

# ECR 2

Chairman, Board of Trustees  
June 18, 2020

Members, Board of Trustees:

## PRESIDENT CAPILOUTO EMPLOYMENT AGREEMENT EXTENSION

Recommendation: that the Board of Trustees approve the attached Third Amendment to Dr. Capilouto's employment agreement.

Background: President Capilouto has done an outstanding job as President. His current employment agreement expires on June 30, 2021. President Capilouto has expressed a desire to extend his employment agreement for three years until June 30, 2024. With the exception of a previously announced reduction in his base pay for the period July 1, 2020 to June 30, 2021, he has asked that the terms and conditions of his employment agreement remain unchanged.

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Action taken:     Approved     Disapproved     Other \_\_\_\_\_

### THIRD AMENDMENT TO EMPLOYMENT AGREEMENT

This is a Third Amendment to an Employment Agreement ("Third Amendment") between Eli I. Capilouto, D.M.D., Sc.D., M.P.H. ("Dr. Capilouto" or the "President") and the University of Kentucky (the "University"), effective June 19, 2020.

#### WITNESSETH

WHEREAS, the President and the University entered into an Employment Agreement effective July 1, 2011, and amended in both a First Amendment effective December 17, 2013 and a Second Amendment, effective June 26, 2016 (collectively, the "Agreement");

WHEREAS, the University wishes to amend the Agreement in certain respects as set forth in this Third Amendment;

WHEREAS, the Board of Trustees of the University (the "Board") has duly approved this Third Amendment and has authorized the Chair to execute it; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. **Term.** The term of the President as set forth in Section A of the Agreement shall be amended to June 30, 2024.

B. **Renewal/Extension.** The dates of April 1, 2020, June 30, 2020, and June 30, 2021 as set forth in Section B of the Agreement shall each be amended to April 1, 2023, June 30, 2023 and June 30, 2024.

C. **Base Salary for FY2021.** For the period from July 1, 2020 to June 30, 2021, Dr. Capilouto's Base Salary, as set forth in Section D.1 of the Agreement as amended by the Second Amendment, is reduced by ten percent (10%) from Dr. Capilouto's Base Salary for the July 1, 2019 - June 30, 2020 fiscal year.

D. **Base Salary after FY2021.** For the period from July 1, 2021 to the end this Agreement, Dr. Capilouto's Base Salary will be the amount set forth in Section D.1 of the Agreement as amended by the Second Amendment. To the extent Section D.1 of the Agreement as amended by the Second Amendment requires an increase in his Base Salary for the period from July 1, 2021 to June 30, 2022, the increase will be based on the Base Salary he would have received for the period July 1, 2020 to June 30, 2021 before the ten percent reduction.

E. **Retirement Contribution.** Beginning July 1, 2020, and through termination of this Agreement, Section D.1 of the Agreement shall be replaced with the following:

"The University shall make an annual contribution on Dr. Capilouto's behalf to the University's retirement plans in an amount equal to the aggregate of employee and University contributions stated for all eligible employees for the same fiscal year under the University's retirement plan and administrative regulations."

F. **Deferred Compensation.** Section I.7 of the Agreement is amended as follows:

- a. Section I.7(a) is amended by replacing "and 2020" at the end with "2020, 2021, 2022, and 2023."
- b. Section I.7(c) is amended by adding the following sentence at the end: "Beginning July 1, 2021, any amounts credited to the President's 457(f) Account under Section I.7(a) on July 1 of a given year shall be forfeited if this Agreement is effectively terminated (i) by the Board with or without Cause or (ii) by the resignation of the President prior to June 30 of the following calendar year."

G. The University may make such addendum or amendment to its Supplemental § 415(m) Arrangement, Supplemental § 403(b) Plan, and Deferred Compensation Agreements under its 457(f) Plan as may be appropriate and necessary for the years 2021-22, 2022-23 and 2023-24.

H. All other terms and conditions of the Agreement not expressly amended by this Third Amendment remain in full force and effect and are hereby ratified and reaffirmed by the parties.

IN WITNESS WHEREOF, the parties have executed this Third Amendment as of the date shown below.

UNIVERSITY OF KENTUCKY

ELI I. CAPILOUTO, D.M.D., Sc.D., M.P.H.



Robert Vance, JD  
Chair, Board of Trustees



Eli I. Capilouto  
President

Dated: June 19, 2020