

AMENDED AND RESTATED  
EMPLOYMENT AGREEMENT BETWEEN  
THE UNIVERSITY OF TOLEDO  
AND  
DR. GREGORY POSTEL

This Amended and Restated Employment Agreement ("Agreement") is entered into this \_\_\_\_\_ day of April, 2021, between The University of Toledo (the "University") and Gregory Postel, MD ("Dr. Postel"). Effective as of March 2, 2021 (the "Effective Date"), this Agreement amends, restates and supersedes the Employment Agreement between the parties that was effective as of June 17, 2020, including any amendments thereto (the "Prior Agreement").

1.0 Appointment

1.1 Service as President

Effective as of July 6, 2020, the Board of Trustees of the University (the "Board") appointed Dr. Postel as the Interim President of the University, to serve as the chief executive officer of the University under policies of the Board and all applicable law. Due to his excellent performance as Interim President of the University, the Board wishes to retain him as President pursuant to the terms and conditions of this Agreement. Dr. Postel hereby accepts and agrees to serve as President of the University and to serve as its chief executive officer as of the Effective Date.

1.2 Duties and Responsibilities of President

Dr. Postel agrees to at all times faithfully, industriously, and with the best of his experience, ability and talent, perform all the duties required by law, by this Agreement and in accordance with the Board's official policies, and by custom and practice to be performed by a university president, including, but not limited to, the following:

- 1.2.1 Providing institutional, faculty and educational leadership;
- 1.2.2 Administration of the affairs of the University as best serves the University consistent with Board policy;
- 1.2.3 Fundraising, development, public and alumni relations;
- 1.2.4 Long-range and strategic planning;
- 1.2.5 Budget formulation and responsible financial oversight;
- 1.2.6 Supervision and stewardship of all University property, buildings, grounds and equipment controlled by the University;

- 1.2.7 Student engagement, recruitment, retention and services;
- 1.2.8 Faculty engagement, recruitment and retention;
- 1.2.9 Appointing, supervising, leading, promoting and dismissing University employees in accordance with applicable law and Board policies;
- 1.2.10 Recommending policies, rules and procedures useful for the best interest of the University; and
- 1.2.11 Other duties consistent with the University's mission as requested or assigned by the Board.

1.3 Dedication of Time

Dr. Postel will devote substantially all of his time and attention to his position as President of the University. However, it is understood by the parties that certain outside activities engaged in by Dr. Postel will advance and enhance the image of the University. Therefore, the expenditure of reasonable time for personal, charitable and professional outside development activities shall not be deemed a breach of this Agreement, provided such activities do not interfere with the services required to be rendered to the University under the provisions of this Agreement. Dr. Postel shall report to the Board periodically on such personal, outside business, or charitable or professional activities in which he has been involved. In no event shall Dr. Postel engage in any outside activity that is, in the sole discretion of the Board, adverse to the interest or the image of the University.

2.0 Term of Appointment, Renewal and Evaluation

2.1 Term

Dr. Postel's employment with the University under the provisions of this Agreement shall be for a term commencing on the Effective Date and terminating at the close of business on June 30, 2025, subject, however, to earlier termination as provided for in this Agreement. No notice of nonrenewal of the term of this Agreement shall be required to be served by the Board or the University to Dr. Postel.

2.2 Renewal

The University, in its sole discretion, may offer to extend the term of this Agreement for an additional period of time upon the terms and conditions contained in this Agreement or upon such different terms and conditions as may be mutually agreed upon by Dr. Postel and the Board. Prior to the expiration of the term, but no later than January 1, 2025, the Chair of the Board and Dr. Postel will meet to discuss the University's intent regarding

the extension of Dr. Postel's employment as President. The Chair's communications in this meeting and related discussions shall in no way bind the Board or the University.

### 2.3 Evaluation

Within 60 days following the end of each fiscal year of the University, the Board will meet with Dr. Postel to evaluate and discuss his performance for such fiscal year and to set goals and objectives for the new fiscal year or years (as the case may be) (the "Evaluation Meeting"). Dr. Postel's performance will be evaluated by the Board on the basis of these goals and objectives and other pertinent criteria. At the Board's discretion, the review can be comprehensive or summary and formal or informal. To facilitate the Board's performance reviews, Dr. Postel shall furnish at least fifteen (15) days preceding the Evaluation Meeting of the Board (for inclusion as part of the Board materials for the Evaluation Meeting) written materials related to such performance, goals and objectives, and Dr. Postel shall furnish such other information and materials as may be requested by the Board.

## 3.0 Compensation and Benefits

### 3.1 Annual Salary

For all services rendered during the term of this Agreement, the University shall pay Dr. Postel a base salary at the annual rate of Five Hundred and Ten Thousand Dollars (\$510,000), payable in accordance with the University's normal payroll procedures (less any legally authorized deductions, including deductions for local, state and federal taxes and employee benefits). Following the end of each fiscal year, but no later than the Evaluation Meeting, the Board shall review Dr. Postel's base salary and may make any appropriate increases, based upon such factors as the Board may consider, including, but not limited to, Dr. Postel's performance evaluations as described in Section 2.3 of this Agreement and other pertinent criteria.

### 3.2 Performance Incentive

3.2.1 Following the end of each fiscal year, but no later than the Evaluation Meeting, the Board may award to Dr. Postel performance incentive compensation based upon his attainment of written goals or objectives previously established by the Board in consultation with Dr. Postel or other pertinent criteria, provided that Dr. Postel remains continuously employed as President through the last day of such fiscal year. Dr. Postel shall be eligible to receive up to thirty percent (30%) of his base salary for the applicable fiscal year pursuant to this Section 3.2.1.

3.2.2 Any performance incentive compensation described in Section 3.2.1 shall be earned for each fiscal year of the University ending on June

30 and shall be paid no later than fifteen (15) days immediately following the Evaluation Meeting for such fiscal year.

### 3.3 Deferred Compensation

3.3.1 Subject to Dr. Postel's continued employment as President during the term of this Agreement, the University shall provide and maintain for the benefit of Dr. Postel a plan or plans described in Section 401(a) and/or Section 403(b) of the Internal Revenue Code of 1986, as amended (the "Code"), including a 403(b) annuity contract which the participant is not deemed to control as described in Section 415(k)(4) of the Code (the "Qualified Plan"), to which the University shall contribute quarterly, beginning with the calendar quarter ending June 30, 2021, to a funding vehicle maintained in connection with such Qualified Plan (as selected by the University) an unvested amount equal to Twenty-Two Thousand Five Hundred Dollars (\$22,500) (the "University Contribution"). Notwithstanding the foregoing, to the extent that the Code limits or prohibits such contributions from being made to the Qualified Plan, the University shall contribute such amounts to a qualified governmental excess benefit arrangement, as defined in Section 415(m) of the Code (the "QEBA"). Each University Contribution shall be made within thirty (30) days following the close of the applicable calendar quarter (i.e., September 30, December 31, March 31 and June 30), provided that Dr. Postel remains continuously employed as President through such date.

3.3.2 Each University Contribution shall cliff vest on June 30, 2025. Notwithstanding the foregoing, if the Agreement is terminated by the University without Cause pursuant to Section 4.3 or due to Dr. Postel's death or disability pursuant to Section 4.2, Dr. Postel shall become immediately one hundred percent (100%) vested on the termination date in the account balances under the Qualified Plan and/or the QEBA related to the University Contributions made on or prior to the termination date.

3.3.3 Within sixty (60) days following the Effective Date, the QEBA will be amended by the University to ensure that Dr. Postel may elect a benefit commencement date as late as his attainment of age seventy (70) and an installment method of distribution over a period of up to fifteen (15) years, in each case, subject to applicable law.

### 3.4 Employee Benefits

#### 3.4.1 Vacation

Dr. Postel shall be entitled annually to twenty-five (25) days of paid vacation. Such vacation shall accumulate from year to year, subject to limitations under University policies.

#### 3.4.2 General Employee Benefits

Dr. Postel shall also receive and participate in all other benefits that are available to administrative employees of the University as a group in accordance with University policies and procedures and subject to Dr. Postel satisfying any eligibility requirements for such benefits.

3.4.3 Additional Life Insurance Benefit

Within sixty (60) days following the Effective Date, the University shall purchase life insurance coverage for Dr. Postel in addition to the life insurance benefit generally available to administrative employees of the University and shall maintain such coverage during the term of this Agreement, subject to Dr. Postel's continued employment with the University. The death benefit for this additional life insurance coverage will be equal to an amount that provides Dr. Postel, when aggregated with the death benefit of the group coverage provided to the University's administrative employees, with a total death benefit equal to One Million Dollars (\$1,000,000).

3.5 Reimbursement of Reasonable Attorney's Fees

The University agrees, upon Dr. Postel's submission to the Board of an itemized expense and fee invoice, to reimburse Dr. Postel for his reasonable attorney's fees associated with the negotiation of this Agreement, in an amount up to, but not to exceed, Ten Thousand Dollars (\$10,000).

3.6 Automobile

To further the interests of the University, during the term of this Agreement, Dr. Postel shall be entitled to the use of a new automobile provided by the University which shall be manufactured by a company headquartered in the United States. The fuel, maintenance, leasing, operating, insurance and other reasonable costs associated with this vehicle will be paid by the University in accordance with University policies and procedures. Said automobile shall be replaced by a new automobile at such time(s) as mutually agreed upon by Dr. Postel and the Board.

3.7 Professional Dues and Meetings

During the term of this Agreement, the University will provide and pay for reasonable expenses incurred by Dr. Postel to attend educational conferences, conventions, courses, seminars, and other similar professional growth activities, including membership in professional organizations. Dr. Postel shall not be provided membership in any organization that engages in discriminatory practices in violation of state or federal law.

3.8 Entertainment and Travel Expense

3.8.1 The reasonable costs of all official entertainment and official travel by Dr. Postel will be reimbursed or paid by the University within

parameters approved by the Board each year in the University's budget. All travel and entertainment expenses are subject to budget allowances approved by the Board and such expenses incurred are to be reimbursed consistent with the travel and reimbursement policies of the Board and the University.

- 3.8.2 Dr. Postel agrees to maintain and furnish to the University an accounting of expenses provided for in this Agreement, in reasonable detail, on a quarterly basis.

### 3.9 Memberships

- 3.9.1 To further the interests of the University, Dr. Postel shall continue his memberships with The Toledo Club and Inverness Country Club.
- 3.9.2 During the term of this Agreement, the University will reimburse Dr. Postel for all membership costs in such clubs and will also reimburse Dr. Postel for all reasonable social expenses that he incurs at these clubs which are related to University business, subject to applicable federal, state and local tax laws. All reimbursements required under this Section 3.9.2 will be made in accordance with applicable University policies.

### 3.10 Tuition Waiver

During the term of this Agreement, Dr. Postel's spouse and each of his children (each, a "dependent") who enroll at the University and are in good standing shall be eligible for the dependent tuition waiver up to and including a three (3) year graduate program. In the event of Dr. Postel's death prior to a dependent's graduation from a University graduate program, the tuition waiver or waivers will remain in effect through such graduation, assuming that the applicable dependent remains continually enrolled as a full-time student, in good standing and advancing toward the completion of his or her degree.

### 3.11 Housing

- 3.11.1 The University will provide, maintain in good repair, and pay for utilities and telephone service for, a suitable presidential residence selected by the Board. The University shall also provide for maintenance of the grounds. Additionally, upon the termination of the Agreement pursuant to Section 4.2, 4.3, 4.4, or 4.5 hereof, Dr. Postel (or, in the case of termination due to death, members of Dr. Postel's household) shall have the right to continue to live in said residence for up to thirty (30) days after the effective date of termination. Notwithstanding anything to the contrary herein, the University's obligations under this Section 3.11.1 shall cease if and when Dr. Postel begins to receive a monthly housing allowance as described in Section 3.11.3.

- 3.11.2 It is understood by the parties that to carry out various duties and responsibilities of the President of the University, Dr. Postel shall from time

to time entertain visiting dignitaries and community leaders, hold receptions, meetings, fund raising or otherwise host a variety of events for mixed business and social purposes benefiting the interests of the University. In such instances, cooking, catering, and/or housekeeping services will be provided and/or paid by the University.

3.11.3 If, during the term of this Agreement, Dr. Postel occupies a residence other than the residence provided in Section 3.11.1, the University shall pay Dr. Postel a monthly housing allowance. The amount of such allowance shall be established by mutual agreement of the parties and shall be consistent with allowances paid to similarly situated public university presidents.

3.11.4 The University will reimburse Dr. Postel for reasonable moving expenses of up to \$25,000 incurred in connection with his move from his residence in Louisville, Kentucky to Toledo, Ohio, in accordance with University policy.

3.11.5 As of the Effective Date and during such time as the University has an obligation under Section 3.11.1, the University shall continue to utilize the "safe harbor" provisions of Section 119(d) of the Code. Pursuant to this provision, Dr. Postel will recognize, annually, in his gross income for federal income tax purposes, an amount equal to five percent (5%) (or such higher or lower percentage required by the statute) of the appraised value of the residence provided by the University pursuant to Section 3.11.1.

### 3.12 Working Facilities

During the term of this Agreement, Dr. Postel will be furnished with a private office, secretarial assistance, and such other facilities and services suitable to the position and adequate for the performance of the duties of President. Further, the Board recognizes that Dr. Postel will perform many official University duties in his residence and agrees to furnish an office at Dr. Postel's residence, which will contain customary office furnishings and equipment, such as a personal computer, fax machine, telephone, file cabinet, desk, and desk chair. Such furnishings and equipment shall at all times remain the property of the University.

### 3.13 Faculty Appointment

As of the Effective Date, Dr. Postel shall continue to have status as a Professor in the College of Medicine and Life Sciences. During Dr. Postel's employment as President, he will not receive separate compensation for such faculty appointment. Upon termination of his employment as President of the University pursuant to Section 4.3 or on or after July 1, 2025 following a termination pursuant to Section 4.5, Dr. Postel shall be entitled to take a twelve (12) month sabbatical, during which he will be paid by the University at a rate equal to one hundred percent (100%) of his annual base salary in effect at the time of his termination of employment as President of the University. Upon Dr. Postel's return from his sabbatical, he may remain a faculty member in the

College of Medicine and Life Sciences. In the event that Dr. Postel remains a faculty member of the University, he will be paid an annual salary equal to the annual salary paid to the highest paid Professor with equivalent tenure status in the College of Medicine and Life Sciences having similar experience as Dr. Postel (as determined by the University in its sole discretion), but in no event less than One Hundred and Fifty Thousand Dollars (\$150,000) per year on the basis of nine (9) months of service, payable in equal installments over twelve (12) months in accordance with the University's normal payroll procedures. Notwithstanding anything in this Agreement to the contrary, if this Agreement and Dr. Postel's employment as President is terminated under Section 4.3 and Dr. Postel chooses to take the sabbatical described in this Section 3.13, Dr. Postel shall not be entitled to the continuation of annual base salary described in Section 4.3.3.

### 3.14 Medical Examination

This Agreement is contingent upon Dr. Postel being physically able to do all things required of him by the terms set forth herein. Therefore, Dr. Postel shall undergo a full and complete physical examination at such times and under such conditions as may be reasonably required by the Board with and by a licensed physician of Dr. Postel's choice, subject to the agreement by the Board on the selection of such physician, provided that the physician is not a faculty member of the College of Medicine and Life Sciences. Such physician shall report to the Chairman of the Board that Dr. Postel remains physically fit to fulfill the duties of the presidency, and such other information as Dr. Postel shall consent to have released to the Chairman of the Board for confidential use.

## 4.0 Termination of Employment

### 4.1 Termination for Cause

The parties agree that the University may terminate this Agreement and Dr. Postel's employment at any time for "Cause", which shall mean the following:

- 4.1.1 Any conduct of Dr. Postel that constitutes moral turpitude, or that would tend to bring public disrespect, contempt or ridicule upon the University;
- 4.1.2 A deliberate or serious violation of any material law, rule, regulation, Constitutional provision, or bylaw of the University, or local, state, or federal law, which, in the reasonable judgment of the Board, reflects materially and adversely upon the University;
- 4.1.3 Any act of dishonesty, immoral conduct, incompetence, insubordination, or neglect of duty, or conduct which materially and adversely discredits the University;



- 4.1.4 Prolonged absence from duty not to exceed thirty (30) days without the University's consent except such absence as is attributable to illness or disability made known to the Board;
- 4.1.5 The appointment of a conservator for the University by the Governor of the State of Ohio pursuant to the provisions of Sections 3345.74 and 3345.75 of the Ohio Revised Code (or any successor provisions thereof) during the term of this Agreement;
- 4.1.6 Dr. Postel's voluntary termination of this Agreement and his employment without having provided six (6) months' advance written notice, or Dr. Postel's announcement of his intent to resign, be it formal or informal, which resignation has an effective date that is earlier than the last day of the six (6) months' required notice period; or
- 4.1.7 Any other material violation by Dr. Postel of the duties, terms and conditions set forth in this Agreement, or refusal or unwillingness to perform such duties in good faith and to the best of Dr. Postel's abilities, provided such nonperformance or violation is not remedied after thirty (30) days written notice or such longer period as is reasonably necessary to remedy the non-performance or violation so long as Dr. Postel has commenced to remedy the non-performance or violation during the thirty (30) day period and is diligently pursuing the remedy for non-performance or violation; provided, however, that in no event will the cure period exceed ninety (90) days unless the University, in its sole discretion, agrees to such longer period.
- 4.1.8 If the University terminates this Agreement and Dr. Postel's employment for Cause, Dr. Postel will be entitled to receive the following payments and benefits:
  - (a) Any salary that is accrued but unpaid and any business expenses that are unreimbursed - all, as of the date of termination of employment and payable within thirty (30) days following his termination of employment; and
  - (b) Any rights and benefits (if any) provided under benefit plans and programs of the University in which Dr. Postel is vested as of the termination date (excluding the additional life insurance benefit described in Section 3.4.3 of the Agreement), determined in accordance with the applicable terms and provisions of such benefit plans and programs (the payments and benefits described in subsections (a) and (b) of this Section 4.1.8 are hereinafter collectively referred to as the "Accrued Obligations").

#### 4.2 Termination due to Death or Disability

Regardless of any other provision of this Agreement, Dr. Postel's employment and this Agreement will terminate automatically if Dr. Postel dies or, due to accident, mental or physical illness, or for any other reason, becomes totally disabled, or totally incapacitated or otherwise incapable of carrying out the duties as President, as determined by the Board in its sole discretion, provided such decision is not arbitrary or capricious. Upon the termination of Dr. Postel's employment due to his death or disability, he (or his estate, as applicable) will be entitled to receive the Accrued Obligations.

#### 4.3 Termination by the University Without Cause

In the event of termination of this Agreement and Dr. Postel's employment for any reason other than (a) by the University for Cause as described in Section 4.1, (b) due to Dr. Postel's death or disability as described in Section 4.2, (c) Dr. Postel's resignation as described in Section 4.4 or (d) the expiration of the term of this Agreement as described in Section 4.5, Dr. Postel will be entitled to receive the following:

4.3.1 The Accrued Obligations.

4.3.2 Within thirty (30) days following termination of employment, a single lump sum payment equal to any earned, but unpaid, performance incentive compensation under Section 3.2.

4.3.3 Continuation of his then current annual base salary payable in accordance with the University's payroll procedures over the then remainder of the term of this Agreement; provided, however, (a) the University shall only have this obligation and Dr. Postel shall only be entitled to such continuation if Dr. Postel chooses not to take a sabbatical and remain on faculty as provided under Section 3.13 and incurs a "separation from service" within the meaning of Section 409A of the Code and Treasury Regulation Section 1.409A-1(h) and (b) any payments scheduled to occur during the first sixty (60) days following the date of Dr. Postel's termination of employment shall not be paid until the first payroll date following the date that is sixty (60) days after the date of such termination.

Dr. Postel agrees to mitigate the University's obligations under this Section 4.3.3 by making reasonable and diligent efforts to obtain other employment commensurate with Dr. Postel's training and experience. In the event that Dr. Postel obtains such new employment, the University's obligation to make payments under Section 4.3.3 of this Agreement will be reduced by the amount of Dr. Postel's new direct, base salary for the remaining period of payments. Dr. Postel will be required to report at least monthly on his search for employment to a University official specified by the Board.

Notwithstanding anything herein to the contrary, the payments described in this Section 4.3.3 shall be conditioned upon the execution, non-revocation, and delivery of a comprehensive release of claims by Dr. Postel, in a form determined by the Board in its sole discretion, within sixty (60) days following the date of Dr. Postel's termination of employment. In the event that Dr. Postel fails to timely execute and deliver such a release or revokes such release, the University shall have no obligation to pay the payments under this Section 4.3.3.

4.3.4 Notwithstanding any provision of this Agreement to the contrary, if Dr. Postel is ever deemed vested in amounts payable under Section 4.3.3 for purposes of Section 457(f) of the Code, such that Dr. Postel is required to pay federal, state, or local taxes on such amounts prior to the time such amounts are distributable under Section 4.3.3, Dr. Postel shall receive a distribution in an amount equal to the federal, state, and local income tax withholding that would have been remitted by the University if there had been a payment of wages equal to the income includible under Section 457(f) of the Code at the time of vesting. Such distribution shall reduce the amount otherwise payable under Section 4.3.3 pro-rata.

#### 4.4 Resignation of the President

Dr. Postel may terminate this Agreement and his employment with prior written notice to the Board of at least six (6) months. Upon his voluntary termination of employment pursuant to this Section 4.4, Dr. Postel will be entitled to receive the Accrued Obligations. Without limiting the generality of the preceding provisions of this Section 4.4, in no event shall the Board or the University be liable to Dr. Postel for the loss of any collateral business opportunities, or any other benefits, perquisites, income or consequential damages from any sources as a result of such voluntary termination of employment.

#### 4.5 Expiration of Term of Agreement

If the term of this Agreement expires and it is not extended by the University, Dr. Postel's employment as President of the University will terminate at the end of such term. Upon such termination of employment, Dr. Postel will be entitled to receive the Accrued Obligations.

#### 4.6 Non-Solicitation

Dr. Postel agrees that, for a period of one (1) year following any termination of his employment as President, Dr. Postel shall not (other than on behalf of and for the exclusive benefit of the University), directly or indirectly:

4.6.1 Solicit or attempt to solicit, or hire or attempt to hire, any of the University's employees to work at an institution or entity other than the University;

- 4.6.2 Influence or encourage any employee of the University to terminate his or her employment relationship with the University; or
- 4.6.3 Interfere with or disrupt or attempt to disrupt, or take any action that could reasonably be expected to disrupt any past or present or prospective relationship, contractual or otherwise, between the University and any entity, person, firm, institution, or business with whom the University does business.

5.0 Miscellaneous

5.1 Dispute Resolution

Any dispute, controversy or claim arising out of, or relating to, this Agreement, or the breach thereof, which cannot be settled through informal discussion between the parties will be submitted to non-binding mediation to be held in Toledo, Ohio according to the Commercial Mediation Procedures of the American Arbitration Association (“AAA”) (see [www.adr.org](http://www.adr.org)). Such mediation shall be attended on behalf of each party for at least one (1) session by a person with authority to resolve the dispute. Engaging in mediation will not preclude a party from seeking interim or provisional relief in a court of competent jurisdiction. Any such interim or provisional relief will remain in effect until the dispute is resolved. It is understood and agreed that the provisions of this section will survive the termination of this Agreement. **EACH PARTY IRREVOCABLY WAIVES ITS RIGHT TO TRIAL OF ANY ISSUE BY JURY.**

5.2 Entire Agreement

This Agreement contains the entire agreement concerning the employment arrangement between the parties and shall, as of the Effective Date, supersede all other agreements, if any, written or oral, 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. Each of the parties acknowledges that it has relied on its own judgment in entering into this Agreement.

5.3 Governing Law and Forum Selection

This Agreement has been entered into by the parties in Toledo, Ohio. It is to be construed as a contract in accordance with the laws of the State of Ohio and its terms and conditions shall be subject to all applicable state and federal laws.

5.4 Waiver and Modification of Agreement

No waiver or modification of this Agreement or of any covenant, condition, or limitation herein shall be enforceable unless in writing and duly executed

by both parties. Inaction or the failure of either party to insist upon strict performance of this Agreement shall not be construed as a waiver.

5.5 Acknowledgements

Dr. Postel acknowledges that he has read and understands this Agreement, that he has had the opportunity to have legal counsel review the Agreement, and that he has entered into same upon due consideration, and that the provisions herein are reasonable and enforceable. Further, Dr. Postel and the University acknowledge, represent and warrant that (a) they are free to enter into this Agreement; and (b) neither is a party to nor bound by any agreement which does or would conflict with the performance of their respective obligations hereunder.

5.6 Severability

The terms of this Agreement are severable such that if any terms and conditions of this Agreement are declared by a court of competent jurisdiction to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect and will not fail of its essential purpose.

5.7 Assignment

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

5.8 Notices

All notices required or permitted to be given under this Agreement shall be in writing and shall be mailed, postage prepaid, by registered or certified mail or personally delivered with signed receipt of delivery made to the parties at the following address:

Chairman, Board of Trustees  
The University of Toledo  
2801 W. Bancroft Street  
Toledo, Ohio 43606

Gregory Postel, MD at  
the last address on file  
with the University

5.9 Public Disclosure of Agreement

Both parties agree and acknowledge that this Agreement may be subject to the Ohio Public Records Law, Section 143.49 of the Ohio Revised Code, or such other successor provisions, and may, therefore, be subject to disclosure by and in the manner provided for by law.

## 5.10 Tax Matters

- 5.10.1 The tax treatment of all compensation and benefits provided by the University pursuant to this Agreement shall be determined by the University in consultation with its legal and accounting professionals. Dr. Postel agrees to file his applicable income tax returns in accordance with the University's determination. Further, the University shall withhold and/or impute income with respect to all applicable federal, state, and local taxes and other amounts as may be required by law with respect to compensation and benefits provided pursuant to this Agreement.
- 5.10.2 This Agreement is intended, and shall be construed and interpreted, to comply with Section 409A of the Code and if necessary, any provision shall be held null and void to the extent such provision (or part thereof) fails to comply with Section 409A of the Code or the Treasury Regulations thereunder. For purposes of Section 409A of the Code, each payment of compensation under this Agreement shall be treated as a separate payment of compensation. Any amounts payable solely on account of an involuntary termination shall be excludible from the requirements of Section 409A of the Code, either as separation pay or as short-term deferrals to the maximum possible extent.
- 5.10.3 Notwithstanding anything in this Agreement to the contrary, any reimbursements or in-kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A of the Code, including, while applicable, the requirements that (a) any reimbursement is for expenses incurred during the period of time specified in this Agreement, (b) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during any taxable year of Dr. Postel may not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year of Dr. Postel, (c) the reimbursement of an eligible expense will be made no later than the last day of Dr. Postel's taxable year following the year in which the expense is incurred, and (d) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit.

## 5.11 Board Approval

This Agreement is subject to approval by the Board.

[Signatures on Next Page]

IN WITNESS HEREOF, the parties have caused this Agreement to be signed by their authorized representatives on the day and year first written above.

**THE UNIVERSITY OF TOLEDO**

**PRESIDENT**

By:   
Alfred A. Baker  
Chairman, Board of Trustees

  
Gregory Postel, M.D.

**Approved by the Board of Trustees:**

5/6, 2021