

**WESTERN NEW MEXICO UNIVERSITY  
SEPARATION AND FACULTY APPOINTMENT AGREEMENT**

This Separation and Faculty Appointment Agreement (the “Agreement”) is entered into and effective as of the date of signing by the last signatory hereto (the “Effective Date”), between Joseph Shepard, Ph.D. (“Dr. Shepard”) and Western New Mexico University, a New Mexico public institution of higher education (the “University”), acting through its governing body, the Western New Mexico University Board of Regents (the “Board”). Each party to this agreement may be referred to as a “Party” and the parties collectively shall be referred to as the “Parties.” This Agreement supersedes all other agreements, oral or written, between the University and Dr. Shepard.

WHEREAS, on October 1, 2022, Dr. Shepard and the University entered into an Employment Agreement (the “Employment Agreement”) pursuant to which Dr. Shepard agreed to serve as President of the University through June 30, 2027, on the terms specified therein;

WHEREAS, Dr. Shepard has capably discharged his duties as President consistent with the Employment Agreement;

WHEREAS, pursuant to Section 5.1 of the Employment Agreement, the Employment Agreement may be terminated by mutual written agreement of the parties thereto;

WHEREAS, pursuant to Section 5.1 of the Employment Agreement, Dr. Shepard and the University now mutually desire to terminate the Employment Agreement on the terms set forth herein;

WHEREAS, the Parties nonetheless desire that Dr. Shepard continue his service to the University in a capacity as a tenured faculty member on the terms set forth herein;

The University and Dr. Shepard therefore agree as follows:

## **Section 1: Termination and Severance**

1.1 **Employment.** The Employment Agreement, and the Parties' respective rights and obligations thereunder, shall terminate as of January 15, 2025.

1.2 **Residence.** Notwithstanding anything to the contrary contained in Section 5.1 of the Employment Agreement, the University agrees that Dr. Shepard shall vacate the official residence located at 500 W. College Ave, Silver City, New Mexico no later than February 15, 2025.

1.3 **Severance Payment.** In consideration for the release contained herein, the University shall make a one-time payment to Dr. Shepard in the amount of \$1,909,788.00 less applicable withholdings. Such amount shall be paid by January 15, 2025.

1.4 **University Release.** In consideration of the release set forth in Section 1.5 below, the University on behalf of itself, the Board of Regents, and their respective successors, assigns, agents, representatives, fiduciaries, employees, insurance carriers, attorneys, and each of their heirs, beneficiaries, successors and assigns, do hereby irrevocably release and forever discharge Dr. Shepard and his insurance carriers, attorneys, insureds, and each of their heirs, beneficiaries, successors, and assigns from any and all liability, as well as all other actions, causes of action, claims and demands, liabilities, obligations, promises, agreements, damages, costs, attorneys' fees, expenses, and compensation, whether known or unknown, contingent or matured, joint, several or individual, sounding in statute, contract, tort or otherwise, existing or arising on or before January 15, 2025, other than those promises, obligations, and agreements expressly set forth herein, relating in any way to the Employment Agreement and/or Dr. Shepard's service as President of the University.

1.5 **Dr. Shepard Release.** In consideration for the payment described in Section 1.3 above, Dr. Shepard, on behalf of himself, his heirs, attorneys, insurance carriers, beneficiaries,

fiduciaries, successors, and assigns, does hereby irrevocably release and forever discharge the University, its Board of Regents, and their respective fiduciaries, attorneys, insurance carriers, successors and assigns, from any and all liability, as well as all other actions, causes of action, claims and demands, liabilities, obligations, promises, agreements, damages, costs, attorneys' fees, expenses, and compensation, whether known or unknown, contingent or matured, joint, several or individual, sounding in statute, contract, tort, or otherwise, existing or arising on or before January 15, 2025, other than those promises, obligations, and agreements expressly set forth herein, relating in any way to the Employment Agreement and/or Dr. Shepard's service as President of the University except as expressly set forth in Section 1.6 below.

1.6 Indemnity. The University agrees to defend, indemnify, and hold harmless Dr. Shepard against any claims arising out of or relating to any actions taken by Dr. Shepard in his capacity as President of the University. In the event of a claim for which Dr. Shepard seeks defense and/or indemnity pursuant to this Section, Dr. Shepard shall give notice of such claim to the University within 60 days of service of such claim upon Dr. Shepard. In the event of a claim for which Dr. Shepard is entitled to defense under this subsection, Dr. Shepard shall be entitled to representation by the counsel of his choosing, and the University shall pay all reasonable costs and fees associated with such counsel's representation of Dr. Shepard.

1.7 Non-Disparagement. Following execution of this Agreement, neither Party shall issue any public statement that may reasonably be construed as disparaging to the other Party relating to in any way to conduct occurring prior to January 15, 2025.

1.8 Title of President Emeritus. At all times following termination of Dr. Shepard's employment as President of the University, Dr. Shepard shall be entitled to use the title "President

Emeritus.” In any publication or statement referring to Dr. Shepard by title, the University shall include the title “President Emeritus.”

## **Section 2: Employment as Tenured Faculty Member**

2.1 **Employment.** The University hereby offers to Dr. Shepard, and Dr. Shepard hereby accepts, employment at the University as a tenured faculty member with the rank of full professor in the School of Business with all rights and privileges attendant thereto as further set forth in the Western New Mexico University faculty handbook. Dr. Shepard’s employment as a tenured faculty member shall be effective immediately upon termination of the Employment Agreement as described in Section 1.1 above.

2.2 **Term of Employment.** Dr. Shepard’s appointment as a tenured faculty member shall be effective for a period of no less than five years from the date on which Dr. Shepard assumes status as a tenured faculty member according to the terms of this Agreement. Any employment beyond that five-year period will be based on the results of a post tenure review to be conducted after the initial five-year period in accordance with the faculty handbook.

2.3 **Base Salary.** Dr. Shepard’s annual base salary as a tenured professor shall be \$200,000. Dr. Shepard’s annual base salary shall increase by the same average rate as salaries of the faculty as a whole have increased over the prior year and any increase shall be effective on the same date as any faculty salary increase is effective.

2.4 **Insurance, Retirement and other Benefits.** During his service as a tenured faculty member Dr. Shepard will be entitled to all normal and customary fringe benefits extended to university faculty, including but not limited to, sick leave, retirement, medical, dental, life insurance, workers compensation, and the right to participate in all optional insurance and retirement programs. The University shall pay 90% of the premium for the customary family health insurance. Further, Dr. Shepard shall pay 100% of the employee portion of the standard

retirement contribution and the University shall contribute 100% of the University portion of the standard retirement contribution.

2.5 Remote Status: In connection with his employment as a tenured faculty member, Dr. Shepard shall be allowed to be a remote faculty member teaching two courses per semester (Fall and Spring) beginning in the Fall semester of 2025. The subject matter of those courses shall be agreed upon between Dr. Shepard and the Vice President of Academic Affairs or his/her designee.

2.6 Sabbatical. To provide the necessary time to prepare for his teaching responsibilities, Dr. Shepard shall be entitled to an eight-month sabbatical at full faculty compensation beginning January 15, 2025.

### **Section 3: Miscellaneous Provisions**

3.1 Merger. This Agreement contains the complete agreement between the Parties and shall supersede all other agreements between the Parties. The Parties stipulate that neither of them has made any representation with respect to the subject matter of this Agreement except such representations as are specifically set forth herein.

3.2 Venue for Enforcement Action. This Agreement shall be deemed to have been executed in, and shall be subject to, governed by, and enforced pursuant to the laws of, the State of New Mexico, without regard to conflicts of laws. Any action to enforce the terms of this Agreement may be brought only in the Sixth Judicial District Court, State of New Mexico or an appropriate federal court in the State of New Mexico. All Parties hereby submit to the exercise of personal jurisdiction by that Court for purposes of any such action. The prevailing party in any action to enforce the terms of this Agreement shall be entitled to an award of reasonable attorneys' fees and costs.

3.3 Modification. This Agreement may be modified or amended only in a writing signed by the Parties.

3.4 Non-Assignable. This Agreement is not assignable, but shall be binding upon the heirs, administrators, personal representatives, successors and assigns of both parties.

3.5 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable for any reason, the remainder of this Agreement shall remain in full force and effect.

3.6 Investigation and Acknowledgement of Legal Advice. The Parties each represent and warrant that they have, either through themselves or their respective attorneys, investigated to their full satisfaction all facts and allegations related to this Agreement. All Parties individually warrant and represent that they have read and understand this Agreement, that they have consulted with and received the advice of legal counsel concerning the terms and effect of this Agreement, and that they are fully satisfied with their legal representation in connection with the decision to enter into this Agreement.

3.7 Waiver. No provisions of this Agreement may be waived unless in a writing signed by the Party or Parties whose rights are thereby waived. Waiver of any one provision of this Agreement shall not be deemed to be a waiver of any other provision herein.

3.8 Modification of Agreement. No modification of this Agreement or of any covenant, condition or limitation herein shall be valid unless in writing and duly executed by the Party to be charged therewith. The Parties further agree that provisions of this Section may not be waived except as herein provided.

3.9 Entry Is a Free and Voluntary Act. Each of the Parties hereby acknowledge and represent that they have fully and carefully read this Agreement and that each is executing the

same as a free and voluntary act. Each of the Parties, individually, represents and warrants that he or she is competent to understand, receive legal advice as needed, and enter into this Agreement.

3.10 Equal Participation in Drafting. This Agreement shall be construed without regard to the drafter and shall be construed as though the Parties participated equally in the drafting.

3.11 Interest in Matter. Each Party represents and warrants that no other person or entity has any interest in the matters released herein, and that he has not assigned or transferred or purported to assign or transfer to any other person or entity all or any portion of the matters released herein.

3.12 Parties' Authority to Enter into Agreement. Each Party hereby represents and warrants that they have the right, power, legal capacity, and authority to enter into and satisfy the terms of this Agreement, and that no further approval or consent of any person or entity is necessary to enter into and satisfy the terms hereof.

3.13 Authorization to Execute Agreement. The Parties represent and warrant that the undersigned individual representatives are fully authorized to execute this Agreement and to give the releases and other promises contained herein on behalf of each of the respective Parties.

3.14 Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the Parties hereto and their respective predecessors-in-interest, successors-in-interest, assigns, heirs, executors, past and present owners, officers, directors, agents, employees, attorneys, administrators, principals, representatives, insurers, partners (of any kind), joint ventures, trusts, trustors, trustees, beneficiaries, and all others who may take any interest in the matters herein.

3.15 Execution in Counterparts. This Agreement may be executed in counterparts, and by facsimile or electronic signatures, each of which shall be deemed to be an original signature and all of which, together, shall be deemed to be one and the same original instrument.

3.16 Regents' Approval. This Agreement is subject to approval by the Board and shall only become effective upon ratification by the Board at an open, public meeting.

3.17 Section Titles and Captions Are for Convenience and Reference Only. The section titles and captions contained in this Agreement are inserted only as a matter of convenience and for reference, and shall in no way be construed to interpret, define, limit, or extend the meaning, scope, and/or intent of this Agreement or any of its terms and/or provisions.

3.18 Recitals. The Recitals set forth above are hereby incorporated in and made a part of this Agreement by this reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in counterparts on the dates indicated below:

WESTERN NEW MEXICO UNIVERSITY

By

Mary E. Hotvedt, Ph.D.  
Chairman, Board of Regents

Date:

12/20/2024

Accepted:

Joseph Shepard, Ph.D.  
President

Date:

Dec 20, 2024

State of New Mexico  
County of Grant

The foregoing instrument was acknowledged  
before me 20 day of December, 2024

Mary Rae McDonald  
Your Name Here, Notary Public

My Commission Expires 10/07/2028

