

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, Dennis Corporation (“Dennis Corp.”), and Daniel R. Dennis, III (“Daniel Dennis,” and together with “Dennis Corp.”, the “Defendants”), and Aidan Forsyth (“Relator”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. Dennis Corp. is an engineering, surveying, and construction management firm based in Columbia, South Carolina, with a principal place of business at 1800 Huger Street, Columbia, South Carolina, 29201. Daniel Dennis owns and controls Dennis Corp.

B. On or about September 29, 2023, Relator filed a *qui tam* action in the United States District Court for the District of New Jersey captioned *United States ex rel. Forsyth v. Dennis Corp. et al.*, Civil Action No. 23-20792, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”).

C. The United States contends that it has certain civil claims against Defendants arising from the allegations and conduct described in this paragraph:

- (i) On or about January 12, 2017, Daniel Dennis was charged in a one-count Information, filed in the U.S. District Court for the Northern District of West Virginia, with conspiracy to impede the Internal Revenue Service in violation of 18 U.S.C. § 371. On or about February 17, 2017, Daniel Dennis pleaded guilty to a felony charge, specifically, violating 18 U.S.C. § 371. On or about September 25, 2017, the District Court entered a criminal judgment against Daniel Dennis, finding him guilty of violating 18 U.S.C. § 371.
- (ii) On or about June 20, 2020, Dennis Corp., by and through Daniel Dennis, applied for a first-draw loan pursuant to the Paycheck Protection Program (“PPP”) under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). In the PPP loan application, Daniel Dennis falsely certified that he had had not, “[w]ithin the last 5 years, for any felony, . . . been convicted [or] . . . pleaded guilty.” As a result of the false certification on the application, Dennis Corp. received a first-draw PPP loan in the amount of \$512,900. In addition, in connection with the loan, SBA paid a loan processing fee of \$15,387 to the lender, as well as \$2,199 in interest on the loan.
- (iii) On or about February 22, 2021, Dennis Corp., by and through Daniel Dennis, applied for a second-draw PPP loan. In the PPP

loan application, Daniel Dennis falsely certified that he had not, “[w]ithin the last 5 years, for any felony involving fraud [or] bribery . . . been convicted [or] . . . pleaded guilty.” As a result of the false certification on the application, Dennis Corp. received a second-draw PPP loan in the amount of \$512,904. In addition, in connection with the loan, SBA paid a loan processing fee of \$15,387 to the lender, and \$4,848 in interest on the loan.

(iv) On or about November 23, 2021, Dennis Corp., by and through Daniel Dennis, applied for a loan pursuant to the SBA’s Economic Injury Disaster Loan (“EIDL”) program. In the EIDL application, Daniel Dennis falsely certified that he had not, “[w]ithin the last 5 years, for any felony involving fraud [or] bribery . . . been convicted [or] . . . pleaded guilty.” As a result of the false certification on the application, Dennis Corp. received a grant and loan pursuant to the EIDL program in the amount of \$500,000.

(v) The conduct described in subparagraphs (C)(i) through (C)(iv) is referred to below as the “Covered Conduct.”

E. This Settlement Agreement is neither an admission of liability by the Defendants nor a concession by the United States or Relator that their claims are not well founded.

F. 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.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Dennis Corp. shall pay to the United States two million, two hundred fifty-one thousand and eight hundred dollars (\$2,251,800) ("Dennis Corp. Settlement Amount"), of which one million, five hundred sixty-three thousand six hundred twenty-five dollars (\$1,563,625) is restitution, by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the District of New Jersey. In addition, Daniel Dennis shall pay to the United States two hundred fifty thousand dollars (\$250,000) ("Daniel Dennis Settlement Amount"), none of which is restitution. The Daniel Dennis Settlement Amount and the Dennis Corp. Settlement Amount, together, are referred to as the "Settlement Amount." The date of signature of the last signatory to the Agreement is the "Effective Date of the Agreement." The Settlement Amount shall be paid pursuant to the following schedule:

a. With respect to the Daniel Corp. Settlement Amount:

- (i) Within 30 days of the Effective Date of the Agreement, Daniel Corp. shall pay one hundred thousand dollars (\$100,000), plus interest at 2% per annum accruing from the Effective Date of the Agreement;
 - (ii) Within 90 days of the Effective Date of the Agreement, Daniel Corp. shall pay five hundred thousand dollars (\$500,000), plus interest at 2% per annum accruing from the Effective Date of the Agreement;
 - (iii) Within 180 days of the Effective Date of the Agreement, Daniel Corp. shall pay one million, six hundred fifty-one thousand, eight hundred dollars (\$1,651,800), plus interest at 2% per annum accruing from the Effective Date of the Agreement.
- b. With respect to the Daniel Dennis Settlement Amount:
- (i) Within 30 days of the Effective Date of the Agreement, Daniel Dennis shall pay fifty thousand dollars (\$50,000), plus interest at 2% per annum accruing from the Effective Date of the Agreement;
 - (ii) Within 90 days of the Effective Date of the Agreement, Daniel Dennis shall pay fifty thousand

dollars (\$50,000), plus interest at 2% per annum accruing from the Effective Date of the Agreement; and

- (iii) Within 180 days of the Effective Date of the agreement, Daniel Dennis shall pay one hundred fifty thousand dollars (\$150,000), plus interest at 2% per annum accruing from the Effective Date of the Agreement.

2. Conditioned upon the United States receiving the installment payments set forth above, and as soon as feasible after each installment payment is received, the United States shall pay Relator ten percent of the funds received, by electronic funds transfer, for a total of two hundred fifty thousand, one hundred and eighty dollars (\$250,180) (“Relator’s Share”).

3. Within 30 days of the Effective Date of the Agreement, Defendants will pay to Relator twelve thousand, five hundred dollars (\$12,500) for expenses, attorneys’ fees, and costs pursuant to 31 U.S.C. § 3730(d). Defendants and Relator agree that this amount represents reasonable expenses, attorneys’ fees, and costs for the Civil Action.

4. Subject to the exceptions in Paragraph 6 (concerning reserved claims) and Paragraph 7 (concerning default), below, and upon the United States’ receipt of the Settlement Amount, plus interest due under Paragraph 1, the United States releases Defendants 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, plus interest due under Paragraph 1, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, release Defendants 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; or
- f. Any liability of individuals, other than Daniel Dennis.

7. In the event that Daniel Dennis or Dennis Corp. fail to make their respective settlement payments pursuant to the schedule set forth in Paragraph 1, the party who fails to make the requirement payment shall be in default of its payment obligations (“Default”). In the event of a Default, the United States will provide a written Notice of Default to the party who has failed to make their respective settlement payment (hereinafter, the “Defaulting Party”) and its counsel, by U.S. Certified Mail, at the addresses set forth on the signature page of this Agreement.¹ The Defaulting Party shall have an opportunity to cure such Default within seven (7) calendar days from the date of receipt of the Notice of Default by making payment due under the payment schedule and paying any additional interest accruing under the Settlement Agreement up to the date of payment. If the Defaulting Party fails to cure the Default within seven (7) calendar days of receiving the Notice of Default, and in the absence of an agreement with the United States to a modified payment schedule (“Uncured Default”), the remaining unpaid

¹ The Parties agree that service of the notice of default upon the attorney who signs this Agreement is sufficient and provides appropriate notice. Prior to any Default, either or both of the Defendants may designate alternate contact information for service of process, with such information to be provided in writing to the Assistant U.S. Attorney who signs this Agreement at the address listed on the appropriate signature page.

balance of the defaulting party's portion of the Settlement Amount shall become immediately due and payable, and interest on the remaining unpaid balance shall thereafter accrue at the rate of 12% per annum, compounded daily from the date of Default, on the remaining unpaid total (principal and interest balance) of the defaulting party's portion of the Settlement Amount. In the event of an Uncured Default, the Defaulting Party agrees that the United States, at its sole discretion, may (i) retain any payments previously made, rescind this Agreement and pursue the Civil Action or bring any civil and/or administrative claim, action, or proceeding against the Defaulting Party who has defaulted for the claims that would otherwise be covered by the releases provided in Paragraph 2 above, with any recovery reduced by the amount of any payments previously made by the Defaulting Party, as appropriate, to the United States under this Agreement; (ii) take any action to enforce this Agreement in a new action or by reinstating the Civil Action; (iii) offset the remaining unpaid balance from any amounts due and owing to the Defaulting Party, and/or affiliated companies by any department, agency, or agent of the United States at the time of the Uncured Default or subsequently; and/or (iv) exercise any other right granted by law, or under the terms of this Agreement, or recognizable at common law or in equity. The United States shall be entitled to any other rights granted by law or in equity by reason of the Uncured Default, including referral of this matter for private collection. In the event the United States pursues private collection, the

Defaulting Party agrees immediately to pay the United States the greater of (i) a ten percent (10%) surcharge of the amount collected, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States' reasonable attorneys' fees and expenses incurred in such an action. In the event that the United States opts to rescind this Agreement pursuant to this paragraph, the Defaulting Party waives and agrees not to plead, argue, or otherwise raise any defenses of statute of limitations, laches, estoppel or similar theories, to any civil or administrative claims that are (i) filed by the United States against the Defaulting Party within 120 days of written notification that this Agreement has been rescinded, and (ii) relate to the Covered Conduct, except to the extent these defenses were available on the Effective Date of this Agreement. The Defaulting Party agrees not to contest any offset, recoupment, and /or collection action undertaken by the United States pursuant to this paragraph, either administratively or in any state or federal court, except on the grounds of actual payment to the United States.

8. 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.

9. Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, releases Defendants and their 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.

10. Defendants waive and shall not assert any defenses Defendants 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.

11. Defendants fully and finally release 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 Defendants have 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.

12. Defendants fully and finally release the Relator from any claims (including attorneys' fees, costs, and expenses of every kind and however

denominated) that Defendants have 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.

13. 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 Defendants, and their 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) Defendants' 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 Defendants make to the United States pursuant to this Agreement and any payments that Defendants 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 Defendants, and Defendants 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, Defendants shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Defendants or any of their subsidiaries or affiliates from the United States. Defendants agree that the United States, at a minimum, shall be entitled to recoup from Defendants 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 Defendants' books and records and to disagree with any calculations submitted by Defendants or any of their subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Defendants, or the effect of any such Unallowable Costs on the amount of such payments.

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

15. Upon receipt of the installment payments described in Paragraphs 1(a)(i) and 1(b)(ii), above, the Relator and the United States shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action pursuant to Rule 41(a)(1).

16. Except as set forth in Paragraph 3, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

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

18. 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 New Jersey. 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.

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

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

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

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

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

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

25. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

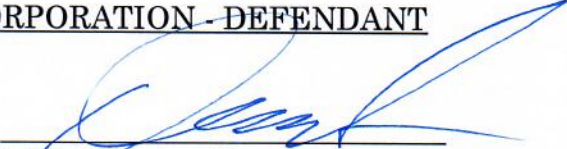
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THE UNITED STATES OF AMERICA

DATED: _____ BY: _____

David V. Simunovich
Assistant United States Attorney
Healthcare Fraud Unit
U.S. Attorney's Office - District of New Jersey
970 Broad Street, Suite 700
Newark, NJ 07102
(973) 645-2700

DENNIS CORPORATION - DEFENDANT

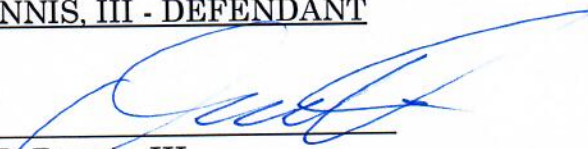
DATED: 3/12/24 BY: 

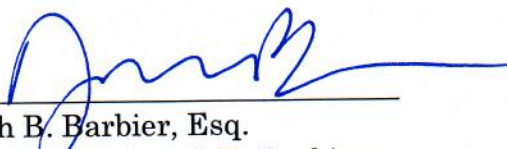
Daniel R. Dennis, III
President
Dennis Corporation
1800 Huger Street
Columbia, SC 29201

DATED: 3/12/21 BY: 

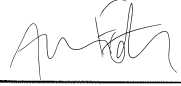
Deborah B. Barbier, Esq.
Law Office of Deborah B. Barbier
1811 Pickens Street
Columbia, SC 29201

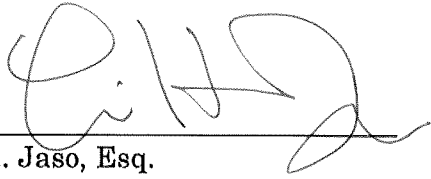
DANIEL R. DENNIS, III - DEFENDANT

DATED: 3/12/24 BY: 
Daniel R. Dennis, III

DATED: 3/12/24 BY: 
Deborah B. Barbier, Esq.
Law Office of Deborah B. Barbier
1811 Pickens Street
Columbia, SC 29201

AIDAN FORSYTH - RELATOR

DATED: 3/13/2024 BY: 
Aidan Forsyth
Relator

DATED: 3.13.24 BY: 
Eric H. Jaso, Esq.
Spiro Harrison & Nelson
363 Bloomfield Avenue
Montclair, NJ 07042
Counsel for Relator