

THE STATE OF TEXAS                   §

COUNTY OF LUBBOCK                   §

**SECOND AMENDED EMPLOYMENT AGREEMENT OF ROBERT L. DUNCAN**

This Second Employment Agreement (the "Agreement") is made and entered into this the 17<sup>th</sup> day of October 2016 by and between the Texas Tech University System (the "TTU System") and Robert L. Duncan, J.D. ("Duncan") wherein Duncan is employed as the 4<sup>th</sup> Chancellor ("Chancellor") of the TTU System, (collectively the "Parties").

**Whereas**, following a national search, Duncan was appointed as the 4<sup>th</sup> Chancellor of the Texas Tech University System; and

**Whereas**, Duncan and TTUS previously entered into an Employment Agreement, the term of which was to end on June 30, 2018 (the "Amended Employment Agreement"); and

**Whereas**, the Board of Regents has determined that it is in the best interest of the TTU System that Duncan continue to serve as Chancellor of the TTU System; and

**Whereas**, the TTU System and Duncan have agreed to this Second Amended Employment Agreement to govern Duncan's employment.

**Therefore**, for and in consideration of the mutual benefits and consideration expressed herein, Duncan's employment by the TTU System as the Chancellor of the TTU System is hereby continued upon the following terms, conditions, covenants, and agreements:

**I.  
Appointment**

This Agreement shall be effective upon execution by the Parties.

**II.  
Term of Employment**

The term of this Agreement shall commence upon execution of the Parties and terminate the 30th day of June, 2019. For purposes of this Agreement, the period from the date of execution by the Parties through June 30, 2017 and July 1st to the following June 30th thereafter during the term of this Agreement shall be referred to as a "Contract Year".

**III.  
Base Salary Compensation**

Duncan shall be remunerated for services rendered as Chancellor at the annual base salary ("Base Salary") of \$512,900 per Contract Year payable in equal monthly installments. Duncan shall receive a pro rata portion of Base Salary from September 1, 2016 through June 30, 2017. Annual performance evaluations, as well as the consideration of future salary actions, will be conducted as specified by The Policies and Procedures of the Board of Regents of the Texas Tech University System (The "*Regents' Rules*").

**IV.  
Residence**

It has been a longstanding policy of the TTU System to provide the Chancellor the residence owned by the TTU System to enable the Chancellor to properly perform the duties of employment and serve the best interest of the TTU System. In this regard, the TTU System has determined that the nature of the TTU System's business mandates that the Chancellor reside in the housing provided by the TTU System in order to host meetings, TTU System events, and other official functions. All reasonable and necessary maintenance and repair costs related to such residence shall be the responsibility of the TTU System.

**V.  
Deferred Compensation**

In order to encourage Duncan to continue his service to the TTU System, the TTU System agrees to pay Duncan additional deferred compensation as provided herein.

Provided Duncan is employed, and has been continuously employed, as Chancellor of the TTU System on the following dates (the "Deferred Compensation Vesting Dates"), the TTU System shall pay deferred compensation as set forth below within 60 days of the respective Deferred Compensation Vesting Dates.

**Deferred Compensation**

**Vesting Dates**

June 30, 2017

June 30, 2018

June 30, 2019

**Deferred Compensation**

**Payable**

\$200,000

\$225,000

\$225,000

If Duncan voluntarily leaves the position of Chancellor of the TTU System or is formally terminated for cause prior to a Vesting Date, Duncan shall forfeit any and all rights to any unpaid deferred compensation for that Contract Year.

If, however, Duncan (1) is terminated without cause by the Board; (2) becomes Permanently Disabled (as defined below) while employed as Chancellor; or (3) dies while employed as Chancellor prior to a Vesting Date (the three aforementioned events being referred to herein as an "Early Termination Event"), Duncan or his designated beneficiary in the event of his death, shall be entitled to receive a portion of the Deferred Compensation earned but not yet paid pro-rated from July 1 of the Contract Year of termination to the date of the Early Termination Event. The payment for an Early Termination Event shall be made to Duncan or his designated beneficiary as the case may be, within 60 days after the date of the Early Termination Event.

For purposes of this provision, "Permanently Disabled" shall mean the inability after reasonable accommodation, to perform all of the usual and regular Chancellor duties by reason of any physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than six (6) months. The Board of Regents shall determine the existence of a disability. In making this determination, the Board of



Regents may seek the professional opinion of a qualified physician or may rely on other sources of information deemed appropriate. Duncan shall cooperate with the Board of Regents in any reasonable requests for verification of such disability.

## **VI. Performance**

Duncan shall serve as the Chancellor and Chief Executive Officer of the TTU System. As such, Duncan shall report to and be responsible to the Board of Regents. Duncan shall devote his full time, labor, effort and attention, in good faith, to conduct and perform the duties assigned to him as Chancellor in accordance with the job description attached as Exhibit A and the Regents Rules and incorporated by reference herein. In this regard, Duncan will give his first and foremost attention to his duties as Chancellor and be available at all reasonable times for the needs of the TTU System. During his employment as Chancellor, Duncan will be permitted to serve on profit and non-profit boards as agreed to by the Parties, so long as such service does not conflict with the interest of the TTU System or violate the laws of the State of Texas. Duncan must receive written approval from the Board of Regents prior to service on any for-profit boards.

## **VII. Retirement and Insurance Benefits**

Duncan shall be entitled to participate in all available retirement, life insurance, health and dental insurance programs available to and commensurate with the position of Chancellor, including but not limited to those benefits currently provided by the State of Texas and the Texas Tech University Health Sciences Center Medical Practice Income Plan (MPIP). As currently operated, the MPIP provides dental insurance for the employee and spouse, \$500,000 additional life insurance on the life of the employee and long term disability for the employee. (MPIP plan benefits are subject to change by the Plan Administrator.) All contributions provided by the State of Texas and MPIP in which Duncan participates shall be in accordance with the applicable state and federal laws and TTU and TTU System rules and regulations governing such retirement, insurance, salary and contributions and participations.

## **VIII. Other Matters, Duties and Conditions of Employment**

As a condition of employment, Duncan shall host and attend those events, meetings and activities which, in his judgment, will further the interest of the TTU System and be accompanied by Mrs. Duncan when he deems her presence and attendance at such events to be in the best interest of the TTU System. To the extent Duncan incurs travel expenses in attending any such occasions, his reasonable travel expenses will be paid by the TTU System under its standing policies and procedures. To the extent Duncan determines that Mrs. Duncan should accompany him, or travel in his absence to represent him, to such events requiring out-of-town travel, the TTU System will also pay, or reimburse, travel expenses incurred by Mrs. Duncan.

Duncan shall be provided membership in the Lubbock Country Club, the Texas Tech Club, and other memberships as deemed appropriate by the Parties. The expenses incurred in the use of these memberships on behalf of the TTU System shall be borne by the TTU System.



Annual dues necessary to maintain Duncan's membership in professional societies of which he is a member shall be paid by the TTU System.

## **IX.**

### **Faculty Appointment**

At the time of execution of this Agreement, Duncan is a tenured Professor in the TTU School of Law. As a tenured Professor, Duncan shall be accorded all the rights and privileges afforded to such appointment. Additionally, Duncan shall participate in those teaching and professional activities he deems necessary and appropriate to such position. At the time of the expiration of the term of this Agreement or his termination without cause, Duncan shall be granted the right to assume teaching and research duties as a tenured full Professor in the TTU School of Law. Should Duncan elect to assume such duties as a tenured full Professor, he shall be compensated as set forth in Section XI below. Any Additional Compensation, Deferred Compensation, benefits, and perquisites related to his appointment as Chancellor, and the rights, obligations, and duties of Chancellor, as set forth in this Agreement, shall then cease.

## **X.**

### **Termination**

As set forth herein below, this Agreement may be terminated: (i) at will; (ii) for cause; (iii) by Duncan's Permanent Disability; or (iv) by Duncan's death.

Duncan may voluntarily terminate his employment and, consequently, this Agreement with thirty (30) days' notice to the Board of Regents. In the event Duncan voluntarily terminates his employment during the term of this Agreement, all obligations between the Parties contained herein shall cease.

The Board may terminate this Agreement for cause. Cause shall include, but is not limited to material and serious violation(s) of Section VI above; failure or refusal to perform assigned duties; serious or major violation or violations of the governing policies, rules, regulations and procedures of the University; Duncan's violation of local, state, or federal laws; Duncan's commission of an act of moral turpitude, or Duncan's engaging in objectionable behavior as determined in the sole discretion of the Board. If this Agreement is terminated for cause, all obligations between the Parties contained herein shall cease.

The Board may terminate this Agreement without cause at any time. If this Agreement is terminated without cause, Duncan may choose either to terminate his relationship with TTU or to immediately assume teaching and research duties as a tenured full professor in the TTU School of Law. In the event Duncan is terminated "without cause" prior to June 30, 2019, under either option (leaving the TTU System or continuing to serve as a faculty member), Duncan will be paid his Base Salary through June 30, 2019. Thereafter, if he is, and continues to act, as a School of Law professor, he will thereafter receive a salary equal to the average of Professors, with similar qualifications performing similar duties in the School of Law pursuant to Texas Education Code Sec. 51.948. Notwithstanding the option taken above, if this Agreement is terminated without cause, Additional Compensation, Deferred Compensation, benefits, and perquisites related to his appointment as Chancellor, and the rights, obligations, and duties of Chancellor, as set forth in this Agreement, shall immediately cease.



Unless otherwise previously terminated, this Agreement shall terminate upon either the establishment of a Permanent Disability or Duncan's death and all further obligations of the TTU System shall cease.

**XI.  
Review of Agreement**

The Parties agree that this Agreement may be reviewed by both parties' attorneys and accountants and may be modified in writing for technical revisions within sixty (60) days of execution provided that no new or additional sums of money are authorized by this provision.

**XII.  
Miscellaneous**

It is understood and agreed that this Agreement, together with any written modifications or clarifications thereof contains all the terms and conditions to which the Parties have agreed and that no other understandings or representations, either oral or written, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties herein. This agreement may be modified, amended, or clarified only by written instrument signed by both Parties.

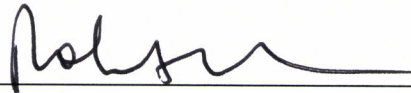
**XIII.  
Interpretation**

No provision or part of this Agreement which shall prove to be invalid, void or illegal shall in any way affect, impair or invalidate any other provision or part, and such other provisions and parts shall remain in full force and effect.

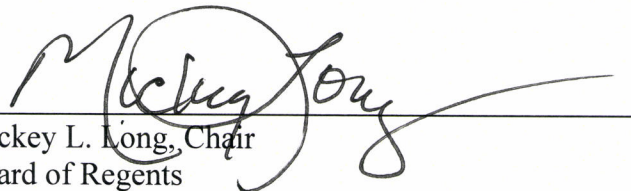
**XIV.  
Applicable Law**

This Agreement is made and entered into in Lubbock County, State of Texas, and the laws of the State of Texas govern its validity, interpretation, and the performance of the Parties of their respective duties and obligations herein.

Executed this the 17<sup>th</sup> day of October, 2016.



Robert L. Duncan, J.D.  
Chancellor  
Texas Tech University System



Mickey L. Long, Chair  
Board of Regents  
Texas Tech University System