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Non-Tenure Track Faculty Member Term Contract

TEMPLATE
Revised Spring 2022

**EMPLOYMENT CONTRACT BETWEEN
[INSTRUCTOR NAME]
AND
THE REGENTS OF THE UNIVERSITY OF COLORADO**

THIS EMPLOYMENT CONTRACT ("Contract") is made effective the date executed below ("Effective Date") by and between [redacted] (referred to in this Contract as "Instructor") and The Regents of the University of Colorado, a body corporate ("University") on behalf of the University of Colorado Boulder.

WHEREAS, the University desires that Instructor serve as an instructor in {insert department/unit name} ("the Academic Unit") and Instructor agrees to serve in such capacity; and

WHEREAS, the Academic Unit has determined that execution of this Contract complies with C.R.S. § 24-19-104(1.5)(d) and the Administrative Policy Statement on Multi-Year Contracts for Instructional, Research, and Clinical Faculty with Teaching or Librarian Appointments (APS 5053) ; and

WHEREAS, the Academic Unit has obtained all necessary administrative approvals for execution of this Contract.

NOW, THEREFORE in consideration of the mutual representations, agreements, and promises contained herein, the parties agree as follows:

1. **Term.** The University agrees to employ Instructor for a term of three (3) years commencing on the Effective Date, [insert effective date of three –year term], unless Instructor is otherwise terminated earlier as permitted under the provisions of this Contract. It is specifically acknowledged and agreed that the University has entered into this term Contract in accordance with and subject to the provisions of C.R.S. § 24-19-104(1.5)(d).

2. **Duties.** Instructor will teach at least {insert the number of courses that it is anticipated that Instructor will teach based on whether 9- or 12-month appointment}. The Academic Unit may assign Instructor additional courses as the Academic Unit's demands dictate and may assign Instructor other duties consistent with unit policy. In no event will Instructor teach on a less than 0.5 FTE basis.

3. **Salary.** Instructor's initial annual salary, based on a {specify whether 9-month academic year or 12-month academic year} appointment, shall be xxxxxxxx. Should the

Academic Unit or the University vary Instructor's duties, Instructor's salary may be adjusted accordingly.

4. **Annual Performance Evaluation.** Annual performance evaluations, which include annual merit pay adjustment where funding is available and Instructor meets the performance criteria, shall be conducted consistent with the processes applicable to instructional faculty.

5. **Benefits.** Instructor will receive any benefits normally provided to instructional faculty under the standard University of Colorado benefits programs, provided that Instructor meets eligibility requirements for such benefits.

6. **Exemption from the Fair Labor Standards Act.** This position is exempt from the overtime provisions of the Fair Labor Standards Act and as such is not eligible for overtime compensation.

7. **Termination for Cause.**

(a) This Contract may be terminated immediately upon notice by the University for cause. Termination for cause may include, but not be limited to, any one of the following grounds:

(i) Any material failure of Instructor to perform the duties of his or her position.

(ii) Material violation of any Regent Law or Policy, System Administrative Policy Statement (APS) or Campus, College, School or Academic Unit rule or policy including, but not limited to, unprofessional conduct in violation of the Campus Professional Rights and Responsibilities of Faculty Members and Roles and Professional Responsibilities of Academic Leaders policy and procedures.

(iii) Being found responsible by the Office of Institutional Equity and Compliance for violating one or more of the following policies: Discrimination and Harassment, Sexual Misconduct, and/or Amorous Relationships.

(iv) Conduct which would be grounds for termination of a tenured or tenure-track faculty member pursuant to the Regent Policy on faculty dismissal for cause.

(v) Instructor is indicted, bound over for trial, or a finding of probable cause is otherwise made, or Instructor enters a plea of guilty or of nolo contendere, whichever comes earlier, in a criminal case (excluding minor traffic offenses).

(vi) **For Individuals New to the University:** Instructor fails to comply with Paragraphs 18 or 19 of this Contract.

(b) Prior to any termination for cause, Instructor will be provided the procedures contained in Part IV of the document *Professional Rights and Responsibilities of Faculty Members and Roles and Professional Responsibilities of Academic Leaders*.

(c) The parties expressly acknowledge and agree that if Instructor's employment is terminated for cause under this paragraph 7, then Instructor shall be entitled to payment of only those amounts earned as of the effective date of termination.

(d) Nonrenewal of this Contract after expiration of this Contract is not termination for cause.

8. **Termination for Lack of Funds.** As required by Colorado law (C.R.S. § 24-19-104(1.5)(d)), this Contract may be terminated by the University if the University: i. ceases to be an enterprise, as defined by Colo. Const. X § 20(2)(d); and ii. lacks present cash reserves sufficient to pledge irrevocably to satisfy the terms of the Contract. In such instance, Instructor shall be entitled to payment for only those amounts earned as of the date of such termination.

9. **Termination for Program Discontinuance.** This Contract may be terminated if the Academic Unit or degree program is eliminated or consolidated pursuant to the University's Administrative Policy Statement on Implementing Academic Unit or Degree Program Discontinuance (APS 1015). In such instance, Instructor's employment will be terminated in accordance with APS 1015.

10. **Termination for Campus-Wide Fiscal Crisis.** This Contract may be terminated upon the Chancellor's written declaration of a campus-wide fiscal crisis, which is the Chancellor's determination that the campus has experienced a substantial and ongoing decline in revenue. Upon declaring a campus-wide fiscal crisis, the Chancellor may terminate all contracts entered pursuant to the Administrative Policy Statement on Multi-Year Contracts for Instructional, Research, and Clinical Faculty with Teaching Responsibilities or Librarian Appointments (APS 5053).

11. **Termination without Cause.**

(a) The parties expressly acknowledge and agree that if the University should terminate this Contract prior to {term expiration date} for any reason other than reasons listed in Paragraphs 7, 8, 9, or 10, or for Instructor's voluntarily leaving the position, then Instructor shall be entitled to claim damages from the University, pursuant to Paragraph 11(b), and subject further to the following:

(i) Instructor agrees that Instructor has a duty to promptly seek and obtain new employment to mitigate any damages arising from termination under this paragraph 11. Any settlement or final judgment following any appeal of Instructor's claim for damages against the University shall be paid in equal monthly installments from the date of settlement or judgment to the date the term of this

Contract would have ended had Instructor not been terminated, and such payments shall be reduced by any amounts Instructor receives or is to receive in the future from any source for services provided by Instructor during the remaining period covered by this Contract. Instructor shall promptly notify the University if Instructor accepts employment or otherwise agrees to perform such services; and

(ii) **Notwithstanding the foregoing, the University shall not be liable for any consequential, indirect, lost profit, punitive, special or similar damages even if the University has been advised of the possibility of such damages.**

(b) If the University should terminate this Contract without cause, then, upon such termination becoming effective, Instructor shall submit a claim to the University for the damages Instructor believes to have incurred (subject to the requirements and limitations described in this paragraph 11). The University and Instructor shall attempt to resolve Instructor's claim pursuant to a non-binding mediation process to be mutually agreed upon by the University and Instructor. Should the University and Instructor be unable to reach an agreement on the amount of damages due to Instructor within thirty (30) days after the submission of Instructor's claim, then Instructor shall be entitled to pursue legal action against the University for such damages. All statements, documents, admissions, or proposals exchanged by the University and Instructor pursuant to the process described in this paragraph 11(b) shall be deemed settlement and mediation materials and, accordingly, shall be considered confidential to the extent permitted by law and may not be used by either the University or Instructor in further proceedings.

12. **Reappointment.** At the expiration of this Contract, the University may appoint Instructor to a new position, may enter into a new Contract with Instructor, or may decide not to offer Instructor a new Contract.

13. **Right to Appeal.** Instructors who believe they have been denied appointment, reappointment or promotion contrary to campus policies, or have been terminated contrary to campus policies, may appeal in accordance with applicable campus policies.

14. **Entire Contract.** This document contains the entire Contract of the parties and shall be binding upon the parties, their heirs, administrators, successors and assigns.

15. **Severability.** If any provision of this Contract is determined to be void, invalid, or unenforceable for any reason, it shall be considered severed from this Contract and such invalidity shall not affect the validity or enforceability of the remaining provisions.

16. **Waiver.** Waiver by any party of a breach of any provision of this Contract by the other party shall not operate as or be construed to be a waiver of any subsequent breach hereto.

17. **Governing Law and Authorities.** This Contract is subject to, and shall be interpreted consistently with federal law, the laws of the State of Colorado, and University

laws and policies, as they may be amended from time to time. To the extent that this Contract or the laws and policies of the University conflict with state or federal laws, state or federal laws shall prevail. To the extent this Contract conflicts with the laws or policies of the University, the laws or policies of the University shall prevail.

18. For individuals new to the University: IRCA. Pursuant to the Immigration Reform and Control Act (IRCA), Instructor understands that the University must verify Instructor's employment eligibility within the first three working days of employment. Instructor understands that, as a condition of employment, Instructor must complete an I-9 Form and provide the University with certain documents verifying employment eligibility.

19. For individuals new to the University: Pledge. Instructor understands that, as a condition of employment, Instructor must sign and return the attached pledge form to the Office of Faculty Affairs no later than {insert date}. The pledge form is attached as Attachment A, incorporated by reference, and is made a part of this Contract.

20. Amendments or Modifications. This Contract may not be amended or modified except as mutually agreed upon in writing and signed by both parties.

21. Alterations to Contract Template. Any material alterations to this template contract for that are not approved by the Provost (or Provost's designee) shall operate to nullify this Contract.

22. Fund Availability. Financial obligations of the University payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

23. Notice. Any notice or other communication hereunder will be in writing; will be hand-delivered, mailed via registered or certified mail, sent by overnight courier, or sent by electronic mail or confirmed facsimile transmission; and will be deemed provided, if (a) hand-delivered, on the date of delivery, (b) mailed, the date deposited, postage prepaid, in the United States mail, (c) sent by overnight courier, one business day after the date of delivery to such courier, or (d) sent by electronic mail or confirmed facsimile, the date of transmission.

- a) Notice to Instructor shall be provided to the latest address in the University's personnel records for Instructor.
- b) Notice to the University shall be provided to Instructor's supervising administrator.

IN WITNESS WHEREOF, the parties have set their hands as of the date set forth above.

**THE REGENTS OF THE UNIVERSITY
OF COLORADO, a body corporate**

Academic Unit Chair or Director

Date

Dean

Date

Vice Provost and Associate Vice Chancellor for Faculty Affairs

Date

INSTRUCTOR

Instructor

Date