

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice, Berg Companies, Inc. (“Berg”), and Andrew G. Gunn and Mark G. Davis (“Relators”) (hereafter collectively referred to as the “Parties”), through their authorized representatives.

RECITALS

A. Berg is a company based in Spokane, Washington, that manufactures rigid wall shelters and sells them directly and indirectly to the federal government. In September 2019, Berg was acquired by Hunter Defense Technologies, Inc. (“HDT”), a company based in Solon, Ohio, that manufactures integrated expeditionary products and solutions.

B. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

C. Relator Andrew G. Gunn is the Managing Director of a United Kingdom-based company that manufactures storage equipment sold to the United States military.

D. Relator Mark G. Davis is a U.S. Army veteran, former sales representative for Improve Group, and current sales representative for Relator Gunn’s company.

E. Noble Sales Co., Inc. d/b/a Noble Supply & Logistics (“Noble”) is a Massachusetts corporation with a principal place of business at One Marina Park Drive,

Suite 220, Boston, Massachusetts 02210. Noble contracts with the Defense Logistics Agency (“DLA”) to provide maintenance, repair, and operations procurement services, both domestically and abroad, to United States Government agencies, including its Armed Forces.

F. Noble contracted with DLA to provide maintenance, repair, and operations (“MRO”) support to the military in Europe under the following contracts:

Contract Category	Contract No.	Title	Start/ Effective Date	End Date
EUCOM MRO	SPE5B1-15-D-0001	DLA PV MRO - EUCOM	04/22/2015	04/21/2020
EUCOM MRO	SPE5B1-19-D-0001	DLA PV MRO – EUCOM Br #1	06/14/2019	04/20/2020
EUCOM MRO	SPE5B1-20-D-0001	DLA PV MRO – EUCOM Br #2	04/21/2020	01/05/2021
EUCOM MRO	SPE5B1-20-D-0005	DLA PV MRO – EUCOM Br #3	09/23/2020	07/19/2021
EUCOM MRO	SPE5B1-21-D-0002	EUCOM MRO	05/20/2021	05/19/2026

The contracts listed in the table above will be referred to as “Noble’s MRO EUCOM Contracts.”

G. Lawrence “Walt” Schulte is a United States citizen who resides in Germany. At all times relevant to this Agreement, Schulte was employed by Noble and worked on Noble’s MRO EUCOM Contracts.

H. Improve Group is a storage solutions and logistics company based in Albuquerque, New Mexico. Improve Group solicited awards, submitted bids, and received orders under Noble’s MRO EUCOM Contracts.

I. JDI Integrations is a logistics company registered in Florida. JDI Integrations solicited awards, submitted bids, and received orders under Noble's MRO EUCOM Contracts. JDI Integration is owned and operated by James Kerrick.

J. Spear Limited is a foreign entity that is incorporated in the Republic of Malta. Spear Limited coordinated with JDI Integrations to solicit awards, submit bids, and receive orders under Noble's MRO EUCOM Contracts and under a profit-sharing agreement between Spear Limited and JDI Integrations. Spear Limited was operated by Tristan Setzer, a United States citizen. Before working for Spear Limited, Setzer was employed by Improve Group, where he solicited awards, submitted bids, and received orders on behalf of Improve Group under Noble's MRO EUCOM Contracts.

K. Berg admits, acknowledges, and accepts responsibility for the following facts:

1) Berg knew that Noble was a prime vendor contracted by DLA to solicit other vendors for procurement awards under Noble's MRO EUCOM Contracts.

2) Berg knew that Noble's MRO EUCOM Contracts required Noble to undertake a competitive process and to solicit and obtain competitive quotes from vendors (such as Berg).

3) At the request of Noble (through Walt Schulte) and Improve Group (through Tristan Setzer and Jeremy Mack), Berg coordinated with Noble and Improve Group to submit inflated quotes for Berg's rigid wall shelters that Noble submitted to DLA. The purpose of the scheme was for Improve Group to win the solicitations issued by Noble for the shelters.

4) Berg, Noble, and Improve Group coordinated to ensure that the quote that Berg submitted was higher than Improve Group's quote.

5) The conduct described in subparagraphs 1, 2, 3, and 4 of this Recital Paragraph K occurred on two solicitations issued under Noble's MRO EUCOM Contracts, which were awarded to Improve Group:

- i. RFQD139436 in 2019, for which the United States paid Noble approximately \$1,018,387 for six rigid wall shelters manufactured by Berg; and
- ii. RFQD143123 in 2020, for which the United States paid Noble approximately \$674,007 for four rigid wall shelters manufactured by Berg.

6) At the request of Noble (through Schulte), JDI Integrations (through James Kerrick), and Spear Limited (through Tristan Setzer), Berg coordinated with Noble, JDI Integrations, and Spear Limited to submit inflated quotes for Berg's rigid wall shelters that Noble submitted to DLA. The purpose of the scheme was for JDI Integrations to win the solicitations issued by Noble for the shelters.

7) Berg, Noble, JDI Integrations, and Spear Limited coordinated to ensure that the quote that Berg submitted was higher than JDI Integration's quote.

8) The conduct described in subparagraphs 1, 2, 6, and 7 of this Recital Paragraph K applied to 26 solicitations issued under Noble's MRO EUCOM Contracts, which were awarded to JDI Integrations for the purchase of 29 rigid wall shelters manufactured by Berg:

- i. 10 solicitations (RFQD143243, RFQD143244, RFQD143245, RFQD143246, RFQD143247, RFQD143248, RFQD143249, RFQD143250, RFQD1432451, RFQD142568) in 2020, for which the United States paid Noble approximately \$2,461,184.80 for 10 rigid wall shelters manufactured by Berg;
- ii. 15 solicitations (which included RFQD143366, RFQD143367, RFQD143368, RFQD143369, RFQD143370, RFQD143371, RFQD143372, RFQD143373, RFQD143374, RFQD143375, RFQD145124, RFQD145125, RFQD145126, RFQD145127) in 2020-2021, for which the United States paid Noble approximately \$2,959,219.95 for 15 rigid wall shelters manufactured by Berg; and
- iii. RFQD146308 in 2021, for which the United States paid Noble approximately \$689,687.60 for four rigid wall shelters manufactured by Berg.

The conduct described in this Recital Paragraph K, and all subparts, is between July 2019 and May 2021, is referred to below as the “Covered Conduct.”

L. The United States contends that it has certain civil claims against Berg for the Covered Conduct. In particular, the United States contends that, as a result of the Covered Conduct, Berg acted knowingly and caused Noble, Improve Group, and JDI Integrations to submit false claims to DLA by knowingly making, using, or causing to be made or used, false records or statements material to a false or fraudulent claim, in violation of 31 U.S.C. § 3729.

M. Berg has been credited in this settlement under the Department of Justice's guidelines for taking disclosure, cooperation, and remediation into account in FCA cases under Justice Manual § 4-4.112. During the course of an internal investigation into the government's concerns, Berg identified the individual substantially responsible for the Covered Conduct; performed and disclosed the results of an internal investigation; responded to requests of the United States to search for, gather, and provide information related to the investigation; disclosed facts and material not known to the government but relevant to its investigation; accepted responsibility for the Covered Conduct; and improved its compliance programs.

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

TERMS AND CONDITIONS

1. Berg shall pay to the United States Three Million and Three Hundred Thousand Dollars (\$3,300,000), plus interest accruing at an annual rate of 4.625 percent from February 17, 2025, until paid in full (the "Settlement Amount"). Of the Settlement Amount, Two Million, Nineteen Thousand, Eight Hundred and Forty-Three Dollars (\$2,019,843) shall constitute restitution to the United States. Berg shall pay the Settlement Amount as follows:

a. Berg shall pay \$750,000, plus accrued interest, to the United States by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney for the District of New Mexico no later than ten (10) days after the Effective Date of this Agreement.

b. Berg shall pay the remainder of the Settlement Amount within one year of the Effective Date of this Agreement, in accordance with the following schedule:

- (1) \$850,000, plus accrued interest on the remaining balance, within three months of the Effective Date;
- (2) \$850,000, plus accrued interest on the remaining balance, within six months of the Effective Date; and
- (3) \$850,000, plus accrued interest on the remaining balance, within nine months of the Effective Date.

c. Berg shall provide full security for all payments owed under this paragraph in the form of lien rights, line of credit, or other security interest on collateral approved by the United States. Berg shall submit the lien, line of credit, or security instrument to the United States for approval and, if necessary, filing within thirty (30) days of the Effective Date of this Agreement.

2. Conditioned upon the United States receiving the Settlement Amount from Berg, the United States agrees that it shall pay to Relators by electronic funds transfer seventeen (17) percent of each such payment received under the Settlement Agreement (“Relators’ Share”) as soon as feasible after receipt

3. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and conditioned upon the United States’ receipt of the Settlement Amount, the United States releases Berg, 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 Contract Disputes Act, 41 U.S.C. §§ 7101 - 7109; 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.

4. Conditioned upon the United States' receipt of the Settlement Amount, each Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases Berg, 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 them; and their officers, agents, and employees, from any civil monetary claim each Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

5. Notwithstanding the release given in Paragraph 3 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 this 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;
- f. Any liability of individuals;
- g. Any liability of any defendant in the Civil Action other than Berg;
- h. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- i. Any liability for failure to deliver goods or services due; and
- j. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

6. Each Relator, for himself, 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 Relators' receipt of Relators' Share, each 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 as to Berg, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action as to Berg.

7. Each Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, releases Berg, together with its current and former direct and indirect parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former corporate owners; the corporate successors and assigns of any of them; and their officers, agents, and employees, from any liability to each Relator arising from

the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs.

8. Berg waives and shall not assert any defenses it 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.

9. Berg 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 Berg 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 and the United States' investigation and prosecution thereof.

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

11. Berg agrees to the following:

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 Berg, and their present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement and any related plea agreement;
- (2) the United States' audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement;
- (3) Berg's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement and any plea agreement;
- (5) the payment Berg makes to the United States pursuant to this Agreement, and any payment Berg may make to Relators, including for fees and costs,

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 Berg, and Berg 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, Berg shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Berg or any of its

subsidiaries or affiliates from the United States. Berg agrees that the United States, at a minimum, shall be entitled to recoup from Berg 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 Berg's books and records and to disagree with any calculations submitted by Berg or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Berg, or the effect of any such Unallowable Costs on the amount of such payments.

12. Berg agrees to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement, including but not limited to Noble, JDI Integrations, Improve Group, Spear Limited, Walt Schulte, Tristan Setzer, Jeremy Mack, and James Kerrick. Upon reasonable notice, Berg shall encourage, and agree not to impair, the cooperation of their directors, officers, and employees, and shall use their best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Berg further agrees to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in their possession, custody, or control concerning any investigation of the Covered Conduct that they have undertaken, or that has been performed by another on their behalf.

13. This Agreement is intended to be for the benefit of the Parties only. The United States does not release any claims against any other person or entity, except to the extent provided for in this Agreement.

14. Upon receipt of the payment described in Paragraph 1, above, and subject to the terms of this Agreement, the United States shall promptly file in the Civil Action a Stipulation of Dismissal of Berg pursuant to Rule 41(a)(1). No other defendant shall be dismissed. The Stipulation of Dismissal shall state that Berg is being dismissed with prejudice to the United States only as to the Covered Conduct released in this Agreement and without prejudice to the United States as to any other claims, and with prejudice to Relators as to all claims against Berg in the Civil Action.

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, but excluding costs under 31 U.S.C. § 3730(d), if applicable.

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

17. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the District of New Mexico. 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 Berg's successors, transferees, heirs, and assigns.

22. This Agreement is binding on Relators' 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: _____ BY: SAMSON ASIYANBI
Digitally signed by
SAMSON ASIYANBI
Date: 2025.07.10
12:27:35 -04'00'
SAMSON O. ASIYANBI
Trial Attorney
Commercial Litigation Branch
Civil Division

DATED: _____ BY: _____
BRIAN LAMACCHIA
LINDSEY ROSS
Assistant United States Attorneys
District of Massachusetts

DATED: 7/8/25 BY: SEAN CUNNIFF
Assistant United States Attorney
District of New Mexico

RELATORS

DATED: _____ BY: _____
ANDREW G. GUNN
Relator

DATED: _____ BY: _____
MARK G. DAVIS
Relator

DATED: _____ BY: _____
MICHAEL D. KOHN
TODD YODER
Kohn, Kohn & Colapinto, LLP

Attorneys for Relators

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____
SAMSON O. ASIYANBI
Trial Attorney
Commercial Litigation Branch
Civil Division

DATED: _____

BY: _____
LINDSEY ROSS Digitally signed by LINDSEY ROSS
Date: 2025.07.08 10:19:47 -04'00'
BRIAN LAMACCHIA
LINDSEY ROSS
Assistant United States Attorneys
District of Massachusetts

DATED: _____

BY: _____
SEAN CUNNIFF
Assistant United States Attorney
District of New Mexico

RELATORS

DATED: _____

BY: _____
ANDREW G. GUNN
Relator

DATED: _____

BY: _____
MARK G. DAVIS
Relator

DATED: _____

BY: _____
MICHAEL D. KOHN
TODD YODER
Kohn, Kohn & Colapinto, LLP

Attorneys for Relators

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____
SAMSON O. ASIYANBI
Trial Attorney
Commercial Litigation Branch
Civil Division

DATED: _____

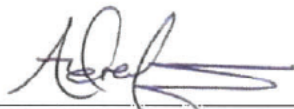
BY: _____
BRIAN LAMACCHIA
LINDSEY ROSS
Assistant United States Attorneys
District of Massachusetts

DATED: _____

BY: _____
SEAN CUNNIFF
Assistant United States Attorney
District of New Mexico

RELATORS


DATED: 9 JULY 2025

BY: 
ANDREW G. GUNN
Relator

DATED: 9 July 2025

BY: 
MARK G. DAVIS
Relator

DATED: July 9, 2025

BY: 
MICHAEL D. KOHN
TODD YODER
Kohn, Kohn & Colapinto, LLP

Attorneys for Relators

BERG COMPANIES, INC. - DEFENDANT

DATED: 7/9/2025

BY: Robert E. Joyce

BOB JOYCE
President and CEO
Berg Companies, Inc.

DATED: 7/10/2025

BY: [Signature]

J SEPH FOLIO III
LISA PHELAN
ALEX WARD
Morrison Foerster LLP

Attorneys for Berg Companies, Inc.