

LICENSE AGREEMENT AND RELEASE

In consideration of the mutual promises and covenants recited herein and in reliance on the representations and warranties recited herein California Public Employees' Retirement System ("CalPERS") on the one hand, and The New York Times Company ("NYT") on the other hand (each a "Party" and collectively the "Parties"), hereby covenant and agree as set forth below. This License and Release Agreement (the "Agreement") is effective the date the last one of the Parties has executed the Agreement and provided it to the other Party (the "Effective Date").

RECITALS

WHEREAS, NYT has alleged that CalPERS engaged in the unauthorized use of certain NYT Content, as defined below;

WHEREAS, CalPERS denies any wrongdoing and disclaims any liability with regard to the NYT Content; and

WHEREAS, CalPERS and NYT desire to resolve all disputes between them regarding CalPERS' alleged use of NYT Content by entering into this Agreement governing any and all past use by CalPERS of any NYT Content.

THEREFORE, in consideration of the mutual covenants, agreements and understandings contained hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions

1.1 "NYT" shall mean The New York Times Company, a New York corporation, and its affiliates, subsidiaries, shareholders, officers, directors, employees, agents, attorneys and representatives and the successors and assigns thereof.

1.2 "NYT Content" shall mean any and all registered or unregistered copyright protected works created before August 1, 2017, in which NYT claims an ownership interest including without limitation any articles published in the *New York Times* print or online editions.

1.3 "CalPERS" shall mean California Public Employees' Retirement System, a government agency of the State of California, and all past or present direct or indirect members of the Board of Administration, officers, directors, agents, managers, employees, licensees, insurers, attorneys and representatives of CalPERS, and the successors and assigns thereof.

1.4 "CalPERS Personnel" shall mean all past or present, direct or indirect, members of the Board of Administration, officers, directors, agents, managers, employees, consultants, attorneys, beneficiaries and representatives of CalPERS that received,

distributed, reproduced, accessed, or observed any NYT Content, and the successors and assigns thereof.

1.5 “Claims” shall mean any and all manner of accounts, actions, causes of action, claims, controversies, counterclaims, damages, debts, defenses, demands, judgments, liabilities, losses and suits, whether in law or in equity, known or unknown, liquidated or unliquidated, direct or indirect, due or to become due, contingent or otherwise, but which are in any case based on facts occurring prior to the Effective Date.

2. NYT’s Representations and Warranties

2.1 NYT represents and warrants that it is the sole party in interest for any and all Claims arising out of or related to the NYT content or the use of NYT Content by CalPERS or CalPERS Personnel, except to the extent that any of the NYT Content includes content jointly owned by NYT and a third party.

2.2 NYT represents and warrants that it owns all rights in and to the NYT Content, including any registered or unregistered copyright rights, that no other person or entity has any entitlement or right to any NYT Content, except to the extent that any of the NYT Content includes content jointly owned by NYT and a third party, and that it has all the rights necessary to grant the License provided herein.

2.3 NYT represents and warrants that no other person or entity has any entitlement or right to assert any Claims with respect to the NYT Content or any derivatives thereof, except to the extent that any of the NYT Content includes content jointly owned by NYT and a third party.

3. License

3.1 NYT (the “Licensor”) hereby grants to CalPERS and CalPERS Personnel (the “Licensees”), subject to the terms and conditions hereinafter contained, a non-exclusive, non-transferable, worldwide, retroactive license to use, produce, reproduce, distribute, display and otherwise exploit any NYT Content (the “License”).

3.2 The term of the License shall begin on the earliest date of enforceability of any copyrights to NYT Content and shall terminate upon execution of this Agreement. The License shall therefore cover all use, production, reproduction, distribution, display or other exploitation of NYT Content by Licensees.

3.3 All rights, licenses, and privileges not expressly granted to Licensees by Licensor herein shall remain solely and exclusively with Licensor.

3.4 Upon termination of the License, all rights conveyed by Licensor to Licensees shall cease, and all such rights shall revert to Licensor. Licensee may, however, retain a full set of any and all NYT Content in its possession on the Execution Date for a period of up to three years so long as such NYT Content is retained solely for the purpose of preserving

evidence in connection with potential Claims by third parties against CalPERS, and not distributed, reproduced or used in any other way.

3.5 The Parties recognize and acknowledge that there exist a number of valid and binding licenses that exist between CalPERS or various CalPERS Personnel and the NYT or entities acting on behalf of the NYT. The Parties acknowledge, understand and agree that this Agreement does not terminate, cancel or otherwise have any effect on any other such license agreements, or any rights granted therein, that may exist as between CalPERS, CalPERS Personnel, on the one hand, and NYT or entities acting on behalf of NYT, on the other hand.

4. Release and Covenant Not to Sue

4.1 NYT hereby releases, forever discharges and covenants not to sue CalPERS and CalPERS Personnel from any and all Claims, irrespective of how, why, or by reason of what facts, which could or may be claimed to exist, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, claimed or unclaimed, whether based on contract, tort, breach of any duty, copyright or other legal or equitable theory of recovery, each as though fully set forth herein at length, arising prior to the Effective Date relating to the Claims that were made or could have been made by NYT against CalPERS or CalPERS Personnel arising out of or related to the use, production, reproduction, distribution, display or other exploitation of NYT Content. It is understood and agreed that CalPERS and/or CalPERS Personnel may plead the release provided in this Agreement as a complete defense and bar to any Claim brought in contravention of this release.

4.2 CalPERS, on behalf of itself and CalPERS Personnel, hereby releases and forever discharges NYT from any and all Claims, irrespective of how, why, or by reason of what facts, which could or may be claimed to exist, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, claimed or unclaimed, whether based on contract, tort, breach of any duty, copyright or other legal or equitable theory of recovery, each as though fully set forth herein at length, arising prior to the Effective Date arising out of or related to the NYT Content.

4.3 The Parties understand that Section 1542 of the California Civil Code provides:

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.

Section 1542 of the California Civil Code and any similar law, statute, provision, or policy of any other state including, without limitation, any law, statute, provision, or policy regarding the waiver or release of claims unknown at the time of this Agreement, are hereby expressly waived by the Parties as to any and all claims that are released by this

Agreement. Each Party hereby agrees, represents, and warrants that such Party realizes and acknowledges that factual matters now unknown to such Party may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses, and expenses that are presently unknown, unanticipated, and unsuspected, and each Party further agrees, represents, and warrants that this Agreement has been negotiated and agreed upon in light of that realization and that, except as expressly limited above, each Party nevertheless hereby intends to release, discharge, and acquit each other Party from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses, and expenses on the terms set forth in this Agreement.

4.4 This Agreement may not be used by any party not a party to the Agreement against CalPERS, CalPERS Personnel or NYT, except for the releases and indemnifications as provided in section 4 of this Agreement.

5. Payment

As a condition of the granting of releases by NYT herein, CalPERS, on behalf of itself and CalPERS Personnel, agrees to pay NYT the sum of \$150,000.00 within two business days of final execution of this Agreement as good and valuable consideration for and in full and complete satisfaction of the License.

6. Confidentiality

The Parties to this Agreement agree that neither Party shall make or disclose, broadcast, reveal or otherwise publish, disseminate or make available the terms of this Agreement, whether in its entirety or in part, and/or the facts or allegations giving rise to the aforementioned license, to any non-party, except: (a) to the extent disclosure is reasonably necessary to carry out and effectuate the terms of this Agreement; (b) to a Party's directors, officers, accountants, attorneys, and/or a Party's employees on a need-to-know basis; (c) in the event that any Party alleges breach of this Agreement; (d) to any person which has issued a subpoena, a court order directing the production of the terms of this Agreement, or a request pursuant to California Public Records Act, Cal. Govt. Code § 6253 et seq., provided that the Party receiving such subpoena, court order or request notifies the other Party; (e) in the case of NYT, to the extent such disclosure is solely a result of NYT's newsgathering operations and was independently developed by employees of NYT not involved in the negotiation or execution of this License Agreement and Release; or (f) as otherwise required by law.

7. Mutual Representations and Warranties

Each Party represents and warrants that it has read and understands the provisions of this Agreement, has received advice from independent counsel of its own choice regarding the Agreement, has signed this Agreement freely and without duress, and has full authority to execute this Agreement and to consummate the transactions contemplated by this Agreement.

8. No Admission of Liability

This Agreement does not constitute an admission of liability or wrongdoing by any Party hereto, and may not be used for any purpose in any future litigation or other dispute resolution process, except in an action (and to the extent necessary) to enforce the terms of this Agreement.

9. Representations by Each Party

8.1. Each Party represents and warrants it has all requisite power and authority to execute, deliver, and perform its obligations under this Agreement.

8.2. Each Party represents and warrants the execution, delivery, and performance of this Agreement has been duly authorized.

10. Joint Authorship

The Parties agree that in the event of a dispute, the Parties shall be considered joint authors of this Agreement and no provision shall be interpreted against either Party because of authorship.

11. Previously-Incurred Legal Fees

Each Party hereto shall pay its own costs and expenses, including legal fees, including, but not limited to, those incurred in negotiation, preparation and execution of this Agreement.

12. Consideration

The Parties expressly acknowledge that all terms of this Agreement are supported by good, valid and legally sufficient consideration so as to make this Agreement binding and valid.

13. Severability

In the event that any term or provision of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable for any reason whatsoever, such illegality, invalidity or unenforceability shall not affect the remaining terms or provisions of this Agreement, which remaining terms and provisions shall remain in full force and effect.

14. Counterparts

This Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute

one agreement, which shall be binding upon and effective as to all of the Parties. Signatures communicated electronically or by facsimile are permissible and enforceable.

15. No Waiver

No waiver of any breach of any term or provision of this Agreement shall be construed to be, or shall be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the Party or Parties waiving the breach.

16. Section Headings

The paragraph, section and article headings used in this Agreement are intended solely for convenience and reference and shall not in any manner amend, limit, modify, or otherwise be used in the interpretation of any of the provisions of this Agreement.

17. Successors

This Agreement, along with its terms and conditions, shall be binding on and shall inure to the benefit of each of the Parties and to their heirs, executors, administrators, successors-in-interest and assigns.

18. Integration

This Agreement constitutes and contains the entire agreement of CalPERS and NYT with respect to the subject matter hereof, and there are no other agreements, understandings or representations with respect to this subject matter which are not expressly set forth herein.

19. Written, Signed Amendment Required

This Agreement may not be modified or amended except by written agreement, signed by CalPERS and NYT.

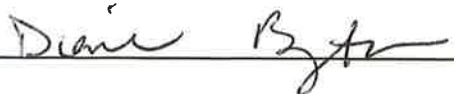
20. Governing Law; Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts to be wholly performed therein. The exclusive forum for any disputes arising out of or relating to this Agreement shall be an appropriate state or federal court situated in Sacramento County in the State of California.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth opposite their respective signatures.

Dated: December 2017

THE NEW YORK TIMES COMPANY

By: 

Print Name: Diane Brayton

Title: EVP, General Counsel & Secretary

Dated: December 6 , 2017

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

By: 

Print Name: MATTHEW G. JACOBS

Title: General Counsel