

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into among the United States of America, acting through the United States Attorney's Office for the Eastern District of California (collectively the "United States") and Sierra Nevada Corporation ("SNC") (hereafter collectively referred to as the "Parties"), through their authorized representatives.

RECITALS

A. SNC is a Nevada corporation that provides services to agencies of the United States pursuant to various defense and space contracts. SNC is headquartered in Sparks, Nevada.

B The United States contends that it has certain civil claims against SNC arising from the following conduct by SNC:

(1) Misclassification of certain direct contract costs and Manufacturing and Production Engineering ("MPE") costs as Independent Research and Development ("IR&D") costs between fiscal years ("FY") 2007 and 2011 for the IR&D projects and associated contracts/projects listed in Attachment A hereto.

(2) Charging certain IR&D costs in the wrong cost accounting period for the IR&D projects and associated contracts/projects listed in Attachment B hereto.

This conduct resulted in SNC applying overstated General & Administrative (G&A) rates to its government contracts for FY 2007 through FY 2011. The conduct described in this paragraph is referred to hereafter as the Covered Conduct.

C. This Settlement Agreement is neither an admission of liability by SNC nor a concession by the United States that its claims are not well founded.

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. SNC shall pay to the United States the total sum of \$14,888,779, as follows:
 - a. SNC shall pay \$13,794,069 plus accrued interest at the rate of 3% per annum from November 1, 2016, and continuing until and including the day of payment (the "Settlement Amount"), by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney for the Eastern District of California on or before the latter of ten (10) business days after the Effective Date of this Agreement or five (5) business days after receiving the above-referenced written instructions. If payment is not timely received, SNC shall also pay the interest on the Settlement Amount at a rate of 10% in addition to the 3% noted above (13%) from the date payment was due through the date payment is received;
 - b. SNC represents and warrants that it has reimbursed to the United States the remaining sum of \$1,094,710, through downward adjustments to final G&A rates for fiscal years 2007 and 2008.
2. Subject to the exceptions in Paragraph 3 (concerning excluded claims) below, and conditioned upon SNC's full payment of the Settlement Amount, the United States later releases SNC 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; 41 U.S.C §§ 7101-

7109; or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

3. Notwithstanding the release given in paragraph 2 of this Agreement, or any other term of this Agreement, the following claims 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, 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 for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- h. Any liability for failure to deliver goods or services due;
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

4. SNC waives and shall not assert any defenses SNC 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. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

5. SNC fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that SNC 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. SNC hereby expressly waives all rights it may have by virtue of Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO
CLAIMS WHICH THE CREDITOR DOES NOT KNOW
OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
THE TIME OF EXECUTING THE RELEASE, WHICH IF
KNOWN BY HIM OR HER MUST HAVE
MATERIALLY AFFECTED HIS OR HER
SETTLEMENT WITH THE DEBTOR.

SNC's releases herein shall be effective whether or not they release claims that are currently known, unknown, foreseen or unforeseen.

6. 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 SNC, 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) SNC'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 attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment SNC makes to the United States pursuant to this Agreement,

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

7. SNC agrees to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement. Upon reasonable notice, SNC shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its 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. SNC 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 its possession, custody, or control concerning any investigation of the Covered Conduct that it has undertaken, or that has been performed by another on its behalf.

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

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

10. SNC warrants that it has been represented by, and has sought and obtained the advice of, independent legal counsel with regard to the nature, purpose, and effect of this Agreement. The Agreement was negotiated by the Parties and their respective counsel, each of whom had the opportunity to participate in the drafting thereof. SNC hereby declares that the terms of this Agreement have been completely read, fully

understood, and voluntarily accepted following opportunity for review by legal counsel of their choice.

11. Each of the Parties and each signatory to this Agreement warrants and represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion whatsoever, after having been apprised of all relevant information and data by its legal counsel. Each of the Parties further warrants and represents that no other Party or its representative has made any promise, representation or warranty, express or implied, except as expressly set forth in this Agreement, and that no Party has relied on any inducements, promises, or representations made by any Party to this Agreement, or its representatives, or any other person, except as expressly set forth herein.

12. 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 Eastern District of California. 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.

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

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

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

16. This Agreement is binding on SNC's successors, transferees, heirs, and assigns.

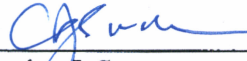
17. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

18. 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.

THE UNITED STATES OF AMERICA

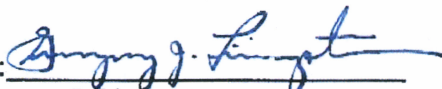
PHILLIP A. TALBERT
United States Attorney

Dated: 2/10/2017

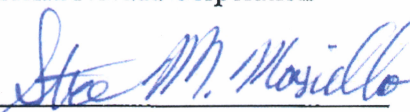
By: 
Catherine J. Swann
Assistant U.S. Attorney

SIERRA NEVADA CORPORATION

Dated: February 10, 2017

By: 
Gregory J. Livingston
Corporate Director Legal Counsel
For Sierra Nevada Corporation

Dated: February 10, 2017

By: 
Steven M. Masiello
Dentons US LLP
Counsel for Sierra Nevada Corporation

**Attachment A
Misclassified IR&D Costs**

IR&D Project Number(s)	Contract/Project	Contract Project Number(s)
102241	W911W605C0018	109610
102252	HR001105C0052	109464
102261	VSAT RC-135 Reach Back-PU	109823; 109849
102271	AVIPSS II Tasks	109850
102282	W912HZ-04-C-0005; W31P4Q-04-C-R044; N00178-04-C-1024; W911NF-04-C-0051	109854; 109855; 109856; 109857
102285	Balance Sheet Account	Acct 01400-10
102290	W904TE-06-C-6138	109783
102291	H98230-06-G0005-0001	110017
102294	HR001106C0020	109582
180005	N00019-05-C-1351	110121
180011	FA8620-06-G4026/0001	110137
180021	W9132V-07-C-0005	110090
180025	Indirect Project	100000
180029	H92222-06-D-0013	209080
180036	OG2 Satellite	110524
180044	Boomerang	110270
180045	ATP - S780 Universal Communicat	110393
180056	H92222-06-D0013-0006	110440
180059	FA8620-06-G4026/0056	110559
180060	ATP - ASPO Tectni-Net Mesh Card	110174
180069	N65236-07-D-5880	110162
180073	B&P - IEDES 2007 BP	160186
180077	N00024-08-C-6307	110558
180077	N00024-08-C-6307	110558
180078	ABC Baggage Pod Radome	109838
180081	Transfer MSI Project	110739
180083	IC WO	110740
180086	FA8750-05-C-0002	109541
180091	ATP - Phoenix Re Program N00024-09-C-6306	110784; 110968
180092	H92222-06-D0013-0006	110628
180094	ATP - ASPO THDD IDIQ Mesh Card	110625
180103	W15P7T-06-D-N218	100115
180136	W15P7T-06-D-N218	110015

**Attachment A
Misclassified IR&D Costs**

IR&D Project Number(s)	Contract/Project	Contract Project Number(s)
180139	Indirect Project	100113
180145	B&P - Misc Fusion and Trans BP	160349
180146	W91CRB-06-D0054/0016	111404
180158	FA7037-07-F-8156	110132
180176	FA8620-06-G4026-0070; FA8620-06-G-4026-128	110699; 111070
180185	HiDVE	111043
180193	W911QY-09-C-0065	111083
180201	M151326; PO JV0931601	110152; 110748
180203	N65236-07-D5880 CLINN 0001	110724
180204	UH 72 Mission Equip Pack	110949
180219	FA8750-09-C-0072	110969
180222	ATP - Continuation of SP2 Softw	111167
180226	HSBP1009D02370	111299
180231	FA8620-06-G4026-0097; FA8620-06-G4026-0173	110838; 111589
180233	Nevada Army National Guard (Phase 1) Project	111276
180233	Nevada Guard Solar	111276
180240	FA8629-09-C-2445	111286
180246	N61339-01-D-0715	111573
180268	SKL Simulator AAI Textron	111738
180272	JX-PSPC-281426-0A	110992
180310	B&P - Korea C 130	160627
180311	Adjusting Project Entry	Acct 02000-10
180321	B&P - Small Sat Opportunities	160553
180325	S-730482-ARP	111014
180337	Indirect Project; NNK11MS01S	100000; 120071
180340	Indirect Project	100000
180344	8100001898	111025
180348	B&P - 2011 Small SAT Opportunit	160666
180371	B&P - 2011 HLS OGA Pursuits	160661
180373	M28 FTD	112337
180376	SOC/CFD/ACWE/2009/563	111362
180376	SOC-CFD-ACWE-2009563	111362
180378	FA8620-06-G4026-0180	111709
180394	PO No 003511	111760

**Attachment A
Misclassified IR&D Costs**

IR&D Project Number(s)	Contract/Project	Contract Project Number(s)
102286; 602210	Indirect Project; N417565-06-C-5598; W9132V-06-D0003-0024; SP310005F0429; SP310005F0429 PO0002	6BUMKT; 110067; 609049; 609051; 109847; 109691
180022; 180093	NBCHC050091; Indirect Project	609035; 100000
180023; 180068	4301000083; B&P - Automotive Radar; N00178-04-C-1024; 401640	110123; 160126; 110731; 110369
180024; 180027	B&P - S-805 WSMR CRIIS 2007 B&P	160062
180090; 180198	W9132V-06-D0003-DO10	110180
180133; 180134	FA8620-06-G4026-0130	111177
180136; 180202; 180336	OG2 Satellite Bus SB	110764
180138; 180168; 180214	W15P7T-07-C-W009; DAAB07-03-D-B012; W15P7T-07-W009; B&P - OGA 900	110957; 110469; 110824; 160338
180175; 180181	LTPA 3288	111005
180175; 180188; 180181	EDPAM 2; Loral	111034; 111013
180192; 180196	DAAB07-03-D-B009	111112
180202; 180336	OG2 Satellite; Indirect Project	110524; 6MH900
180252; 180253; 180374; 180366	FA8620-06-G4026-0139; FA8620-06-G4026-0197; 2011-01; TACLAN-I4-06-014/005; TACLAN-I4-06-014/004	111348; 120146; 112137; 120112; 110312
180325; 180380	8700465	111452

**Attachment B
IR&D Costs Charged in the Wrong Cost Accounting Period**

IR&D Project Number(s)	Contract Number(s)	Contract Project Number(s)
180268	ATP	111453
180224	ATP	111133
180209	W9132V-06-D-0003-DO22	110080.022
180036; 180046	S280000032	110067
102261	VSAT RC-135 Reach Back-PU	109823
180188	Loral Enhanced Deployment	111013
180231	FA8620-06-G4026-0124; FA8620-06-G4026-0097	110809; 110838
180201	M151326	110152
180202	OG2	110524
180196	Indirect	100000
180376	SOC-CFD-ACWE-2009563	111362
180394	AFIRS Spiral Development	111760
180091	H92222-06-D-013-0009	110810