



**Board of Trustees
Teleconference Meeting
Millican Hall, 3rd floor, President's Boardroom
November 2, 2015
8:30 a.m.
800-442-5794, passcode, 463796**

Agenda

- | | | | |
|------|----------------------|--|--|
| I. | Call to Order | | Marcos Marchena
Chairman, Board of Trustees |
| II. | Roll Call | | Rick Schell
Associate Corporate Secretary |
| III. | New Business | | Chairman Marchena |
| | CL-1 Approval | Sixth Amended and Restated
Employment Agreement for
President Hitt | Scott Cole
Vice President and General Counsel |
| IV. | Adjournment | | Chairman Marchena |

ITEM: CL-1

**University of Central Florida
Board of Trustees**

SUBJECT: Sixth Amended and Restated Employment Agreement for President Hitt

DATE: November 2, 2015

PROPOSED BOARD ACTION

Approve Sixth Amended and Restated Employment Agreement for President Hitt.

BACKGROUND INFORMATION

President Hitt's current employment agreement contains a rolling term but allows for termination of the agreement without cause and without penalty upon 365 days' notice from the Board. The Sixth Amended and Restated Employment Agreement replaces the rolling term with a fixed term ending on June 30, 2016, but allows for annual extensions of the contract upon mutual agreement and after review of the President's performance by the Board.

Supporting documentation:

Attachment A: Sixth Amended and Restated Employment Agreement, Redline Version

Attachment B: Sixth Amended and Restated Employment Agreement

Prepared by: Scott Cole, Vice President and General Counsel

Submitted by: Scott Cole, Vice President and General Counsel

Attachment A

~~FIFTH-SIXTH~~ AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This ~~Fifth-Sixth~~ Amended and Restated Employment Agreement ("Agreement"), is entered into by and between the University of Central Florida Board of Trustees (the "Board," or the "Board of Trustees"), and Dr. John C. Hitt (the "President" or "Dr. Hitt"). Board and President may hereinafter be collectively referred to as the "parties".

RECITALS

WHEREAS, Dr. Hitt has served as President of the University of Central Florida ("University") since 1992 and guided the University through a period of unprecedented growth in enrollment and quality; and

WHEREAS, the Board has the authority to determine the terms and conditions of employment of the President; and

WHEREAS, the Board wishes to amend and restate ~~his-its~~ existing employment agreement with Dr. Hitt to memorialize the terms and conditions of his continued employment as President; and

WHEREAS, both the Board and Dr. Hitt desire to set forth their respective rights and obligations in this Agreement; and

WHEREAS, this Agreement amends and restates in its entirety the ~~Fourth-Fifth~~ Amended and Restated Employment Agreement dated ~~July 14, 2011~~ April 20, 2015.

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:

Section 1.0 Term. The Board shall employ Dr. Hitt as its President for a term beginning on the date of the last signature affixed hereto and ending on ~~June 30, 2017. Effective July 1~~ June 30, 2016. This Agreement may be extended for additional one year terms upon mutual agreement of the parties following review of the President's performance by the Board. this Agreement shall be automatically extended each July 1 for an additional year, unless previously terminated as provided for in this Agreement. If this Agreement is not renewed, Dr. Hitt shall be eligible for any incentive compensation awards heretofore granted in accordance with Section 4.3, subject to applicable withholding and employment taxes.

Section 2.0 Powers and Duties. Dr. Hitt shall be the President of the University, subject to the rules, policies, and supervision of the Board. Dr. Hitt shall have the powers and duties reserved to the position of President by the University's bylaws, and as established from time to time by the Board (collectively, the "Duties"). Dr. Hitt and the Board acknowledge and agree that the Duties shall be consistent with those customarily performed by presidents of top-tier state universities comparable in size and type to the University, including, without limitation, educational leadership,

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faculty relations, budgeting, long-range planning, fundraising, public relations, student services, recruitment of personnel, appointment, promotion and dismissal of all faculty and staff members, and such other duties as may be determined or assigned by the Board.

Section 3.0 Evaluation. On or before September 1 of each year, Dr. Hitt shall provide to the Chair of the Board of Trustees' Compensation and Labor Committee (the "Committee Chair") a list of proposed goals and objectives for the fiscal year period and the next thirty-six (36) month period. The Board, or a committee thereof, and Dr. Hitt shall discuss Dr. Hitt's proposed goals and objectives, after which time the Board, or a committee thereof, shall agree upon finalized goals and objectives for that fiscal year and the next thirty-six (36) month period. Dr. Hitt shall initiate the evaluation process for the period that ended on June 30 of that year by submitting to the Committee Chair a self-appraisal of such period's performance. Dr. Hitt will use best efforts to submit the self-appraisal by September 15 but no later than September 30 of each calendar year. This appraisal shall address performance related to each of the goals and objectives. After Dr. Hitt has submitted this self-appraisal, the Board shall evaluate his performance during the previous academic year based primarily on his achievement of the mutually agreed upon goals and objectives and to a lesser extent such other criteria as the Board deems appropriate. To aid the Board in its annual performance review, Dr. Hitt agrees to furnish to the Board, or a committee thereof, such additional oral or written reports as it may request.

Section 4.0 Compensation.

Section 4.1 Annual Base Salary. As compensation for the services to be performed by Dr. Hitt pursuant to this Agreement, the Board shall pay Dr. Hitt an initial annual base salary of \$505,730. No more of this amount than is allowed by Florida Statutes shall be paid from public funds. This amount shall be payable according to the pay plan for administrative faculty employees at the University, with appropriate deductions for taxes and benefits. The Board shall review Dr. Hitt's compensation in connection with the annual evaluation of his performance, as set forth in Section 3.0 of this Agreement.

Section 4.2 Deferred Compensation. While employed as University President, Dr. Hitt shall receive annual deferred compensation equal to 20% of salary, payable quarterly. To the maximum extent possible, this sum should be provided through qualified plans (e.g. 403(b), 457, etc.).

Section 4.3 Incentive Compensation. Dr. Hitt shall be eligible for an annual incentive award, based on the accomplishment of the 36 month goals, established pursuant to section 3.0, for the just concluded three (3) year period in accordance with the Performance Unit Plan approved by the Board. If such goals are attained, as determined by the Board, the Board shall pay to Dr. Hitt a lump sum incentive award. This long term incentive compensation may be revised for future three year periods based solely on the discretion of the Board, but shall not be decreased. Amounts earned under the Performance Unit Plan are payable after the conclusion of the three year performance period and shall be paid in a lump sum (less applicable taxes and deductions) on or before December 31st following the completion of the performance period).

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Section 5.0 Benefits.

Section 5.1 Standard Benefits. While employed as University President, Dr. Hitt shall be eligible to participate in all present and future benefit plans maintained by the University for administrative faculty employees. Such benefits shall include, without limitation, health care, disability and life insurance programs, retirement plans, tax-deferred savings plans, flexible spending accounts, and vacation and sick leave.

Section 5.2 Business/Travel Expenses. While employed as University President, the University shall cover the cost of Dr. Hitt's reasonable business expenses, including professional dues, meetings, business travel, and entertainment.

Section 5.3 Automobile. While employed as University President, the University shall provide Dr. Hitt with an automobile allowance or a University-owned full size automobile, which will be replaced every three (3) years, utilizing non-public funds. If the University provides Dr. Hitt with an automobile, it shall be responsible for the costs of fuel, maintenance, repairs, and insurance. Dr. Hitt shall be responsible for any tax liability associated with non-business use of the automobile in accordance with applicable Internal Revenue Service Regulations.

Section 5.4 Miscellaneous. While employed as University President, the President shall be given an allowance of up to \$4000 per month for travel for his spouse, memberships at Interlachen Country Club and the Citrus Club, or other organizations approved by the Board, and an annual physical, all to be provided from non-public funds.

Section 6.0 Housing. For the benefit and convenience of the University in having the functions of the Office of President most efficiently discharged, while employed as University President, Dr. Hitt shall be required to reside in the University-owned Burnett House, at the University's expense, during the term of this Agreement. The University shall provide staff with responsibilities for grounds-keeping, repairs, housekeeping services, and general maintenance of the Burnett House and cover all related expenses, including utilities.

For the convenience of the University, the Burnett House shall be available and shall be used, for University-related business and entertainment on a regular and continuing basis. Costs associated with such University events shall be paid by the University. If it is not feasible to entertain at the Burnett House due to a large number of invited guests, the University shall provide Dr. Hitt with another location suitable to host such an event and will bear the costs.

Section 7.0 Outside Activities. Dr. Hitt agrees to faithfully, industriously, and with maximum application of experience, ability, and talent, to devote full-time attention and energies to his Duties as President. The expenditure of reasonable amounts of time for personal or outside business, as well as charitable and professional development activities, shall not be deemed a breach of this Agreement, provided such activities do not interfere with the Duties set forth in Section 2.0 of this Agreement. Dr. Hitt shall not engage in any activity that may be competitive with or adverse to the best interests of the Board and the University.

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With prior approval from the Board, Dr. Hitt may serve on up to two (2) boards of directors of for-profit corporations. In addition, Dr. Hitt must give prior notice to the Chair before agreeing to serve on any board of directors of a nonprofit corporation. Any and all income or other compensation earned by Dr. Hitt in connection with outside business activities shall be paid to and retained by him, and such income or other compensation shall have no effect on the amount of salary, compensation, and benefits he is otherwise entitled to receive hereunder. Dr. Hitt shall use annual leave when attending to matters pertaining to such service if it is during normal work hours and requires a half day or more.

Section 8.0 Termination.

Section 8.1 Termination for Cause. The Board may terminate this Agreement and Dr. Hitt's employment hereunder for Cause. Cause for this purpose shall mean anyone or more of the following:

- A. Neglect or inattention by Dr. Hitt to the Duties of President of the University or Dr. Hitt's refusal or unwillingness to perform such Duties in good faith and to the best of Dr. Hitt's abilities after reasonably specific written notice of such neglect or inattention has been given to Dr. Hitt and Dr. Hitt has continued such neglect or inattention during a subsequent period specified by the Board of not less than ninety (90) days; or
- B. Material, significant or repetitive violation or breach by Dr. Hitt of this Agreement; or
- C. Conviction, a plea of guilty, or a plea of nolo contendere by Dr. Hitt to a felony, or to a misdemeanor involving moral turpitude; or
- D. Fraud or dishonesty of Dr. Hitt in the performance of his duties or responsibilities hereunder; or
- E. Fraud or dishonesty of Dr. Hitt in the preparation, falsification or alteration of documents or records; or
- F. Knowing failure by Dr. Hitt to obtain prior approval for outside activities as required by law or this Agreement; or
- G. Commission of or participation in any act, situation, or occurrence by Dr. Hitt which brings Dr. Hitt into public disrepute, contempt, scandal or ridicule or failure by Dr. Hitt to conform his personal conduct to conventional standards of good citizenship, with such conduct offending prevailing social mores and values and/or reflecting unfavorably upon University's reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud, or violence that may or may not rise to a level warranting criminal prosecution by the relevant authorities.

In the event of termination for cause, Dr. Hitt shall no longer be entitled to receive

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any compensation under this agreement and shall forfeit any additional compensation accrued but not earned pursuant to paragraph 8.5. In lieu of termination for cause, the Board may suspend Dr. Hitt for a period not to exceed ninety (90) days for anyone or more of the acts or omissions representing grounds for termination for cause under this sub-paragraph. During a period of suspension under this sub-paragraph, Dr. Hitt shall only be entitled to receive the base salary provided by section 4.1.

~~**Section 8.2 Termination Without Cause.** The Board may terminate this Agreement and Dr. Hitt's appointment hereunder without cause at any time for the convenience of the Board upon 365 day's prior written notice to Dr. Hitt. If this Agreement is terminated pursuant to this section before June 30, 2016, Dr. Hitt shall be entitled to payment of the retention compensation referenced in Section 8.5 on the date of termination. In addition, Dr. Hitt shall be eligible for any incentive compensation awards heretofore granted in accordance with Section 4.3. All payments hereunder are subject to applicable withholding and employment taxes.~~

Section 8.3 Resignation as President. In the event Dr. Hitt resigns his employment as President of the University in a timely manner that is acceptable to the Board, and he elects to return to the tenured faculty in a teaching, research or service role, Dr. Hitt shall be paid an annual salary of \$260,000. Dr. Hitt shall have the option of spending the first year immediately following his resignation on sabbatical, providing that such sabbatical is subject to the terms and conditions of the University's sabbatical program, including, without limitation, Dr. Hitt's agreement to repay the University any salary he receives while on sabbatical if he does not return to the University for at least two consecutive semesters (excluding summers) immediately following participation in the sabbatical program. No other benefits or compensation referenced in this Agreement shall continue. However, Dr. Hitt shall be eligible for any incentive compensation awards heretofore granted in accordance with Section 4.3.

Section 8.4 Death/Permanent Disability. In the event Dr. Hitt is unable to complete the term of this Agreement due to death or permanent disability as defined in section 409A of the Internal Revenue Code, he or his estate shall be entitled to receive an amount equal to the remaining base salary (Section 4.1) due under the Agreement up to a maximum of two years. In the case of disability, the two year period shall be calculated beginning with the initial date of disability, and payable on a bi-weekly basis. In the case of death, the payment shall be made within thirty days of due notice by the proper estate authority.

In the event of Dr. Hitt's death during his service as President, his spouse shall be entitled to remain in the University-owned residence for up to one hundred twenty (120) days after Dr. Hitt's death. The Board, in its sole discretion, may extend this one hundred twenty (120) day period.

Section 8.5 Forfeiture of Additional Compensation. Dr. Hitt accrued one year of additional base salary for services rendered from July 1, 2013 through June 30, 2014. The additional compensation shall not be payable until, and shall be forfeited, unless Dr. Hitt is employed on June 30, 2016 or is terminated without cause before June 30, 2016 as provided in

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Section 8.2.

Section 9.0 Dispute Resolution. The Board and Dr. Hitt agree that if any dispute arises concerning this Agreement they will first attempt in good faith to resolve the dispute to their mutual satisfaction. If they are unable to do so, the Board and Dr. Hitt agree that they will submit the dispute to confidential, binding arbitration in Orlando, Florida, in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The tiling fee and all costs of the arbitration and the arbitrator(s) fees shall be divided equally between the parties. Each party shall bear their own costs of any legal fees associated with the dispute and the arbitration proceeding.

The Board and Dr. Hitt will use their best efforts to keep any disputes and any efforts to resolve disputes confidential, informing only their respective legal counsel and other persons determined in good faith to have a need to know the disclosed information (Dr. Hitt’s spouse shall be deemed to have a need to know any information disclosed to her), and will use their best efforts to ensure that such persons do not further disclose any such information. The Board and Dr. Hitt agree that no arbitrator may be a University faculty member or have any material ongoing relationship with the University.

Section 10.0 Notice. Unless and until changed by a party giving written notice to the other, the addresses below shall be the addresses to which all notices required or allowed by this Agreement shall be sent:

If to the University:
Chair, Board of Trustees
University of Central Florida
4000 Central Florida Blvd.
Orlando, FL 32816

If to the President:
Dr. John C. Hitt, President
University of Central Florida
4000 Central Florida Blvd.
Orlando, FL 32816

Section 11.0 Severability and Waiver. If any portion of this Agreement shall be held to be invalid, inoperative, or unenforceable, then, so far as possible, effect shall be given to the intent manifested by the portion held invalid, inoperative, or unenforceable, and the remainder of this Agreement shall remain in full force and effect. No waiver or failure to enforce any or all rights under this Agreement by either party on any occasion shall constitute a waiver of that party's right to assert the same or any other rights on that or any other occasion.

Section 12.0 Governing Law. This Agreement shall be interpreted and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of Florida, excluding its choice of law rules.

Section 13.0 Counterparts. This Agreement may be executed in counterparts, and by the parties on separate counterparts each of which, when so executed, shall constitute but one in the same instrument.

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Section 14.0 Modification of Agreement. This Agreement represents the complete understanding of the parties and supersedes any previous or contemporaneous written or oral representations made by either party. There are no other promises, understanding, obligations, inducements, undertakings, or considerations between the parties or owed by either party to the other that are not set forth in this Agreement. This Agreement may be modified or amended only by mutual written consent of the parties.

Section 15.0 Personal Contract. The obligations and Duties of Dr. Hitt shall be personal and not assignable or delegable in any manner whatsoever. This Agreement shall be binding upon and inure to the benefit of Dr. Hitt and his executors, administrators, heirs, successors, and permitted assigns, and upon the University and its successors and assigns.

Section 16.0 Insurance and Indemnification. Dr. Hitt shall be provided with director's and officer's liability insurance coverage and be protected by indemnification agreements on the same terms and conditions enjoyed by trustees and senior officers, said coverage to survive termination as to matters relating to his presidency.

Section 17.0 No Trust Fund. Nothing contained in this Agreement and no action taken pursuant to the provisions of this Agreement shall create or be construed to create a trust of any kind. To the extent that Dr. Hitt acquires a right to receive payments from the University under this Agreement, the University's obligation to make such payments represents an unfunded promise or covenant to pay such amount running from the University to Dr. Hitt.

Section 18.0 Understanding of the Agreement. Both parties represent that they have thoroughly read this Agreement, that they understand it to be a binding contract, that they understand each provision, term, and condition of this Agreement as well as its legal effect, and that they have signed the Agreement voluntarily and of their own free will with the intention to comply with its terms.

Section 19.0 Disclosure of the Agreement. Both parties agree and acknowledge that this Agreement may be subject to the Florida public records law, Chapter 119, or other provisions, and may, therefore, be subject to disclosure by and in the manner provided for by law.

Section 20.0 Section 409A. The parties intend that benefits under this agreement are to be either exempt from, or comply with, the requirements of Section 409A of the Internal Revenue Code and the regulations issued thereunder ("Section 409A"), and this Agreement shall be interpreted and administered in accordance with the intent that Dr. Hitt not be subject to tax under Section 409A. If any provision of the Agreement would otherwise conflict with or frustrate this intent, that provision will be interpreted and deemed amended so as to avoid the conflict. Any reference in this Agreement to "termination of employment", "separates from service" or similar phrase shall mean an event that constitutes a "separation from service" within the meaning of Section 409A. All reimbursements and in-kind benefits shall be provided in accordance with Treasury Regulation Section 1.409A-3(i)(iv).

Section 21.0 Miscellaneous. The headings in this Agreement are for convenience only and

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shall not be used in construing or interpreting this Agreement. The terms "Board," "Board of Trustees" and "University" as used herein, where applicable or appropriate, shall be deemed to include or refer to any duly authorized board, committee, or officer of said entity. Whenever the context requires, the masculine shall include the feminine and neuter, the singular shall include the plural, and conversely.

IN WITNESS WHEREOF, the President and the authorized representative of the Board of Trustees have executed this Agreement effective as of the date of the last signature affixed hereto.

University of Central Florida

By: _____

~~Olga M. Calvet~~ Marcos R. Marchena

Chairman, Board of Trustees

(Date)

By: _____

John R. Sprouls

Chair Board of Trustees, Compensation and Labor Committee

(Date)

By: _____

John C. Hitt

President, University of Central Florida

(Date)

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SIXTH AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This Sixth Amended and Restated Employment Agreement ("Agreement"), is entered into by and between the University of Central Florida Board of Trustees (the "Board," or the "Board of Trustees"), and Dr. John C. Hitt (the "President" or "Dr. Hitt"). Board and President may hereinafter be collectively referred to as the "parties".

RECITALS

WHEREAS, Dr. Hitt has served as President of the University of Central Florida ("University") since 1992 and guided the University through a period of unprecedented growth in enrollment and quality; and

WHEREAS, the Board has the authority to determine the terms and conditions of employment of the President; and

WHEREAS, the Board wishes to amend and restate its existing employment agreement with Dr. Hitt to memorialize the terms and conditions of his continued employment as President; and

WHEREAS, both the Board and Dr. Hitt desire to set forth their respective rights and obligations in this Agreement; and

WHEREAS, this Agreement amends and restates in its entirety the Fifth Amended and Restated Employment Agreement dated April 20, 2015.

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:

Section 1.0 Term. The Board shall employ Dr. Hitt as its President for a term beginning on the date of the last signature affixed hereto and ending on June 30, 2016. This Agreement may be extended for additional one year terms upon mutual agreement of the parties following review of the President's performance by the Board. If this Agreement is not renewed, Dr. Hitt shall be eligible for any incentive compensation awards heretofore granted in accordance with Section 4.3, subject to applicable withholding and employment taxes.

Section 2.0 Powers and Duties. Dr. Hitt shall be the President of the University, subject to the rules, policies, and supervision of the Board. Dr. Hitt shall have the powers and duties reserved to the position of President by the University's bylaws, and as established from time to time by the Board (collectively, the "Duties"). Dr. Hitt and the Board acknowledge and agree that the Duties shall be consistent with those customarily performed by presidents of top-tier state universities comparable in size and type to the University, including, without limitation, educational leadership, faculty relations, budgeting, long-range planning, fundraising, public relations, student services, recruitment of personnel, appointment, promotion and dismissal of all faculty and staff members,

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and such other duties as may be determined or assigned by the Board.

Section 3.0 Evaluation. On or before September 1 of each year, Dr. Hitt shall provide to the Chair of the Board of Trustees' Compensation and Labor Committee (the "Committee Chair") a list of proposed goals and objectives for the fiscal year period and the next thirty-six (36) month period. The Board, or a committee thereof, and Dr. Hitt shall discuss Dr. Hitt's proposed goals and objectives, after which time the Board, or a committee thereof, shall agree upon finalized goals and objectives for that fiscal year and the next thirty-six (36) month period. Dr. Hitt shall initiate the evaluation process for the period that ended on June 30 of that year by submitting to the Committee Chair a self-appraisal of such period's performance. Dr. Hitt will use best efforts to submit the self-appraisal by September 15 but no later than September 30 of each calendar year. This appraisal shall address performance related to each of the goals and objectives. After Dr. Hitt has submitted this self-appraisal, the Board shall evaluate his performance during the previous academic year based primarily on his achievement of the mutually agreed upon goals and objectives and to a lesser extent such other criteria as the Board deems appropriate. To aid the Board in its annual performance review, Dr. Hitt agrees to furnish to the Board, or a committee thereof, such additional oral or written reports as it may request.

Section 4.0 Compensation.

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Section 4.2 Deferred Compensation. While employed as University President, Dr. Hitt shall receive annual deferred compensation equal to 20% of salary, payable quarterly. To the maximum extent possible, this sum should be provided through qualified plans (e.g. 403(b), 457, etc.).

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Section 5.1 Standard Benefits. While employed as University President, Dr. Hitt shall be eligible to participate in all present and future benefit plans maintained by the University for administrative faculty employees. Such benefits shall include, without limitation, health care, disability and life insurance programs, retirement plans, tax-deferred savings plans, flexible spending accounts, and vacation and sick leave.

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Section 5.4 Miscellaneous. While employed as University President, the President shall be given an allowance of up to \$4000 per month for travel for his spouse, memberships at Interlachen Country Club and the Citrus Club, or other organizations approved by the Board, and an annual physical, all to be provided from non-public funds.

Section 6.0 Housing. For the benefit and convenience of the University in having the functions of the Office of President most efficiently discharged, while employed as University President, Dr. Hitt shall be required to reside in the University-owned Burnett House, at the University's expense, during the term of this Agreement. The University shall provide staff with responsibilities for grounds-keeping, repairs, housekeeping services, and general maintenance of the Burnett House and cover all related expenses, including utilities.

For the convenience of the University, the Burnett House shall be available and shall be used, for University-related business and entertainment on a regular and continuing basis. Costs associated with such University events shall be paid by the University. If it is not feasible to entertain at the Burnett House due to a large number of invited guests, the University shall provide Dr. Hitt with another location suitable to host such an event and will bear the costs.

Section 7.0 Outside Activities. Dr. Hitt agrees to faithfully, industriously, and with maximum application of experience, ability, and talent, to devote full-time attention and energies to his Duties as President. The expenditure of reasonable amounts of time for personal or outside business, as well as charitable and professional development activities, shall not be deemed a breach of this Agreement, provided such activities do not interfere with the Duties set forth in Section 2.0 of this Agreement. Dr. Hitt shall not engage in any activity that may be competitive with or adverse to the best interests of the Board and the University.

With prior approval from the Board, Dr. Hitt may serve on up to two (2) boards of directors of

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for-profit corporations. In addition, Dr. Hitt must give prior notice to the Chair before agreeing to serve on any board of directors of a nonprofit corporation. Any and all income or other compensation earned by Dr. Hitt in connection with outside business activities shall be paid to and retained by him, and such income or other compensation shall have no effect on the amount of salary, compensation, and benefits he is otherwise entitled to receive hereunder. Dr. Hitt shall use annual leave when attending to matters pertaining to such service if it is during normal work hours and requires a half day or more.

Section 8.0 Termination.

Section 8.1 Termination for Cause. The Board may terminate this Agreement and Dr. Hitt's employment hereunder for Cause. Cause for this purpose shall mean anyone or more of the following:

- A. Neglect or inattention by Dr. Hitt to the Duties of President of the University or Dr. Hitt's refusal or unwillingness to perform such Duties in good faith and to the best of Dr. Hitt's abilities after reasonably specific written notice of such neglect or inattention has been given to Dr. Hitt and Dr. Hitt has continued such neglect or inattention during a subsequent period specified by the Board of not less than ninety (90) days; or
- B. Material, significant or repetitive violation or breach by Dr. Hitt of this Agreement; or
- C. Conviction, a plea of guilty, or a plea of nolo contendere by Dr. Hitt to a felony, or to a misdemeanor involving moral turpitude; or
- D. Fraud or dishonesty of Dr. Hitt in the performance of his duties or responsibilities hereunder; or
- E. Fraud or dishonesty of Dr. Hitt in the preparation, falsification or alteration of documents or records; or
- F. Knowing failure by Dr. Hitt to obtain prior approval for outside activities as required by law or this Agreement; or
- G. Commission of or participation in any act, situation, or occurrence by Dr. Hitt which brings Dr. Hitt into public disrepute, contempt, scandal or ridicule or failure by Dr. Hitt to conform his personal conduct to conventional standards of good citizenship, with such conduct offending prevailing social mores and values and/or reflecting unfavorably upon University's reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud, or violence that may or may not rise to a level warranting criminal prosecution by the relevant authorities.

In the event of termination for cause, Dr. Hitt shall no longer be entitled to receive any compensation under this agreement and shall forfeit any additional compensation accrued but

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not earned pursuant to paragraph 8.5. In lieu of termination for cause, the Board may suspend Dr. Hitt for a period not to exceed ninety (90) days for anyone or more of the acts or omissions representing grounds for termination for cause under this sub-paragraph. During a period of suspension under this sub-paragraph, Dr. Hitt shall only be entitled to receive the base salary provided by section 4.1.

Section 8.3 Resignation as President. In the event Dr. Hitt resigns his employment as President of the University in a timely manner that is acceptable to the Board, and he elects to return to the tenured faculty in a teaching, research or service role, Dr. Hitt shall be paid an annual salary of \$260,000. Dr. Hitt shall have the option of spending the first year immediately following his resignation on sabbatical, providing that such sabbatical is subject to the terms and conditions of the University's sabbatical program, including, without limitation, Dr. Hitt's agreement to repay the University any salary he receives while on sabbatical if he does not return to the University for at least two consecutive semesters (excluding summers) immediately following participation in the sabbatical program. No other benefits or compensation referenced in this Agreement shall continue. However, Dr. Hitt shall be eligible for any incentive compensation awards heretofore granted in accordance with Section 4.3.

Section 8.4 Death/Permanent Disability. In the event Dr. Hitt is unable to complete the term of this Agreement due to death or permanent disability as defined in section 409A of the Internal Revenue Code, he or his estate shall be entitled to receive an amount equal to the remaining base salary (Section 4.1) due under the Agreement up to a maximum of two years. In the case of disability, the two year period shall be calculated beginning with the initial date of disability, and payable on a bi-weekly basis. In the case of death, the payment shall be made within thirty days of due notice by the proper estate authority.

In the event of Dr. Hitt's death during his service as President, his spouse shall be entitled to remain in the University-owned residence for up to one hundred twenty (120) days after Dr. Hitt's death. The Board, in its sole discretion, may extend this one hundred twenty (120) day period.

Section 8.5 Forfeiture of Additional Compensation. Dr. Hitt accrued one year of additional base salary for services rendered from July 1, 2013 through June 30, 2014. The additional compensation shall not be payable until, and shall be forfeited, unless Dr. Hitt is employed on June 30, 2016 or is terminated without cause before June 30, 2016 as provided in Section 8.2.

Section 9.0 Dispute Resolution. The Board and Dr. Hitt agree that if any dispute arises concerning this Agreement they will first attempt in good faith to resolve the dispute to their mutual satisfaction. If they are unable to do so, the Board and Dr. Hitt agree that they will submit the dispute to confidential, binding arbitration in Orlando, Florida, in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The filing fee and all costs

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of the arbitration and the arbitrator(s) fees shall be divided equally between the parties. Each party shall bear their own costs of any legal fees associated with the dispute and the arbitration proceeding.

The Board and Dr. Hitt will use their best efforts to keep any disputes and any efforts to resolve disputes confidential, informing only their respective legal counsel and other persons determined in good faith to have a need to know the disclosed information (Dr. Hitt's spouse shall be deemed to have a need to know any information disclosed to her), and will use their best efforts to ensure that such persons do not further disclose any such information. The Board and Dr. Hitt agree that no arbitrator may be a University faculty member or have any material ongoing relationship with the University.

Section 10.0 Notice. Unless and until changed by a party giving written notice to the other, the addresses below shall be the addresses to which all notices required or allowed by this Agreement shall be sent:

If to the University:
Chair, Board of Trustees
University of Central Florida
4000 Central Florida Blvd.
Orlando, FL 32816

If to the President:
Dr. John C. Hitt, President
University of Central Florida
4000 Central Florida Blvd.
Orlando, FL 32816

Section 11.0 Severability and Waiver. If any portion of this Agreement shall be held to be invalid, inoperative, or unenforceable, then, so far as possible, effect shall be given to the intent manifested by the portion held invalid, inoperative, or unenforceable, and the remainder of this Agreement shall remain in full force and effect. No waiver or failure to enforce any or all rights under this Agreement by either party on any occasion shall constitute a waiver of that party's right to assert the same or any other rights on that or any other occasion.

Section 12.0 Governing Law. This Agreement shall be interpreted and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of Florida, excluding its choice of law rules.

Section 13.0 Counterparts. This Agreement may be executed in counterparts, and by the parties on separate counterparts each of which, when so executed, shall constitute but one in the same instrument.

Section 14.0 Modification of Agreement. This Agreement represents the complete understanding of the parties and supersedes any previous or contemporaneous written or oral representations made by either party. There are no other promises, understanding, obligations, inducements, undertakings, or considerations between the parties or owed by either party to the other that are not set forth in this Agreement. This Agreement may be modified or amended only by mutual written consent of the parties.

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Section 15.0 Personal Contract. The obligations and Duties of Dr. Hitt shall be personal and not assignable or delegable in any manner whatsoever. This Agreement shall be binding upon and inure to the benefit of Dr. Hitt and his executors, administrators, heirs, successors, and permitted assigns, and upon the University and its successors and assigns.

Section 16.0 Insurance and Indemnification. Dr. Hitt shall be provided with director's and officer's liability insurance coverage and be protected by indemnification agreements on the same terms and conditions enjoyed by trustees and senior officers, said coverage to survive termination as to matters relating to his presidency.

Section 17.0 No Trust Fund. Nothing contained in this Agreement and no action taken pursuant to the provisions of this Agreement shall create or be construed to create a trust of any kind. To the extent that Dr. Hitt acquires a right to receive payments from the University under this Agreement, the University's obligation to make such payments represents an unfunded promise or covenant to pay such amount running from the University to Dr. Hitt.

Section 18.0 Understanding of the Agreement. Both parties represent that they have thoroughly read this Agreement, that they understand it to be a binding contract, that they understand each provision, term, and condition of this Agreement as well as its legal effect, and that they have signed the Agreement voluntarily and of their own free will with the intention to comply with its terms.

Section 19.0 Disclosure of the Agreement. Both parties agree and acknowledge that this Agreement may be subject to the Florida public records law, Chapter 119, or other provisions, and may, therefore, be subject to disclosure by and in the manner provided for by law.

Section 20.0 Section 409A. The parties intend that benefits under this agreement are to be either exempt from, or comply with, the requirements of Section 409A of the Internal Revenue Code and the regulations issued thereunder ("Section 409A"), and this Agreement shall be interpreted and administered in accordance with the intent that Dr. Hitt not be subject to tax under Section 409A. If any provision of the Agreement would otherwise conflict with or frustrate this intent, that provision will be interpreted and deemed amended so as to avoid the conflict. Any reference in this Agreement to "termination of employment", "separates from service" or similar phrase shall mean an event that constitutes a "separation from service" within the meaning of Section 409A. All reimbursements and in-kind benefits shall be provided in accordance with Treasury Regulation Section 1.409A-3(i)(iv).

Section 21.0 Miscellaneous. The headings in this Agreement are for convenience only and shall not be used in construing or interpreting this Agreement. The terms "Board," "Board of Trustees" and "University" as used herein, where applicable or appropriate, shall be deemed to include or refer to any duly authorized board, committee, or officer of said entity. Whenever the context requires, the masculine shall include the feminine and neuter, the singular shall include the plural, and conversely.

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IN WITNESS WHEREOF, the President and the authorized representative of the Board of Trustees have executed this Agreement effective as of the date of the last signature affixed hereto.

University of Central Florida

By: _____
Marcos R. Marchena
Chairman, Board of Trustees

(Date)

By: _____
John R. Sprouls
Chair Board of Trustees, Compensation and Labor Committee

(Date)

By: _____
John C. Hitt
President, University of Central Florida

(Date)