

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made in the State of Arizona by and between Matthew Core Whitaker, on behalf of himself and the marital community, (hereinafter "Whitaker"), and the Arizona Board of Regents, a body corporate, for and on behalf of Arizona State University, (collectively "ASU").

### RECITALS

Whitaker is employed by ASU as a tenured associate professor in the College of Letter and Sciences and as co-director for the Center for Race and Democracy;

Pursuant to Arizona Board of Regents policy, ASU and Whitaker recently engaged in a Conciliation process to resolve issues related to Whitaker's employment relationship with ASU. In the discussions that followed, the parties reached the following agreement, which resolves ASU's concerns regarding Whitaker's continued employment, as well as all of Whitaker's claims against ASU.

### AGREEMENT

In consideration of the agreements and provisions contained in this Agreement, the parties agree and declare as follows:

1. Whitaker to Voluntarily Resign. Whitaker will resign from his position as Associate Professor in the School of Letter and Sciences effective May 16, 2017 and shall resign from his position as co-director of the Center for Race and Democracy effective immediately. ASU shall accept Whitaker's resignation and Whitaker's resignation shall become irrevocable, notwithstanding his reappointment for the 2016-2017 academic year. As of Monday, January 11, 2016, Whitaker shall be placed on sick leave until his leave is exhausted. Upon exhaustion of Whitaker's sick leave and through May 15, 2017, Whitaker's duties shall be as reasonably assigned. Whitaker's salary during this time shall be his base salary of \$153,530.50, and he shall continue to receive all employee related benefits, including, but not limited to, health insurance. Whitaker shall tender his written resignation contemporaneously with his signature on this agreement. Effective immediately, Whitaker shall have no authority to act for or on behalf of ASU and shall make no statements, including in any online profiles or social media websites, that misrepresent his status or authority. Whitaker shall continue to be subject to Arizona Board of Regents and University policies, including ACD 202-01, while he remains employed.

2. Resolution of Internal Processes. Due to Whitaker's decision to resign, ASU shall terminate the pending personnel review process. Records relating to the pending personnel inquiry will be maintained in the Office of General Counsel. Those records shall remain confidential unless Whitaker initiates a claim or litigation against



ASU or applies for employment or affiliation with ASU, the University of Arizona, Northern Arizona University, or the Arizona Board of Regents. If ASU discloses those records, ASU shall also release Whitaker's statement. ASU may also use these documents, if needed, to defend any legal claims against ASU by third parties, which are related to actions Whitaker took while employed by ASU.

3. Resolution of Internal Complaint. Execution of this agreement shall constitute Whitaker's withdrawal of the Complaint he made with the ASU Office of Equity and Inclusion.

4. Public Records Request. Whitaker agrees that the public records request dated October 6, 2015, made on his behalf, shall be reduced in scope to communications by ASU administrators with the City of Phoenix related to Whitaker's ongoing dispute regarding his consultancy work.

5. Mutual Release of Litigation Hold. Whitaker and ASU agree that no further litigation hold is required with respect to records concerning Whitaker's employment by ASU.

6. Withdrawal of EEOC Charge. Upon execution of this Agreement, Whitaker shall inform the Equal Employment Opportunity Commission that he wishes to withdraw his unperfected charge of discrimination, EEOC Charge No. 540-2015-03341. Whitaker shall take no action to perfect the charge.

7. Whitaker to Remove Personal Items. Whitaker agrees to remove all personal items from his assigned office no later than December 31, 2015. By the same date, Whitaker will return all University property, including, but not limited to, keys, files, records, computer access codes, computer programs and any other property belonging to ASU.

8. Confidentiality and Mutual Statement. Except as required by law, including public records law, and as addressed in Paragraph 2, the parties agree to maintain confidentiality as to all matters related to the pending personnel process. The parties agree that there will be no public announcement or press release concerning the subject of this agreement. However, in response to inquiries, the parties may provide the following statement, and only the following statement, regarding this matter:

Dr. Whitaker has voluntarily resigned from his position as Associate Professor and co-director of the Center for Race and Democracy.

Notwithstanding the above, Whitaker may respond truthfully to inquiries about his employment at ASU in communication with potential employers. Whitaker shall advise such employers that the information is considered confidential. If contacted by a potential employer, and to the extent that Whitaker has provided information beyond the statement above, ASU shall have the right to correct inaccuracies, if any, in the

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information provided. If requested to do so, ASU officials will confirm that Whitaker was the founding director for the Center for Race and Democracy.

9. Attorney Fees. ASU shall pay to Jaburg & Wilk the sum of \$25,000 to cover attorney fees. Jaburg & Wilk shall provide ASU with a W-9 prior to such payment. ASU shall have no further obligation for attorney fees incurred by Whitaker.

10. Waiver and Release of Claims.

a. Whitaker waives, releases, and discharges all of his existing rights to any relief of any kind (known and unknown) from ASU, and its respective insurers, affiliates, divisions, directors, board members, officers, employees, spouses, agents, successors, and assigns, including without limitation all claims that arise out of or that relate to his employment with Arizona State University, all claims that he asserted or could have asserted, all claims that arise out of or that relate to any of the statements or actions of ASU, all claims that arise under the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Family & Medical Leave Act, the Fair Labor Standards Act, the National Labor Relations Act, the Arizona Civil Rights Act, the Arizona wage payment laws, or the Arizona Employment Protection Act, all claims for relief or other benefits under any other federal, state, or local statute, ordinance, regulation, rule of decision, or principle of common law, all claims that ASU engaged in conduct prohibited on any basis under any federal, state, or local statute, ordinance, regulation, rule of decision, or principle of common law, and all claims for attorneys' fees, liquidated damages, punitive damages, costs, and disbursements (all of which are referred to here collectively as "Claims").

b. Whitaker acknowledges and agrees that the waiver, release, and discharge in this Agreement is a general release of all existing Claims, known and unknown. Whitaker intends by the execution of this Agreement to fully, finally, and forever release all known and unknown Claims, notwithstanding the discovery or existence of any additional or different facts or Claims at any time after he signs this Agreement.

c. ASU has no intent to make a claim or to institute litigation against Whitaker. ASU reserves the right to seek indemnification or to assert claims against Whitaker or the Whitaker Group, L.L.C, in the event that ASU is named in a claim or litigation related to Whitaker's work for the City of Phoenix or his use of training materials from the City of Chicago.

11. Covenant Not To Pursue Claims. Whitaker will not file or maintain any charge, Claim, or action of any kind, nature, or character whatsoever against ASU or any of their agents or employees, or cause or permit any such charge, Claim, or action to be

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filed or maintained, in any federal, state or municipal court, administrative agency, or other tribunal.

12. No Admission of Wrongdoing. This Agreement does not constitute an admission that any person or entity violated any local, state, or federal law, ordinance, regulation, ruling, statute, rule of decision, or principle of common law, or that any person or entity engaged in any improper or unlawful conduct or wrongdoing. No party will characterize this Agreement as an admission or indication that any person or entity engaged in any improper or unlawful conduct or wrongdoing.

13. Statements by ASU. Whitaker acknowledges that in deciding to sign this Agreement, he has not relied upon any statements, representations, or promises made by ASU, other than the statements made in this Agreement.

14. Authority. Whitaker represents and warrants that he has the authority to enter into this Agreement, that he has not assigned any Claims to any person or entity. Whitaker has carefully read and fully understands all of the provisions of this Agreement and has knowingly and voluntarily agreed to accept all of the terms and conditions contained herein without any pressure or coercion by any person. Whitaker has had the opportunity to consult legal counsel prior to signing this agreement.

15. Invalidity. In the event that a court of competent jurisdiction determines that any provision of this Agreement is invalid, illegal, or unenforceable in any respect, such a determination will not affect the validity, legality, or enforceability of the remaining provisions of this Agreement, and the remaining provisions of this Agreement will continue to be valid and enforceable.

16. Entire Agreement. The parties intend for this Agreement to define the full extent of their legally enforceable undertakings. The parties do not intend that any representations or statements made in any prior conversations, discussions, negotiations, correspondence, or writings between them be legally enforceable, and all other agreements and understandings between them relating to the subject matter of this Agreement are superseded by this Agreement. The parties will execute and deliver to each other any and all such further documents and instruments, and shall perform any and all such other acts, as reasonably may be necessary or proper to carry out or effect the purposes of this Agreement.

17. Headings. The descriptive headings of the paragraphs and subparagraphs of this Agreement are intended for convenience only, and do not constitute parts of this Agreement.


18. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

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19. Governing Law and Attorneys Fees. This Agreement will be construed in accord with the laws of the State of Arizona. Any dispute or controversy arising from any breach or asserted breach of this Agreement will be governed by Arizona law. In the event any suit, action nor other proceeding arises under the terms of this Agreement, or in connection with any of its provisions, the prevailing party shall be entitled to recover reasonable attorneys fees and other costs incurred in that action or proceeding, including appeals, in addition to any other relief to which it may be entitled.

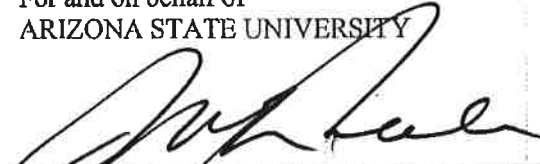
IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated at their respective signatures below.

Dated: 12/10/15

  
Matthew Whitaker  
on behalf of himself and the marital community

ARIZONA BOARD OF REGENTS  
For and on behalf of  
ARIZONA STATE UNIVERSITY

Dated: 12/11/15

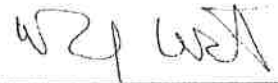
  
Mark Searle  
Executive Vice President and Provost

Approved as to form:

Dated: 12/11/15

  
Lisa K. Hudson  
Attorney for ASU

Dated: 12/11/15

  
Kraig Marton  
Attorney for Matthew Whitaker

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