

AGREEMENT OF SETTLEMENT

Subject to the approval of the Court pursuant to Rules 4:32-2(e) and 4:32-3 of the Rules Governing the Courts of the State of New Jersey, this Agreement of Settlement, dated as of December 9, 2008 (the "Settlement Agreement") is made and entered into by, between and among (1) plaintiffs and counterclaim-defendants William Robertson, Anne R. Meier, Katherine Ernst and Robert Halligan (collectively, the "Plaintiffs"), (2) The Trustees of Princeton University ("Princeton"), the individual defendants and counterclaim-plaintiffs Shirley M. Tilghman, Peter Wendell and Stephen Oxman (collectively, the "Individual Defendants"), and, together with Princeton, the "Defendants"), and (3) nominal defendant the Robertson Foundation. Plaintiffs, Defendants and the Robertson Foundation are referred to herein collectively as the "Parties." The Parties intend this Settlement Agreement to fully, finally and forever resolve, discharge and settle all disputes by, between and among Plaintiffs and Defendants, and the Robertson Foundation, including, but not limited to, all claims and counterclaims that were brought or could have been brought in the action captioned *William Robertson, et al. v. Princeton University, et al.*, Docket No. C-99-02 (the "Action"), pending in the Superior Court of New Jersey, Chancery Division: Mercer County (the "Court"), on the following terms and conditions:

WHEREAS,

- A. On or about July 17, 2002, Plaintiffs filed the original Complaint in the Action.
- B. After engaging in discovery, on or about November 12, 2004, Plaintiffs filed the Verified First Amended Complaint in the Action.

C. On or about February 2, 2005, Defendants and an additional individual defendant since dismissed from the Action filed their Amended Answer, Affirmative Defenses, and Counterclaims in the Action.

D. On or about October 5, 2005, the Plaintiffs filed their Answer and Affirmative Defenses to the Counterclaims in the Action.

E. The Parties have engaged in substantial discovery and extensive motion practice in the Action over the course of more than six years.

F. The Parties now desire to avoid the expense, effort, uncertainty, inconvenience and distraction entailed in further litigation, and without admission of liability or wrongdoing of any kind, the Parties desire fully and finally to settle, compromise, dismiss with prejudice and otherwise resolve and dispose of all claims, counterclaims and disputes between and among them which have or could have been asserted by them, whether in the Action or otherwise.

G. Plaintiffs and their counsel have concluded that the terms and conditions of this Settlement Agreement are fair, adequate and reasonable to Plaintiffs and the Robertson Foundation, and in their best interests, and have agreed to settle the claims raised in the Action pursuant to the terms and provisions of this Settlement Agreement after considering (a) the benefits that Plaintiffs and the Robertson Foundation will receive in connection with the settlement of the Action, (b) the risks of litigation, and (c) the desirability of permitting the settlement to be finally consummated and approved by the Court as provided by the terms of this Settlement Agreement.

H. Defendants and their counsel have concluded that the terms and conditions of this Settlement Agreement are fair, adequate and reasonable to Defendants and the Robertson Foundation, and in their best interests, and have agreed to settle the claims raised in the Action

pursuant to the terms and provisions of this Settlement Agreement after considering (a) the benefits that Defendants and the Robertson Foundation will receive in connection with the settlement of the Action, (b) the risks of litigation, and (c) the desirability of permitting the settlement to be finally consummated and approved by the Court as provided by the terms of this Settlement Agreement.

NOW, THEREFORE, for good and valuable consideration, including the mutual promises set forth below, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 – CERTAIN DEFINITIONS

1.1 The “Banbury Fund” means the Banbury Fund, Inc., a private, non-member, charitable foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Internal Revenue Code”) and organized under the New York Not-For-Profit Corporation Law.

1.2 The “Family-Designated Member/Trustees” means the member/trustees of the Robertson Foundation designated by members of the Robertson family as of the Settlement Date (as defined in Section 1.7 below), *i.e.*, William Robertson, Robert Halligan and Katherine Ernst.

1.3 “Qualifying Fees” means the legal fees and expenses incurred by Plaintiffs in connection with the Action and the settlement of the Action which are of a type ordinarily incurred in litigation of this nature, and do not include costs for public relations and similar services.

1.4 “The Robertson Foundation” is a charitable membership corporation established under the Delaware General Corporation Law, exempt from income taxation under Section

501(c)(3) of the Internal Revenue Code and classified as a Type 1 supporting organization to Princeton under Section 509(a)(3) of the Internal Revenue Code.

1.5 As of the Settlement Effective Date (as defined in Section 1.8 below), the “Robertson Foundation for Government, Inc.” or “RFGI” will be a private, non-member, charitable foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and organized under the Delaware General Corporation Law, with its object and purpose as set out in its Certificate of Incorporation, dated April 3, 2006, a copy of which is attached as Exhibit A.

1.6 The “Robertson Foundation Member/Trustees” means the member/trustees of the Robertson Foundation as of the Settlement Date, *i.e.*, Shirley M. Tilghman, Thomas Kean, Peter Wendell, Stephen Oxman, William Robertson, Robert Halligan and Katherine Ernst.

1.7 The “Settlement Date” means the date that the Settlement Agreement and Exhibits C, I and J hereto are executed by the last of the Parties to execute them, such that they are fully executed, and the exchange of all executed counterparts of the Settlement Agreement and Exhibits C, I and J hereto between Plaintiffs and Defendants is completed.

1.8 The “Settlement Effective Date” means the earliest date that notice is served pursuant to Section 7.6 below by Plaintiffs on Princeton, or by Princeton on Plaintiffs, that the Settlement Order has been entered and become a final, non-appealable order not subject to further judicial review, which shall be by service of (i) the Settlement Order (as defined in Section 1.9 below) and notice by Plaintiffs or Princeton that the time to appeal the Settlement Order has expired such that it has become a final, non-appealable order not subject to judicial review, or (ii) an order by the highest court before which an appeal or review of the Settlement Order can be sought which finally dismisses the appeal or finally affirms the terms of the

Settlement Order such that the Settlement Order has become a final, non-appealable order not subject to further judicial review and notice by Plaintiffs or Princeton that the Settlement Order has become final, non-appealable and not subject to further judicial review.

1.9 “Settlement Order” means a final order and judgment of the court before which the Action is pending approving this Settlement Agreement, substantially in the form of Exhibit B hereto.

1.10 The Trustees of Princeton University, previously defined as “Princeton”, is a charitable corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and is organized for educational purposes in the State of New Jersey.

1.11 The “University-Designated Member/Trustees” means the Robertson Foundation’s member/trustees designated by Princeton as of the Settlement Date, *i.e.*, Shirley M. Tilghman, Thomas Kean, Peter Wendell and Stephen Oxman.

SECTION II - DISSOLUTION OF THE ROBERTSON FOUNDATION

2.1 On or after the Settlement Effective Date, on a date selected by Defendants in their sole discretion, the Robertson Foundation shall be dissolved pursuant to and in accordance with the terms of paragraph 13 of its Certificate of Incorporation.

2.2 Pursuant to paragraph 13 of the Robertson Foundation’s Certificate of Incorporation, in dissolution of the Robertson Foundation, all of its property and funds shall be transferred to Princeton. The property and funds may, for investment purposes only, be made a part of Princeton’s general endowment fund, but shall otherwise be considered and administered by Princeton as a separate and distinct endowment fund to be known as the “Robertson Fund” and shall be used by Princeton to further the object and purpose set forth in the Robertson Foundation’s Certificate of Incorporation, as understood and interpreted solely by Princeton.

Each of the Individual Defendants and the Family-Designated Trustees shall execute and provide to the Secretary of the Robertson Foundation a written consent to the dissolution and transfer of the Robertson Foundation's property and funds contemplated by this Section 2.2, in the form attached as Exhibit C hereto, contemporaneously with such Party's execution of this Settlement Agreement.

2.3 Plaintiffs and the Plaintiff Releasors (as defined in Section 5.1(a) below) shall have no right, expectation or standing to participate in decision-making related to the Robertson Fund, or to receive reports concerning Princeton's use of the Robertson Fund. Princeton's understanding of the object and purpose of the Robertson Fund, and the means by which Princeton shall choose to implement that object and purpose, shall be matters committed to Princeton in its sole discretion, and shall not be subject to challenge or inquiry by Plaintiffs or the Plaintiff Releasors in any respect.

SECTION III - PAYMENT TO RFGI

3.1 Princeton shall pay to RFGI a total of \$50 million (the "Principal Amount"), plus simple interest at the rate of 3.25% per annum on the unpaid balance of the Principal Amount, accruing from the Settlement Date until the Principal Amount is paid in full.

3.2 The Principal Amount shall be paid in accordance with the following schedule:

Payment Due Date	Amount Due
On or before January 10, 2012 or ten business days after the Settlement Effective Date, whichever is later	\$5,000,000
On or before January 10, 2013 or ten business days after the Settlement Effective Date, whichever is later	\$5,000,000
On or before January 10, 2014 or ten business days after the Settlement Effective Date, whichever is later	\$5,000,000
On or before January 10, 2015 or ten business days after the Settlement Effective Date, whichever is later	\$5,000,000
On or before January 10, 2016 or ten business days after the Settlement Effective Date, whichever is later	\$5,000,000
On or before January 10, 2017 or ten business days after the	\$10,000,000

Settlement Effective Date, whichever is later	
On or before January 10, 2018 or ten business days after the Settlement Effective Date, whichever is later	\$15,000,000
Total	\$50,000,000

3.3 Princeton shall pay the interest due to RFGI pursuant to the following schedule:

(i) the first payment shall be due on January 10, 2010 or ten business days after the Settlement Effective Date, whichever is later, (ii) the second payment shall be due on January 10, 2011 or ten business days after the Settlement Effective Date, whichever is later, and (iii) subsequent payments shall be due on each date on which a payment of any of the Principal Amount is due, except that Princeton may pre-pay all or any part of the Principal Amount at any time without penalty, in which event the interest accrued to the pre-payment date on the pre-paid amount shall be due at the time of the pre-payment.

3.4 Plaintiffs represent and warrant that on each date on which a payment is due from Princeton of Principal Amount or interest, RFGI will be a non-member charitable foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

3.5 Plaintiffs shall cause RFGI to serve on Princeton pursuant to Section 7.6 below between FIVE (5) and THIRTY (30) business days prior to each date on which any payment of the Principal Amount or interest thereon to RFGI is due from Princeton pursuant to this Settlement Agreement, a statement, in the form attached as Exhibit D hereto, certifying that RFGI continues to be a non-member charitable foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, and that its object and purpose remain as set out in its Certificate of Incorporation dated April 3, 2006. Failure timely to provide such a statement shall defer the due date of any payment of the Principal Amount or interest until FIVE (5) business days after RFGI so serves the certification required by this Section 3.5; provided,

however, that interest will continue to accrue on the outstanding Principal Amount during any such deferral period.

3.6 Defendants and the Defendant Releasors shall have no right, expectation or standing to participate in decision-making related to RFGI, or to receive reports concerning RFGI's use of funds. While the object and purpose of RFGI shall be and remain as set forth in RFGI's Certificate of Incorporation dated April 3, 2006, RFGI's understanding of its object and purpose, and the means by which RFGI shall choose to implement that object and purpose, shall be matters committed to the sole discretion of RFGI and shall not be subject to challenge or inquiry by Defendants or the Defendant Releasors in any respect.

SECTION IV – PAYMENT OF LITIGATION FEES AND EXPENSES

4.1 Plaintiffs represent and warrant that the Banbury Fund is a non-member charitable foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

4.2 Princeton shall pay to the Banbury Fund \$ 40 million to reimburse the Banbury Fund for Qualifying Fees that the Banbury Fund paid or is obligated to pay in connection with the Action and the settlement of the Action. No interest shall be owed or payable on the Qualifying Fees.

4.3 Princeton shall reimburse the Banbury Fund for Qualifying Fees pursuant to the following schedule:

(i) \$20 million shall be paid on or before TEN (10) business days after the Settlement Effective Date;

(ii) \$10 million shall be paid on or before January 10, 2010 or TEN (10) business days after the Settlement Effective Date, whichever is later; and

(iii) \$10 million shall be paid on or before January 10, 2011 or TEN (10)

business days after the Settlement Effective Date, whichever is later.

4.4 Plaintiffs shall cause the Banbury Fund to serve on Princeton pursuant to Section 7.6 below between FIVE (5) and THIRTY (30) days prior to each date on which any payment of Qualifying Fees is due to the Banbury Fund from Princeton, a statement, in the form attached as Exhibit E hereto, certifying that the Banbury Fund continues to be a non-member charitable foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. Failure timely to provide such a statement shall defer the due date of any payment of Qualifying Fees until FIVE (5) business days after the Banbury Fund so serves the certification required by this Section 4.4.

4.5 All payments required to be made by Princeton under this Settlement Agreement may be made from funds now in the possession of the Robertson Foundation, funds transferred or subject to transfer to the Robertson Fund, or any other lawful source to be determined in Princeton's sole discretion, shall be made in United States dollars in immediately available funds, and shall be due on or before the dates as set forth above, except that any payment that is due to be paid on a Saturday, Sunday or Federal Bank holiday shall be due on or before the first date thereafter that is not a Saturday, Sunday or Federal Bank holiday. The Banbury Fund and RFGI shall provide Princeton with notice of the respective accounts to which payments required under this Settlement Agreement shall be wired, and such payments shall be made by wire transfer to those accounts, unless Plaintiffs otherwise notify Princeton pursuant to Section 7.6 below at least TEN (10) business days in advance of the due date of the payment. Any past-due payment of Qualifying Fees, Principal Amount or interest on the Principal Amount shall bear interest at a default rate of 6.50% per annum simple interest, which shall accrue from the time

the payment is due until it is paid, shall be in lieu of and not in addition to any other interest that may be applicable for that period, and shall be payable from time to time on demand, until paid in full. FIVE (5) business days after a payment is due, if it (or any portion of it) remains unpaid, any of the Plaintiffs, the Banbury Fund or RFGI (or anyone acting with due authority on behalf of any of them) may serve Princeton, pursuant to Section 7.6 below, written notice of acceleration (the “Notice of Acceleration”) of the entire unpaid balance of the Qualifying Fees and the Principal Amount and past-due interest on the Principal Amount (the “Accelerated Amount”). Upon receipt of the Notice of Acceleration, Princeton shall have TEN (10) business days to cure the payment default set forth in the Notice of Acceleration. If Princeton does not cure said payment default within the 10-business day period, then the entire Accelerated Amount shall become immediately due and payable without further notice and shall bear interest at the default rate of 6.50% per annum simple interest which shall be in lieu of and not in addition to any other interest that may be applicable for that period, and shall be payable from time to time on demand.

SECTION V - GENERAL RELEASES, WAIVERS, AND COVENANTS NOT TO SUE

5.1 General Releases.

(a) Effective upon the Settlement Effective Date, and without any further action by any Party, each Plaintiff, in his or her individual capacity, any capacity as a member or trustee of the Robertson Foundation, and all other capacities, on his or her own behalf, on behalf of his or her successors and assigns, on behalf of his or her adult children and their successors and assigns, and on behalf of the Banbury Fund and RFGI and their successors and assigns, all of whom each Plaintiff represents and warrants he or she has capacity and authority to provide this release and enter into this Settlement Agreement on behalf of (collectively the “Plaintiff”

Releasers”), hereby releases and discharges each of the Individual Defendants, in his or her individual capacity, capacity as a member or trustee of the Robertson Foundation and all other capacities, and each of their successors, assigns, counsel and other representatives, and Princeton, and each of its successors, assigns, affiliates and present and former officers, employees, members, trustees, counsel and other representatives, and the Robertson Foundation, and each of its successors, assigns, affiliates and present and former officers, employees, members, trustees, counsel and other representatives (collectively the “Defendant Releasees”), from any and all claims, Unknown Claims (as defined in Section 5.1(d) below), causes of action, rights, demands, suits, matters, disputes, issues, damages, penalties, disgorgement, restitution, interest, attorneys’ fees, expert or consulting fees, and any and all other costs, expenses or liability of any kind whatsoever, under state, local, federal, foreign or any other law, rule or regulation, whether statutory, at common law, or otherwise, whether directly, derivatively on behalf of the Robertson Foundation, or otherwise, whether known or unknown, and whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity, which any of the Plaintiff Releasers has or had against any of the Defendant Releasees from the beginning of time to the time of his or her execution of this Settlement Agreement, whether or not at issue in the Action, but including, without limitation, all claims and causes of action that were or could have been asserted by any one or more of the Plaintiff Releasers, directly, derivatively or otherwise, against any one or more of the Defendant Releasees, in the Action.

(b) Effective upon the Settlement Effective Date, and without any further action by any Party, each Defendant, in his or her or its individual capacity, any capacity as a member or trustee of the Robertson Foundation, and all other capacities, on his or her or its own behalf, and on behalf of his or her or its successors and assigns, all of whom each Defendant

represents and warrants he or she has capacity and authority to provide this release and enter into this Settlement Agreement on behalf of (collectively the “Defendant Releasers”), hereby releases and discharges each of the Plaintiffs, in his or her individual capacity, any capacity as a member or trustee of the Robertson Foundation and all other capacities, the Banbury Fund, and RFGI, and each of their successors, assigns, counsel and other representatives, (collectively the “Plaintiff Releasees”), from any and all claims, Unknown Claims (as defined in Section 5.1(d) below), causes of action, rights, demands, suits, matters, disputes, issues, damages, penalties, disgorgement, restitution, interest, attorneys’ fees, expert or consulting fees, and any and all other costs, expenses or liability of any kind whatsoever, under state, local, federal, foreign or any other law, rule or regulation, whether statutory, at common law, or otherwise, whether directly, derivatively on behalf of the Robertson Foundation, or otherwise, whether known or unknown, and whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity, which any of the Defendant Releasers has or had against any of the Plaintiff Releasees from the beginning of time to the time of his, her or its execution of this Settlement Agreement, whether or not at issue in the Action, but including, without limitation, all claims and causes of action that were or could have been asserted by any one or more of the Defendant Releasers, directly, derivatively or otherwise, against any one or more of the Plaintiff Releasees, in the Action.

(c) Effective upon the Settlement Effective Date, and without any further action by any Party, the Robertson Foundation, on its own behalf, and on behalf of its present and former officers, employees, members, trustees, counsel, other representatives, successors and assigns in their capacity as such (collectively, the “Robertson Foundation Releasers”), hereby releases and discharges each of the Individual Defendants, in his or her individual capacity,

capacity as a member or trustee of the Robertson Foundation and all other capacities, and each of their successors, assigns, counsel and other representatives, and Princeton, and each of its successors, assigns, affiliates and present and former officers, employees, members, trustees, counsel and other representatives, and each of the Plaintiffs, in his or her individual capacity, any capacity as a member or trustee of the Robertson Foundation and all other capacities, and each of their successors, assigns, counsel and other representatives (collectively the “Robertson Foundation Releasees”), from any and all claims, Unknown Claims (as defined in Section 5.1(d) below), causes of action, rights, demands, suits, matters, disputes, issues, damages, penalties, disgorgement, restitution, interest, attorneys’ fees, expert or consulting fees, and any and all other costs, expenses or liability of any kind whatsoever, under state, local, federal, foreign or any other law, rule or regulation, whether statutory, at common law, or otherwise, whether directly, derivatively on behalf of the Robertson Foundation, or otherwise, whether known or unknown, and whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity, which any of the Robertson Foundation Releasers has or had against any of the Robertson Foundation Releasees from the beginning of time to the time of its execution of this Settlement Agreement, whether or not at issue in the Action, but including, without limitation, all claims and causes of action that were or could have been asserted by or through one or more of the Robertson Foundation Releasers directly, derivatively or otherwise, against any one or more of the Robertson Foundation Releasees, in the Action.

(d) “Unknown Claims” means any and all claims of any kind whatsoever which any Plaintiff Releaser, Defendant Releaser or Robertson Foundation Releaser does not know or suspect to exist in his, her or its favor at the time of the release of the Defendant Releasees, Plaintiff Releasees, or Robertson Foundation Releasees, which if known by him, her

or it might have affected his, her or its decision(s) whether to approve or enter into the settlement or the Settlement Agreement or the releases incorporated therein. With respect to any and all claims of every kind whatsoever settled and released by this Settlement Agreement, the Parties hereby stipulate and agree, that effective upon the Settlement Effective Date, with no further action required by any Party, each Party expressly waives, and by operation of Court approval of the Settlement Agreement also shall have expressly waived, any and all provisions, rights and benefits conferred by California Civil Code § 1542, or any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides: **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”**

THIS MEANS THAT BY SIGNING THIS SETTLEMENT AGREEMENT, EACH PARTY WILL HAVE WAIVED ANY RIGHT THAT HE, SHE OR IT MAY HAVE TO BRING A LAWSUIT OR MAKE ANY CLAIM AGAINST THE RELEASED PARTIES BASED ON ANY ACT OR OMISSIONS BY THE RELEASED PARTIES UP TO THE DATE OF SIGNING THIS AGREEMENT.

Each Party acknowledges that the inclusion of “Unknown Claims” in the releases set forth in Sections 5.1(a), (b) and (c) above was separately bargained for and was a key element of the settlement between and among the Parties and of this Settlement Agreement.

(e) Within FIVE (5) business days after the Settlement Effective Date, the Parties shall serve pursuant to Section 7.6 herein supplemental general releases in the form annexed hereto as Exhibits F, G, and H, which the Parties shall execute on or after the Settlement Effective Date. Failure by the Plaintiffs timely to serve such a supplemental general release with executed counterparts by each of them shall defer the due date of any payment of Qualifying Fees, Principal Amount or interest until FIVE (5) business days after the completion of such service; provided, however, that interest will continue to accrue on the outstanding Principal Amount during any such deferral period.

5.2 **Waivers and Covenants Not to Sue.**

(a) Effective upon the Settlement Effective Date, and without any further action by any Party, each of the Plaintiffs, on their own behalf and on behalf of the Plaintiff Releasers and each of the Banbury Fund and RFGI and each of their successors and assigns (i) waives any and all rights that he or she may have to object to or otherwise challenge any action taken (or any action not taken) by any of the Defendant Releasees relating in any way to the Robertson Foundation or the Robertson Fund, except to enforce the terms of this Settlement Agreement, and (ii) is barred from commencing or encouraging litigation or any other action against any of the Defendant Releasees concerning the use of funds of the Robertson Foundation or the Robertson Fund or otherwise concerning the Robertson Foundation or the Robertson Fund, except to enforce the terms of this Settlement Agreement. It is understood and agreed that the Banbury Fund and RFGI shall have standing as third-party beneficiaries to commence litigation to enforce the terms of this Settlement Agreement exclusively in the Superior Court of New Jersey, Chancery Division, Mercer County.

(b) Effective upon the Settlement Effective Date, and without any further action by any Party, each of the Defendants, on their own behalf and on behalf of the Defendant Releasors (i) waives any and all rights that he, she, or it may have to object to or otherwise challenge any action taken (or any action not taken) by any of the Plaintiff Releasees relating in any way to the Robertson Foundation, the Banbury Fund, or RFGI, except to enforce the terms of this Settlement Agreement, and (ii) is barred from commencing or encouraging litigation or any other action against any of the Plaintiff Releasees, the Banbury Fund, or RFGI concerning the Robertson Foundation, the Banbury Fund or RFGI, except to enforce the terms of this Settlement Agreement.

(c) Effective upon the Settlement Effective Date, and without any further action by any Party or the Robertson Foundation, the Robertson Foundation, on its own behalf and on behalf of the Robertson Foundation Releasors, (i) waives any and all rights that it may have to object to or otherwise challenge any action taken (or any action not taken) by any of the Defendant Releasees or the Plaintiff Releasees or the Robertson Foundation Releasees relating in any way to the Robertson Foundation, the Robertson Fund, the Banbury Fund, or RFGI, except to enforce the terms of this Settlement Agreement, and (ii) is barred from commencing or encouraging litigation or any other action against any of the Defendant Releasees, the Plaintiff Releasees, the Robertson Fund, the Banbury Fund or RFGI concerning the Robertson Foundation, the Robertson Fund, the Banbury Fund, or RFGI, except to enforce the terms of this Settlement Agreement.

SECTION VI -IMPLEMENTATION

6.1 **Good Faith Duty to Effectuate.** Plaintiffs and Defendants shall in good faith consent to all resolutions, prepare, execute and submit to the court and any governmental

organization to which one or more submissions may be required, all documents, and take all other actions, necessary to obtain approval of the Settlement Agreement and its terms by the Court, dismissal of the Action in its entirety with prejudice, and otherwise to effect the settlement of the Action.

6.2 **Consent to Resolutions.** The actions to be taken by the Plaintiffs and Defendants shall include, without limitation, unanimously consenting in writing to adopt resolutions of the Robertson Foundation, in the form attached as Exhibits I and J hereto, which shall be executed and exchanged between the Plaintiffs and the Defendants contemporaneously with their exchange of executed counterparts of the Settlement Agreement:

- (a) designating Governor Thomas H. Kean as the Robertson Foundation's "Settlement Committee";
- (b) vesting the Settlement Committee with the full authority of the Robertson Foundation Board of Trustees to determine whether this Settlement Agreement and the settlement described herein are fair, reasonable and in the best interests of the Robertson Foundation;
- (c) vesting the Settlement Committee with the full authority of the Robertson Foundation Board of Trustees to determine whether the Robertson Foundation should indemnify Defendants for their legal fees and expenses (not to include costs for public relations and similar services) incurred in this Action (to the extent not reimbursed or to be reimbursed by insurance coverage) pursuant to Article XI of the Robertson Foundation's bylaws and Section 145 of the Delaware General Corporation Law;
- (d) in the event the Settlement Committee determines that the Settlement Agreement and settlement described herein is fair, reasonable, adequate and in the best interests of the Robertson Foundation, ratifying such a determination, approving the Settlement Agreement, and directing the Parties to take all necessary steps to effectuate the settlement as soon as practicable; and
- (e) in the event the Settlement Committee determines that Defendants should be indemnified by the Robertson Foundation for their legal fees and expenses (not to include costs for public relations and

similar services) incurred in this Action (to the extent not reimbursed or to be reimbursed by insurance coverage), ratifying such determination, and approving indemnification of such fees and expenses.

6.3 **Motion for Approval of the Settlement.** Within TEN (10) business days after the Settlement Date, the Parties will submit to the Court a motion, on consent of all Parties, seeking dismissal of the Action with prejudice, approval of this Settlement Agreement and the settlement terms set forth herein, and entry of the Settlement Order substantially in the form attached as Exhibit B hereto.

6.4 **Dismissal of Plaintiffs' Personal Claims.** Plaintiffs shall voluntarily dismiss with prejudice their personal (*i.e.*, non-derivative) claims set forth in their pleadings in the Action and seek entry of an order of dismissal with prejudice of those claims substantially in the form attached as Exhibit B hereto. It is agreed by the Parties that no part of the consideration contemplated by this Settlement Agreement is being paid to resolve such personal claims.

SECTION VII – MISCELLANEOUS

7.1 **No Admissions.** No Party has made any admission as to the strengths and weaknesses of any of the claims, counterclaims and defenses advanced in the Action, and the Parties agree that the settlement of the Action should not be construed as or deemed to be evidence of any presumption, concession, or admission by any Party with respect to the truth of any fact alleged or the validity of any claim, counterclaim or defense asserted in the Action.

7.2 **Return or Certified Destruction of Documents.** The Plaintiffs shall in good faith make all reasonable efforts to return or destroy all documents (except documents filed as exhibits of record in Court in the Action) produced by Defendants or the Robertson Foundation that are in their possession, custody or control, as set forth below. Within THIRTY (30) days after the Settlement Effective Date, Plaintiffs shall return to Princeton all originals and copies of

all documents, in paper or electronic form, in their possession, custody or control, produced by Defendants or the Robertson Foundation in the Action, or shall certify in writing that such documents have been, to the best of their knowledge after a good faith effort, destroyed (the “Certification”). Up to the time of returning these documents or providing the Certification, the Plaintiffs shall make no use whatsoever of these documents without the prior written consent of the Defendants, which written consent shall not be unreasonably withheld. The requirements of return or destruction shall not apply to (a) copies of certifications and exhibits thereto filed as exhibits of record in the Action on file in court, and (b) copies of the “CSR Documents,” meaning the documents produced in the Action by the Defendants that bear the Bates numbering prefix of “CSR.” Following the Settlement Effective Date, Plaintiffs shall not oppose any request by Defendants to the relevant Court that it return or destroy Plaintiffs’ and Defendants’ documents filed in or otherwise maintained by the Court. Defendants may send written notice to Plaintiffs identifying specifically any exhibits of record destroyed or returned by the Court pursuant to Defendants’ request or otherwise. Upon receipt of such notice, the documents so destroyed or returned by the Court shall be subject to the document return and destruction provisions of this Section 7.2, and Plaintiffs shall in good faith make all reasonable efforts to comply within THIRTY (30) days after receiving such notice. Notwithstanding the foregoing, counsel for Plaintiffs and Defendants may maintain their litigation files, including exhibits of record whether or not destroyed or returned by the Court, for a period of up to FIVE (5) years after the Settlement Effective Date (the “Destruction Date”), at which time (i) counsel for Plaintiffs will make a good faith effort to destroy all portions of their litigation files containing documents produced by Defendants or the Robertson Foundation in the Action and shall provide to Princeton written certification that such documents have been destroyed, and (ii) counsel for

Defendants will make a good faith effort to destroy all portions of their litigation files containing confidential documents produced by Plaintiffs in the Action and shall provide to Plaintiffs written certification that such documents have been destroyed. Until the Destruction Date, no use whatsoever will be made by counsel for Plaintiffs of the documents produced by Defendants in the Action or by counsel for Defendants of the confidential documents produced by Plaintiffs in the action without, respectively, Princeton's or the Plaintiffs' prior written consent, which consent shall not be unreasonably withheld. If due to the prospective dissolution or merger of any counsel's firm it is intended that any documents referred to in this Section leave the custody of any of the firms that currently are their custodian, each prospective successor custodial firm or individual shall provide Princeton or Plaintiffs, whichever was adverse in the Action, with certification that such successor will be subject to and abide by the obligations set forth in this Section 7.2 as if the successor were the counsel now in custody of the documents.

7.3 **Binding on Successors, Descendants and Assigns.** This Settlement Agreement shall be binding upon, and inure to the benefit of, all Parties, the Plaintiff Releasors and Releasees, the Defendant Releasors and Releasees, the Robertson Foundation Releasors and Releasees, and each of their successors, heirs and assigns. The Settlement Order shall provide that any rights of Plaintiffs' descendants with respect to the Robertson Foundation or the Robertson Fund are eliminated or otherwise modified by this Settlement Agreement to the same extent as any such rights of Plaintiffs are eliminated or otherwise modified by this Settlement Agreement.

7.4 **Representation of Authority to Execute.** All persons executing this Settlement Agreement and any of the exhibits hereto, or any related settlement documents, represent and warrant that they have the full authority to do so on their own behalf and on behalf of any other

person or entity on whose behalf they execute this Settlement Agreement, and that they have the authority to take all actions required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms.

7.5 **Entire Agreement of the Parties.** This Settlement Agreement, including all of the Exhibits attached hereto, all of which are incorporated herein, constitutes the entire agreement among the Parties. There are no understandings, written or oral, or representations of any kind, relating to the subject matter herein, except as expressly set forth herein.

7.6 **Service and Notices.** Any notice required to be given hereunder shall be in writing, and served either (a) by hand, or (b) by Federal Express or a similar overnight courier, in each case addressed as follows or as the Parties may subsequently direct in writing: (a) if to Plaintiffs, to James S. Sligar, Esq. and David R. Gelfand, Esq., Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, NY 10005; (b) if to Princeton or one or more other Defendants, to Peter McDonough, Esq., General Counsel and Assistant Secretary, Princeton University, 120 Alexander Street, Princeton, NJ 08544. The Parties may provide notice of a change in the identify of the person or persons to whom future notices are to be provided under this Section 7.6 not less than TEN (10) business days in advance of the due date for any notice contemplated by this Settlement Agreement.

7.7 **No Modification Except in Writing.** This Settlement Agreement may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all Parties hereto or their successors-in-interest, or their respective counsel.

7.8 **Governing Law.** This Settlement Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed in

accordance with the substantive laws of the State of New Jersey, notwithstanding any conflict-of-laws doctrines to the contrary.

7.9 **No Construction of Ambiguities Against the Drafter.** This Settlement Agreement was negotiated by the Parties with advice of counsel, and any ambiguities determined to exist in this Settlement Agreement are not to be construed against any Party on account of any doctrine calling for construction of ambiguities against the drafter of a document.

7.10 **Exhibits Incorporated Herein by Reference.** All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

7.11 **Headings Have No Legal Effect.** The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

7.12 **Retained Jurisdiction of the Court.** The Court before which the Action is pending shall retain jurisdiction for the purpose of resolving any dispute with respect to the interpretation or enforcement of the terms of this Settlement Agreement, or any other dispute relating to the subject matter of the Action. Each of the Parties and each undersigned counsel consents to the exclusive jurisdiction of such Court over him, her or it and over the Plaintiff Releasors, Defendant Releasors and the Robertson Foundation Releasors for purposes of such a proceeding.

7.13 **Execution in Counterparts; Delivery of Signature Pages.** This Settlement Agreement may be executed and delivered in one or more counterparts, each of which shall constitute an original as against the Party whose signature appears on it. All executed counterparts in the aggregate shall be deemed to be one and the same instrument. The Parties shall exchange among themselves signed counterparts of this Settlement Agreement with original signatures, and there shall be two complete sets of executed counterparts of the

Settlement Agreement with original signatures: one set to be delivered to and held by counsel for the Plaintiffs, and one set to be delivered to and held by Princeton. For purposes of achievement of the Settlement Date, the exchange of signed counterparts of this Settlement Agreement and counterparts of signed Exhibits C, I and J hereto by facsimile, or email in portable document format (“pdf”), shall be as effective as delivery of a counterpart with an original signature.

[SIGNATURES ON NEXT THREE PAGES]