

## EMPLOYMENT CONTRACT

THIS CONTRACT, entered into by and between Beverlee J. McClure, Ed.D. (“Employee”) and the STATE OF COLORADO, by and through the Board of Trustees for Adams State University (as applicable the "Board" or “Employer”), on this \_\_\_ day of May, 2016, witnesses that:

WHEREAS, the Board wishes to continue to employ Employee, and Employee wishes to continue to be employed by the Board, as President of Adams State University; and

WHEREAS, the Board determines that this Contract is necessary to continue to employ Employee in light of prevailing market conditions and competitive employment practices in other states; and

WHEREAS, the Board has not more than six total employment contracts pursuant to C.R.S. § 24-19-104(1.5)(a), including this Contract;

NOW, THEREFORE, the Board and Employee, in consideration of the promises and covenants herein, agree that:

1. Employment.

(a) The Board hereby employs Employee as the President and chief executive officer of Adams State University (the “University”), and Employee hereby agrees to such employment, subject to the terms and conditions of this Contract and the ongoing general supervision and oversight of the Board.

(b) The Board shall provide, during the term of this Contract and subject to available funds, the following support in furtherance of Employee's performance of her duties as reasonably required by Employee during the term hereof, including but not limited to the following:

- Office space at Richardson Hall
- Computers and word processing hardware and software.
- Telephone and cell phone service.

- Staff to include a minimum of two (2) assistants, presently an Executive Assistant and an Assistant to the President for Communications, together with appropriate residential staff to conduct and host University functions, events and meetings.

Employee will use said equipment and supplies solely in the performance of her obligations under this Contract. Upon termination of this Contract, all said facilities, equipment, supplies, resources and related materials shall remain the property of the Board.

2. Duties. As President and chief executive officer of the University, Employee shall perform such duties as are customarily performed by university presidents and as may be reasonably required by the Board and applicable law, to effectuate and advance the role and mission of the University. Among others, these duties include:

- a. Employee shall administer and direct the actions of the University and provide services, including, but not limited to, those responsibilities set forth in the *The University Manual* as may be amended (the “*Manual*”);
- b. Employee shall administer and direct the University’s compliance with the State of Colorado Department of Higher Education Performance Contract and the achievement of the goals set forth in Addendum A to the Performance Contract;
- c. Employee shall consistently communicate and administer the Employer’s strategic plan, as demonstrated by achievement of outcome measures identified by the Board and agreed upon in writing by Employee; and
- d. Employee shall engage in activities, including but not limited to the following, to represent and promote the interests and significance of the Board and the University among the media, community, and other institutions:
  - i) Maintain and use memberships in public and private organizations, including social bodies, for the promotion, generation of resources, and support of the University;
  - ii) Engage in travel for official purposes, including, but not limited to, regular attendance at State of Colorado Department of Higher

Education, legislative and other official meetings in the Denver metropolitan area;

iii) Conduct and host official University functions, events and meetings for the service and advancement of the goals of the University; for example, hosting meetings, meals, entertainment, and other events and functions with faculty, staff, students, community leaders, donors, and others having business with the University. In engaging in such activities, Employee shall be required to regularly use the residence provided to her by the Board; and

iv) Participate and maintain membership in professional organizations, conferences, conventions, courses, seminars and similar growth activities.

3. Best Efforts of Employee. Employee shall faithfully, industriously and with maximum use of experience and ability, devote her full-time effort to the performance of all of the duties that may be required by the express terms of this Contract. Such performance shall be rendered at the University and, when appropriate, at such other places as the Employer or Employee may deem appropriate for the interests or needs of the University. Upon written approval of the Chair of the Board, Employee may accept limited consulting assignments, provided such assignments do not interfere with the Employee's official duties or the operation of the University.

4. Term of Employment. This Contract shall commence July 1, 2016, and end on June 30, 2019; provided, however, that in accordance with Colorado law, the Employer remains free to terminate this Contract without penalty if sufficient funds are not appropriated for the Contract. This Contract may be renewed or extended only upon the mutual consent of the parties in writing.

5. Compensation of Employee. For all services rendered by Employee under the provisions of this Contract, the Employer shall pay Employee an annual base salary of \$205,000.00, payable in equal monthly installments on the last day of each month during the term hereof, except for the month of June, in which case the payment is made

the first working day of July. All such base salary shall be subject to all deductions and withholdings required by law or by agreement of Employee.

6. Expenses. Subject to the expense reporting requirements herein, the Employer shall pay or reimburse Employee for reasonable and necessary business, travel and entertainment expenses, including membership expenses, such as memberships in the organizations mentioned in Sections 2(d)(i) and (iv) above, provided they are reasonably related to and actually incurred in the performance of her duties and responsibilities.

a. The Employer shall provide a cellular phone to Employee to use for University business.

7. Vehicle. The Employer shall furnish Employee with a mutually agreed upon University owned or leased motor vehicle for her personal and official use.

a. The vehicle shall be maintained by the Employer, and all fuel for its official use shall be paid by the Employer.

b. The Employer shall procure and maintain, at its expense, motor vehicle insurance for the vehicle from an insurance company authorized to do business in the State of Colorado, including, but not limited to, coverage for bodily injury liability in the amount of \$300,000.00 effective regardless of any workers compensation coverage, medical payments coverage in the amount of \$50,000.00 and uninsured/underinsured motor vehicle coverage in the amount of \$1,000,000.00 combined limits.

c. The vehicle liability insurance policy shall include an endorsement naming Employee as an additional insured. A certificate of insurance and a copy of the declarations sheet, together with a copy of the policy endorsement naming the additional insured, shall be provided to Employee on or before delivery of the vehicle to Employee and on or before each renewal date of such policy thereafter.

d. The Employee shall be named as the loss payee on the medical and uninsured/underinsured liability coverages.

e. Employee shall be responsible for promptly notifying the insurance carrier and the University of any accident or loss and for cooperating in the filing of any insurance claim.

f. The Employer and Employee shall agree upon the applicable percentage of her personal use of the vehicle for tax reporting.

In lieu of the foregoing, the Employee may elect to use the Employee's personal motor vehicle and receive a mileage reimbursement for University related business consistent with the applicable Fiscal Rules described below. The Employee shall be responsible for all maintenance and insurance on her personal motor vehicle.

8. Expense Reporting. To assure accountability in the incurring of expenses and receipt of reimbursements for official functions and other business events, Employee shall maintain appropriate documentation in compliance with applicable law, including Employer's policies and procedures and the State of Colorado Fiscal Rules. Employee shall file periodic reports during each fiscal year, disclosing her allowances and expenses for the periods covered by such reports, and shall be subject to audit.

9. Insurance and Other Benefits. Employee shall be eligible to participate in the group insurance, retirement, and voluntary payroll deduction programs of the University on the same basis as other professional personnel as described in the *Adams State The University Manual*, as may be amended ("Bylaws") and the *Handbook for Professional Personnel*, as may be amended (the "Handbook").

10. Taxes. Employee agrees to be responsible for the payment of any taxes due on any and all compensation, allowances or benefits provided by the Employer to Employee, other than salary and other compensation from which the Employer will be responsible for withholding taxes.

11. Leave. Employee shall receive the same sick leave, annual leave, administrative leave, and other leaves as other full-time professional personnel as described in the *Bylaws* and the *Handbook*.

12. Performance Reviews. Employee's performance shall be subject to annual review, and may be subject to expanded review, pursuant to the evaluation policies in the

*Bylaws* and *Manual*, including, but not limited to, consideration of her levels of achievement of the duties set forth in this Contract and/or other objectives as determined by the Employer and agreed upon in writing by the Employee.

13. Additional Retirement Contribution. To the extent permitted by the Internal Revenue Code and the plans available from time to time to employees of the Employer or the state, the Board agrees to contribute the following amounts at the end of the respective fiscal year to a tax-deferred plan or plans of Employee's choice:

- a. At the end of the fiscal year 2016-2017, the amount shall be \$16,400;
- b. At the end of the fiscal year 2017-2018, the amount shall be \$18,450;

and

c. At the end of the fiscal year 2018-2019, the amount shall be \$48,000, provided the Employee successfully completes this third year of the Contract.

d. Employee shall complete such applications and other paper work as may be necessary to participate in such plan or plans and shall be solely responsible for maintaining participation in the plan(s) and for the tax consequences of such participation.

e. All compensation paid to Employee shall be subject to all deductions and withholdings required by law or by agreement of Employee.

14. Worker Compensation. Employee shall be an employee of Employer for the purpose of worker compensation coverage.

15. Termination. This Contract may be terminated by any of the following conditions:

a. Mutual Agreement. This Contract may be terminated by mutual agreement of the parties;

b. Discharge for Cause. Throughout the term of this Contract, Employee shall be subject to discharge for good and just cause ("Cause"), which is defined as:

- i) Fraud, misappropriation, embezzlement, or acts of similar dishonesty;
- ii) Use of illegal drugs or excessive use of alcohol or drugs in the

workplace;

iii) Intentional and willful misconduct that would subject the Employer to criminal or civil liability;

iv) A material violation of any law, rule, regulation, constitutional provision or policy of the Employer or the University, or local, state, or federal law, which reflects adversely upon the University;

v) Insubordination or deliberate refusal to follow the Employer's reasonable instructions to the Employee; or

vi) Any material breach by Employee of the duties, terms and conditions set forth in this Contract, or the refusal or unwillingness to perform such duties in good faith and to the best of Employee's abilities.

If Employer believes that Cause exists under any of the definitions above, Employer shall provide Employee with written notice thereof and 30 days to remedy the alleged Cause. Any written notice under this subsection shall describe the material elements of the alleged violation, breach or failure to perform constituting Cause and shall advise the Employee that if she fails to remedy the violation, breach or failure to perform within 30 days of the notice, Cause for termination of the Contract will exist;

c. Death of Employee. This Contract shall automatically terminate upon the death of Employee;

d. Resignation by Employee.

i) Employee may resign from her employment under this Contract for any reason by giving at least sixty (60) days advance, written notice of her intent to resign to the Chair of the Board.

ii) Employee may resign immediately for "Good Reason.". "Good Reason" means: (i) a reduction by the Employer without the Employee's consent in the Employee's position, duties, responsibilities,

necessary resources, or status with the Employer that represents a substantial adverse change from her position, duties, responsibilities, or status; (ii) a material breach of this Contract by the Employer; or (iii) the Employer requiring Employee to take any action, or refrain from taking any action, that is improper, imprudent, or unreasonable, such as an act or omission that would violate an applicable statute, rule, regulation, ethical standard, or contractual obligation; or

e. Non-Appropriation. Pursuant to § 24-19-104(1.5)(a)(II), C.R.S., the Employer may terminate this Contract without penalty if sufficient funds are not appropriated to support this Contract. Those portions, if any, of the term of this Contract falling in subsequent fiscal years, and for which there are not present cash reserves pledged irrevocably for purposes of payment of the obligations of this Contract, shall be contingent upon future appropriation by the Employer of sufficient funds for purposes of payment of the obligations of this Contract for any such future fiscal year. In the event such appropriation is not made in any fiscal year, this Contract shall thereupon terminate and each party shall be released from its obligations hereunder.

Notwithstanding the foregoing, if this Contract is terminated for Cause by the Employer or without Good Reason by the Employee, then the Employee shall be entitled to receive her base salary to the extent such amount has accrued through the termination date, plus all accrued vacation pay, retirement benefits and expense reimbursement due pursuant to this Contract. If this Contract is terminated without Cause by the Employer or for Good Reason by Employee, then the Employee shall be entitled to receive her base salary through the term of the Contract then in effect, in one lump sum, plus all accrued vacation pay, retirement benefits and expense reimbursement due pursuant to this Contract, subject to the limitations of §§ 24-19-101 *et seq.*, C.R.S.

16. Other Provisions.

a. No modification of this Contract or of any covenant, condition or limitation herein shall be valid unless made in writing and duly executed by both



parties. The parties further agree that the provisions of this Subsection may not be waived.

b. This Contract contains the entire agreement between the parties as to Employee's employment as President of the University and shall, as of the commencement date hereof, supersede all other agreements between the parties. The parties stipulate that neither of them has made any representations with respect to the subject matter of this Contract or any representations including the execution and delivery hereof, except such representations as are specifically set forth herein. Each party acknowledges that they have relied on their own judgment and counsel in entering into this Contract and that this Contract shall not be construed against the party drafting the Contract.

c. No waiver of any rights under this Contract will be valid unless set forth in writing signed by the party making the waiver. The failure of either party to insist upon strict performance of this Contract shall not be construed as a waiver.

d. This is a contract for personal and professional services, and the benefits of this Contract shall not be pledged or assigned in any way by Employee.

e. Subject to the provisions of Section 4 and Subsection 16.e. of this Contract, the Board covenants and agrees that it will include in its annual budget requests, or cause to be included in such annual budget requests, an amount for compensation which is sufficient, if appropriated, to pay for all amounts due under and pursuant to this Contract for each fiscal year covered by the term of this Contract.

f. The terms of this Contract are severable, and if any term or provision is declared by a court of competent jurisdiction to be illegal, void or unenforceable, then the remainder of this Contract shall continue to be valid and enforceable to the extent that it is capable of execution.

g. This Contract is subject to all provisions of state and federal law applicable to Employer, including, but not limited to, § 24-19-101, *et seq.*, C.R.S.;

all policies, procedures, rules and regulations of the Employer and the University, including, but not limited to, the *Manual* and the *Handbook*, unless otherwise expressly provided herein; and all State of Colorado Fiscal Rules and similar rules and regulations promulgated pursuant to laws applicable to Employer, which laws, rules and regulations shall control in the event of any conflict with the terms and conditions of this Contract. In the event of any conflict with the *Manual* or the *Handbook*, this Contract shall be controlling.

h. At all times during the performance of this Contract, Employer and Employee shall strictly adhere to all applicable federal and state laws, rules and regulations that have been or may hereafter be enacted.

i. This Contract shall be interpreted and construed in accordance with the laws of the State of Colorado, which shall be the forum for any lawsuit arising from or incident to this Contract. The Employee and Employer hereby submit to the exclusive jurisdiction of any Colorado state or federal court in the United States of America sitting in Colorado where venue is appropriate for any legal action or proceeding arising out of or relating to this Contract.

j. The headings used in this Contract are for the convenience of the parties only and shall not have any legal effect whatsoever or, in any other way alter or modify the meaning or interpretation of this Contract.

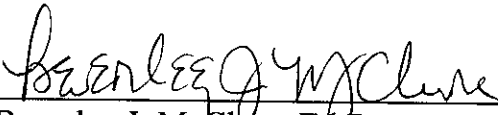
k. Any notice required or permitted by this Contract may be delivered in person or sent by certified mail, return receipt requested, to the last address provided by the addressee to the other party, and if sent by mail, it shall be effective five (5) days after posting in a U.S. Mail Depository with sufficient postage attached thereto.

**l. This Contract shall not be deemed valid and effective until it has been approved by the University's Controller, or such assistant as he may designate.**

m. The Employee and Employer hereby represent and warrant to each other that the execution, delivery and performance of this Contract does not and

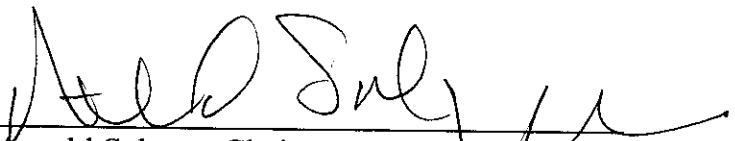
IN WITNESS WHEREOF, the parties have executed this Contract below, on the date first written above.

**EMPLOYEE:**

  
Beverlee J. McClure, Ed.D.

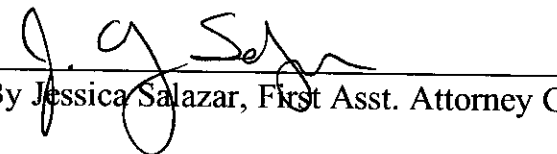
**BOARD:**

STATE OF COLORADO,  
by and through the Board of Trustees  
for Adams State University

By:   
Arnold Salazar, Chair, Board of Trustees

APPROVED AS TO FORM:  
STATE OF COLORADO  
Cynthia H. Coffman, Attorney General

APPROVED:  
ADAMS STATE UNIVERSITY

  
By Jessica Salazar, First Asst. Attorney General

By:   
Controller

Dated: 7/18/16, 2015

