the AD's designee.

3. *Compensation*

3.1. Regular Compensation. In consideration of Ms. Bredbenner's services and the satisfactory performance of the terms and conditions of the Agreement by Ms. Bredbenner, ICAA will pay Ms. Bredbenner:

3.1.1. An initial annual base salary of EIGHTY THREE THOUSAND AND NO/1.00 DOLLARS (\$83,000.00), said amount payable in accordance with normal payroll procedures of ICAA, commencing as of June 8, 2014.

3.1.2. Ms. Bredbenner's annual increase in salary to be effective in each succeeding year as determined appropriate by the AD, said increase to be no less than four percent (4%) of the total annual compensation paid in the previous year, not including performance incentive payments.

3.2. Performance Incentives. Ms. Bredbenner shall also be entitled to potential additions to the base salary amount set forth in paragraph 3.1.1. above as determined by ICAA on an annual basis. An annual determination will be made based upon the previous year's results for the Program and will be paid as an annual incentive prior to the end of the fiscal year in which the incentive was earned, less all amounts required to be withheld and deducted; provided, however, that Performance Incentives, if any, shall not carry forward to the next twelve month period. Performance Incentive payments are made on the premise that the generation of attention, visibility and revenue from successful performance are of significant value to ICAA and WSU and should be appropriately recognized and rewarded. The following potential annual Performance Incentives shall apply as long as Ms. Bredbenner is employed as Head Coach by ICAA:

- If the Program has a multi-year Academic Progress Rate ("APR") of .930 or better, an additional amount equal to 15% of one month's salary will be paid to Ms. Bredbenner.
- If Ms. Bredbenner is named the Conference Coach-of-the-Year (Staff-of-the-Year) an additional amount equal to 15% of one month's salary will be paid to Ms. Bredbenner.
- If the Program finishes as champion or co-champions of the Conference regular season, an additional amount equal to 25% of one month's salary will be paid to Ms. Bredbenner.
- If a post-season Conference tournament is held and the Program is champion of that tournament, an additional amount equal to 25% of one month's salary will be paid to Ms. Bredbenner.
- If the Program appears in the NCAA post-season regional tournament, an additional amount equal to 35% of one month's salary will be paid to Ms. Bredbenner.

- If the Program appears in the NCAA post-season super regional tournament, an additional amount equal to 40% of one month's salary will be paid to Ms. Bredbenner.
- If the Program appears in the NCAA post-season College World Series, an additional amount equal to 50% of one month's salary will be paid to Ms. Bredbenner.
- If the Program wins the NCAA national championship, an additional \$10,000.00 will be paid to Ms. Bredbenner.
- If Ms. Bredbenner is named as a National Coach of the Year, an additional \$5,000.00 will be paid to Ms. Bredbenner.
- Academic incentives will be paid to Ms. Bredbenner based on each semester team GPA as follows:
 - a. 3.0 to 3.24 GPA - \$250.00
 - b. 3.25 to 3.49 GPA - \$500.00
 - c. 3.5 and above GPA - \$750.00

3.3. Additional Benefits. In consideration of Ms. Bredbenner's services as Head Coach and the satisfactory performance of this Agreement, ICAA will provide Ms. Bredbenner with the following additional benefits:

3.3.1. Such normal employee fringe benefits as ICAA generally provides to its comparable employees, including by way of example and not by way of limitation, workers compensation insurance, annual leave, sick leave, hospitalization/medical insurance, retirement benefits, disability insurance.

3.3.2. A complimentary Country Club membership, including golf privileges, for so long as ICAA deems the same financially practical. All monthly dues may be paid from the Program or funds maintained for the Program with the WSU Foundation, but all other charges are the responsibility of Ms. Bredbenner.

3.4. It is agreed that the compensation paid to Ms. Bredbenner by ICAA shall be subject to the same payroll deductions, including by way of example and not by limitation, state and federal taxes, FICA withholding, benefit programs requiring employee contribution, that apply to ICAA employees.

3.5. It is agreed that Ms. Bredbenner will bear ultimate responsibility for any and all tax consequences of amounts paid to Ms. Bredbenner as compensation pursuant to this Agreement.

4. Travel

Ms. Bredbenner will conduct such travel as is necessary to carry out her duties as Head Coach, and Ms. Bredbenner shall be entitled to reimbursement for transportation and per diem expenses in accord with ICAA policies and procedures applicable to travel and expense reimbursements.

5. Termination or Suspension of the Contract for Employment

5.1. If the Agreement is not otherwise extended, this Agreement shall terminate as of the end of the then stated five-year term unless otherwise agreed to by and between the parties.

5.2. ICAA may, in its discretion, suspend Ms. Bredbenner from some or all of Ms. Bredbenner's duties as Head Coach, temporarily or permanently, and with or without pay; or terminate this Agreement at any time, as determined by the ICAA to be in the best interests of the Program and WSU, upon the occurrence of good cause.

5.2.1. The term "good cause," by way of example and not by way of limitation, would include acts by Ms. Bredbenner constituting or involving gross professional or personal misconduct, Ms. Bredbenner's refusal to perform the duties required as Head Coach; Ms. Bredbenner's knowing and deliberate failure to properly supervise her coaching staff and provide oversight of the softball program; conviction of a felony; insubordination; Ms. Bredbenner's unavailability to ICAA to perform the duties herein; and/or any knowing and deliberate Level I or Level II violations of rules and regulations of the NCAA, any knowing and deliberate violation of rules and regulations of the Conference or any knowing and deliberate violation of any applicable rule, policy or procedure of the ICAA or WSU. No termination for alleged "good cause" shall occur without first giving Ms. Bredbenner notice in writing of the "good cause" actions alleged and an opportunity to be heard. The General Counsel for Wichita State University shall be notified prior to any "good cause" action being initiated by the ICAA pursuant to this subsection and Ms. Bredbenner may be represented by counsel of her choosing during any such discussions.

5.2.2. If found in major violation of NCAA rules and regulations, Ms. Bredbenner may, in addition to the provisions of this Paragraph 5.2, be subject to disciplinary or corrective action as set forth in the provisions of the NCAA enforcement procedures, whether such violations occurred at WSU or during Ms. Bredbenner's previous employment at another member institution.

5.3. In the event of termination by either party, Ms. Bredbenner agrees that she will not interfere with Program student-athletes or otherwise obstruct ICAA's ability to conduct the Program or transact business.

5.4. In the event of termination by either party, Ms. Bredbenner agrees that all materials or articles of information, including, by way of example and not by way of limitation, personnel records, recruiting records, team information, films, statistics or any other material or data relating to the Program, furnished to Ms. Bredbenner by ICAA or developed by Ms. Bredbenner on behalf of ICAA or at ICAA's direction or otherwise for use in connection with Ms. Bredbenner's employment hereunder, are and shall remain the sole property of ICAA. Within twenty-four (24) hours of the expiration of the term of this Agreement, or its earlier termination as provided in this Paragraph 7, Ms. Bredbenner shall immediately cause any such materials in Ms. Bredbenner's possession or control to be delivered to the AD on behalf of the ICAA.

6. *Mitigated Damages*

In the event Ms. Bredbenner is terminated for any reason other than good cause as set forth in paragraph 5, Ms. Bredbenner agrees to make a good faith effort to mitigate to the fullest extent ICAA's obligation to continue the payments set forth in paragraph 3.1.1. by seeking comparable employment at a similar rate of compensation or other opportunities reasonably within the scope of her expertise and experience to provide personal services for remuneration. If Ms. Bredbenner obtains new employment or other opportunities, the University's obligation to continue these payments will be reduced by the total compensation or other remuneration received in Ms. Bredbenner's new position. Payment schedule will be determined by ICAA not to exceed the remainder of this Agreement. If Ms. Bredbenner fails to make a good faith effort to mitigate ICAA's obligation and fails to provide information to ICAA regarding these efforts when asked by the ICAA, then ICAA will have no further obligation to make payments under this Agreement.

7. *Liquidated Damages to ICAA*

7.1 Ms. Bredbenner hereby represents to have special, exceptional and unique knowledge, skill, experience and ability as a softball coach which, in addition to future acquisitions of coaching experience with the Program, as well as ICAA's interest in continuity in the Program, will render Ms. Bredbenner's services unique. Ms. Bredbenner recognizes that the loss of her services to the ICAA and the Program, without ICAA approval and release, prior to the expiration of the term of this Agreement, or any renewal thereof, would cause an inherent loss to the ICAA. Both parties agree that the actual losses that would be suffered by the ICAA are difficult to ascertain. Therefore, this liquidated damages provision has been negotiated, in good faith, and agreed to by the parties in consideration of this fact, with both parties agreeing that the liquidated damages provision is reasonable.

7.2. The parties agree that in the event Ms. Bredbenner terminates this Agreement for any reason other than retirement or a decision to pursue another full-time career outside of intercollegiate athletics, Ms. Bredbenner will be obligated to pay ICAA, as liquidated damages and not as a penalty, the sum of SEVENTY THOUSAND AND NO/1.00 DOLLARS (\$70,000.00), said amount to be paid within thirty (30) calendar days of Ms. Bredbenner providing notice of her intention to terminate the Agreement, said amount to be paid with a certified check from Ms. Bredbenner or a third party.

8. *Outside Employment*

8.1. Ms. Bredbenner 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 advised the AD of the intention to do so. Ms. Bredbenner shall also advise the AD of any inquiries or contacts exploring Ms. Bredbenner's possible interest in or availability for other full-time or part-time employment.

8.2. Ms. Bredbenner further agrees, and hereby specifically promises, not to accept employment, under any circumstances, as a softball coach at any institution of higher education which is a member of the National Collegiate Athletic Association, or for any softball team participating in any professional league or conference in the United States or elsewhere, requiring performance of duties prior to the expiration date of the term of this Agreement or any extension thereof, without first providing advance notification to the AD of her intent to do so.

8.3. Ms. Bredbenner agrees that the ICAA shall have the right, in addition to any other rights which ICAA may possess, to obtain an injunction or appropriate judicial proceedings to prevent Ms. Bredbenner from coaching or performing activities related thereto in violation of this Agreement for any person, institution, firm, team, corporation or other entity, and against any other breach of this Agreement; and Ms. Bredbenner further agrees to indemnify the ICAA for its costs in any such injunction proceeding, including court costs and attorney's fees.

9. *Relationship Between the Parties*

The relationship between Ms. Bredbenner and ICAA shall be determined solely by the terms and conditions of this Agreement.

10. *Assignment*

Ms. Bredbenner may not assign her rights or delegate her obligations under this Agreement. ICAA may not assign its rights or delegate its obligations without the consent of Ms. Bredbenner, which shall not be unreasonably withheld.

11. *Governing Law*

This Agreement shall be deemed to have been entered into under the laws of the state of Kansas and the rights and obligations of the parties hereunder shall be governed and determined according to the laws of said state.

12. Waiver of Rights

None of the terms or conditions herein shall in any manner be altered, amended, waived, or abandoned, except by written agreement of the parties, and no delay by ICAA in enforcing any of its rights hereunder shall be deemed a waiver of such rights.

13. Severability

In the event that any condition, covenant or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other condition, covenant or other provision herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such condition, covenant or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

14. Amendments

No amendment or modifications of this Agreement shall be effective unless in writing and signed by both parties.

15. General

This Agreement sets forth the entire understanding of the parties and supersedes any and all prior agreements, arrangements and understandings relating to the subject matter hereof. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, legal representatives and assigns. The article or section headings of this Agreement are for convenience of reference only and do not form a part hereof and do not in any way modify, interpret or construe the intentions of the parties. This Agreement shall be executed in one or more counterparts and all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and/or authorized same to be executed by their duly authorized representatives as of the date shown below the respective signatures, said Agreement to become effective as of the later date.

“Ms. Bredbenner”

“ICAA”

KRISTI BREDBENNER

WICHITA STATE UNIVERSITY
INTERCOLLEGIATE ATHLETIC
ASSOCIATION, INC.

By: *Kristi Bredbenner*
Date: 8/27/14

By: *Eric L. Sexton*
Printed Name: Eric L. Sexton
Title: Director of Intercollegiate Athletics
Date: 7/23/2014

Approved As To
Legal Form *[Signature]* 07/22/14
General Counsel