

SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND GENERAL RELEASE (the “Agreement”) is entered into, effective August 21, 2015 (the “Effective Date”), by Dr. Arthur Hall, Ph.D. (“Dr. Hall”), The University of Kansas (the “University”), and Intervenor Schuyler Kraus (“Kraus”). Dr. Hall, the University, and Kraus are collectively referred to herein as the “Parties.”

I. RECITALS

1.1 Whereas on or about April 14, 2014, a group known as “Students for a Sustainable Future” (“SSF”) submitted, by and through its President, Kraus, a Kansas Open Records Act (“KORA”) request;

1.2 Whereas SSF submitted a revised KORA request on August 5, 2014 (the “KORA Request”);

1.3 Whereas the KORA Request seeks, in part, emails and other correspondence or documents created by, owned by, and otherwise pertaining to Dr. Hall, specifically including documents, emails, or other correspondence concerning Dr. Hall’s involvement with the Center for Applied Economics at the University’s School of Business (the “Disputed Documents”);

1.4 Whereas the Parties dispute whether or not the Disputed Documents are subject to production under KORA (the “Dispute”);

1.5 Whereas on December 4, 2014, Dr. Hall filed a Petition for Declaratory and Injunctive Relief against the University and contemporaneously sought a Temporary Restraining Order against the University, The Douglas County District Court executed the Temporary Restraining Order against the University on December 4, 2014, enjoining the University from disclosing, producing, or providing access to the Disputed Documents during the pendency of the litigation;

1.6 Whereas the Parties are presently litigating *Arthur Hall v. The University of Kansas*, Case No. 2014-CV-464, in the District Court of Douglas County, Kansas (the “Litigation”);

1.7 Whereas Kraus intervened in the Litigation on February 13, 2015;

1.8 Whereas the Parties desire to resolve the the Dispute and Litigation by way of settlement, rather than through further litigation, and therefore it is their mutual intention and desire at this time to reach a complete and final settlement in the manner and upon the terms and conditions set forth in this Agreement;

1.9 Whereas the Parties specifically understand and agree that this Agreement, and any and all acts performed hereunder, are not to be, and will not be, construed as a

concession and/or admission by any of the Parties hereto of the truth of any of the allegations which have been made against any of the Parties hereto;

1.10 Whereas the Parties acknowledge and agree that this Agreement pertains to disputed matters and does not constitute any admission of liability or wrongdoing, and shall not be admissible as evidence of any obligation under the Kansas Open Records Act, liability or wrongdoing, or for any other purpose, in any proceeding whatsoever, other than as strictly necessary to prove or enforce its terms.

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, including without limitation the mutual releases provided below, the recitals set forth above, and the promises and covenants set forth below, the adequacy of which is hereby acknowledged by each Party hereto, the Parties agree as follows:

II.
AGREEMENT AS TO OBLIGATIONS UNDER THE
KORA REQUEST AND RELEASE

2.1 In final resolution of all matters involved under the KORA Request and Kraus' claims or potential claims in the Litigation, Dr. Hall and the University agree to produce to Kraus certain designated documents from the Disputed Documents, specifically, correspondence from Dr. Hall and other parties identified in the KORA Request that discuss the University's Center for Applied Economics' use of funds provided by the parties identified in the KORA Request (the "Disclosed Documents"). In addition, Dr. Hall will obtain and produce the original funding agreement related to the establishment of the KU Center for Applied Economics. The Disclosed Documents will not include correspondence to or from the other two KU faculty members named in the KORA request.

2.2 Kraus, in accordance with the terms and conditions of this Agreement, and in exchange for her receipt of the Disclosed Documents, agrees to withdraw her KORA Request and release the University and Dr. Hall of all claims, potential claims, and obligations related to the Dispute and the KORA Request.

2.3 Dr. Hall, in accordance with the remaining terms and conditions of this Agreement, agrees to dismiss the Litigation with prejudice.

2.4 Release Date: All releases in this Agreement shall become effective only after all obligations of the respective parties as required by paragraphs 2.1 and 2.2 above have been completed.

2.5 In addition to and in consideration of the releases set forth herein, the Parties also agree to be bound by the release set forth below.

2.6 Effective upon the Release Date, each Party, by and on behalf of itself, its officers, directors, agents, attorneys, employees, affiliates, successors, assigns, predecessors, heirs, representatives and insurers hereby mutually releases and fully and forever discharges each other Party and each other Party's officers, directors, agents,

attorneys, employees, affiliates, successors, assigns, predecessors, heirs, representatives and insurers, as well as their respective shareholders, members, officers, directors, agents, attorneys, employees, parent companies, subsidiaries, affiliates, successors, assigns, predecessors, heirs, representatives and insurers, and anyone else acting on behalf of any of the foregoing, from any and all claims, damages, expenses, costs, attorneys' fees, causes of action, obligations, contracts, agreements, debts, security agreements and liabilities whatsoever, whether known or unknown, suspected or unsuspected, both at law and in equity, which arise out of or in any way relate to the KORA Request or Litigation, including all claims, damages, expenses, costs, attorneys' fees, causes of action, obligations, contracts, agreements, debts, security agreements and liabilities whatsoever, whether known or unknown, suspected or unsuspected, both at law and in equity, which any Party brought or could have brought in the Litigation. This release does not apply to any act or omission of any Party after the Effective Date of this Agreement. This release does not apply to any act or omission of any Party that is unrelated to the KORA Request or Litigation.

2.7 The Parties have conducted their own independent investigation of the facts, circumstances and legal considerations related to this Agreement. The Parties fully understand that if any fact or legal consideration with respect to any matter released by this Agreement is found hereafter to be other than or different from the facts or legal considerations now believed to be true, the Parties expressly accept and assume that this Agreement and all its terms shall be, and will remain, effective, notwithstanding any such difference.

2.8 The Parties represent and warrant that they are relying on the advice of their legal counsel with respect to this Agreement and that they understand and acknowledge the significance and consequences of the releases set forth herein, and of the specific waivers of any and all rights that they may have. The Parties expressly consent that this Agreement and the releases set forth herein shall be given full force and effect according to each and all of their express terms and provisions, including those relating to unknown, unasserted, or unsuspected claims, if any, as expressly released herein.

III. COOPERATION

3.1 The Parties agree to cooperate and use best efforts as necessary to dismiss the Litigation with prejudice within one month after the Release Date, including by submitting a stipulation of dismissal pursuant to K.S.A. 60-241(a)(1)(A)(ii), or other submission as may be required by the Court in the Litigation.

IV. REPRESENTATIONS AND WARRANTIES

4.1 The Parties represent and warrant that they have not heretofore assigned or transferred, or purported to assign or transfer, to any other person or entity any claim or other matter herein released.

4.2 The Parties represent and warrant that they have each made such investigation of the facts and matters pertaining to this Agreement, as they deemed necessary, and that their willingness to execute this Agreement is based upon their independent investigation, rather than any statement or representation made by any other party, including during settlement discussions.

4.3 Each Party represents and warrants that this Agreement is given and executed voluntarily, without any duress or undue influence of any kind or nature.

4.4 The Parties agree to bear their own costs of suit, including all attorneys' fees and other costs, incurred in connection with the Litigation and any matter released in this Agreement.

4.5 The Parties represent and warrant that they have made no sale, assignment, transfer, conveyance, or other disposition of the claims or of any other matters covered by this Agreement, and that they are fully empowered both legally, and in fact, to execute this Agreement.

V. MISCELLANEOUS

5.1 Entire Agreement: This Agreement constitutes the entire understanding and agreement between the Parties regarding the resolution of the Litigation, and it supersedes all prior and contemporaneous agreements, acknowledgments, warranties, understandings, terms, conditions, covenants, undertakings, and representations, written or oral, made by any of the Parties or their agents regarding the resolution of the Litigation. All agreements, acknowledgments, warranties, understandings, terms, conditions, covenants, undertakings, and representations, written or oral, regarding the resolution of the Dispute and/or the Litigation made by any of the Parties or their agents prior to or contemporaneous with this Agreement are merged into this Agreement, and in entering into this Agreement no Party is relying on any other agreements, acknowledgments, warranties, understandings, terms, conditions, covenants, undertakings, and representations, written or oral, as inducement or consideration for entering into this Agreement.

5.2 Modification and/or Amendment: This Agreement may be amended or modified only by a written agreement signed by all of the Parties hereto expressly referencing this Agreement and acknowledging and approving of the modification or amendment of it. This Agreement may not be amended or modified orally.

5.3 Execution of Documents: Each Party agrees to execute all documents necessary to carry out the purpose of this Agreement and to cooperate with the other in the expeditious filing of any and all documents and the fulfillment of the terms of this Agreement.

5.4 Successors and Assigns: This Agreement shall inure to the benefit of, and shall be binding upon the Parties and their respective successors, assigns, heirs, partners, agents, officers, partners, and representatives.

5.5 No Unmentioned Third-Party Beneficiaries: The Parties represent and warrant that they do not intend for this Agreement to benefit any persons or entities not expressly mentioned herein.

5.6 Controlling Law: This Agreement, including any rights, remedies, or obligations provided for hereunder, shall be construed and enforced in accordance with the laws of the State of Kansas, without regard to its choice or conflicts of laws rules.

5.7 Severability: If any provision of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason, each such provision shall be severed from the remaining portions of this Agreement and shall not affect the validity and enforceability of such remaining provisions.

5.8 Effect of Headings: The titles and headings of this Agreement are for convenience and identification only, and shall not be deemed to limit, amplify, or define the contents of the respective sections or paragraphs to which they pertain.

5.9 Terms: Each term of this Agreement is contractual and not merely a recital.

5.10 Construction: This Agreement has been negotiated at arm's-length between persons (or their representatives) sophisticated and knowledgeable regarding the subject matter of this Agreement. The Parties hereto have cooperated in the drafting and preparation of this Agreement. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it, is not applicable and is hereby waived by all Parties. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Agreement.

5.11 Independent Counsel: Each Party represents and warrants that it has been – or had the opportunity to be – represented by counsel of its own choosing with respect to this Agreement and has been – or had the opportunity to be – counseled and advised with respect to any legal rights and remedies released and waived hereby.

5.12 Execution Date: The “Execution Date” as used herein means the last-occurring date indicated by the dated signatures below.

5.13 Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. Facsimile or electronic copies of signatures shall be sufficient.

5.14 Execution: By their signatures below, each of the undersigned represent that they have full and complete legal authority and capacity to execute this Agreement, that they have full and complete legal authority and capacity to bind the Parties on whose behalf their execution is made, and that the date indicated by their signatures is the date on which they signed this Agreement.

Signature executions are on the following page. The remainder of this page is intentionally left blank.

BY SIGNING THIS AGREEMENT WHERE INDICATED BELOW, I CERTIFY THAT I HAVE READ THE FOREGOING AGREEMENT IN ITS ENTIRETY, THAT I FULLY UNDERSTAND ALL THE WORDS, LANGUAGE, TERMS AND CONDITIONS CONTAINED HEREIN, AND THAT I AGREE TO BIND THE PARTY ON WHOSE BEHALF I AM SIGNING TO ALL THE TERMS AND CONDITIONS SET FORTH HEREIN.

DR. ARTHUR HALL:

For **THE UNIVERSITY OF KANSAS,**
by:

Signed: 

Signed: 


Printed: Arthur P. Hall

Printed: Jeffrey S. Vitter

Dated: 8/24/15

Dated: 8/21/2015

SCHUYLER KRAUS:

Signed: 

Printed: SCHUYLER KRAUS

Dated: 8/21/15