

**COMMONWEALTH OF KENTUCKY**  
**48<sup>TH</sup> JUDICIAL CIRCUIT**  
**FRANKLIN CIRCUIT COURT**  
**DIVISION I**  
**CIVIL ACTION NO. \_\_\_\_\_**

**DR. M. CHRISTOPHER BROWN, II**  
30 Elmendorf Street  
Frankfort, KY 40601

**PLAINTIFF**

**v.**

**KENTUCKY STATE UNIVERSITY**  
400 East Main Street  
FRANKFORT, KY 40601

**DEFENDANT**

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**VERIFIED COMPLAINT**

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Comes the Plaintiff, Dr. M. Christopher Brown, II (“Dr. Brown”), by counsel, and for his Complaint against the Defendant, Kentucky State University (“KSU”) states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff Kentucky State University (“KSU”) is a state university with its primary campus located in Frankfort, Kentucky.

2. Dr. Brown is a resident of the Commonwealth of Kentucky, residing at 30 Elmendorf Street, Frankfort, Kentucky 40601.

3. Venue and jurisdiction are proper under KRS § 45A.245 because this dispute concerns a breach of contract action against the Commonwealth.

**GENERAL ALLEGATIONS**

4. On March 13, 2017, KSU elects Dr. Brown as President of KSU.

5. On April 12, 2017, KSU enters the original Employment Agreement with Dr. Brown.

6. On July 19, 2018, KSU hired Dr. Brown as President of KSU.
7. As part of his employment, Dr. Brown signed a Revised and Corrected Amended Employment Agreement (“Agreement”) on December 6, 2018. A copy of this Agreement is attached as **Exhibit 1**.
8. Pursuant to the Agreement, KSU agreed to employ Dr. Brown for a term of four years unless terminated pursuant to Article VIII of the Agreement (Exhibit 1, Section 2.1).
9. KSU agreed to pay Dr. Brown a salary of \$270,000.00 per year for each of the four years, not including fringe benefits. Dr. Brown’s salary could be increased at the discretion of the KSU Board of Directors (the “Board”) but could not be decreased (Exhibit 1, Section 4.1).
10. KSU further agreed to pay Dr. Brown’s moving expenses for his arrival and departure from KSU in the amounts of \$20,000 and \$10,000 respectively (Exhibit 1, Section 4.9).
11. KSU could terminate Dr. Brown’s employment at any time with thirty days prior notice. If KSU terminated Dr. Brown’s employment for any reason other than “for cause” as defined in Section 8.1, KSU was required to pay Dr. Brown a severance payment in the amount of 12 months of his salary at the time of the termination (Exhibit 1, Section 8.1)
12. In the event Dr. Brown resigned or abandoned his position as President during the term of the Agreement, he was not entitled to receive a severance payment and was only entitled to accrued, but unpaid, salary and vacation and unreimbursed business expenses (Exhibit 1, Section 8.4).
13. A Third Addendum to the Agreement was executed by KSU and Dr. Brown on June 3, 2021, extending the term of the Agreement through June 30, 2025.
14. On Monday, July 12, 2021, the KSU Board held a meeting and presented Dr. Brown with a list of financial problems discovered after the departure of the KSU Chief Financial Officer.

The Board requested that Dr. Brown fix these problems and provide a response to requested information at the next Board meeting.

15. On July 13, 2021, the Board chair called Dr. Brown several times to tell him that he had to “lead KSU out of this crisis” and stating that Dr. Brown could fix the problems.

16. On July 14, 2021, the Board chair sent a text message to Dr. Brown stating that “I am in no mental state right now to talk to you. Please get with Clara (Stamps) to write up your resignation letter/exit strategy and discuss with Lisa and Bill Johnson and send it to me for review. Thank you.”.

17. On July 15, 2021, William E. Johnson, counsel for the Board and KSU sent an email to Dr. Brown stating that “the Board is of the opinion that your resignation should be immediately tendered and accepted by the Board. I understand that if the Resignation is not submitted by you today that the Board will take necessary action to establish that you have been relieved as President of the University and that an Acting President has been appointed to act on behalf of the University”.

18. The correspondence of July 15, 2021 did not state that Dr. Brown was being terminated for cause.

19. As a result of this threat from KSU, Dr. Brown tendered a resignation letter to the Board stating that he had “recently learned that I will not be able to complete the tenure of the third addendum to my present contract”. The inability to complete his tenure was based on the statement made by the Board’s counsel that if Dr. Brown did not resign on July 15, 2021, he would be relieved of his duties as President of KSU.

20. Dr. Brown had no opportunity to consult with an attorney prior to tendering a resignation letter to the Board.

21. On Friday, July 16, 2021, KSU discontinued Dr. Brown's access to his KSU email and cell phone

22. KSU forced Dr. Brown to resign from his position to prevent him from receiving the severance payment he would be entitled to if KSU terminated him without cause.

23. Dr. Brown attended the regularly scheduled KSU Board meeting on July 20, 2021. At the start of the executive session, the KSU Board chair stated that the Board accepted Dr. Brown's resignation and required him to leave the Board meeting.

24. Dr. Brown was forced under duress to resign or be terminated from his position; therefore, Dr. Brown was constructively discharged. His employment was terminated by KSU without cause and Dr. Brown is entitled to recover compensatory damages in an amount to be determined by the court, as well as punitive damages.

**COUNT ONE**  
**CONSTRUCTIVE DISCHARGE**

25. Dr. Brown realleges and reasserts his allegations in paragraphs 1 through 22 as though fully set forth herein.

26. Under Kentucky law, an employee is constructively discharged by an employer if the conditions created by the employer's conduct are so intolerable that a reasonable person would be compelled to resign.

27. Dr. Brown was compelled to resign due to KSU creating conditions that were intolerable. KSU forced Dr. Brown to resign by stating that he would be removed as President if he did not resign.

28. As a result of the constructive discharge, Dr. Brown's employment was terminated without cause and he is entitled to recover damages in an amount to be determined by the Court.

**COUNT II**



### **BREACH OF CONTRACT**

29. Dr. Brown realleges and reasserts his allegations in paragraphs 1 through 25 as though fully set forth herein.

30. The Agreement provided that if KSU terminates Dr. Brown for any reason other than “for cause” as defined in the Agreement, KSU is required to provide Dr. Brown with 30 days’ notice of termination and if termination is not “for cause”, Dr. Brown is entitled to a severance payment of \$270,000.00.

31. KSU did not provide Dr. Brown with 30 days’ notice of termination but stated that Dr. Brown would be removed as President of KSU if he did not resign.

32. KSU provided no reason for Dr. Brown’s forced resignation/constructive discharge.

33. KSU breached the Agreement with Dr. Brown by terminating him without cause and failing to pay the severance payment and moving expenses due and owing.

34. Consequently, Dr. Brown is entitled to a severance payment of \$270,000.00 and is entitled to recover relocation expenses in the amount of \$10,000.00.

### **PRAYER FOR RELIEF**

WHEREFORE, Dr. Brown requests that Judgment be entered in its favor and against KSU as follows:

- A. Compensatory damages in an amount to be determined by the Court;
- B. Punitive damages for KSU’s willful and malicious conduct;
- C. Attorneys’ fees and costs; and
- B. For such other and further relief to which Dr. Brown may be entitled both at law and equity.

Respectfully submitted,

/s/ Jonathan D. Goldberg

Jonathan D. Goldberg (KBA #25850)

Jan M. West (KBA #83602)

GOLDBEG SIMPSON, LLC

9301 Dayflower Street

Prospect, KY 40059

Telephone: (502) 589-4440

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E-mail: jgoldberg@goldbergsimpson.com

E-mail: jwest@jgoldbergsimpson.com

*Counsel for Dr. Christopher Brown*

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M. Christopher Brown, II

Subscribed and sworn to before me by M. Christopher Brown, II, this the 19<sup>th</sup> day of November, 2021.

 Julie Lynne Hudson  
Notary Public, ID KYNP35086  
State at Large, Kentucky  
My Commission Expires on Sept. 19, 2025

Julie Lynne Hudson  
Notary Public, State-at-Large, Kentucky  
ID No. KYNP35086

COPY

**REVISED AND CORRECTED  
AMENDED EMPLOYMENT AGREEMENT**

This AMENDED EMPLOYMENT AGREEMENT ("Agreement") is hereby amended and restated this 6<sup>th</sup> day of December in the year 2018, to be effective immediately as stated in the agreement dated July 19, 2018 ("Effective Date"), by and between **KENTUCKY STATE UNIVERSITY** ("KSU"), in its corporate capacity and in its capacity as an agency and instrumentality of the Commonwealth of Kentucky, and **M. CHRISTOPHER BROWN II, Ph.D.** ("Dr. Brown"). This agreement replaces and supersedes any and all oral agreements between the parties, as well as any prior writings.

**RECITALS:**

**WHEREAS**, KSU is a state university in the Commonwealth of Kentucky and as such, is an agency and instrumentality of the Commonwealth of Kentucky; and

**WHEREAS**, KSU desires to employ Dr. Brown in the capacity of President; and

**WHEREAS**, KSU and Dr. Brown desire to set forth the terms and conditions of Dr. Brown's employment by KSU in this agreement;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, KSU and Dr. Brown hereby contract and agree as follows:

**ARTICLE I: Employment Position**

Section 1.1: KSU agrees to employ Dr. Brown and Dr. Brown agrees to be employed by KSU in the position of President of KSU during the Term of this Agreement, and upon the terms and conditions set forth in the Agreement, unless Dr. Brown is terminated pursuant to the terms of Article VIII of this Agreement.

Section 1.2: Dr. Brown agrees and acknowledges that his employment by KSU is an administrative appointment. Dr. Brown agrees and acknowledges that upon expiration of this Agreement pursuant to Article II of this Agreement, or

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upon termination from his position as President pursuant to the terms and conditions of Article VIII of this Agreement, his rights and remedies are specifically limited to those set forth in Article IX in this Agreement.

## **ARTICLE II: Term of Employment**

Section 2.1: KSU agrees to employ Dr. Brown as President for a term of four (4) years beginning on July 19, 2018 and ending on July 19, 2022 (the "Term"). The term of employment shall also be subject to prior termination in accordance with the provision as set forth in Article VIII of this Agreement.

Section 2.2: This Agreement shall expire at 11:59 p.m., Eastern Time on July 19, 2022 (the "Expiration Date"), unless terminated earlier in accordance with the provisions of Article VI of this Agreement.

## **ARTICLE III: Duties and Responsibilities**

Section 3.1: During the Term of this Agreement, Dr. Brown agrees to undertake and perform properly, efficiently and consonantly with the standards of KSU, all duties and responsibilities set forth in the KSU Board of Regents Bylaws, and all other duties and responsibilities attendant to the position of President. These duties shall be carried out under the direction of, and pursuant to, the policies and directives adopted by the KSU Board of Regents (the "Board").

Section 3.2: During the Term of this Agreement, Dr. Brown shall devote his professional time, attention and energy to the business and affairs of KSU, but KSU acknowledges and agrees that Dr. Brown may serve as a member of the board of directors of other organizations that do not compete with KSU, and may participate in other professional, civic, religious, or governmental

organizations and activities that do not materially affect his ability to carry out his duties as President of KSU.

Section 3.3: In addition to other duties and responsibilities set forth in the KSU Board of Regents Bylaws, without limiting their generality, and subject to the provisions below and the duties and obligations expressly established thereunder, and the limitations, if any, Dr. Brown will have the following duties and powers:

- (a) to manage, supervise, and direct the academic and administrative activities of KSU as its chief executive officer;
- (b) to maintain appropriate relationships with all students, faculty, staff, and alumni of KSU;
- (c) to initiate (without derogating from the Board's power to so initiate) and participate in the formulation of KSU policies and the consideration of all matters before the Board;
- (d) to follow and implement all directions and resolutions of the Board, and to report to and be accountable to the Board;
- (e) to ensure the appointment of outstanding individuals to the senior administrative positions of KSU, to remain consistent with the budget approved from time to time by the Board (the "budget"), and to ensure that adequate review mechanisms and succession plans are established for these individuals;
- (f) to ensure the preparation of draft budgets and the implementation of the budget;
- (g) to formulate sound long-range planning for the ongoing development of KSU and direct the implementation of those plans when approved by the board;
- (h) to periodically review the organization and structure of the University, recommend improvements thereto, participate in

- all relevant Board discussions and thereafter implement Board-approved changes in a planned and orderly fashion;
- (i) to study and appraise results of operations to reinforce successful operations and to rectify any deficiencies or adverse situations;
  - (j) to ensure the risks to KSU identified in risk assessment processes are appropriately managed and communicated;
  - (k) to direct all phases of the daily business operations of KSU personally, and through delegation to qualified individuals of proper authority and responsibility;
  - (l) to ensure that the academic and other activities of the University are conducted in compliance with state laws, University policies, and accreditation standards;
  - (m) to maintain satisfactory senior-level relationships with third parties generally, including professional advisors, charitable supporters, governments, agencies of governments and neighboring communities;
  - (n) to protect the reputation and public image of KSU;
  - (o) to carry out his duties and responsibilities in a manner consistent with University's core values of mutual respect and equity; and;
  - (p) to serve as chief spokesperson for KSU.

Section 3.4: Dr. Brown agrees and understands that the duties and responsibilities, as reflected in Article III, are not exhaustive of his duties and responsibilities as President Dr. Brown agrees and understands that he shall be assigned other duties and responsibilities by the KSU Board of Regents (the "Board"), and that Dr. Brown shall be expected to promptly and diligently carry out such assigned duties and responsibilities.

#### **ARTICLE IV: Compensation. Fringe Benefits and Incentives**

Section 4.1: **Salary:** In consideration for the terms and conditions of this Agreement, KSU shall pay Dr. Brown an annual salary of Two Hundred and Seventy Thousand Dollars (\$270,000.00), not including those fringe benefits that Dr. Brown is required or entitled to take pursuant to state law or university policy, which shall be payable in semi-monthly installments in accordance with the KSU payroll cycle. Dr. Brown shall be eligible for increases in salary during the Term of this Agreement at such times and in such amounts, if any, as determined by the Board through its sole and absolute discretion. During the Term of this Agreement, Dr. Brown's Base Salary may be increased, but not decreased. Dr. Brown agrees that all compensation from KSU is subject to normal deductions and withholdings for local, state, and federal taxes, and for retirement or other benefits to which Dr. Brown is entitled or which he voluntarily elects, subject to the terms and conditions of Article IV of this Agreement. However, in accordance with Section 4.3 all Fringe Benefits will be paid by KSU.

Section 4.2: **Travel Reimbursement:** KSU will reimburse Dr. Brown for all travel and out-of-pocket expenses reasonably incurred by him for the purpose of, or in connection with, the performance of his duties as President under this Agreement. Such reimbursements shall be made in accordance with KSU travel policies and the Commonwealth of Kentucky. In those circumstances where it is appropriate for Dr. Brown's spouse to travel with him for official University functions or other professional meetings, including, but not limited to, KSU sporting events, alumni meetings, speaking engagements, association meetings and conferences, Dr. Brown's spouse's travel costs shall also be reimbursed, not to exceed five (5) times per year.

Section 4.3: **Fringe Benefits:** Dr. Brown shall be entitled to the following fringe benefits ("Fringe Benefits"):

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- (a) The standard fringe benefits available to all KSU employees as defined by the personnel policies, including vacation pay, sick leave, standard holidays, term life insurance, and standard contributions to a mandatory retirement plan;
- (b) Certain voluntary benefits available at Dr. Brown's own cost;
- (c) KSU shall pay one hundred percent (100%) of the monthly premiums for health, vision and dental coverage in a Preferred Provider Organization for Dr. Brown;
- (d) KSU shall pay one hundred percent (100%) of the monthly premiums for short-term and long-term disability insurance for Dr. Brown;
- (e) If any Fringe Benefit, or the value thereof, is based, in whole or in part, upon the compensation paid to Dr. Brown, any outside income received by Dr. Brown in accordance with the provisions of paragraph 6.4 of this Agreement shall not be included in the compensation for purposes of calculating such benefit;
- (f) KSU shall pay one hundred percent (100%) of the monthly payments to Dr. Brown's retirement account with the Kentucky Teachers' Retirement System (KTRS) or with one of KSU's Optional Retirement programs. KSU shall make Dr. Brown's payments on a monthly basis;
- (g) KSU shall pay Dr. Brown's professional membership fees up to a maximum of Three Thousand Dollars (\$3,000) per calendar year;
- (h) Annually throughout the term of this agreement, KSU shall maintain a Presidential Fund in the amount of Thirty Thousand Dollars (\$30,000) to be administered by Dr. Brown

for the assistance of KSU staff and faculty. The fund shall be administered by Dr. Brown or his designee as follows:

1. Ten Thousand Dollars (\$10,000) shall be used to establish a staff incentive and service fund;
2. Ten Thousand Dollars (\$10,000) shall be used for a faculty recognition awards celebrating excellence and service to the University community; and
3. Ten Thousand Dollars (\$10,000) shall be used for student recognition initiatives that promote recruitment and retention on behalf of the University.

Excess funds remaining in this Fund at the end of the fiscal year shall carryover to the next year; and

- (i) KSU shall pay Dr. Brown Six Thousand Five Hundred Dollars (\$6,500) per year to be used for private club membership fees.
- (j) KSU shall provide a monthly housing allowance in the net amount of (\$4,030) (after deduction for all applicable withholding and payroll taxes). The University will pay the housing allowance in the first payroll period of each month.


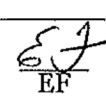
Section 4.4: **University Vehicle:** The University shall provide Dr. Brown with a monthly allowance of Nine Hundred and Fifty Dollars (\$950), in lieu of obtaining and maintaining an automobile for Dr. Brown's work-related travel.

Section 4.5: **Vacation/Sick Leave:** Dr. Brown shall begin his employment as President with a full credit of twenty-five (25) days of paid vacation leave and twelve (12) days of paid sick leave. Dr. Brown shall continue to accumulate vacation and sick leave from the Effective Date of this Agreement going forward consistent with KSU personnel policies.

Section 4.6: **Additional Term Life Insurance Coverage:** In addition to the term life insurance provided as a component of the Fringe Benefits, KSU shall pay

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the standard rate to provide additional term life insurance on the life of Dr. Brown in the amount of Five Hundred Thousand Dollars (\$500,000), for the benefit of Dr. Brown's beneficiaries. This coverage amount may be achieved by utilizing one or more policies of insurance, with KSU's discretion. Should Dr. Brown not be eligible for coverage based upon the standard rate, he shall be personally responsible for payment of any premiums over and above the standard rate ("excess premiums"). Should Dr. Brown decline to pay the excess premiums, KSU shall be relieved of its obligation to provide the additional term life insurance pursuant to this section.

Section 4.7: **Official Residence at Hillcrest:** KSU requires, for the sole benefit and convenience of the University in having the functions of the Office of President efficiently discharged, and as a condition of his employment as President of the University, that Dr. Brown reside in housing selected by the University, and provided by, or arranged by, the University. Hence, as a condition of employment as President and for the University's convenience, Dr. Brown shall be required to reside in the campus building designated as Hillcrest. Dr. Brown is permitted to house members of his immediate family at Hillcrest. Dr. Brown is permitted to have occasional guests lodge at Hillcrest provided that said lodging is not for an extended period longer than intermittent visitation. KSU shall pay for utilities, upkeep, and necessary KSU-related entertainment expenses incurred at the residence. KSU shall pay for all maintenance and operating expenses, including grounds keeping, general maintenance, housekeeping, and all utilities, including local and long distance telephone (other than for personal use), cable, internet, electric, gas and water. KSU shall be responsible for any real estate tax liabilities.

KSU reserves the right to make any repairs or improvements it deems necessary. Dr. Brown shall seek prior approval from the Board of Regents or its Executive Committee before undertaking any capital improvements to Hillcrest or its grounds. KSU shall maintain liability insurance for the residence. Any improvements shall be subject to, and shall be made in compliance with, all relevant law, policies and procedures. To the extent renovations to Hillcrest are ever required, the University shall provide Dr. Brown with temporary housing until such renovations are complete. The University will furnish Hillcrest, including family areas therein, unless Dr. Brown elects to use his own furniture. Hillcrest shall be available, and shall be used, for University-related business and entertainment on a regular and continuing basis. Costs associated with such University events shall be paid by KSU from state funds or private funds, as appropriate. KSU shall be responsible for upkeep and cleaning services in accordance with University policies. In the event that Dr. Brown's employment with KSU is terminated, whether voluntarily or involuntarily, Dr. Brown shall vacate the residence no more than thirty (30) days after such date of termination. It is understood and agreed by the parties that this residence is located on KSU's business premises and is furnished for the convenience of the University. The parties agree that it is permissible for Dr. Brown to use Hillcrest for the purposes of entertainment and University advancement.

Section 4.8: **Computers:** In addition to providing an office computer, KSU shall provide a laptop computer and a desktop computer for use by Dr. Brown at the residence.

Section 4.9: **Moving Expenses:** Dr. Brown shall be entitled to receive reasonable moving-related expenses for both his arrival to and departure from KSU in the amounts of \$20,000 and \$10,000 respectively. As a sole matter of convenience, in assisting Dr. Brown with the logistics and expenses of relocating his family to and from Frankfort, Kentucky funds will be remitted

as lump sums within fifteen (15) days of ratification of this agreement *and for* termination of employment. Funds are paid as consulting fees and are not subject to any withholdings. Dr. Brown will be provided a 1099 MISC as documentation of his receipt of funds. Under this provision, no documentation of reimbursable expenses is required.

Section 4.10: **Merit Incentive:** On an annual basis, based upon the fiscal year of the University, the Board may award to Dr. Brown performance incentive compensation based upon his attainment of written goals or objectives previously established by the Board in consultation with Dr. Brown. The Board shall make its best efforts to provide Dr. Brown with these goals and objectives at least thirty (30) days preceding each fiscal year of the University during the term of the Agreement. Dr. Brown shall be eligible to receive an annual incentive payment up to twenty percent (20%) of his current salary based upon certain performance metrics (weighted equally), with each performance metric being separately considered. The initial performance metrics are detailed on Exhibit A, attached hereto and made a part hereof.

- (a) KSU will provide Dr. Brown with an opportunity to earn a merit incentive bonus each year, with a maximum earning opportunity each fiscal year of 20% of his base salary; the highest salary paid to him during any fiscal year will serve as the base salary for purposes of calculating the incentive.
- (b) Elements, which the Board of Regents will consider in determining whether to award Dr. Brown a Merit Incentive, include a demonstration that Dr. Brown has achieved the terms set forth in his annual performance plan. Each year, the Board and Dr. Brown will establish an Annual Performance Plan for Dr. Brown which shall reflect on the University's

mission, strategic plan, and mutually-agreed upon objectives, goals, and metrics.

(c) Annually, the Board will review the performance of Dr. Brown and establish priorities, goals, and activities for the President. The process of review will be undertaken substantially in conformance with the following:

1. No later than the 1st Quarterly meeting of the calendar year, Dr. Brown will report, in writing, to the Executive Committee of the Board of Regents his performance including the achievement of the priorities, goals, and activities which may have been identified by the Board as his performance for the previous year;
2. No later than the 1st Quarterly meeting of the calendar year, the Executive Committee and Dr. Brown will meet to discuss the performance of Dr. Brown and discuss priorities, goals, and activities for the year to come;
3. No later than the 2nd Quarterly meeting of the calendar year, the Executive Committee will review the performance of Dr. Brown with the full Board in camera view. It will also recommend in open session a list of priorities, goals, and activities for Dr. Brown for the year to come, for Board approval;
4. No later than the 2nd Quarterly meeting of the 2018 calendar year, the Chair of the Board may prepare a report summarizing Dr. Brown's goals, objectives, and performance as President

and, after reviewing the content of the report with Dr. Brown, may make the report public.

- (d) The Merit Incentive bonus for any fiscal year of the University ending on June 30 shall be paid no later than August 31<sup>st</sup> of the same year.
- (e) Even though a Merit Bonus may be warranted in any given year based on Dr. Brown's successful achievement of the provisions in his Annual Performance Plan, no Merit Bonus will be made in any fiscal year in which the University is over budget.

Section 4.11: **Retention Incentive:** During the term of your employment as President, Dr. Brown will earn a retention incentive (the "Retention Incentive") credited in installments of \$20,000 each on the 14th day of May in each of the years 2018 through 2020, subject to continuous employment as President of KSU through the applicable crediting date. The Retention Incentive shall vest and become payable on May 14, 2020, provided that Dr. Brown is employed as President of the University on such date. In the event of any other termination of service as President prior to May 14, 2020, Dr. Brown shall not be entitled to the Retention Incentive and it shall be forfeited. Dr. Brown shall receive the Retention Incentive as a lump sum within fifteen (15) days of compliance subject to all withholding, unless deposited into a tax-exempt account. KSU's obligations as to the Retention Incentive shall be an unfunded and unsecured promise to pay money in the future. Your right to receive it shall be no greater than the right of any creditor and subject to compliance as evidenced by continued employment.

## **ARTICLE V: Faculty Rank and Tenure**

- Section 5.1: ***Faculty Rank:*** During his presidency, Dr. Brown will rank as a tenured full professor of Education, Political Science, and Public Administration at KSU. Dr. Brown shall not receive any additional compensation for his faculty appointment.
- Section 5.2: ***Tenure:*** During his presidency, Dr. Brown's tenure status shall be subject to the same University rules and regulations as all other tenured faculty. At such time as Dr. Brown's employment as President of KSU is terminated for any reason, he must resign his tenure and will cease to be a member of the faculty. Dr. Brown may not remain a faculty member of the university under this Agreement. Further, Dr. Brown does not enjoy any employment rights upon termination.

## **ARTICLE VI: Professional Engagements and Outside Activities**

- Section 6.1: ***Professional Engagements:*** During the term of this Agreement, Dr. Brown shall devote his work efforts to the University responsibilities assigned to him. However, Dr. Brown may devote a reasonable amount of his time to professional, civic, community, religious, or charitable activities. With consent from the Chair of the Board, which shall not be unreasonably delayed or withheld, Dr. Brown may serve as a director, consultant or other non-employment capacity of not more than a total of five (5) for-profit or nonprofit corporations (other than those entities which the President of KSU has traditionally served in some capacity by virtue of his position as President or entities on which it is advantageous to the University for the President to serve in some capacity). Dr. Brown may perform other charitable activities not expressly mentioned on this section.



Section 6.2: ***Philanthropy and Civic Support:*** During the term of this Agreement, Dr. Brown may also invest his personal assets, as he deems appropriate so long as such investments do not interfere with the performance of his duties and responsibilities assigned to him by the Board or otherwise violate the conflict of interest policy of the University. Any personal income earned by the President in association with his outside activities shall have no effect on his compensation under this Agreement.

Section 6.3: ***Other Activities:*** KSU recognizes that it is both appropriate and beneficial for Dr. Brown to engage in outside activities, such as serving on Board of Directors, consulting, delivering speeches, and writing. However, Dr. Brown may not engage in outside activities that conflicts with his duties to, and responsibilities for, the University or that materially impairs his ability to perform these duties.

Section 6.4: ***Outside Employment:*** While Dr. Brown is employed by KSU as President, he may have the opportunity to earn outside income, but only upon the following terms and conditions:

- (a) Any outside employment shall not interfere with the performance by Dr. Brown of his duties and obligations as President of KSU.
- (b) In no event shall Dr. Brown accept or receive, directly or indirectly, any monies, benefits or any other gratuity whatsoever from any person, corporation or any KSU booster, Booster Club member, alumnus, Alumni Association member, or other benefactor, if such action would violate any laws, constitutions, bylaws, rules, regulations or policies of KSU or the Commonwealth of Kentucky, as now in existence or as hereinafter enacted or amended.
- (c) Such activities are independent of Dr. Brown's employment by KSU and KSU shall have no responsibility or liability for any

claims or causes of action of any type whatsoever which may arise therefrom.

- (d) Except for the limitations on outside employment as established by this Agreement, or in the laws, constitutions, bylaws, rules, regulations and policies of KSU or the Commonwealth of Kentucky, Dr. Brown shall be entitled to retain all revenue generated from outside employment.

#### **ARTICLE VII: Reporting Authority**

Section 7.1: Dr. Brown shall report to the KSU Board of Regents.

Section 7.2: Dr. Brown's job duties and responsibilities may be reviewed, revised, and assigned from time-to-time by the KSU Board of Regents upon mutual consent with thirty (30) days written notice.

#### **ARTICLE VIII: Separation of Employment**

Section 8.1: KSU may terminate Dr. Brown's employment prior to the end of the Term of this Agreement at any time with thirty (30) days prior notice. If KSU terminates Dr. Brown for any reason other than "For Cause" (as hereinafter defined), then Dr. Brown is entitled to receive severance pay as set forth in Section 8.2, provided Dr. Brown delivers a signed general release in a form agreeable to KSU within twenty (20) days of its tender by KSU.

Notwithstanding the foregoing, KSU may terminate Dr. Brown for Cause, which shall mean:

- (a) Dr. Brown's conviction of a felony offense, or Dr. Brown's commission of any act abhorrent to the community which the Board considers materially damaging to the reputation of KSU,

or which the Board deems as tending to discredit the reputation of KSU;

- (b) A legal breach of any administrative or fiduciary obligation by Dr. Brown under this Agreement; or
- (c) Gross neglect of, or willful failure to, perform the material duties of his position after notice, and reasonable opportunity of not less than thirty (30) days, to cure the deficient performance after written notice.

Dr. Brown specifically acknowledges and agrees that if he is terminated For Cause at any time prior to the Expiration Date all compensation and Fringe Benefits conferred upon Dr. Brown by this Agreement, and any right to receive that same, shall immediately terminate and cease. Notwithstanding the foregoing sentence, Dr. Brown shall be entitled to receive his earned wages, vacation pay, and unreimbursed business expenses through the date of termination.

Section 8.2: If Dr. Brown is terminated prior to the Expiration Date for any reason other than For Cause (See Section 8.1), Dr. Brown's death or disability (Section 8.3), or in the event KSU elects not to renew or extend this Agreement at the conclusion of the Term (See Section 2.1), KSU shall be obligated to pay Dr. Brown severance pay equal to twelve (12) months of the monthly salary in effect at the time of the termination. However, notwithstanding the foregoing, in no event shall the severance pay be less than Two Hundred and Seventy Thousand Dollars (\$270,000.00) (subject to statutory tax deductions), and in no event shall KSU be obligated to pay the severance pay in less than the twelve (12) equal monthly installments. "Salary" as used in this section does not include Fringe Benefits or their cash value.

Section 8.3: In the event of the death of Dr. Brown or any disability of a duration longer than ninety (90) days, the employment of Dr. Brown shall immediately terminate and KSU shall only be obligated to pay to Dr. Brown or his estate,

the value of accrued but unpaid salary, vacation and unreimbursed business expenses. In all other respects KSU shall be relieved of all other obligations imposed by this Agreement. "Salary" as used in this section does not include Fringe Benefits or their value, other than the value of accrued but unpaid vacation. For purposes of this Agreement, a "disability" shall be subject to definition and determination by the Board in its sole and absolute discretion.

Section 8.4: In the event Dr. Brown resigns or abandons his position as President during the Term of this Agreement, KSU shall only be obligated to pay Dr. Brown the value of accrued, but unpaid salary, accrued unpaid vacation and unreimbursed business expenses. In all other respects KSU shall be relieved of all other obligations imposed by the Agreement and Dr. Brown shall have waived and forfeited his rights under this Agreement. "Salary" as used in this Section does not include the Fringe Benefits, or their value, other than the value of accrued, but unpaid vacation. For purposes of this Agreement, position "abandonment" shall be subject to definition and determination by the Board through its sole and absolute discretion.

Section 8.5: Any provision of this Agreement to the contrary notwithstanding, if Dr. Brown's employment as President should terminate for any reason whatsoever, whether voluntarily or involuntarily, before his contributions to any retirement plan of the Commonwealth of Kentucky should vest, such portion of the non-vested contributions paid personally by Dr. Brown shall be refunded to him or his estate, and KSU shall pay to Dr. Brown or his estate, the cash value of the non-vested employer contributions to the retirement plan.

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## ARTICLE IX: Miscellaneous Provisions

Section 9.1: Dr. Brown acknowledges and agrees that this Agreement shall constitute the sole terms and conditions of his employment. Dr. Brown specifically agrees that, as to his employment, the terms and conditions of this Agreement supersede any and all rights and/or privileges which Dr. Brown shall have had pursuant to the laws and statutes of the Commonwealth of Kentucky, and/or the provisions of the KSU Staff Personnel Policy and Procedure Manual, and/or other KSU staff and/or faculty policy and procedure manual or handbook of any type whatsoever, and Dr. Brown specifically waives any rights and/or privileges which he would otherwise have possessed pursuant to the laws and statutes of the Commonwealth of Kentucky, and/or any other provisions of the KSU Staff Personnel Policy and Procedure Manual, and/or any other KSU staff and/or faculty policy and procedure manual or handbook of any type whatsoever.

Section 9.2: Dr. Brown understands that for administrative purposes only, he may be issued an Electronic Personnel Action Form ("EPAF") by KSU periodically. Dr. Brown specifically acknowledges and agrees that an EPAF issued relative to his employment at KSU does not constitute a contract and does not in any way supersede, modify or amend the terms and conditions of this Agreement. This Agreement is the sole instrument governing the terms and conditions of Dr. Brown's employment with KSU.

Section 9.3: KSU and Dr. Brown acknowledge that this is a fully integrated Agreement and that they are not relying upon any oral representations or any representations of any type whatsoever which are not reflected in this Agreement.

Section 9.4: KSU and Dr. Brown agree that this Agreement shall not be amended orally, but only by a document executed in writing by all of the parties hereto. No waiver, consent, modification or change of terms of this Agreement shall

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bind the parties unless in writing signed by all parties, and then such waiver, consent, modification or change shall be effective only in the specific instances and for the specific purposes given.



Section 9.5: This Agreement shall be governed by the laws of the Commonwealth of Kentucky and shall be interpreted pursuant to the laws of the Commonwealth of Kentucky.

Section 9.6: Should there arise any dispute pertaining to Dr. Brown's employment or termination, or should any dispute arise concerning the terms and conditions of this Agreement, KSU and Dr. Brown agree that all such disputes shall be resolved by submitting the same to binding arbitration conducted at Frankfort, Kentucky (or the next closest venue where the American Arbitration Association will conduct such proceedings) pursuant to the rules and regulations of the American Arbitration Association, and agree that such binding arbitration shall be the exclusive remedy for any such disputes, including, but not limited to, any allegations of breach of the terms and conditions of this Agreement. Dr. Brown and KSU specifically agree that all such disputes must be filed in arbitration within ninety (90) days of the date that the dispute arises, or be forever barred. This provision shall survive the term of this Agreement and shall apply even in the event that Dr. Brown waives any of his rights under this Agreement.

Section 9.7: Dr. Brown and KSU acknowledge that they have each had an opportunity to contribute to the preparation of the terms and conditions of this Agreement, and as a result, both parties agree that any rule of construction which provides that a contract or agreement shall be strictly construed against the drafter shall have no application in the construction or interpretation of this Agreement.

Section 9.8: The headings contained in this Agreement are included only for convenience and ease of reference, and shall not be used in the construction or interpretation of the actual terms and conditions of this Agreement.

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Section 9.9: Dr. Brown specifically acknowledges and agrees that this Agreement must be ratified by the KSU Board of Regents before its terms and conditions become enforceable against KSU. Dr. Brown specifically acknowledges, consents and agrees that the Chairman of the KSU Board of Regents shall be authorized to execute this Agreement and any amendments or modifications to this Agreement, on behalf of KSU.

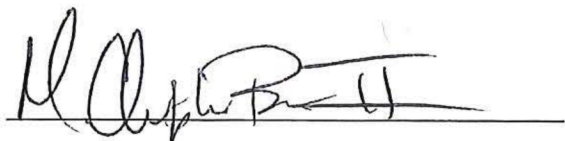
Section 9.10: Dr. Brown specifically acknowledges and agrees that this Agreement supersedes any and all prior discussions, negotiations, or agreements he may have had with KSU or any of its agents.

Section 9.11: Dr. Brown hereby acknowledges and represents that he has carefully read all of the foregoing, that he understands all of the conditions contained herein, and acknowledges that this is the fully integrated and binding Agreement, and that he is not relying upon any oral representations, but only upon the terms set forth in this written Agreement.

#### **ARTICLE X: Ratification and Execution**

Upon signature by you and the approval and ratification by the Board of Regents at a public meeting, this Agreement shall become a legally binding agreement in accordance with its terms. Until approval and ratification by the Board of Regents at a public meeting, this Agreement shall not be legally binding.

**EXECUTED as an Instrument under seal as of the 6th day of December in the year 2018:**



**M. CHRISTOPHER BROWN II, Ph.D.**

Employee

For: DR. BROWN





**ELAINE FARRIS, Ed.D.**

CHAIRMAN, BOARD OF REGENTS

For: KENTUCKY STATE UNIVERSITY

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## EXHIBIT A (As Revised on June 7, 2018)

### Merit Incentive Compensation

Pursuant to Section 4.10, Dr. Brown shall annually be eligible for an incentive payment, based upon his performance in measure with the following (weighted equally). The criteria for earning the incentive payment may be adjusted or modified annually, according to the timetable in Section 4.10, by the KSU Board of Regents. This Revised Exhibit A replaces all prior exhibits:



#### Performance Metrics (2018-2019 Academic Year)

1. Strategic Outcomes (20% weighting) - Dr. Brown shall increase the number of public-private partnerships improving institutional efficiency, revise the University Strategic Plan to accommodate all stakeholders, increase University brand exposure and attention via local and national media, and provide evidence of a new culture of policy compliance via the development, cataloging, and adherence to written policies and procedures;
2. Student Retention (20% weighting) - Dr. Brown shall improve campus life and morale, decrease overall time to receive degree, reduce the number of student DFW grades, and increase the fall-to-fall student retention rate by no less than 10% of the AY 2016-2017 baseline;
3. Graduation Rates (20% weighting) - Dr. Brown shall increase the four-year and six-year cohort graduation rates by no less than 10% of the AY 2016-2017 baseline;
4. Academic Accreditations (20% weighting) - Dr. Brown shall steward continued SACSCOC regional accreditation for the University and launch specialized program area accreditation in no less than half of the institution's academic colleges, with a demonstrated plan and strategy for full accreditation of eligible majors; and
5. Fiscal Outcomes (20% weighting) - Dr. Brown shall increase the University's overall fiscal health to be evidenced by an increase in unrestricted philanthropic contributions, improved fiscal ratios pursuant to HB 303 (2016), and no less than a 10% increase in the instructional budget as measured against the AY 2016-2017 baseline.

**NOTE:** All of the above performance metrics will be measured against the 2016-2017 academic year baseline, even if they do not appear to be specifically enumerated.

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## **ADDENDUM TO EMPLOYMENT AGREEMENT**

This ADDENDUM is made to the Employment Agreement previously amended and restated on the 6th day of December in the year 2018 between KENTUCKY STATE UNIVERSITY ("KSU") and M. CHRISTOPHER BROWN II, Ph.D. ("Dr. Brown").

### **RECITALS:**


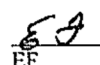
WHEREAS, ARTICLE IV, SECTION 4.1 provides that Dr. Brown shall receive an annual salary and shall be eligible for increases in salary during the term of the agreement;

WHEREAS, the parties wish to clarify and revise Section 4.1, and it is therefore, mutually understood and agreed upon by and between the undersigned parties that Article IV, Section 4.1 shall now read:

In consideration for the terms and conditions of this Agreement, KSU shall pay Dr. Brown an annual salary of Two Hundred and Seventy Thousand Dollars (\$270,000.00), not including those fringe benefits that Dr. Brown is required or entitled to take pursuant to state law or university policy, which shall be payable in semi-monthly installments in accordance with the KSU payroll cycle. Dr. Brown shall be eligible for increases in salary during the Term of this Agreement at such times and in such amounts, if any, as determined by the Board through its sole and absolute discretion. During the Term of this Agreement, Dr. Brown's Base Salary may be increased, but not decreased. Additionally, Dr. Brown shall be eligible for salary adjustments whenever faculty and/or staff are eligible for salary adjustments. Dr. Brown agrees that all compensation from KSU is subject to normal deductions and withholdings for local, state, and federal taxes, and for retirement or other benefits to which Dr. Brown is entitled or which he voluntarily elects, subject to the terms and conditions of Article IV of this Agreement. However, in accordance with Section 4.3 all Fringe Benefits will be paid by KSU.

Addendum to Employment Agreement, June 6, 2019  
Kentucky State University and M. Christopher Brown II, Ph.D.  
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WHEREAS, in ARTICLE IV, SECTION 4.7 the parties wish to strike from the provision:

KSU requires, for the sole benefit and convenience of the University in having the functions of the Office of President efficiently discharged, and as a condition of his employment as President of the University, that Dr. Brown reside in housing selected by the University, and provided by, or arranged by, the University. Hence, as a condition of employment as President and for the University's convenience, Dr. Brown shall be required to reside in the campus building designated as Hillcrest.

WHEREAS, ARTICLE IV, SECTION 4.10 (d) provides that the merit incentive bonus shall be paid no later than August 31<sup>st</sup> of the same year;

WHEREAS, the parties wish to revise Section 4.10 (d) and it is therefore, mutually understood and agreed upon by and between the undersigned parties that Article IV, Section 4.1 (d) shall now read:

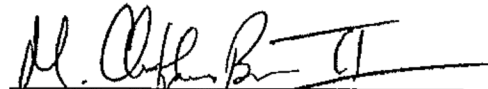
The Merit Incentive bonus for any fiscal year of the University ending on June 30 shall be paid in the month of December of the same year.


All other terms and conditions are to remain in full force and effect.

#### RATIFICATION AND EXECUTION

Upon signature by you and the approval and ratification by the Board of Regents at a public meeting, the Addendum shall become legally binding in accordance with its terms. Upon approval and ratification by the Board of Regents at a public meeting, this Addendum shall not be legally binding.

EXECUTED as an Instrument under seal as of the 6 day of June in the year 2019:

  
M. Christopher Brown II, Ph.D.  
Employee  
For: Dr. Brown

  
Elaine Farris, Ed.D.  
Chair, Board of Regents  
For: Kentucky State University

**SECOND ADDENDUM TO EMPLOYMENT AGREEMENT  
REVISED AND CORRECTED  
AMENDED EMPLOYMENT AGREEMENT**

This SECOND ADDENDUM TO EMPLOYMENT AGREEMENT is made to the REVISED AND CORRECTED AMENDED EMPLOYMENT AGREEMENT ("Agreement") previously amended and restated on the 6th of December in the year 2018 between **KENTUCKY STATE UNIVERSITY** ("KSU") and **M. CHRISTOPHER BROWN II, Ph.D.** ("Dr. Brown").

**RECITALS:**

**WHEREAS**, the parties hereby strike in its entirety Article IV, Section 4.7.

**RATIFICATION AND EXECUTION**

Upon signature by you and the approval and ratification by the Board of Regents at a public meeting, this Agreement shall become a legally binding agreement in accordance with its terms.

**EXECUTED as an Instrument under seal as of the 6th day of March in the year 2020:**

\_\_\_\_\_  
**M. CHRISTOPHER BROWN II, Ph.D.**  
Employee  
For: DR. BROWN

\_\_\_\_\_  
**ELAINE FARRIS, Ed.D.**  
CHAIR, BOARD OF REGENTS  
For: KENTUCKY STATE UNIVERSITY

**THIRD ADDENDUM TO EMPLOYMENT AGREEMENT  
REVISED AND CORRECTED  
AMENDED EMPLOYMENT AGREEMENT**

This THIRD ADDENDUM TO EMPLOYMENT AGREEMENT is made to the REVISED AND CORRECTED AMENDED EMPLOYMENT AGREEMENT ("Agreement") previously amended and restated on the 6th of December in the year 2018 between **KENTUCKY STATE UNIVERSITY** ("KSU") and **M. CHRISTOPHER BROWN II, Ph.D.** ("Dr. Brown").

**RECITALS:**

**WHEREAS**, the parties hereby strike in its entirety Article II.

**WHEREAS**, the parties wish to revise Article II, and it is therefore, mutually understood and agreed upon by and between the undersigned parties that Article II shall now read:

Section 2.1: KSU agrees to employ Dr. Brown as President for a term of four (4) years beginning on July 1, 2021 and ending on June 30, 2025 (the "Term"). The term of employment shall be subject to termination in accordance with the provision as set forth in Article VIII of this Agreement.

Section 2.2 This Agreement shall expire at 11:59 p.m., Eastern Time on June 30, 2025 (the "Expiration Date"), unless terminated earlier in accordance with Article VIII of this Agreement.

## RATIFICATION AND EXECUTION

Upon signature by you and the approval and ratification by the Board of Regents at a public meeting, this Agreement shall become a legally binding agreement in accordance with its terms.

EXECUTED as an Instrument under seal as of the 3 day of June in the year 2021:



**M. CHRISTOPHER BROWN II, Ph.D.**

Employee

For: DR. BROWN



**ELAINE FARRIS, Ed.D.**

CHAIR, BOARD OF REGENTS

For: KENTUCKY STATE UNIVERSITY