

**SETTLEMENT AGREEMENT
AND
RELEASE OF ALL CLAIMS**

This Settlement Agreement and Release of All Claims (“**AGREEMENT**”) is made between Dr. Eunice Neeley (“**EMPLOYEE**”), The Regents of the University of California, (“**REGENTS**”) and Dr. Stanton Glantz (“**NAMED INDIVIDUAL DEFENDANT**”).

RECITALS

A. **EMPLOYEE** worked as a Postdoctoral-Fellow and Postdoctoral Scholar-Employee for the Center for Tobacco Control Research and Education (“**CTCRE**”) at UCSF. **EMPLOYEE** began working at UCSF on October 12, 2015. On or about March 9, 2017, **EMPLOYEE** filed a complaint with the Office for Prevention of Harassment and Discrimination (“**OPHD**”) alleging that she was subjected to sexual harassment and race discrimination by Dr. Stanton Glantz.

B. On or about December 6, 2017, **EMPLOYEE** initiated an action against the **REGENTS** and **NAMED INDIVIDUAL DEFENDANT** in the Superior Court of the State of California, County of San Francisco, Case No. CGC-17-562891 (“the **ACTION**”), alleging causes of action for (1) FEHA hostile work environment – sexual harassment, (2) FEHA retaliation, (3) FEHA failure to prevent harassment and retaliation, (4) negligent retention of an unfit employee, (5) breach of contract, (6) unjust enrichment, (7) preliminary and permanent injunctive relief, and (8) declaratory relief. On February 8, 2018, the **REGENTS** filed a demurrer as to the fourth, fifth, sixth, seventh, and eighth causes of action. The Court dismissed the fourth cause of action for negligent retention of an unfit employee with leave to amend. The Court also dismissed the seventh cause of action for injunctive relief without leave to amend. **EMPLOYEE** filed an amended complaint on April 2, 2018 and reasserted her fourth cause of action for negligent retention of an unfit employee. **REGENTS** filed an answer to **EMPLOYEE**’s first amended complaint.

C. The **REGENTS** and **NAMED INDIVIDUAL DEFENDANT** deny and dispute **EMPLOYEE**’s claims and allegations.

D. In order to avoid the substantial expense and inconvenience of further litigation, the parties now desire to fully and finally settle all claims on the terms set forth in this **AGREEMENT**. This includes all claims asserted in the **ACTION**, all issues that were raised or could have been raised in the **ACTION** and any claims or potential claims arising from any transactions or occurrences to date between **EMPLOYEE**, on the one hand, and the **REGENTS** and the **NAMED INDIVIDUAL DEFENDANT**, on the other hand.

THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, IT IS HEREBY AGREED AS FOLLOWS:

1. Consideration. In exchange for the promises and warranties of **EMPLOYEE**, as set forth below, the **REGENTS** shall pay the total sum of \$150,000 jointly to **EMPLOYEE** and **EMPLOYEE'S** attorney, Kelly Armstrong of The Armstrong Law Firm. It is understood and agreed that the foregoing payment will not be considered compensation for any University purpose, including, but not limited to, calculation of retirement or other benefits. The checks will be mailed to 302 Caledonia Street, Suite 4, Sausalito, CA 94965.

As further consideration for the promises and warranties herein, the **REGENTS** and **NAMED INDIVIDUAL DEFENDANT** further agree to the following non-monetary terms:

- a. **NAMED INDIVIDUAL DEFENDANT** agrees to transfer the rights to the TES Paper to **EMPLOYEE** under the conditions set forth below:
 - i. **NAMED INDIVIDUAL DEFENDANT** agrees to relinquish all rights to the TES Paper and transfer ownership of it to **EMPLOYEE** to pursue publication as she wishes, with whomever she wishes as coauthors. **NAMED INDIVIDUAL DEFENDANT** will have no further involvement with the TES Paper. **NAMED INDIVIDUAL DEFENDANT** will not be included as an author of the TES Paper, will not be identified as the Principal Investigator, and will not be associated with the TES Paper in any way. To be specific, **NAMED INDIVIDUAL DEFENDANT** does not grant permission to be listed as an author or acknowledged in the TES Paper. Given that **EMPLOYEE** is a resident at Emory, she has ample library and other research resources at Emory to complete the TES Paper. Also, the source tobacco papers are available to her online.
 - ii. Because the research reported in the TES Paper was supported by, in part, the National Institutes of Health, **EMPLOYEE** agrees that, consistent with NIH and journal requirements and, consistent with the fact that **EMPLOYEE** has sole responsibility for the content of the TES Paper, she will include the following disclaimer in any versions of the TES Paper submitted for publication or published: "The research reported in this paper was supported, in part, by the National Cancer Institute of the National Institutes of Health under award numbers R01CA-087472 and T32CA-113710. The content is solely the responsibility of the author(s) and does not necessarily represent the views of the principal investigators of these grants or official views of the National Institutes of Health."
 - iii. **EMPLOYEE** will deposit a copy of the final accepted peer reviewed TES Paper to the NIH Manuscript Submission System and associate it with NIH grants R01CA-087472 and T32CA-

113710, as required by the NIH public access policy. This submission can only be made by an author of the paper. This is a material term to this Agreement.

- iv. After **EMPLOYEE** submits the final accepted peer reviewed TES paper to the NIH Manuscript Submission System, she will provide the associated NIHMS number to **NAMED INDIVIDUAL DEFENDANT** and Pamela Ling because **NAMED INDIVIDUAL DEFENDANT** and Ling must report this information to NIH in grant progress reports as a condition for continued funding of these grants. This is a material term to this Agreement.
 - v. **NAMED INDIVIDUAL DEFENDANT** will notify the current coauthors of the TES Paper of this Agreement and advise them that he is no longer associated with the TES Paper and that if they so choose, they should work with **EMPLOYEE** on issues of authorship for any future versions of the TES Paper.
 - vi. **EMPLOYEE** agrees that **NAMED INDIVIDUAL DEFENDANT**'s decision to allow her to pursue publication of the TES Paper on her own is in no way an admission that he "stole" her paper.
- b. The **REGENTS** will agree to host a 2-hour, live training on sexual harassment and sensitivity, attended by all employees of the CTRCE, including management-level employees.

2. General Release of All Claims. **EMPLOYEE** unconditionally, irrevocably and absolutely releases and discharges the **REGENTS**, **NAMED INDIVIDUAL DEFENDANT**, as well as any other present or former employees, officers, agents, attorneys, affiliates, successors, assigns and all other representatives of the **REGENTS** (collectively, "**RELEASED PARTIES**"), from any and all causes of action, judgments, liens, indebtedness, damages, losses, claims (including attorneys' fees and costs), liabilities and demands of whatsoever kind and character that **EMPLOYEE** may now or hereafter have against the **RELEASED PARTIES** arising from incidents or events occurring on or before the **EFFECTIVE DATE** of this **AGREEMENT**, and these claims shall collectively be referred to hereafter as "**RELEASED CLAIMS.**" To the extent permitted by law, this release is intended to be interpreted broadly to apply to all transactions and occurrences between **EMPLOYEE** and any of the **RELEASED PARTIES**, including but not limited to any and all claims related to **EMPLOYEE**'s employment with the **REGENTS**, including the employment conditions and separation from employment with, and all other losses, liabilities, claims, charges, demands and causes of action, known or unknown, suspected or unsuspected, arising directly or indirectly out of or in any way connected with the **ACTION** and/or these transactions or occurrences. **RELEASED CLAIMS** include, without limitation, any claims under the laws of contract or tort, the common law, the state or federal Constitution, any state or federal statutes (including, without limitation, the California Fair Employment and

Housing Act, the California Civil Code, the California Government Code, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination in Employment Act), any policy of the **REGENTS** or the University of California, or any collective bargaining agreement. **RELEASED CLAIMS** include all claims for physical injuries, illness, damage or death, and all claims for attorneys' fees, costs, and expenses. Notwithstanding the foregoing, **RELEASED CLAIMS** shall not include any other claims that cannot lawfully be waived or released by private agreement.

REGENTS and **NAMED INDIVIDUAL DEFENDANT** unconditionally, irrevocably and absolutely release and discharge **EMPLOYEE** from any and all causes of action, judgments, liens, indebtedness, damages, losses, claims (including attorneys' fees and costs), liabilities and demands of whatsoever kind and character that they may now have against **EMPLOYEE** arising from incidents or events occurring on or before the **EFFECTIVE DATE** of this **AGREEMENT**.

3. Unknown or Different Facts or Law. The parties acknowledge that they may discover facts or law different from, or in addition to, the facts or law they know or believe to exist with respect to a Released Claim. The parties agree, nonetheless, that this **AGREEMENT** and the releases contained in it shall be and remain effective in all respects notwithstanding such different or additional facts or law.

4. California Civil Code Section 1542 Waiver. The parties expressly acknowledge and agree that the releases contained in this **AGREEMENT** include a waiver of all rights under Section 1542 of the California Civil Code. This statute reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The parties acknowledge that they read all of this **AGREEMENT**, including the above Civil Code section, and that they fully understand both the **AGREEMENT** and the Civil Code section. Each party waives any benefits and rights granted to it, him or her pursuant to Civil Code section 1542.

5. Dismissal of the ACTION. **EMPLOYEE** agrees to take all actions necessary to dismiss the **ACTION**, with prejudice, as soon as possible after this **AGREEMENT** becomes effective and the settlement payment is delivered, including, but not limited to, executing and filing a Request for Dismissal of the Action with

Prejudice with the Superior Court. **EMPLOYEE** further agrees to file a Notice of Conditional Settlement within 5 business days of the full execution of this Agreement.

6. No Prior Assignments or Liens. **EMPLOYEE** represents and warrants that **EMPLOYEE** has not assigned to any other person or entity any of the **RELEASED CLAIMS**. **EMPLOYEE** further represents and warrants that **EMPLOYEE** has not, directly or indirectly, caused any liens or claims to be placed on any of the amounts being paid by the **REGENTS** as provided in this **AGREEMENT** and further represents and warrants that **EMPLOYEE** is not aware of the existence of any such liens. **EMPLOYEE** agrees to defend, indemnify and hold the **REGENTS** harmless from any liability, losses, claims, damages, costs or expenses, including reasonable attorneys' fees, arising out of a breach of the representations and warranties contained in this paragraph.

7. No Admissions. By entering into this **AGREEMENT**, neither the **REGENTS**, the **NAMED INDIVIDUAL DEFENDANT**, nor any of the other **RELEASED PARTIES** admit that they have engaged in, or are now engaging in, any unlawful conduct or employment practice. It is understood and agreed that this **AGREEMENT** is not an admission of liability, and that the **REGENTS**, the **NAMED INDIVIDUAL DEFENDANT**, and the other **RELEASED PARTIES** specifically deny liability in the **ACTION** and intend merely to avoid further litigation and expense by entering into this **AGREEMENT**. The parties agree that it is their mutual intention that neither this **AGREEMENT** nor any terms hereof shall be admissible in any other or future proceedings against the **REGENTS**, the **NAMED INDIVIDUAL DEFENDANT**, or any of the other **RELEASED PARTIES**, except a proceeding to enforce this **AGREEMENT**.

8. Covenant Not to Sue. **EMPLOYEE** agrees, to the fullest extent permitted by law, that **EMPLOYEE** will not initiate or file a lawsuit or internal University proceeding to assert any **RELEASED CLAIMS**. If any such action is brought, this **AGREEMENT** will constitute an Affirmative Defense thereto, and the **REGENTS**, the **NAMED INDIVIDUAL DEFENDANT**, and any other **RELEASED PARTIES** named in such action shall be entitled to recover reasonable costs and attorneys' fees incurred in defending against any **RELEASED CLAIMS**.

Nothing in this **AGREEMENT** shall affect the rights and responsibilities of the U.S. Equal Employment Opportunity Commission ("EEOC") or the California Department of Fair Employment and Housing ("DFEH") to enforce Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment and Housing Act, as amended, or any other applicable law. Nor shall anything in this **AGREEMENT** be construed as a basis for interfering with **EMPLOYEE's** protected right to file a charge with, or participate in an investigation or proceeding conducted by, the EEOC or any other state, federal or local government entity. Notwithstanding the foregoing, if the EEOC or any other state, federal or local government entity commences a lawful investigation or issues a complaint on **EMPLOYEE's** behalf, **EMPLOYEE** specifically

waives and releases **EMPLOYEE'S** right, if any, to recover any monetary or other benefits of any sort whatsoever in connection with that investigation or administrative proceeding and further agrees not to seek reinstatement to University employment.

9. Acknowledgment of Payment of Compensation/Benefits: **EMPLOYEE** acknowledges and affirms that **EMPLOYEE** has been paid and/or has received any and all wages, benefits and compensation to which **EMPLOYEE** is entitled as a result of **EMPLOYEE'S** employment with the **REGENTS**, including but not limited to, accrued but unused vacation time.

10. Attorneys' Fees and Costs. **EMPLOYEE** and the **REGENTS** agree to bear their own attorneys' fees and expenses incurred in connection with the **ACTION** and/or any **RELEASED CLAIMS**, except as otherwise set forth herein.

11. Tax Consequences. The **REGENTS** has made no representation about and takes no position on the tax consequences of this **AGREEMENT**. A dispute regarding the tax status of this **AGREEMENT** shall not affect the validity of this **AGREEMENT**. **EMPLOYEE** has had an opportunity to discuss the potential tax consequences of this **AGREEMENT** with **EMPLOYEE'S** own counsel and agrees to indemnify and hold harmless the **REGENTS** and the **NAMED INDIVIDUAL DEFENDANT** from any and all costs and assessments, including, but not limited to, delinquent taxes, penalties and/or assessments levied against the **REGENTS** and the **NAMED INDIVIDUAL DEFENDANT** for the **EMPLOYEE'S** portion of any such taxes as a result of actions taken by the **REGENTS** pursuant to this **AGREEMENT**.

12. The Applicability of California Public Records Act. The parties acknowledge that the **REGENTS** is subject to the California Public Records Act ("CPRA") and that this Agreement and other documents, or portions thereof, underlying the Action may constitute public records of a type that is generally required to be disclosed upon request, to the extent such disclosure is also consistent with the University's obligations under the law.

13. Return of the **REGENTS'** Information and Property. Within 30 days of executing this **AGREEMENT**, **EMPLOYEE** shall return, without making any further copies, all originals and copies of all documents that contain trade secrets or proprietary information of the **REGENTS** and any documents that contain medical information, personnel information, birth dates, or social security numbers of any current or former employee of the **REGENTS**. **EMPLOYEE** may, however, keep any document that is a personnel document relating to **EMPLOYEE'S** employment with the **REGENTS** to which **EMPLOYEE** is entitled to under state or federal law. **EMPLOYEE** shall also return all property of the **REGENTS** still in **EMPLOYEE'S** possession. To the extent there is any dispute as to whether **EMPLOYEE** continues to possess documents or property that should be returned under this clause, **EMPLOYEE** agrees to cooperate with the **REGENTS** by identifying, and making available to the **REGENTS**, the work

related documents or property **EMPLOYEE** retained after **EMPLOYEE'S** separation from employment with the **REGENTS**.

14. Condition. This **AGREEMENT** is subject to formal approval by the Board of Regents of the University of California, which approval will be communicated to counsel for **EMPLOYEE**.

15. California Law. This **AGREEMENT** is made and entered into in the State of California and shall in all respects be interpreted and enforced in accordance with California law, without regard to conflicts of laws provisions. The parties agree that any action to enforce any term of this **AGREEMENT** shall be filed in the Superior Court of California, County of San Francisco. Accordingly, the parties also agree to submit to the jurisdiction of the State of California for any action to enforce any term of this **AGREEMENT**.

16. Severability. Should it be determined by a court that any term of this **AGREEMENT** is unenforceable, that term shall be deemed to be deleted. However, the validity and enforceability of the remaining terms shall not be affected by the deletion of the unenforceable terms.

17. Modifications. This **AGREEMENT** may be amended only by a written instrument executed by all parties hereto.

18. Cooperation. The parties agree to do all things necessary and to execute all further documents necessary and appropriate to carry out and effectuate the terms and purposes of this **AGREEMENT**.

19. Interpretation; Construction. The headings set forth in this **AGREEMENT** are for convenience only and shall not be used in interpreting this **AGREEMENT**. This **AGREEMENT** has been drafted by legal counsel representing the **REGENTS**, but **EMPLOYEE** and **EMPLOYEE'S** counsel have fully participated in the negotiation of its terms. **EMPLOYEE** acknowledges that **EMPLOYEE** has had an opportunity to review and discuss each term of this **AGREEMENT** with legal counsel and, therefore, the normal rule of construction, which is that any ambiguities in the document are resolved against the drafting party, shall not be employed in the interpretation of this **AGREEMENT**.

20. Entire Agreement. The parties to this **AGREEMENT** declare and represent that no promise, inducement or agreement not herein discussed has been made between the parties and that this **AGREEMENT** contains the entire expression of agreement between the parties on the subjects addressed herein.

WHEREFORE, THE PARTIES HAVE VOLUNTARILY EXECUTED THIS AGREEMENT ON THE DATES SHOWN BELOW.

Dated: 9/12/2018 9:20:14 AM PST, 2018

By: DocuSigned by:
Emilia Meley
06E78D390E08453 JEELEY

Dated: 9/17, 2018

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By: *Paul Chan*
Senior Counsel
Office of the General Counsel

Dated: _____, 2018

By: _____
DR. STANTON GLANTZ

ACKNOWLEDGED:

Dated: 9/14/2018

By: *Kivi Confinfor*
Chief Risk Officer
University of California

APPROVED AS TO FORM AND SUBSTANCE:

Kelly Armstrong/Matthew Wayne, The Armstrong Law Firm

By:  _____
Attorney for DR. EUNICE NEELEY

Marie Trimble Holvick, Gordon & Rees LLP

By: _____
Attorneys for Defendant THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA

Lisa Barnett Sween, Jackson Lewis P.C.

By: _____
Attorneys for Defendant DR. STANTON GLANTZ

WHEREFORE, THE PARTIES HAVE VOLUNTARILY EXECUTED THIS AGREEMENT ON THE DATES SHOWN BELOW.

Dated: _____, 2018

By: _____
DR. EUNICE NEELEY

Dated: _____, 2018

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By: _____
Senior Counsel
Office of the General Counsel

Dated: 9/6/2018, 2018

By: 

DR. STANTON GLANTZ

ACKNOWLEDGED:

Dated: _____

By: _____
Chief Risk Officer
University of California

APPROVED AS TO FORM AND SUBSTANCE:

Kelly Armstrong, The Armstrong Law Firm

By: _____
Attorney for DR. EUNICE NEELEY

Marie Trimble Holvick, Gordon & Rees LLP

By: _____
Attorneys for Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Lisa Barnett Sween, Jackson Lewis P.C.

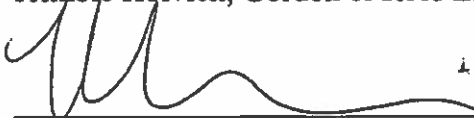
By: Nina Xu for LBS
Attorneys for Defendant DR. STANTON GLANTZ

APPROVED AS TO FORM AND SUBSTANCE:

Kelly Armstrong/Matthew Wayne, The Armstrong Law Firm

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Marie Trimble Holvick, Gordon & Rees LLP

By: 
Attorneys for Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Lisa Barnett Sween, Jackson Lewis P.C.

By: _____
Attorneys for Defendant DR. STANTON GLANTZ