

CONTRACT OF EMPLOYMENT
FOR THE
PRESIDENT OF
VALENCIA COLLEGE
JULY 2020 – JUNE 2024

CONTRACT OF EMPLOYMENT FOR THE PRESIDENT OF VALENCIA COLLEGE

THIS AGREEMENT is entered into as of the 24th day of June, 2020, made effective as of July 1, 2020, and shall amend and replace in its entirety the agreement that was entered into on the 26th day of June, 2019 and made effective as of July 1, 2019, by and between the DISTRICT BOARD OF TRUSTEES OF VALENCIA COLLEGE, FLORIDA (hereinafter referred to as the "BOARD"), and SANFORD C. SHUGART (hereinafter referred to as the "PRESIDENT").

WITNESSETH:

In consideration of the mutual agreements, covenants, terms and conditions herein contained, the parties agree as follows:

(1) Employment; Term of Agreement. The BOARD agrees to continue the appointment and employment of the PRESIDENT as the President of Valencia College (hereinafter referred to as the "COLLEGE"), to serve as the chief executive officer of the COLLEGE under the policies, supervision, and direction of the BOARD. The PRESIDENT has accepted and agreed to such employment, to observe and implement the mission of the COLLEGE as articulated by the BOARD, and to faithfully perform the duties of the Office of the President of the COLLEGE, for a term beginning on July 1, 2020, and ending on June 30, 2024 (the "Employment Period"), subject, however, to satisfactory performance and/or to prior termination, as provided for in this Agreement.

(2) Position and Duties; Place of Performance. During the Employment Period, and except as provided herein, the PRESIDENT agrees to devote his full working time, attention, skill and efforts to the faithful performance of the duties and responsibilities assigned to him by the BOARD, which shall include but not be limited to the administration and implementation of policies, procedures and directives authorized by the BOARD in connection with the continuing establishment, operation, maintenance and improvement of the COLLEGE as an institution of higher learning.

A. The PRESIDENT shall perform all of the duties imposed upon him as President of the COLLEGE as required by this Agreement, the laws, rules and regulations of the State of Florida and of the United States, the policies adopted from time to time by the BOARD, and such other responsibilities that may be assigned to the PRESIDENT by the BOARD. Such duties shall be rendered at such places as the BOARD or the PRESIDENT shall deem appropriate for the interest, needs, business, or opportunity of the COLLEGE.

B. 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 services required to be rendered to the BOARD under the provisions of this Agreement. The PRESIDENT shall not engage in any activity that may reasonably be deemed competitive with or adverse to the best interest of BOARD or the COLLEGE. The PRESIDENT shall not engage in any activity or conduct in violation of Florida's ethics laws that are applicable to public officers and public employees. The making of passive and personal investments and the conduct of private business affairs shall not be prohibited to the extent such activities are consistent with the terms of this Agreement.

C. The BOARD agrees that certain outside activities of the PRESIDENT advance and enhance the image of the COLLEGE. Among these are memberships on corporate boards, memberships on boards and committees of national bodies and community organizations and holding of office in such national bodies or community organizations. Further, the PRESIDENT may accept invitations for speaking engagements and accept honoraria and related expenses therefor, so long as such engagements do not unreasonably interfere with the performance of his other duties. Before accepting any appointment to a corporate board, the PRESIDENT shall first inform and obtain the approval of the Chair of the BOARD, which approval shall not be unreasonably withheld.

(3) Annual Performance Evaluation. The BOARD shall evaluate the PRESIDENT's performance on at least an annual basis. The PRESIDENT shall submit to the BOARD any oral and/or written reports as may be required by the BOARD to aid in these performance reviews.

(4) Compensation. The BOARD agrees to pay the PRESIDENT for services rendered as follows:

A. Base Salary during Initial Contract Year. For the contract year ending June 30, 2021 (the "Initial Contract Year"), the PRESIDENT shall receive a salary of Three Hundred Fifty Two Thousand Five Hundred Seventy Four Dollars and No Cents (\$352,574.00), ("Base Salary") payable in twenty-six equal (or substantially equal) bi-weekly installments.

B. Base Salary after Initial Contract Year. For contract years after the Initial Contract Year and during the Employment Period, the BOARD and the PRESIDENT shall agree upon his Base Salary, other compensation, and benefits. The PRESIDENT's Base Salary, other compensation, and benefits shall be reviewed annually. Such annual review will be conducted in conjunction with a review of the performance of the PRESIDENT by the BOARD. The Board will consider and determine merit increases for the PRESIDENT in accordance with Paragraph (4)C herein on no less than an annual basis during the term of this Agreement. The BOARD generally acts upon recommendations regarding merit increases at its June meeting each year. However, such recommendations may be considered by the BOARD at other meetings as appropriate. If the parties fail to agree on Base Salary, other compensation, or benefits, then the Base Salary, other compensation, or benefits, respectively, then in effect shall continue until either the BOARD and the PRESIDENT reach a mutually satisfactory agreement, or until this Agreement terminates, whichever occurs first. If the parties fail to agree on the Base Salary, compensation, or benefits as provided in this Agreement, the PRESIDENT shall have the option, exercisable by ninety (90) days prior written notice, to terminate this Agreement.

C. Merit Increases. During the Employment Period, the BOARD and the PRESIDENT shall identify mutually desirable targets and goals which shall be reviewed annually and agreed upon as annual performance expectations for the PRESIDENT. The quality of the PRESIDENT’s achievement of these targets and goals shall be determined in the sole discretion of the BOARD, with each BOARD member rating the PRESIDENT’s achievement of each target and goal from a low of one (1) to a high of ten (10). The individual ratings of the BOARD shall be averaged and rounded up to the nearest whole number to produce the BOARD Rating. The following BOARD ratings shall, in the absence of mutual written agreement otherwise, result in the following merit increases to the PRESIDENT’s Base Salary, and other compensation and compensable benefits as deemed appropriate by BOARD:

<u>BOARD Rating</u>	<u>Evaluation Category</u>	<u>Merit Increase</u>
1-4	Not Satisfactory (N)	No Increase
5-7	Satisfactory (S)	College Increase*
8-10	Excellent (E)	8 - College Increase + 2.5%
		9 - College increase + 5%
		10 - College Increase + **

*The average percentage increase to be awarded to Tenured/Tenure Track Faculty.

** Percentage to be determined at discretion of the BOARD.

(5) Welfare and Pension Benefits. The PRESIDENT shall be entitled to participate in the insurance, retirement, and other employee benefit programs to the same extent and in the same manner as all executive management employees of the BOARD, subject to the laws and regulations of the State of Florida and policies adopted by the BOARD. The PRESIDENT shall be entitled to receive the following additional benefits:

A. Health Benefits. Each contract year during the Employment Period, the PRESIDENT shall receive a health insurance allowance equal to the cost of COLLEGE sponsored

health and dental insurance for spouse and dependent coverage during that contract year, such amount to be paid in twenty-four equal bi-monthly installments paid based on published payroll schedules. In no event will the health insurance allowance to which the PRESIDENT is entitled under this Paragraph (5)A. for one contract year during the Employment Period affect the health insurance allowance to which the PRESIDENT is entitled in another contract year.

B. Life Insurance Allowance. It is the intent of the BOARD that the PRESIDENT be provided appropriate life and disability insurance coverage(s). Each contract year during the Employment Period, the BOARD shall pay to the PRESIDENT Twelve Thousand Five Hundred Dollars (\$12,500) as an insurance allowance, the intent of which is to reimburse the PRESIDENT for costs associated with such coverage(s), including without limitation, fees and commissions, premiums, and taxes. Such coverage(s) shall be applied for and owned entirely by the PRESIDENT, or the PRESIDENT'S designee. Each contract year during the Employment Period, the insurance allowance to which the PRESIDENT is entitled under this Paragraph (5)B. for such contract year shall be paid to the PRESIDENT in a single lump sum cash payment within 90 days after the end of the contract year. In no event will the insurance allowance to which the PRESIDENT is entitled under this Paragraph (5)B. for one contract year during the Employment Period affect the insurance allowance to which the PRESIDENT is entitled in another contract year.

C. Vacation and Sick Leave. The PRESIDENT shall accrue paid vacation leave and paid sick leave in accordance with BOARD policies and state laws. Upon termination of employment, payment will be made to the PRESIDENT for accrued vacation leave and accrued sick leave in accordance with BOARD policies and state laws.

D. Professional Leave. Each contract year during the term of this Agreement, the PRESIDENT is authorized to take twelve (12) days of non-cumulative, non-compensable professional leave with pay.

E. Study Leave. Each contract year during the Employment Period, the PRESIDENT is authorized to take twenty-eight (28) days of study leave with pay, and shall be reimbursed by the BOARD for study leave-related travel expenses in an annual amount not to exceed Five Thousand Dollars (\$5,000.00). Study leave shall be non-cumulative, and a maximum of twenty-eight (28) days of unused study leave days are compensable during each contract year at PRESIDENT's daily rate of pay. The amount determined by multiplying the number of the PRESIDENT's unused study leave days for a contract year by his daily rate of pay for that contract year shall be paid to the PRESIDENT in a single lump cash payment within 90 days of the end of the applicable contract year. Any leave-related travel expenses are reimbursable only to the extent they are incurred during the term of this Agreement. In addition, to obtain a reimbursement, the PRESIDENT must submit a request for reimbursement at least 30 days prior to the end of the calendar year following the calendar year in which the reimbursable expenses were incurred. Reimbursements for such expenses shall be paid on or before the end of the calendar year following the calendar year in which they were incurred, and may not be liquidated or exchanged for any other benefit. Moreover, the amount of reimbursable expenses during one contract year shall not affect the amount of reimbursable expenses in any other contract year.

F. PRESIDENT shall not take vacation, professional, study, or personal leave, if such leave interferes with the proper discharge of the PRESIDENT's duties under the terms of this Agreement.

G. Regular Retirement Program Contributions. The PRESIDENT has opted to have the BOARD direct contributions to his regular retirement program to the Valencia College 401(a) Qualified Retirement Plan ("401(a) Plan"), a defined contribution plan meeting the requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"), rather than the Florida Retirement System (a defined benefit plan). Pursuant to this Agreement the

BOARD has determined that it is appropriate to set a rate of contribution to the 401(a) Plan that exceeds the current contribution rate for the Florida Retirement System. For each contract year during the Employment Period, the contribution rate is set at such percentage calculated to ensure that the amount of the contributions made by the COLLEGE to the 401(a) Plan for the PRESIDENT for the contract year shall at least equal the maximum contribution allowed under Code Section 415(c) and the Treasury Regulations and other guidance issued thereunder for such contract year; such contributions shall be made by the COLLEGE to the 401(a) Plan in twenty-six equal bi-weekly installments. In no event shall the contributions made to the 401(a) Plan for the PRESIDENT under this Paragraph (5)G. for a contract year exceed the dollar limit on contributions and other additions to defined contribution plans for that contract year stated in the Code, as increased or indexed under applicable law. In the event the PRESIDENT opts to direct contributions to the Florida Retirement System, the BOARD shall cease directing contributions to the 401(a) Plan as set forth in this Paragraph and shall instead direct contributions to the Florida Retirement System at the then current contribution rate applicable to PRESIDENT for the Florida Retirement System as set by Florida law, subject to the applicable Code limitations.

H. Deferred Compensation and Annuity Payments. For each contract year during the Employment Period, the COLLEGE shall make a contribution on behalf of the PRESIDENT into an employer sponsored plan meeting the requirements of Section 403(b) of the Code (“403(b) Plan”) using a contribution rate set at such percentage calculated to ensure that the amount of the contributions made by the COLLEGE to the 403(b) Plan for the PRESIDENT for the contract year shall at least equal the maximum contribution allowed by the Code under Section 415(c) and the Treasury Regulations and other guidance issued thereunder for such contract year; such contributions shall be made by the COLLEGE to the 403(b) Plan in twenty-four equal bi-weekly installments. For each contract year during the Employment Period, the COLLEGE shall

make a contribution for the PRESIDENT into a plan meeting the requirements of Section 457(b) of the Code, in an amount equal to the maximum contribution allowed under the Code and the Treasury Regulations and other guidance issued thereunder for such contract year for a plan meeting the requirements of Section 457(b) of the Code; such contributions shall be made by the COLLEGE in twenty-four equal bi-weekly installments. In no event shall the amounts contributed to the 403(b) Plan and 457(b) plan for the PRESIDENT under this Paragraph (5)H for a contract year exceed the dollar limit on contributions and other additions to Code Section 403(b) and 457(b) plans, respectively, stated in the Code and the Treasury Regulations and other guidance issued thereunder, for such contract year, as increased or indexed under applicable law. For each contract year during the Employment Period, the BOARD shall also pay to the PRESIDENT Eight Thousand Two Hundred Twenty-Five Dollars (\$8,225.00), for the PRESIDENT to contribute to a plan(s) established under Section 529 of the Code, such amount to be paid in twenty-six equal bi-weekly installments during the contract year; provided, however, that in no event shall an amount be paid to the PRESIDENT pursuant to this sentence for a contract year later than 90 days after the end of such contract year.

I. Automobile. Each contract year during the Employment Period, the BOARD shall pay to PRESIDENT an automobile allowance of Fourteen Thousand Four Hundred Dollars (\$14,400.00), to be paid in twenty-six equal bi-weekly installments during the contract year; provided, however, that in no event shall the automobile allowance to which the PRESIDENT is entitled under this Paragraph (5)I. for a contract year (1) be paid later than 90 days after the end of such contract year, or (2) affect the automobile allowance to which the PRESIDENT is entitled under this Paragraph (5)I. in another contract year during the Employment Period.

J. Housing Allowance. Each contract year during the Employment Period, the BOARD shall pay to PRESIDENT a housing allowance of Twelve Thousand Dollars (\$12,000.00), to be paid in twenty-six equal bi-weekly installments during the contract year; provided, however, that in no event shall the housing allowance to which the PRESIDENT is entitled under this Paragraph (5)J. for a contract year (1) be paid later than 90 days after the end of such contract year, or (2) affect the housing allowance to which the PRESIDENT is entitled under this Paragraph (5)J. in another contract year during the Employment Period.

K. Foundation Support. The BOARD authorizes the PRESIDENT to allow direct payment of expenses and to receive reimbursements from the Valencia College Foundation for expenses, including without limitation, home office support, professional development and travel, hospitality, and other uses approved by the Foundation Executive Committee, in such amounts and according to terms as determined to be reasonable in the sole discretion of the Board of Directors of the Valencia College Foundation. Expenses are reimbursable under this Paragraph (5)K only to the extent they are incurred during the term of this Agreement. In addition, to obtain reimbursements, the PRESIDENT must submit a request for reimbursement at least 30 days prior to the end of the calendar year following the calendar year in which the reimbursable expenses were incurred. Reimbursements for such expenses shall be paid on or before the end of the calendar year following the calendar year in which they were incurred, and may not be liquidated or exchanged for any other benefit. Moreover, the amount of reimbursable expenses during one calendar year shall not affect the amount of reimbursable expenses in any other calendar year.

L. Additional Compensation for Retention. In furtherance of the BOARD's desire to retain the PRESIDENT in employment at the COLLEGE, and upon the PRESIDENT's completion of the final year of the required three (3) years of employment under this provision and pursuant to this Agreement, up to and including June 30, 2021 (the required three years of

employment hereinafter referred to as the “Retention Period”), the PRESIDENT shall receive Two Hundred Twenty Two Thousand and One Dollars (\$222,001) as retention compensation (“Retention Amount”). In the alternative, in acknowledgement of the PRESIDENT’s completion of first year of employment during the Retention Period, up to and including June 30, 2019 (Year One), the PRESIDENT was eligible to elect, and did so elect, to receive Sixty Eight Thousand Nine Hundred Sixty Five Dollars (\$68,965) from the Retention Amount, as retention compensation. The Board hereby acknowledges that when the PRESIDENT completes Year Two of the Retention Period on June 30, 2020, the PRESIDENT shall be eligible to elect to receive Seventy Six Thousand Five Hundred Eighteen Dollars (\$76,518) as retention compensation from the Retention Amount. Then, upon the PRESIDENT’s completion of Year Three of the Retention Period, the remaining year of employment during the Retention Period under this provision and pursuant to this Agreement, up to and including June 30, 2021, and in the event a Year Two election is made, the PRESIDENT shall be eligible to receive Seventy Six Thousand Five Hundred Eighteen Dollars (\$76,518) as retention compensation from the Retention Amount; and in the event no Year Two election is made, the PRESIDENT shall be eligible to receive One Hundred Fifty Three Thousand Thirty Six Dollars (\$153,036) as retention compensation from the Retention Amount. As earned and disbursed, this alternative retention compensation schedule shall be cumulative, up to but not exceeding the total three year retention compensation amount of \$222,001. Retention compensation is considered to be compensation for services rendered, and not for services yet to be rendered. Except as provided in Paragraph (8) herein, following PRESIDENT’s completion of the required periods of employment under this provision and pursuant to this Agreement, the retention compensation shall be paid by the BOARD to the PRESIDENT in lump sum or otherwise in a manner that is mutually agreeable to the BOARD and PRESIDENT.

(6) Waiver of Tenure. The PRESIDENT waives any right to tenure or other contract continuation at the COLLEGE during the term of this Agreement, by virtue of entering into this Agreement and any amendments hereto.

(7) Suspension or Dismissal; Termination for Cause. During the Employment Period, the BOARD may suspend or dismiss the PRESIDENT and/or may terminate this Agreement for cause pursuant to the law, and pursuant to the Rules of the State Board of Education and the BOARD. In the event that this Agreement is terminated for cause, the BOARD shall pay to the PRESIDENT any accrued but unpaid compensation, together with a proportionate part of any other benefits which would be due and payable to the PRESIDENT through the date of such termination. Thereafter, the BOARD shall have no further obligations hereunder.

(8) Termination without Cause; Severance Pay; Mitigation. In the event this Agreement is construed to contain a provision for severance pay, as defined by s. 215.425, F.S., it is expressly understood and agreed that such severance pay may not exceed an amount greater than 20 weeks of PRESIDENT's compensation, and such severance pay is prohibited if this contract is terminated due to PRESIDENT's misconduct, as defined in s. 443.036(29), F.S. The parties agree that the BOARD may terminate this Agreement and, therefore, the PRESIDENT'S employment, at any time without cause provided the BOARD pays the PRESIDENT a severance payment of 20 weeks of PRESIDENT's compensation. The severance payment shall be payable in one lump sum, with required taxes withheld in accordance with applicable tax law requirements, or otherwise in a manner that is mutually agreeable to the BOARD and PRESIDENT. In the event that the BOARD terminates this Agreement without cause, the BOARD shall pay to the PRESIDENT retention pay compensation as set forth in Paragraph (5)L herein, prorated to reflect days of employment from July 1, 2019 until the date of termination, which have not already been paid out as permitted in Paragraph (5)L herein. This prorated retention pay compensation is considered to be compensation

for services rendered and not for services yet to be rendered. The BOARD's obligations hereunder shall not be diminished by any income earned by the PRESIDENT from subsequent employment.

(9) Waiver of Rights with Severance Pay. Acceptance of the severance payment pursuant to Paragraph 8 above shall preclude, and the PRESIDENT by such acceptance shall waive, any claims in judicial, administrative, or arbitration forums, or any other BOARD liability, relating to entitlement to compensation or fringe benefits relating to his employment by or separation from the COLLEGE. The right to the aforementioned severance payment shall be contingent upon the execution, at the time of the termination, of a waiver acknowledging the provisions of this Paragraph.

(10) Termination by Mutual Agreement; Death; Disability. In addition to the other provisions of this Agreement, this Agreement also may be terminated prior to its expiration date upon any one of the following events:

- A. The mutual agreement of the parties;
- B. The death of the PRESIDENT; or
- C. The PRESIDENT's inability to carry out the duties of President, as defined by law, BOARD policy and the terms of this Agreement, due to the incapacity or disability of the PRESIDENT, as determined by the BOARD.

1. Medical Examination. The PRESIDENT expressly agrees to submit to a medical or psychiatric examination, or both, if requested by the BOARD. The PRESIDENT shall be permitted his choice of a doctor from a list of three doctors selected and approved by the BOARD. The PRESIDENT shall authorize the examining doctor to provide an oral report to the Chair of the BOARD, and if so directed by the Chair, to provide a report to the BOARD.

2. Right to Accrued Amounts. If the PRESIDENT becomes incapable of carrying out the duties of office due to death or incapacity or disability and is terminated, the BOARD shall be liable to the PRESIDENT or the PRESIDENT's personal representative, as the case may be, for any accrued but unpaid compensation together with a proportionate part of any other benefits which would be due and payable to the PRESIDENT.

(11) Rights at Expiration. It is expressly understood and agreed by and between the parties hereto that:

A. The PRESIDENT has no expectancy of re-employment after the term of this Agreement has expired.

B. No reasons or legal cause shall be required to be given by the BOARD in the event the PRESIDENT is not re-employed after June 30, 2024; and no hearing on the BOARD's refusal, if any, to re-employ shall be required.

(12) Applicable Rules and Laws. This Agreement shall be performed subject to and interpreted and construed in accordance with the laws of Florida now existing or hereafter enacted, and to any and all rules now existing or as hereafter promulgated by the State Board of Education which are applicable to all Florida College System presidents. This Agreement shall also be performed subject to and interpreted and construed in accordance with any and all BOARD policies and regulations now existing or as hereafter promulgated.

(13) Venue. Any lawsuits arising from or incident to this Agreement shall be brought in courts of competent jurisdiction within the COLLEGE's service district, specifically Orange County or Osceola County, Florida.

(14) Validity. The terms of this Agreement are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

(15) No Waiver or Rights. No delay or failure to enforce any provision of this Agreement shall constitute a waiver or limitation of rights enforceable under this Agreement.

(16) Entire Agreement. This Agreement contains the entire understanding of the parties hereto and supersedes any and all prior or contemporaneous representations or agreements, whether written or oral, between the parties, and cannot be changed or modified except in writing signed by the parties hereto.

(17) Tax Matters. All compensation and benefits provided by the BOARD pursuant to this Agreement shall be subject to the customary withholding tax, social security tax, and other taxes as may be required by the State of Florida and the United States of America. The PRESIDENT acknowledges that the BOARD cannot guarantee personal tax treatment of any payments or benefits under this Agreement, and that he shall be responsible for any income tax liability incurred as a result of this Agreement. The PRESIDENT further acknowledges that he has not relied on the BOARD or its counsel to provide tax or legal advice, and that he has been advised to seek professional advice with regard to compensation and benefit matters addressed by this Agreement.

(18) Section Headings. The section headings in this Agreement are for the convenience of reference only, and they form no part of this Agreement and shall not affect its interpretation.

(19) Code Section 409A. The parties intend that this Agreement and the benefits provided pursuant to Code Section 409A are interpreted and construed to comply with Code Section 409A to the extent applicable. Notwithstanding any other provision of this Agreement, the BOARD is authorized to amend this Agreement, to void or amend any election made by the PRESIDENT under this Agreement and/or delay the payment of any monies and/or provisions of any benefits in such a manner as may be determined by it to be necessary or appropriate to comply, or evidence or further evidence required compliance, with Section 409A of the Code.

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective hands and seals on the day and year first above written.

Witnesses:

THE DISTRICT BOARD OF TRUSTEES OF
VALENCIA COLLEGE, FLORIDA

CHAIR

(SEAL OF THE COLLEGE)

Witnesses:

SANFORD C. SHUGART

PRESIDENT
