

**Northwest Missouri State University**  
**Board of Regents**  
**Date of Meeting: December 18, 2009**

Cabinet Member: Douglas Dunham

Agenda Item: Renewal of agreement with  
inter-institutional international partner

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**Background:**

Northwest has many cooperative agreements with international institutions of higher education to ensure Northwest students have the opportunity to study abroad in an academically qualified institution as well as in a safe environment. We have been partners with The Instituto Tecnológico y De Estudios Superiores De Monterrey (Monterrey, Nuevo Leon, Mexico) since 1994. We are requesting the Board renew the agreement to continue our partnership.

This MOA has been reviewed by Board Counsel.

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**Issue:**

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**President's Recommendation:**

I recommend approval.

RENEWAL OF THE INTER-INSTITUTIONAL AGREEMENT OF COOPERATION  
AND THE AGREEMENT OF COOPERATION  
BETWEEN  
THE INSTITUTO TECNOLOGICO Y DE ESTUDIOS SUPERIORES DE MONTERREY  
(MONTERREY, NUEVO LEON, MEXICO)  
AND  
NORTHWEST MISSOURI STATE UNIVERSITY  
(MARYVILLE, USA)

Northwest Missouri State University (hereafter referred to as Northwest), and the Instituto Tecnológico y de Estudios Superiores de Monterrey (hereafter referred as ITESM), Monterrey, Nuevo León, México, agree to renew their agreements for educational cooperation signed in March 24, 1994 (see Exhibits A and B hereto).

1. This agreement will be in effect from the date of its last signature for a period of five years. Either institution may however terminate the agreement at anytime by giving six months written notice of such intent to the other institution.
2. For a student to credit a course towards a degree, said course must be or must have been instructed by a faculty member who satisfies the profile and carries the necessary academic credentials as determined by the corresponding academic department.
3. The parties convene that the Agreement does not give Northwest or ITESM any license of use or rights over the intellectual property of the other party. The use of trademarks and/or denominations representative of either party is strictly prohibited without the owner's permission.
4. Any provision of this Agreement which is in conflict with any Statute, Treaty, or Regulation of the United States of America or any Statue or Regulation of the State of Missouri shall be subordinate to any such Statute, Treaty or Regulation. When ever a Party becomes aware of any such conflict, it shall promptly notify the other Party of that Conflict.
5. Except as set forth above, the laws of the State of Missouri shall govern this Agreement. Subject to the arbitration provisions hereof any action in regard to the consent or arising out of the terms and conditions shall be instituted and litigated in the courts of the State of Missouri, County of Nodaway and in no other. In accordance, the parties submit to the jurisdiction of the courts of the State of Missouri and to venue in Nodaway County.
6.
  - 6.1 In case of a Difference in the interpretation or execution of this Agreement or any amendments to it, the Parties agree to seek to resolve that dispute in an amicable manner. If a resolution of differences can not be archived by the parties, they agree to arbitrate as provided herein any and all Differences which may arise with, between them with regard to this agreement.

6.2 Prior to initiating arbitration the parties to the Difference the Parties shall first meet face to face in good faith at the offices of Northwest or such other appropriate place as may be mutually agreeable to effect a resolution of the Differences. The Parties shall seek to have the Differences, which the Parties are unable to resolve after meeting or attempting to meet in good faith to effect a resolution, mediated by an individual chosen in accordance with the Commercial Mediation Rules of the American Arbitration Association. The cost of the Mediation shall be shared equally.

6.3 Any Differences which the Parties are unable to resolve under paragraph 2 shall be finally settled in the offices of Northwest (or other location mutually agreed upon by the Parties) by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") as modified herein and by one neutral mutually selected arbitrator. Any award entered in any such arbitration shall be final and binding and may be entered and enforced in any court of competent jurisdiction.

6.4 The arbitration shall be initiated by any Party filing with the AAA notice of intent to arbitrate ("Arbitration Notice") and serving a copy of the Arbitration Notice on the other Party or Parties to the Differences. The arbitrator shall set such times and make such orders as will compel all depositions, exchange of relevant information, document production, and other discovery as permitted by the AAA Commercial Arbitration Rules and/or the Uniform Arbitration Act as adopted by the State. of Missouri.

6.5 The arbitrator shall make such orders and conduct and schedule all proceedings in connection with the arbitration so that the final arbitration hearing commences no less than 90 days and concludes no later than one hundred eighty (180) days after the Arbitration Notice is filed, and so that the final arbitration award is made and delivered to the parties within two hundred (200) days after the Arbitration Notice is filed.

6.6 The arbitrator's award shall be in writing and shall be accompanied by a written opinion explaining the decision. (The written opinion is for information purposes only and may not be used by any person as a basis for questioning or challenging in any way the arbitrator's award in any court.) The arbitrator has discretion to award reasonable attorney fees to the Party or Parties deemed by the arbitrator to be the prevailing Party or Parties in the arbitration. Subject to the requirement of Missouri's Sunshine Law (§610.010 et seq. R.S.Mo.) the undersigned agree to treat as confidentially as practicable all Differences, all matters relating to resolution proceedings under this Agreement, any arbitration opinion or award, and any proceedings related to or to enforce an arbitration award.

6.7 The rights, remedies, duties and obligations of the undersigned shall survive the termination of any agreements subject to this Arbitration Agreement. Termination of any agreement subject to this Arbitration Agreement shall be without prejudice to any rights which have accrued to any party under this Arbitration Agreement.

6.8 Any notice or other communication required or permitted hereunder shall be deemed to have been given when sent by certified or registered mail, postage prepaid, to the designated agent set forth herein or their designated successor.

6.9 If any part or provision of this Agreement relating to Arbitration is invalid or unenforceable or prohibited by the law of any jurisdiction where it is to be performed or enforced, this Agreement shall be considered divisible as to such provision and such provision shall be inoperative and the remainder of this Agreement shall be valid and binding and of like effect as though such provision were not included herein. Any court is requested in the absence of the excluded provision to endeavor to give the fullest possible effect to the intent of the Parties as expressed herein.

6.10 The agreement shall be governed by and construed in accordance with the laws of the State of Missouri without regard to the conflict of laws principles thereof.

7. All of the provisions of this Agreement shall be severable. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Agreement shall be valid unless the court finds the valid provisions of this Agreement are so essentially and inseparably connected with and so dependent upon the invalid provisions that it cannot be presumed that the parties to this Agreement could have included the valid provisions without invalid provisions; or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

**THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.**

In witness whereof, the parties hereto have offered their signatures:

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Dr. Alberto Bustani  
President and Legal Representative  
INSTITUTO TECNOLOGICO DE  
ESTUDIOS SUPERIORES DE  
MONTERREY  
Monterrey Metropolitan Area

DATE \_\_\_\_\_

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Dr. John Jasinski  
President  
Northwest Missouri State University  
Maryville, Missouri, USA

DATE \_\_\_\_\_

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Dr. Carlos J. Mijares López

\_\_\_\_\_  
Dr. Charles McAdams

Academic and Research Vice-President  
INSTITUTO TECNOLOGICO DE  
ESTUDIOS  
SUPERIORES DE MONTERREY  
ITESM System

DATE \_\_\_\_\_

Dean, College of Arts & Sciences  
Northwest Missouri State University  
Maryville, Missouri, USA

DATE \_\_\_\_\_

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Dr. Enrique Zepeda Bustos  
International Affairs Vice-President  
INSTITUTO TECNOLOGICO DE  
ESTUDIOS  
SUPERIORES DE MONTERREY  
ITESM System

DATE \_\_\_\_\_