

1. Leadership

Providing leadership in the planning and implementation necessary for the successful operation of the Institution and to ensure that the Institution develops to its potential;

2. Appointing Authority

Serving as the appointing authority for all professional personnel of the Institution, subject only to the Nevada System of Higher Education Code, and to execute personnel contracts;

3. Personnel

Reviewing the quality of performance of all professional personnel of the Institution and to either take final action or to recommend action to the Board of Regents on personnel matters in conformity with the Nevada System of Higher Education Code;

4. Budget

Making recommendations concerning the budget of the Institution and administering the approved budgets of the Institution in accordance with NSHE policies;

5. Grants, Contracts and Gifts

Authorizing the transmission of applications or requests for grants, contracts or gifts to individuals, foundations, corporations, and the federal government;

6. Spokesperson

Serving as the principal spokesman of the Institution and, in concert with the Chancellor, to represent the Institution before the Board of Regents, the Legislature, and all other appropriate bodies;

7. Compliance

Ensuring compliance by the Institution (by and through its professional personnel), with the NSHE Code, NSHE policies, the Board of Regents Bylaws, and institutional bylaws.

8. Communication

Notifying the Board as soon as practicable of campus events that may have significant impact on the Institution including, but not limited to, the reputation or public image of the Institution;

9. Intercollegiate Athletics

To provide oversight, management, and control of intercollegiate athletic programs consistent with all applicable Board and Institution policies;

10. Additional Duties

Performing such additional duties as the Board may direct.

4.3 Other Duties and Responsibilities.

In addition to the duties and responsibilities set forth in Section 4.2.c, above, Employee shall have the following additional duties and responsibilities:

4.3.a Budget.

Employee shall annually prepare a detailed budget for the Institution and submit the budget to the Chancellor and the Board of Regents in accordance with all applicable policies and procedures. Employee shall also manage and administer the approved budget for the Institution in accordance with all applicable policies and procedures.

4.3.b Fundraising.

Employee acknowledges that fundraising and resource development are important to the development of the Institution and that the Employee is expected to continually engage in such activities for the betterment of the Institution. Employee will prepare and execute capital campaigns and other fundraising plans for the Institution as directed by the Chancellor or the Board of Regents.

4.4 Reporting Relationship.

The Employee shall report to the Chancellor.

4.5 Annual and Periodic Performance Evaluations.

The Employee's annual and periodic evaluation of performance of job duties and responsibilities shall be performed in accordance with the provisions of the NSHE Procedures and Guidelines Manual, Chapter 2, Section 2, as amended from time to time. These evaluations also will take into account prior evaluations and the expectations and goals set for the Employee in such prior evaluations.

4.6 Compliance with all Policies and Procedures as Amended.

The Employee must comply with all policies and procedures of NSHE and the Institution, and as they may be adopted or amended from time to time during the Term of this Agreement.

ARTICLE 5 – COMPENSATION

In consideration for the promises Employee has made in entering into this Agreement, the Employee shall be entitled to the compensation as described below. All payments, including non-cash consideration and benefits are subject to normal deductions and withholding of all applicable state, local and federal taxes, including all provisions, regulations and guidelines of the Internal Revenue Code, and for any retirement or other benefits to which the Employee is entitled or in which Employee participates, and are subject to the terms and conditions of Article 6 hereof concerning termination of this Agreement and Article 7 hereof concerning restrictions on competitive employment.

5.1 Base Salary and COLA.

5.1.a Base Salary.

The base salary paid to the Employee for all services and satisfactory performance of the terms and conditions of this Agreement shall be at the base rate of \$423,686.76 ("Base Salary") per fiscal year (a fiscal year begins on July 1 and ends the following June 30), prorated to the portion of the fiscal year the Employee is actually employed, and payable in equal monthly installments to the Employee on the first working day of each consecutive calendar month during the Term. Notwithstanding this Article 5.1, in the event there are salary reductions throughout the Nevada System of Higher Education for any fiscal year during the Term, Employee's salary shall be reduced by the same percentage and in the same manner as other employees of the NSHE through the mechanisms required by the Board of Regents, such as, for example, pay cuts and unpaid leave days.

5.1.b Deferred Compensation.

In addition to the Base Salary provided in Article 5.1.a, Employee shall earn deferred compensation at the rate of \$55,620.00 ("Deferred Compensation") per fiscal year, prorated to the portion of the fiscal year the Employee is actually employed. All Deferred Compensation shall be held for Employee and shall be payable to Employee upon (i) the expiration of the Term of this Agreement, (ii) the death or disability of Employee as provided in Article 6.1.c, (iii) the termination of this Agreement by Employer with or without cause as provided in Article 6.1.a and Article 6.1.b, or (iv) termination of this Agreement by Employee as provided in Article 6.2 (each a "Payment Event"). Upon the occurrence of any Payment Event all Deferred Compensation shall be paid to Employee or, as directed by Employee, deposited into an IRS qualified tax deferred compensation plan maintained by Employee. Deferred Compensation shall not earn interest or be subject to loss. For purposes of this Article 5.1.b the term "Employee" shall include Employee's estate or authorized representative in the event of Employee's death or disability.

5.1.c. Previously Earned Deferred Compensation.

Employee and Employer previously entered into an employment agreement with an effective date of December 19, 2014 under which Employee earned but was not paid certain compensation (the "Previously Earned Deferred Compensation"). Any time after the Effective Date of this Agreement, all or any portion of the Previously Earned Deferred Compensation shall, at Employee's direction, be paid to Employee or deposited into an IRS qualified tax deferred compensation plan maintained by Employee.

5.1.d. COLA.

Employee is not eligible for a Cost of Living (COLA) increase in fiscal year 2018. If the Nevada State Legislature grants a COLA increase for state employees and if the Nevada System of Higher Education authorizes a

COLA increase for its employees in fiscal years 2019 and 2020, Employee is entitled to receive a COLA increase in those years applicable to both Base Salary and Deferred Compensation

5.2 Fringe Benefits.

Except as provided herein, the Employee shall be entitled to the standard fringe benefits provided to all other professional employees of the NSHE including, but not limited to, retirement contributions based upon the Base Salary paid pursuant to Article 5.1 of this Agreement, insurance, annual and sick leave.

5.3 Expenses

Reimbursement to the Employee for all travel and out-of-pocket expenses reasonably incurred for the purpose of and in connection with the performance of Employee's duties under this Agreement, reimbursement shall be made in accordance with standard reimbursement rates and procedures of the NSHE and the Institution upon presentation to the Chancellor of standard travel reimbursement forms, vouchers or other statements itemizing such expenses in reasonable detail. For purposes of this section, Employee's primary residence shall be Reno, Nevada and Employee's eligibility for reimbursement for travel and other out-of-pocket expense shall be based on such primary residence.

5.4 Automobile and Housing Allowance.

While serving as President, additional perquisites consisting of an automobile allowance and a housing allowance shall be provided in recognition of the requirements of this position and paid in lieu of furnishing an automobile and a house to the Employee as follows:

5.4.a Automobile.

An automobile allowance of \$8,000.00 per fiscal year, paid in equal monthly installments and prorated for partial months of service, which shall be in lieu of reimbursement for use of a private vehicle on official business within a fifty-mile radius of the Employee's primary residence.

5.4.b Housing.

An annual housing allowance of \$18,000.00 per fiscal year, paid in equal monthly installments and prorated for partial months of service. The annual housing allowance is the only amount paid for housing no matter the number or location of houses or residences utilized by Employee.

5.5 Host Account.

The appointee shall have the use of an annual host account of \$5,000.00 per fiscal year only while serving as the President. The host account for partial fiscal years of service as the President will be prorated. Expenditures from the host account must conform to policies established by the Board of Regents and the Chancellor. Host account funds may be used to pay for transportation, lodging, and meal expenses (in accordance with the standard state reimbursement rates) of appointee's spouse, companion or domestic partner when appointee's spouse, companion or domestic partner is expected to accompany appointee to events outside the fifty-mile radius from home for the purpose of assisting appointee in representing the Institution. Out-of-state travel by appointee's spouse, companion or domestic partner will require prior approval by the Chancellor.

5.6 Outside Activities/Conflicts of interest/Competing Organizations.

5.6.a Chancellor's Approval Required.

Employee acknowledges that NSHE and Institution Conflict of Interest/Compensated Outside Services Policies and all related rules and procedures thereunder apply to Employee during the term of this Agreement. Consistent with such policies, Employee agrees for the Term not to serve, directly or indirectly, as an employee or otherwise, as a director, personnel executive, advisor and/or consultant, nor perform related services for any organization, club or group, with compensation, without the prior written consent of the Chancellor, which consent can be withheld in the Chancellor's reasonable discretion. During the Term of employment hereunder, Employee shall not make or continue to hold any investment in or be associated with any enterprise, which could be deemed to be competitive or in conflict with the objectives and philosophies of the Board of Regents, NSHE or the Institution, without

first having obtained the written approval of the Chancellor, which approval may can be withheld in the Chancellor's sole and absolute discretion.

5.6.b. NSHE is Not Liable.

ANY ARRANGEMENTS FOR OUTSIDE COMPENSATION OR OUTSIDE ACTIVITES ARE INDEPENDENT OF THE EMPLOYEE'S NSHE EMPLOYMENT, AND THE EMPLOYEE HEREBY RELEASES THE NSHE, ITS REGENTS, OFFICERS, EMPLOYEES AND AGENTS FROM ANY LIABILITY, DAMAGES OR CLAIMS IN ANY WAY RELATED TO ARISING FROM ANY OUTSIDE ACITIVITIES, FOR ANY PAYMENT OF OUTSIDE COMPENSATION OR FOR ANY CLAIMS ARISING THEREFROM UNDER ANY CIRCUMSTANCES WHATSOEVER. EMPLOYEE HEREBY EXPRESSLY RELEASES NSHE, ITS REGENTS, OFFICERS, EMPLOYEE'S AND AGENTS FROM ANY AND ALL CLAIMS FOR THE LOSS OF ANY COLLATERAL BUSINESS OPPORTUNITIES OR ANY OTHER BENEFITS, PERQUISITES OR INCOME RESULTING FROM ANY OUTSIDE ACTIVITIES OF EMPLOYEE.

5.7 Compliance with State and Federal Laws.

Employee is subject to and must comply with all applicable state and federal laws and regulations, including but not limited to the financial disclosure requirements in accordance with NRS 281.559, and the provisions of the state Code of Ethical Standards set forth in NRS 281A.400-NRS 281A.440.

5.8 Employee Granted Tenure.

Employee shall hold tenure in an appropriate academic department of the University of Nevada, Reno.

ARTICLE 6 – DISCIPLINE AND TERMINATION

6.1 Discipline and Termination.

The Employee recognizes that Employee's promise to remain as President of the Institution through the entire Term is of the essence of this Agreement to the Employer. It is also recognized, however, that certain circumstances may make it appropriate for Employer to terminate this Agreement prior to the completion of its entire term, as follows:

6.1.a. Termination Without Cause.

Employee serves at the pleasure of the Board of Regents and at any time after commencement of this Agreement, the Board of Regents, for its own convenience, may terminate this Agreement. Employee may be removed by the Board of Regents at any time, with or without cause, and the Agreement terminated. Upon such termination, the Employee:

i. Shall receive on a monthly basis, for the remaining Term of this Agreement, the difference, if any between the Base Salary set forth in Article 5.1.a and (a) Employee's Academic Salary (as defined below) or (b) Employee's Other Salary (as defined below), whichever is greater (the "Severance Amount"); and

ii. Shall not receive or be entitled to any payments for housing allowance, automobile allowance, bonuses, host account, Deferred Compensation (except for amounts already earned as provided in Article 5.1.b) or other benefits set forth in Articles 5.2 through 5.6 of this Agreement.

For purposes of this Agreement, the term "Academic Salary" means the base annual salary Employee receives (or will receive) upon return to service, pursuant to Title 4, Chapter 3, Section 33 of the *Handbook*, as a full time tenured faculty member at the University of Nevada, Reno; but such Academic Salary shall not be less than \$173,369.27 per year

For purposes of this Agreement, the term "Other Salary" means any salary Employee receives from a college, university, system, or institution of higher education, or otherwise, if Employee resigns or is terminated as a faculty member at the University of Nevada, Reno.

6.1.b Duty to Mitigate.

If, (1) this Agreement is terminated without cause as provided in Article 6.1.a, and (2) Employee resigns or is terminated as a faculty member at the University of Nevada, Reno and no longer receives an Academic Salary, Employee shall mitigate Employer's obligation to pay the Severance Amount under Article 6.1.a.i by making reasonable and diligent efforts to obtain employment; the salary from which shall constitute Other Salary.

6.1.c Automatic Termination upon Death or Disability of Employee

This Agreement terminates upon the Employee's death. Notwithstanding any provision of the NSHE Code to the contrary, in addition to any benefits which may be paid to the estate of the deceased Employee from insurance, retirement or any other source, Employer shall pay to the Employee's estate the Employee's salary through the day death occurred, plus any earned, accrued but unused annual leave, if applicable under NSHE policies, together with one-twelfth of the Employee's base salary.

Upon total or permanent disability of the Employee, within the meaning of the NSHE's disability insurance for employees, the Employee is required to first use all unused, accrued sick leave and, if applicable, annual leave or other leave authorized under NSHE policies. Upon the expiration of such leave or the period of six (6) months, whichever comes last, this Agreement shall automatically terminate.

6.1.d Employee Subject to Discipline and Termination for Cause.

Employee is subject to disciplinary action, up to and including termination for cause, by the Board of Regents or the Chancellor in accordance with the provisions of this Agreement and/or the provisions of the Board of Regents Bylaws, Title 1, Article VII, Section 3.e.14, as amended from time to time. In addition to the prohibited activities set forth in Title 1, Article VII, Section 3.e.14, Employee acknowledges and agrees that discipline may also be based upon any breach of the terms of this Agreement, and any violation of the policies and procedures of the Board of Regents, NSHE or the Institution. Employee further acknowledges and agrees that the administrative process provided in Title 1, Article VII, Section 3.e.14 constitutes legal due process, and that no further administrative process is required.

6.1.e Employer's Obligations Upon Termination for Cause.

In the event this Agreement is terminated for cause, as of the effective date of such termination, (i) all of the Employer's obligations to the Employee under this Agreement subsequent to that date shall cease, including, without limitation Employer's obligation to pay any compensation, and (ii) Employee shall return to service as a tenured faculty member at the University of Nevada, Reno as provided in Title 4, Chapter 3, Section 33 of the Handbook at a salary of not less than \$173,369.27. Nothing in this Agreement, including this Article 6.1.e, shall prevent the University of Nevada, Reno from taking independent disciplinary action against Employee (including, without limitation, any discipline under Title 2, Chapter 6 of the *Handbook*), for actions or events that result in the termination of this Agreement by the Board of Regents.

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 Employer is making a highly valuable investment in Employee's continued employment by entering into this Agreement and that its investment would be lost were Employee to resign or otherwise terminate employment with 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 Employee's own convenience, may terminate this Agreement during its Term by giving prior written notice to 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, all obligations of 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 Employee's designee shall pay to the Employer, as liquidated damages and not a penalty, the sum of \$100,000.00 The liquidated damages shall be due and payable within twenty (20) calendar days of the effective date of the termination, or as otherwise agreed in accordance with a payment schedule agreed upon by the Chancellor, in consultation with the Chair of the Board of Regents. Any unpaid amount of liquidated damages shall bear simple interest at a rate of eight (8) percent per annum until paid.

6.2.a.3. Not a Penalty.

The parties have both been represented by, or had the opportunity to consult with, legal counsel in the negotiation of this Agreement and have bargained for and agreed to the foregoing liquidated damages provision, giving consideration to the fact that Employer will incur administrative and recruiting costs in obtaining a replacement for Employee, that Employer will lose the benefit of its investment in the Employee, and that Employer may face potentially increased compensation costs if Employee terminates this Agreement for convenience, all of which amounts are extremely difficult to determine with certainty. The parties further agree that the payment of such liquidated damages by Employee is Employer's sole remedy and the acceptance thereof by Employer shall constitute adequate and reasonable compensation to Employer for any and all damages and injury suffered by it because of such termination by Employee. The liquidated damages are not, and shall not be construed to be, a penalty.

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 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 Employer may have under applicable law.

In the event Employee terminated this Agreement for convenience prior to its expiration as provided in this Article 6.2, Employee shall return to his tenured faculty position at the University of Nevada, Reno as provided in Title 4, Chapter 3, Section 33 of the *Handbook* at a salary of not less than \$173,369.27.

In no case shall 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.

ARTICLE 7 – RESTRICTIVE COVENANTS

7.1 Confidential Information.

The parties agree that in the course of employment, 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. Employee shall not provide, and is prohibited from providing, any such confidential information to other institutions, their employees, agents or representatives.

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.

It is the intent of the parties hereto that 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 Merger Clause.

THIS AGREEMENT CONSTITUTES THE FULL AND COMPLETE UNDERSTANDING OF THE PARTIES WITH RESPECT TO THE EMPLOYMENT OF THE EMPLOYEE AND SUPERSEDES ALL PRIOR UNDERSTANDING 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 hereto 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 Employee has read and understands the provisions of this Agreement and that such provisions are reasonable and enforceable and Employee agrees to abide by this Agreement and the terms and conditions set forth herein. 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 Employers' 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 Employer to comply with its obligations hereunder or in which the Employee seeks to enforce any remedies 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 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 next 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:

Marc A. Johnson
Office of the President
201 Clark Administration Building
University of Nevada, Reno
Reno, NV 89557-0001

With a copy to:
Marc A. Johnson
15020 Chateau Ave.
Reno, NV 89511

If to the Board of Regents:

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

With a copy to:

Chief of Staff and Special Counsel
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 Nevada System of Higher Education Code, Title 2 of the NSHE Board of Regents' Handbook, as may be amended from time to time during the Term, are incorporated in this Agreement.

8.14 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.

[SIGNATURE PAGE TO FOLLOW]

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, the Employee acknowledging that Employee has had an opportunity to review this Agreement with Employee's attorney.

BOARD OF REGENTS OF THE NEVADA SYSTEM
OF HIGHER EDUCATION

EMPLOYEE

By: _____
Chancellor

By: _____

Date: _____

Date: _____