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Routing/Review Approval of Personnel Settlement Agreement

Please sign/date where indicated below noting the approval or denial of the attached proposed Personnel Settlement Agreement. ****After signing, please return to the attention of BOR – General Counsel.**** If "denied," please return to BOR – General Counsel.

In the matter of: Chaisson-Cardenas v. ISU

Institutional Staff: **Mike Norton**

Office of the Attorney General

Reviewed by (Print Name): Jeffrey Thompson

Reviewer's Signature: [Signature]

Date: 10/22/2020 Reviewed: Redacted:

Institution: Iowa State University

Institutional Head's Printed Name: Hendy Wintersteen

Institutional Head's Signature: [Signature]

Date: 11-2-2020 Approve: Deny:

Board of Regents

Executive Director's Printed Name: Mark Braun

Executive Director's Signature: [Signature]
FE898DCFCBED45B

Date: 10/22/2020 Approve: Deny:

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is made and entered into on the last date written below by and between John-Paul Chaisson-Cardenas (“Chaisson-Cardenas”) and Iowa State University of Science and Technology (“the University”), on behalf of itself and the Board of Regents, State of Iowa (“the Board of Regents”) and the State of Iowa, and their current and former successors, assigns, subsidiaries, divisions, affiliates, officers, directors, employees, agents, and representatives, John Lawrence (“Lawrence”), Robert Dodds (“Dodds”), and Chad Higgins (“Higgins”) (the University, the Board of Regents, the State of Iowa, Lawrence, Dodds, and Higgins collectively referred to herein as “the Released Parties” and all parties collectively referred to herein as “the Parties”).

RECITALS

WHEREAS, Chaisson-Cardenas is the Plaintiff and the State of Iowa, the University, Lawrence, Dodds, and Higgins are Defendants (“Defendants”) in an action pending in the Iowa District Court for Polk County, Case Number LACL144128 (the “Lawsuit”);

WHEREAS, the Parties have a mutual interest in amicably resolving any and all disputes between them;

WHEREAS, the Parties have negotiated this Agreement in good faith to fully settle all differences between them including, but not limited to, those differences embodied in the Lawsuit;

WHEREAS, the Parties acknowledge and agree that this Agreement does not constitute any admission of wrong-doing or any admission of violations of applicable law, rule, or policy by either Party; and

WHEREAS, the Parties agree that the terms and conditions contained herein are fair, reasonable, and equitable and are the result of an arm’s length negotiation between the Parties.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, which are expressly incorporated by reference as if fully restated herein, and in exchange for their mutual promises and for other good and valuable consideration, and intending to be legally bound herein, the Parties agree as follows:

1. **Resignation and No Reemployment.** The University agrees to change Chaisson-Cardenas’s termination to a voluntary resignation effective August 2, 2018. Chaisson-Cardenas agrees not to seek or accept employment with the University at any time in the future.

2. **Payment.** In exchange for satisfaction by Chaisson-Cardenas of the terms identified in Paragraphs 4, 5, 6, and 7 of this Agreement, the University and the Board of Regents agree that the State of Iowa, on behalf of all Released Parties, will pay Chaisson-Cardenas a total gross settlement amount of Five Hundred and Fifty Thousand Dollars (\$550,000) (“Settlement

Amount”), inclusive of the present value of future periodic payments as listed in the attached Exhibit A. The Settlement Amount shall be paid between November 5, 2020 and December 5, 2020. The Settlement Amount is more fully described as follows:

- (A) The State of Iowa, on behalf of all Released Parties, shall pay a portion of the Settlement Amount in the amount of Three Hundred and Thirty Thousand Dollars (\$330,000) in compromise of Chaisson-Cardenas’s claims for non-wage compensatory damages, which includes:
 - i. A check payable to Chaisson-Cardenas in the amount of Sixty Thousand Dollars (\$60,000). The State of Iowa will issue Chaisson-Cardenas an IRS Form 1099-MISC for this amount; and
 - ii. A check payable to MetLife Assignment Company (TIN 38-4035918) in the amount of Two Hundred and Seventy Thousand Dollars (\$270,000), which shall be used to purchase an annuity for Chaisson-Cardenas’s benefit. This amount shall fund future Periodic Payments as set forth in detail in Exhibit A. The annuity will be structured lawfully, in accordance with Iowa and federal law. The Parties will cooperate to fulfill this section of the Settlement Agreement. The State of Iowa will issue an IRS Form 1099-MISC to MetLife Assignment Company, Inc, and will not issue a 1099 to Chaisson-Cardenas, for this payment.
- (B) The State of Iowa, on behalf of all Released Parties, shall pay to Roxanne Conlin and Associates, P.C. (EIN 42-1360333), a portion of the Settlement Amount in the amount of Two Hundred and Twenty Thousand Dollars (\$220,000), for payment of attorney fees and litigation expenses. This payment will not be subject to withholding taxes at the time it is tendered. The State of Iowa shall cause an IRS Form 1099-MISC to be issued to Roxanne Conlin and Associates, P.C. and Chaisson-Cardenas, reporting this payment.

Chaisson-Cardenas acknowledges that these payments are in compromise of a dispute and that such payments are not to be construed as the State of Iowa or any of the Released Parties conceding the reasonableness of any attorneys’ fees or costs, and are not to be construed as an admission of liability or wrongdoing on the part of the State of Iowa or any of the Released Parties, and that the State of Iowa and all Released Parties expressly deny any such liability or wrongdoing. Any payment made under this Agreement is subject to Iowa Code Chapter 8A.504.

3. **Tax Liability.** Chaisson-Cardenas shall be solely responsible for any and all taxes that may be due by him on the payments in Paragraph 2 and shall hold the State of Iowa and the Released Parties harmless and indemnify them from any liability thereon.

4. **Dismissal with Prejudice.** The Parties stipulate that within five (5) business days of the latter of (a) receipt by Chaisson-Cardenas of the check identified in Paragraph 2(A)(i) above, (b) receipt by MetLife Assignment Company of the check identified in Paragraph 2(A)(ii) above, or (c) receipt by Plaintiff’s counsel of the payment identified in Paragraph 2(B) above, the Parties

will file a joint motion to dismiss the Lawsuit with prejudice, and it shall provide that each party will bear their own attorney fees and costs. If the Court does not grant the joint motion to dismiss with prejudice, this Agreement will have no effect.

5. **Chaisson-Cardenas's Covenant Not to Sue.** In consideration of the terms and conditions set forth in this Agreement, the sufficiency of which the Parties acknowledge, Chaisson-Cardenas agrees, promises, and covenants that neither he, nor any person, organization, or any other entity acting on his behalf will file, charge, claim, sue, cause, or permit to be filed, charged, or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief, or other) against the State of Iowa and the Released Parties, including their respective affiliates, successors, officers, directors, employees, agents, current or former students, and representatives, whether in their individual capacity or official capacity, involving any matter which occurred in the past up to the date of this Agreement, including any continuing effects thereof, or otherwise involving any claims, demands, causes of action, obligations, damages, or liabilities which are the subject of this Agreement.

6. **Chaisson-Cardenas's Full and Comprehensive Release of Claims.** Chaisson-Cardenas agrees, on behalf of himself, his spouse, heirs, executors, administrators, attorneys, and assigns, to hereby waive, release, and forever discharge the Released Parties, including their respective affiliates, successors, officers, directors, employees, agents, current and former students, and representatives, from any and all known or unknown actions, causes of action, claims, or liabilities of any kind that have or could be asserted against the Released Parties, involving any matter which occurred in the past up to the date of this Agreement arising out of or related to his employment with the University, including but not limited to:

- (a) Any claims arising from any alleged violation by the Released Parties of any federal, state, or local statutes, ordinances, or common laws, including, but not limited to, the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.; Title VII of the Civil Rights Act of 1964; 42 U.S.C. § 2000e et seq.; the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 et seq.; the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; the Equal Pay Act, 29 U.S.C. § 206(d) et seq.; and the Iowa Civil Rights Act of 1965, Iowa Code Chapter 216. Chaisson-Cardenas further waives his right to monetary or other recovery should any federal, state, or local administrative agency pursue any claims on his behalf arising out of or related to his employment with the University. Chaisson-Cardenas further agrees to waive all rights to use any internal grievance or appeal procedure offered by the University with respect to any matter arising out of or related to his employment with the University.
- (b) Claims, actions, causes of action or liabilities arising under any other federal, state, municipal, or local statutes, law, ordinance, or regulation; and/or
- (c) Any other claim whatsoever including, but not limited to: claims for severance pay, sick pay, unpaid wages, unpaid bonuses, unpaid time off, claims based upon breach of contract, breach of the covenant of good faith and fair dealing, wrongful termination, defamation, interference with contract, intentional, and/or negligent infliction of emotional distress, fraud, tort, personal injury, invasion of privacy, violation of public

policy, negligence, and/or any other common law, statutory, or other claim whatsoever arising out of or relating to his employment with the University.

Notwithstanding the above, it is agreed and understood that the releases contained in this paragraph do not cover any claims which by law Chaisson-Cardenas cannot waive and any claims to enforce the terms of this Agreement.

7. **Waiver of Rights under the ADEA.** In consideration of the actions described herein of the Released Parties, Chaisson-Cardenas voluntarily and knowingly waives any and all rights and claims under the ADEA that may exist before the signing of this Agreement. Chaisson-Cardenas is hereby advised that he has the right under the ADEA to consult an attorney prior to signing this Agreement (which Chaisson-Cardenas has been encouraged to do), that he has a period of at least twenty-one (21) calendar days to consider this Agreement and to the extent that he has signed the Agreement prior to the expiration of that period, he has done so knowingly and voluntarily, and that he is permitted to revoke this Agreement for a period of up to seven (7) calendar days following the signing of this Agreement.

8. **Full and Comprehensive Release of Potential Claims against Chaisson-Cardenas; Covenant Not to Sue.** The Board of Regents and the University hereby covenant and agree that in consideration of the terms of this Agreement, they waive, fully release, and forever discharge Chaisson-Cardenas of and from any and every claim, demand, and cause of action of whatsoever nature which they now have, or may in the past have had, including, but not limited to, any and every claim, demand, and cause of action arising out of Chaisson-Cardenas's duties and obligations related to his employment with the University and promise and covenant not to file, charge, claim, sue, cause or permit to be filed, charged, or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief, or other) against Chaisson-Cardenas. Notwithstanding the above, it is agreed and understood that the releases contained in this paragraph do not cover any claims which by law the Board of Regents and the University cannot waive and any claims to enforce the terms of this Agreement.

9. **No Admission of Liability.** This Agreement is not, and shall not in any way be, construed as an admission of any of the Parties that any of the Parties violated any federal, state or local laws, or University rules or policies. The Parties have entered into this Agreement for the sole purpose of resolving the employment concerns so as to avoid the burden, expense, delay, and uncertainties of proceeding through a formal legal process.

10. **Representation of Chaisson-Cardenas.** Chaisson-Cardenas hereby represents and warrants that he (a) has authority to enter into this Agreement; (b) holds any and all claims free and clear of any liens and has not pledged or assigned those claims to any third party; (c) has not commenced or been subject to any bankruptcy or insolvency proceeding that affects or could affect his rights to accept payment and release claims under this Agreement; (d) has not received any promise of further consideration; and (e) does not know of any other person who holds any rights to sue for the causes of action or the claims subject to the releases made hereunder. Chaisson-Cardenas further agrees to indemnify and hold harmless each of the Released Parties from and against any and all claims, actions, causes of actions, demands, rights, damages, costs, losses of services, expenses, compensation, taxes, or property damages (including attorneys' fees, expenses,

and costs of defense) which any person, partnership, corporation, entity, association, agency, or other organization may bring against it alleging facts and circumstances that are contrary to, inconsistent with, or arising from the breach of, the representations and warranties of this paragraph.

11. **Chaisson-Cardenas Review.** Chaisson-Cardenas acknowledges he was given at least twenty-one (21) days to review and consider this Agreement in its entirety. Chaisson-Cardenas understands that he may voluntarily waive this review period by signing and returning the Agreement prior to the expiration of twenty-one (21) days. The Agreement waives no rights or claims that may arise after its execution.

12. **Voluntary Agreement.** Chaisson-Cardenas represents and certifies that he has carefully read and fully understands all of the provisions and effects of this Agreement; that he has been advised to and had the opportunity for consultation with legal counsel; that he is voluntarily entering into this Agreement; and that the Released Parties have not made any representations concerning the terms or effects of this Agreement other than those contained in it.

13. **Non-disparagement.** Chaisson-Cardenas and the University mutually agree that neither will engage in any conduct or communications (including verbal, written or digital) that will disparage Chaisson-Cardenas or any of the Released Parties or their respective agents, including family members, employees, students, administrators, and/or representatives. If asked for comment regarding this Agreement, each party agrees that their individual response, if any, will be that Chaisson-Cardenas and the University mutually agreed to enter into this Agreement. Chaisson-Cardenas acknowledges and agrees that with respect to the University, this non-disparagement clause applies only to official communications by the University and employees speaking on behalf of the University and not to employees speaking on their own behalf.

14. **Counterparts.** This Agreement may be signed in counterparts. Faxed or emailed signatures will be deemed originals.

15. **Governing Law and Venue.** This Agreement is made and entered into in Story County in the State of Iowa, and in all respects shall be interpreted, enforced, and governed by Iowa law. Any disputes arising out of this Agreement shall be subject to the jurisdiction of the federal or state courts of Iowa with Story County, Iowa as the venue.

16. **Severability.** Should a court of competent jurisdiction declare or determine any provision of this Agreement to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby. It is the Parties' intent that the part, term, or provision declared or determined to be illegal or invalid shall be deemed not to be a part of this Agreement.

17. **Public Record.** The Parties agree that this Agreement is a public record under Iowa Code Chapter 22. The Parties acknowledge that this Agreement is subject to Executive Order 85 and, as such, must be approved by the Executive Director of the Board of Regents and the President of the University, and be reviewed by the Iowa Attorney General, or his designee. This Agreement is not effective until it has received all necessary reviews and approvals. This Agreement will be posted on the Board of Regents' web page.

18. **Amendments.** None of the terms or conditions contained herein shall be altered, amended, waived, or abandoned, except by prior written agreement of the Parties.

19. **Entire Agreement.** This Agreement, which includes the attached Exhibit A, sets forth the entire agreement between the Parties hereto, and fully supersedes any and all prior agreements, discussions, or understanding between the Parties pertaining to the subject matter hereof.

**CAREFULLY READ THIS AGREEMENT; BY SIGNING BELOW YOU ARE
RELEASING ALL KNOWN CLAIMS. YOU HAVE A PERIOD OF TWENTY-ONE (21)
CALENDAR DAYS TO CONSIDER THIS RELEASE. IF YOU SIGN THIS
AGREEMENT, YOU WILL HAVE UP TO SEVEN (7) CALENDAR DAYS FOLLOWING
THE DATE YOU SIGN IT TO REVOKE YOUR SIGNATURE. THE RELEASE SHALL
NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THIS SEVEN (7) CALENDAR
DAY PERIOD HAS EXPIRED.**

IN WITNESS WHEREOF, and intending to be legally bound hereby, Chaisson-Cardenas and Iowa State University of Science and Technology, on its own behalf and the behalf of the Board of Regents, the State of Iowa, Lawrence, Dodds, and Higgins, have executed the foregoing Settlement Agreement and Release.



John-Paul Chaisson-Cardenas
Agreed to on this 21 day of October, 2020.

Wendy Wintersteen, President
Iowa State University of Science and Technology
Agreed to on this ___ day of October, 2020.

Approved as to legal form and content:




Roxanne Conlin
Attorney for John-Paul Chaisson-Cardenas
On this ___ day of October, 2020.

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John-Paul Chaisson-Cardenas
Agreed to on this ____ day of September, 2020.



Wendy Wintersteen, President
Iowa State University of Science and Technology
Agreed to on this 2 day of ~~September~~, 2020.
November

Approved as to legal form and content:

Roxanne Conlin
Attorney for John-Paul Chaisson-Cardenas
On this ____ day of September, 2020.