

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (“Agreement”) is entered into between the following (hereinafter the “Parties”) through their authorized representatives: the United States of America, acting through the United States Department of Justice and on behalf of the U.S. Department of Defense (“DoD”), the Defense Logistics Agency (“DLA”), and the Defense Supply Center Columbus (“DSCC”) (collectively, the “United States”); and New York Machinery, LLC (“NYM”) through its counsel, Patrick Mullin.

II. PREAMBLE

As a Preamble to this Agreement, the Parties agree to the following:

A. New York Machinery, LLC, is a company that did business with the DoD. The DSCC is a field activity center of the DLA, which is a component of the DoD. The DoD utilized the DSCC as one of its primary contracting and inventory control points.

B. With respect to the period from in or around December 22, 2003 to in or around January 24, 2005, the United States alleges the following Covered Conduct:

1. NYM submitted quotes for contracts under which NYM would supply certain parts to the DSCC;

2. Each contract required the contractor to supply the “exact product” required by the DoD in the form of a specific product manufactured by a specific manufacturer;

3. Each quote that NYM submitted included a price quote for the specific product manufactured by the specific manufacturer that the DoD required under the contract.

Each quote also included a representation by NYM that it understood that the contract upon

which it was quoting required it to supply a specific product manufactured by a specific manufacturer; that no substitutions would be permitted; and that products manufactured by anyone other than the specified manufacturer would be considered unacceptable;

4. Upon supplying parts under each contract won by NYM, NYM submitted a DoD Form 250 that represented that the parts supplied met the DoD's specifications under the contract;

5. During the above time frame, NYM supplied parts manufactured by unapproved manufacturers with respect to forty-two (42) contracts;

C. Thus, NYM submitted or caused to be submitted false claims for payment to the DoD.

D. As a result of these activities, the United States alleges that it has certain civil claims against NYM pursuant to the False Claims Act, 31 U.S.C. §§ 3729-3733, other federal statutes, and/or common law doctrines (hereinafter the "Covered Conduct").

E. NYM denies the United States' allegations. This Agreement is neither an admission of liability by NYM nor a concession by the United States that its claims are not well-founded.

F. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of these claims, the Parties reach a full and final settlement as set forth in this Agreement.

III. TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration as stated herein, the Parties agree as follows:

A. NYM agrees to pay to the United States the sum of \$200,000 (the "Settlement Amount"). The Parties agree that the entire Settlement Amount due shall be paid, in accordance with the instructions provided by the U.S. Attorney's Office, by electronic funds transfer to the United States Department of Justice, ~~within 15 days of the execution of this agreement.~~ *ON OR BEFORE DECEMBER 31, 2010*. It is agreed and understood that this payment is independent of, and in addition to, any amount of restitution that may be ordered by the court in any criminal matter involving the covered conduct. Complete payment in accordance with the above will satisfy NYM's civil obligations to the United States for the Covered Conduct (except as specifically limited below).

B. NYM, H. Galip Dedekarginoglu, and the United States, previously entered into agreements intended to toll any statute of limitations with respect to the Covered Conduct until March 15, 2011. NYM and Dedekarginoglu agree that, should the terms of this settlement agreement not be met, and thus the case returns to civil litigation concerning the Covered Conduct, NYM will not assert nor rely upon in any way in computing the running of time under any applicable statute of limitations, or by way of laches or other time limitation (whether statutory, contractual, or otherwise), the period between December 9, 2009 and the earlier of: (1) the date of filing of suit by the United States; and (2) March 15, 2011.

C. Subject to the exceptions and exclusions specifically enumerated in paragraphs F and G below, in consideration of the obligations of NYM set forth in this agreement, conditioned upon NYM payment in full of the Settlement Amount, the United States fully and finally releases NYM, together with its current or former subsidiaries, affiliates (specifically including Karginoz), members (including Dedekarginoglu), officers, directors, employees, and agents and the successors and assigns of any of them, from any civil claim the United States may have under the False Claims Act, 31 U.S.C. §§ 3729-2733, or the common law theories of fraud, payment by mistake, or unjust enrichment.

D. NYM, together with its current or former subsidiaries, affiliates (specifically including Karginoz), members (including Dedekarginoglu), officers, directors, employees, and agents and the successors and assigns of any of them, fully and finally releases, compromises, acquits and forever discharges the United States, its agencies, officers, agents, employees, and contractors (and their employees) from any and all claims, causes of action, adjustments, and set-offs of any kind which NYM could have asserted, or might assert in the future, against the United States, its agencies, officers, agents, employees, and contractors (and their employees) arising out of or pertaining to the Covered Conduct, including the United States' investigation, prosecution, or settlement thereof.

E. If NYM's agreed-upon guilty plea in the related Criminal Action is not accepted by the Court, or the Court does not impose the agreed-upon sentence for any reason, the parties agree that this civil settlement agreement shall have no bearing on the Criminal Action and should not be admissible as evidence against NYM or Dedekarginoglu in the Criminal Action.

F. The DSCC, or others acting on behalf of the DoD, expressly reserves all rights to institute, direct, or to maintain any administrative action against NYM as permitted by law, and this Settlement Agreement makes no representation as to any possible administrative action, including any action for suspension or debarment.

G. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person are any and all of the following:

1. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (commonly referred to as the Internal Revenue Code);
2. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
3. Any liability based upon such obligations as are created by the execution of this Agreement;
4. Any liability for personal injury or property damage, or for other similar consequential damages, arising from the Covered Conduct;
5. Any claims by entities other than the United States under any other provision of law, based on the Covered Conduct.

H. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other individual, employee, or entity, except to the extent provided for specifically herein.

I. The Parties expressly warrant that, in evaluating whether to execute this Agreement, they:

1. have intended that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to NYM and Dedekarginoglu, within the meaning of 11 U.S.C. § 547(c)(1); and

2. have concluded that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange.

J. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to, and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which NYM was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

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

L. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between or among the Parties will be in the United States District Court for the District of New Jersey.

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

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

O. This Agreement is binding on the successors, transferees, heirs, and assigns of the United States and NYM.

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

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

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA:

PAUL J. FISHMAN
United States Attorney

Dated: 12/15/10 By: _____



DAVID E. DAUENHEIMER
Assistant U.S. Attorney
District of New Jersey
970 Broad Street
Newark, NJ 07102

FOR NEW YORK MACHINERY:

Dated: 12/09/2010 By: _____



GALIP DEBEKARGINOGLU

Dated: 12/09/10 By: _____



PATRICK A. MULLIN, ESQ.
One Parker Plaza, Suite 1400
Fort Lee, NJ 07024-2943

GUARANTY AGREEMENT

This Guaranty Agreement is entered into as of December 9, 2010 by and among H. Galip Dedekarginoglu ("Guarantor") and the United States of America ("United States") (collectively the "Parties").

WHEREAS Guarantor is/was the majority owner of New York Machinery, LLC ("NYM");

WHEREAS the United States has conducted an investigation of NYM regarding possible violations of the False Claims Act;

WHEREAS, the United States and NYM wish to settle, compromise, and resolve all issues and disputes between them through the execution of a Settlement Agreement, dated December 9, 2010 and Exhibits thereto, including this Guaranty Agreement;

WHEREAS, Guarantor is majority owner of NYM which is released by the terms of the Settlement Agreement;

WHEREAS, NYM has executed the Settlement Agreement wherein NYM promises to pay the United States the Settlement Amount of two-hundred thousand dollars (\$200,000);

WHEREAS, at the time of execution of this Guaranty Agreement, Guarantor remains a majority owner of NYM.

IT IS HEREBY AGREED that, in exchange for adequate consideration, the Parties shall undertake the following obligations:

TERMS AND CONDITIONS

1. **Statement of Guaranty.** The Guarantor unconditionally guarantees the prompt payment of the full Settlement Amount by NYM as set forth in the Settlement Agreement.
2. **Nature of Guaranty.** The Guaranty set forth in Paragraph 1 of this Agreement constitutes a guaranty of payment of the full Settlement Amount by NYM as set forth in the Settlement Agreement, and shall not be affected by any event, occurrence or circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety (other than full and complete payment of the Settlement Amount). In the event that any payment by NYM pursuant to the Settlement Agreement is rescinded or must otherwise be returned by virtue of any action by any bankruptcy court, the Guarantor shall remain liable hereunder with respect to such Settlement Amount as if payment had not been made. The Guarantor agrees that the United States may resort to Guarantor for payment of any of the Settlement Amount, without regard to whether the United States shall have proceeded against any other person or entity primarily or secondarily obligated with respect to any of the Settlement Amount.

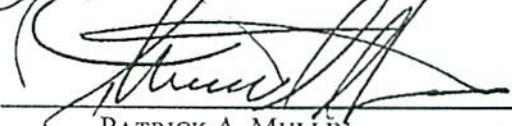
3. **Acceleration.** Guarantor agrees that, within ten days of receipt of written notice from the United States that NYM has failed to make payment as required by the Settlement Agreement, Guarantor will be obligated to pay in full the amount then due under the Settlement Agreement. Guarantor understands that the failure to adhere fully to the terms of this paragraph would be a material breach of this Guaranty Agreement.
4. **No Waiver; Cumulative Rights.** No failure on the part of the United States to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the United States of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to the United States or allowed by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by the United States from time to time.
5. **Effective Date.** This Guaranty Agreement shall become effective on the date the Settlement Agreement is executed.
6. **Subrogation.** Guarantor shall not exercise any subrogation rights it may acquire against NYM as a result of this Guaranty Agreement until all of the Settlement Amount to the United States has been paid in full.
7. **Waiver of Notice.** Guarantor waives notice of the acceptance of this Guaranty, presentment, demand, notice of dishonor, protest, and all other notices whatsoever.
8. **Duration.** This Guaranty shall continue in full force and effect until all of the Settlement Amount has been paid in full.
9. **Entire Agreement.** Each Party hereto represents and warrants that this Agreement constitutes a valid and binding agreement enforceable against each Party in accordance with its terms. This Agreement embodies the entire guaranty agreement between the Parties. There are no promises, terms, conditions, or obligations other than those contained in this Agreement. This Agreement supersedes all previous communications, representations or agreements either verbal or written between Guarantor and the United States.
10. **Severability.** Should any one or more provisions of this Agreement be determined to be illegal, unenforceable, void or voidable, all other provisions shall remain in effect.
11. **Assignment.** No Party hereto may assign its rights, interest or obligations hereunder to any other person or entity without prior written consent of the other Party. The provisions of this Agreement shall be binding on the Parties hereto and their successors and assigns.
12. **Miscellaneous.** This Agreement shall not be amended except in a writing signed by all Parties. Each signatory hereto represents and warrants that he or she is authorized to execute and deliver this Agreement on behalf of the Party for whom he or she is

purporting to act. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

13. Governing Law; Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with federal common law. The Parties consent to the jurisdiction of the United States District Court for District of New Jersey in any action to enforce any term of this Agreement. Guarantor hereby appoints Patrick Mullin, Law Offices of Patrick A. Mullin, One Parker Plaza, Suite 1400, Fort Lee, NJ 07024 or his successor, as its agent for service of process.

H. GALIP DEDEKARGINOGLU

DATED: 12/09/10 BY: 
H. GALIP DEDEKARGINOGLU

DATED: 12/09/10 BY: 
PATRICK A. MULLIN
Counsel for Mr. Dedekarginoglu and NYM

THE UNITED STATES OF AMERICA

PAUL J. FISHMAN
United States Attorney

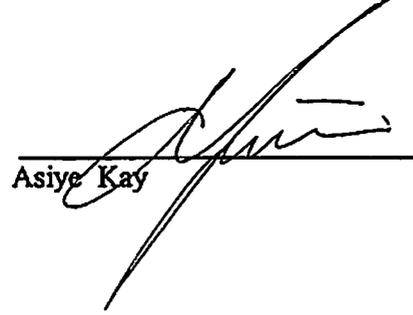
DATED: 12/15/10 BY: 
DAVID E. DAUENHEIMER
Assistant United States Attorneys
District of New Jersey

CERTIFICATE OF TRANSLATION

I, Asiye Kay, a Turkish interpreter, do hereby declare that I have translated "Settlement Agreement with New York Machinery, LLC" attached hereto from English to Turkish completely and accurately to the best of my ability.

Dated: December 9, 2010

By:


Asiye Kay