

such as, but not limited to, consulting relationships or from any other source whatsoever.

6.2 Termination by Employee.

6.2.a. Termination for Convenience of Employee.

The Employee understands that Employee's promise to remain employed as President for the entire Term is of the essence of this Agreement to the Employer. The Employee also understands that the Employer is making a highly valuable investment in the Employee's continued employment by entering into this Agreement and that its investment would be lost were the Employee to resign or otherwise terminate employment with the Employer prior to the expiration of this Agreement. In recognition of these understandings, the parties agree that while the Employee may, nevertheless, terminate this Agreement prior to its normal expiration, such termination shall be only upon the following terms and conditions:

6.2.a.1. Written Notice of Termination.

The Employee, for the Employee's own convenience, may terminate this Agreement during its term by giving prior written notice to the Employer. Such termination shall be effective no earlier than ten (10) calendar days after receipt of the written notice unless otherwise agreed to by the parties in writing.

6.2.a.2. Liquidated Damages.

If the Employee terminates this Agreement for convenience pursuant to this section 6.2, all obligations of the Employer shall cease as of the effective date of the termination, and, if the effective date of the termination is within twelve (12) months of the Effective Date of this Agreement, the Employee or the Employee's designee shall pay to the Employer, as liquidated damages and not a penalty, the sum of \$75,000.00 as liquidated damages which shall be due and payable within twenty (20) calendar days of the effective date of the termination, or as otherwise agreed to in writing pursuant to a payment schedule executed by the Chancellor, in consultation with the Chair of the Board of Regents, and Employee. Any unpaid and delinquent amount of liquidated damages shall bear simple interest at a rate of eight (8) percent per annum until paid.

6.2.b. Effect of Termination by Employee.

If the Employee terminates this Agreement prior to its expiration, all compensation and other obligations owed by the Employer to the Employee under this Agreement will be terminated on the effective date of the Employee's termination, except such sums as are earned by and are still owing to the Employee prior to the effective date of the Employee's termination. The provisions of this Article 6.2 shall be without prejudice to any right the Employer may have under applicable law. In no case shall the Employer be liable to the Employee for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from activities, contracts, consulting relationships or from any other sources that may ensue as a result of the Employee's termination of this Agreement.

6.3 Post-Presidency Employment Upon Expiration of Term or Termination Without Cause.

In the event the Employee is terminated without cause as set forth in Article 6.1.a, or upon the Employee's request to the Chancellor prior to the expiration of the Term of this Agreement set forth in Article 3.1, the Employee may request reassignment pursuant to Title 4, Chapter 3, Section 33 of the Handbook.

ARTICLE 7 RESTRICTIVE COVENANTS

7.1. Confidential Information.

The parties agree that in the course of employment, the Employee will have access to confidential information regarding the Institution and its programs, including donor lists and donor information, which could be used by other institutions to the disadvantage of the Institution. The Employee shall not provide, and is prohibited from providing, any such confidential information to any third party outside of NSHE or to any other institution, its employees, agents or representatives when the institution does not have authority to receive said confidential information. A breach of this section by Employee shall constitute cause to terminate this Agreement under Section 6.1.d.

7.2. Other Employment Opportunities.

The parties agree that should another employment opportunity be presented to the Employee or should the Employee be interested in another position as a President at any institution of higher education, the Employee shall immediately notify the Chancellor in writing of such opportunity or interest.

**ARTICLE 8
MISCELLANEOUS**

8.1. Choice of Law and Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada and the laws of the State of Nevada shall govern the validity, performance and enforcement of this Agreement. Any and all disputes arising out of or in connection with this Agreement shall be litigated in a court of competent jurisdiction in Washoe County, State of Nevada, and the parties hereby expressly consent to the jurisdiction of said court.

8.2. Assignment of Agreement.

The Employee's rights and interests under this Agreement may not be assigned, pledged or encumbered by the Employee.

8.3. Entire Agreement.

THIS AGREEMENT CONSTITUTES THE FULL AND COMPLETE UNDERSTANDING OF THE PARTIES WITH RESPECT TO THE EMPLOYMENT OF THE EMPLOYEE AND SUPERSEDES ALL PRIOR UNDERSTANDINGS AND AGREEMENTS, ORAL OR WRITTEN, REGARDING THE EMPLOYEE'S EMPLOYMENT BY THE BOARD OF REGENTS.

8.4. Amendments to Agreement.

This Agreement may be amended at any time only by a written instrument duly approved by the Board of Regents of the Nevada System of Higher Education and executed on behalf of the Board of Regents by the Chancellor or designee and the Employee.

8.5. Severability.

If any provision or provisions hereof shall be deemed invalid or unenforceable, either in whole or in part, this Agreement shall be deemed amended to delete or modify, as necessary, the offending provision or provisions or to alter the bounds thereof in order to render it valid and enforceable.

8.6. No Waiver of Default.

No waiver by the parties of any default or breach of any covenant, term or condition of this Agreement shall be deemed to be a waiver of any other default or breach of the same or any other covenant, term or condition contained herein.

8.7. Acknowledgement.

The Employee acknowledges that the Employee has read and understands the provisions of this Agreement and that such provisions are reasonable and enforceable, and the Employee agrees to abide by this Agreement and the terms and conditions set forth herein. The Employee acknowledges having had the opportunity to consult with counsel of Employee's choice regarding the provisions of this Agreement prior to signing it.

8.8. Indemnification

The Employee agrees to hold harmless and indemnify the Employer and the Employer's regents, officers, employees and agents from any and all suits, claims, demands, damages, liability, costs and expenses, including attorneys' fees and costs, arising out of the Employee's performance of acts outside the scope of this Agreement, or for

acts in pursuit of outside income as permitted by this Agreement, except such suits, claims or demands in which the Employee seeks to compel the Employer to comply with its obligations hereunder or in which the Employee seeks to enforce any remedies the Employee may have hereunder. This Article 8.8 shall survive the termination for any reason of this Agreement.

8.9. Employer Retains **All** Materials and Records.

All materials or articles of information including, without limitation, all documents, records, material or data, furnished to the Employee or developed by the Employee in connection with the Employee's employment hereunder, are and shall remain the sole property of the Employer. This Article 8.9 shall survive the termination for any reason of this Agreement.

8.10. Employee Will Not Incur Indebtedness.

It is mutually agreed and understood that the Employee shall not incur any indebtedness for or on behalf of the institution, except in accordance with the policies and procedures established by the Board of Regents.

8.11. Government Immunity Not Waived.

It is expressly agreed and understood between the parties that the Employer is an entity of the State of Nevada and that nothing contained herein shall be construed to constitute a waiver or relinquishment by the Employer of the right to claim such exemption, privileges and immunities as may be provided by law.

8.12. Notice.

Any notice or communication which may or is required to be given under this Agreement shall be in writing and shall be deemed to have been given on the earlier of either the day actually received or on the close of business on the third business day following the day when deposited in the United States Mail, postage prepaid, registered or certified, addressed to the party at the address set forth at its name below or such other address as may be given by such party in writing to the other.

If to the Employee:

Brian Sandoval
201 Clark Administrative Building
University of Nevada, Reno
Reno, Nevada 89557-0001

With a copy to Employee's home address of file with Human Resources.

It is hereby acknowledged and agreed that it is Employee's sole responsibility to ensure an updated and accurate address is maintained on file with Human Resources.

If to the Board of Regents:

Chancellor
2601 Enterprise Road
Reno, Nevada 89512
and
4300 Maryland Parkway
Las Vegas, Nevada 89119

With a copy to:

Chief of Staff to the Board of Regents
4300 Maryland Parkway
Las Vegas, Nevada 89119

8.13. Applicability of Nevada System of Higher Education Code.

Except as expressly stated herein, the provisions of the NSHE Code, Title 2 of the Board of Regents Handbook, as may be amended from time to time during the Term, are incorporated in this Agreement. Any amendments to the Code after this Agreement is executed shall be incorporated into this Agreement and binding upon the Employee.

8.14. Force Majeure.

Neither party shall be considered in default in the performance of its obligations under this Agreement if such performance is prevented or delayed by Force Majeure. Force Majeure shall be understood to be any cause which is beyond the reasonable control of the party affected and which is forthwith, by notice from the party affected, brought to the attention of the other party, including but not limited to war, hostilities, revolution, civil commotion, strike, lockout, epidemic, pandemic, accident, fire, wind or flood or because of any law, order, proclamation, ruling, regulation or ordinance of any government or subdivision of government or because of any act of God.

8.15. Captions.

All captions in this Agreement are included for convenience only and do not constitute, nor are incorporated in, the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or caused this Agreement to be executed, intending to be legally bound by its provisions upon approval of the Board of Regents of the Nevada System of Higher Education.

EMPLOYER

EMPLOYEE

BOARD OF REGENTS OF THE NEVADA SYSTEM
OF HIGHER EDUCATION

By: _____
Patricia Charlton, Chancellor

By: _____
Brian Sandoval

Date: _____

Date: _____