

## SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is made and entered into this 28th day of January, 2021, between the Trustees of Dartmouth College (“Dartmouth” or the “College”) and Claimants, each a member of either the Dartmouth intercollegiate varsity women’s golf or women’s swimming and diving teams (the “Teams”). Dartmouth and Claimants shall be referred to herein in the plural as the “Parties,” and each in the singular as a “Party.”

### SETTLEMENT TERMS

1. On January 29, 2021, Dartmouth will publicly announce that it (a) is rescinding its decision to eliminate the Teams and will reinstate, restart, and continue the Teams going forward, (b) will conduct a gender equity review of its intercollegiate athletic program (the “Review”) starting this year and to be completed no later than March 15, 2022, to develop and adopt a Gender Equity Plan (“the Plan”) designed to ensure that all aspects of its intercollegiate athletic program are in compliance with Title IX during the 2023-24 academic year and future years, and (c) will be implementing the Plan so all aspects of its intercollegiate athletic program comply with Title IX in the 2023-24 academic year and future years.

2. The search for coaches for the Teams will begin no later than February 1, 2021, and the Teams, once formed and trained, will start to compete as soon as practicable based on COVID-19 conditions, student-athlete health and safety, and competition availability.

3. The Teams and Team members will be treated equitably compared to other Dartmouth teams and team members. For example, in light of the current pandemic and budgetary environment, the overall level of support for the Teams may be reduced consistent with reductions in the overall level of support for Dartmouth’s other teams and intercollegiate athletic program.

4. Claimants do not object to the reinstatement of any or all of the other teams that were eliminated as part of the July 9, 2020 announcement (*i.e.*, men’s golf, men’s swimming and diving, and men’s lightweight rowing) and specifically waive any legal claims that would arise out of the reinstatement of any or all of those teams, if Dartmouth should decide to reinstate any or all of them in addition to reinstating the Teams. Notwithstanding the foregoing, Dartmouth will comply with Title IX in the 2023-24 academic year and in future years and Claimants do not waive any legal claims to require Dartmouth to do so.

5. Dartmouth will conduct the Review and develop, adopt, and implement the Plan referred to in Paragraph 1 above. In regard to those processes:

- a. During the Review, Dartmouth will explicitly request and consider input from members and alumni of the Teams, as well as from other student-athletes and alumni of other teams.
- b. The Plan will set forth measures that Dartmouth’s intercollegiate athletic program will implement while the Plan is in effect in order to strengthen Dartmouth’s Title IX compliance.

- c. Dartmouth will monitor and manage the Plan and its development on an ongoing basis (including prior to its official adoption) to strengthen Dartmouth's Title IX compliance.
- d. Dartmouth will implement the Plan in accordance with its terms.
- e. At all times, Dartmouth retains discretion to adjust the details or terms of the Plan and to adjust Dartmouth's intercollegiate athletic program as financial or other circumstances may dictate. At all times, Dartmouth also retains discretion as to how to achieve gender equity and Title IX compliance. Notwithstanding the foregoing, however, Dartmouth will continue the Teams through at least the 2024-25 academic year.
- f. The final Plan will be made publicly available on Dartmouth's athletic department's website, and will be provided to Claimants and their counsel, no later than March 15, 2022.
- g. Status reports on implementation of the Plan will be made publicly available on Dartmouth's athletic department's website, and will be provided to Claimants and their counsel, no later than March 15, 2023; March 15, 2024; and March 15, 2025. While Dartmouth will continue to implement the Plan and will continue to comply with Title IX after March 15, 2025, Dartmouth will have no further obligations to provide status reports under this Agreement after March 15, 2025.
- h. To the extent counsel for Claimants receives any inquiries regarding the Review or the Plan from anyone other than the Claimants, counsel for Claimants will, if they think it is appropriate to do so, direct those inquiries to Dartmouth for a response.

6. Upon execution of this Agreement, each Claimant, on behalf of herself and her heirs, assigns, and future estates, fully and unconditionally releases and discharges Dartmouth and each of its present, future and former officers, directors, trustees, employees, faculty members, agents, representatives, attorneys, outside counsel, successors and assigns, in their official and individual capacities (the "Dartmouth Releasees") from any and all suits, claims, controversies, rights, agreements, promises, debts, liabilities, accounts, reckonings, demands, damages, judgments, obligations, covenants, contracts, costs (including, without limitation, attorneys' fees and costs), losses, expenses, actions or causes of action of every nature, character and description, in law or in equity, that each Claimant has or may have based on Dartmouth's elimination of her team as announced on July 9, 2020, Dartmouth's compliance with Title IX as of the date she signs this Agreement, or Dartmouth's treatment of her team as of the date she signs this Agreement; provided, however, that the foregoing release, waiver and discharge shall not release, waive, or discharge any right or obligation under this Agreement.

7. If Dartmouth violates this Agreement, Claimants will have all rights afforded to them by law, including the right to seek specific performance, and will have the same right to recover costs and attorneys' fees they would have under Title IX. Claimants may pursue any claim

for any violation of this Agreement that occurs on or before December 31, 2026, subject to the release and discharge in Paragraph 6 above, after which time Claimants may not pursue claims for breach of this Agreement.

8. In the event of any dispute arising from or relating to this Agreement, the aggrieved Party shall give written notice of the dispute to the other Party and the Parties shall attempt to resolve the dispute amicably without the need for litigation. In the event that does not resolve the dispute, any Party may commence suit in the United States District Court for the District of New Hampshire or, if the District of New Hampshire does not have jurisdiction, in the Grafton Superior Court.

9. The Parties and their respective counsel will coordinate on the announcement concerning the Agreement referred to in Paragraph 1 above, to take place on January 29, 2021, and issue a joint statement (attached hereto as Exhibit A) announcing the Parties' settlement at that time. The Parties and their respective counsel agree to keep the Agreement confidential until the time of the announcement on January 29, 2021.

10. Dartmouth agrees to pay a gross amount of One Hundred and Twelve Thousand, Four Hundred and Twenty-Four Dollars and Fifty Cents (\$112,424.50) to Bailey & Glasser, LLP, to be delivered within twenty (20) calendar days after counsel for Dartmouth has received (a) a copy of this Agreement duly executed by Claimants, and (b) a Form W-9 for Bailey & Glasser, LLP.

11. This Agreement constitutes a compromise of disputed claims for purposes of achieving an amicable and efficient settlement. Nothing in this Agreement constitutes, or shall be construed as, an admission of liability by any person or entity. All such liability is expressly denied.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire without regard to the principles of conflicts of law of any jurisdiction.

13. All notices, requests, demands, or other communications required or contemplated hereunder, or relating hereto, shall be in writing and forwarded by first class mail, with a copy by email, and addressed as follows:

If to Claimants:

Arthur H. Bryant, Esq.  
Bailey & Glasser, LLP  
1999 Harrison Street, Suite 660  
Oakland, CA 94612  
abryant@baileyglasser.com

Leslie Nixon, Esq.  
Nixon Law Firm, PLLC  
77 Central Street  
Manchester, NH 03101  
lnixon@davenixonlaw.com

If to Dartmouth:

Sandhya L. Iyer, General Counsel  
Dartmouth College  
Office of the General Counsel  
Hinman Box 6002  
63 South Main St., Suite 301  
Hanover, NH 03755  
Sandhya.L.Iyer@dartmouth.edu

With copies to:

Roberta A. Kaplan, Esq.  
Kaplan Hecker & Fink LLP  
350 Fifth Avenue  
Suite 7110  
New York, NY 10118  
rkaplan@kaplanhecker.com

The individuals and/or contact information listed above for each of the Parties may be changed by that Party by sending written notice of the change to the other Parties.

14. Each Party represents and warrants that (i) this Agreement has been duly executed and delivered by such Party and constitutes the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the rights of creditors generally and by general principles of equity, and (ii) such Party has the power, capacity and authority to enter into this Agreement and to carry out its obligations hereunder.

15. Each of the Parties represents and warrants that the Party has been represented by counsel in connection with this dispute and the negotiation of this Agreement; that the Party has consulted with such counsel concerning the meaning and implications of this Agreement; and that the Party is satisfied that entering into this Agreement is in the best interest of that Party.

16. This Agreement constitutes the entire agreement between the Parties and supersedes any and all other prior agreements and undertakings, both written and oral, between the Parties with respect to the subject matter hereof. This Agreement may be amended only by a writing executed by each Party hereto.

17. This Agreement has been negotiated by the Parties and their respective legal counsel, and legal and equitable principles that might require the construction of this Agreement or any of its provisions against the Party responsible for drafting this Agreement will not apply in any construction or interpretation of this Agreement.

18. This Agreement may be executed in counterparts (including by email or facsimile), each of which shall be deemed an original and all of which shall constitute one and the same instrument.

19. Each of the Parties shall execute and deliver such further instruments and do such further acts and things as may be reasonably required to carry out the intent and purpose of this Agreement.

EXECUTED BY THE PARTIES HERETO AS FOLLOWS:

TRUSTEES OF DARTMOUTH COLLEGE



\_\_\_\_\_  
By: Philip J. Hanlon, President

Dated: January 27, 2021

CLAIMANT

\_\_\_\_\_  
Print Name:

Dated: January \_\_, 2021

## EXHIBIT A

### JOINT STATEMENT—DARTMOUTH AND WOMEN'S TEAMS ANNOUNCEMENT ON JAN. 29, 2021

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Dartmouth and members of its recently-eliminated varsity women's golf and women's swimming and diving teams announced today that they have reached an agreement that Dartmouth will reinstate the teams, which it had eliminated in July along with three men's teams; conduct a gender equity review of its intercollegiate athletic program beginning this year; and ensure that all aspects of its intercollegiate athletic program comply with Title IX in the 2023-24 academic year and beyond.

The agreement follows allegations in December from representatives of the two women's teams that intercollegiate participation opportunities for women as compared to men were not equal at Dartmouth, in violation of Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in programs and activities receiving federal funding.

The gender equity review is to be completed no later than March 15, 2022. Based on that review, Dartmouth will adopt and implement a gender equity plan designed to ensure that all aspects of its intercollegiate athletic program comply with Title IX during the 2023-24 academic year and in future years. The plan will be publicly available on the Dartmouth athletics website.

"We are pleased to have reached agreement on this matter," President Philip J. Hanlon '77 said today. "Dartmouth is committed to offering equal opportunities in intercollegiate athletics regardless of one's gender. It is, and always has been, our intention to ensure that we are complying with the law and fully living up to our institutional values of diversity, equity, and inclusion."

"We are delighted that Dartmouth has agreed to reinstate the women's golf and swimming and diving teams, conduct a gender equity review, and ensure that all aspects of its intercollegiate athletic program comply with Title IX," said Arthur H. Bryant of Bailey & Glasser, LLP, the lead attorney for the female student-athletes. "Our clients, who stood up for their rights, are incredibly proud. They sincerely hope that Dartmouth will use this opportunity to become a model for gender equity in athletics nationwide."

The agreement states that Dartmouth will begin the search for coaches for the women's teams by Feb. 1 and that the teams, once formed and trained, will begin to compete as soon as practicable, in accordance with Dartmouth's COVID-19 guidelines and Ivy League decisions on competition. The teams must remain in place at least through the 2024-2025 academic year, the agreement says.

As part of the gender equity review, Dartmouth will request and consider input from members and alumni of the two women's teams and from all members of the Dartmouth community.

The agreement states that Dartmouth retains the right to adjust its intercollegiate athletic program as financial or other circumstances dictate, at all times retaining discretion as to how to achieve gender equity and Title IX compliance.

In addition to making the final equity plan public, Dartmouth agrees to make publicly available status reports on implementation of the plan by March 15 in the years 2023, 2024, and 2025.