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JUDGE JORGE LUIS ALONSO
United States District Court

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA

No. 19-CR-657

v.

Judge Jorge L. Alonso

PCI FLORTECH, INC.

PLEA AGREEMENT

1. This Plea Agreement between the UNITED STATES OF AMERICA and the defendant, PCI FLORTECH, INC., a corporation organized and existing under the laws of Illinois, is made pursuant to Rule 11 of Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(C), as more fully set forth below. The parties to this Plea Agreement have agreed upon the following:

Charge in This Case

2. The Information in this case charges the defendant with entering into and engaging in a combination and conspiracy with other companies and individuals to suppress and eliminate competition by agreeing to rig bids and fix prices of commercial flooring services and products sold in the United States beginning at least as early as 2009, and continuing through at least June 22, 2017, in the Northern District of Illinois and elsewhere, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

Rights of Defendant

3. The defendant understands its rights:

- a. to be represented by an attorney;
- b. to be charged by Indictment;
- c. to plead not guilty to any criminal charge brought against it;
- d. to have a trial by jury, at which it would be presumed not guilty of the charge and the United States would have to prove every essential element of the charged offense beyond a reasonable doubt for it to be found guilty;
- e. to confront and cross-examine witnesses against it and to subpoena witnesses in its defense at trial;
- f. to appeal its conviction if it is found guilty; and
- g. to appeal the imposition of sentence against it.

Agreement to Plead Guilty and Waive Certain Rights

- 4. The defendant knowingly and voluntarily waives:
 - a. the rights set out in subparagraphs 3(b)-(e) above;
 - b. the right to file any appeal or collateral attack that challenges its conviction, including but not limited to any appeal or collateral attack raising any argument that (1) the statute to which it is pleading guilty is unconstitutional or (2) the admitted conduct does not fall within the scope of such statute; and
 - c. the right to file any appeal or collateral attack, including but not limited to an appeal under 18 U.S.C. § 3742, that challenges the sentence imposed by the Court if that sentence is consistent with or below the Recommended Sentence in Paragraph 12 of this Plea Agreement, regardless of how the sentence is determined by the Court. For purposes of the waiver of appeal or collateral attack of the sentence, the sentence imposed is deemed consistent with or below the Recommended Sentence

in Paragraph 12 even if the sentence imposed includes a term of probation if it is otherwise consistent with or below the Recommended Sentence in Paragraph 12, unless the term of probation exceeds the length authorized by 18 U.S.C. § 3561(c). This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b) and (c).

d. Nothing in this Paragraph 4 however, will act as a bar to the defendant perfecting any legal remedies it may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct. The defendant agrees that there is currently no known evidence of ineffective assistance of counsel or prosecutorial misconduct.

e. Pursuant to Federal Rule of Criminal Procedure 7(b), the defendant will waive indictment and plead guilty to a one-count Information to be filed in the United States District Court for the Northern District of Illinois.

5. The defendant will plead guilty to the criminal charge described in Paragraph 2 above pursuant to the terms of this Plea Agreement and will make a factual admission of guilt to the Court in accordance with Federal Rule of Criminal Procedure 11, as set forth in Paragraph 6 below.

Factual Basis for Offense Charged

6. The defendant will plead guilty because it is in fact guilty of the charge contained in the Information. In pleading guilty, the defendant admits the following facts, and each and every fact contained in the Information, and that those facts establish its guilt beyond a reasonable doubt to the charge contained in the Information:

a. For purposes of this Plea Agreement, the “Relevant Period” is that period beginning at least as early as 2009, and continuing through at least June 22, 2017.

b. During the Relevant Period, the defendant was a corporation organized and existing under the laws of Illinois, with its principal place of business in this District. During the Relevant Period, the defendant was a provider of commercial flooring services and products in the United States, and employed 10 or more individuals. Providers of commercial flooring services and products remove any preexisting flooring products at the job site, prepare the floor surface for installation, and install new flooring materials, including but not limited to carpet, wood, vinyl, tile, and laminate flooring products.

c. During the Relevant Period, Company B and Company C were corporations organized and existing under the laws of Illinois with principal places of business located in the District, and were providers of commercial flooring services and products in the United States.

d. During the Relevant Period, the defendant, through its officers and employees, participated in a conspiracy with other companies and individuals engaged in the sale of commercial flooring services and products, including Company B and Company C, the primary purpose of which was to suppress and eliminate competition by agreeing to rig bids and fix prices of commercial flooring services and products sold in the United States. In furtherance of the conspiracy, the defendant, through its officers and employees, attended meetings and participated in

conversations with representatives of other companies that provide commercial flooring services and products in order to discuss methods for rigging bids and fixing the prices of commercial flooring services and products. During these meetings and conversations, the defendant, through its officers and employees, and its co-conspirators agreed to rig bids and fix the prices of commercial flooring services and products to be sold in the United States.

e. The defendant and its co-conspirators exchanged pricing-related information to enable co-conspirator companies to submit complementary bids for commercial flooring services and products to potential customers, so that the agreed-upon co-conspirator would win the business. The defendant's former owner—now deceased—organized and directed the defendant's exchange of pricing information and submission of complementary bids, and he derived a financial benefit from the defendant's participation in the conspiracy.

f. The largest contract on which the defendant submitted a complementary bid in connection with the conspiracy was in the amount of \$2,186,177.00. The contract ultimately was awarded to Company B, the lowest bidder, in accordance with the agreement.

g. During the Relevant Period, the defendant and its co-conspirators sold commercial flooring services and products in the United States in a continuous and uninterrupted flow of interstate trade and commerce. In addition, records and documents necessary for the sale and provision of such services and products by the corporate conspirators, as well as payments and solicitations for those services and

products, traveled in interstate commerce. The business activities of the defendant and its co-conspirators in connection with the sale and provision of commercial flooring services and products that were the subject of this conspiracy were within the flow of, and substantially affected, interstate trade and commerce.

h. Acts in furtherance of this conspiracy were carried out within the Northern District of Illinois and elsewhere. Commercial flooring services and products that were the subject of this conspiracy were sold by one or more of the conspirators to customers in this District and elsewhere.

Elements of the Offense

7. The elements of the charged offense are that:

- a. the conspiracy described in the Information existed at or about the time alleged;
- b. the defendant knowingly became a member of the conspiracy; and
- c. the conspiracy described in the Information either substantially affected interstate commerce in goods or services or occurred within the flow of interstate commerce in goods and services.

Maximum Statutory Penalties

8. The defendant understands that the charge to which it is pleading guilty carries a fine in an amount equal to the greatest of:

- a. \$100 million, pursuant to 15 U.S.C. § 1; or
- b. twice the gross pecuniary gain the conspirators derived from the offense, or twice the gross pecuniary loss resulting from the offense, whichever is greatest, pursuant to 15 U.S.C. § 1 and 18 U.S.C. § 3571(b) and (d).

9. In addition, the defendant understands that:

a. pursuant to U.S.S.G. § 8D1.2(a)(1) or 18 U.S.C. § 3561(c)(1), the Court may impose a term of probation of at least one year, but not more than five years;

b. pursuant to U.S.S.G. §8B1.1 or 18 U.S.C. § 3563(b)(2), the Court may order it to pay restitution to the victims of the offense; and

c. pursuant to 18 U.S.C. § 3013(a)(2)(B), the Court is required to order the defendant to pay a \$400 special assessment upon conviction for the charged crime.

Sentencing Guidelines

10. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider, in determining and imposing sentence, the Guidelines Manual in effect on the date of sentencing unless that Manual provides for greater punishment than the Manual in effect on the last date that the offense of conviction was committed, in which case the Court must consider the Guidelines Manual in effect on the last date that the offense of conviction was committed. The parties agree that there is no *ex post facto* issue under the November 2018 Guidelines Manual. The Court must also consider the other factors set forth in 18 U.S.C. § 3553(a) in determining and imposing sentence. The defendant understands that the Court will make Guidelines determinations by applying a standard of preponderance of the evidence. The defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable

Guidelines range, its sentence must be reasonable based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

11. Pursuant to U.S.S.G. § 1B1.8, the United States agrees that self-incriminating information that the defendant provides to the United States pursuant to this Plea Agreement will not be used to increase the volume of affected commerce attributable to the defendant or in determining the defendant's applicable Guidelines range, except to the extent provided in U.S.S.G. §1B1.8(b).

Sentencing Agreement

12. Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) and subject to the full, truthful, and continuing cooperation of the defendant, as defined in Paragraph 18 of this Plea Agreement, the United States and the defendant agree that the appropriate disposition of this case is, and agree to recommend jointly that the Court impose a sentence requiring the defendant to pay to the United States a criminal fine of \$150,000 payable in installments as set forth below with interest accruing under 18 U.S.C. § 3612(f)(1)–(2), and no order of restitution (the "Recommended Sentence"). There exists no aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the U.S. Sentencing Commission in formulating the Sentencing Guidelines justifying a departure pursuant to U.S.S.G. § 5K2.0. The parties agree not to seek at the sentencing hearing any Guidelines adjustment for any reason that is not set forth in this Plea Agreement. The parties further agree that the Recommended Sentence set forth in this Plea Agreement is reasonable.

Offense Level Calculations

13. The United States and the defendant agree and recommend that, in determining the Guidelines Fine Range for a corporate defendant in violation of 15 U.S.C. § 1, the Court apply the Chapter 8 – Sentencing of Organizations guidelines and the applicable offense guidelines, § 2R1.1 – Antitrust Offenses, as follows:

a. The base fine is \$416,322.34, 20% of the affected volume of commerce of \$2,081,611.71, pursuant to § 8C2.4(b) and § 2R1.1(d)(1), (3);

b. The defendant’s Culpability Score is 4 and is determined pursuant to § 8C2.5, as follows:

Base Culpability Score:	5	§ 8C2.5(a)
More than 10 employees and participation of personnel with substantial authority	+1	§ 8C2.5(b)(4)
Acceptance of responsibility	-2	§ 8C2.5(g)(2)

c. Based on a Culpability Score of 4, the minimum and maximum multipliers are 0.80–1.60, pursuant to § 8C2.6.

d. The Guidelines Fine Range is \$333,057.87 to \$666,115.75, pursuant to § 8C2.7.

14. The United States and the defendant agree that the applicable Guidelines fine range exceeds the fine contained in the Recommended Sentence set out in Paragraph 12 above. The United States and the defendant further agree that the recommended fine is appropriate pursuant to U.S.S.G. § 8C3.3(b) due to the

inability of the defendant to pay a fine greater than that recommended without substantially jeopardizing its continued viability.

a. The United States and the defendant agree to recommend, in the interest of justice pursuant to 18 U.S.C. § 3572(d)(1) and U.S.S.G. § 8C3.2(b), that the fine be paid in the following installments: within 30 days of imposition of sentence -- \$30,000 (plus any accrued interest); at the one-year anniversary of imposition of sentence ("anniversary") -- \$30,000 (plus any accrued interest); at the two-year anniversary -- \$30,000 (plus any accrued interest); at the three-year anniversary -- \$30,000 (plus any accrued interest); at the four-year anniversary -- \$30,000 (plus any accrued interest); provided, however, that the defendant will have the option at any time before the five-year anniversary of prepaying the remaining balance (plus any accrued interest) then owing on the fine.

b. The defendant understands that the Court will order it to pay a \$400 special assessment, pursuant to 18 U.S.C. § 3013(a)(2)(B), in addition to any fine imposed.

c. In light of the availability of civil causes of action, which potentially provide for a recovery of a multiple of actual damages, the Recommended Sentence does not include a restitution order for the offense charged in the Information.

d. Both parties will recommend that a term of probation be imposed until the fine is paid, but the defendant understands that the Court's imposition of different terms of probation will not void this Plea Agreement.

15. Subject to the full, truthful, and continuing cooperation of the defendant, as defined in Paragraph 18 of this Plea Agreement, and prior to sentencing in this case, the United States agrees that it will make a motion, pursuant to U.S.S.G. § 8C4.1, for a downward departure from the Guidelines fine range in this case and will request that the Court impose the fine contained in the Recommended Sentence set out in Paragraph 12 of this Plea Agreement because of the defendant's substantial assistance in the government's investigation and prosecutions of violations of federal criminal law in the commercial flooring industry.

16. Subject to the full, truthful, and continuing cooperation of the defendant, as defined in Paragraph 18 of this Plea Agreement, and prior to sentencing in this case, the United States will fully advise the Court and the Probation Office of the fact, manner, and extent of the defendant's cooperation and its commitment to prospective cooperation with the United States' investigation and prosecutions, all material facts relating to the defendant's involvement in the charged offense, and all other relevant conduct.

17. The United States and the defendant understand that the Court retains complete discretion to accept or reject the Recommended Sentence provided for in Paragraph 12 of this Plea Agreement.

a. If the Court does not accept the Recommended Sentence, the United States and the defendant agree that this Plea Agreement, except for subparagraph 17(b) below, will be rendered void.

b. If the Court does not accept the Recommended Sentence, the defendant will be free to withdraw its guilty plea (Fed. R. Crim. P. 11(c)(5) and (d)(2)(A)). If the defendant withdraws its plea of guilty, this Plea Agreement, the guilty plea, and any statement made in the course of any proceedings under Federal Rule of Criminal Procedure 11 regarding the guilty plea or this Plea Agreement or made in the course of plea discussions with an attorney for the government will not be admissible against the defendant in any criminal or civil proceeding, except as otherwise provided in Fed. R. Evid. 410. In addition, the defendant agrees that, if it withdraws its guilty plea pursuant to this subparagraph of this Plea Agreement, the statute of limitations period for any offense referred to in Paragraph 20 of this Plea Agreement will be tolled for the period between the date of signature of this Plea Agreement and the date the defendant withdrew its guilty plea or for a period of 60 days after the date of signature of this Plea Agreement, whichever period is greater.

Defendant's Cooperation

18. The defendant will cooperate fully and truthfully with the United States in the prosecution of this case, the current federal investigation of violations of federal antitrust and related criminal laws involving the sale of commercial flooring services and products in the Northern District of Illinois and elsewhere, and any litigation or other proceedings arising or resulting from any such investigation to which the United States is a party (collectively "Federal Proceeding"). Federal Proceeding includes, but is not limited to, an investigation, prosecution, litigation, or other proceeding regarding obstruction of, the making of a false statement or declaration in, the commission of perjury or subornation of perjury in, the commission of contempt

in, or conspiracy to commit such offenses in, a Federal Proceeding. The full, truthful, and continuing cooperation of the defendant will include but not be limited to:

a. producing to the United States all documents, information, and other materials, wherever located, not protected under the attorney-client privilege or the work-product doctrine, in the possession, custody, or control of the defendant that are requested by the United States in connection with any Federal Proceeding; and

b. using its best efforts to secure the full, truthful, and continuing cooperation of the current and former directors, officers, and employees of the defendant as may be requested by the United States. Such efforts will include, but not be limited to, making these persons available at the defendant's expense for interviews and the provision of testimony in grand jury, trial, and other judicial proceedings in connection with any Federal Proceeding. Current directors, officers, and employees are defined for purposes of this Plea Agreement as individuals who are directors, officers, or employees of the defendant as of the date of signature of this Plea Agreement.

19. The full, truthful, and continuing cooperation of the current directors, officers, and employees of the defendant will be subject to the procedures and protections of this paragraph, and will include, but not be limited to:

a. producing all documents, including claimed personal documents, and other materials, wherever located, not protected under the attorney-client

privilege or the work-product doctrine, that are requested by attorneys and agents of the United States in connection with any Federal Proceeding;

b. making himself or herself available for interviews, not at the expense of the United States, upon the request of attorneys and agents of the United States in connection with any Federal Proceeding;

c. responding fully and truthfully to all inquiries of the United States in connection with any Federal Proceeding, without falsely implicating any person or intentionally withholding any information, subject to the penalties of making a false statement or declaration in violation of 18 U.S.C. §§ 1001, 1623; obstruction of justice, in violation of 18 U.S.C. § 1503 *et seq.*; or conspiracy to commit such offenses;

d. otherwise voluntarily providing the United States with any material or information not requested in (a)–(c) of this paragraph and not protected under the attorney-client privilege or work-product doctrine that he or she may have that is related to any Federal Proceeding;

e. when called upon to do so by the United States in connection with any Federal Proceeding, participating in affirmative investigative techniques, including but not limited to making telephone calls, recording conversations, and introducing law enforcement officials to other individuals, with all such activity being conducted only at the express direction and under the supervision of attorneys and agents of the United States;

f. when called upon to do so by the United States in connection with any Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings fully, truthfully, and under oath, subject to the penalties of perjury in violation of 18 U.S.C. § 1621; making a false statement or declaration in grand jury or court proceedings, in violation of 18 U.S.C. § 1623; contempt, in violation of 18 U.S.C. §§ 401–02; and obstruction of justice, in violation of 18 U.S.C. § 1503 *et seq.*;

g. not committing, participating in, or attempting to commit or participate in any additional antitrust crime in violation of Title 15, United States Code, or any acts of perjury or subornation of perjury (18 U.S.C. §§ 1621, 1622), making a false statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice, in violation of 18 U.S.C. §§ 1503 *et seq.*, contempt, in violation of 18 U.S.C. §§ 401, 402, or conspiracy to commit such offenses; and

h. agreeing that, if the agreement not to prosecute him or her in this Plea Agreement is rendered void under subparagraph 21(c), the statute of limitations period for any Relevant Offense, as defined in Paragraph 20, will be tolled as to him or her for the period between the date of signature of this Plea Agreement and six months after the date that the United States gave notice of its intent to void its obligations to that person under this Plea Agreement.

i. This Paragraph 19 does not apply to any former director, officer, or employee of the defendant.

Government's Agreement

20. Subject to the full, truthful, and continuing cooperation of the defendant, as defined in Paragraph 18 of this Plea Agreement, and upon the Court's

acceptance of the guilty plea called for by this Plea Agreement and the imposition of the Recommended Sentence, the United States agrees that it will not bring further criminal charges against the defendant for any act or offense committed before the date of signature of this Plea Agreement that was undertaken in furtherance of an attempted or completed antitrust conspiracy involving the sale of commercial flooring services and products in the Northern District of Illinois and elsewhere (the "Relevant Offense"). The nonprosecution terms of this Paragraph 20 do not apply to

a. any acts of perjury or subornation of perjury, in violation of 18 U.S.C. §§ 1621–22; making a false statement or declaration, in violation of 18 U.S.C. §§ 1001, 1623; obstruction of justice, in violation of 18 U.S.C. § 1503 *et seq.*; contempt, in violation of 18 U.S.C. §§ 401–02; or conspiracy to commit such offenses;

b. civil matters of any kind;

c. any violation of the federal tax or securities laws or conspiracy to commit such offenses; or

d. any crime of violence.

21. The United States agrees to the following:

a. Upon the Court's acceptance of the guilty plea called for by this Plea Agreement and the imposition of the Recommended Sentence and subject to the exceptions noted in subparagraph 21(c), the United States agrees that it will not bring criminal charges against any current director, officer, or employee of the defendant for any act or offense committed before the date of signature of this Plea

Agreement and while that person was acting as a director, officer, or employee of the defendant that was undertaken in furtherance the Relevant Offense;

b. Should the United States determine that any current director, officer, or employee of the defendant may have information relevant to any Federal Proceeding, the United States may request that person's cooperation under the terms of this Plea Agreement by written request delivered to counsel for the individual (with a copy to the undersigned counsel for the defendant) or, if the individual is not known by the United States to be represented, to the undersigned counsel for the defendant;

c. If any person requested to provide cooperation under subparagraph 21(b) fails to comply fully with his or her obligations under Paragraph 19, then the terms of this Plea Agreement as they pertain to that person and the agreement not to prosecute that person granted in this Plea Agreement will be rendered void, and the United States may prosecute such person criminally for any federal crime of which the United States has knowledge, including, but not limited to any Relevant Offense;

d. Except as provided in subparagraph 21(e), information provided by a person described in subparagraph 21(b) to the United States under the terms of this Plea Agreement pertaining to any Relevant Offense, or any information directly or indirectly derived from that information, may not be used against that person in a criminal case, except in a prosecution for perjury or subornation of perjury, in violation of 18 U.S.C. §§ 1621-22; making a false statement or declaration, in violation of 18 U.S.C. §§ 1001, 1623; obstruction of justice, in violation of 18 U.S.C.

§ 1503 *et seq.*; contempt, in violation of 18 U.S.C. §§ 401–02; or conspiracy to commit such offenses;

e. If any person who provides information to the United States under this Plea Agreement fails to comply fully with his or her obligations under Paragraph 19 of this Plea Agreement, the agreement in subparagraph 21(d) not to use that information or any information directly or indirectly derived from it against that person in a criminal case will be rendered void;

f. The nonprosecution terms of this paragraph do not apply to civil matters of any kind; any violation of the federal tax or securities laws or conspiracy to commit such offenses; any crime of violence; or perjury or subornation of perjury, in violation of 18 U.S.C. §§ 1621–22; making a false statement or declaration, in violation of 18 U.S.C. §§ 1001, 1623; obstruction of justice, in violation of 18 U.S.C. § 1503 *et seq.*; contempt, in violation of 18 U.S.C. §§ 401–02; or conspiracy to commit such offenses; and

g. Documents provided under subparagraphs 18(a) and 19(a) will be deemed responsive to outstanding grand jury subpoenas issued to the defendant.

22. The defendant understands that it may be subject to suspension or debarment action by state or federal agencies other than the United States Department of Justice, Antitrust Division, based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in no way controls what action, if any, other agencies may take. However, the Antitrust Division agrees that, if requested, it will advise the appropriate officials of any governmental agency

considering such action of the fact, manner, and extent of the cooperation of the defendant as a matter for that agency to consider before determining what action, if any, to take. The defendant nevertheless affirms that it wants to plead guilty regardless of any suspension or debarment consequences of its plea.

Representation by Counsel

23. The defendant has been represented by counsel and is fully satisfied that its attorneys have provided competent legal representation. The defendant has thoroughly reviewed this Plea Agreement and acknowledges that counsel has advised it of the nature of the charge, any possible defenses to the charge, and the nature and range of possible sentences.

Voluntary Plea

24. The defendant's decision to enter into this Plea Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Plea Agreement. The United States has made no promises or representations to the defendant as to whether the Court will accept or reject the recommendations contained within this Plea Agreement.

Violation of Plea Agreement

25. The defendant agrees that, should the United States determine in good faith, during the period that any Federal Proceeding is pending, that the defendant has failed to provide full, truthful, and continuing cooperation, as defined in Paragraph 18 of this Plea Agreement, or has otherwise violated any provision of this Plea Agreement, the United States will notify counsel for the defendant in writing by

personal or overnight delivery, email, or facsimile transmission and may also notify counsel by telephone of its intention to void any of its obligations under this Plea Agreement (except its obligations under this paragraph), and the defendant will be subject to prosecution for any federal crime of which the United States has knowledge including, but not limited to, the substantive offenses relating to the investigation resulting in this Plea Agreement. The defendant agrees that, in the event that the United States is released from its obligations under this Plea Agreement and brings criminal charges against the defendant for any offense referred to in Paragraph 20 of this Plea Agreement, the statute of limitations period for such offense will be tolled for the period between the date of signature of this Plea Agreement and six months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

26. The defendant understands and agrees that in any further prosecution of it resulting from the release of the United States from its obligations under this Plea Agreement because of the defendant's violation of this Plea Agreement, any documents, statements, information, testimony, or evidence provided by it, its current directors, officers, or employees, to attorneys or agents of the United States, federal grand juries, or courts, and any leads derived therefrom, may be used against it. In addition, the defendant unconditionally waives its right to challenge the use of such evidence in any such further prosecution, notwithstanding the protections of Federal Rule of Evidence 410.

Public Statements by the Defendant

27. The defendant expressly agrees that it will not, through current or future attorneys, directors, officers, employees, agents, or any other person authorized by the defendant to speak on its behalf, make any public statement, in litigation or otherwise, contradicting the acceptance of responsibility by the defendant set forth above or the facts described in the Information or Factual Basis section of this Plea Agreement. Any such contradictory statement will, subject to cure rights of the defendant described below, constitute a violation of this Plea Agreement, and the defendant thereafter will be subject to prosecution as set forth in Paragraphs 25 and 26 of this Plea Agreement. The decision whether any public statement by any such person contradicting a fact contained in the Information or Factual Basis section of this Plea Agreement was made on behalf of the defendant for the purpose of determining whether it has violated this Plea Agreement will be at the sole discretion of the United States. If the United States determines that a public statement by any such person contradicts in whole or in part a statement contained in the Information or Factual Basis section of this Plea Agreement, the United States shall so notify the defendant, and the defendant may avoid a violation of this Plea Agreement by publicly repudiating such statement(s) within five business days after notification. The defendant will be permitted to raise defenses and to assert affirmative claims in other proceedings relating to the matters set forth in the Information and the Factual Basis section of this Plea Agreement provided that such defenses and claims do not contradict, in whole or in part, a statement contained in the Information or Factual Basis section of this Plea Agreement. This paragraph does not apply to any statement

made by any current or future director, officer, employee, or agent of the defendant in the course of any criminal, regulatory, or civil case initiated against such individual, unless such individual is speaking on behalf of the defendant. This paragraph does not affect the obligation of any person, who is providing cooperation pursuant to Paragraph 19 of this Plea Agreement, to respond fully and truthfully to all inquiries of the United States without falsely implicating any person or intentionally withholding information and to testify fully and truthfully as required by Paragraph 19 of this Plea Agreement.

Entirety of Agreement

28. This Plea Agreement constitutes the entire agreement between the United States and the defendant concerning the disposition of the criminal charge in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and the defendant.

29. The undersigned is authorized to enter this Plea Agreement on behalf of the defendant as evidenced by the Resolution of the Board of Directors of the defendant attached to, and incorporated by reference in, this Plea Agreement.

30. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.

31. A facsimile or PDF signature will be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose of executing this Plea Agreement.

AGREED THIS DATE: 09/19/2019


ELIZABETH A. HOMAN, VA Bar No. 87637

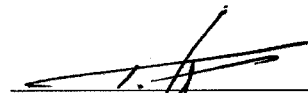

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