

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 U.S. Department of Homeland Security and U.S. Department of Agriculture (USDA), (collectively the "United States"), Defendants Hahn Air Lines GmbH and Hahn Air USA Inc. (collectively, "Hahn Air") and Relator MGSNOVA Advisory, LLC (Relator), through its authorized representatives. Collectively, all of the above parties will be referred to as "the Parties."

RECITALS

A. Hahn Air Lines GmbH is a privately owned limited liability company based in Germany. Hahn Air USA Inc. is a privately owned corporation, incorporated in the State of Minnesota, where it has an office in Minneapolis, Minnesota that transacts business throughout the United States on behalf of the Hahn Air Lines GmbH.

B. At all relevant times, Hahn Air Lines GmbH operated as a commercial travel company whose primary business included offering an electronic ticketing database that allows travel agencies worldwide to issue airline passenger tickets exclusively for travel on airlines based on so-called "interline" agreements that Hahn Air Lines GmbH has with airlines around the world. Pursuant to its business model, Hahn Air Lines GmbH collects the airfare charges, taxes, and fees associated with those tickets. Hahn Air Lines GmbH remits the airfare charges and certain so-called "interlineable" fees to its partner airlines that transport the passengers; it retains for itself a service fee and other taxes and fees – sometimes referred to as "non-interlineable" fees – for remittance to various government entities around the world, including the United States.

C. On November 19, 2015, Relator filed a *qui tam* action in the United States District Court for the District of Columbia captioned *United States ex rel. MGSNOVA Advisory, LLC v. Hahn Air*, Case No. 15-cv-02184, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the Civil Action).

D. The United States contends that it has certain civil claims against Hahn Air arising from the following conduct (hereinafter referred to as the “Covered Conduct”):

1. During the period January 1, 2012 through December 31, 2017, Hahn Air knowingly and improperly avoided or decreased its obligation to remit or transmit to the United States the following fees that Hahn Air had previously collected by third-party ticket agents from airline passengers purchasing Hahn Air tickets: (1) Animal and Plant Health Inspection Service Agricultural Quarantine and Inspection User Fees owed to the USDA; (2) Custom User Fees owed to Customs and Border Protection (CBP); and (3) Immigration User Fees owed to CBP.

2. During the period January 1, 2012 through January 31, 2018, Hahn Air knowingly and improperly avoided or decreased its obligation to remit or transmit to the United States the following fee that Hahn Air had previously collected by third-party ticket agents from airline passengers purchasing Hahn Air tickets: Passenger Civil Aviation Security Service Fees owed to the Transportation Security Administration (TSA).

E. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Agreement and to Relator’s reasonable expenses, attorneys’ fees and costs.

F. This Agreement is neither an admission of liability by Hahn Air nor a concession by the United States or the Relator that their 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 Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Hahn Air shall pay to the United States the sum of \$26,817,646.50 (the Settlement Amount), of which \$18,317,716 is federal restitution (the Restitution Amount). Hahn Air shall be credited \$16,083,192 towards the Settlement Amount for previous remittance payments made by Hahn Air to the United States, and Hahn Air shall pay to the United States the remaining balance of \$10,734,454.50 by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Attorney's Office for the District of Columbia no later than 20 business days after the Effective Date (defined below) of this Agreement or the receipt of the written payment instructions, whichever is later.

2. Conditioned upon the United States receiving the Settlement Amount and as soon as feasible after receipt, the United States shall pay \$4,827,176 to Relator by electronic funds transfer (Relator's Share). No other relator payments shall be made by the United States with respect to the matters covered by this Agreement.

3. Hahn Air shall pay Relator for expenses, attorneys' fees, and costs pursuant to 31 U.S.C. § 3730(d) the sum of \$ 354,800 no later than 20 business days after the Effective Date of this Agreement by electronic funds transfer pursuant to written instructions to be provided by Relator's counsel.

4. Subject to the exceptions in Paragraph 6 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount, the United States releases Hahn Air 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, Relator, for itself and for its heirs, successors, attorneys, agents, and assigns, releases Hahn Air 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;
- f. Any liability of individuals;

7. Relator and its 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 its 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.

8. Subject to the exceptions in Paragraph 12 below, and upon Relator's receipt of the amount set forth in Paragraph 3, Relator, for itself, and for its heirs, successors, attorneys, agents, and assigns, releases Hahn Air, and its 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 reasonable expenses incurred, attorneys' fees, and costs.

9. Hahn Air waives and shall not assert any defenses Hahn Air 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.

10. Hahn Air 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 Hahn Air 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 or the United States' investigation or prosecution thereof.

11. Hahn Air releases Relator, and its officers, agents, and employees, from any liability arising from the filing of the Civil Action, or for reasonable expenses incurred, attorneys' fees, and costs.

12. Nothing in this Agreement shall release any claims by Relator alleged in the Amended Complaint against Hahn Air under the state and local False Claims Act statutes, or any other claim not specifically released.

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 Hahn Air, 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) Hahn Air'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 attorneys' fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment Hahn Air makes to the United States pursuant to this Agreement and any payments that Hahn Air may make to Relator, including reasonable expenses incurred, attorneys' 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 Hahn Air, and Hahn Air 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, Hahn Air shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Hahn Air or any of its subsidiaries or affiliates from the United States. Hahn Air agrees that the United States, at a minimum, shall be entitled to recoup from Hahn Air 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 Hahn Air's books and records and to disagree with any calculations submitted by Hahn Air or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Hahn Air, 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 payment described in Paragraph 1, above, the United States and Relator shall promptly sign and file in the Civil Action a Notice of Dismissal pursuant to Rule 41(a)(1). The Notice of Dismissal shall state that: (1) claims for the allegations described in the Covered Conduct are dismissed with prejudice as to the United States; (2) all other claims in the Civil Action shall be dismissed without prejudice as to the United States; and (3) all claims in the Civil Action shall be

dismissed with prejudice as to the Relator, except for claims asserted by Relator under state and local statutes.

16. Except as provided otherwise in this Agreement, 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 Columbia. 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.

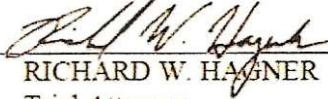
22. This Agreement is binding on Hahn Air's successors, transferees, heirs, and assigns.

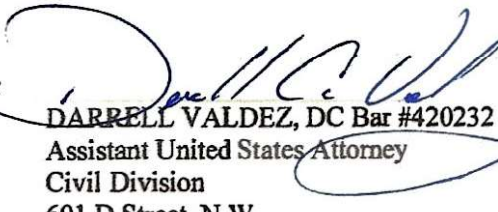
23. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

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


25. 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


DATED: February 9, 2024 By: 
RICHARD W. HAGNER
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 2/9/2024 By: 
DARRELL VALDEZ, DC Bar #420232
Assistant United States Attorney
Civil Division
601 D Street, N.W.
Washington, D.C. 20530

HAHN AIR

DATED: 9th Feb 2024 By: 
KIRSTEN REHMANN
CEO, Hahn Air
An der Trift 65
63303 Dreieich Germany

RELATOR

DATED: 2/9/2024 By: 
Counsel for Relator
David K. Colapinto
Kohn, Kohn & Colapinto, LLP
1710 N Street, N.W.
Washington, D.C. 20036