

## **SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the United States Small Business Administration (“SBA”) (collectively, the “United States”), the Harvard Club of Boston (“Harvard Club”), and Daniel Foster (“Relator”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### **RECITALS**

A. The Harvard Club of Boston is a private membership club located in Boston, Massachusetts.

B. The SBA is an independent agency of the United States government that provides aid, counsel, and assistance to small businesses and entrepreneurs. The Coronavirus Aid, Relief, and Economic Security Act, Section 1102, vested the SBA with the responsibility of managing the Paycheck Protection Program (“PPP”) under the SBA’s 7(a) Loan Program. The PPP was a federal program that provided emergency relief to small businesses affected by the COVID-19 pandemic. The SBA administered the PPP and guaranteed loans that were made according to PPP regulations. Congress directed the SBA to guarantee PPP loans “under the same terms, conditions, and processes” as ordinary small business loans administered by the agency. 15 U.S.C. § 636(a)(36)(B). “Private clubs and businesses which limit the number of memberships for reasons other than capacity” were not eligible for loans through the SBA. 13 C.F.R. § 120.110(i). On April 2, 2020, the SBA announced that business identified in 13 C.F.R. § 120.110 are not eligible for PPP loans, including, specifically, “[p]rivate clubs and businesses which limit the number of memberships for reasons other than capacity.” In March 2021, Congress enacted the American Rescue Plan Act, which, among other things, expanded PPP

eligibility to additional types of 501(c) entities, but expressly excluded most entities listed in 13 C.F.R. § 120.110, including entities under subsection (i).

C. On May 28, 2025, Relator Daniel Foster filed a qui tam action in the United States District Court for the District of Massachusetts captioned *United States ex rel. Foster v. Harvard Club of Boston*, 25-cv-11530-JEK, pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). The Relator alleged that the Harvard Club violated the False Claims Act because it submitted a false application for a first-draw PPP loan for which it was not eligible, due to its status as a private club that restricts the number of memberships for reasons other than capacity.

D. The Harvard Club received credit under the Department of Justice’s guidelines for taking disclosure, cooperation, and remediation into account in False Claims Act cases, Justice Manual § 4-4.112. Among other actions, the Harvard Club produced materials without a subpoena, cooperated with the government’s investigation, disclosed the findings of its internal investigation, and sought to resolve this matter expeditiously.

E. The United States contends that it has certain civil claims against the Harvard Club for submitting or causing the submission of false claims to the SBA arising from its certification on its application for a PPP loan, and its receipt of funds from and forgiveness of the loan.

F. The Harvard Club admits, acknowledges, and accepts responsibility for the following facts:

1. The Harvard Club of Boston is a private membership club in Boston that restricts membership to applicants who fit certain eligibility categories, including, for example, individuals who are alumni of Harvard or other select universities.

2. On May 4, 2021, the Harvard Club applied for a first-draw PPP loan. The application included a certification that “[t]he Applicant is eligible to receive a loan under the rules in effect at the time this application is submitted that have been issued by the Small Business Administration (SBA) and the Department of the Treasury (Treasury) implementing the Paycheck Protection Program[.]”

3. The SBA approved that loan through Eastern Bank on May 11, 2021. On May 17, 2022, the Harvard Club applied for—and subsequently received—loan forgiveness from the SBA.

G. The foregoing conduct described in Paragraph F, including subparagraphs, is hereinafter referred to as the “Covered Conduct.” The United States contends that, as a result of the Covered Conduct, the Harvard Club caused the submission of false claims to the SBA.

H. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator’s reasonable expenses, attorneys’ fees and costs.

In consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

#### TERMS AND CONDITIONS

1. The Harvard Club shall pay to the United States the sum of \$2,472,187, of which \$1,648,125 is restitution, plus interest at a rate of five percent (5%) from December 8, 2025, and continuing until and including the day payment is completed (“Settlement Amount”). The Harvard Club shall pay the Settlement Amount by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney for the District of Massachusetts no later than thirty (30) days after the Effective Date of this Agreement.

2. Conditioned upon the United States receiving the Settlement Amount and as soon as feasible after receipt, the United States shall pay \$247,219 to Relator by electronic funds transfer (“Relator’s Share”).

3. The Harvard Club shall pay to Relator’s counsel a total of \$25,000 for expenses, attorneys’ fees, and costs no later than sixty (60) days after the Effective Date of this Agreement. Relators’ counsel agrees that this amount constitutes all expenses and reasonable attorneys’ fees and costs pursuant to 31 U.S.C. § 3730(d)(2).

4. Subject to the exceptions in Paragraph 6 (concerning reserved claims) below, and upon the United States’ receipt of the Settlement Amount, the United States releases the Harvard Club, together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former corporate owners; and the corporate successors and assigns of any of them, from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

5. Subject to the exceptions in Paragraph 6 below, and upon the United States’ receipt of the Settlement Amount, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases the Harvard Club, together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former corporate owners; the corporate successors and assigns of any of the foregoing; and its officers, agents, and employees, from any civil monetary claim the Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

6. Notwithstanding the releases given in Paragraph 4 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in the Agreement, any administrative liability or enforcement right, or any administrative remedy, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement; and
- f. Any liability of individuals.

7. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relator's receipt of the Relator's Share, Relator and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

8. Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases the Harvard Club, together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former corporate

owners; the corporate successors and assigns of any of the foregoing; and its officers, agents, and employees, from any liability to Relator arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs.

9. The Harvard Club waives and shall not assert any defenses the Harvard Club may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

10. The Harvard Club fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that the Harvard Club has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct or the United States' investigation or prosecution thereof.

11. The Harvard Club fully and finally releases the Relator from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that the Harvard Club has asserted, could have asserted, or may assert in the future against the Relator, related to the Covered Conduct and the Relator's investigation and prosecution thereof.

12. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of the Harvard Club, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) the Harvard Club's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment the Harvard Club makes to the United States pursuant to this Agreement and any payments that the Harvard Club may make to Relator, including costs and attorneys fees,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by the Harvard Club, and the Harvard Club shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, the Harvard Club shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by the Harvard Club or any of its subsidiaries or affiliates from the United States. The Harvard Club agrees that the United States, at a minimum, shall be entitled to recoup from the Harvard Club any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted requests for

payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine the Harvard Club's books and records and to disagree with any calculations submitted by the Harvard Club or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by the Harvard Club, or the effect of any such Unallowable Costs on the amount of such payments.

13. This Agreement is intended to be for the benefit of the Parties only.

14. Upon receipt of the payment described in Paragraph 1, above, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal with Prejudice of the Civil Action pursuant to Rule 41(a)(1). The Joint Stipulation of Dismissal shall state that: (1) claims for the allegations described in the Covered Conduct are dismissed with prejudice to the United States; (2) all other claims in the Civil Action, including claims under 31 U.S.C. §§ 3729-33, shall be dismissed without prejudice to the United States; and (3) all claims in the Civil Action shall be dismissed with prejudice as to the Relator.

15. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

16. Each Party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

17. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of Massachusetts. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.



18. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

19. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

20. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

21. This Agreement is binding on the Harvard Club's successors, transferees, heirs, and assigns.

22. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

23. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

24. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

[SIGNATURE PAGES FOLLOW]

THE UNITED STATES OF AMERICA

DATED: 1/14/26

BY: LINDSEY ROSS  
Lindsey Ross  
Assistant United States Attorney  
United States Attorney's Office  
District of Massachusetts

Digitally signed by LINDSEY  
ROSS  
Date: 2026.01.14 13:17:35 -05'00'

HARVARD CLUB OF BOSTON

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Susan L. Kendall  
President  
Harvard Club of Boston

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Gerard Leone  
Hunton Andrews Kurth LLP  
Counsel for the Harvard Club of Boston

RELATOR DANIEL FOSTER

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Daniel Foster

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Stephen Teller  
Teller Law  
Counsel for Daniel Foster

THE UNITED STATES OF AMERICA

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Lindsey Ross  
Assistant United States Attorney  
United States Attorney's Office  
District of Massachusetts

HARVARD CLUB OF BOSTON

DATED: Jan. 14, 2026

BY: Susan L. Kendall  
Susan L. Kendall  
President  
Harvard Club of Boston

DATED: 1/14/26

BY: Gerard Leone, Jr.  
Gerard Leone  
Hunton Andrews Kurth LLP  
Counsel for the Harvard Club of Boston

RELATOR DANIEL FOSTER

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Daniel Foster

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Stephen Teller  
Teller Law  
Counsel for Daniel Foster

THE UNITED STATES OF AMERICA

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Lindsey Ross  
Assistant United States Attorney  
United States Attorney's Office  
District of Massachusetts

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Susan L. Kendall  
President  
Harvard Club of Boston

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Gerard Leone  
Hunton Andrews Kurth LLP  
Counsel for the Harvard Club of Boston

RELATOR DANIEL FOSTER

DATED: 1/12/26

BY: *Daniel Foster*  
Daniel Foster

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Stephen Teller  
Teller Law  
Counsel for Daniel Foster

THE UNITED STATES OF AMERICA

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Lindsey Ross  
Assistant United States Attorney  
United States Attorney's Office  
District of Massachusetts

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Susan L. Kendall  
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Harvard Club of Boston

DATED: \_\_\_\_\_


BY: \_\_\_\_\_  
Gerard Leone  
Hunton Andrews Kurth LLP  
Counsel for the Harvard Club of Boston

RELATOR DANIEL FOSTER

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Daniel Foster

DATED: 01/12/2026

BY:  \_\_\_\_\_  
Stephen Teller  
Teller Law  
Counsel for Daniel Foster